

Pilotage In The U.S.

Pilotage of international trade vessels in the United States is regulated by the individual states, each of which maintains a pilotage system that is suited to the particular needs and circumstances of its own waters. In 1789, the first Congress of the United States enacted a law giving the states the right to regulate pilotage in their waters. That created the state pilotage system, which remains in effect today. Every foreign-flag vessel and every United States-flag vessel engaged in international trade moving in the waters of a state is required by the state to take a pilot licensed by the state.

Although each state has its own pilotage statute and regulatory system, there are substantial similarities in their systems. In all but one state, pilots are licensed and otherwise regulated by a pilot commission, which is a state-recognized governmental entity that is part of a state agency or of a local municipality or port authority. Most pilot commissions have a mixed membership composed of representatives of ship operators, port interests, environmental groups, pilots, government agencies, and the public. The commission selects individuals for admission to a training program, oversees the training process, issues licenses, investigates accidents involving pilots or complaints filed against pilots, and oversees various aspects of the pilotage operation. Each U.S.-flag coastwise vessel is required by federal law to use a pilot with a federal license issued by the United States Coast Guard. Unlike the comprehensive state systems, federal regulation is limited to licensing and disciplinary enforcement. The federal license has much lower qualification requirements (for example, no prior training specifically as a pilot is necessary) than a state license, and is similar to a pilotage exemption certificate issued under systems in other parts of the world. Each state pilot also holds a federal license, however. In this respect, the federal license serves as a national minimum standard.

Training and Prior Experience Requirements

The typical state-licensed pilot in the U.S. is the most highly trained mariner in the world. Pilots have either extensive deep-sea or tug experience before they enter pilot training programs or they go through a lengthy (four to seven years) apprenticeship program. In addition to extensive prior experience or detailed instruction in basic shiphandling, pilot trainees undergo long periods of route specific training under the guidance of experienced pilots. This hands-on training is supplemented with the latest in classroom instruction and simulator training. Once a pilot receives a license, he or she undergoes regular continuing training, including training in bridge resource management for pilots, emergency shiphandling, and new navigation technology, as well as other types of instruction and practice on full mission bridge simulators and manned models. Each state pilot is expected to be comfortable with the latest in navigation technology and ships' systems.

Competition

Each state limits the number of pilot licenses that it issues to the number required to maintain a safe and efficient pilotage service. There is no competition among state pilots. Each port or waterway area is served by one pilot association or one regulated rotation system. The pilotage system in the U.S. recognizes that there are important safety and efficiency reasons for not having competitive pilotage.

In the United States, compulsory pilotage is considered navigation safety regulation. Although the state pilot is not an employee of the government or the port, the pilot performs a public service in which the pilot is expected to protect the waters where he or she operates by preventing ships from engaging in unsafe operations. That means that pilots are expected to exercise independent professional judgment, which they would not be able to do if they had to compete for business. In addition, compulsory pilotage is provided on a non-discriminatory basis. Pilots are required to be available at all times and to all ships equally. The comprehensive state regulatory system seeks to ensure that each ship that requires a pilot receives a trained, competent, well-rested pilot without delay. In order to meet those responsibilities, pilot associations are required to maintain training programs, pilot boats, dispatch services, rotation systems, and all other types of equipment and support systems needed for a modern, efficient and safe pilotage operation. Pilots could not make the investments necessary for these things in a competitive environment.

Regulated Rates

Rates for pilotage are regulated. The regulating body within a state can be the pilot commission, a separate pilotage rate body, a public service commission (which sets the rates for public utilities and other regulated monopolies), or a state legislature. The rates are set at levels that will provide sufficient revenues to cover the expenses of a modern, full service pilotage operation, including pilot compensation recognizing that pilots are at the top of the maritime profession. Rate regulation also ensures that the rates are fair and reasonable.

Employment Status of the Pilot and Organizational Structure of Pilot Association

The typical state pilot is treated as a self-employed professional. Pilots in a port or specific waterway area are organized in a pilot association, however. The association exists to facilitate joint activities such as billing and collecting and to administer the rotation, dispatch, pilot boat and training operations. Under a 1906 decision by the U.S. Supreme Court, a pilot association cannot be held liable for the negligence of one of its members during the provision of pilotage services. This reflects the principle in the U. S. that pilotage is provided by the individual professional pilot, not by the association. Some states have limitation of liability statutes that place a limit on the liability of an individual pilot in recognition of the facts that the vessel's insurance already covers loss caused by pilot error and the pilot is subject to considerable regulatory oversight and potential discipline for conduct that fails to meet the high standards of the profession.

Role of the Pilot

As reflected in an official statement adopted by the Trustees of the American Pilots' Association in 1997: Navigation of a ship in United States pilotage waters is a shared responsibility between the pilot and the master/bridge crew. The compulsory state pilot directs the navigation of the ship, subject to the master's overall command of the ship and the ultimate responsibility for its safety. The master has the right, and in fact the duty, to intervene or to displace the pilot in circumstances where the pilot is manifestly incompetent or incapacitated or the vessel is in immediate danger (in extremis) due to the pilot's actions. With that limited exception, international law requires the master and/or the officer in charge of the watch to "cooperate closely with the pilot and maintain an accurate check on the ship's position and movement."

State-licensed pilots are expected to act in the public interest and to maintain a professional judgment that is independent of any desires that do not comport with the needs of maritime safety. In addition, licensing and regulatory authorities, state and federal, require compulsory pilots to take all reasonable actions to prevent ships under their navigational control from engaging in unsafe operations. Because of these duties, a compulsory state pilot is not a member of the bridge "team." Nevertheless, a pilot is expected to develop and maintain a cooperative, mutually supportive working relationship with the master and the bridge crew in recognition of the respective responsibility of each for safe navigation.