

# Union Calendar No. 387

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3114

[Report No. 117-526]

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

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## 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

SEPTEMBER 29, 2022

Additional sponsors: Mr. POCAN, Ms. BARRAGÁN, Ms. WILSON of Florida, Ms. SALAZAR, Ms. JAYAPAL, Mr. KAHELE, Mr. DESAULNIER, Ms. LEE of California, Ms. STRICKLAND, Ms. NORTON, Mr. DANNY K. DAVIS of Illinois, Mr. LOWENTHAL, Mr. SUOZZI, Mr. LYNCH, Mr. CARSON, Mr. NADLER, Mr. COHEN, Ms. BONAMICI, Mr. LAWSON of Florida, Mr. JONES, Ms. ROYBAL-ALLARD, Ms. CHU, Mrs. HAYES, Ms. PORTER, Ms. ADAMS, Mr. GARAMENDI, Mr. BOWMAN, Mr. MFUME, Mr. SCHIFF, Ms. SHERRILL, Mr. LEVIN of Michigan, Mr. TAKANO, Ms. STEVENS, and Mrs. RADEWAGEN

SEPTEMBER 29, 2022

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 11, 2021]

# **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 2022”.*

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

7        (a) *IN GENERAL.*—*A covered employee who receives a*  
8 *diagnosis of COVID–19 or is subject to an order described*  
9 *in subsection (b)(2) and who provides notice of or files a*  
10 *claim under the Longshore and Harbor Workers’ Com-*  
11 *ensation Act (33 U.S.C. 901 et seq.) relating to such diag-*  
12 *nosis or order shall be conclusively presumed to have an*  
13 *injury arising out of or in the course of employment for*  
14 *the purpose of compensation under the Longshore and Har-*  
15 *bor Workers’ Compensation Act.*

16        (b) *COVERED EMPLOYEE.*—*In this Act, the term “cov-*  
17 *ered employee” means an individual who, at any time dur-*  
18 *ing the period beginning January 27, 2020, and ending on*  
19 *January 27, 2024, is an employee engaged in maritime em-*  
20 *ployment as defined in section 2 of the Longshore and Har-*  
21 *bor Workers’ Compensation Act (33 U.S.C. 902(3)) and*  
22 *who—*

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

1           (B) during a covered exposure period with re-  
2           spect to the date of such diagnosis carried out duties  
3           which—

4                   (i) required contact with members of the  
5                   public, co-workers, or other individuals associ-  
6                   ated with the course of employment; or

7                   (ii) included a risk of exposure to the novel  
8                   coronavirus; or

9           (2) is ordered not to return to work by the em-  
10           ployee’s employer or by a local, State, or Federal  
11           agency because of exposure, or the risk of exposure, to  
12           1 or more individuals diagnosed with COVID–19 in  
13           the workplace.

14           (c) *CLARIFICATION OF MARITIME EMPLOYMENT.*—For  
15           the purposes of subsection (b), maritime employment does  
16           not include employment under—

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

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

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

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

1           (1) *provides notice or files a claim described in*  
2           *subsection (a) on or before the date of enactment of*  
3           *this Act; and*

4           (2) *is determined to be entitled to the compensa-*  
5           *tion described in subsection (a) or is awarded such*  
6           *compensation if such determination or award is made*  
7           *on or before the date of enactment of this Act.*

8           (e) *DENIALS ON OR BEFORE THE DATE OF ENACT-*  
9           *MENT.—Subsection (a) shall apply with respect to a covered*  
10          *employee who is determined not to be entitled to, or who*  
11          *is not awarded, compensation described in subsection (a)*  
12          *if such determination or decision not to award such com-*  
13          *pensation is made on or before the date of enactment of*  
14          *this Act.*

15          (f) *EXCLUSION.—The Secretary shall not consider any*  
16          *compensation paid with respect to a notice or claim to*  
17          *which subsection (a) applies, including disability com-*  
18          *pensation, death benefits, funeral and burial expenses, and*  
19          *medical expenses, in calculating the annual assessments*  
20          *under section 44(c)(2) of the Longshore and Harbor Work-*  
21          *ers' Compensation Act (33 U.S.C. 944(c)(2)).*

22          **SEC. 3. REIMBURSEMENT.**

23          (a) *IN GENERAL.—*

24                  (1) *ENTITLEMENT.—An employer of a covered*  
25                  *employee or the employer's carrier shall be entitled to*

1        *reimbursement pursuant to this Act for any com-*  
2        *ensation paid with respect to a notice or claim de-*  
3        *scribed in section 2(a), including disability com-*  
4        *ensation, death benefits, funeral and burial expenses,*  
5        *medical or other related costs for treatment and care,*  
6        *and reasonable and necessary allocated claims ex-*  
7        *penses.*

8                (2) *SAFETY AND HEALTH REQUIREMENTS.—To*  
9        *be entitled to reimbursement under paragraph (1)—*

10                (A) *an employer shall be in compliance*  
11                *with all applicable safety and health guidelines*  
12                *and standards that are related to the prevention*  
13                *of occupational exposure to the novel*  
14                *coronavirus, including such guidelines and*  
15                *standards issued by the Occupational Safety and*  
16                *Health Administration, State plans approved*  
17                *under section 18 of the Occupational Safety and*  
18                *Health Act of 1970 (29 U.S.C. 667), the Centers*  
19                *for Disease Control and Prevention, and the Na-*  
20                *tional Institute for Occupational Safety and*  
21                *Health; and*

22                (B) *a carrier—*

23                        (i) *shall be a carrier for an employer*  
24                        *that is in compliance with subparagraph*  
25                        *(A); and*

1                   (ii) shall not adjust the experience rat-  
2                   ing or the annual premium of the employer  
3                   based upon the compensation paid by the  
4                   carrier with respect to a notice or claim de-  
5                   scribed in section 2(a).

