

46 USC Ch. 85: PILOTS

From Title 46—SHIPPING

Subtitle II—Vessels and Seamen

Part F—Manning of Vessels

CHAPTER 85—PILOTS

Sec.	
8501.	State regulation of pilots.
8502.	Federal pilots required.
8503.	Federal pilots authorized.

HISTORICAL AND REVISION NOTES

Chapter 85 provides for State pilotage to be regulated by the States and only in conformity with the laws of the States. It clearly spells out the preeminence of the State's role in regulating pilots for vessels operating on the bays, rivers, harbors, and ports of the United States. However, those vessels that are required to have a Federally licensed pilot, those that operate on waters outside the territorial sea of the United States, and those that operate on waters of the Great Lakes are not subject to State pilotage laws or requirements. In essence this chapter, with minor changes, confirms the State and Federal relationship with respect to pilotage that has evolved since the founding of the Nation.

This chapter permits the continuation of Federal pilotage requirements for vessels that are not required to obtain compulsory State pilotage. It confirms the practice of allowing anyone with a Federal pilotage endorsement for the waters in which the vessel is operating to be in control of a vessel when engaged in the coastwise trade. It also confirms the practice of using Federal pilots that are often organized into groups or working organizations who offer their expertise and services to vessels that are not required to obtain compulsory State pilotage.

AMENDMENTS

1984—Pub. L. 98–557, §29(f)(3)(B), Oct. 30, 1984, 98 Stat. 2874, added item 8503.

§8501. State regulation of pilots

(a) Except as otherwise provided in this subtitle, pilots in the bays, rivers, harbors, and ports of the United States shall be regulated only in conformity with the laws of the States.

(b) The master of a vessel entering or leaving a port on waters that are a boundary between 2 States, and that is required to have a pilot under this section, may employ a pilot licensed or authorized by the laws of either of the 2 States.

(c) A State may not adopt a regulation or provision that discriminates in the rate of pilotage or half-pilotage between vessels sailing between the ports of one State and vessels sailing between the ports of different States, or against vessels because of their means of propulsion, or against public vessels of the United States.

(d) A State may not adopt a regulation or provision that requires a coastwise vessel to take a pilot licensed or authorized by the laws of a State if the vessel—

- (1) is propelled by machinery and subject to inspection under part B of this subtitle; or
- (2) is subject to inspection under chapter 37 of this title.

(e) Any regulation or provision violating this section is void.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 553; Pub. L. 98–557, §29(e), Oct. 30, 1984, 98 Stat. 2874.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
8501(a)	46:211
8501(b)	46:212
8501(c), (e)	46:213
8501(d)	46:215

Section 8501 establishes the general proposition that the States regulate pilots in the bays, rivers, harbors, and ports of the United States, unless otherwise specifically provided by law.

Subsection (a) states this general proposition and uses the word "only" for emphasis on this point. Further, except as specifically provided in law, the Committee intends that this chapter not be

construed to annul or affect any regulation established by the laws of a State requiring a vessel entering or leaving a port in that State to employ a pilot licensed or authorized by the laws of that State. In at least two places in current law, this general proposition is stated in both a positive and negative manner. The Committee intends to consolidate those separate statements into one provision to avoid ambiguity and redundancy.

Subsections (b) and (c) contain provisions regarding pilotage in waters between two States.

Subsection (d) prohibits a State from requiring a State licensed pilot on certain coastwise vessels.

Subsection (e) voids any regulation or provision violating this section.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–557 substituted "subtitle" for "part".

§8502. Federal pilots required

(a) Except as provided in subsections (g) and (i) of this section, a coastwise seagoing vessel shall be under the direction and control of a pilot licensed under section 7101 of this title if the vessel is—

- (1) not sailing on register;
- (2) underway;
- (3) not beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured; and
- (4)(A) propelled by machinery and subject to inspection under part B of this subtitle; or
(B) subject to inspection under chapter 37 of this title.

(b) The fees charged for pilotage by pilots required under this section may not be more than the customary or legally established rates in the States in which the pilotage is performed.

(c) A State or political subdivision of a State may not impose on a pilot licensed under this subtitle an obligation to procure a State or other license, or adopt any other regulation that will impede the pilot in the performance of the pilot's duties under the laws of the United States.

(d) A State or political subdivision of a State may not levy pilot charges on a vessel lawfully piloted by a pilot required under this section.

(e) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of \$10,000. The vessel also is liable in rem for the penalty.

(f) An individual serving as a pilot without having a license required by this section or a regulation prescribed under this section is liable to the Government for a civil penalty of \$10,000.

(g)(1) The Secretary shall designate by regulation the areas of the approaches to and waters of Prince William Sound, Alaska, if any, on which a vessel subject to this section is not required to be under the direction and control of a pilot licensed under section 7101 of this title.

