

Labov 3/25

Senate File 346  
Labor and Industrial  
Relations  
Glenn, Chairman  
Nolting  
DeKoster

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SENATE FILE 346

By DeKOSTER

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to workmen's compensation for loss of hearing.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. This Act shall be known and  
2 referred to as the "Iowa Occupational Hearing Loss Law".

3 Sec. 2. NEW SECTION. All employers as covered by chapter  
4 eighty-five (85) of the Code who are engaged in any business  
5 or industrial process hereinafter designated and described,  
6 are employers within the provisions of this Act and shall  
7 be subject to this Act.

8 Sec. 3. NEW SECTION. All employees covered by chapter  
9 eighty-five (85) of the Code who incur an occupational hearing  
10 loss as defined in this Act arising out of and in the course  
11 of employment, are subject to the provisions of this Act.

12 Sec. 4. NEW SECTION. DEFINITIONS.

13 1. "Occupational hearing loss" means a permanent sen-  
14 sorineural loss of hearing in excess of fifteen decibels if  
15 measured from American standards association, inc. (ASA) zero  
16 reference level, or twenty-six decibels if measured from  
17 international standards organization (ISO) or American na-  
18 tional standards institute, inc. (ANSI) zero reference level,  
19 resulting from loss of hearing in one or both ears which  
20 arises out of and in the course of employment caused by pro-  
21 longed exposure to injurious noise.

22 In the evaluation of occupational hearing loss, only the  
23 hearing levels at the frequencies of five hundred, one thou-  
24 sand and two thousand Hertz, cycles per second, shall be con-  
25 sidered.

26 2. "Noisy employment" means employment in which the em-  
27 ployee is exposed to injurious noise.

28 3. "Injurious noise" means sound capable of producing  
29 occupational hearing loss, however it shall be construed to  
30 be that sound which exceeds the times and intensities listed  
31 in the following table except as such times and intensities  
32 may change pursuant to rules issued by the industrial com-  
33 missioner.

34 Duration	Sound level,	Duration	Sound level,
35 per day	dBA slow	per day	dBA slow

	<u>hours</u>	<u>response</u>	<u>minutes</u>	<u>response</u>
2	8	90	52	106
3	7	91	45	107
4	6	92	37	108
5	5	93	33	109
6	4 1/2	94	30	110
7	4	95	26	111
8	3 1/2	96	22	112
9	3	97	18	113
10	2 1/2	98	16	114
11	2 1/4	99	15	115
12	2	100	No exposure	Greater than
13	1 3/4	101	permitted	115
14	1 1/2	102		
15	1 1/4	103		
16	1 1/8	104		
17	1	105		

18 The industrial commissioner may, pursuant to rules pro-  
19 mulgated by him, issue changes to the table contained in this  
20 section. The changes shall be based upon changes recommended  
21 in nationally recognized consensus standards and the rules  
22 issued shall be subject to chapter seventeen A (17A) of the  
23 Code. Written notice of any changes shall be given to em-  
24 ployers subject to the provisions of this Act.

25 The employer shall immediately inform the employee when-  
26 ever he learns that the employee is being subjected to sound  
27 levels and duration in excess of those indicated in the above  
28 table. In instances of occupational hearing loss alleged  
29 to have occurred, either in whole or in part prior to July  
30 1, 1975, an employer shall be obligated to provide whatever  
31 evidence is available to the employer of the times and  
32 intensities to which the employee was subjected in his em-  
33 ployment.

34 Sec. 5. NEW SECTION. There shall be payable for total  
35 occupational hearing loss one hundred seventy-five weeks

1 compensation, and for partial occupational hearing loss  
2 compensation shall be paid for such periods as are  
3 proportionate to the relation which a calculated binaural,  
4 both ears, hearing loss bears to one hundred percent, or total  
5 loss of hearing as provided in this Act.

