

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND FOURTH LEGISLATURE

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**Legislative Document**

**No. 1136**

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S. P. 338

In Senate, March 4, 1969

Referred to Committee on State Government. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Hoffses of Knox.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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**AN ACT** Providing for a State Pilotage System for the Penobscot Bay and River, Maine.

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Be it enacted by the People of the State of Maine, as follows:

**R. S., T. 38, §§ 85 - 108, additional.** Title 38 of the Revised Statutes is amended by adding 14 new sections to be numbered 85 to 108, to read as follows:

**§ 85. Declaration of policy**

It is declared to be the policy and intent of the Legislature and the purpose of sections 85 to 108 to provide for a system of state pilotage for the Penobscot Bay and River in order to provide maximum safety from the dangers of navigation for vessels entering or leaving the waters of this area; to maintain a state pilotage system devoted to the preservation and protection of lives, property and vessels entering or leaving the waters of Penobscot Bay and River at the highest standard of efficiency and to insure an adequate supply of pilots well qualified for the discharge of their duties in aid of commerce and navigation.

**§ 86. Vessels required to take pilot**

Every foreign vessel and every American vessel under register, with a draft of 9 feet or more, entering or departing from any port or harbor within the waters of Penobscot Bay and River north of a line drawn from Marshall Point Light at Port Clyde, thence to Matinicus Rock Light, thence to Western Head Isle au Haut, shall take a pilot licensed under this chapter; and in case of refusal to take such pilot, the master, owner, agent or consignee of any such vessel shall pay the established pilot fee as if a pilot had been employed.

**§ 87. Vessels exempt**

Sections 85 to 108 shall not apply to vessels under enrollment or to fishing vessels, or to vessels powered by sail. If any such vessel shall employ a pilot, such pilot shall be entitled to receive as compensation for his service pilotage fees in an amount not to exceed the rates established by the commission.

**§ 88. Piloting without license**

It shall be unlawful for any person not licensed as a pilot under sections 85 to 108 to pilot or offer to pilot a vessel not exempt from sections 85 to 108. Violation of this provision shall be a misdemeanor punishable by a fine not to exceed \$500 or by imprisonment not to exceed 11 months, or by both, for each violation.

**§ 89. Pilotage commission**

There is created a Penobscot Bay and River Pilotage Commission consisting of 3 members appointed by the Governor and Council, one of whom shall be a licensed pilot of the Penobscot Bay and River Pilots Association, one of whom shall represent the marine interest of Penobscot Bay and River industry, and one, with a marine background, who shall represent the public. During the first year that sections 85 to 108 shall become law, the Governor and Council shall appoint one member to serve through December 31st of that same year, another member to serve through December 31st of the following year, and another member to serve through December 31st of the 3rd full year after sections 85 to 108 shall become law, or until their successors shall be appointed and qualified. Starting with the year sections 85 to 108 become law, in the month of December annually, the Governor and Council shall appoint a member to hold office from the first day of January to the 31st day of December in the 3rd year of his appointment, each member thereby serving for a term of 3 years or until his successor shall be appointed and qualified. The members appointed by the Governor and Council initially who will serve less than 3 full-year terms will do so only for the purpose of establishing a rotating basis for appointments to the commission. Any vacancy which may occur in said commission shall be filled by the Governor and Council as in the case of an original appointment, for the remainder of the unexpired term. Any member shall be eligible to succeed himself. The members of said commission shall receive no compensation.

**§ 90. Duties of commission**

1. Duties. The commission shall perform the duties set forth and such other duties as may be provided by law:

A. Make, establish and enforce such rules and regulations not inconsistent with law, which shall be binding and effectual upon all pilots licensed by the commission, and upon all parties employing such pilots;

B. Make and establish rates of pilotage for such vessels as are subject to sections 85 to 108;

C. Establish and determine the qualifications of any person applying for a pilot's license and conduct examinations;

- D. Issue, suspend or revoke any pilot's license in accordance with sections 85 to 108;
- E. Cause the laws, rules and regulations concerning pilots and pilotage matters to be fully observed and executed;
- F. Hear and decide complaints made in writing against any pilot for any misbehavior or neglect of or breach of rules or regulations, which it shall deem material to be investigated;
- G. Hear and decide complaints made in writing by any pilot against any charterer, owner, agent, master or seaman of a vessel for any misbehavior toward such pilot in the performance of his duty, or any breach of the rules and regulations;
- H. Administer oaths and compel the attendance of witnesses at such hearings as it may conduct;
- I. Select only such number of pilots as would be necessary to permit adequate pilotage in these waters;
- J. To do all other things reasonable, necessary and expedient to insure proper and safe pilotage and to facilitate the efficient administration of sections 85 to 108.

#### § 91. Qualifications of licensees

Every person who shall apply for a license to act as a pilot in the waters of the Penobscot Bay and River shall be a citizen of the United States and the State of Maine. He shall possess a federal first class pilot's endorsement, issued by a duly constituted authority of the United States, covering the waters of Penobscot Bay and River. An applicant for a license shall satisfy the board that he has proper means available to him for boarding and leaving vessels which he may be called upon to pilot.

