

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

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§33-4-40.

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

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

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

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

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

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

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

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

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

24           Section 3. All laws or parts of laws which conflict  
25 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.

