
SENATE BILL 6003

State of Washington

61st Legislature

2009 Regular Session

By Senator Haugen

Read first time 02/12/09. Referred to Committee on Transportation.

1 AN ACT Relating to claims brought for the injury, illness, or death
2 of seamen occurring from employment with the state; and amending RCW
3 4.92.090 and 51.12.100.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 4.92.090 and 1963 c 159 s 2 are each amended to read
6 as follows:

7 The state of Washington, whether acting in its governmental or
8 proprietary capacity, shall be liable for damages arising out of its
9 tortious conduct to the same extent as if it were a private person or
10 corporation, except for its tortious conduct that results in an injury,
11 illness, or death of a seaman that occurs or manifests itself during or
12 in the course of, or arises out of, employment with the state of
13 Washington. The exclusive remedy for such a claim is provided under
14 Title 51 RCW, and an action for such a claim may not be brought against
15 the state of Washington, its vessels, or its employees under the Jones
16 Act (46 U.S.C. Sec. 688), in admiralty, or under the general maritime
17 law.

1 **Sec. 2.** RCW 51.12.100 and 2008 c 70 s 1 are each amended to read
2 as follows:

3 (1) Except as otherwise provided in this section and RCW 4.92.090,
4 the provisions of this title shall not apply to a master or member of
5 a crew of any vessel, or to employers and workers for whom a right or
6 obligation exists under the maritime laws or federal employees'
7 compensation act for personal injuries or death of such workers.

8 (2) If an accurate segregation of payrolls of workers for whom such
9 a right or obligation exists under the maritime laws cannot be made by
10 the employer, the director is hereby authorized and directed to fix
11 from time to time a basis for the approximate segregation of the
12 payrolls of employees to cover the part of their work for which no
13 right or obligation exists under the maritime laws for injuries or
14 death occurring in such work, and the employer, if not a self-insurer,
15 shall pay premiums on that basis for the time such workers are engaged
16 in their work.

17 (3) Where two or more employers are simultaneously engaged in a
18 common enterprise at one and the same site or place in maritime
19 occupations under circumstances in which no right or obligation exists
20 under the maritime laws for personal injuries or death of such workers,
21 such site or place shall be deemed for the purposes of this title to be
22 the common plant of such employers.

23 (4) In the event payments are made both under this title and under
24 the maritime laws or federal employees' compensation act, such benefits
25 paid under this title shall be repaid by the worker or beneficiary.
26 For any claims made under the Jones Act, the employer is deemed a third
27 party, and the injured worker's cause of action is subject to RCW
28 51.24.030 through 51.24.120.

29 (5) Commercial divers harvesting geoduck clams under an agreement
30 made pursuant to RCW 79.135.210 and the employers of such divers shall
31 be subject to the provisions of this title whether or not such work is
32 performed from a vessel.

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