



**AB-2287 Bar pilotage: rates.** (2011-2012)

SHARE THIS:



AMENDED IN ASSEMBLY MAY 01, 2012  
AMENDED IN ASSEMBLY APRIL 09, 2012  
AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–2012 REGULAR SESSION

**ASSEMBLY BILL**

**NO. 2287**

**Introduced by Assembly Member Swanson**

**February 24, 2012**

An act ~~to add Section 1191.5 to the Harbors and Navigation Code,~~ relating to bar pilotage.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2287, as amended, Swanson. Bar pilotage: rates.

Existing law provides for the licensing and regulation of pilots for Monterey Bay, and the Bays of San Francisco, San Pablo, and Suisun, and the payment of specified pilotage rates and charges imposed on vessels piloted in those bays. In that connection, existing law requires the Board of Pilot Commissioners for Monterey Bay, and the Bays of San Francisco, San Pablo, and Suisun Bays to recommend that the Legislature, by statute, adopt a schedule of pilotage rates that provide fair and reasonable return to pilots engaged in ship movements or special operations if the rates for those movements or operations are not specified by law.

Existing law requires a vessel using pilots for ship movements or special operations that do not constitute bar pilotage to pay the rate specified in the schedule of pilotage rates adopted by the Legislature.

~~This bill would require that a minimum of 2 pilots be on board a vessel that is subject to the payment of bar pilotage and is inward or outward bound into or out of Monterey Bay, or the Bays of San Francisco, San Pablo, or Suisun if the movement of the vessel involves special circumstances or operations, as described. The bill would require a vessel that is subject to the payment of bar pilotage pursuant to those provisions to pay the full pilotage rate for vessel movements for the first pilot, and 12 the full pilotage rate for vessel movements for the 2nd pilot. The bill would require the board, no later than January 1, 2014, to adopt regulations specifying the requirements that must be met for the safe operation of vessels in those bays during periods of restricted visibility caused by fog, weather conditions, or darkness~~ *state the intent of the Legislature to enact legislation that would require a 2nd bar pilot for safety in the San Francisco Bay and its tributaries for ultra large container*

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** *It is the intent of the Legislature to enact legislation that would require a second pilot for safety in the San Francisco Bay and its tributaries for ultra large container vessels, and what the appropriate compensation is for the second pilot.*

~~SECTION 1. Section 1191.5 is added to the Harbors and Navigation Code, to read:~~

~~1191.5.(a) If the movement of a vessel which is subject to the payment of bar pilotage and is inward or outward bound into or out of Monterey Bay, or the Bays of San Francisco, San Pablo, or Suisun, involves special circumstances or operations, the vessel shall have a minimum of two pilots on board at all times.~~

~~(b) The vessel shall pay the full pilotage rate for the first pilot for vessel movements covered under subdivision (a), and shall pay one-half the full pilotage rate for the second pilot for those vessel movements.~~

~~(c) For purposes of this section, "special circumstances or operations" includes any of the following:~~

~~(1) The movement of a vessel that exceeds 1,115 feet in length and is destined for the Port of Oakland.~~

~~(2) The movement of a vessel that involves a nighttime transit of anhydrous ammonia during hours of darkness.~~

~~(3) The movement of a vessel that requires the turning of a vessel that is between 1,000 feet and 1,115 feet in length.~~

~~(4) The movement of a vessel that takes place during a time of restricted visibility caused by fog, weather conditions, or darkness.~~

~~(d) On or before January 1, 2014, the board shall adopt regulations specifying the requirements that must be met for the safe operation of vessels in those bays during periods of restricted visibility caused by fog, weather conditions, or darkness.~~



**AB-2287 Bar pilotage: rates.** (2011-2012)

Date	Action
11/30/12	From committee without further action.
05/02/12	Re-referred to Com. on APPR.
05/01/12	Read second time and amended.
04/30/12	From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 8. Noes 4.) (April 23).
04/09/12	Re-referred to Com. on TRANS.
04/09/12	From committee chair, with author's amendments: Amend, and re-refer to Com. on TRANS. Read second time and amended.
04/09/12	Re-referred to Com. on TRANS.
03/29/12	From committee chair, with author's amendments: Amend, and re-refer to Com. on TRANS. Read second time and amended.
03/29/12	Referred to Com. on TRANS.
02/27/12	Read first time.
02/26/12	From printer. May be heard in committee March 27.
02/24/12	Introduced. To print.

