

TRANSPORTATION CODE
CHAPTER 66. HOUSTON PILOTS LICENSING AND REGULATORY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 66.001. **SHORT TITLE.** This chapter may be cited as the Houston Pilots Licensing and Regulatory Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.002. **DEFINITIONS.** In this chapter:

(1) "Board" means the board of pilot commissioners for Harris County ports.

(2) "Consignee" means a person, including a master, owner, agent, subagent, firm, or corporation or any combination of those persons, who enters or clears a vessel at the office of the collector of customs.

(3) "Harris County port" means a place in Harris County into which a vessel enters or from which a vessel departs and the waterway leading to that place from the Gulf of Mexico.

(4) "Pilot" means a person who is licensed as a branch pilot or certified as a deputy branch pilot under this chapter.

(5) "Pilotage rate" means the remuneration a pilot may lawfully charge a vessel for pilot services.

(6) "Pilot services" means acts of a pilot in conducting a vessel through the navigable water in this state and the ports in which the pilot is licensed or certified as a pilot.

(7) "Vessel" means an oceangoing, self-propelled vessel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.003. **APPLICABILITY OF CHAPTER.** This chapter applies only to a Harris County port.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Sec. 66.011. **BOARD.** The board of pilot commissioners for the ports of Harris County is composed of the port commissioners of the Port of Houston Authority of Harris County, Texas.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.012. **PROHIBITED INTEREST.** A person may not be a member of the board if the person, directly or indirectly, is engaged in or has an interest in any pilot boat or in any other business affected by or connected with the performance of the person's duties as a pilot commissioner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.013. **OATH.** Before beginning service as a board member, each board member must take and sign, before a person authorized to administer oaths, an oath to faithfully and impartially discharge the duties of the office.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.014. **TERM OF OFFICE.** A board member serves a term of office that coincides with the member's term as a port commissioner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.015. **JURISDICTION.** The board has exclusive jurisdiction over the piloting of

vessels in Harris County ports, including intermediate stops and landing places for vessels on navigable streams wholly or partially located in the board's jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.016. ADMINISTRATION; RULES. (a) The board shall administer this chapter and may perform any act or function necessary to carry out its powers and duties under this chapter.

(b) The board may adopt rules to carry out this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.017. DUTIES. The board shall:

(1) establish the number of pilots necessary to provide adequate pilot services for each Harris County port;

(2) accept applications for pilot licenses and certificates and determine whether each applicant meets the qualifications for a pilot;

(3) submit to the governor lists of applicants the board finds to be qualified for appointment as pilots;

(4) establish pilotage rates;

(5) approve the locations for pilot stations;

(6) establish times during which pilot services will be available;

(7) hear and determine complaints relating to the conduct of pilots;

(8) recommend to the governor each pilot whose license or certificate should not be renewed or should be revoked;

(9) adopt rules and issue orders to pilots or vessels when necessary to secure efficient pilot services;

(10) institute investigations or hearings or both to consider casualties, accidents, or other actions that violate this chapter; and

(11) provide penalties to be imposed on a person who is not a pilot for a Harris County port who pilots a vessel into or out of the port if a pilot offered those services to the vessel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.018. UNFAIR DISCRIMINATION PROHIBITED. (a) In all its duties, including rulemaking, the board may not sanction discriminatory practices or discriminate against a pilot or pilot applicant because of race, religion, sex, ethnic origin, or national origin.

(b) A person seeking a remedy for a violation of this section must bring suit in a district court in Harris County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.019. OPEN MEETINGS LAW. Chapter 551, Government Code, applies to actions and proceedings under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.020. RULE OR RATE CHANGE. (a) The board shall give at least 10 days' notice as provided by this section before the board adopts a rule or changes a pilotage rate.

(b) The board shall post the notice and a copy of the proposed rule or change at the board office for public inspection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.021. CONTESTED CASE NOTICE. The board shall post in the board office for public inspection a notice that includes the same information as the notice given to the parties in

each contested case.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.022. JUDICIAL REVIEW. Proceedings for judicial review of a board decision shall be brought in a district court in Harris County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Sec. 66.031. LICENSE OR CERTIFICATE REQUIRED. A person may not provide pilot services unless the person has a license or certificate issued under this chapter for the Harris County ports in which the pilot services are to be provided.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.032. EXEMPTIONS. The requirement to use a pilot does not apply to:

- (1) a vessel sailing under enrollment, or licensed or engaged in the coasting trade between Texas ports or between any Texas port and any other port of the United States; or
- (2) a vessel exempt under federal law from payment of state pilotage rates.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.033. QUALIFICATIONS FOR LICENSE. To be eligible for a license as a branch pilot, a person must:

- (1) be at least 25 years of age and less than 68 years of age;
- (2) be a United States citizen;
- (3) as of the date the license is issued, have resided continuously in this state for at least one year;
- (4) be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;
- (5) have at least three years' service as a deputy branch pilot or equivalent service piloting vessels of at least 5,000 gross tons within the board's jurisdiction;
- (6) have commanded or controlled the navigation of vessels such as the person would pilot;
- (7) have extensive experience in the docking and undocking of vessels;
- (8) be in good mental and physical health;
- (9) have good moral character; and
- (10) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 359, Sec. 1, eff. Sept. 1, 1997.

