

# Work Comp Insights

Biscayne Risk & Insurance Group - Your Workers' Compensation Partner

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## Longshore and Harbor Workers' Compensation Act Coverage

Workers Compensation Insurance is designed to ensure that injured or disabled employees hurt on the job are compensated, and that your liability is eliminated or mitigated. Longshore and Harbor Workers' Compensation Act (Longshore Act) coverage fills gaps between state workers' compensation coverage, which excludes workers on navigable waters or adjoining areas customarily used in loading, unloading, repairing or building a vessel, and the Jones Act, which covers only seamen. As an employer, it is your responsibility to buy insurance or to self-insure injuries sustained by workers covered in the Longshore Act.

### Purpose of the Longshore Act

Administered by the Office of Workers' Compensation Programs, a division of the U. S. Department of Labor, the Longshore Act offers compensation and medical care to employees disabled from injuries that occur on the navigable waters of the United States or in adjoining areas. The term "injury" includes occupational disease arising from employment.

### Who is Covered by the Longshore Act?

Employers who employ workers for maritime work or in a maritime occupation, either full-time or part-time, on the navigable waters of

the United States or in adjoining waterfront areas.

Employees engaged in maritime work or in maritime occupation. This includes longshoreman or other person in longshoring operations, and any harbor worker, including a ship-repairman, ship-builder and ship-breaker. Others engaged in maritime employment may include construction workers, maintenance workers, general managers of shipyards, machinists, pipefitters, sandblasters, security guards (patrols on and off vessels), sheet metal workers and welders.

The provisions of the Longshore Act are also incorporated in several other statutes, which provide compensation for workers engaged in other activities, including the extraction of natural resources of the outer continental shelf, employment on American defense bases and work under contracts with the U.S. government for defense or public works projects outside of the continental United States.

### Longshore Act Exclusions

The following individuals are excluded from the Longshore Act if covered by a state workers' compensation law:

- Individuals employed exclusively to perform office clerical, secretarial, security or data processing work
- Individuals employed by a club, camp, recreational operation, restaurant, museum or retail outlet
- Individuals employed by a marina and who are not engaged in construction, replacement or expansion of such marina (except for routine maintenance)



- Individuals who are employed by suppliers, transporters or vendors; are temporarily doing business on the premises of a maritime employer; and are not engaged in work normally performed by employees of that employer covered under this act
- Aquaculture workers
- Individuals employed to build, repair or dismantle any recreational vessel.
- Small vessel workers if exempt by certification of the Secretary of Labor under certain conditions
- A master or member of a crew of any vessel
- Any person engaged by a master to load, unload or repair any small vessel under 18 tons net
- Employees of the U. S. government or of any state or foreign government
- Weekly indemnity benefits at 66 2/3% of the employee's weekly salary, subject to the specified maximum in effect at the time of injury for as long as the effects of the injury continue
- Compensation for permanent impairment of specified limbs, hearing loss and loss of earning capacity
- Vocational rehabilitation services if a worker cannot return to previous employment
- Death benefits to a surviving widow or widower or other eligible survivors, if the injury causes death, including funeral expenses up to \$3,000 and 50% of the employee's weekly wages for life or until remarriage. Awards of 16 2/3% for dependent children end at age 18, but can be extended if the child is a student or incapable of self-support.

### Coverage of Areas

Areas covered specifically include piers, wharfs, dry docks, terminals, marine railways and other adjoining areas customarily used by a marine employer in loading, unloading, repairing, dismantling or building a vessel. This may include fabrication shops, sheet metal shops, steel fabrication plants, scrap yards and maintenance or storage buildings.

Areas not covered include offices, public streets and shipyard shops not used in shipbuilding.

### Injury Benefits

Similar to a state's workers' compensation program, the Longshore Act mandates that a number of benefits be awarded to injured workers. Employers are responsible for insuring the payment of compensation and medical benefits to injured employees through private insurance carriers or through self-insurance as directed by the Department of Labor. Benefits include the following:

- Medical, surgical and hospital services and supplies

If any installment of compensation payable without an award is not paid within 14 days after it becomes due, an additional 10% is added to the unpaid installment. When there is a conflict between an employer and the Office of Workers' Compensation Programs, the Office of Workers' Compensation Programs offers an informal mediation service that can avoid the legal costs associated with a formal hearing before an administrative law judge.

### Other Employer Obligations

There are several other obligations for employers under the Longshore Act in addition to providing proper longshore and harbor workers' compensation coverage.

- Employers must post printed notices, in a form prescribed by the Department of Labor, to advise employees what to do when they are injured at work. They should be in a conspicuous place.
- Employers must maintain records of injuries sustained by employees for the past three years, including both lost time and non-lost time injuries. Records

should include information about the disease, impairments, disabilities or death relating to the injury as well as the cause, circumstances and date of the injury. There are additional recordkeeping requirements for self-insured employers.

Employers also must comply with specific reporting requirements.

- They must file a First Report of Injury or Occupational Illness within 10 days of an employee's work-related injury or death (which must cause the employee to lose one or more shifts from work), or within 10 days of when the employer comes to knowledge of it.
- They must also file a Supplementary Report of Accident or Occupational Illness when the first report did not include the date the injured employee returned to work.
- Self-insured employers are subject to additional reporting requirements.

#### **Your Workers' Compensation Resource**

Since Longshore Act coverage can be a complex issue, depending on both the location and the nature of the employee's work, it is best to discuss coverage details with Biscayne Risk & Insurance Group. More information is also available from your local Longshore District Director office at [www.dol.gov/owcp/dlhwc/lcontactmap.htm](http://www.dol.gov/owcp/dlhwc/lcontactmap.htm). Benefit levels can be calculated using the statistics found at [www.dol.gov/owcp/dlhwc/nawwinfo.htm](http://www.dol.gov/owcp/dlhwc/nawwinfo.htm).

