

**33 U.S.C. 18 - SECTIONS 901-950
LONGSHORE-HARBOR WORKERS COMPENSATION ACT (LSHWCA)**

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NAVIGATION AND NAVIGABLE WATERS

CHAPTER 18--LONGSHORE AND HARBOR WORKERS' COMPENSATION

Sec. 941. Safety rules and regulations

(a) Safe place of employment; installation of safety devices and safeguards

Every employer shall furnish and maintain employment and places of employment which shall be reasonably safe for his employees in all employments covered by this chapter and shall install, furnish, maintain, and use such devices and safeguards with particular reference to equipment used by and working conditions established by such employers as the Secretary may determine by regulation or order to be reasonably necessary to protect the life, health, and safety of such employees, and to render safe such employment and places of employment, and to prevent injury to his employees. However, the Secretary may not make determinations by regulation or order under this section as to matters within the scope of title 52 of the Revised Statutes and Acts supplementary or amendatory thereto, the Act of June 15, 1917 (ch. 30, 40 Stat. 220), as amended, or section 1333(e) of title 43.

(b) Studies and investigations by Secretary

The Secretary, in enforcing and administering the provisions of this section, is authorized in addition to such other powers and duties as are conferred upon him--

(1) to make studies and investigations with respect to safety provisions and the causes and prevention of injuries in employments covered by this chapter, and in making such studies and investigations to cooperate with any agency of the United States or with any State agency engaged in similar work;

(2) to utilize the services of any agency of the United States or any State agency engaged in similar work (with the consent of such agency) in connection with the administration of this section;

(3) to promote uniformity in safety standards in employments covered by this chapter through cooperative action with any agency of the United States or with any State agency engaged in similar work;

(4) to provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe working conditions in employments covered by this chapter, and to consult with and advise employers as to the best means of preventing injuries;

(5) to hold such hearings, issue such orders, and make such decisions, based upon findings of fact, as are deemed to be necessary to enforce the provisions of this section, and for such purposes the Secretary and the district courts shall have the authority and jurisdiction provided by section 39 of title 41, and the Secretary shall be represented in any court proceedings as provided in section 921a of this title.

(c) Inspection of places and practices of employment

The Secretary or his authorized representative may inspect such places of employment, question such employees, and investigate such conditions, practices, or matters in connection with employment subject to this chapter, as he may deem appropriate to determine whether any person has violated any provision of this section, or any rule or regulation issued thereunder, or which may aid in the enforcement of the provisions of this section. No employer or other person shall refuse to admit the Secretary or his authorized representatives to any such place or shall refuse to permit any such inspection.

(d) Requests for advice; variations from safety rules and regulations

Any employer may request the advice of the Secretary or his authorized representative, in complying with the requirements of any rule or regulation adopted to carry out the provisions of this section. In case of practical difficulties or unnecessary hardships, the Secretary in his discretion may grant variations from any such rule or regulation, or particular provisions thereof, and permit the use of other or different devices if he finds that the purpose of the rule or regulation will be observed by the variation and the safety of employees will be equally secured thereby. Any person affected by such rule or regulation, or his agent, may request the Secretary to grant such variation, stating in writing the grounds on which his request is based. Any authorization by the Secretary of a variation shall be in writing, shall describe the conditions under which the variation shall be permitted, and shall be published as provided in section 552 of title 5. A properly indexed record of all variations shall be kept in the office of the Secretary and open to public inspection.

(e) Jurisdiction to restrain violations

The United States district courts shall have jurisdiction for cause shown, in any action brought by the Secretary, represented as provided in section 921a of this title, to restrain violations of this section or of any rule, regulation, or order of the Secretary adopted to carry out the provisions of this section.

(f) Violations and penalties

Any employer who, willfully, violates or fails or refuses to comply with the provisions of subsection (a) of this section, or with any lawful rule, regulation, or order adopted to carry out the provisions of this section, and any employer or other person who willfully interferes with, hinders, or delays the Secretary or his authorized representative in carrying out his duties under subsection (c) of this section by refusing to admit the Secretary or his authorized representative to any place, or to permit the inspection or examination of any employment or place of employment, or who willfully hinders or delays the Secretary or his authorized representative in the performance of his duties in the enforcement of this section, shall be guilty of an offense, and, upon conviction thereof, shall be punished for each offense by a fine of not less than \$100 nor more than \$3,000; and in any case where such employer is a corporation, the officer who willfully permits any such violation to occur shall be guilty of an offense, and, upon conviction thereof, shall be punished also for each offense by a fine of not less than \$100

nor more than \$3,000. The liability hereunder shall not affect any other liability of the employer under this chapter.

