

1977 S.C. Op. Atty. Gen. 176 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-236, 1977 WL 24578

Office of the Attorney General

State of South Carolina

Opinion No. 77-236

July 26, 1977

*1 TO: Douglas P. Crossman
Director
Coverage and Compliance
South Carolina Industrial Commission

QUESTION:

Is a commercial fisherman working in the intercoastal waterway within the jurisdiction of the South Carolina Workmen's Compensation Act or the Jones, Act, 46 USCA § 688.

STATUTES AND TREATISES:

99 C. J. S., Workmen's Compensation, § 26(c);

Jones Act, 46 U. S. C. A. § 688;

Longshoremen's and Harbor Workers' Act, [33 U. S. C. A. § 901 et seq.](#);

South Carolina Workmen's Compensation Act, § 42-1-10 et seq., Code of Laws of South Carolina;

[Savard v. Marine Contracting, Inc.](#), 296 F. Supp. 1171 (D. C. Conn. 1969).

DISCUSSION:

As a general rule the states are without power to grant compensation for injuries sustained by workmen on navigable water because such injuries are exclusively within the federal admiralty jurisdiction. 99 C. J. S., Workmen's Compensation, § 26(c). Since the intercoastal waterway is obviously a navigable water it is readily apparent that injuries occurring on the intercoastal waterway are subject to federal jurisdiction. There are two federal statutes which are designed to provide compensation to workers injured on navigable waters. The Jones Act, 46 U. S. C. A. § 688 and The Longshoreman's and Harbor Workers' Compensation Act, [33 U. S. C. A. § 901 et seq.](#)

Cases concerning these two acts have held that the Longshoreman's and Harbor Workers' Compensation Act covers all maritime workers except members of the crew and masters, while the Jones Act covers those two categories. [Savard v. Marine Contracting, Inc.](#), 296 F. Supp. 1171 (D. C. Conn. 1969). Thus it appears that members of a fishing crew are 'seamen' within the meaning of the Jones Act, supra, and are therefore subject to the jurisdiction of that act when injuries occur upon navigable water.

CONCLUSION:

Commercial fishermen who are injured while working on the intercoastal waterway are subject to the jurisdiction of the Jones Act, 46 U. S. C. A. § 688, and not the South Carolina Workmen's Compensation Act, § 42-1-10 et seq., of the Code of Laws of South Carolina (1976).

George C. Beighley
Assistant Attorney General

1977 S.C. Op. Atty. Gen. 176 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-236, 1977 WL 24578

End of Document

© 2016 Thomson Reuters. No claim to original U.S. Government Works.