Date of Hearing: April 23, 2012

ASSEMBLY COMMITTEE ON TRANSPORTATION  
Bonnie Lowenthal, Chair  
AB 2287 (Swanson) – As Amended: April 9, 2012

SUBJECT: San Francisco Bar Pilots: Second pilotage work requests and compensation

SUMMARY: Establishes procedures for the use of San Francisco Bay bar pilots (bar pilots) for special operations. Specifically, this bill:

- 1) Requires that a minimum of two bar pilots be on board a vessel that is subject to the payment of bar pilotage and is inward or outward bound into or out of the Bays of San Francisco, San Pablo, Suisun, or Monterey, if the movement of the vessel involves special circumstances or operations, as defined below.
- 2) Requires a vessel that is subject to the payment of bar pilotage pay the full pilotage rate for vessel movements for the first pilot, and 1/2 the full pilotage rate for vessel movements for the other pilot.
- 3) Defines special circumstances to mean the following:
  - a) The movement of a vessel that exceeds 1,115 feet in length and is destined for the Port of Oakland.
  - b) The night-time movement of a vessel that involves anhydrous ammonia.
  - c) The movement of a vessel that requires the turning of a vessel that is between 1,000 feet and 1,115 feet in length.
  - d) The movement of a vessel that takes place during a time of restricted visibility caused by fog, weather conditions, or darkness.
- 4) Requires the Board of Pilot Commissioners (Board), no later than January 1, 2014, to adopt regulations specifying the requirements that must be met for the safe operation of vessels in those bays during periods of restricted visibility caused by fog, weather conditions, or darkness.

EXISTING LAW:

- 1) Establishes the Board, to license and regulate maritime pilots who guide vessels entering or leaving the Bays of San Francisco, San Pablo and Suisun, and Monterey. The Board has seven members who are appointed by the Governor with the consent of the Senate. The Board reports to the Secretary of the Business, Transportation and Housing Agency.
- 2) Requires the Board to recommend that the Legislature, by statute, adopt a schedule of pilotage rates providing that provide fair and reasonable return to pilots engaged in ship movements or special operations if the rates for those movements or operations are not specified by law.

- 3) Requires a vessel using pilots for ship movements or special operations that do not constitute bar pilotage to pay the rate specified in the schedule of pilotage rates adopted by the Legislature.
- 4) Recognizes the increase in vessel size and traffic, and the increase in cargoes carried in bulk (particularly oil and gas and hazardous chemicals) create substantial hazards to the life, property, and values associated with the environment of those waters.

FISCAL EFFECT: Unknown

COMMENTS: Brief historical background: Bar pilots have been guiding ships into San Francisco Bay since 1835. This passageway was considered one of the most treacherous in the world. The work that bar pilots performed was so important that one of the first legislative enactments by the newly formed California Legislature that met in San Jose in 1850 was to address the regulation of bar pilots.

California's history of piloting parallels, to a large extent, the history of pilotage throughout the United States. Prior to the American Revolution, pilotage was regulated by colonial legislatures. They generally provided for the commissioning of pilots, apprenticeship requirements to become a pilot, specified the type and size of pilot boats used in the service, and established fees to be charged. When the United States Constitution was adopted, it recognized that pilotage fell within the domain of the federal government because it involved regulation of instruments of foreign commerce. One of the first acts of the newly formed Congress in 1789 was to recognize the existing state laws regulating pilots and delegate to the states the authority to continue to regulate pilotage because of its unique character.

Bar pilots are responsible for steering an arriving vessel through the Golden Gate of San Francisco Bay, the bay waters and adjoining navigable waters, which include San Pablo Bay, Suisun Bay, the Sacramento River and its tributaries. When a vessel approaches the "SF" buoy several miles west of the Golden Gate Bridge, a bar pilot boards the ship and takes navigational control. (Pilots in San Francisco are called "Bar Pilots" because they board and disembark ships just beyond a treacherous sand bar which provides a natural obstacle to shipping.) It becomes the pilot's responsibility to guide the ship to its berth. The bar pilots provide service to all types of vessels, from 100-foot tugs to over 1000-foot supertankers. The bar pilots move more than 9,000 vessels a year, working closely with shipping agencies, tug companies, and the U.S Coast Guard to deliver cargo and passengers safely and on time. Their scope of services is unique in that it includes bar, bay, and inland river pilotage. With the advent of the global positioning system (GPS), the navigational aid system involving satellites and computers that can determine the latitude and longitude of a receiver on the earth, bar pilots use computers to aid in navigating around shoals and other navigational impediments.

