

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 606 Session of 2015

INTRODUCED BY MCGARRIGLE, PILEGGI AND RAFFERTY, MARCH 6, 2015

AS AMENDED ON THIRD CONSIDERATION, FEBRUARY 8, 2016

AN ACT

1 ~~Amending Title 42 (Judiciary and Judicial Procedure) of the~~ <--
2 ~~Pennsylvania Consolidated Statutes, in particular rights and~~
3 ~~immunities, providing for limited liability for pilots and~~
4 ~~apprentices.~~

5 AMENDING THE ACT OF MARCH 29, 1803 (P.L.542, NO.156), ENTITLED <--
6 "AN ACT TO ESTABLISH A BOARD OF WARDENS FOR THE PORT OF
7 PHILADELPHIA, AND FOR THE REGULATION OF PILOTS AND PILOTAGES,
8 AND FOR OTHER PURPOSES THEREIN MENTIONED," PROVIDING FOR
9 LICENSED PILOT AND APPRENTICE LIABILITY.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 ~~Section 1. Title 42 of the Pennsylvania Consolidated~~ <--
13 ~~Statutes is amended by adding a section to read:~~

14 ~~§ 8340.3. Licensed pilot liability.~~

15 ~~(a) Purpose. The purpose of this section is to stimulate~~
16 ~~and preserve maritime commerce on the pilotage grounds of this~~
17 ~~Commonwealth by limiting and regulating the liability of certain~~
18 ~~pilots, which commerce is essential to the economic viability of~~
19 ~~this Commonwealth's maritime commerce and serves the public~~
20 ~~interests.~~

21 ~~(b) Limited liability. A licensed pilot or apprentice~~
22 ~~providing pilot services shall not be liable for more than~~

1 ~~\$5,000 for damage or loss caused by the licensed pilot's or~~
2 ~~apprentice's error, omission, fault or neglect in the~~
3 ~~performance of the pilot services, except for the following:~~

4 ~~(1) damage or loss that arises because of the willful~~
5 ~~misconduct or reckless disregard for safety by the licensed~~
6 ~~pilot or apprentice; or~~

7 ~~(2) an act or omission relating to the ownership and~~
8 ~~operation of a pilot boat unless the pilot boat is directly~~
9 ~~involved in pilot services other than the transportation of~~
10 ~~licensed pilots.~~

11 ~~(c) Vessel owners and operators. This section does not~~
12 ~~exempt a vessel or its owner or operator from liability for~~
13 ~~damage or loss caused by the vessel to a person or property on~~
14 ~~the grounds that:~~

15 ~~(1) the vessel was piloted by a licensed pilot or~~
16 ~~apprentice; or~~

17 ~~(2) the damage or loss was caused by the error,~~
18 ~~omission, fault or neglect of a licensed pilot or apprentice.~~

19 ~~(d) Dismissal of proceedings. In a proceeding brought~~
20 ~~against a licensed pilot or apprentice for an act or omission~~
21 ~~for which liability is limited as provided by this section and~~
22 ~~in which other claims are made or anticipated with respect to~~
23 ~~the same act or omission the court shall dismiss the proceedings~~
24 ~~as to the licensed pilot or apprentice to the extent the~~
25 ~~pleadings allege liability of the pilot that exceeds \$5,000.~~

26 ~~(e) Other limitations of liability. Liability under this~~
27 ~~section shall also be limited as follows:~~

28 ~~(1) A pilot or apprentice shall not be liable directly~~
29 ~~or as a member of an organization of pilots for any claim~~
30 ~~that:~~

1 ~~(i) arises from an act or omission of another pilot,~~
2 ~~apprentice or organization of pilots; and~~

3 ~~(ii) relates directly or indirectly to pilot~~
4 ~~services.~~

5 ~~(2) An organization of pilots shall not be liable for~~
6 ~~any damages caused by a licensed pilot's or apprentice's~~
7 ~~error, omission, fault or neglect in the performance of~~
8 ~~pilotage.~~

9 ~~(f) Defense. For the sole purpose of occasions when this~~
10 ~~section is applicable as a defense to liability by a licensed~~
11 ~~pilot or apprentice, the licensed pilot or apprentice asserting~~
12 ~~the defense shall be considered to have been acting as the~~
13 ~~servant of the vessel, its owner and its operator.~~

14 ~~(g) Applicability. This section shall apply to all causes~~
15 ~~of action that occur on or after July 1, 2015.~~

16 ~~(h) Definitions. As used in this section, the following~~
17 ~~words and phrases shall have the meanings given to them in this~~
18 ~~subsection unless the context clearly indicates otherwise:~~

19 ~~"Apprentice." A person appointed as an apprentice pilot~~
20 ~~under 4 Pa. Code Ch. 405.9 (relating to apprentices).~~

21 ~~"Pilot." A person licensed under 4 Pa. Code Ch. 405~~
22 ~~(relating to pilots and pilotage) by the Navigation Commission~~
23 ~~for the Delaware River and its Navigable Tributaries.~~

24 ~~Section 2. This act shall take effect July 1, 2015.~~

25 SECTION 1. THE ACT OF MARCH 29, 1803 (P.L.542, NO.156), <--
26 ENTITLED "AN ACT TO ESTABLISH A BOARD OF WARDENS FOR THE PORT OF
27 PHILADELPHIA, AND FOR THE REGULATION OF PILOTS AND PILOTAGES,
28 AND FOR OTHER PURPOSES THEREIN MENTIONED," IS AMENDED BY ADDING
29 A SECTION TO READ:

30 SECTION 31.2. (A) THE PURPOSE OF THIS SECTION IS TO

1 STIMULATE AND PRESERVE MARITIME COMMERCE ON THE PILOTAGE GROUNDS
2 OF THIS COMMONWEALTH BY LIMITING AND REGULATING THE LIABILITY OF
3 CERTAIN PILOTS, WHICH COMMERCE IS ESSENTIAL TO THE ECONOMIC
4 VIABILITY OF THIS COMMONWEALTH'S MARITIME COMMERCE AND SERVES
5 THE PUBLIC INTERESTS.

