

117TH CONGRESS
1ST SESSION

H. R. 3114

To provide benefits authorized under the Longshore and Harbor Workers' Compensation Act to maritime workers who contract COVID-19, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2021

Mr. MRVAN (for himself and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To provide benefits authorized under the Longshore and Harbor Workers' Compensation Act to maritime workers who contract COVID-19, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Longshore and Harbor
5 Workers' COVID-19 Compensation Act of 2021”.

6 **SEC. 2. CLAIMS RELATED TO COVID-19.**

7 (a) IN GENERAL.—A covered employee who receives
8 a diagnosis of COVID-19 or is subject to an order de-
9 scribed in subsection (b)(2) and who provides notice of or

1 files a claim under the Longshore and Harbor Workers’
2 Compensation Act (33 U.S.C. 901 et seq.) relating to such
3 diagnosis or order shall be conclusively presumed to have
4 an injury arising out of or in the course of employment
5 for the purpose of compensation under the Longshore and
6 Harbor Workers’ Compensation Act.

7 (b) COVERED EMPLOYEE.—In this Act, the term
8 “covered employee” means an individual who, at any time
9 during the period beginning January 27, 2020, and ending
10 on January 27, 2023, is an employee engaged in maritime
11 employment as defined in section 2 of the Longshore and
12 Harbor Workers’ Compensation Act (33 U.S.C. 902(3))
13 and who—

14 (1)(A) is diagnosed with COVID–19; and

15 (B) during a covered exposure period with re-
16 spect to the date of such diagnosis carried out duties
17 which—

18 (i) required contact with members of the
19 public, co-workers, or other individuals associ-
20 ated with the course of employment; or

21 (ii) included a risk of exposure to the novel
22 coronavirus; or

23 (2) is ordered not to return to work by the em-
24 ployee’s employer or by a local, State, or Federal
25 agency because of exposure, or the risk of exposure,

1 to 1 or more individuals diagnosed with COVID–19
2 in the workplace.

3 (c) CLARIFICATION OF MARITIME EMPLOYMENT.—

4 For the purposes of subsection (b), maritime employment
5 does not include employment under—

6 (1) the Defense Base Act (42 U.S.C. 1651 et
7 seq.);

8 (2) the Outer Continental Shelf Lands Act (43
9 U.S.C. 1333(b)); and

10 (3) section 8171 of title 5, United States Code.

11 (d) LIMITATION.—This Act shall not apply with re-
12 spect to a covered employee who—

13 (1) provides notice or files a claim described in
14 subsection (a) on or before the date of enactment of
15 this Act; and

16 (2) is determined to be entitled to the com-
17 pensation described in subsection (a) or is awarded
18 such compensation if such determination or award is
19 made on or before the date of enactment of this Act.

20 (e) DENIALS ON OR BEFORE THE DATE OF ENACT-

21 MENT.—Subsection (a) shall apply with respect to a cov-
22 ered employee who is determined not to be entitled to, or
23 who is not awarded, compensation described in subsection
24 (a) if such determination or decision not to award such

1 compensation is made on or before the date of enactment
2 of this Act.

3 (f) EXCLUSION.—The Secretary shall not consider
4 any compensation paid with respect to a notice or claim
5 to which subsection (a) applies, including disability com-
6 pensation, death benefits, funeral and burial expenses, and
7 medical expenses, in calculating the annual assessments
8 under section 44(c)(2) of the Longshore and Harbor
9 Workers' Compensation Act (33 U.S.C. 944(c)(2)).

10 **SEC. 3. REIMBURSEMENT.**

11 (a) IN GENERAL.—

12 (1) ENTITLEMENT.—An employer of a covered
13 employee or the employer's carrier shall be entitled
14 to reimbursement pursuant to this Act for any com-
15 pensation paid with respect to a notice or claim de-
16 scribed in section 2(a), including disability com-
17 pensation, death benefits, funeral and burial ex-
18 penses, medical or other related costs for treatment
19 and care, and reasonable and necessary allocated
20 claims expenses.

21 (2) SAFETY AND HEALTH REQUIREMENTS.—To
22 be entitled to reimbursement under paragraph (1)—

23 (A) an employer shall be in compliance
24 with all applicable safety and health guidelines
25 and standards that are related to the prevention

1 of occupational exposure to the novel
2 coronavirus, including such guidelines and
3 standards issued by the Occupational Safety
4 and Health Administration, State plans ap-
5 proved under section 18 of the Occupational
6 Safety and Health Act of 1970 (29 U.S.C.
7 667), the Centers for Disease Control and Pre-
8 vention, and the National Institute for Occupa-
9 tional Safety and Health; and

10 (B) a carrier—

11 (i) shall be a carrier for an employer
12 that is in compliance with subparagraph
13 (A); and

14 (ii) shall not adjust the experience
15 rating or the annual premium of the em-
16 ployer based upon the compensation paid
17 by the carrier with respect to a notice or
18 claim described in section 2(a).

