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**COMMISSIONERS OF PILOTAGE**

CHAPTER 136

Statutory Authority: 1976 Code Sections 40-1-70 and 54-15-140

136-080. Enforcement of Pilot Statutes and Maritime Homeland Security

**Synopsis:**

 The Commissioners of Pilotage is adding Regulation 136-080 to ensure that every vessel subject to maritime pilotage receives a pilot on board, as charged under Section 54-15-110 and 54-15-280 of the 1976 S.C. Code, as amended, as well as Part 136-070C. No person, other than a duly licensed pilot, is permitted to conduct and pilot any vessel over the bar, into and out of any South Carolina harbor. Part 136-070C of the S.C. Code of Regulations requires that a licensed pilot shall consider any circumstance wherein a master or operator of any seagoing vessel refuses to take a pilot as a “hazardous condition” and must immediately be reported to the Coast Guard. Under Section 40-1-200 of the 1976 S.C. Code, as amended, a person acting as a pilot without licensure constitutes a Class C misdemeanor as defined in Section 16-1-100. In order to establish a process to ensure compliance with these statutes and regulations, a new Part 136-080 is added to the S.C. Code of Regulations. In addition, this regulation addresses the present role of pilots on the front line of the effort to achieve maritime homeland security.

 The Drafting Notice was published in the South Carolina *State Register* on December 26, 2008.

**Instructions:**

 Add regulation 136-080 as printed below.

**Text:**

136-080. Enforcement of Pilot Statutes and Maritime Homeland Security.

 A. Every pilot, or operator of any pilot vessel regulated pursuant to 1976 Code 54-15-170, who detects any apparent violation of 1976 Code Sections 54-15-270 and 54-15-280, and 1976 Code Section 40-1-200, wherein an unlicensed person is acting as a pilot, said pilot shall immediately report such circumstances to the sheriff of the county having jurisdiction, and/or to such other law enforcement authority designation by the Commissioners. The reporting pilot or pilot vessel operator shall thereupon identify the vessel by name, type, ownership, flag, homeport, and, if known or suspected, the vessel’s apparent destination within the affected port, its present location and apparent speed, and any other particulars of interest. The pilot or pilot vessel operator shall provide any sheriff, or deputy sheriff, or other duly authorized law enforcement officer of the State with full details involving any attempts to inform such a vessel of the requirements of Title 54, Chapter 15, and/or 46 CFR 15. Further, the reporting pilot and/or any other licensed pilot or pilot vessel operator may assist the appropriate law enforcement agency in lawfully causing the vessel in violation to comply with State law. Such assistance might include the use of any pilot vessel that is under the command of a State-licensed pilot.

 B. Notwithstanding the requirement of Part 136-070C to immediately report such violations of pilotage statutes as “hazardous conditions” to the U.S. Coast Guard, the pilot shall also initiate a voice SECURITE’ call on VHF Channels 13 and 16. When and if such a vessel is indicating it is a U.S. flagged vessel, such message shall advise all marine traffic that a vessel requiring a pilot is underway on the bar and/or harbor may be in violation of federal laws and regulations with respect to manning.

 C. The Commissioners consider this enforcement role of pilots, and by the pilot vessels under their command, as being in the interest of the safety and security of the port(s) at which the pilots are licensed. Pilots and pilot vessels constitute a major surveillance asset for achieving maritime domain awareness in order to protect the port, its population, its waterways and structures, and its marine environment from the consequences of a maritime disaster, accidental or deliberate, and other like illegal activities. Pilots and pilot vessel operators shall immediately report suspicious activities and events or other actions detected upon the bar and harbor that they may consider illegal to the sheriff and/or other law enforcement official designated by the Commissioners.

 D. Pilots and pilot vessels are part of Division II of the S.C. Naval Militia pursuant to 1976 S.C. Code Section 54-17-50 and S.C. Regulation 80-010(5)(b). As such they shall immediately report to the Coast Guard any and all circumstances observed that are deemed to be of a suspicious nature and that might threaten the maritime security of the port and state. Pilot vessels are considered to be law enforcement vessels of the State of South Carolina.

 E. The Commissioners authorize such pilot vessels, addressed in 1976 Code 54-15-170 and S.C. Regulation 136-040, to be employed in support of maritime homeland security missions in any Maritime Security (MARSEC) condition. Unless operational control is assumed by the U.S. Coast Guard, the use of these assets shall be controlled by the respective pilots in command of such vessels, and may include, but not be limited to, transportation for law enforcement boarding terms, surveillance and detection, surveys, logistics and other maritime domain awareness purposes.

**Fiscal Impact Statement:**

 There will be no increased costs to the State or its political subdivisions.

**Statement of Rationale:**

Regulation 136-080 is added to ensure that every vessel subject to maritime pilotage receives a pilot on board.