

AMENDMENT NO.

CAL. NO.

[STAFF WORKING DRAFT]

November 30, 2010

Purpose: To modify the application of certain maritime laws with respect to the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010.

IN THE SENATE OF THE UNITED STATES—111TH Cong., 2^D Sess.

S. 3463, 111TH Congress, 2^D Session

NOVEMBER —, 2010

() Referred to the Committee on _____ and ordered to be printed

() Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. ROCKEFELLER (for himself, Mr. LEAHY, and Mr. SCHUMER)

Viz: Strike out all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

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

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

3 (a) GENERAL LIMIT OF LIABILITY.—Section
4 30505(c) 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(c)
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* that
25 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) IN GENERAL.—Chapter 303 of title 46, United
9 States Code, is amended—

10 (1) by redesignating section 30308 as section
11 30309; and

12 (2) by inserting after section 30307 the fol-
13 lowing:

14 **“§ 30308. Multidistrict litigation for certain civil ac-**
15 **tions**

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

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

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

23 “(b) COVERED CIVIL ACTION DEFINED.—In this sec-
24 tion, the term 'covered civil action' means a civil action
25 for damages for personal injury or wrongful death arising

1 from the blowout and explosion of the mobile offshore
2 drilling unit *Deepwater Horizon* that occurred on April 20,
3 2010.”.

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

“30308. Multidistrict litigation for certain civil actions.

“30309. Nonapplication.”.

8 **SEC. 6. EFFECTIVE DATE.**

9 The amendments made by this Act shall apply to
10 causes of action and claims arising after April 19, 2010.

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