

FINAL BILL REPORT

HB 1949

C 324 L 07

Synopsis as Enacted

Brief Description: Providing industrial insurance coverage for workers involved in harvesting geoduck clams.

Sponsors: By Representatives Williams, Conway, B. Sullivan, Strow, Sells, Appleton, Kessler, Hinkle, McCoy, Walsh, Chandler, Pearson, Condotta, Kenney, Hasegawa, Moeller and Ormsby.

House Committee on Commerce & Labor

Senate Committee on Labor, Commerce, Research & Development

Background:

The federal 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 Longshore and Harbor Workers' Compensation 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. The exclusions include an exclusion for aquaculture workers.

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. Courts have used various tests to determine whether or not a worker is granted seaman status under the Jones Act and will consider factors such as whether the worker's duties contribute to the function of the vessel.

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

Summary:

The Industrial Insurance Act applies to commercial divers harvesting geoduck clams under an agreement with the Department of Natural Resources (Department), workers tending to the divers, and the employers of the divers and tenders. The Industrial Insurance Act applies whether or not the work is performed from a vessel.

If payments are made both under the Industrial Insurance Act and the maritime laws, the benefits paid under the Industrial Insurance Act must be repaid by the worker or beneficiary. If a claim is made under the Jones Act, the employer is deemed a third party for the purposes of the Industrial Insurance Act, and the Department or self-insurer may file a notice of statutory interest in recovery from that third person.

Votes on Final Passage:

House	97	0	
Senate	48	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 22, 2007