



LEGISLATIVE ALERT

December 11, 2014

Dear Senator:

The Longshore and Harbor Workers' Compensation Clarification Act of 2014 (H.R. 3896) would make it more difficult for workers engaged in the repair of luxury yachts and other large boats to receive fair compensation for their workplace injuries.

In 2009, Congress passed legislation exempting the repair of marine recreational vessels from coverage under the LHWCA, so long as state workers' compensation is available. To implement this legislation, the Department of Labor revised its regulations defining "recreational vessel" by incorporating more detailed, longstanding standards used by the Coast Guard. H.R. 3896 would prohibit DOL from relying on the coast guard standards and instead require a case by case determination of whether a vessel is commercial or recreational.

The effect of this amendment is to make it more difficult to determine whether a boat being repaired is commercial or recreational for the purposes of LHWCA coverage. As a result, an injured worker will not know whether he or she is entitled to federal or state benefits.

Repair of commercial vessels is subject to the federal LHWCA, repair of recreational vessels is subject to state workers' compensation law. The Longshore Act provides much fairer and greater benefits to injured workers than most state workers' compensation laws. Indeed the reason that this legislation is being proposed is to lower the workers' compensation premiums for employers who are engaged in boat repair.

This legislation may be a good deal for employers who are engaged in boat repair and the owners of luxury vessels. But it is a bad deal for workers. Ship and boatbuilding is hazardous work. The workplace injury and illness rate for ship and boat repair (7.2/100 workers) is more than twice the national average. Under this bill, workers who work in boat repair who are injured on the job will have great uncertainty about whether their workplace injury is covered by federal or state compensation. It may take years of litigation to resolve this issue, leaving workers with no compensation or coverage for medical bills while such claims are litigated. And for those cases which are subject to state compensation, it will leave workers with less coverage and reduced benefits. In Florida, the workers' compensation coverage and benefits are so limited that in 2014, a state court ruled that the law was unconstitutional since it deprived workers of their right to sue for injuries without providing an adequate benefit in return.

The Senate should reject this measure which is only designed to profit employers while taking away needed benefits from injured workers.

Sincerely,

William Samuel, Director
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