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- 908. Compensation for disability.
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- 910. Determination of pay.
- 911. Guardian for minor or incompetent.
- 912. Notice of injury or death.
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- 948. Laws inapplicable.
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- 949. Effect of unconstitutionality.
- 950. Separability.

§ 901. Short title

This chapter may be cited as “Longshore and Harbor Workers’ Compensation Act.”

(Mar. 4, 1927, ch. 509, §1, 44 Stat. 1424; Pub. L. 98-426, §27(d)(1), Sept. 28, 1984, 98 Stat. 1654.)

AMENDMENTS

1984—Pub. L. 98-426 substituted “Longshore” for “Longshoremen’s”.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-426, §28(a)-(g), Sept. 28, 1984, 98 Stat. 1655, provided that:

“(a) Except as otherwise provided in this section, the amendments made by this Act [enacting section 942 of this title, amending this section, sections 902 to 910, 912 to 914, 917 to 919, 921 to 923, 928 to 935, 938 to 940, 944, and 948a of this title, and section 932 of Title 30, Mineral Lands and Mining, repealing sections 945 to 947 of this title, and enacting provisions set out as notes under

this section and section 907 of this title] shall be effective on the date of enactment of this Act [Sept. 28, 1984] and shall apply both with respect to claims filed after such date and to claims pending on such date.

“(b) The amendments made by sections 7(a), 7(e), 8(f), 11(b), 11(c), and 13 [amending sections 907, 908, 912, and 914 of this title] shall be effective 90 days after the date of enactment of this Act [Sept. 28, 1984] and shall apply both with respect to claims filed after such 90th day and to claims pending on such 90th day.

“(c) The amendments made by sections 2(a), 3(a), 5, and 8(b) [amending sections 902, 903, 905, and 908 of this title] shall apply with respect to any injury after the date of enactment of this Act [Sept. 28, 1984].

“(d) The amendments made by sections 6(a), 8(d), and 9 [amending sections 906, 908, and 909 of this title] shall apply with respect to any death after the date of enactment of this Act [Sept. 28, 1984].

“(e)(1) The amendments made by sections 2(c), 8(c)(1), 8(e)(4), 8(e)(5), 8(g), 10(b), 15 through 20, and 22 through 27 [enacting section 942 of this title, amending this section and sections 902, 908 to 910, 914, 918, 919, 921 to 923, 928 to 932, 934, 935, 938 to 940, 944, and 948a of this title, repealing sections 945 to 947, and enacting provisions set out as a note under this section] shall be effective on the date of enactment of this Act [Sept. 24, 1984].

“(2) The amendments made by sections 7(b), 7(c), 7(d), and 8(h) [amending sections 907 and 908 of this title] shall be effective 90 days after the date of enactment of this Act [Sept. 28, 1984].

“(f) The amendments made by section 6(b) [amending section 906 of this title] shall apply with respect to any injury, disability, or death after the date of enactment of this Act [Sept. 28, 1984].

“(g) For the purpose of this section—

“(1) in the case of an occupational disease which does not immediately result in a disability or death, an injury shall be deemed to arise on the date on which the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the disease; and

“(2) the term ‘disability’ has the meaning given such term by section 2(10) of the Act [section 902(10) of this title] as amended by this Act.”

EFFECTIVE DATE

Section 52, formerly §51, of act Mar. 4, 1927, renumbered Oct. 27, 1972, Pub. L. 92-576, §19, 86 Stat. 1263, provided that: “Sections 39 to 48, 50 to 52 [50 to 52, formerly 49 to 51, renumbered Pub. L. 92-576, §19], inclusive [sections 939 to 948, 949, and 950 of this title], shall become effective upon the passage of this Act [Mar. 4, 1927], and the remainder of this Act shall become effective on July 1, 1927.”

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-426, §1(a), Sept. 28, 1984, 98 Stat. 1639, provided that: “this Act [enacting section 942 of this title, amending this section, sections 902 to 910, 912 to 914, 917 to 919, 921 to 923, 928 to 935, 938 to 940, 944, and 948a of this title, and section 932 of Title 30, Mineral Lands and Mining, repealing sections 945 to 947 of this title, and enacting provisions set out as notes under this section and section 907 of this title] may be cited as the ‘Longshore and Harbor Workers’ Compensation Act Amendments of 1984’.”