19 (b) REIMBURSEMENT PROCEDURES.—

20 (1) IN GENERAL.—To receive reimbursement
21 under subsection (a), a claim for such reimburse-
22 ment shall be submitted to the Secretary of Labor—

23 (A) not earlier than the date on which a
24 compensation order (as described in section
25 19(e) of the Longshore and Harbor Workers’

1 Compensation Act (33 U.S.C. 919(e)) is issued
2 that fixes entitlement to benefits; or

3 (B) not later than one year after the final
4 payment of compensation to a covered employee
5 pursuant to this Act; and

6 (C) in accordance with a rule issued by the
7 Secretary that the Secretary determines to be
8 similar to the process established under part 61
9 of title 20, Code of Federal Regulations (as in
10 effect on the date of enactment of this Act).

11 (2) RECORDS.—An employer and the employ-
12 er’s carrier shall make, keep, and preserve such
13 records, make such reports, and provide such infor-
14 mation, as the Secretary of Labor determines nec-
15 essary or appropriate to carry out this Act.

16 (3) FINAL AGENCY ACTION.—The action of the
17 Secretary in allowing or denying reimbursement
18 under this section shall be the final Agency action
19 with respect to such reimbursement.

20 (c) APPROPRIATIONS.—

21 (1) IN GENERAL.—A reimbursement under this
22 section shall be paid out of the Longshore COVID-
23 19 Fund established in section 45 of the Longshore
24 and Harbor Workers’ Compensation Act (in this

1 Act, referred to as the “Longshore COVID–19
2 Fund”).

3 (2) FUNDS.—In addition to amounts otherwise
4 available, there are authorized to be appropriated,
5 and there are appropriated, out of any money in the
6 Treasury not otherwise appropriated, such sums as
7 may be necessary to the Longshore COVID–19
8 Fund for each reimbursement paid out of such Fund
9 under this section.

10 (d) REPORT.—Not later than 60 days after the end
11 of each of fiscal years 2021, 2022, and 2023, the Sec-
12 retary of Labor shall submit to the Committee on Edu-
13 cation and Labor of the House of Representatives and the
14 Committee on Health, Education, Labor, and Pensions of
15 the Senate, an annual report enumerating—

16 (1) the number of claims filed pursuant to sec-
17 tion 2(a);

18 (2) of such filed claims—

19 (A) the number and types of claims under
20 the Longshore and Harbor Workers Compensa-
21 tion Act (33 U.S.C. 901 et seq.) with respect to
22 which the presumption under section 2(a) is
23 made;

24 (B) the number and types of such claims
25 denied; and

1 (C) the number and types of such claims
2 pending; and

3 (3) the total number of claims for reimburse-
4 ment and the total amounts paid for such reim-
5 bursement from the Longshore COVID-19 Fund
6 under subsection (c)(1) for the fiscal year for which
7 the report is being submitted.

8 (e) REGULATIONS.—The Secretary of Labor may
9 promulgate such regulations as may be necessary to carry
10 out this Act.

11 (f) DEFINITIONS.—In this Act:

12 (1) COVERED EXPOSURE PERIOD.—The term
13 “covered exposure period” with respect to the date
14 of a diagnosis described in section 2(b)(1)(A), means
15 the period of days—

16 (A) ending on the date of such diagnosis;
17 and

18 (B) equal to the maximum number of days
19 that the Secretary of Labor, with the concur-
20 rence of the Director of the National Institute
21 of Occupational Safety and Health, determines
22 could occur between an exposure to the novel
23 coronavirus and a diagnosis of COVID-19 re-
24 sulting from such exposure.

1 (2) LHWCA TERMS.—The terms “carrier”,
2 “compensation”, “employee”, and “employer” have
3 the meanings given the terms in section 2 of the
4 Longshore and Harbor Workers’ Compensation Act
5 (33 U.S.C. 902).

6 (3) NOVEL CORONAVIRUS.—The term “novel
7 coronavirus” means SARS-CoV-2, a variant of
8 SARS-CoV-2, or any other coronavirus declared to
9 be a pandemic by public health authorities.

10 **SEC. 4. LONGSHORE COVID-19 FUND.**

11 The Longshore and Harbor Workers’ Compensation
12 Act (33 U.S.C. 901 et seq.) is amended by adding after
13 section 44 the following:

14 **“SEC. 45. LONGSHORE COVID-19 FUND.**

15 “(a) IN GENERAL.—There is established in the
16 Treasury of the United States the Longshore COVID-19
17 Fund (in this section, referred to as the ‘Fund’), which
18 consists of sums that are appropriated to the Fund under
19 section 3(c) of the Longshore and Harbor Workers’
20 COVID-19 Compensation Act of 2021.

21 “(b) EXPENDITURES.—Amounts in the Fund shall be
22 available for the reimbursement of an employer or the em-
23 ployer’s carrier for compensation payments and expenses
24 approved under section 3 of the Longshore and Harbor
25 Workers’ COVID-19 Compensation Act of 2021, includ-

1 ing disability compensation, death benefits, funeral and
2 burial expenses, medical or other related costs for treat-
3 ment and care, and reasonable and necessary allocated
4 claims expenses paid under this Act when reimbursement
5 is required under section 3 of the Longshore and Harbor
6 Workers' COVID-19 Compensation Act of 2021, subject
7 to any limitations in such section.”.

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