6 Sec. 6. NEW SECTION. Compensation shall not be payable  
7 under this Act to any employee who willfully fails to submit  
8 himself for reasonable periodic physical and audiometric  
9 examinations after reasonable written notice as may be required  
10 by the employer during times such employee, examining  
11 personnel, and examination facilities are reasonably available.  
12 Such physical and audiometric examinations shall be at the  
13 expense of the employer. The employee shall be compensated  
14 for any time lost from work occasioned by such examinations.  
15 Compensation shall not be payable under this Act to an em-  
16 ployee if he in flagrant and repeated disregard, and after  
17 at least one written notice, fails or refuses to use employer-  
18 provided protective devices, as required by the employer and  
19 communicated in writing to the employee at the time he is  
20 employed or at the time such protective devices are provided  
21 by the employer.

22 Sec. 7. NEW SECTION. In cases covered by this Act, the  
23 date of the injury shall be exclusively the date of occurrence  
24 of any one of the following events, whichever first occurs,  
25 to an employee; however no claim for occupational hearing  
26 loss due to injurious noise may be filed until after six  
27 consecutive months separation from the employment in which  
28 the employee was at any time during such employment exposed  
29 to injurious noise, except in subsection four (4) of this  
30 section such six consecutive month period may commence within  
31 the last six months of layoff.

32 1. Transfer and removal from noisy employment to non-  
33 noisy employment by the same employer.

34 2. Retirement.

35 3. Termination of the employer-employee relationship.

1 4. Layoff, if the layoff is complete and continues for  
2 one year.

3 However, the date of the injury for any loss of hearing  
4 incurred prior to July 1, 1975 shall not be earlier than the  
5 occurrence of any one of the above events.

6 Sec. 8. NEW SECTION. Pure tone air conduction audiometric  
7 instruments, properly calibrated according to accepted national  
8 standards such as ASA, ISO, or ANSI shall be used for measuring  
9 hearing loss, and the audiograms shall be taken and the tests  
10 given in an environment such as is prescribed by such na-  
11 tional standards. If more than one audiogram is taken, the  
12 audiogram having the lowest threshold will be used to calculate  
13 occupational hearing loss. If the losses of hearing average  
14 fifteen decibels ASA, twenty-six decibels ANSI or ISO, or  
15 less in the three frequencies referred to in section four  
16 (4), subsection one (1) of this Act, such losses of hearing  
17 shall not constitute any compensable hearing disability. If  
18 the losses of hearing average eighty-two decibels ASA, ninety-  
19 three decibels ANSI or ISO, or more in the three frequencies,  
20 then the same shall constitute and be total, or one hundred  
21 percent, compensable hearing loss. In measuring hearing  
22 impairment the lowest measured losses in each of the three  
23 frequencies shall be added together and divided by three to  
24 determine the average decibel loss. For each resulting decibel  
25 of loss exceeding fifteen decibels, an allowance of one and  
26 one-half percent shall be made up to the maximum of one hundred  
27 percent, which is reached at eighty-two decibels ASA, ninety-  
28 three decibels ANSI or ISO. In determining the binaural  
29 percentage of loss, the percentage of impairment in the better  
30 ear shall be multiplied by five. The resulting figure shall  
31 be added to the percentage of impairment in the poorer ear,  
32 and the sum of the two divided by six. The final percentage  
33 shall represent the binaural hearing impairment. All  
34 audiometric examinations shall be made by a person trained  
35 in air conduction audiometry, either by formal course work

1 at audiological centers of accredited educational institutions  
2 or individual instruction by a physician experienced in  
3 audiometric testing or by an audiologist certified by the  
4 American speech and hearing association. The interpretation  
5 of the audiometric examination shall be by the employer's  
6 regular or consulting physician who is trained and has had  
7 experience with such interpretation, or by an audiologist  
8 certified by the American speech and hearing association.  
9 If the employee disputes the interpretation, he may select  
10 a person similarly trained and experienced, as provided above,  
11 or by an audiologist certified, as provided above, to give  
12 an interpretation of the audiometric examination. The  
13 foregoing shall be applicable in the event of partial permanent  
14 or total permanent occupational loss of hearing in one or  
15 both ears.

16 Sec. 9. NEW SECTION. The employer shall communicate to  
17 the employee, in writing, the results of any audiometric  
18 examination or physical examination of an employee which  
19 reflects a hearing loss to such employee, as soon as  
20 practicable after such examination. The communication shall  
21 include the name and address of the person conducting the  
22 audiometric examination or physical examination, the kind  
23 or type of test or examinations given, the results of each,  
24 the average decibel loss, in the three frequencies, in each  
25 ear, if any, and, if known to the employer, whether such loss  
26 is sensorineural hearing loss and if such hearing loss resulted  
27 from another cause, the name of the cause.

