

Draft Convention Numbered 53, on the minimum requirement of professional capacity for masters and officers on board merchant vessels), as ratified by the President on September 1, 1938, with understandings appended, and this section apply to a documented vessel operating on the high seas except—

- (1) a public vessel;
- (2) a wooden vessel of primitive build, such as a dhow or junk;
- (3) a barge; and
- (4) a vessel of less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

(c) A person may not engage or employ an individual to serve as, and an individual may not serve as, a master, mate, or engineer on a vessel to which this section applies, if the individual does not have a license issued under section 7101 of this title authorizing service in the capacity in which the individual is to be engaged or employed.

(d) A person (including an individual) violating this section is liable to the United States Government for a civil penalty of \$100.

(e) A license issued to an individual to whom this section applies is a certificate of competency.

(f) A designated official may detain a vessel to which this section applies (by written order served on the owner, charterer, managing operator, agent, master, or individual in charge of the vessel) when there is reason to believe that the vessel is about to proceed from a port of the United States to the high seas in violation of this section or a provision of the convention described in subsection (b) of this section. The vessel may be detained until the vessel complies with this section. Clearance may not be granted to a vessel ordered detained under this section.

(g) A foreign vessel to which the convention described in subsection (b) of this section applies, on the navigable waters of the United States, is subject to detention under subsection (f) of this section, and to an examination that may be necessary to decide if there is compliance with the convention.

(h) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel detained under subsection (f) or (g) of this section may appeal the order within 5 days as provided by regulation.

(i) An officer or employee of the Customs Service may be designated to enforce this section.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 552; Pub. L. 104–324, title VII, §730, Oct. 19, 1996, 110 Stat. 3940.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
8304	46:224a 46:241

Section 8304 implements the Officers' Competency Certificates Convention, 1936, as ratified by the President on September 1, 1938, with understandings appended.

Subsection (a) defines "high seas" for this section. Subsection (b) implements the Convention, applies the

Convention to United States vessels on the high seas, and exempts certain vessels.

Subsection (c) prohibits the employment or service of an individual as a master, mate, or engineer on a vessel under this section unless the individual has a license issued under section 7101 for the particular capacity in which the individual is employed.

Subsection (d) prescribes a civil penalty for violating this section.

Subsection (e) states that the license referred to in subsection (c) is a certificate of competency for purposes of the Convention.

Subsection (f) provides for the detention of a vessel in violation of this section or the Convention.

Subsection (g) applies the detention provision to a foreign vessel on the navigable waters of the United States and subjects it to an examination for compliance with the Convention.

Subsection (h) provides for an appeal of the detention order.

Subsection (i) permits the designation of a Customs Service officer or employee to enforce this section.

REFERENCES IN TEXT

The Officers' Competency Certificates Convention, 1936, referred to in subsec. (b), is set out in 54 Stat. Pt. 2, p. 1683.

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–324 inserted "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title" after "200 gross tons".

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

CHAPTER 85—PILOTS

Sec.	
8501.	State regulation of pilots.
8502.	Federal pilots required.
8503.	Federal pilots authorized.

HISTORICAL AND REVISION NOTES

Chapter 85 provides for State pilotage to be regulated by the States and only in conformity with the laws of the States. It clearly spells out the preeminence of the State's role in regulating pilots for vessels operating on the bays, rivers, harbors, and ports of the United States. However, those vessels that are required to have a Federally licensed pilot, those that operate on waters outside the territorial sea of the United States, and those that operate on waters of the Great Lakes are not subject to State pilotage laws or requirements. In essence this chapter, with minor changes, confirms the State and Federal relationship with respect to pilotage that has evolved since the founding of the Nation.

This chapter permits the continuation of Federal pilotage requirements for vessels that are not required to obtain compulsory State pilotage. It confirms the practice of allowing anyone with a Federal pilotage endorsement for the waters in which the vessel is operat-