



Harold J. Daggett
International President

March 24, 2020

Honorable Robert Menendez
528 Hart Senate Office Building
Washington, DC 20510

**Re: Coverage Under Longshore and Harbor Workers' Compensation Act
for COVID-19-Related Issues**

Dear Senator Menendez:

Given the current COVID-19 pandemic and the risks inherent to longshoremen, the International Longshoremen's Association, AFL-CIO (ILA) requests a temporary measure be implemented to cover under the Longshore and Harbor Workers' Compensation Act (LHWCA) longshore workers who have been quarantined due to the contraction of the virus or when an individual leaves employment due to exposure or infection or to care for a family member.

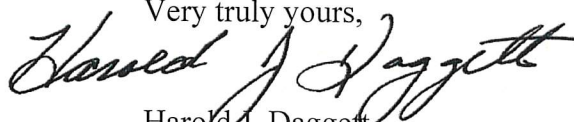
In most states, injuries or diseases that occur at the workplace are covered by state workers' compensation laws. However, the longshore industry is unique in that it is covered by a federal statute, the Longshore and Harbor Workers' Compensation Act (LHWCA). *See* 33 U.S.C. § 901 et seq. The LHWCA provides for the payment of compensation, medical care, and vocational rehabilitation to employees who have suffered on-the-job injuries or diseases that occur on the navigable waters of the United States or in adjoining areas customarily used in the loading, unloading, repairing, or building of a vessel. *See* 33 U.S.C. § 902(4). The employees covered by the LHWCA include "longshoremen or other person[s] engaged in longshoring operations." 33 U.S.C. § 902(3).

In the midst of the COVID-19 pandemic, longshoremen are especially at risk to contract and transmit the virus. The federal government has deemed longshore work an essential service. Therefore, longshoremen are exempt from the "shelter in place" mandates that several states have issued. Because longshore workers must report for work even during the coronavirus pandemic, they are at especially high risk of contracting the virus at the workplace. In addition, there is a high likelihood that workers who may have been exposed to the virus, at work or elsewhere, may transmit the virus to a co-worker. Therefore, it is extremely important that compensation benefits be available to longshoremen to ensure that they may take necessary precautions if they contract or are exposed to the coronavirus.

Honorable Robert Menendez
March 24, 2020
Page Two

Each state administers its own unemployment insurance program and sets its own unemployment insurance benefits eligibility guidelines. Recently, to assist workers during the COVID-19 pandemic, federal law has permitted states to amend their state unemployment insurance programs to provide benefits for certain reasons related to COVID-19. For example, states may pay benefits when an individual is quarantined and expects to return to work after the quarantine has concluded or when an individual leaves employment due to exposure or infection or to care for a family member. However, because states determine the eligibility requirements for their unemployment insurance programs, the requirements may not be uniform. Because there is a federal law that covers longshoremen for on-the-job injuries, diseases and infections, compensation for issues related to COVID-19 should be covered under the LHWCA rather than by state unemployment insurance benefits. In addition, if a person contracts the coronavirus, because it is difficult to determine how and where the person contracted the virus, unlike in other cases of workplace injury or disease, causation should not be a factor to determine whether an individual qualifies for compensation.

Very truly yours,



Harold J. Daggett
President

1

cc: Mr. Stephen Knott, Sec.-Treas., ILA, AFL-CIO
Mr. Dennis A. Daggett, Exec. Vice-Pres., ILA, AFL-CIO
Mr. Wilbert Rowell, Gen. Vice-Pres., ILA, AFL-CIO
Mr. James H. Paylor, Jr., Asst. Gen. Org., ILA, AFL-CIO
Mr. Alan Robb, Asst. Gen. Org., ILA, AFL-CIO
Mr. Benny Holland, Jr., Exec. Vice-Pres. Emer., ILA, AFL-CIO
Mr. Ingolf Esders, Legis. Dir., ILA, AFL-CIO
Marrinan & Mazzola Mardon, P.C.