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92-576, §1, Oct. 27, 1972, 86 Stat. 1251, provided: “That this Act [enacting section 948a, amending sections 902, 903, 905 to 910, 912 to 914, 917, 919, 921, 921a, 923, 927, 928, 933, 935, 939, 940, and 944 of this title, and enacting and amending provisions set out as notes under this section and section 902 of this title] may be cited as the ‘Longshoremen’s and Harbor Workers’ Compensation Act Amendments of 1972’.”

REFERENCES TO LONGSHOREMEN'S AND HARBOR
WORKERS' COMPENSATION ACT

Pub. L. 98-426, §27(d)(2), Sept. 28, 1984, 98 Stat. 1654, provided that: "Reference in any other statute, regulation, order, or other document to the Longshoremen's and Harbor Workers' Compensation Act shall be deemed to refer to the Longshore and Harbor Workers' Compensation Act."

§ 902. Definitions

When used in this chapter—

(1) The term "person" means individual, partnership, corporation, or association.

(2) The term "injury" means accidental injury or death arising out of and in the course of employment, and such occupational disease or infection as arises naturally out of such employment or as naturally or unavoidably results from such accidental injury, and includes an injury caused by the willful act of a third person directed against an employee because of his employment.

(3) The term "employee" means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker, but such term does not include—

(A) individuals employed exclusively to perform office clerical, secretarial, security, or data processing work;

(B) individuals employed by a club, camp, recreational operation, restaurant, museum, or retail outlet;

(C) individuals employed by a marina and who are not engaged in construction, replacement, or expansion of such marina (except for routine maintenance);

(D) individuals who (i) are employed by suppliers, transporters, or vendors, (ii) are temporarily doing business on the premises of an employer described in paragraph (4), and (iii) are not engaged in work normally performed by employees of that employer under this chapter;

(E) aquaculture workers;

(F) individuals employed to build any recreational vessel under sixty-five feet in length, or individuals employed to repair any recreational vessel, or to dismantle any part of a recreational vessel in connection with the repair of such vessel;

(G) a master or member of a crew of any vessel; or

(H) any person engaged by a master to load or unload or repair any small vessel under eighteen tons net;

if individuals described in clauses (A) through (F) are subject to coverage under a State workers' compensation law.

(4) The term "employer" means an employer any of whose employees are employed in maritime employment, in whole or in part, upon the 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).

(5) The term "carrier" means any person or fund authorized under section 932 of this title

to insure under this chapter and includes self-insurers.

(6) The term "Secretary" means the Secretary of Labor.

(7) The term "deputy commissioner" means the deputy commissioner having jurisdiction in respect of an injury or death.

(8) The term "State" includes a Territory and the District of Columbia.

(9) The term "United States" when used in a geographical sense means the several States and Territories and the District of Columbia, including the territorial waters thereof.

(10) "Disability" means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment; but such term shall mean permanent impairment, determined (to the extent covered thereby) under the guides to the evaluation of permanent impairment promulgated and modified from time to time by the American Medical Association, in the case of an individual whose claim is described in section 910(d)(2) of this title.

(11) "Death" as a basis for a right to compensation means only death resulting from an injury.

(12) "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter, and includes funeral benefits provided therein.

(13) The term "wages" means the money rate at which the service rendered by an employee is compensated by an employer under the contract of hiring in force at the time of the injury, including the reasonable value of any advantage which is received from the employer and included for purposes of any withholding of tax under subtitle C of title 26 (relating to employment taxes). The term wages does not include fringe benefits, including (but not limited to) employer payments for or contributions to a retirement, pension, health and welfare, life insurance, training, social security or other employee or dependent benefit plan for the employee's or dependent's benefit, or any other employee's dependent entitlement.

(14) "Child" shall include a posthumous child, a child legally adopted prior to the injury of the employee, a child in relation to whom the deceased employee stood in loco parentis for at least one year prior to the time of injury, and a stepchild or acknowledged illegitimate child dependent upon the deceased, but does not include married children unless wholly dependent on him. "Grandchild" means a child as above defined of a child as above defined. "Brother" and "sister" includes stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but does not include married brothers nor married sisters unless wholly dependent on the employee. "Child", "grandchild", "brother", and "sister" include only a person who is under eighteen years of age, or who, though eighteen years of age or over, is (1) wholly dependent upon the employee and incapable of self-support by reason of mental or physical disability, or (2) a student as defined in paragraph (19) of this section.