

Calendar No. 544

112TH CONGRESS
2D SESSION

S. 183

To clarify the applicability of certain maritime laws with respect to the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2011

Mr. ROCKEFELLER (for himself, Mr. SCHUMER, Mr. WHITEHOUSE, AND MS. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 14, 2012

Reported by Mr. ROCKEFELLER, with an amendment

[Strike all after the enacting clause and insert the matter printed in *italic*]

A BILL

To clarify the applicability of certain maritime laws with respect to the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deepwater Horizon
5 Survivors’ Fairness Act”.

1 **SEC. 2. AMENDMENT OF SHIPOWNERS' LIABILITY ACT OF**
 2 **1851.**

3 (a) **GENERAL LIMIT OF LIABILITY.**—Section
 4 30505(e) of title 46, United States Code, is amended to
 5 read as follows:

6 “(c) **CLAIMS NOT SUBJECT TO LIMITATION.**—Sub-
 7 section (a) does not apply—

8 “(1) to a claim for wages; or

9 “(2) to a claim for personal injury or wrongful
 10 death arising from the blowout and explosion of the
 11 mobile offshore drilling unit Deepwater Horizon that
 12 occurred on April 20, 2010.”

13 (b) **CONFORMING AMENDMENT.**—Section 30511(e)
 14 of title 46, United States Code, is amended by inserting
 15 “that are subject to limitation under section 30505” after
 16 “question”.

17 **SEC. 3. AMENDMENT OF THE DEATH ON THE HIGH SEAS**
 18 **ACT.**

19 (a) **CAUSE OF ACTION.**—Section 30302 of title 46,
 20 United States Code, is amended by inserting after the first
 21 sentence the following: “If the death was attributable to
 22 the blowout and explosion of the mobile offshore drilling
 23 unit Deepwater Horizon that occurred on April 20, 2010,
 24 the action may be brought in law or in admiralty.”

25 (b) **AMOUNT AND APPORTIONMENT OF RECOVERY.**—
 26 Section 30303 of title 46, United States Code, is amended

1 by adding at the end the following: “If the action under
 2 this chapter arises from the blowout and explosion of the
 3 mobile offshore drilling unit Deepwater Horizon that oc-
 4 curred on April 20, 2010, the recovery may include fair
 5 compensation for nonpecuniary loss, plus a fair compensa-
 6 tion for the decedent’s pain and suffering. In this section,
 7 the term ‘nonpecuniary loss’ means the loss of care, com-
 8 fort, companionship, and society.”.

9 (c) DEATH OF PLAINTIFF IN PENDING ACTION.—

10 Section 30305 of title 46, United States Code, is amended
 11 by adding at the end the following: “If a civil action in
 12 law is pending in a court of the United States to recover
 13 for personal injury caused by wrongful act, neglect, or de-
 14 fault described in the second sentence of section 30302
 15 of this title and the individual dies during the action as
 16 a result of that wrongful act, neglect, or default, the per-
 17 sonal representative of the decedent may be substituted
 18 as the plaintiff and the action may proceed under this
 19 chapter for the recovery authorized by this chapter.”.

20 **SEC. 4. AMENDMENT OF JONES ACT.**

21 Section 30104(a) of title 46, United States Code, is
 22 amended by adding at the end the following: “If the action
 23 under this chapter arises from the blowout and explosion
 24 of the mobile offshore drilling unit Deepwater Horizon
 25 that occurred on April 20, 2010, the recovery for a seaman

1 who dies may include fair compensation for nonpecuniary
 2 loss, plus a fair compensation for the decedent's pain and
 3 suffering. In this section, the term 'nonpecuniary loss'
 4 means the loss of care, comfort, companionship, and soci-
 5 ety.'".

6 **SEC. 5. MULTIDISTRICT LITIGATION FOR CERTAIN CIVIL**
 7 **ACTIONS.**

8 (a) MULTIDISTRICT LITIGATION FOR CERTAIN CIVIL
 9 ACTIONS.—

10 (1) IN GENERAL.—Chapter 303 of title 46,
 11 United States Code, is amended—

12 (A) by redesignating section 30308 as sec-
 13 tion 30309; and

14 (B) by inserting after section 30307 the
 15 following:

16 **“§ 30308. Multidistrict litigation for certain civil ac-**
 17 **tions**

18 “(a) IN GENERAL.—A plaintiff in a covered civil ac-
 19 tion brought under chapter 301 or this chapter may elect
 20 to have the claims of that plaintiff—

21 “(1) severed from all other claims in the cov-
 22 ered civil action; and

23 “(2) not be subject to section 1407 of title 28
 24 or any similar provision of State law.

1 “(b) COVERED CIVIL ACTION DEFINED.—In this sec-
 2 tion, the term ‘covered civil action’ means a civil action
 3 for damages for personal injury or wrongful death arising
 4 from the blowout and explosion of the mobile offshore
 5 drilling unit Deepwater Horizon that occurred on April 20,
 6 2010.”.

