

**M O D I F I C A T I O N**  
**COMMITTEE AMENDMENT**

[STAFF WORKING DRAFT]

July 23, 2010

Purpose: To modify the matter proposed to be inserted.

**IN THE SENATE OF THE UNITED STATES**—111<sup>TH</sup> Cong., 2<sup>D</sup> Sess.

**S. 3600**, 111<sup>TH</sup> Congress, 2<sup>D</sup> Session

JULY 22, 2010

INTENDED to be proposed by Mr. ROCKEFELLER to the amendment (MDM10600) proposed by Mr. LEMIEUX

Viz:

1       In lieu of the matter proposed to be inserted, insert  
2 the following:

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Fairness in Admiralty  
5 and Maritime Law Act”.

6 **SEC. 2. REPEAL OF LIMITATION OF SHIOWNERS’ LIABIL-**  
7 **ITY ACT OF 1851.**

8       Chapter 305 of title 46, United States Code, is  
9 amended as follows:

10       (1) Strike section 30505(c) and insert the following:

1           “(c) CLAIMS NOT SUBJECT TO LIMITATION.—Sub-  
2 section (a) does not apply to a claim for wages, personal  
3 injury, or death.”.

4           (2) Strike section 30506 and redesignate sections  
5 30507 through 30512 as sections 30506 through 30511,  
6 respectively.

7           (3) Section 30506, as redesignated, is amended to  
8 read as follows:

9           “**§ 30506. Apportionment of losses**

10           “If the amount determined under section 30505 of  
11 this title is insufficient to pay all claims subject to limita-  
12 tion under section 30505, all claimants shall be paid in  
13 proportion to their respective losses out of the amount de-  
14 termined under section 30505.”.

15           (4) Subsection (c) of section 30510, as redesignated,  
16 is amended to read as follows:

17           “(c) CESSATION OF OTHER ACTIONS.—When an ac-  
18 tion has been brought under this section and the owner  
19 has complied with subsection (b), all claims and pro-  
20 ceedings against the owner related to the matter in ques-  
21 tion which are subject to limitation under section 30505  
22 shall cease.”.

1 **SEC. 3. ASSESSMENT OF PUNITIVE DAMAGES IN MARITIME**

2 **LAW.**

3 (a) IN GENERAL.—Chapter 301 of title 46, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 **“§ 30107. Punitive damages**

7 “In a civil action for damages arising out of a mari-  
8 time tort, punitive damages may be assessed without re-  
9 gard to the amount of compensatory damages assessed in  
10 the action.”.

11 (b) CLERICAL AMENDMENT.—The table of contents  
12 for chapter 301 of title 46, United States Code, is amend-  
13 ed by adding at the end the following:

“30107. Punitive damages”.

14 **SEC. 4. AMENDMENTS TO THE DEATH ON THE HIGH SEAS**

15 **ACT.**

16 (a) IN GENERAL.—Chapter 303 of title 46, United  
17 States Code, is amended—

18 (1) by inserting “or law” after “admiralty” in  
19 section 30302;

20 (2) by inserting “and nonpecuniary loss” after  
21 “pecuniary loss” in section 30303;

22 (3) by striking “sustained by” and all that fol-  
23 lows in section 30303 and inserting “sustained, plus  
24 a fair compensation for the decedent’s pain and suf-  
25 fering. In this section, the term ‘nonpecuniary loss’

1 means the loss of care, comfort, and companion-  
2 ship.”;

3 (5) by inserting “or law” after “admiralty” in  
4 section 30305; and

5 (6) by inserting “or law” after “admiralty” in  
6 section 30306.

7 (b) AVIATION ACCIDENTS.—

8 (1) IN GENERAL.—Section 30307 of title 46,  
9 United States Code, is amended—

10 (A) by inserting after “companionship.” in  
11 subsection (a) the following: “In this section,  
12 the terms ‘commercial aviation’ and ‘general  
13 aviation’ have the same meaning as when those  
14 terms are used in subtitle VII of title 49,  
15 United States Code.”;

16 (B) by inserting “or general” after “com-  
17 mercial” in subsections (b) and (c); and

18 (C) by adding at the end thereof the fol-  
19 lowing:

20 “(d) PROCEDURE.—Notwithstanding sections 30302,  
21 30305, and 30306, an action to which this section applies  
22 may be brought in admiralty and may not be brought in  
23 law.”.

24 (2) CONFORMING AMENDMENT.—The table of  
25 contents for chapter 303 of title 46, United States

1 Code, is amended by striking the item relating to  
2 section 30307 and inserting the following:

“30307. Aviation accidents”.

3 (c) FISHING VESSEL ACCIDENTS.—

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

6 (A) by redesignating section 30308 as sec-  
7 tion 30309; and

8 (B) by inserting after section 30307 the  
9 following:

10 **“§ 30308. Fishing vessel accidents**

11 “(a) IN GENERAL.—In an action under this chapter,  
12 if the death resulted from a fishing vessel accident occur-  
13 ring on the high seas, additional compensation is recover-  
14 able for nonpecuniary damages, but punitive damages are  
15 not recoverable.

16 “(b) DEFINITIONS.—In this section:

17 “(1) NONPECUNIARY DAMAGES.—The term  
18 ‘nonpecuniary damages’ means damages for loss of  
19 care, comfort, and companionship.

20 “(2) FISHING VESSEL.—The term ‘fishing ves-  
21 sel’ means—

22 “(A) a vessel, boat, ship, or other  
23 watercraft that is used for, equipped to be used  
24 for, or of a type normally used for—

1           “(i) charter fishing (as defined in sec-  
2           tion 3(3) of the Magnuson-Stevens Fishery  
3           Conservation and Management Act (16  
4           U.S.C. 1802(3)));

5           “(ii) commercial fishing (as defined in  
6           section 3(4) of the Magnuson-Stevens  
7           Fishery Conservation and Management Act  
8           (16 U.S.C. 1802(4))); or

9           “(iii) aiding or assisting one or more  
10          vessels at sea in the performance of any  
11          activity relating to commercial fishing (as  
12          so defined), including preparation, supply,  
13          storage, refrigeration, transportation, or  
14          processing; but

15          “(B) does not include a passenger vessel  
16          (as defined in section 2101(22) of this title).”.

17          (2) CONFORMING AMENDMENT.—The table of  
18          contents for chapter 303 of title 46, United States  
19          Code, is amended—

20                 (A) by striking the item relating to section  
21                 30308; and

22                 (B) by inserting after the item relating to  
23                 section 30307 the following:

“30308. Fishing vessel accidents  
“30309. Nonapplication”.

1 **SEC. 5. IMPROVEMENTS TO RECOVERY UNDER JONES ACT.**

2 Section 30104 of title 46, United States Code, is  
3 amended by adding at the end the following: “In addition  
4 to other amounts authorized under such laws, the recovery  
5 for a seaman who so dies shall include recovery for loss  
6 of care, comfort, and companionship.”.

7 **SEC. 6. EFFECTIVE DATE.**

8 The amendments made by this Act shall apply to—

9 (1) causes of action and claims arising after  
10 April 19, 2010; and

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

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