

## UNIFORM STATUTE OF LIMITATIONS FOR MARINE TORTS

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JANUARY 28, 1980.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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Mr. MURPHY of New York, from the Committee on Merchant Marine  
and Fisheries, submitted the following

### REPORT

[To accompany H.R. 3748]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 3748), to provide for a uniform national 3-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of the legislation is to establish a uniform national statute of limitations for maritime torts.

#### BACKGROUND AND NEED FOR THE LEGISLATION

Under current law, the statute of limitation for a cause of action brought under the act of March 30, 1920 (Death on the High Seas Act) is 2 years. The statute of limitation for a tort related cause of action brought under the Jones Act is 3 years, while causes of action brought under the general admiralty concept of "unseaworthiness" are not governed by any specific statute of limitations but instead are governed by the common law equity doctrine of laches. The doctrine of laches permits the presiding judge to determine what, if any, analogous statute of limitations to apply. A judge could even determine that a suit has been timely brought even though more time has elapsed than provided for in any analogous statute of limitation. These divergent interpretations of timeliness for bringing an unseaworthiness claim have resulted in many litigants choosing the most favorable forum in which

to bring suit. The lack of consistency or uniformity as to laches issues is pointed out by the fact that during the period from 1940 to 1977, out of all of the personal injury and death cases reported in American Maritime cases, some 35 cases were dismissed for laches where a suit was commenced within 3 years. At the other extreme, some 29 cases were allowed to proceed where suit was brought more than 3 years later. At the same time, 41 cases within 3 years were allowed to proceed and 48 cases were dismissed after 3 years.

#### COMMITTEE ACTION

The bill was introduced on April 25, 1979, by the Honorable John M. Murphy and hearings were held before the Subcommittee on Merchant Marine on December 3, 1979, at which time witnesses from the Maritime Law Association and the International Association of Drilling Contractors testified in support of the bill.

#### CONCLUSION

After full and careful consideration of the views of all interested parties regarding the scope of the H.R. 3748, the committee unanimously concluded that the statute of limitations for maritime related torts should be a 3-year period and, therefore, recommends that the bill be immediately passed.

#### COST OF THE LEGISLATION

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee estimates that there will be no cost associated with the enactment of this legislation.

#### INFLATIONARY IMPACT STATEMENT

In accordance with clause 2(1) (4) of rule XI, of the Rules of the House of Representatives, the committee assessed the potential for inflationary impact and concluded there is none.

#### COMPLIANCE WITH CLAUSE 2(1) (3) OF RULE XI

Pursuant to clause 2(1) (3) of rule XI of the House of Representatives:

(A) An oversight hearing was held on this subject on December 3, 1979, when H.R. 3748 was considered, and the committee recommends passage of this bill.

(B) The requirements of section 308(a) of the Congressional Budget Act of 1974 are not applicable because no new budget authority or new or increased tax expenditure is involved.

(C) The Merchant Marine and Fisheries Committee has received no report from the Committee on Government Operations of oversight findings and recommendations arrived at pursuant to clause 4(c) (2) of rule X.

(D) Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 3748 and submitted a statement which follows herewith:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, D.C., December 20, 1979.*

HON. JOHN M. MURPHY,  
*Chairman, Committee on Merchant Marine and Fisheries, U.S. House  
of Representatives, Longworth House Office Building, Washing-  
ton, D.C.*

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 3748, a bill to provide for a uniform national 3-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes, as ordered reported by the House Committee on Merchant Marine and Fisheries, December 19, 1979.

Based on this review, it is expected that no additional cost to the Government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN, *Director.*

DEPARTMENTAL REPORTS

Departmental reports were received from the Departments of Justice and Transportation and follow herewith:

U.S. DEPARTMENT OF JUSTICE,  
ASSISTANT ATTORNEY GENERAL, LEGISLATIVE AFFAIRS,  
*Washington, D.C., November 30, 1979.*

HON. JOHN M. MURPHY,  
*Chairman, Committee on Merchant Marine and Fisheries, House of  
Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 3748, a bill to provide for a uniform national 3-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes.

