

**ALABAMA STATE PILOTAGE COMMISSION  
ADMINISTRATIVE CODE**

**CHAPTER 710-X-1  
GENERAL**

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710-X-1-.01	<u>Brief Description Of The State Pilotage Commission Etc. [As Required By Code Of Ala. 1975, §41-22-4(A) (1)]</u> .

(1) The State Pilotage Commission is unique among state agencies. Created by statute in 1852, it regulates certain aspects of the occupation known as "bar pilot," that is, those locally-based ship captains who guide ships between the "bar" at the mouth of Mobile Bay and the Port of Mobile, up and down the ship channel(s). The Port of Mobile has "compulsory pilotage," meaning that a ship (unless exempt) is required by statute to take aboard a bar pilot if it expects to enter or leave Mobile. Compulsory pilotage is obviously designed to provide local expertise to help prevent ship collision, stranding and damage, with attendant loss of life and property, and perhaps even environmental damage.

(2) The Commission's role is to decide how many pilots there should be, and to manage the application and apprenticeship process and, ultimately, the granting or denial (and if necessary, the suspension or even revocation) of a bar pilot's license or "branch."\*

(3) The Commission is established and organized by statute, now Code of Ala. 1975, §§33-4-1 et seq. Its procedures, except where set out in the statute creating it, naturally follow the Alabama Administrative Procedure Act, Code of Ala. 1975, §§41-22-1 et seq., and any other applicable laws.

(4) The Commission now consists of three members, one from each of three categories, whose categorical occupations are a statutory requirement: a person in the "steamship" business which maintains an office in Mobile; an active bar pilot licensed and branched by the State Pilotage Commission; a bar pilot; and a business or professional person subject to state licensure.

(5) Though the Commission is clearly a state agency, it is an orphan state agency. It gets no money from the legislature. It has no "state offices." Its members serve mostly as an act of good citizenship. It has no employees, except a part-time secretary. At the same time, it must bear most of the burdens of being a state agency: audits, paperwork, and the adoption and publication of regulations like these.

(6) The public and the executive and legislative branches of state government frequently confuse two quite separate entities: the "State Pilotage Commission" -- a state agency -- and the "Mobile Bar Pilots Association," a private business enterprise consisting of branched pilots who have formed a private business association to share the financial risks and rewards, and the working burden, of the pilotage business. The Commission (a state government body) and the Association (a private business) are not linked in any way, except that the Commission's statute requires that one active bar pilot be a member.

\*Alabama statutes have always called a pilot's license a "branch." This term goes back to 1514 in England, when King Henry VIII granted to Trinity House the power to license pilots, and required that no pilot could navigate the River Thames or any of its tributary creeks or "branches," without a license. A licensed pilot became known as a "branch pilot," the license itself a "branch," and the licensure process "branching." The terminology came with maritime men to the new World.

(7) Any submission or request to the Commission should be submitted to:

Secretary  
The State Pilotage Commission  
P.O. Box 273  
Mobile, AL 36601

**Author:** David A. Bagwell

**Statutory Authority:** Code of Ala. 1975, §33-4-11.

**History:** Filed February 1, 1991.

**710-X-1-.02      Establishment And Operation Of The Commission.**

(1) The Commission has been established and shall operate according to the statute which creates it, Code of Ala. 1975, §33-4-1.

(2) To the extent not expressly set out in its own organic statute, the Commission shall operate in accordance with the Alabama Administrative Procedure Act, Code of Ala. 1975, §§41-22-1 et seq., or where applicable, other laws.

**Author:** David A. Bagwell

**Statutory Authority:** Code of Ala. 1975, §33-4-11.

**History:** Filed February 1, 1991.

#### **710-X-1-.03      Forms, Etc..**

In keeping with its modest task, the Commission maintains no forms or instructions, no written statements of policy or interpretations, and no orders, decisions, or opinions.

**Author:** David A. Bagwell

**Statutory Authority:** Code of Ala. 1975, §33-4-11.

**History:** Filed February 1, 1991.

#### **710-X-1-.04      Form Of Petition, Etc..**

Anyone who requests the adoption, amendment or repeal of a rule should simply write a letter to the Commission saying what he wants done. It will be considered and acted upon by the Commission as soon as reasonably possible.

**Author:** David A. Bagwell

**Statutory Authority:** Code of Ala. 1975, §33-4-11.

**History:** Filed February 1, 1991.

#### **710-X-1-.05      Fitness Of Pilots.**

(1) Annual Physical Examination. Each active bar pilot shall annually submit to the Commission written evidence of an annual medical examination, sufficient to satisfy the Commission of the fitness for duty of the pilot.

(2) Submission of Examination Reports. A pilot shall, within three days of taking, submit or ask his physician to submit to the Commission a written report of the findings of any medical examination ("medical examination" does not include a visit to a physician for treatment of an insignificant temporary condition, not interfering with fitness as a pilot).