Purpose of AB 2287: Pilots are generally mandatory in every major port throughout the world and their pilotage service is paid for by the vessel owner/agent. As noted above, the bar pilots have been state regulated and licensed since 1850 to pilot vessels to various ports in the San Francisco Bay Area such as San Francisco, Oakland, Redwood City, Martinez, Richmond, Pittsburg, Vallejo, Rodeo, Antioch, Stockton, Sacramento and, more recently, including Monterey. Vessels make payment to the San Francisco Bar Pilots Association (SF Bar Pilots Association) for services in these areas.

According to the author's office, as justification for the bill, they cite the Board's May 2011 action recommending that the Legislature adopt the rate schedule that permitted a charge for the use of an additional pilot for safety considerations. The Board deliberated the necessity of requiring a second pilot because of safety concerns due to the size or configuration of the vessel either limiting visibility from the bridge or causing difficulties in handling and steering, particularly in confined or shallow waters. The author further contends that the Board considered other special circumstances similar to this bill when a second pilot would be required such as visibility restrictions caused by conditions of fog, weather, or darkness as well as the toxic chemical composition of the transported cargo. The author indicated that the Board approved this action on a five to one vote.

California ports pilotage services: The ports of Los Angeles, Long Beach, San Diego, Port Hueneme, and Humboldt Bay are governed by local government entities. Los Angeles pilots are municipal employees and Long Beach has an exclusive contract with a private company. The other ports contract with a pilot association similar to the SF Bar Pilots Association. All of these pilots hold only federal licenses.

The Los Angeles Pilot Service provides navigation port pilot services for ship traffic to and from Los Angeles Harbor. These pilots are employees of the City of Los Angeles and are covered under the pension system as well as the city's liability insurance in the event of a shipping incident. If the assistance of a second pilot is considered necessary for the safety of the vessel or harbor property, or is requested by the master, owners, agents, charterers, operators or the pilot of the vessel, a charge of one-half the total of the first pilot fee, subject to a minimum charge of \$392.00, is assessed.

For the Port of Long Beach, ships entering the harbor area are provided port pilots who are under contract with a private pilot service. According to the private service, they indicate that they have been using multiple pilots on high profile jobs for many years. Most of the multiple pilot jobs are two pilots only, but some jobs have three pilots. They charge full rate for each pilot onboard and comment that they "are pushing the limits of the size of ships coming into our port and the only way to mitigate the risk is to have multiple pilots onboard."

Vessels entering the San Francisco Bay are required by law to utilize the services of a licensed bar pilot and are charged fees for those services. The Board regulates and contracts for the services of the bar pilots who are independent contractors, not state employees. The bar pilots, represented by the SF Bar Pilots Association, have their membership and rates fixed by California statute. There are no competitive options for ship owners who use San Francisco Bay ports other than to employ the services of this legal monopoly. The bar pilots are the only coastal pilots that have their rates set in statute by the Legislature.

Table of Pilotage Rates at various major North American Ports: The Board included the following table in their record of proceedings of their May 2011 hearings on the adjustments of pilotage rates for the bar pilots. The table represents various pilotage rate charges for the same vessel at various ports in North America.

	Century Highway #2	Hanjin Hong Kong	Hatsu Eagle	MSC Texas	British Pride
Long Beach	\$2,660.16	\$3,734.40	\$4,896.00	\$5,445.52	\$6,043.60
Vancouver	\$6,351.94	\$8,797.66	\$13,420.00	\$15,426.92	\$28,508.86
Puget Sound	\$8,541.94	\$7,589.54	\$17,111.92	\$20,400.46	\$34,058.46
Oakland	\$12,429.69	\$10,405.40	\$19,811.07	\$24,792.14	\$43,439.36
Ensenada	\$5,900.74	\$4,883.10	\$9,990.35	\$11,887.55	\$20,912.76
Mazatlan	\$6,991.63	\$5,779.00	\$11,842.34	\$14,094.24	\$24,800.83
Lazaro Cardenas	\$9,252.96	\$7,708.95	\$15,063.07	\$17,786.82	\$30,638.96
Houston	\$6,703.02	\$8,758.92	\$19,635.62	\$22,322.60	\$33,412.02
Tampa	\$8,791.84	\$8,230.76	\$14,023.80	\$16,236.86	\$27,557.12
New York	\$6,881.64	\$10,357.80	\$11,191.60	\$11,679.28	\$14,589.60
*Los Angeles	\$2,423.38	\$3,398.62	\$4,458.94	\$4,959.06	\$5,431.46

\* Note: Los Angeles information added after May 25, 2011 Board proceedings

Special circumstances for second pilotage: The Board, at their May 25, 2011, rate adjustment proceedings, considered when an additional pilot should be used in the navigation of a vessel in transit or in its docking or departure from a dock. The Board's in-depth discussion led to recommendations that are reflected in this bill's provisions pertaining to the definition of "special circumstances." Subsequent to the Board's deliberations, it adopted a rate adjustment of 1/2 bar pilot rate that is reflected in this bill.

