

1 HB167
2 128652-2
3 By Representatives Barton, Fincher, Sessions, McMillan and
4 Gaston
5 RFD: Judiciary
6 First Read: 07-FEB-12

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Section 33-4-40, Code of Alabama 1975,
9 relating to the bond of bar pilots piloting vessels; to
10 provide certain limitations on the liability of bar pilots
11 unless the action is willful, intentional, or reckless.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 33-4-40, Code of Alabama 1975, is
14 amended to read as follows:

15 "§33-4-40.

16 "(a) The commissioners must preserve on file all
17 bonds and affidavits taken from pilots, and may, whenever they
18 consider it necessary, require a new bond to be executed. The
19 pilot's bond stands as security for any injury caused by the
20 negligence or want of skill of the pilot, and action may be
21 brought thereon in the name of any person aggrieved.

22 "(b) A pilot providing pilot services to a vessel is
23 not liable for more than five thousand dollars (\$5,000) for
24 damage or loss to any person or property caused by the pilot's
25 error, omission, fault, or neglect in the performance of the
26 pilot services, unless one of the following applies:

1 "(1) The damage or loss was caused because of the
2 willful, intentional, or reckless misconduct of the pilot.

3 "(2) Liability exists for exemplary or punitive
4 damages for willful, intentional, or reckless misconduct for
5 which no other person is jointly or severally liable.

6 "(c) This section does not exempt a vessel; its
7 crew; or its owner, charterer, or operator from liability for
8 damage or loss caused to any person or property by the vessel
9 on either of the following grounds:

10 "(1) That the vessel was piloted by a pilot.

11 "(2) That the damage or loss was caused by the
12 error, omission, fault, or neglect of a pilot.

13 "(d) In an action brought against a pilot for an act
14 or omission for which liability is limited as provided by this
15 section and in which other claims are made or anticipated with
16 respect to the same act or omission, the court shall dismiss
17 the proceedings as to the pilot to the extent the pleadings
18 allege liability of the pilot that exceeds five thousand
19 dollars (\$5,000)."

20 Section 2. The provisions of this act apply only
21 provided the bar pilots remain self-employed independent
22 contractors and the number of such self-employed independent
23 contractors does not exceed 20 actively engaged in the
24 piloting of vessels as licensed by the State Pilotage
25 Commission.

26 Section 3. All laws or parts of laws which conflict
27 with this act are repealed.

1 Section 4. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 07-FEB-12

Read for the second time and placed
on the calendar 1 amendment 05-APR-12

Read for the third time and passed
as amended..... 26-APR-12

Yeas 99, Nays 0, Abstains 1

Greg Pappas
Clerk