



# SECTION BY SECTION

House Committee on Education and Labor

Chairman Robert C. "Bobby" Scott

## ***Longshore and Harbor Workers' COVID-19 Compensation Act of 2021 (H.R. 3114)***

### **Sec. 1. Short Title**

This bill may be cited as the *Longshore and Harbor Workers' COVID-19 Compensation Act of 2021*.

### **Sec. 2. Claims Related to COVID-19**

Section 2 provides that employees engaged in "maritime employment" under the Longshore and Harbor Workers' Compensation Act (LHWCA), who were employed between January 27, 2020, and January 27, 2023, and received a diagnosis of COVID-19 following a "covered exposure period", or were ordered by a local, state, or federal health agency not to return to the workplace due to a documented exposure to COVID-19, risk of exposure to COVID-19, or an outbreak of COVID-19, will be "conclusively presumed" to have an injury arising out of or in the course of employment for the purpose of compensation under the LHWCA. Such employees (or their survivors) will be entitled to benefits consistent with LHWCA.

Covered workers who were denied benefits under the LHWCA for claims related to COVID-19 prior to the passage of this Act shall be eligible to apply for benefits under this Act.

The Secretary of Labor (the Secretary) may not consider compensation paid under this Act, such as disability benefits, in determining the annual assessments to be paid by employers or carriers into the Special Fund under the LHWCA.

### **Sec. 3 Reimbursement**

Section 3 provides that self-insured employers and insurance carriers shall be reimbursed for the cost of claims authorized under Section 2 of this Act, provided the employer is in compliance with safety and health guidelines and standards related to COVID-19, including those issued by the Occupational Safety and Health Administration (OSHA), a state OSHA plan, the Centers for Disease Control and Prevention, and the National Institute for Occupational Safety and Health. To receive reimbursement, carriers may not adjust a covered employer's experience rating or annual premium based on claims paid by the carrier and reimbursed under this Act.

Self-insured employers or insurance carriers may submit a claim for reimbursement to the Secretary of Labor after an order for compensation has been approved which fixes entitlement to benefits, but not later than a year after the final payment to is made to a covered employee.

Employers and carriers are required to make, keep, and preserve records, and provide reports and information as the Secretary determines necessary or appropriate to carry out this Act. Actions of the Secretary in allowing or denying any reimbursement are final agency actions related to the reimbursement.

There is authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to the Longshore COVID–19 Fund (the Fund) for each reimbursement paid out of such Fund that is approved under this Act.

Section 3 also requires the Department of Labor to submit an annual report to the House Committee on Education and Labor and the Senate Committee on Health, Education, Labor, and Pensions regarding the number of claims filed, approved, denied, and pending under this Act, as well as the amounts paid out of the Longshore COVID-19 Fund.

The term “covered exposure period” means the maximum number of days that the Secretary of Labor, in consultation with and subject to the concurrence of the Director of the National Institute of Occupational Safety and Health, determines could occur between an exposure to the novel coronavirus that causes COVID–19 and a diagnosis of COVID–19 resulting from such exposure.

#### **Sec. 4 Longshore COVID-19 Fund**

Section 4 establishes the Longshore COVID-19 Fund as part of LWHCA. Funds in this account, which are appropriated in Section 3, will be available for the reimbursement of claims approved under this Act, including disability compensation, death benefits, funeral and burial expenses, medical or other related costs for treatment and care, and reasonable and necessary allocated claims expenses paid by the employer or carrier under this Act.