6 (B) A LICENSED PILOT OR APPRENTICE PROVIDING PILOT SERVICES
7 SHALL NOT BE LIABLE FOR MORE THAN FIVE THOUSAND DOLLARS FOR
8 DAMAGE OR LOSS CAUSED BY THE LICENSED PILOT'S OR APPRENTICE'S
9 ERROR, OMISSION, FAULT OR NEGLIGENCE IN THE PERFORMANCE OF THE
10 PILOT SERVICES, EXCEPT FOR THE FOLLOWING:

11 (1) DAMAGE OR LOSS THAT ARISES BECAUSE OF THE WILLFUL
12 MISCONDUCT OR RECKLESS DISREGARD FOR SAFETY BY THE LICENSED
13 PILOT OR APPRENTICE; OR

14 (2) AN ACT OR OMISSION RELATING TO THE OWNERSHIP AND
15 OPERATION OF A PILOT BOAT UNLESS THE PILOT BOAT IS DIRECTLY
16 INVOLVED IN PILOT SERVICES OTHER THAN THE TRANSPORTATION OF
17 LICENSED PILOTS.

18 (C) THIS SECTION DOES NOT EXEMPT A VESSEL OR ITS OWNER OR
19 OPERATOR FROM LIABILITY FOR DAMAGE OR LOSS CAUSED BY THE VESSEL
20 TO A PERSON OR PROPERTY ON THE GROUNDS THAT:

21 (1) THE VESSEL WAS PILOTED BY A LICENSED PILOT OR
22 APPRENTICE; OR

23 (2) THE DAMAGE OR LOSS WAS CAUSED BY THE ERROR, OMISSION,
24 FAULT OR NEGLIGENCE OF A LICENSED PILOT OR APPRENTICE.

25 (D) IN A PROCEEDING BROUGHT AGAINST A LICENSED PILOT OR
26 APPRENTICE FOR AN ACT OR OMISSION FOR WHICH LIABILITY IS LIMITED
27 AS PROVIDED BY THIS SECTION AND IN WHICH OTHER CLAIMS ARE MADE
28 OR ANTICIPATED WITH RESPECT TO THE SAME ACT OR OMISSION, THE
29 COURT SHALL DISMISS THE PROCEEDINGS AS TO THE LICENSED PILOT OR
30 APPRENTICE TO THE EXTENT THE PLEADINGS ALLEGE LIABILITY OF THE

1 PILOT THAT EXCEEDS FIVE THOUSAND DOLLARS.

2 (E) LIABILITY UNDER THIS SECTION SHALL ALSO BE LIMITED AS
3 FOLLOWS:

4 (1) A PILOT OR APPRENTICE SHALL NOT BE LIABLE DIRECTLY OR AS
5 A MEMBER OF AN ORGANIZATION OF PILOTS FOR ANY CLAIM THAT:

6 (I) ARISES FROM AN ACT OR OMISSION OF ANOTHER PILOT,
7 APPRENTICE OR ORGANIZATION OF PILOTS; AND

8 (II) RELATES DIRECTLY OR INDIRECTLY TO PILOT SERVICES.

9 (2) AN ORGANIZATION OF PILOTS SHALL NOT BE LIABLE FOR ANY
10 DAMAGES CAUSED BY A LICENSED PILOT'S OR APPRENTICE'S ERROR,
11 OMISSION, FAULT OR NEGLIGENCE IN THE PERFORMANCE OF PILOTAGE.

12 (F) FOR THE SOLE PURPOSE OF OCCASIONS WHEN THIS SECTION IS
13 APPLICABLE AS A DEFENSE TO LIABILITY BY A LICENSED PILOT OR
14 APPRENTICE, THE LICENSED PILOT OR APPRENTICE ASSERTING THE
15 DEFENSE SHALL BE CONSIDERED TO HAVE BEEN ACTING AS THE SERVANT
16 OF THE VESSEL, ITS OWNER AND ITS OPERATOR.

17 (G) THIS SECTION SHALL APPLY TO ALL CAUSES OF ACTION THAT
18 OCCUR ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

19 (H) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES
20 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS
21 THE CONTEXT CLEARLY INDICATES OTHERWISE:

22 "APPRENTICE." A PERSON APPOINTED AS AN APPRENTICE PILOT
23 UNDER 4 PA. CODE § 405.9 (RELATING TO APPRENTICES).

24 "PILOT." A PERSON LICENSED UNDER 4 PA. CODE CH. 405
25 (RELATING TO PILOTS AND PILOTAGE) BY THE NAVIGATION COMMISSION
26 FOR THE DELAWARE RIVER AND ITS NAVIGABLE TRIBUTARIES.

27 SECTION 2. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.