Sec. 66.034. QUALIFICATIONS FOR CERTIFICATE. To be eligible for a certificate as a deputy branch pilot, a person must:

- (1) be at least 25 years of age;
- (2) be a United States citizen;
- (3) hold a license under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;
- (4) be in good mental and physical health;
- (5) have good moral character; and

(6) possess the requisite skill to perform competently and safely the duties of a deputy branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.035. APPLICATION FOR LICENSE OR CERTIFICATE. To apply for a branch pilot's license or a deputy branch pilot's certificate, a person must give to the board a written application in the form and manner required by board rule.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.036. CONSIDERATION OF APPLICATION. (a) The board shall carefully consider each application and shall conduct any investigation it considers necessary to determine whether an applicant is qualified for a license or certificate.

(b) As part of its consideration of applications for licenses and certificates, the board may develop and administer examinations to determine an applicant's knowledge of piloting, management of vessels, and the water in the board's jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.037. BRANCH PILOT APPOINTMENT BY GOVERNOR. (a) On filing of the bond and oath required by Section 66.039, the board shall certify to the governor that a person licensed as a branch pilot has qualified.

(b) On receipt of the board's certification, the governor shall issue to the person, in the name of the state and under the state seal, a commission to serve as a branch pilot to and from Harris County ports.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH PILOT. (a) Each branch pilot may appoint, subject to examination and approval by the board, two deputy branch pilots for whose acts the branch pilot is responsible.

(b) A branch pilot may appoint an additional deputy branch pilot if the board considers the appointment advisable.

(c) A branch pilot who appoints a deputy branch pilot without the approval of the board forfeits the pilot's appointment as a branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.039. OATH; BOND. (a) A person appointed as a pilot must take the official oath before entering service as a pilot. The oath shall be endorsed on the bond required by Subsection (b).

(b) Each pilot must execute a \$25,000 bond payable to the governor and conditioned on compliance with the laws, rules, and orders relating to pilots and on the faithful performance of the pilot's duties.

(c) Each bond must be approved by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.040. TERMS OF LICENSES AND CERTIFICATES. (a) A branch pilot's license expires on the fourth anniversary of the date it is issued or renewed, provided that no pilot may furnish pilot services under authority of a license after the pilot's 68th birthday.

(b) A deputy branch pilot's certificate expires on the third anniversary of the date it is issued and may not be renewed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 359,

Sec. 1, eff. Sept. 1, 1997.

Sec. 66.041. BRANCH PILOT'S LICENSE RENEWAL. (a) The governor shall renew a branch pilot's expiring license if the board recommends renewal.

(b) If a pilot applies in writing and qualifies, the board shall recommend renewal unless the board determines there is probable cause not to renew the license.

(c) Probable cause not to renew a license exists if the board finds that the license holder:

- (1) does not possess a qualification required by this chapter for pilots; or
- (2) has a disability that will affect the license holder's ability to serve as a pilot.

(d) If the board determines that it has probable cause not to renew a license, the board shall notify the license holder of that determination not later than the 60th day before the date the license expires. On request, the board shall provide a hearing after proper notice to consider whether the board has cause not to recommend renewal of the license.

(e) If the board finds at the conclusion of the hearing that the board lacks probable cause for nonrenewal of the license, the board shall recommend that the governor renew the license.

(f) The board shall issue a written order recommending that the governor not renew a license and the governor may not renew the license if:

- (1) the pilot does not contest the board's decision not to renew the license; or
- (2) the board after a hearing finds that it has probable cause not to renew the license.