(3) Special Examinations. If the Commission has any reasonable basis for doing so, it may request that an active bar pilot, as a condition for continued licensure, submit to an immediate medical, mental or drug-free examination, and may suspend the pilot's branch pending the examination, in accordance with Rule 5F.

(4) Periodic Drug-Free Certificate. Each licensed bar pilot shall submit to the Commission, every six months, a "drug-free certificate" or other evidence of the successful passing of a drug or chemical test:

(a) described under 46 CFR §16.220 (periodic drug testing requirements for merchant marine personnel), or

(b) approved by the Coast Guard, or

(c) as may be otherwise approved by the Commission. The test and laboratory shall be approved by the U.S. Coast Guard or Department of Transportation under 46 CFR §§16.101, et seq., or other federal regulation, or approved by the Commission. Failure to pass any drug-free test shall result in immediate suspension of the pilot's license, until a drug-free certificate is submitted to the Commission.

(5) Intoxication While Operating Vessel, Etc. To maintain simplicity and uniformity, and to assure adequate protection, certain federal regulations, namely, the provisions of 33 CFR Part 95 (§§95.00 et seq.) ("Vessel Operating Regulations -- Operating a Vessel While Intoxicated") are adopted as regulations of the Commission. The license of any pilot who is found by the United States Coast Guard or by the Commission to have operated a vessel while under the influence of alcohol or of marijuana, cocaine, opiates, amphetamines, phencyclidine or any other controlled substance, shall be immediately and automatically revoked.

(6) Emergency Administrative Suspension. If for any reason the Commission finds that there is reasonable cause to suspect that a pilot is not physically or mentally fit for duty, or is subject to the influence of drugs or (while on duty) alcohol, it may immediately and temporarily suspend his license for a period of up to seven days, to allow time for appropriate medical, mental, drug, or licensure examinations, hearings, and proceedings to be instituted and to take place. In exceptional circumstances specifically found by the Commission in writing, this suspension may be extended for thirty additional days.

(7) Reinstatement to Active Status. Any pilot who is deemed inactive (6 months) according to the By-Laws, will require no less than five (5) round trips, half of which need to be at night, before being reinstated to active status.

**Author:** Jeffery J. Hartley

**Statutory Authority:** Code of Ala. 1975, §33-4-11.

**History:** Filed February 1, 1991. **Amended:** Published February 28, 2020; effective April 13, 2020.

**710-X-1-.06      Mobile Harbor Speed Limit.**

The speed limit for vessels in Mobile Harbor is six (6) knots. Any licensed pilot who shall be found in violation of this is subject to the following sanctions:

First violation - a warning shall be given to the offending pilot.

Second violation - one-week suspension of state license.

Third violation - thirty (30) day suspension of state license.

Fourth violation - revocation of the state license.

**Author:** David A. Bagwell

**Statutory Authority:** Code of Ala. 1975, §33-4-11.

**History:** Filed February 1, 1991.

**710-X-1-.07      Vessels To Be Served In Timely Manner.**

(1) Vessels must be served in a timely manner. Pilots must report to vessels (arriving or sailing) at the time specified by agents, owners and/or operators.

(2) All vessel delay complaints received by this Commission shall be subject to review and pilots shall be required to submit a written report giving a reason for such delay.

(a) If a pilot receives three (3) complaints within a one (1) year period, he shall be placed on probation for six (6) months.

(b) If during this six (6) month probation period further delay complaints regarding that pilot are received by the Commission, the Commission shall review the complaints, and exercise reasonable discretion regarding what further action to take against that pilot.

**Author:** David A. Bagwell

**Statutory Authority:** Code of Ala. 1975, §33-4-11.

**History:** Filed February 1, 1991.

**710-X-1-.08      Statutory Interpretations.**

(1) Alabama Code §33-4-34(5) (a) (2):

## (a) One-year's experience

1. Year - means 360 days - (as-defined in (1)(a)2 below) for the purpose of complying with the "one-year's experience" requirement.

2. Day means, for the purpose of complying with the "one-year's experience" requirement, eight hours of watch-standing or day-working as a master not to include overtime. On vessels where a 12-hour working day is authorized and practiced, such as on a six-on, six-off watch schedule, each workday may be creditable as one- and one-half days of service. On vessels of not less than 150 gross tons, a day is considered as eight hours of watch-standing or day working as a master unless the Officer in Charge, Marine Inspection determines that the vessel's operating schedule makes this criteria inappropriate; in no case will this period be less than four hours.

3. For the purpose of complying with the "one-year's experience" requirement, no minimum or maximum time frame is stipulated in which or within which the requisite, 60 days (as defined in (1)(a)2 above) may or must be accumulated.

4. For individuals "branched" as a pilot and/or made an apprentice between October 18, 2000 and June 8, 2004, and for purposes of complying with Rule 70-X-1-.08(1)(a)2 above, a licensed employee of a tugboat company operating any vessel of not less than 150 gross tons in a compensated or non-compensated capacity shall be considered to be engaged in "watch-standing or day-working as a master". Effective June 8, 2004, the definition of "watch-standing or day-working as a mater" as it relates to a license employee of a tugboat company contained in this Rule 710-X-1-.08(1)(a)4, is repealed.

