

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3114
OFFERED BY MR. MRVAN OF INDIANA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Longshore and Harbor
3 Workers’ COVID–19 Compensation Act of 2022”.

4 SEC. 2. CLAIMS RELATED TO COVID-19.

5 (a) IN GENERAL.—A covered employee who receives
6 a diagnosis of COVID–19 or is subject to an order de-
7 scribed in subsection (b)(2) and who provides notice of or
8 files a claim under the Longshore and Harbor Workers’
9 Compensation Act (33 U.S.C. 901 et seq.) relating to such
10 diagnosis or order shall be conclusively presumed to have
11 an injury arising out of or in the course of employment
12 for the purpose of compensation under the Longshore and
13 Harbor Workers’ Compensation Act.

14 (b) COVERED EMPLOYEE.—In this Act, the term
15 “covered employee” means an individual who, at any time
16 during the period beginning January 27, 2020, and ending
17 on January 27, 2024, is an employee engaged in maritime
18 employment as defined in section 2 of the Longshore and

1 Harbor Workers' Compensation Act (33 U.S.C. 902(3))

2 and who—

3 (1)(A) is diagnosed with COVID–19; and

4 (B) during a covered exposure period with re-
5 spect to the date of such diagnosis carried out duties
6 which—

7 (i) required contact with members of the
8 public, co-workers, or other individuals associ-
9 ated with the course of employment; or

10 (ii) included a risk of exposure to the novel
11 coronavirus; or

12 (2) is ordered not to return to work by the em-
13 ployee's employer or by a local, State, or Federal
14 agency because of exposure, or the risk of exposure,
15 to 1 or more individuals diagnosed with COVID–19
16 in the workplace.

17 (c) CLARIFICATION OF MARITIME EMPLOYMENT.—

18 For the purposes of subsection (b), maritime employment
19 does not include employment under—

20 (1) the Defense Base Act (42 U.S.C. 1651 et
21 seq.);

22 (2) the Outer Continental Shelf Lands Act (43
23 U.S.C. 1333(b)); and

24 (3) section 8171 of title 5, United States Code.

1 (d) LIMITATION.—This Act shall not apply with re-
2 spect to a covered employee who—

3 (1) provides notice or files a claim described in
4 subsection (a) on or before the date of enactment of
5 this Act; and

6 (2) is determined to be entitled to the com-
7 pensation described in subsection (a) or is awarded
8 such compensation if such determination or award is
9 made on or before the date of enactment of this Act.

10 (e) DENIALS ON OR BEFORE THE DATE OF ENACT-
11 MENT.—Subsection (a) shall apply with respect to a cov-
12 ered employee who is determined not to be entitled to, or
13 who is not awarded, compensation described in subsection
14 (a) if such determination or decision not to award such
15 compensation is made on or before the date of enactment
16 of this Act.

17 (f) EXCLUSION.—The Secretary shall not consider
18 any compensation paid with respect to a notice or claim
19 to which subsection (a) applies, including disability com-
20 pensation, death benefits, funeral and burial expenses, and
21 medical expenses, in calculating the annual assessments
22 under section 44(c)(2) of the Longshore and Harbor
23 Workers' Compensation Act (33 U.S.C. 944(c)(2)).

24 **SEC. 3. REIMBURSEMENT.**

25 (a) IN GENERAL.—

1 (1) ENTITLEMENT.—An employer of a covered
2 employee or the employer’s carrier shall be entitled
3 to reimbursement pursuant to this Act for any com-
4 pensation paid with respect to a notice or claim de-
5 scribed in section 2(a), including disability com-
6 pensation, death benefits, funeral and burial ex-
7 penses, medical or other related costs for treatment
8 and care, and reasonable and necessary allocated
9 claims expenses.

10 (2) SAFETY AND HEALTH REQUIREMENTS.—To
11 be entitled to reimbursement under paragraph (1)—

12 (A) an employer shall be in compliance
13 with all applicable safety and health guidelines
14 and standards that are related to the prevention
15 of occupational exposure to the novel
16 coronavirus, including such guidelines and
17 standards issued by the Occupational Safety
18 and Health Administration, State plans ap-
19 proved under section 18 of the Occupational
20 Safety and Health Act of 1970 (29 U.S.C.
21 667), the Centers for Disease Control and Pre-
22 vention, and the National Institute for Occupa-
23 tional Safety and Health; and

24 (B) a carrier—

1 (i) shall be a carrier for an employer
2 that is in compliance with subparagraph
3 (A); and

4 (ii) shall not adjust the experience
5 rating or the annual premium of the em-
6 ployer based upon the compensation paid
7 by the carrier with respect to a notice or
8 claim described in section 2(a).