(g) Inapplicability to certain employments

(1) The provisions of this section shall not apply in the case of any employment relating to the operations for the exploration, production, or transportation by pipeline of mineral resources upon the navigable waters of the United States, nor under the authority of the Act of August 7, 1953 (ch. 345, 67 Stat. 462) [43 U.S.C. 1331 et seq.], nor in the case of any employment in connection with lands (except filled in, made or reclaimed lands) beneath the navigable waters as defined in the Act of May 22, 1953 (ch. 65, 67 Stat. 29) [43 U.S.C. 1301 et seq.], nor in the case of any employment for which compensation in case of disability or death is provided for employees under the authority of the Act of May 17, 1928 (ch. 612, 45 Stat. 600), as amended, nor under the authority of the Act of August 16, 1941 (ch. 357, 55 Stat. 622), as amended [42 U.S.C. 1651 et seq.].

(2) The provisions of this section, with the exception of paragraph (1) of subsection (b) of this section, shall not be applied under the authority of subchapter I of chapter 81 of title 5.

(Mar. 4, 1927, ch. 509, Sec. 41, 44 Stat. 1444; Pub. L. 85-742, Sec. 1, Aug. 23, 1958, 72 Stat. 835; Pub. L. 97-375, title I, Sec. 110(b), Dec. 21, 1982, 96 Stat. 1820.)

References in Text

Title 52 of the Revised Statutes, referred to in subsec. (a), consisted of R.S. Secs. 4399 to 4500, which were classified to sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230 to 234, 239, 240, 361, 362, 364, 371 to 373, 375 to 382, 384, 385, 391, 391a, 392 to 394, 399 to 404, 405 to 416, 435 to 440, 451 to 453, 460, 461 to 463, 464, 466, 467 to 482, and 489 to 498 of former Title 46, Shipping. For complete classification of R.S. Secs. 4399 to 4500 to the Code, see Tables. A majority of such sections of the Revised Statutes were repealed and various provisions thereof were reenacted in Title 46, Shipping, by Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 500. For disposition of sections of former Title 46 into revised Title 46, see Table at beginning of Title 46.

Act of June 15, 1917, referred to in subsec. (a), is act June 15, 1917, ch. 30, 40 Stat. 217, as amended. For complete classification of this Act to the Code, see Tables.

Act of August 7, 1953, referred to in subsec. (g)(1), is known as the Outer Continental Shelf Lands Act, and is classified to subchapter III (Sec. 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

Act of May 22, 1953, referred to in subsec. (g)(1), is known as the Submerged Lands Act, and is classified generally to subchapters I and II (Secs. 1301 et seq., 1311 et seq.) of chapter 29 of Title 43. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

Act of May 17, 1928, referred to in subsec. (g)(1), extended the applicability of this chapter in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia.

Act of August 16, 1941, referred to in subsec. (g)(1), is known as the Defense Base Act and is classified generally to chapter 11

(Sec. 1651 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of Title 42 and Tables.

Codification

In subsec. (d) ``section 552 of title 5'' substituted for ``section 3 of the Administrative Procedure Act (ch. 324, 60 Stat. 237), as amended'', and in subsec. (g)(2) ``subchapter I of chapter 81 of title 5'' substituted for ``the Act of September 7, 1916 (ch. 458, 39 Stat. 742), as amended'', on authority of Pub. L. 89-554, Sec. 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Said section 3 of the Administrative Procedure Act had been classified to section 1002 of former Title 5, Executive Departments and Government Officers and Employees. Said act of Sept. 7, 1916, was known as the ``Federal Employees' Compensation Act'' and had been classified to section 751 et seq. of former Title 5.

As originally enacted, subsec. (e) contained the phrase `` , together with the District Court for the Territory of Alaska, '' following ``the United States district courts''. The phrase has been deleted as superfluous in view of Pub. L. 85-508, July 7, 1958, 72 Stat. 339 (set out as a note preceding section 21 of Title 48, Territories and Insular Possessions) which admitted Alaska into the union and enacted section 81A of Title 28, Judiciary and Judicial Procedure, constituting Alaska as one judicial district and in view of section 132 of Title 28 which provides that: ``There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district.''

Amendments

1982--Subsec. (b)(1). Pub. L. 97-375 struck out ``and from time to time make to Congress such recommendations as he may deem proper as to the best means of preventing such injuries'' after ``by this chapter''.

1958--Pub. L. 85-742 amended section generally and, among other changes, empowered the Secretary of Labor to prescribe, by regulation or order, safety rules for the furnishing and maintenance of safe places of employment and for the installation, furnishing and maintenance of safety devices and safeguards, authorized the Secretary to provide for the establishment and supervision of safety programs, permitted the inspection of places of employment and investigation of employment conditions and practices, granted jurisdiction to the district courts to restrain violations of this section or of any rules, regulations or orders of the Secretary, and to prescribe penalties for violations.

``Secretary'' Defined

Section 2 of Pub. L. 85-742 provided that: ``The term `Secretary' as used in this Act and in amendments made by this Act [to this section] means the Secretary of Labor.''