

## **SUBCHAPTER II. MOREHEAD CITY NAVIGATION AND PILOTAGE COMMISSION.**

### Article 4.

#### General Provisions.

#### **§ 76A-31. Morehead City Navigation and Pilotage Commission.**

In consideration of the requirement for the safe and expeditious movement of waterborne commerce on the navigable waters of the State, it is deemed necessary to establish the Morehead City Navigation and Pilotage Commission, herein called Commission. The Commission shall have the exclusive power to license and regulate pilots familiar with the waters of Morehead City Harbor and Beaufort Bar and the water route from Morehead City to Aurora, North Carolina (to include from Morehead City through the Inland or Intracoastal Waterway North, through Adams Creek, the Neuse River, the Bay River, the Hobuken Canal, the Pamlico River, and South Creek to Aurora or from the Neuse River around Brant Island Shoal through the Pamlico River and South Creek to Aurora), referred to herein as the regulated area, to best guide vessels within those waters and to exercise authority over navigation in Morehead City Harbor and Beaufort Bar and to and from the sea buoy of the port. (1981 (Reg. Sess., 1982), c. 1176, s. 1; 1985, c. 517, s. 1.)

#### **§ 76A-32. Membership.**

The Commission shall consist of three voting members, all appointed by the Governor. The president of the Morehead City Pilots' Association shall serve as an ex officio nonvoting member. All of the three members appointed by the Governor, shall be from Carteret County. One additional nonvoting ex officio member shall represent the maritime interests and shall be designated by the Governor. The Governor shall designate a voting member to serve at his pleasure as chairman. With the exception of the ex officio members, licensed pilots and members of their immediate families shall not be allowed to serve on the Commission. (1981 (Reg. Sess., 1982), c. 1176, s. 1.)

#### **§ 76A-33. Term.**

It shall be the duty of the Governor to make initial appointments to the Commission on July 1, 1982. One of the initial appointees shall serve an initial three-year term. One shall serve an initial two-year term and one for an initial one-year term. Thereafter, all appointments shall be for a three-year term. The representatives of the maritime interest shall be appointed for a one-year initial term and three-year terms thereafter. Any vacancy in the membership appointed by the Governor shall be filled by the Governor. (1981 (Reg. Sess., 1982), c. 1176, s. 1.)

#### **§ 76A-34. Quorum.**

A simple majority of voting members of the Commission shall constitute a quorum and may act in all cases. (1981 (Reg. Sess., 1982), c. 1176, s. 1.)

#### **§ 76A-35. Duties and authority.**

(a) Rules and Regulations, Pilotage. – The Commission shall make and establish such rules and regulations as necessary and desirable respecting the qualifications, arrangements and station of pilots and for the control of navigation within the regulated area. In the development of such rules and regulations, the Commission should request the advice of the United States Coast Guard, the U.S. Corps of Engineers, the Pilots' Association, other maritime interests and any other party that the Commission might deem beneficial. However, the Commission may not establish rules

and regulations concerning the Morehead City to Aurora water route except as they may apply to foreign vessels displacing over 60 gross tons.

(b) Examination and Licensing. – The Commission may examine such persons who hold a federal pilot's license and who have complied with an apprentice course approved by the Commission as may offer themselves to be a pilot on the regulated area. The examination shall consist of, but not be limited to: a personal interview before the Commission; contact by the Commission with personal references; and a physical examination by a licensed physician based on a standard established by the Commission. Licenses shall be granted for a one-year period.

(c) License Renewal. – Each license shall be renewed annually provided during the preceding year the holder thereof shall have complied with the provisions of this Subchapter and the reasonable rules and regulations as prescribed by the Commission under authority hereof. The Commission may for special considerations validate a license for less than a one-year period. Each license renewal submittal shall be accompanied with a physical examination comparable to the standards set in G.S. 76A-35(b).

(d) Fine, License Suspension and Cancellation. – The Commission shall have the power to fine or call in and suspend or cancel the license of any pilot found to be derelict of duty, in violation of the reasonable rules and regulations as set out by the Commission or for other just cause. Grounds for suspension or cancellation shall include but not be limited to: citation by the United States Coast Guard and/or Commission for careless or neglectful duty resulting in damage to property or personal harm; absence, neglect of duty, absence from duty for a period longer than four weeks without written submission to and written approval from the Commission Chairman; other violations of regulations or in actions found by the Commission to be unduly disruptive of the pilotage and service and/or harmful to person or property.

The clear proceeds of fines levied pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(e) Pilots to Give Bond. – The Commission shall require of each pilot prior to granting his commission a bond with surety acceptable to the Commission in an amount not to exceed ten thousand dollars (\$10,000). Every bond taken of a pilot shall be filed with and preserved by the Commission in trust for every person, firm or corporation, who shall be injured by the neglect or misconduct of such pilots, and any person, firm or corporation so injured may severally bring suit for the damage by each one sustained.

(f) Jurisdiction over Disputes as to Pilotage or Navigation. – Disputes between pilots or over matters related to navigation in the regulated area may be voluntarily appealed by one of the pilots to the Commission for resolution or so presented to the Commission by any interested party for resolution. If a resolution is not reached or the Commission decision is unacceptable to either party, normal legal recourse is available to resolve the dispute. (1981 (Reg. Sess., 1982), c. 1176, s. 1; 1985, c. 517, s. 2; 1998-215, s. 137(b); 2011-183, s. 127(b).)

### **§ 76A-36. Classes of licenses.**

The Commission shall have general authority to issue three classes of licenses:

- (1) Limited. – A license to pilot vessels whose draft does not exceed 25 feet combined with a maximum length to be fixed by Commission rules. Limited licenses may be issued to those who pass requirements established by statute and by the Commission to entitle such person to a limited license.
- (2) Full. – A license to pilot any vessel. Full license shall be issued to all holders of a limited license who have in the opinion of the Commission satisfactorily

served at least one year under a limited license. Additionally, the Commission may issue a full license to anyone who in the Commission's judgments has sufficient credentials as established under G.S. 76A-35(b) to perform the pilotage task associated with a full license.

- (3) Apprentice. – A license to engage in a program, approved by the Commission, as apprentice pilot under the terms of G.S. 76A-42. (1981 (Reg. Sess., 1982), c. 1176, s. 1.)

**§§ 76A-37 through 76A-41. Reserved for future codification purposes.**