

# HOUSE BILL REPORT

## SHB 2885

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### As Passed Legislature

**Title:** An act relating to industrial insurance for geoduck harvesters.

**Brief Description:** Modifying industrial insurance coverage for geoduck harvesters.

**Sponsors:** By House Committee on Commerce & Labor (originally sponsored by Representatives Williams, Conway, Newhouse, Sells, Chandler, Condotta and Moeller).

#### **Brief History:**

##### **Committee Activity:**

Commerce & Labor: 2/1/08, 2/4/08 [DPS].

##### **Floor Activity:**

Passed House: 2/14/08, 93-0.

Passed Senate: 3/7/08, 49-0.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Removes workers tending to geoduck divers from industrial insurance provisions.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse, Green, Moeller and Williams.

**Staff:** Alison Hellberg (786-7152).

#### **Background:**

The Longshore and Harbor Workers' Compensation Act, administered by the U.S. Department of Labor, provides medical benefits, compensation for lost wages, and rehabilitation services to longshoremen, harbor workers, and other maritime workers who are injured during the course of employment or suffer from diseases caused or worsened by conditions of employment. Under the U.S. Longshore and Harbor Workers' Compensation

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Act, businesses whose employees are employed in maritime employment on or near the navigable waters of the United States are required to purchase longshore and harbor workers' compensation insurance.

There are exclusions to coverage under the Longshore and Harbor Workers' Compensation Act. The exclusions apply if the workers are covered by a state workers' compensation law. An exclusion for aquaculture workers is included.

The federal Jones Act also provides a remedy to seamen for injuries arising out of employment. Under the Jones Act, an injured seaman may obtain damages from his or her employer for the negligence of the vessel's owner, the captain, or other crew members.

The state Industrial Insurance Act does not apply to employers and workers for whom a right or obligation exists under the maritime laws.

Last year, legislation was enacted that applies the state Industrial Insurance Act to commercial divers harvesting geoduck clams, workers tending to such divers, and the employers of such divers and tenders. The state Industrial Insurance Act applies whether or not the work is performed from a vessel.

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**Summary of Substitute Bill:**

Tenders of commercial divers harvesting geoduck clams are removed from the provisions of the state Industrial Insurance Act.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect on January 1, 2009.

**Staff Summary of Public Testimony:**

(In support) Workers in this area are covered by the Jones Act, the Longshore and Harbor Workers' Compensation Act, and the state Industrial Insurance laws. This area of the law is complicated and esoteric and the conflicts are litigious. A mistake was made in last year's bill. Tenders are already covered by the Jones Act, so harvesters of geoducks have been paying double for their premiums. This bill fixes that problem.

(Neutral) The agency requests one amendment to change the effective date to January 1, 2009, for administrative purposes.

(Opposed) None.

**Persons Testifying:** (In support) Gordon Baxter, Washington Harvesters Association.

(Neutral) Mike Ratko, Department of Labor and Industries.

**Persons Signed In To Testify But Not Testifying:** None.