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Labor and Industrial Relations
Merritt, Chairperson
Calhoon
Murray

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SENATE FILE 147

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:
- 3

SENATE FILE 147 FISCAL NOTE

Date Prepared: March 2, 1977
Requested by: Senator DeKoster
Prepared in regard to Senate File 147, An Act relating to workmen's compensation for loss of hearing.

Following is the fiscal effect in dollars of the legislative proposal as required by Joint Rule 16.

The first 15 sections of S.F. 147 provides for a new chapter for occupational hearing loss as defined in the Act and provides compensation payable for such hearing loss. It provides that the employer shall not be liable for occupational hearing loss suffered by the employee in previous employment and that the employer shall be liable for the occupational hearing loss due to harmful noise while working for such employer for a total of at least 90 days. Compensation shall not be reduced because of improved hearing due to the use of a hearing aid. Section 16 of the bill amends section 85.34, subsection 2, paragraph r of the 1977 Code of Iowa to remove such occupational hearing loss from the coverage of chapter 85.

There would be no fiscal impact as far as the Industrial Commissioner is concerned. Section 7 may have some impact upon the state as an employer in providing the examinations in those affected departments, however, it is not possible to make an estimate of that amount.

SOURCE: Industrial Commissioner

FILED
MARCH 2, 1977

Gerry Rankin
Legislative Fiscal Director

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 defined in chapter
4 eighty-five (85) of the Code are employers subject to the
5 provisions of this Act.

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

10 Sec. 4. NEW SECTION.

11 1. "Occupational hearing loss" means a permanent sen-
12 sorineural loss of hearing in one or both ears in excess of
13 fifteen decibels if measured from American standards
14 association zero reference level, or twenty-six decibels if
15 measured from international standards organization or American
16 national standards institute zero reference level, which
17 arises out of and in the course of employment caused by pro-
18 longed exposure to excessive noise levels.

19 In the evaluation of occupational hearing loss, only the
20 hearing levels at the frequencies of five hundred, one thou-
21 sand and two thousand Hertz shall be considered.

22 2. "Excess noise level" means sound capable of producing
23 occupational hearing loss.

24 Sec. 5. NEW SECTION. An excessive noise level is sound
25 which exceeds the times and intensities listed in the following
26 table:

27 Duration	Sound level,	Duration	Sound level,
28 per day	29 <u>hours</u>	per day	29 <u>minutes</u>
	<u>response</u>		<u>response</u>
30 8	90	52	106
31 7	91	45	107
32 6	92	37	108
33 5	93	33	109
34 4 1/2	94	30	110
35 4	95	26	111

1	3 1/2	96	22	112
2	3	97	18	113
3	2 1/2	98	16	114
4	2 1/4	99	15	115
5	2	100	No exposure	Greater than
6	1 3/4	101	permitted	115
7	1 1/2	102		
8	1 1/4	103		
9	1 1/8	104		
10	1	105		

11 The industrial commissioner may promulgate rules amending
 12 this table based upon changes recommended in nationally
 13 recognized consensus standards. Written notice of any changes
 14 shall be given to employers subject to the provisions of this
 15 Act.

16 The employer shall immediately inform the employee when-
 17 ever he learns that the employee is being subjected to sound
 18 levels and duration in excess of those indicated in the above
 19 table. In instances of occupational hearing loss alleged
 20 to have occurred, either in whole or in part prior to January
 21 1, 1978, an employer shall provide upon request by an ef-
 22 fected employee whatever evidence is available to the employer
 23 of the date, duration, and intensities of noise to which the
 24 employee was subjected in employment.

25 Sec. 6. NEW SECTION. Compensation shall be payable for
 26 a maximum of one hundred seventy-five weeks for total
 27 occupational hearing loss. For partial occupational hearing
 28 loss compensation shall be paid for a period proportionate
 29 to the relation which a calculated binaural, both ears, hearing
 30 loss bears to one hundred percent, or total loss of hearing
 31 as provided in this Act.