6           (b) REIMBURSEMENT PROCEDURES.—

7                   (1) IN GENERAL.—To receive reimbursement  
8                   under subsection (a), a claim for such reimbursement  
9                   shall be submitted to the Secretary of Labor—

10                           (A) not earlier than the date on which a  
11                           compensation order (as described in section 19(e)  
12                           of the Longshore and Harbor Workers' Com-  
13                           pensation Act (33 U.S.C. 919(e))) is issued that  
14                           fixes entitlement to benefits; or

15                           (B) not later than one year after the final  
16                           payment of compensation to a covered employee  
17                           pursuant to this Act; and

18                           (C) in accordance with a rule issued by the  
19                           Secretary that the Secretary determines to be  
20                           similar to the process established under part 61  
21                           of title 20, Code of Federal Regulations (as in ef-  
22                           fect on the date of enactment of this Act).

23                   (2) RECORDS.—An employer and the employer's  
24                   carrier shall make, keep, and preserve such records  
25                   and provide such information as the Secretary of

1       *Labor determines necessary or appropriate to carry*  
2       *out this Act.*

3               (3) *FINAL AGENCY ACTION.*—*The action of the*  
4       *Secretary in allowing or denying reimbursement*  
5       *under this section shall be the final Agency action*  
6       *with respect to such reimbursement.*

7       (c) *APPROPRIATIONS.*—

8               (1) *IN GENERAL.*—*A reimbursement under this*  
9       *section shall be paid out of the Longshore COVID–19*  
10       *Fund.*

11              (2) *FUNDS.*—*In addition to amounts otherwise*  
12       *available, there are authorized to be appropriated,*  
13       *and there are appropriated, out of any money in the*  
14       *Treasury not otherwise appropriated, such sums as*  
15       *may be necessary to the Longshore COVID–19 Fund*  
16       *for each reimbursement paid out of such Fund under*  
17       *this section.*

18       (d) *REPORT.*—*Not later than 60 days after the end of*  
19       *each of fiscal years 2022, 2023, and 2024, the Secretary*  
20       *of Labor shall submit to the Committee on Education and*  
21       *Labor of the House of Representatives and the Committee*  
22       *on Health, Education, Labor, and Pensions of the Senate,*  
23       *an annual report enumerating—*

24              (1) *the number of claims filed pursuant to sec-*  
25       *tion 2(a);*



1           (2) of such filed claims—

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

7                   (B) the number and types of such claims de-  
8           nied; and

9                   (C) the number and types of such claims  
10          pending; and

11           (3) the total number of claims for reimbursement  
12          and the total amounts paid for such reimbursement  
13          from the Longshore COVID–19 Fund under subsection  
14          (c)(1) for the fiscal year for which the report is being  
15          submitted.

16          (e) REGULATIONS.—The Secretary of Labor may pro-  
17          mulgate such regulations as may be necessary to carry out  
18          this Act.

19          (f) DEFINITIONS.—In this Act:

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

24                   (A) ending on the date of such diagnosis;  
25          and

1           (B) equal to the maximum number of days  
2           that the Secretary of Labor, with the concurrence  
3           of the Director of the National Institute of Occu-  
4           pational Safety and Health, determines could  
5           occur between an exposure to the novel  
6           coronavirus and a diagnosis of COVID-19 re-  
7           sulting from such exposure.

8           (2) *LHWCA TERMS.*—The terms “carrier”,  
9           “compensation”, “employee”, and “employer” have  
10          the meanings given the terms in section 2 of the  
11          Longshore and Harbor Workers’ Compensation Act  
12          (33 U.S.C. 902).

13          (3) *LONGSHORE COVID-19 FUND.*—The term  
14          “Longshore COVID-19 Fund” means the fund estab-  
15          lished in section 45 of the Longshore and Harbor  
16          Workers’ Compensation Act (as added by section 4 of  
17          this Act).

18          (4) *NOVEL CORONAVIRUS.*—The term “novel  
19          coronavirus” means SARS-CoV-2, a variant of  
20          SARS-CoV-2, or any other coronavirus declared to be  
21          a pandemic by public health authorities.

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

23          The Longshore and Harbor Workers’ Compensation  
24          Act (33 U.S.C. 901 et seq.) is amended by adding after sec-  
25          tion 44 the following:

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

2       “(a) *IN GENERAL.*—*There is established in the Treas-*  
3 *ury of the United States the Longshore COVID-19 Fund*  
4 *(in this section, referred to as the ‘Fund’), which consists*  
5 *of sums that are appropriated to the Fund under section*  
6 *3(c) of the Longshore and Harbor Workers’ COVID-19*  
7 *Compensation Act of 2022.*

8       “(b) *EXPENDITURES.*—*Amounts in the Fund shall be*  
9 *available for the reimbursement of an employer or the em-*  
10 *ployer’s carrier for compensation payments and expenses*  
11 *approved under section 3 of the Longshore and Harbor*  
12 *Workers’ COVID-19 Compensation Act of 2022, including*  
13 *disability compensation, death benefits, funeral and burial*  
14 *expenses, medical or other related costs for treatment and*  
15 *care, and reasonable and necessary allocated claims ex-*  
16 *penses paid under this Act when reimbursement is required*  
17 *under section 3 of the Longshore and Harbor Workers’*  
18 *COVID-19 Compensation Act of 2022, subject to any limi-*  
19 *tations in such section.”.*

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117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 3114**

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## **A BILL**

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