(2) In any area of Prince William Sound, Alaska, where a vessel subject to this section is required to be under the direction and control of a pilot licensed under section 7101 of this title, the pilot may not be a member of the crew of that vessel and shall be a pilot licensed by the State of Alaska who is operating under a Federal license, when the vessel is navigating waters between 60°49' North latitude and the Port of Valdez, Alaska.

(h) The Secretary shall designate waters on which tankers over 1,600 gross tons subject to this section shall have on the bridge a master or mate licensed to direct and control the vessel under section 7101(c)(1) of this title who is separate and distinct from the pilot required under subsection (a) of this section.

(i)(1) Except as provided in paragraph (2), a dredge to which this section would otherwise apply is exempt from the requirements of this section.

(2) If the Secretary determines, after notice and comment, that the exemption under paragraph (1) creates a hazard to navigational safety in a specified area, the Secretary may require that a dredge exempted by paragraph (1) which is operating in that area shall comply with this section.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 553; Pub. L. 98–557, §29(f)(1), (2), Oct. 30, 1984, 98 Stat. 2874; Pub. L. 99–307, §1(13), May 19, 1986, 100 Stat. 446; Pub. L. 101–380, title IV, §§4116(a), (b), 4302(g), Aug. 18, 1990, 104 Stat. 522, 539; Pub. L. 101–595, title III, §307, Nov. 16, 1990, 104 Stat. 2985; Pub. L. 105–383, title III, §301(b)(7), Nov. 13, 1998, 112 Stat. 3417.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
8502	46:215 46:364 46:391a 46:497

Section 8502 sets forth the provisions and requirements for pilots licensed under section 7101. It is an exception provided by law envisioned under section 8501(a).

Subsection (a) applies the requirement for a Federal pilot to coastwise seagoing vessels if propelled by machinery and inspected under part B or if inspected under chapter 37, including a tank barge. The section has been carefully worded to clearly set out those vessels that are required at times to have a Federal pilot.

Subsection (b) prohibits Federal pilot fees from being higher than those required for State pilots. Subsections (c) and (d) prohibit States from imposing impediments to the proper performance of, or levying charges related to, Federal pilotage.

Subsections (e) and (f) prescribe civil penalties for violation of this section.

AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105–383 substituted "not beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured" for "not on the high seas".

1990—Subsec. (a). Pub. L. 101–595, §307(1), substituted "subsections (g) and (i)" for "subsection (g)" in introductory provisions.

Subsecs. (e), (f). Pub. L. 101–380, §4302(g), substituted "\$10,000" for "\$500".

Subsec. (g). Pub. L. 101–380, §4116(a), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "The Secretary shall designate by regulation the areas of the approaches to and waters of Prince William Sound, Alaska, on which a vessel subject to this section is not required to be under the direction and control of a pilot licensed under section 7101 of this title."

Subsec. (h). Pub. L. 101–380, §4116(b), added subsec. (h).

Subsec. (i). Pub. L. 101–595, §307(2), added subsec. (i).

1986—Subsec. (a)(4)(A). Pub. L. 99–307 substituted "part" for "Part".

1984—Subsec. (a). Pub. L. 98–557, §29(f)(1), amended subsec. (a) generally, which prior to amendment read as follows: "A coastwise seagoing vessel, when not sailing on register and when underway (except on the high seas), shall be under the direction and control of a pilot licensed under section 7101 of this title if the vessel is—

"(1) propelled by machinery and subject to inspection under part B of this subtitle; or

"(2) subject to inspection under chapter 37 of this title."

Subsec. (g). Pub. L. 98–557, §29(f)(2), added subsec. (g).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§8503. Federal pilots authorized

(a) The Secretary may require a pilot licensed under section 7101 of this title on a self-propelled vessel when a pilot is not required by State law and the vessel is—

(1) engaged in foreign commerce; and

(2) operating—

(A) in internal waters of the United States; or

(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.

(b) A requirement prescribed under subsection (a) of this section is terminated when the State having jurisdiction over the area involved—

(1) establishes a requirement for a State licensed pilot; and

(2) notifies the Secretary of that fact.

(c) For the Saint Lawrence Seaway, the Secretary may not delegate the authority under this section to an agency except the Saint Lawrence Seaway Development Corporation.

(d) A person violating this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than \$25,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

(e) A person that knowingly violates this section or a regulation prescribed under this section commits a class D felony.

(Added Pub. L. 98–557, §29(f)(3)(A), Oct. 30, 1984, 98 Stat. 2874; amended Pub. L. 101–380, title IV, §4302(h), Aug. 18, 1990, 104 Stat. 539; Pub. L. 105–383, title III, §301(b)(8), Nov. 13, 1998, 112 Stat. 3417.)

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–383 added par. (2) and struck out former par. (2) which read as follows: "operating on the navigable waters of the United States."

1990—Subsec. (e). Pub. L. 101–380 substituted "commits a class D felony" for "shall be fined not more than \$50,000, imprisoned for not more than five years, or both".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.