32 Sec. 7. NEW SECTION. Compensation shall not be payable
 33 under this Act to any employee who willfully fails to submit
 34 himself for reasonable periodic physical and audiometric
 35 examinations. Reasonable written notice of the dates and

1 times of examinations required by the employer shall be given
2 the employee. Examinations shall be scheduled during times
3 the employee, examining personnel, and examination facilities
4 are reasonably available. Physical and audiometric
5 examinations shall be at the expense of the employer. The
6 employee shall be compensated for any time lost from work
7 occasioned by employer examinations. Compensation shall not
8 be payable under this Act to an employee if the employee fails
9 or refuses to use employer-provided ear protective devices
10 required by the employer and communicated in writing to the
11 employee at the time he is employed or at the time such
12 protective devices are provided by the employer.

13 Sec. 8. NEW SECTION. A claim for occupational hearing
14 loss due to excessive noise levels may be filed six months
15 after separation from the employment in which the employee
16 was exposed to excessive noise levels. In cases covered by
17 this Act, the date of the injury shall be the date of
18 occurrence of any one of the following events:

19 1. Transfer from excessive noise level employment by an
20 employer.

21 2. Retirement.

22 3. Termination of the employer-employee relationship.

23 The date of injury for a layoff which continues for a
24 period longer than one year shall be six months after the
25 date of the layoff. However, the date of the injury for any
26 loss of hearing incurred prior to January 1, 1978 shall not
27 be earlier than the occurrence of any one of the above events.

28 Sec. 9. NEW SECTION. Pure tone air conduction audiometric
29 instruments, properly calibrated according to accepted national
30 standards used to define occupational hearing loss shall be
31 used for measuring hearing loss, and the audiograms shall
32 be taken and the tests given in an environment such as is
33 prescribed by such national standards. If more than one
34 audiogram is taken, the audiogram having the lowest threshold
35 will be used to calculate occupational hearing loss. If the

1 losses of hearing average less than those levels that
2 constitute an occupational hearing loss, such losses of hearing
3 shall not constitute any compensable hearing disability.
4 If the losses of hearing average eighty-two decibels American
5 standard association (ASA), ninety-three decibels American
6 national standards institute (ANSI) or international standards
7 organization (ISO), or more in the three frequencies, then
8 the same shall constitute and be total, or one hundred percent,
9 compensable hearing loss. In measuring hearing impairment
10 the lowest measured losses in each of the three frequencies
11 shall be added together and divided by three to determine
12 the average decibel loss. For each resulting decibel of loss
13 exceeding fifteen decibels, an allowance of one and one-half
14 percent shall be made up to the maximum of one hundred percent,
15 which is reached at eighty-two decibels ASA, ninety-three
16 decibels ANSI or ISO. In determining the binaural percentage
17 of loss, the percentage of impairment in the better ear shall
18 be multiplied by five. The resulting figure shall be added
19 to the percentage of impairment in the poorer ear, and the
20 sum of the two divided by six. The final percentage shall
21 represent the binaural hearing impairment. All audiometric
22 examinations shall be made by a person trained in air
23 conduction audiometry, either by formal course work at
24 audiological centers of accredited educational institutions
25 or individual instruction by a physician experienced in
26 audiometric testing or by an audiologist certified by the
27 American speech and hearing association. The interpretation
28 of the audiometric examination shall be by the employer's
29 regular or consulting physician who is trained and has had
30 experience with such interpretation, or by an audiologist
31 certified by the American speech and hearing association.
32 If the employee disputes the interpretation, he may select
33 a person similarly trained and experienced, as provided above,
34 or by an audiologist certified, as provided above, to give
35 an interpretation of the audiometric examination. The

1 foregoing shall be applicable in the event of partial permanent
2 or total permanent occupational loss of hearing in one or
3 both ears.

4 Sec. 10. NEW SECTION. The employer shall communicate
5 to the employee, in writing, the results of any audiometric
6 examination or physical examination of an employee which
7 reflects a hearing loss to such employee, as soon as
8 practicable after such examination. The communication shall
9 include the name and address of the person conducting the
10 audiometric examination or physical examination, the kind
11 or type of test or examinations given, the results of each,
12 the average decibel loss, in the three frequencies, in each
13 ear, if any, and, if known to the employer, whether such loss
14 is sensorineural hearing loss and if such hearing loss resulted
15 from another cause, the name of the cause.