**Author:** Frederick G. Helmsing, Shirley G. Weeks

**Statutory Authority:** Code of Ala. 1975, §33-4-11.

**History: New Rule:** Filed January 31, 1996; effective March 6, 1996. **Amended:** Filed December 18, 2000; effective January 22, 2001. **Amended:** Filed October 28, 2004; effective December 2, 2004.

**710-X-1-.09      Register Of Applicants.**

Section 33-4-3 - 1(a) of the Code of Alabama provides that the State Pilotage Commission shall when necessary maintain a Register of Applicants containing no more than nine applicants for apprenticeship....". This Rule is to set out the operation of that Register.

**Findings by Commission**

The State Pilotage Commission makes the following findings: there are very few bar pilot positions and fewer vacancies. The Commission consists of members who serve only for the civic good and it has no state office space, no state file space, and no state operating funds. Record space is quite limited. Under the circumstances, there is need for only a modest and simple Register of Applicants, and this rule is to establish a simple method of operation.

(a) "Open Period". If the Commission establishes and maintains a Register of Applicants, shall from time to time establish an "open period" for the receipt of applications for apprenticeship, which shall be published in Port of Mobile magazine.

(b) Applications Other Than In "Open Period". Except during open periods, the Commission need not accept and need not retain applications for apprenticeship.

(c) Operation of "Open Period". When it establishes an "open period", the Commission will state the maximum number of applications which it will accept. If the actual number of applications exceeds the number of openings, then the Commission, within its statutory power as "the sole judge of the seniority and statutory qualifications of applicants to be apprenticed" [ALA. CODE 33-4-30(b)] shall select those persons which it considers to be the best qualified among the applicants to fill the available slot on the Register based upon the following factors:

1. a minimum age of 18 years (as required by statute;
2. degree, extent and continuity of progress toward meeting the statutory qualifications;
3. degree of cooperation with the Commission in its attempt to determine the best qualified applicants;
4. holding of or progress toward the necessary Coast Guard licenses;
5. the nature and extent of appropriate maritime employment and experience (not necessarily limited to the statutory minimum);
6. college education from an accredited college, university, or nationally recognized maritime academy;
7. the views in writing, if any should be submitted, of the Mobile Bar Pilots Association, the private

organization comprised of all current licensed bar pilots; and

8. good moral character, as required by statute.

(d) Stale Applications. The experience of the Commission has shown that in the light of the few available bar pilot positions, applicants for apprenticeship might have to wait on the Register for extended periods of time, and their qualifications might become stale, inactive or invalid. For that reason, the Commission at reasonable intervals and with reasonable notice may require applicants for apprenticeship, or apprentices, to update their applications or their files. If the Commission decides that the application of an applicant or apprentice is stale or invalid, or that he or she should no longer be considered a serious candidate, or is not making adequate progress toward ultimate branching, and if it deems it appropriate in a particular instance, an applicant or apprentice may be suspended or dropped from the Register or from the apprenticeship program, after reasonable written notice and opportunity to respond.

(e) Divisions in Register of Applicants. The Register of Applicants shall contain two divisions.

1. "Ready Division". There shall be a "Ready Division" of the Register containing the names of those applicants who have already established that they were then qualified under Code of Ala. 1975, §33-4-31 for immediate apprenticeship if accepted. These shall be ranked in the order tentatively expected under §33-4-31(b).

2. "Training Division". Those applicants who have not yet established to the satisfaction of the Commission that they have tentatively qualified for apprenticeship shall be maintained in a "Training Division" of applicants, consisting of persons who are in the process of tentatively qualifying for apprenticeship. These shall be maintained by the Commission in any administratively-convenient manner, (such as alphabetical order or order of application) and shall not be ranked in any priority. When the Commission receives adequate proof that an applicant in the training Division of the Register has met all qualifications for apprenticeship, his or her name shall be moved to the Ready Division of the Register of Applicants.

From time to time, the activity or staleness of these applications may be checked by the Commission as provided elsewhere.

3. "Tentative Qualification for Apprenticeship". The time when an applicant is "considered by the Commission for

apprenticeship" [under Code of Ala. 1975, §33-4-31(b)] shall be the time when, immediately prior to apprenticeship, the Commission makes a determination that the applicant has met all requirements for apprenticeship. Such a ranking does not create or vest any property interest in the maintenance of that ranking.

Any determination on his qualifications prior to that time - such as a pre-selection ranking in order of apparent seniority - is only tentative and provisional, for administrative convenience only.

**Author:** Frederick G. Helmsing

**Statutory Authority:** Code of Ala. 1975, §33-4-11, 33-4-31(a), 33-4-31(b).

**History: New Rule:** Filed January 31, 1996; effective March 6, 1996. **Amended:** Filed January 13, 2003; effective February 17, 2003. **Amended:** Filed March 24, 2004; effective April 28, 2004.

**Amended:** Filed January 25, 2010; effective February 29, 2010.