#### § 92. Duration and renewal of licenses

Licenses issued by the pilot commission shall run for 5 years from date of issue.

#### § 93. License fees

Every new application for a license to act as a pilot on these waters shall be accompanied by a fee of \$75 payable to the commission. Each application for the renewal of said license shall be accompanied by a fee of \$50 payable to the commission.

#### § 94. Accounts of fees; payments to commission

Once in every 6 months each pilot licensed by the commission shall render to the commission an accurate account of all moneys received by such pilot as fees for pilotage and the commission may impose a charge not to exceed 1% per year upon each pilot for the operation of the commission.

#### § 95. Pilot's bond

No person shall receive a license or exercise the office of pilot until he has filed with the commission a bond with surety approved by the board in the penal sum of \$1,000, conditioned upon the faithful performance of the duties of his office and upon his obedience to the rules and regulations of the commission.

§ 96. Lawful compensation

No pilot shall demand or receive any greater, lesser or different compensation for piloting a vessel upon any of the pilotage grounds than is allowed by law.

§ 97. Authority of pilots

A pilot licensed under sections 85 to 108 may pilot any vessel required to take a state pilot anywhere upon the pilotage grounds for which he is licensed.

§ 98. Liability for fees

The master, owner, charterer, agent or consignee entering or clearing a vessel at any port on the Penobscot Bay or River shall be jointly and severally liable for pilotage fees at the rates prescribed by the rules and regulations of the commission.

§ 99. Lien for pilotage fees

Every licensed pilot shall have a lien for his pilotage fees upon the whole of any vessel liable to him therefor.

§ 100. Commissions prohibited

No master, agent, owner, charterer or consignee shall charge a commission or receive any payment directly or indirectly, for the assignment of pilotage, nor shall any pilot pay or offer to pay to any person any commission for the assignment of pilotage. Any person violating this section shall be punished by a fine of not more than \$500. Each violation shall be deemed a separate offense.

§ 101. Grounds for disciplinary action

The board may suspend any pilot for any period that it may deem proper, and may suspend, revoke or annul any pilot's license which shall be issued under sections 85 to 108, upon satisfactory proof that such pilot has willfully disobeyed or violated sections 85 to 108 or any rule or regulation established by the commission; or such pilot has negligently lost or damaged any vessel under his care; or such pilot is so addicted to the habits of intoxication as to be unfit to be entrusted with the charge of a vessel; or the pilot is so mentally or physically incapable as to be unfit to carry on the duties of a pilot.

§ 102. Rehearing on suspension

A pilot so suspended, at any time upon due notice, may appeal to the commission for a rehearing of his case, and the commission shall have the power to confirm or reverse its previous decision.

§ 103. Notice of hearing on complaint, suspension or revocation

Before any person shall be proceeded against on any complaint, and before any pilot shall be removed or suspended, such person or pilot shall be notified in writing to appear before the commission. Such notice shall specify the nature and substance of such complaint and shall be served personally, or be left at his last and usual place of abode at least 15 days before the time fixed in the notice for his appearance.

§ 104. Surrender or suspended or revoked license

A pilot whose license has been revoked or suspended shall surrender his license to the commission which shall retain it until the period of his suspension shall expire. Any such suspended pilot who refuses to surrender his license on demand or continues to pilot shall be subject to a fine of not to exceed \$500 for each week after demand that he refuses to so surrender or for each vessel piloted without a license, and the commission may cause to be published in a newspaper of general circulation published in the State of Maine a notice that such person has no authority to act as pilot unless and until reinstated by law.

§ 105. Reinstatement following suspension

Any pilot whose license has been suspended shall, following the expiration of the period of his suspension, be entitled to the reinstatement of his license, provided he shall possess the qualifications required of pilots as of the time his suspension expires.

§ 106. Appeals from commission

Any person adversely aggrieved by a decision of the commission under sections 85 to 108 may appeal to a court of record in the judicial area in which he resides within 20 days from the entry of the decision. Such appeal shall set forth the decision complained of and the grounds of the appeal. The commission upon being notified of the appeal, shall forthwith certify the papers to the court.

§ 107. Carrying pilot to sea against his wishes; detaining pilot on board

If any master of any vessel shall carry any licensed pilot to sea under circumstances beyond the control of the said licensed pilot, the master of said vessel shall pay the said licensed pilot at the rate of \$75 per day until the said pilot's return or death; he shall provide first-class accommodations and maintenance and the said pilot shall be returned to his home port at the first opportunity by first-class passage; and for every day's detention at quarantine by order of the health officer, \$75 per day for every day of such detention and maintenance. Any pilot being detained on board any vessel for any reason whatsoever shall be allowed \$75 per day and maintenance for each day he may so be detained. The payments and expenses incident to this section shall be a liability of the master, agent, owner or consignee of said vessel.

§ 108. Pilots currently serving

All pilots serving as of the effective date of sections 85 to 108 shall be entitled to continue to serve as long as they comply with the rules and regulations as previously set forth in sections 85 to 107.