

are claimed under this chapter pursuant to any other workers' compensation law or section 30104 of title 46 shall be credited against any liability imposed by this chapter.

(Mar. 4, 1927, ch. 509, §3, 44 Stat. 1426; Pub. L. 92-576, §§2(c), 21, Oct. 27, 1972, 86 Stat. 1251, 1265; Pub. L. 98-426, §3, Sept. 28, 1984, 98 Stat. 1640; Pub. L. 104-324, title VII, §703, Oct. 19, 1996, 110 Stat. 3933.)

CODIFICATION

In subsec. (e), "section 30104 of title 46" substituted for "section 20 of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. 688) (relating to recovery for injury to or death of seamen)" on authority of Pub. L. 109-304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 30104 of Title 46, Shipping.

AMENDMENTS

1996—Subsec. (d)(3)(B). Pub. L. 104-324 inserted before period at end "as measured under section 14502 of title 46, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

1984—Subsec. (a). Pub. L. 98-426, §3(a), inserted introductory language relating to exceptions provided for elsewhere in this section, redesignated existing par. (1) as subsec. (b), and struck out existing par. (2) which had excepted from coverage masters and crew members or persons engaged by such masters or crew members to load, unload, or repair vessels under 18 tons net.

Subsec. (b). Pub. L. 98-426, §3(a), redesignated as subsec. (b) provisions formerly set out in subsec. (a)(2). Former subsec. (b) redesignated (c).

Subsecs. (c) to (e). Pub. L. 98-426, §3(a), (b), redesignated former subsec. (b) as (c) and added subsecs. (d) and (e).

1972—Subsec. (a). Pub. L. 92-576, §2(c), substituted provisions respecting coverage of injuries occurring upon navigable waters of the United States, including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel, for prior provisions respecting coverage of such injuries upon navigable waters and if recovery for the disability or death through workmen's compensation proceedings may not validly be provided by State law.

Subsec. (a)(1). Pub. L. 92-576, §21, substituted "or" for "nor" before "any person engaged by the master".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 3(a) of Pub. L. 98-426 applicable with respect to any injury after Sept. 28, 1984, and amendment by section 3(b) of Pub. L. 98-426 effective Sept. 28, 1984, and applicable both with respect to claims filed after Sept. 28, 1984, and to claims pending on that date, see section 28(a), (c) of Pub. L. 98-426, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as a note under section 902 of this title.

DISTRICT OF COLUMBIA

The Longshoremen's and Harbor Workers' Compensation Act [this chapter] was made applicable in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia, by act May 17, 1928, ch. 612, 45 Stat. 600, as amended.

§ 904. Liability for compensation

(a) Every employer shall be liable for and shall secure the payment to his employees of the com-

pensation payable under sections 907, 908, and 909 of this title. In the case of an employer who is a subcontractor, only if such subcontractor fails to secure the payment of compensation shall the contractor be liable for and be required to secure the payment of compensation. A subcontractor shall not be deemed to have failed to secure the payment of compensation if the contractor has provided insurance for such compensation for the benefit of the subcontractor.

(b) Compensation shall be payable irrespective of fault as a cause for the injury.

(Mar. 4, 1927, ch. 509, §4, 44 Stat. 1426; Pub. L. 98-426, §4(a), Sept. 28, 1984, 98 Stat. 1641.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-426 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Every employer shall be liable for and shall secure the payment to his employees of the compensation payable under sections 907, 908, and 909 of this title. In the case of an employer who is a subcontractor, the contractor shall be liable for and shall secure the payment of such compensation to employees of the subcontractor unless the subcontractor has secured such payment."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-426 effective Sept. 28, 1984, and applicable both with respect to claims filed after Sept. 28, 1984, and to claims pending on that date, see section 28(a) of Pub. L. 98-426, set out as a note under section 901 of this title.

§ 905. Exclusiveness of liability

(a) Employer liability; failure of employer to secure payment of compensation

The liability of an employer prescribed in section 904 of this title shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this chapter, an injured employee, or his legal representative in case death results from the injury, may elect to claim compensation under the chapter, or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee. For purposes of this subsection, a contractor shall be deemed the employer of a subcontractor's employees only if the subcontractor fails to secure the payment of compensation as required by section 904 of this title.

(b) Negligence of vessel

In the event of injury to a person covered under this chapter caused by the negligence of a vessel, then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such vessel as a third party in accordance with the provisions of section 933 of this title, and the employer shall not be liable to the vessel for such damages di-