

SENATE BILL REPORT

HB 1949

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, March 29, 2007

Title: An act relating to providing industrial insurance coverage for workers involved in harvesting geoduck clams.

Brief Description: Providing industrial insurance coverage for workers involved in harvesting geoduck clams.

Sponsors: Representatives Williams, Conway, B. Sullivan, Strow, Sells, Appleton, Kessler, Hinkle, McCoy, Walsh, Chandler, Pearson, Condotta, Kenney, Hasegawa, Moeller and Ormsby.

Brief History: Passed House: 3/07/07, 97-0.

Committee Activity: Labor, Commerce, Research & Development: 3/27/07, 3/29/07 [DPA].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: Do pass as amended.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Clements, Ranking Minority Member; Franklin, Hewitt, Holmquist, Murray and Prentice.

Staff: Jennifer Strus (786-7316)

Background: The Longshore and Harbor Workers' Compensation Act, administered by the U.S. Department of Labor, provides medical benefits, compensation for lost wages, and rehabilitation services to longshoremen, harbor workers, and other maritime workers who are injured during the course of employment or suffer from diseases caused or worsened by conditions of employment. Under the Longshore and Harbor Workers' Compensation Act, businesses whose employees are employed in maritime employment on or near the navigable waters of the United States are required to purchase longshore and harbor workers' compensation insurance.

There are exclusions to coverage under the Longshore and Harbor Workers' Compensation Act. The exclusions apply if the workers are covered by a state workers' compensation law. The exclusions include an exclusion for aquaculture workers.

The federal Jones Act also provides a remedy to seamen for injuries arising out of employment. Under the Jones Act, an injured seaman may obtain damages from his or her employer for the negligence of the vessel's owner, the captain, or other crew members.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The state Industrial Insurance Act does not apply to employers and workers for whom a right or obligation exists under the maritime laws.

Summary of Bill: The state Industrial Insurance Act applies to commercial divers harvesting geoduck clams, workers tending to such divers, and the employers of such divers and tenders. The state Industrial Insurance Act applies whether or not the work is performed from a vessel.

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Labor, Commerce, Research & Development): The language would preclude potential double coverage for worker's compensation benefits under both the Jones Act and the state act.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We want to enable geoduck divers to obtain workers' compensation benefits when diving for geoduck on state leased land. With the striker, everyone who has been involved is in agreement on this bill. The reason for this bill is because some workers will lack coverage because of the interplay between two federal laws and the state workers' compensation law.

OTHER: The original bill would have provided potentially triple coverage to some workers. With the striker, that issue is resolved.

Persons Testifying: PRO: Clif Finch, Alaska, Ice; Gordon Baxter, Harvest Divers Union; Sarah Dzinbal, Department of Natural Resources.

OTHER: Jim Jesernig, Pacific Coast Shellfish Growers.