

## **“Longshore Harbor Workers’ Compensation Act Amendments of 2007”**

### INTRODUCTORY STATEMENT OF SENATOR JOHNNY ISAKSON

March 12, 2007

Today, I introduce the Longshore and Harbor Workers’ Compensation Act Amendments of 2007. The Longshore Act provides medical, physical rehabilitation and lost wage replacement benefits to thousands of workers nationwide for work-related injuries, illnesses and deaths. The Act is long overdue for attention from Congress, and I am eager to engage with my colleagues from both sides as to how we can improve the system for our workers, their employers, taxpayers and our economy as a whole.

We all can agree that the workers covered under this program play a key role in our national security and in our vital international trade. Longshore and harbor workers labor on the piers of Portland, Maine, in the dead of winter, just as they toil in the hot Southern sun in Savannah, Georgia. Their work is undoubtedly difficult and often dangerous. It is impossible to underestimate the extent to which Americans rely on the myriad of products these workers move in and out of our nations’ ports. Every year, over 15 billion tons of freight moves through our ports, with a total value of \$9 trillion.

These workers deserve a fair and effective workers’ compensation program. Since 1927, longshore and harbor workers have had a unique program all their own. Congress enacted the Act in response to Southern Pacific Company v. Jensen, a ruling by the Supreme Court in 1917. The Court held that the Maritime Clause in the Constitution forbids states from covering shore-based maritime workers who may become injured while working on vessels anchored in navigable waters. Now, nearly 90 years later, not only are private stevedoring companies covered by the Act, but so are virtually all maritime construction folks, builders and repairers of U.S. Naval and Coast Guard vessels, federal contractors with overseas employees, oil rig workers, and even civilian employees at the Post Exchanges on U.S. military bases.

As many of us have learned if we ever spent time in our state legislatures, states nationwide regularly amend their programs to incorporate the most modern and best workers’ compensation practices. However, unlike these responsible state legislatures, Congress has not addressed the Longshore Act in over two decades.

Since the last amendments to the Act, states from California to Rhode Island have found numerous methods of improving their workers’ compensation programs, saving taxpayers’ dollars, and eliminating waste, fraud and abuse, while always ensuring that workers have appropriate medical care. We must bring these state-level innovations in workers’ compensation to the Longshore Act system.

Technology, events, and even Congressional interventions have continued to dramatically change our nations’ seaports and shipyards. Indeed, since 2002, per Congress’s instruction, U.S. Customs has begun locating so-called “VACIS machines” at U.S. terminals. These machines are

truck-mounted gamma ray imaging systems that produce radiographic images of the contents of containers and other cargo to determine the possible presence of many types of contraband. Eventually, EVERY port in the country will have the machines on sight. Will maritime workers be exposed to radiation? If so, will they file claims against their employers when the machines are owned and operated by the Federal Government?

The bill I introduce today will foster a sound and fair workers' compensation system for maritime workers with a clear, exclusive remedy for their workplace injuries and illnesses. It will guarantee fairness for workers, and in the event of death, their survivors. It will make our ports and shipbuilders more competitive. It will ensure fair compensability, in that it will hold employers responsible for only that which is caused by employment under the Longshore Act system. It will fix, once and for all, the so-called "Special Fund," an archaic and problematic vestige of early 20th Century public policy.

In May 2006, I chaired a hearing of the Subcommittee on Employment and Workplace Safety, at which we heard about many different problems with the implementation of this 80-year-old Act. I have incorporated suggestions from both sides in crafting the bill I introduce today.

Since I began dealing with this issue last year, I have talked with more and more workers, port operators, and administrators from the Port of Savannah in my home state of Georgia. Savannah is the nation's eleventh busiest waterborne freight gateway for international trade. Every year, over \$20 billion of international freight move through it and its neighboring port of Brunswick. The folks I talk to at Savannah and Brunswick tell me that they can't emphasize enough the importance of revising the Longshore Act to make it more efficient.

I hope we can move on this bill, for the sake of taxpayers, for workers in Savannah and Brunswick and at ports and ship building facilities nationwide, and for the international commerce that is vital to our nation's economy and way of life.