16 Sec. 11. NEW SECTION. An employer shall become liable,
17 as provided in this Act, for the occupational hearing loss
18 to which his employment has contributed; but if previous
19 hearing loss, whether occupational or not, is established
20 by an audiometric examination or other competent evidence,
21 whether or not the employee was exposed to excessive noise
22 level within six months preceding such test, the employer
23 shall not be liable for such previous loss, nor shall he be
24 liable for any loss for which compensation has previously
25 been paid or awarded and the employer shall be liable only
26 for the difference between the percent of occupational hearing
27 loss determined as of the date of disability as herein defined
28 and the percentage of loss established by the preemployment
29 and audiometric examination. Any amount paid to an employee
30 under this chapter for occupational hearing loss by any other
31 employer shall be credited against compensation payable by
32 any employer for such hearing loss. No employee shall in
33 the aggregate receive greater compensation from all employers
34 for occupational hearing loss than that provided in this
35 section for total occupational hearing loss. No payment shall

1 be made to an employee under this chapter unless he shall
2 have worked in excessive noise level employment for a total
3 period of at least ninety days for the employer from whom
4 he claims compensation.

5 Sec. 12. NEW SECTION. No reduction of the compensation
6 payable to an employee for occupational hearing loss under
7 this Act shall be made because the employee's ability to hear
8 may be improved by the use of a hearing aid. No employer
9 shall be required to provide an employee with a hearing aid
10 if it will not materially improve the employee's ability to
11 hear.

12 Sec. 13. NEW SECTION. Payments of compensation and
13 compliance with other provisions of this Act by the employer
14 or his insurance carrier in accordance with the findings and
15 orders of the industrial commissioner or a court making a
16 final adjudication in appealed cases, shall discharge such
17 employer from any and all further obligation.

18 Sec. 14. NEW SECTION. The provisions of chapters seventeen
19 A (17A), eighty-five (85), and eighty-six (86) of the Code,
20 so far as applicable, and not inconsistent with this Act,
21 shall apply in cases of compensable occupational hearing loss
22 as specified and defined in this Act.

23 Sec. 15. The industrial commissioner shall have jurisdic-
24 tion over the operation and administration of the compensa-
25 tion provisions of this Act and the industrial commissioner
26 shall perform all of the duties imposed upon him by this Act.

27 Sec. 16. Section eighty-five point thirty-four (85.34),
28 subsection two (2), Code 1977, is amended by striking paragraph
29 r and inserting in lieu thereof the following:

30 r. For the loss of hearing, other than occupational hear-
31 ing loss as defined in section four (4) of this Act, weekly
32 compensation during fifty weeks, and for the loss of hearing
33 in both ears, weekly compensation during one hundred seventy-
34 five weeks.

35 Sec. 17. This Act is effective January 1, 1978.

EXPLANATION

1
2 The first 15 sections of this bill provide for a new chapter
3 for occupational hearing loss as defined in the Act. It
4 defines occupational hearing loss, and provides for the
5 compensation payable for such hearing loss above 15 decibels
6 (ASA) or 26 decibels (ANSI 1969), specifies the measurement
7 of hearing loss and the instruments by which such loss shall
8 be measured, provides that the employer shall not be liable
9 for occupational hearing loss suffered by the employee in
10 previous employment if such previous loss is established by
11 competent evidence and that the employer shall be liable for
12 occupational hearing loss due to harmful noise while working
13 for such employer for a total period of at least ninety days.
14 The bill further provides that compensation shall not be
15 reduced because of improved hearing due to the use of a hearing
16 aid. The term occupational hearing loss provides compensation
17 for hearing loss resulting from prolonged exposure to harmful
18 noise levels. This type of hearing loss is of the
19 sensorineural type. Section 16 of the bill amends section
20 85.34, subsection 2, paragraph r of the 1977 Code of Iowa
21 to remove such occupational hearing loss from the coverage
22 of chapter 85.

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