Arguments in Support:

- 1) The author contends that the current rate structure for bar pilot compensation was drafted with the use and consideration of a single pilot on all ships. They do not believe that the Legislature did not contemplate changes in shipping practices, especially the ever-increasing sizes of the large ships that are being deployed now. Accordingly, the author indicates that "the law is silent with respect to the use and related fee assessment for an additional pilot."
- 2) The bill's sponsor, the SF Bar Pilots Association that represent the bar pilots collectively, contend that this measure is not about pilot income, which rises and falls based on shipping traffic calling at various Bay Area ports. Rather, they indicate that the issue is about fairness and the ability of the bar pilots to recoup their costs.
- 3) The bill codifies the recommendation of the Board's May 2011 action where it approved the use of a second pilot with pay commensurate to 1/2 regular bar pilotage rate.
- 4) According to the author, the use of an additional pilot for special operations and a related fee assessment is not unprecedented, it is the pattern and practice of the marine pilot industry at the Port of Los Angeles and the Port of Long Beach. The Port of Los Angeles (a municipal pilotage district) requires a half-pilot charge for the use of an additional pilot and the Port of Long Beach (pilotage services provided by a private contractor) assesses full bar pilotage fees for the use of additional pilots.

Arguments in Opposition:

- 1) Writing in opposition to this bill, the Pacific Marine Shipping Association (PMSA), contends that "State-licensed pilots in the San Francisco Bay participate in a monopoly which exercises its privilege of compulsory pilotage and, as a result, less than 60 individuals enjoyed net incomes of over \$451,000 per pilot in 2011. This includes a year-over-year raise of \$58,000 over their 2010 income, and represents a windfall of \$50,000 more than the pilots themselves expected four years early. For this level of compensation, pilots are asked to work less than six months a year – as they stand duty for approximately 175 days, do approximately 140 jobs per year, and spend an estimated 3.6 hours per duty day piloting."
- 2) PMSA also points out that the last time the Legislature increased pilot rates in 2002, their published average net income was over \$239,000 per year and today they are making 90% more. They cite that as the reason another bill pertaining to bar pilot compensation was rejected last year in the Senate (AB 907 (Ma) of 2011).
- 3) According to Maersk, Inc., writing in opposition to the bill, they contend that the larger ships pay more fees than the average vessel because pilotage charges are based on the size of the vessels with the understanding that the larger vessels could present additional navigational challenges and may need additional pilot resources to be moved safely. They question why the state would double pay bar pilots that are "currently the highest compensated pilots on the West Coast."
- 4) The table on Page 4 points out the high pilotage costs of the Port of Oakland in comparison to other ports within North America, especially those in California. Opponents cite that continued increases in fees make it more expensive for every calling on the San Francisco ports and, if continued, could give shippers incentive to use port facilities elsewhere.

Author's amendments: Attempting to allay concerns relative to the bill's provisions that identify the special circumstances when a second pilot is necessary, the author is proposing to amend the bill to narrow the scope of the provisions to:

- 1) Narrow the scope of night transports of anhydrous ammonia to pertain to only rivers and not the bay waters and the chargeable second pilot would be at the request of the customer or their agent.
- 2) Eliminate the need for a second pilot when visibility is restricted due to fog, weather conditions, or darkness as well as the requirement of the Board to adopt regulations for these weather situations or darkness.

Related bill: AB 907 (Ma), of 2011, would have increased pilotage rates as well as establish rates for a second pilot. The bill failed passage in the Senate Governmental Organization Committee and was subsequently amended to deal with surety bonding of California farm products.

REGISTERED SUPPORT / OPPOSITION:

Support

San Francisco Bar Pilots Association (sponsor)



Opposition

California Chamber of Commerce  
California Citrus Mutual  
California Cotton Ginners and Growers Associations  
California Farm Bureau Federation  
California Grape and Tree Fruit League  
California Grocers Association  
California Manufacturers & Technology Association  
California Rice Industry Association  
California Trade Coalition  
Cruise Lines International Association  
Maersk Line  
Matson Navigation Company  
Nisei Farmers League  
Pacific Marine Shipping Association  
Western Agricultural Processors Association  
Western States Petroleum Association

Analysis Prepared by: Ed Imai / TRANS. / (916) 319-2093