

Q: What is the Jones Act?

A: “Jones Act” refers to the Jones Act of 1920, a federal law that includes a requirement intended to protect United States ships from foreign competition. (For example, the law only allows vessels built in the U.S. and owned by U.S. interests to transport cargo from one U.S. port to another). The Jones Act also includes a provision to give rights to injured seamen, which is the focus of this article.

Q: How does the Jones Act affect an injured seaman?

A: Title 46 of U.S. Code §30104 allows an injured seaman to bring a civil action against his employer if the seaman was acting in the course of employment as a vessel crewmember, if the employer was found to be negligent, and if the employer’s negligence was the cause of the seaman’s injuries. This is significantly different from a typical worker’s injury matter, where state workers’ compensation statutes generally prohibit employees from bringing lawsuits against employers for injuries caused by employer negligence.

Q: I was hurt while working on a boat. Am I eligible to file a Jones Act complaint?

A: First, you must be a “seaman.” A seaman is a (male or female) worker with duties that contribute to the function of a vessel in navigation or accomplishment of its mission, and the worker’s connection to the vessel must be substantial. For example, you would be considered a seaman if you were employed aboard an oil tanker by the ship owner to maintain and repair the ship’s propulsion for weeks at a time. However, if you were the employee of an electronics firm that was contracted by the ship’s owner to tune the ship’s radar while the ship was in port you would not be considered a seaman.

Next, you must have a connection to a “vessel.” A vessel is any watercraft or other contrivance used, or capable of being used, as a means of transportation on water. For example, a floating casino that is permanently secured to the shore will not be considered a vessel for Jones Act purposes.

Finally, your injury must have been caused, at least in part, by your employer’s negligence.

Q: Do I have a claim if my accident was caused by my own negligence, in addition to my employer’s negligence?

A: Yes. The Jones Act is a comparative negligence statute, which means that your own negligence will merely reduce your damages proportionately. For example, Ohio law will prohibit an injured person from recovering against another if his or her own negligence was more than half of the cause of the injury. However in a Jones Act claim, if a jury finds that you were 75 percent negligent and your employer was 25 percent negligent, you may still recover against your employer with your damages reduced by the percentage of your own negligence.

Q: What is maintenance and cure?

A: “Maintenance and cure” is the policy of providing injured seamen with medical care, treatment and support during convalescence. Seamen are eligible for maintenance and cure even without a Jones Act claim, and will be entitled to maintenance payments until reaching the point of maximum possible cure. Because maintenance and cure is a completely separate right from a Jones Act claim, there is no requirement that the employer’s negligence cause the injury or illness. Therefore, the seaman must only prove that the injury or illness occurred while employed on a vessel as a seaman and was not caused by willful misbehavior.

Q: What’s an unseaworthiness claim?

A: An unseaworthiness claim is a common law (law not created by written statute) right to damages when an injury is caused by an unseaworthy condition on the vessel. For example, a seaman injured on a vessel when a poorly maintained ship’s crane collapses is likely to have an unseaworthiness claim, in addition to a Jones Act claim and a right to maintenance and cure.

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This “Law You Can Use” column was provided by the Ohio State Bar Association. It was prepared by attorney and retired Coast Guard Lieutenant Commander Thomas E. Cafferty, of the Law Office of Thom Cafferty in Toledo. Articles appearing in this column are intended to provide broad, general information about the law. Before applying this information to a specific legal problem, readers are urged to seek advice from an attorney.