(g) The denial of renewal of a pilot's license does not prohibit the pilot from applying for a new license and being reappointed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.042. DEPUTY BRANCH PILOT. A person who has been issued a deputy branch pilot's certificate may not be issued a deputy branch pilot's certificate before the fifth anniversary of the date the person was previously issued a deputy branch pilot's certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.043. SUSPENSION OR REVOCATION OF BRANCH PILOT'S LICENSE. (a) On complaint or on its own motion, and after notice and hearing, the board may suspend a branch pilot's license for not more than six months or recommend that the governor revoke a branch pilot's license if the board finds that the pilot has:

(1) failed to demonstrate and maintain the qualifications for a license required by this chapter;

(2) used narcotics or other types of drugs, chemicals, or controlled substances as defined by law that impair the pilot's ability to perform the pilot's duties skillfully and efficiently;

(3) used alcohol to an extent that impairs the pilot's ability to perform the pilot's duties skillfully and efficiently;

(4) violated a provision of this chapter or rules adopted by the board under this chapter;

(5) made a material misstatement in the application for a license;

(6) obtained or attempted to obtain a license under this chapter by fraud or misrepresentation;

(7) intentionally failed to comply with an order of the board;

(8) charged a pilotage rate other than that approved by the board;

(9) intentionally refused to pilot or neglected to board promptly a vessel when

requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel constitutes a hazard to life or property or when pilotage charges that are due and owing are unpaid by the person ordering the pilot services;

(10) intentionally caused damage to a vessel;

(11) been absent from duty in violation of board rules and without authorization;

(12) aided or abetted another pilot in failing to perform the other pilot's duties; or

(13) been guilty of carelessness, neglect of duty, intentional unavailability for performance of duties, refusal to perform duties, misconduct, or incompetence while on duty.

(b) If the federal pilot's license of a pilot licensed under this chapter is suspended or revoked, the board, on a finding that it has good cause, shall suspend the license for the same period or revoke the license under this chapter.

(c) On determining that a license should be suspended or revoked, the board shall adopt a written order that states its findings and:

(1) suspends the license for a stated period; or

(2) recommends to the governor revocation of the license.

(d) The governor, on receipt of a board order recommending revocation of a license, shall revoke the license.

(e) A suspension of a license takes effect on adoption of the board's order. A revocation of a branch pilot's license takes effect on issuance of the governor's decision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.044. SUSPENSION OR REVOCATION OF DEPUTY BRANCH PILOT'S CERTIFICATE. A deputy branch pilot's certificate may be suspended or revoked by the board in the same manner and for the same reasons as provided for the revocation or suspension of a branch pilot's license by Section 66.043.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.045. LIABILITY TO PILOT. (a) A person who is not a pilot and who, in violation of this chapter, pilots a vessel and the consignee of the vessel are liable to a pilot, on written demand, for the amount of the applicable pilotage rate.

(b) In an action to recover compensation under Subsection (a), the court may include in a judgment in favor of a pilot an award of court costs and reasonable attorney's fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. PILOTAGE RATES

Sec. 66.061. PILOTAGE RATE CHANGE. The board may not change pilotage rates before the first anniversary of the preceding rate change.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.062. PILOTAGE RATE CHANGE APPLICATION. (a) An application for a change in pilotage rates may be submitted to the board by:

(1) a pilot;

(2) an association of pilots;

(3) a consignee liable under Section 66.070 to pay pilotage rates; or

(4) an association of consignees.

(b) The application must be written and must state specifically the changes requested.

(c) The board shall set a hearing date within two weeks of receipt of an application. The board shall hold the hearing not earlier than the 20th day and not later than the 40th day after the date the board sets the hearing date.

(d) An applicant shall give notice of the application and the hearing date, by certified mail to the last known address, to:

- (1) all pilots licensed or certified in the port;
- (2) all known pilots' associations; and
- (3) all steamship agencies and associations in the port.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.063. PILOT FINANCIAL REPORT. (a) Not later than the 10th day before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which the rates are being considered shall submit in writing to the board and to any party designated by the board complete accounts of:

- (1) all amounts received from performing pilot services, organized by categories or classifications of rates, if rates are set in that manner;
- (2) all earnings from capital assets devoted to providing pilot services;
- (3) all expenses incurred in connection with activities for which amounts described by Subdivisions (1) and (2) were received and earned; and
- (4) estimates of receipts and expenses anticipated to result from the requested changes in pilotage rates.

(b) The pilots shall provide the information for:

- (1) the calendar or fiscal year preceding the date of the pilotage rate change application; and
- (2) the subsequent period to within 60 days of the date of the application.

(c) The board may require an independent audit of financial information submitted under Subsection (a) by an accountant selected by the board. The board, as it considers fair and just, shall assess the costs of the audit against one or more of the applicants and objecting parties.

