

Enrolled Senate Bill 601

Sponsored by Senator JOHNSON (at the request of Oregon Board of Maritime Pilots)

CHAPTER

AN ACT

Relating to investigations by the Oregon Board of Maritime Pilots; creating new provisions; and amending ORS 776.115.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of ORS chapter 776.

SECTION 2. (1) The Oregon Board of Maritime Pilots may issue subpoenas to compel the attendance of witnesses and the production of records, documents, books, papers, memoranda or other information necessary to conduct an investigation under ORS 776.115, 776.375 or 776.405.

(2) If a person fails to comply with a subpoena issued under this section, a judge of the circuit court, on the application of the board, shall compel obedience by instituting proceedings for contempt in the same manner that the court would institute proceedings for contempt when a person fails to comply with a subpoena in a civil action.

SECTION 3. (1) When conducting an investigation under ORS 776.115, 776.375 or 776.405, the Oregon Board of Maritime Pilots or its authorized representative may enter and investigate a premises, ship or facility.

(2) When conducting an investigation under subsection (1) of this section, the board or its authorized representative may:

(a) Examine the records, documents, books, papers, memoranda or other information kept at the premises, ship or facility.

(b) Examine under oath an officer, agent or employee of the premises, ship or facility.

(3) If the board or its authorized representative is inspecting a premises, ship or facility that is not open to the public, the board or the representative shall present credentials to the owner or occupant of the premises, ship or facility and obtain the consent of the owner or occupant before conducting the inspection. If the owner or occupant denies entry to the premises, ship or facility, the board or the representative must obtain a warrant to conduct the inspection.

(4) The board or its authorized representative may use information obtained during an investigation only to fulfill the board's duties under ORS 776.115, 776.375 or 776.405.

SECTION 4. ORS 776.115 is amended to read:

776.115. The Oregon Board of Maritime Pilots shall:

(1) Fix the manner of calling and fixing the places of meetings and hold at least one meeting each calendar year.

(2) Provide for efficient and competent pilotage service on all pilotage grounds, and regulate and limit the number of licensees and trainees under this chapter, such number of licensees and trainees to be regulated and limited to the number found by the board to be required to render efficient and competent pilotage service. The primary consideration of the board is public safety. If a proposed rule would result in the significant limitation of competition among licensees or pilot organizations that exist in this state on January 1, 1991, the board shall first make a determination that the proposed rule is essential to protect the safety of the public.

(3) Establish and fix the boundaries of pilotage grounds not described in ORS 776.025.

(4) In accordance with the applicable provisions of ORS chapter 183, establish by rule a licensing system for persons licensed to pilot, for persons licensed as trainees and for pilot organizations who train persons to pilot, including but not limited to provisions prescribing:

(a) The form and content of and the times and procedures for submitting an application for license issuance and renewal. The pendency of an investigation shall not affect the renewal process.

(b) The term of license of a pilot and the annual license fee, subject to the maximum annual license fee established pursuant to ORS 776.357.

(c) The requirements for and the manner of testing competency of license applicants.

(d) Those actions or circumstances that constitute failure to achieve or maintain competency or that otherwise constitute a danger to public health and safety and for which the board may refuse to issue or renew a license, may suspend or revoke a license or may reprimand a licensee.

(e) Classes of licenses that specify the size of vessels the licensee is authorized to be trained to pilot or to pilot on those river pilotage grounds for which the trainee or pilot is licensed.

(5)(a) Fix, at reasonable and just rates, pilotage fees, extra fees for vessels in distress, fees for extraordinary pilotage services, fees for a licensee or trainee being carried to sea unwillingly and reimbursement for the return to station or for the detention of a licensee or trainee, except that pilotage fees shall not be less inbound or outbound on vessels, propelled in whole or in part by their own power, than the following:

(A) Between Astoria and Portland or Vancouver, \$2.50 per foot draft and 2 cents per net ton;

(B) Between Astoria or Knappton and the sea, \$3 per foot draft and 2 cents per net ton;

(C) Between Yaquina Bay and the sea, \$3 per foot draft and 2 cents per ton; and

(D) Between Coos Bay and the sea, \$2.50 per foot draft and 2 cents per ton.

(b) In fixing fees pursuant to paragraph (a) of this subsection, the board shall give due regard to the following factors:

(A) The length and net tonnage of the vessels to be piloted.

(B) The difficulty and inconvenience of the particular service and the skill required to render it.

(C) The supply of and demand for pilotage services.

(D) The public interest in maintaining efficient, economical and reliable pilotage service.

(E) Other factors relevant to the determination of reasonable and just rates.

(6) Conduct or authorize the holding of hearings. In so doing the board or the administrative law judge may *[subpoena witnesses, administer oaths, take depositions, fix the fees and mileage of witnesses and compel the attendance of witnesses and the production of papers, books, accounts, documents and testimony.]* **issue subpoenas pursuant to section 2 of this 2009 Act, conduct investigations pursuant to section 3 of this 2009 Act, administer oaths, take depositions and fix the fees and mileage of witnesses.**

(7) Adopt any rule or make any order, as set forth in ORS chapter 183, for the effective administration and enforcement of this chapter.

(8) Establish rates pursuant to subsection (5) of this section, for a period of not less than two years, that continue in effect until a subsequent hearing process. Rates may include automatic adjustment provisions to reflect changing economic conditions.

Passed by Senate April 23, 2009

.....
Secretary of Senate

.....
President of Senate

Passed by House May 21, 2009

.....
Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2009

.....
Secretary of State