28 Sec. 10. NEW SECTION. An employer shall become liable,  
29 as provided in this Act, for the occupational hearing loss  
30 to which his employment has contributed; but if previous  
31 hearing loss, whether occupational or not, is established  
32 by an audiometric examination or other competent evidence,  
33 whether or not the employee was exposed to injurious noise  
34 within six months preceding such test, the employer shall  
35 not be liable for such previous loss, nor shall he be liable

1 for any loss for which compensation has previously been paid  
2 or awarded and the employer shall be liable only for the  
3 difference between the percent of occupational hearing loss  
4 determined as of the date of disability as herein defined  
5 and the percentage of loss established by the preemployment  
6 and audiometric examination. Any amount paid to an employee  
7 under this chapter for occupational hearing loss by any other  
8 employer shall be credited against compensation payable by  
9 any employer for such hearing loss. No employee shall in  
10 the aggregate receive greater compensation from all employers  
11 for occupational hearing loss than that provided in this  
12 section for total occupational hearing loss. No payment shall  
13 be made to an employee under this chapter unless he shall  
14 have worked in noisy employment for a total period of at least  
15 ninety days for the employer from whom he claims compensation.

16 Sec. 11. NEW SECTION. No reduction of the compensation  
17 payable to an employee for occupational hearing loss under  
18 this Act shall be made because the employee's ability to hear  
19 may be improved by the use of a hearing aid. No employer  
20 shall be required to provide an employee with a hearing aid  
21 if it will not materially improve the employee's ability to  
22 hear.

23 Sec. 12. NEW SECTION. Payments of compensation and  
24 compliance with other provisions of this Act by the employer  
25 or his insurance carrier in accordance with the findings and  
26 orders of the industrial commissioner or a court making a  
27 final adjudication in appealed cases, shall discharge such  
28 employer from any and all further obligation.

29 Sec. 13. NEW SECTION. The provisions of chapters seventeen  
30 A (17A), eighty-five (85), and eighty-six (86) of the Code,  
31 so far as applicable, and not inconsistent with this Act,  
32 shall apply in cases of compensable occupational hearing loss  
33 as specified and defined in this Act.

34 Sec. 14. The industrial commissioner shall have jurisdic-  
35 tion over the operation and administration of the compensa-

1 tion provisions of this Act and the industrial commissioner  
2 shall perform all of the duties imposed upon him by this Act.

3 Sec. 15. Section eighty-five point thirty-four (85.34),  
4 subsection two (2), Code 1975, is amended by striking paragraph  
5 r and inserting in lieu thereof the following:

6 r. For the loss of hearing, other than occupational hear-  
7 ing loss as defined in section four (4) of this Act, weekly  
8 compensation during fifty weeks, and for the loss of hearing  
9 in both ears, weekly compensation during one hundred seventy-  
10 five weeks.

11 EXPLANATION

12 The first 14 sections of this bill provide for a new chapter  
13 for occupational hearing loss as defined in the Act. It  
14 defines occupational hearing loss, and provides for the  
15 compensation payable for such hearing loss above 15 decibels  
16 (ASA) or 26 decibels (ANSI 1969), specifies the measurement  
17 of hearing loss and the instruments by which such loss shall  
18 be measured, provides that the employer shall not be liable  
19 for occupational hearing loss suffered by the employee in  
20 previous employment if such previous loss is established by  
21 competent evidence and that the employer shall not be liable  
22 for occupational hearing loss due to harmful noise while  
23 working for such employer for a total period of at least  
24 ninety days. The bill further provides that compensation  
25 shall not be reduced because of improved hearing due to the  
26 use of a hearing aid. The term occupational hearing loss  
27 provides compensation for hearing loss resulting from pro-  
28 longed exposure to harmful noise levels. This type of hear-  
29 ing loss is of the sensorineural type. Section 15 of the  
30 bill amends section 85.34, subsection 2, paragraph r of the  
31 1975 Code of Iowa to remove such occupational hearing loss  
32 from the coverage of chapter 85.

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LSB 1449  
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