

S. REP. 92-926, S. Rep. No. 926, 92ND Cong., 2ND Sess. 1972, 1972 U.S.C.C.A.N. 2760, 1972 WL 12630 (Leg.Hist.)

**\*2760 P.L. 92-339, VESSELS-- PERSONNEL-- LICENSES**

House Report (Merchant Marine and Fisheries Committee) No. 92-195,

Apr. 15, 1972 (To accompany H.R. 6479)

Senate Report (Commerce Committee) No. 92-926,

June 27, 1972 (To accompany H.R. 6479)

Cong. Record Vol. 117 (1971)

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**DATES OF CONSIDERATION AND PASSAGE**

House April 29, 1972; June 29, 1972

Senate June 29, 1972

The Senate Report is set out.

(CONSULT NOTE FOLLOWING TEXT FOR INFORMATION ABOUT OMITTED MATERIAL. EACH COMMITTEE REPORT IS A SEPARATE DOCUMENT ON WESTLAW.)

**SENATE REPORT NO. 92-926**

June 27, 1972

THE Committee on Commerce, to which was referred the bill (H.R. 6479) to provide for the licensing of personnel on certain vessels, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

**Purpose of the Bill**

The purpose of the bill is to promote safe navigation by requiring that, while underway, certain towing vessels shall be under the direction and control of persons licensed under regulations prescribed by the Secretary of the Department in which the Coast Guard is operating. In addition, the bill requires the Secretary of Transportation to conduct a study and to submit to the Congress a report thereon, together with any legislative recommendations, concerning the need for engineers on such vessels.

**Background and Need for the Legislation**

Section 4427 of the Revised Statutes provides for the inspection of tugboats, towing boats, and freight boats, and with respect to officers navigating such vessels, that such officers must be licensed. Although the language of the statute is in broad terms, it has been interpreted, since its inception, as applying only to steam-propelled vessels. Through the years, this type of propulsion plant for towing vessels has gradually been superseded by motor-driven plants. By 1969, the number of documented motor-propelled towing vessels was 5,856 and those propelled by steam numbered only 27. Of the towing vessels listed as motor propelled, only 35 were subject to the general requirements of marine inspection laws, these latter under provisions of law applicable to seagoing motor vessels of 300 gross tons or more.

**\*2761** This situation obviously has serious implications for towing vessel safety. The U.S. Coast Guard, the

National Transportation Safety Board, and important segments of labor and management in the industry itself have all made persuasive arguments that licensing of those charged with control of a towboat is urgently needed. The National Transportation Safety Board has recommended enactment of legislation requiring the licensing of towing vessel operators in eight separate reports (see Departmental Reports). It seems clear that such legislation is long overdue.

#### General Statement

Section 1 of H.R. 6479 would add a new subsection to Revised Statutes 4277, which will require an uninspected towing vessel, while underway, to be under the actual direction and control of a person licensed for that purpose by the Secretary of the Department in which the Coast Guard is operating. The license would be issued for operation in a particular geographic area, by type of vessel, under regulations prescribed by the Secretary.

The uninspected vessels to be covered by the legislation are those not otherwise required by law to have a valid certificate of inspection issued by the Secretary or his delegate. The licensing requirements will apply only to those vessels which are documented to perform commercial service as a towing vessel and will not apply to those vessels which are documented solely for other services or are not required to be documented. The vessels covered are those which perform towing services as a business and the bill does not cover vessels towing in an emergency or on an intermittent basis, not directly connected with the service for which the vessel may have been documented. Excluded from coverage would be, for instances, work boats which are used to move dredging equipment for short distances at the dredging site or vessels which would assist other vessels by undertaking to tow them in emergencies. As to size, only those towing vessels measuring 26 feet or more over the deck excluding sheer are covered under the bill.

The 'particular geographic area' referred to in the regulatory authority of the Secretary is intended to coincide with areas of applicability of the differing sets of nautical rules of the road, for example, inland rules, Great Lakes rules, western river rules and international rules. Licenses to be issued should be as broad in area coverage as practicable and examinations to be given should insure an adequate knowledge of each set of nautical rules of the road for the area to which the license applies. It is further intended that, where appropriate and at the request of the potential licensee, the license may be restricted to one or more geographical areas for which the individual desires to limit the scope of his license and therefore his examination. Finally, it is intended that the examination given may, under appropriate circumstances, be oral rather than written, in order to accommodate individuals, particularly those who will have been serving as towboat operators prior to the effective date of the licensing regulations, who, for any reason, may request an oral, in lieu of a written examination.

The phrase 'type of vessel' refers to those vessels covered by the bill and envisions that the Coast Guard, where appropriate, might endorse a license issued under other provisions of law to authorize the operation of vessels covered by this legislation.

**\*2762** The committee is aware that some States, such as New Hampshire, have enacted pilotage laws applicable to U.S. towing vessels sailing under registry or foreign towing vessels. These State laws appear to complement the objectives of H.R. 6479 and therefore there is no intent to either displace or preempt such State laws by this legislation. It is expected that where such State laws exist the Secretary will coordinate respective Federal and State activities in this regard.

