

Questions?

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This card is intended as a Quick Reference Guide. We make every effort to ensure that it is correct. When using this card, please understand it is not intended to replace Department of Labor & Industries or insured's policies, procedures, RCWs or WACs in their entirety.

RCW 51.12.100 (1) states: The provisions of this title shall apply to a master or member of a crew of any vessel, or to employers and workers for whom a right or obligation exists under the maritime laws or federal employees compensation act for person injuries or death of such workers.

### **JONES ACT:**

The Jones Act is based on negligence and maritime case law. It is always a question of fact and is normally determine by application of the following test:

- The vessel must be in navigation and engaged as an instrument of commerce and transportation on navigable waters.
- The worker must have a more or less permanent connection with a vessel or fleet of vessels.
- The worker must be aboard primarily to aid in the mission of the vessel.

They must meet all three criteria to be considered subject to the Jones Act.

### **USLH — Longshore and Harbors Workers Compensation Act**

Congress enacted the Longshore and Harbor Workers Compensation Act in 1927 to provide a worker's compensation system for maritime employees who work on the navigable waters of the United States.

To be considered subject USLH, they must meet both of the two following criteria:

- **Situs** — on or adjacent to navigable waters.
- Navigable waters are those which, by their depth, width, and location, are used or can be used for navigation, trade and travel and for commerce. Adjacent to the water means any pier, wharf, dry dock, terminal, building way, marine railway, or any other area customarily used in loading, unloading, building, repairing or dismantling of a vessel.
- **Status** — a maritime related function, i.e. building, repairing or dismantling a vessel or loading or unloading a vessel (these are examples only).

### **USLH Exemptions:**

- (a) Office clerical, secretarial, security and data processing workers (on shores only);
- (b) Club, camp, recreational operation, museum, restaurant and retail outlet employees;
- (c) Marina employees not engaged in maritime constructions, replacement or expansion, except for routine maintenance;
- (d) Employees of vendors, transporters and suppliers temporarily on a covered situs and not engaged in work normally done by the covered employer;
- (e) Aquaculture employees;
- (f) Individuals building, repairing, or dismantling an recreational vessel under 65 feet;
- (g) Employers employed at a facility who are building, repairing, or dismantling certain small commercial vessels. Employer needs to apply for a U.S. Dept. of Labor for Small Vessel Exemption.
- (h) Employees of municipality.