The bill would apply a specific 3-year statute of limitations to those maritime tort actions currently governed by the doctrine of laches. Those cases already controlled by another statutory time limitation would, however, be exempted from the bill's coverage. The bill would also repeal section 3 of the act of March 30, 1920 (41 Stat. 437; 46 U.S.C. 763), which currently specifies a 2-year limit for bringing actions arising from death on the high seas. Consequently, such actions would hereafter be subject to the bill's 3-year limitation.

The Department of Justice has no objection to enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ALAN A. PARKER,  
*Assistant Attorney General.*

OFFICE OF THE SECRETARY OF TRANSPORTATION,  
Washington, D.C., December 28, 1979.

Hon. JOHN M. MURPHY,  
*Chairman, Committee on Merchant Marine and Fisheries, House of  
Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Transportation on H.R. 3748, a bill to provide for a uniform national three-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes.

The bill states that, unless otherwise specified by law, a suit for recovery of damages for personal injury or death, or both, arising out of a maritime tort, shall not be maintained unless commenced within three years from the date the cause of action occurred. The proposed legislation also would repeal section 3 of the act of March 30, 1920 (41 Stat. 537; 46 U.S.C. 763), which sets a 2-year limitations period for bringing actions arising from death on the high seas.

The Department of Transportation has no objection to enactment of H.R. 3748.

The Office of Management and Budget has advised that there is no objection from the standpoint of the administration's program to the submission of this report for the consideration of the committee.

Sincerely,

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(For Linda Heller Kamm).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, existing law in which no change is proposed is shown in roman) :

ACT OF MARCH 30, 1920 (41 STAT. 537: 46 U.S.C. 763)

An Act Relating to the maintenance of actions for death on the high seas  
and other navigable waters

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever the death of a person shall be caused by wrongful act, neglect, or default occurring on the high seas beyond a marine league from the shore of any State, or the District of Columbia, or the Territories or dependencies of the United States, the personal representative of the decedent may maintain a suit for damages in the district courts of the United States, in admiralty, for the exclusive benefit of the decedent's wife, husband, parent, child, or dependent relative against the vessel, person, or corporation which would have been liable if death had not ensued.

SEC. 2. That the recovery in such suit shall be a fair and just compensation for the pecuniary loss sustained by the persons for whose benefit the suit is brought and shall be apportioned among them by the court in proportion to the loss they may severally have suffered by



reason of the death of the person by whose representative the suit is brought.

SEC. 3. That such suit shall be begun within two years from the date of such wrongful act, neglect, or default, unless during that period there has not been reasonable opportunity for securing jurisdiction of the vessel, person, or corporation sought to be charged; but after the expiration of such period of two years the right of action hereby given shall not be deemed to have lapsed until ninety days after a reasonable opportunity to secure jurisdiction has offered.]

SEC. 4. That whenever a right of action is granted by the law of any foreign State on account of death by wrongful act, neglect, or default occurring upon the high seas, such right may be maintained in an appropriate action in admiralty in the courts of the United States without abatement in respect to the amount for which recovery is authorized, any statute of the United States to the contrary notwithstanding.

SEC. 5. That if a person dies as the result of such wrongful act, neglect, or default as is mentioned in section 1 during the pendency in a court of admiralty of the United States of a suit to recover damages for personal injuries in respect of such act, neglect, or default, the personal representative of the decedent may be substituted as a party and the suit may proceed as a suit under this Act for the recovery of the compensation provided in section 2.

SEC. 6. That in suits under this Act the fact that the decedent has been guilty of contributory negligence shall not bar recovery, but the court shall take into consideration the degree of negligence attributable to the decedent and reduce the recovery accordingly.

SEC. 7. That the provisions of any State statute giving or regulating rights of action or remedies for death shall not be affected by this Act. Nor shall this Act apply to the Great Lakes or to any waters within the territorial limits of any State, or to any navigable waters in the Panama Canal Zone.

SEC. 8. That this Act shall not affect any pending suit, action, or proceeding.





