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**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**COMMISSIONERS OF PILOTAGE**

CHAPTER 136

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

136-013. Pilot and Apprentice Age Limitations

136-020. Short Branch Qualification

136-070. Pilot Functions and Responsibilities

136-099. Penalties

**Synopsis:**

 The Department of Labor, Licensing and Regulation, Commissioners of Pilotage, is revising Regulations 136-013, 136-020, 136-070, and 136-099 by updating the regulations in conformance with 2006 Act 237.

**Instructions:**

136-013. Pilot and Apprentice Age Limitations.

Replace as indicated below

136-020. Short Branch Qualification.

A.-B. No substantive changes.

C. Replace as indicated below

D.-E. No substantive changes.

136-070. Pilot Functions and Responsibilities.

A.-E. No substantive changes.

F. Replace as indicated below

G.-H. No substantive changes.

136-099. Penalties.

A.-B. No substantive changes.

C. Replace as indicated below

**Text:**

136-013. Pilot and Apprentice Age Limitations.

 The required physical rigors and necessary stamina render service as a pilot in the Lower Coastal Area to be such that no pilot seventy years or older will be registered.

136-020. Short Branch Qualification.

 A. The term of the apprentice training and qualification program shall be followed by a period of not less than three years for advanced qualification as a short branch pilot.

 B. With the consent of the apprentice who has passed the term of apprenticeship, the period of short branch qualification may be suspended for a period of time to be approved by the Commissioners. Under such circumstances, the Commissioners shall assure that the passed apprentice has completed a sufficient number of refresher round trips prior to licensure.

 C. The various tonnage and draft limitations for each short branch shall be:

 (1) Initial (first) Short Branch (six months) ... Limited to the average Gross Registered Tons rounded up to the next highest thousand for the previous calendar year and limited to the average deep draft, rounded up to the next even number of feet, said tonnage and draft averages will be for the previous calendar year.

 (2) Second Short Branch (six months) ...No tonnage limit, deep draft limit to be the deep draft limit applicable in subparagraph (1) above, plus two feet.

 (3) Third Short Branch (one year) ...No tonnage limit, deep draft limit to be the deep draft limit applicable in subparagraph (1) above, plus five feet.

 (4) Fourth Short Branch (one year) ...No tonnage limit, deep draft limit shall be the deepest draft applicable to merchant vessels whose movements are not draft-restricted under Regulation 136-071A.

 D. While undergoing advance qualification, short branch pilots may be observed by full branch pilots on board such vessels to which the short branch pilots may be assigned.

 E. Upon the completion of an appropriate period of time for any particular short branch, the satisfactory completion of which shall be determined by the pilots, the pilots shall submit to the Commissioners a listing of every vessel piloted by the short branch pilot during that period as well as a synopsis of any difficulties encountered to demonstrate the performance of the short branch pilot.

136-070. Pilot Functions and Responsibilities.

 A. Pilot services shall be made available to the master of every inbound vessel that requires a state pilot pursuant to the 1976 Code Section 54-15-270.

 B. Every pilot received on board a vessel for the Lower Coastal Area subject to the jurisdiction of the Commissioners shall remain on board such vessel while in transit between the pilot station and its terminal or anchorage. The transit shall begin on inbound vessels when the pilot assumes the control of the ship and shall end when the first line is passed to a pier, wharf or other waterfront facility, or until the vessel is anchored fast to the bottom. The transit shall begin on outbound vessels when the last line is passed or when the anchor is aweigh, and shall end when the pilot is discharged by the vessel's master, having arrived at that place on the bar where the adjoining depths of water are sufficient for safe navigation. The transit on shifting vessels shall be from the passing of the last line or weighing of the anchor until the first line is passed or the anchor is made fast to the bottom.

 C. Every vessel described in the 1976 Code Section 54-15-270 requiring a state pilot shall receive on board such pilot to direct the vessel movement for every inbound and outbound transit of the port and for shifting berths and anchorages within the port. This requirement applies regardless of the source of vessel propulsion, be it self propelled or propelled by tugs. If the master or operator of any seagoing vessel requiring a state pilot shall refuse to receive on board a pilot, such circumstance shall be considered a "hazardous condition" pursuant to 33 CFR 160.203 and shall immediately be reported to the Coast Guard.