(d) The board may require relevant additional information it considers necessary to determine a proper pilotage rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.064. FACTORS FOR BOARD CONSIDERATION. In establishing pilotage rates, the board shall consider factors relevant to determining reasonable and just pilotage rates, including:

- (1) characteristics of vessels to be piloted;
- (2) the average number of hours spent by a pilot performing:
 - (A) pilot services on board vessels; and
 - (B) all pilot services;
- (3) costs to pilots to provide the required pilot services;
- (4) the public interest in maintaining safe, efficient, and reliable pilot services;
- (5) the average wages of masters of United States flag vessels that navigate in the board's jurisdiction and for which the pilotage rate is to be established;
- (6) economic factors affecting the shipping industry in the area in which the port is located; and
- (7) an adequate and reasonable compensation for the pilots and a fair return on the

equipment and vessels that the pilots employ in connection with their duties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.065. RATE DECISION. Not later than the 10th day after the date of the completion of a hearing on an application for a change in pilotage rates, the board shall issue a written decision that:

- (1) grants or denies the application in whole or in part;
- (2) states the reasons for the decision; and
- (3) states each new pilotage rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.066. COSTS. The board, in a final order under this subchapter, may charge all or part of the costs of processing an application to the parties in the proceedings.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.067. APPEAL OF BOARD DECISION. Any party aggrieved by a board decision on pilotage rates, after exhausting all administrative remedies, may appeal the order to a court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.068. EMERGENCY PILOTAGE RATES. (a) The board may establish emergency pilotage rates for the period of an emergency, not to exceed 30 days, if the board finds that:

- (1) a natural or man-made disaster has created a substantial hazard to piloting vessels into and out of a port; and
- (2) the existence of the hazard overrides the necessity to comply with normal pilotage rate-setting procedures.

(b) In adopting emergency pilotage rates, the board is not required to comply with the procedures in this chapter or in its rules relating to adoption of pilotage rates.

(c) Emergency pilotage rates may not be appealed.

(d) The board shall adopt rules to carry out this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.069. PILOT SERVICES REQUIRED. The consignee of a vessel under the consignee's control shall obtain pilot services for the vessel and shall pay the pilot who pilots the vessel into and out of the port area compensation according to the pilotage rates filed by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.070. PILOTAGE RATE LIABILITY. (a) A consignee who declines the services of a pilot offered outside the bar and enters the port without the aid of a pilot is liable for the payment of pilotage to the first pilot whose services were declined.

(b) A consignee is liable for the payment of pilotage to the pilot who brings a vessel in if the vessel goes out without employing a pilot.

(c) A consignee is liable for the payment of pilotage for a vessel that goes out without the aid of a pilot and that came in without the aid of a pilot to the pilot who first offered services before the vessel came in.

(d) A consignee is not liable for the payment of pilotage for a vessel going out without a pilot if the vessel came in without the aid of a pilot or came in without the offer of a pilot outside.

(e) Subsections (a)-(d) do not apply to a consignee exempt under this chapter from payment of pilotage rates.

(f) A pilot who charges a rate for pilot services different from the pilotage rates established

under this chapter for the port in which the pilot serves is liable to each person who was charged the different rate for double the amount of pilotage.

(g) A court may include in a judgment in favor of a person who files suit to collect an amount owed under this chapter an award to cover court costs and reasonable attorney's fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.071. RECOVERY OF COMPENSATION. A pilot who offers pilot services to a vessel required under this chapter to obtain pilot services and whose services are refused is entitled to recover from the consignee the pilotage rate for the services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. PILOT LIABILITY

Sec. 66.081. PURPOSE. The purpose of this subchapter is to:

(1) in the public interest, stimulate and preserve maritime commerce on the pilotage grounds of this state by limiting and regulating the liability of pilots; and

(2) maintain pilotage fees at reasonable amounts.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.082. PILOT LIABILITY. A pilot is not liable directly or as a member of an organization of pilots for any claim that:

(1) arises from an act or omission of another pilot or organization of pilots; and

(2) relates directly or indirectly to pilot services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.083. PILOT LIABILITY LIMITED. (a) A pilot providing pilot services is not liable for more than \$1,000 for damage or loss caused by the pilot's error, omission, fault, or neglect in the performance of the pilot services, except as provided by Subsection (b).

(b) Subsection (a) does not apply to:

(1) damage or loss that arises because of the wilful misconduct or gross negligence of the pilot;

(2) liability for exemplary damages for gross negligence of the pilot and for which no other person is jointly or severally liable; or

(3) an act or omission relating to the ownership and operation of a pilot boat unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(c) This section does not exempt a vessel or its owner or operator from liability for damage or loss caused by the vessel to a person or property on the grounds that:

(1) the vessel was piloted by a pilot; or

(2) the damage or loss was caused by the error, omission, fault, or neglect of a pilot.

(d) In an action brought against a pilot for an act or omission for which liability is limited as provided by this section and in which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege pilot liability that exceeds \$1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.