9 (b) REIMBURSEMENT PROCEDURES.—

10 (1) IN GENERAL.—To receive reimbursement
11 under subsection (a), a claim for such reimburse-
12 ment shall be submitted to the Secretary of Labor—

13 (A) not earlier than the date on which a
14 compensation order (as described in section
15 19(e) of the Longshore and Harbor Workers'
16 Compensation Act (33 U.S.C. 919(e))) is issued
17 that fixes entitlement to benefits; or

18 (B) not later than one year after the final
19 payment of compensation to a covered employee
20 pursuant to this Act; and

21 (C) in accordance with a rule issued by the
22 Secretary that the Secretary determines to be
23 similar to the process established under part 61
24 of title 20, Code of Federal Regulations (as in
25 effect on the date of enactment of this Act).

1 (2) RECORDS.—An employer and the employ-
2 er’s carrier shall make, keep, and preserve such
3 records and provide such information as the Sec-
4 retary of Labor determines necessary or appropriate
5 to carry out this Act.

6 (3) FINAL AGENCY ACTION.—The action of the
7 Secretary in allowing or denying reimbursement
8 under this section shall be the final Agency action
9 with respect to such reimbursement.

10 (c) APPROPRIATIONS.—

11 (1) IN GENERAL.—A reimbursement under this
12 section shall be paid out of the Longshore COVID–
13 19 Fund.

14 (2) FUNDS.—In addition to amounts otherwise
15 available, there are authorized to be appropriated,
16 and there are appropriated, out of any money in the
17 Treasury not otherwise appropriated, such sums as
18 may be necessary to the Longshore COVID–19
19 Fund for each reimbursement paid out of such Fund
20 under this section.

21 (d) REPORT.—Not later than 60 days after the end
22 of each of fiscal years 2022, 2023, and 2024, the Sec-
23 retary of Labor shall submit to the Committee on Edu-
24 cation and Labor of the House of Representatives and the

1 Committee on Health, Education, Labor, and Pensions of
2 the Senate, an annual report enumerating—

3 (1) the number of claims filed pursuant to sec-
4 tion 2(a);

5 (2) of such filed claims—

6 (A) the number and types of claims under
7 the Longshore and Harbor Workers Compensa-
8 tion Act (33 U.S.C. 901 et seq.) with respect to
9 which the presumption under section 2(a) is
10 made;

11 (B) the number and types of such claims
12 denied; and

13 (C) the number and types of such claims
14 pending; and

15 (3) the total number of claims for reimburse-
16 ment and the total amounts paid for such reim-
17 bursement from the Longshore COVID-19 Fund
18 under subsection (c)(1) for the fiscal year for which
19 the report is being submitted.

20 (e) REGULATIONS.—The Secretary of Labor may
21 promulgate such regulations as may be necessary to carry
22 out this Act.

23 (f) DEFINITIONS.—In this Act:

24 (1) COVERED EXPOSURE PERIOD.—The term
25 “covered exposure period” with respect to the date

1 of a diagnosis described in section 2(b)(1)(A), means
2 the period of days—

3 (A) ending on the date of such diagnosis;

4 and

5 (B) equal to the maximum number of days
6 that the Secretary of Labor, with the concur-
7 rence of the Director of the National Institute
8 of Occupational Safety and Health, determines
9 could occur between an exposure to the novel
10 coronavirus and a diagnosis of COVID-19 re-
11 sulting from such exposure.

12 (2) LHWCA TERMS.—The terms “carrier”,
13 “compensation”, “employee”, and “employer” have
14 the meanings given the terms in section 2 of the
15 Longshore and Harbor Workers’ Compensation Act
16 (33 U.S.C. 902).

17 (3) LONGSHORE COVID-19 FUND.—The term
18 “Longshore COVID-19 Fund” means the fund es-
19 tablished in section 45 of the Longshore and Harbor
20 Workers’ Compensation Act (as added by section 4
21 of this Act).

22 (4) NOVEL CORONAVIRUS.—The term “novel
23 coronavirus” means SARS-CoV-2, a variant of
24 SARS-CoV-2, or any other coronavirus declared to
25 be a pandemic by public health authorities.

1 **SEC. 4. LONGSHORE COVID-19 FUND.**

2 The Longshore and Harbor Workers' Compensation
3 Act (33 U.S.C. 901 et seq.) is amended by adding after
4 section 44 the following:

5 **“SEC. 45. LONGSHORE COVID-19 FUND.**

6 “(a) IN GENERAL.—There is established in the
7 Treasury of the United States the Longshore COVID-19
8 Fund (in this section, referred to as the ‘Fund’), which
9 consists of sums that are appropriated to the Fund under
10 section 3(c) of the Longshore and Harbor Workers’
11 COVID-19 Compensation Act of 2022.

12 “(b) EXPENDITURES.—Amounts in the Fund shall be
13 available for the reimbursement of an employer or the em-
14 ployer’s carrier for compensation payments and expenses
15 approved under section 3 of the Longshore and Harbor
16 Workers’ COVID-19 Compensation Act of 2022, includ-
17 ing disability compensation, death benefits, funeral and
18 burial expenses, medical or other related costs for treat-
19 ment and care, and reasonable and necessary allocated
20 claims expenses paid under this Act when reimbursement
21 is required under section 3 of the Longshore and Harbor
22 Workers’ COVID-19 Compensation Act of 2022, subject
23 to any limitations in such section.”.