As an additional measure of safety, the bill prohibits any person licensed under its provisions from the performance of duty under that license if, by so doing, he exceeds a total of 12 hours of work, in any consecutive 24-hour period. This restriction does not apply to a situation where the individual covered has not been in a duty, or work, status for the 12-hour period, but has instead, for a part of the period, been aboard the vessel without being in any duty or work status, awaiting an appropriate time, such as a change of tide, to commence

the towing operation. Nor is this restriction intended to relax any other more stringent requirement of law, relating to work limitations, applicable to vessels covered by this legislation.

Section 2 of the bill provides that the Secretary of Transportation shall conduct a study on the need for engineers aboard such vessels. It is intended that the study will include an analysis of casualties to determine whether a requirement for engineering personnel would improve the safety record of those vessels. The bill further directs the Secretary to submit the results of that study and any legislative recommendations not later than 10 months after the enactment of this legislation.

Section 3 of the bill establishes the effective date for the requirement as to operators' licenses as January 1, 1972, or the first day of the sixth month which begins after the month in which the authorized regulations are promulgated in final form, whichever date is later.

#### Explanation of Amendment

The committee adopted a single amendment to the bill. A new paragraph (b)(3) was added exempting certain vessels engaged in servicing the offshore oil and mineral exploitation industry, primarily in the Gulf of Mexico. These vessels differ substantially in their operations from the inland water towboats at which the bill is primarily directed. They operate in waters having relatively little vessel congestion and under special procedures which would make the requirements of the legislation unduly burdensome. Frequently, these vessels operate in foreign waters servicing the growing offshore oil exploitation industries of other nations and the requirements of the legislation might tend to disadvantage them competitively vis-a-vis foreign operators not subject to the requirement. Finally, it was noted that the Coast Guard is conducting a special study of these offshore operations and that, therefore, legislation at this time would be inappropriate.

#### Cost of the Legislation

The committee estimates the cost of the legislation as follows:

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

\*2763 There was no departmental or agency cost estimate submitted to the committee.

#### Conclusion

The committee unanimously ordered the bill, as amended, favorably reported. Its enactment and implementation should make a substantial contribution toward improving towing vessel safety.

#### Departmental Reports

The text of the departmental reports on H.R. 6479 are as follows:

Department of Transportation,  
National Transportation Safety Board,  
Washington, D.C., May 1, 1972.

Hon. Warren G. Magnuson,

Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: The National Transportation Safety Board desires to express its support for the enactment of H.R. 6479, a bill to provide for the licensing of personnel on certain vessels. We testified in support of a similar bill, H.R. 13987, on October 8, 1969, before the House Committee on Merchant Marine and Fisheries.

The Safety Board also expressed its support for S. 3047 in our letter to you, dated February 2, 1970. We have recommended the enactment of legislation requiring the licensing of towing vessel operators in the following re-

ports released by the Safety Board:

1. MV Southern Cities foundering.
2. Special study of collisions of radar-equipped merchant ships and preventive recommendations.
3. Special study of towing vessel safety and accident preventive recommendations.
4. SS African Star MV Midwest Cities collision.
5. SS Union Faith MV Warren Doucet collision.
6. MV Theresa F. capsizing.
7. MV Joan Ellis foundering.
8. MV Marjorie McAllister foundering.

Copies of these reports have been furnished your committee previously.

In addition to these reports, the Safety Board has reviewed hundreds of Coast Guard narrative reports of casualties involving towing vessels. Many of these casualties are attributed to lack of experience or qualifications of the operator of the towing vessel involved. Several recent casualties on the Ohio River demonstrated the urgent need for qualified operators of towing vessels. The collision of tank barges MOS 101 and MOS 103 in tow of the MV Martin, with Baltimore Ohio Railroad Bridge at Parkersburg, W. Va., on January 7, 1972, is such a case. The unlicensed operator of the MV Martin had been involved in several previous casualties. This casualty resulted from the barges' striking a bridge abutment, due to the pilot's error in judgment.

Another example is the collision of the chlorine tank barge SCC 620 with piers of the McAlpine Dam at Louisville, Ky., on March 21, 1972. This casualty was attributed to the loss of control of the tow by the unlicensed pilot of the towing vessel. Effective postaccident contingency operations prevented large loss of life in the Louisville area.

\*2764 The most recent casualty occurred on April 20, 1972, at the Cannelton locks, mile 720.9 of the Ohio River. The MV Thomas W. Hines went over the spillway of a dam and the pilot is missing. Two gasoline tank barges in tow broke loose, and one which was afire lodged against the dam. It is still burning, and considerable pollution resulted, as well as damage to the locks.