7 (b) CONFORMING AMENDMENT.—The table of con-
 8 tents for chapter 303 of title 46, United States Code, is
 9 amended by striking the item relating to section 30308
 10 and inserting the following:

“30308. Multidistrict litigation for certain civil actions.
 “30309. Nonapplication.”.

11 **SEC. 6. EFFECTIVE DATE.**

12 The amendments made by this Act shall apply to—

13 (1) causes of action and claims arising after
 14 April 19, 2010; and

15 (2) actions commenced before the date of enact-
 16 ment of this Act that have not been finally adju-
 17 dicated, including appellate review, as of that date.

18 **SECTION 1. SHORT TITLE.**

19 *This Act may be cited as the “Deepwater Horizon Sur-*
 20 *vivors’ Fairness Act”.*

1 **SEC. 2. AMENDMENT OF SHIPOWNERS' LIABILITY ACT OF**
 2 **1851.**

3 (a) *GENERAL LIMIT OF LIABILITY.*—Section 30505(c)
 4 of title 46, United States Code, is amended to read as fol-
 5 lows:

6 “(c) *CLAIMS NOT SUBJECT TO LIMITATION.*—Sub-
 7 section (a) does not apply—

8 “(1) to a claim for wages; or

9 “(2) to a claim for personal injury or wrongful
 10 death arising from the blowout and explosion of the
 11 mobile offshore drilling unit *Deepwater Horizon* that
 12 occurred on April 20, 2010.”.

13 (b) *CONFORMING AMENDMENT.*—Section 30511(c) of
 14 title 46, United States Code, is amended by inserting “that
 15 are subject to limitation under section 30505” after “ques-
 16 tion”.

17 **SEC. 3. AMENDMENT OF THE DEATH ON THE HIGH SEAS**
 18 **ACT.**

19 (a) *CAUSE OF ACTION.*—Section 30302 of title 46,
 20 United States Code, is amended by inserting after the first
 21 sentence the following: “If the death was attributable to the
 22 blowout and explosion of the mobile offshore drilling unit
 23 *Deepwater Horizon* that occurred on April 20, 2010, the
 24 action may be brought in law or in admiralty.”.

25 (b) *AMOUNT AND APPORTIONMENT OF RECOVERY.*—
 26 Section 30303 of title 46, United States Code, is amended

1 *by adding at the end the following: “If the action under*
 2 *this chapter arises from the blowout and explosion of the*
 3 *mobile offshore drilling unit Deepwater Horizon that oc-*
 4 *curred on April 20, 2010, the recovery may include fair*
 5 *compensation for nonpecuniary loss, plus a fair compensa-*
 6 *tion for the decedent’s pain and suffering. In this section,*
 7 *the term ‘nonpecuniary loss’ means the loss of care, comfort,*
 8 *companionship, and society.”.*

9 (c) *DEATH OF PLAINTIFF IN PENDING ACTION.*—Sec-
 10 *tion 30305 of title 46, United States Code, is amended by*
 11 *adding at the end the following: “If a civil action in law*
 12 *is pending in a court of the United States to recover for*
 13 *personal injury caused by wrongful act, neglect, or default*
 14 *described in the second sentence of section 30302 of this title*
 15 *and the individual dies during the action as a result of*
 16 *that wrongful act, neglect, or default, the personal represent-*
 17 *ative of the decedent may be substituted as the plaintiff and*
 18 *the action may proceed under this chapter for the recovery*
 19 *authorized by this chapter.”.*

20 **SEC. 4. AMENDMENT OF JONES ACT.**

21 Section 30104 of title 46, United States Code, is
 22 amended by adding at the end the following: “If the action
 23 under this chapter arises from the blowout and explosion
 24 of the mobile offshore drilling unit Deepwater Horizon that
 25 occurred on April 20, 2010, the recovery for a seaman who

1 *dies may include fair compensation for nonpecuniary loss,*
2 *plus a fair compensation for the decedent's pain and suf-*
3 *fering. In this section, the term 'nonpecuniary loss' means*
4 *the loss of care, comfort, companionship, and society.'".*

5 **SEC. 5. EFFECTIVE DATE.**

6 *The amendments made by this Act shall apply to—*

7 *(1) causes of action and claims arising after*
8 *April 19, 2010; and*

9 *(2) actions commenced prior to, on, or after the*
10 *date of enactment of this Act that have not been fi-*
11 *nally adjudicated, including appellate review, as of*
12 *that date.*

Calendar No. 544

112TH CONGRESS
2^D SESSION

S. 183

A BILL

To clarify the applicability of certain maritime laws with respect to the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon.

NOVEMBER 14, 2012

Reported with an amendment