 D. No pilot licensed by the Commissioners shall knowingly pilot any vessel, the operation of which, in the opinion of such pilot, may introduce an unnecessary risk to the port, other vessels, or the marine environment.

 (1) An "unnecessary risk" includes situations where any vessel is deemed by the pilot not to be in compliance with applicable Federal Navigation Safety Regulations, or where the condition of any vessel's operation, in the opinion of the pilot, constitutes a "hazardous condition" as defined by federal regulations.

 (2) An "unnecessary risk" may also include situations that may prevent or inhibit the safe movement of a vessel, including, but not limited to, instances wherein the wheelhouse or bridge is not properly manned by sufficient numbers of qualified crew members or, conversely, when the wheelhouse or bridge is encumbered by the presence of extraneous persons who are not members of the crew, docking pilots, pilots or apprentice pilots, owners, agents or operating managers.

 (3) Nothing in this subpart shall prevent a pilot from piloting any vessel when, in his or her opinion, the vessel's safety or the safety of the port would be further impaired or endangered by the pilot's refusal to provide pilotage.

 E. No pilot may depart any outbound vessel in pilot waters until that vessel has met or passed any other vessel also navigating on those pilot waters.

 F. The pilots may elect to waive the rates and fees for vessels refusing to receive a pilot on board as provided in 1976 Code Section 54-15-270; provided that such vessels have a maximum draft of less than eleven feet and are not engaged in commerce. Whenever such waivers are granted, neither the pilots nor the vessel will be deemed to be in violation of 1976 Code Sections 54-15-220 and 54-15-270, respectively.

 G. The pilots may assign more than one pilot to any given vessel if, in their opinion, an additional pilot is necessary to assure adequate visibility or otherwise ensure the safe maneuvering of said vessel.

 H. A master or licensed operator of any vessel may relieve the state pilot on board under certain circumstances where the safety of the vessel is perceived by the master, or licensed operator, to be at risk, however;

 (1) No master or licensed operator of any vessel, having relieved the state pilot on board, shall then serve as the pilot on such vessel when the pilot has refused to pilot the vessel pursuant to the conditions described in subparts 136-070D(1) and 136-070D(2).

 (2) Whenever a pilot on a vessel has been relieved by a master or licensed operator of said vessel or whenever a pilot refuses to pilot any vessel, such pilot shall immediately broadcast a Sécurité voice message on VHF Channels 13 and 16, stating the name of the vessel, its present position, direction of movement and speed, and the fact that a properly licensed pilot is neither directing nor controlling the vessel's movement.

 (3) Whenever a pilot on a vessel has been relieved by the vessel's master or licensed operator or whenever a pilot refuses to pilot any vessel, he shall remain aboard until his disembarkation can be safely effected. Under such circumstances, such pilot is not in the service of his or her license. If such a pilot believes he or she can be of value to the vessel's master or operator subsequent to the aforementioned relief or refusal, the pilot shall offer his or her services and recommendations to the master or licensed operator, so as to mitigate risk or to provide the maximum safety under the conditions. Unless such a pilot broadcasts a second Sécurité call on VHF Channels 13 and 16 that he or she has reassumed control, such pilot will not be considered in the service of his or her license.

136-099. Penalties.

 A. Suspension or revocation of pilot licenses shall be initiated and prosecuted pursuant to 1976 Code Section 54-15-320 and Section 1-23-370.

 B. Fines, forfeitures, and other penalties shall be initiated and prosecuted pursuant to 1976 Code Section 54-15-340.

 C. Nothing contained within the penalty provisions of 1976 Code Title 54, Chapter 15, shall be construed to preempt or constrain the investigation or imposition of any criminal or civil action authorized or required by either federal or state law, and the investigative procedures and penalties provided in Chapter 1 of Title 40, 1976 S.C. Code, as amended.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

Regulations 136-013, 136-020, 136-070, and 136-099 are being amended in conformance with 2006 Act 237 and public comment.