On March 15, the Safety Board approved a special study of the 'Safety of Transportation of Hazardous Materials on the Navigable Waters of the United States.' In this report, we urged enactment of H.R. 6479, and noted the potential for catastrophic accidents involving the shipping of hazardous materials. This report is being printed, and copies will be furnished your committee when they are available.

These casualties and reports substantiate the need for qualified personnel in charge of the operation of towing vessels. We strongly urge the early enactment of H.R. 6479.

The Office of Management and Budget has advised that they have no objection to the submission of this report.

Sincerely yours,

John H. Reed,  
Chairman.  
General Counsel of the Department of Commerce,  
Washington, D.C., May 5, 1972.

Hon. Russell B. Long,  
Chairman, Subcommittee on Merchant Marine, Senate Commerce  
Committee, Washington, D.C.

Dear Mr. Chairman: This is to express the views of this Department with respect to H.R. 6479, a bill to provide for the licensing of personnel on certain vessels.

The bill would amend section 4427 of the Revised Statutes (46 U.S.C. 405) to provide that an uninspected towing vessel shall, while underway be under the actual direction of a person licensed under regulations pre-

scribed by the Secretary of the Department in which the Coast Guard is operating. It would further provide that a person so licensed may not work a vessel while underway or perform other duties in excess of a total of 12 hours in any consecutive 24-hour period except in case of emergency. The Secretary would be empowered under the bill to issue regulations governing the licensing of such personnel. The bill defines a towing vessel as a vessel, engaged in or intended to engage in the service of towing, which is more than 26 feet in length.

Section 4427 of the Revised Statutes now provides with respect to officers navigating steam-propelled tugboats, towing vessels and freight boats that such officers must be licensed and be subject to the same provisions of law as officers navigating passenger steamers. Most tugboats and towing vessels, however, are now propelled by diesel power.

Section 2 of the bill would require the Secretary of Transportation to conduct a study concerning the need for engineers on uninspected towing vessels and to submit a report to Congress on this study, together with any legislative recommendations, not later than 10 months after enactment of the bill.

With the amendment hereinafter proposed, we recommend enactment of the bill.

**\*2765** The requirement that uninspected towing vessels be under the direction and control of a licensed operator would materially improve the margin of safety for maritime traffic. The President recommended this requirement in his message on Offshore Oil Pollution.

The study and report provided for by section 2 of the bill should reflect the economic impact on towing vessel operations of requiring engineers. This is a matter in which the Department of Commerce has a deep interest. We recommend, therefore, that the bill be amended to provide that the Secretary of Transportation in developing a study and report consult with the Secretary of Commerce.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report to the Congress from the standpoint of the administration's program.

Sincerely,

William H. Letson,  
General Counsel.  
Comptroller General of the United States,  
Washington, D.C., June 15, 1971.

B-128199.

Hon. Warren G. Magnuson,  
Chairman, Committee on Commerce, U.S. Senate,  
Washington, D.C.

Dear Mr. Chairman: Reference is made to your letter dated May 12, 1971, requesting our comments on H.R. 6479, 92d Congress, a bill to provide for the licensing of personnel on certain vessels.

We have no special information or knowledge concerning the proposed legislation and, therefore, have no comments to offer.

Sincerely yours,

Robert F. Keller,  
Assistant Comptroller General of the United States.  
Office of the Secretary of Transportation,  
Washington, D.C., July 30, 1971.

Hon. Warren G. Magnuson,  
Chairman, Committee on Commerce, U.S. Senate,  
Washington, D.C.

Dear Mr. Chairman: Reference is made to your request for the views of this Department on H.R. 6479, an act to provide for the licensing of personnel on certain vessels.

The act would amend R.S. 4427 (46 U.S.C. 405) to require uninspected towing vessels to be under the direction and control of an operator licensed by this Department. The act would also require a Department of Transportation study and subsequent report to the Congress concerning the need for engineers on towboats.

As you are aware, the Department of Transportation has consistently urged and supported legislative efforts over the past several years directed at towing vessel safety. As we have indicated in the past the Coast Guard has for some time been studying ways best suited to achieve greater safety for towing vessels. A significant conclusion which has been reached is that operator licensing would, in our opinion, offer a substantial contribution to marine safety. H.R. 6469 responds \*2766 precisely to that conclusion. We therefore strongly support H.R. 6479 and urge its enactment.

The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report for the consideration of the committee.

Sincerely,

John W. Barnum,  
General Counsel.

(Note: 1. PORTIONS OF THE SENATE, HOUSE AND CONFERENCE REPORTS, WHICH ARE DUPLICATIVE OR ARE DEEMED TO BE UNNECESSARY TO THE INTERPRETATION OF THE LAWS, ARE OMITTED. OMITTED MATERIAL IS INDICATED BY FIVE ASTERISKS: \*\*\*\*\*. 2. TO RETRIEVE REPORTS ON A PUBLIC LAW, RUN A TOP-IC FIELD SEARCH USING THE PUBLIC LAW NUMBER, e.g., TO(99-495))

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