

NEW SECTION. Sec. 14. Sections 1 through 13 of this act shall constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 15. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 21, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 15, 1987.

Filed in Office of Secretary of State May 15, 1987.

CHAPTER 392

[House Bill No. 629]

VESSEL PILOTS—DISCIPLINE MODIFIED

AN ACT Relating to discipline of state licensed pilots; and amending RCW 88.16.100.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 13, chapter 18, Laws of 1935 as last amended by section 1, chapter 121, Laws of 1986 and RCW 88.16.100 are each amended to read as follows:

(1) The board shall have power on its own motion or, in its discretion, upon the written request of any interested party, to investigate the performance of pilotage services subject to this chapter and to issue a reprimand, impose a fine against a pilot in an amount not to exceed five thousand dollars (~~and~~), suspend, withhold, or revoke the license of any pilot, or any combination of the above, for misconduct, incompetency, inattention to duty, intoxication, or failure to perform his duties under this chapter, or violation of any of the rules or regulations provided by the board for the government of pilots. The board may partially or totally stay any disciplinary action authorized in this subsection and subsection (2) of this section. The board shall have the power to require that a pilot satisfactorily complete a specific course of training or treatment.

(2) In all instances where a pilot licensed under this chapter performs pilot services on a vessel exempt under RCW 88.16.070, the board may on its own motion, or in its discretion upon the written request of any interested party, investigate whether the services were performed in a professional manner consistent with sound maritime practices. ~~((If the board finds that the pilotage services were performed in a negligent manner so as to endanger life, limb, or property, the board shall impose a fine of not more than five thousand dollars upon the offending pilot.))~~ If the board finds that the pilotage services were performed in a manner that constitutes an act of incompetence, misconduct, or negligence so as to endanger life, limb, or

property, or violated or failed to comply with state laws or regulations intended to promote marine safety or to protect navigable waters, the board may issue a reprimand, impose a fine against a pilot in an amount not to exceed five thousand dollars, suspend, withhold, or revoke the state pilot license, or any combination of the above. The board shall have the power to require that a pilot satisfactorily complete a specific course of training or treatment.

(3) The board shall implement a system of specified disciplinary actions or corrective actions, including training or treatment, that will be taken when a state licensed pilot in a specified period of time has had multiple disciplinary actions taken against the pilot's license pursuant to subsections (1) and (2) of this section. In developing these disciplinary or corrective actions, the board shall take into account the cause of the disciplinary action and the pilot's previous record.

(4) When the board determines that reasonable cause exists to issue a reprimand, impose a fine ((or)), suspend, revoke, or withhold any pilot's license or require training or treatment under subsection (1) or (2) of this section, it shall forthwith prepare and personally serve upon such pilot a notice advising him of the board's intended action, the specific grounds therefor, and the right to request a hearing to challenge the board's action. The pilot shall have thirty days from the date on which notice is served to request a full hearing before an administrative law judge on the issue of the reprimand, fine ((or)), suspension, revocation, or withholding of his pilot's license, or requiring treatment or training. The board's proposed reprimand, fine ((or)), suspension, revocation, or withholding of a license, or requiring treatment or training shall become final upon the expiration of thirty days from the date notice is served, unless a hearing has been requested prior to that time. When a hearing is requested the board shall request the appointment of an administrative law judge under chapter 34.12 RCW who has sufficient experience and familiarity with pilotage matters to be able to conduct a fair and impartial hearing. The hearing shall be governed by the provisions of Title 34 RCW. All final decisions of the administrative law judge shall be subject to review by the superior court of the state of Washington for Thurston county or by the superior court of the county in which the pilot maintains his residence or principal place of business, to which court any case with all the papers and proceedings therein shall be immediately certified by the administrative law judge if requested to do so by any party to the proceedings at any time within thirty days after the date of any such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision. Any case so certified to the superior court shall be tried de novo and after certification of the record to said superior court the proceedings shall be had as in a civil action. Moneys collected from fines under this section shall be deposited in the pilotage account.

(5) The board shall have the power, on an emergency basis, to temporarily suspend a state pilot's license: (a) When a pilot has been involved in any vessel accident where there has been major property damage, loss of life, or loss of a vessel, or (b) where there is a reasonable cause to believe that a pilot has diminished mental capacity or is under the influence of drugs, alcohol, or other substances, when in the opinion of the board, such an accident or physical or mental impairment would significantly diminish that pilot's ability to carry out pilotage duties and that the public health, safety, and welfare requires such emergency action. The board shall make a determination within seventy-two hours whether to continue the suspension. The board shall develop rules for exercising this authority including procedures for the chairperson or vice-chairperson of the board to temporarily order such suspensions, emergency meetings of the board to consider such suspensions, the length of suspension, opportunities for hearings, and an appeal process. The board shall develop rules under chapter 34.04 RCW.

NEW SECTION. Sec. 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 21, 1987.

Passed the Senate April 13, 1987.

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CHAPTER 393

[Substitute House Bill No. 353]

AGRICULTURE DEPARTMENT—REVISIONS

AN ACT Relating to the department of agriculture; amending RCW 15.04.040, 15.04.100, 15.24.070, 15.24.190, 15.65.070, 15.65.170, 15.65.250, 15.65.470, 15.65.390, 15.65.400, 16.67.120, 20.01.040, 43.23.200, 62A.9-307, 69.25.270, 22.09.040, 22.09.045, 22.09.011, 22.09.345, 22.09.371, 22.09.391, and 22.09.520; adding a new section to chapter 15.04 RCW; adding a new section to chapter 15.86 RCW; adding a new section to chapter 22.09 RCW; adding a new section to chapter 69.04 RCW; repealing RCW 16.59.010, 16.59.020, 16.59.030, 16.59.040, 16.59.050, 16.59.060, 16.59.070, and 16.59.900; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 15.04.040, chapter 11, Laws of 1961 as amended by section 11, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 15.04.040 are each amended to read as follows:

Inspectors-at-large shall pass such an examination by the director as will satisfy him they are qualified in knowledge and experience to carry on the work in the districts to which they are assigned. They shall be assigned to a horticultural inspection district and may be transferred from one district to another. Their salaries and travel expenses, as shown by vouchers