

FEB 27 1996

Place On Calendar

HOUSE FILE 2362  
BY COMMITTEE ON LABOR  
AND INDUSTRIAL RELATIONS

(SUCCESSOR TO HSB 672)

Passed House, <sup>(p.801)</sup> Date 3/18/96 Passed Senate, Date \_\_\_\_\_  
Vote: Ayes 61 Nays 36 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to occupational hearing loss, concerning the  
2 definitions, apportionment of hearing loss, and measurement of  
3 hearing loss.

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

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HF 2362

1 Section 1. Section 85.34, subsection 2, paragraph r, Code  
2 1995, is amended to read as follows:

3 r. (1) For the loss of hearing, other than occupational  
4 hearing loss as defined in section 85B.4, ~~subsection 17~~ weekly  
5 compensation during fifty weeks, and for the loss of hearing  
6 in both ears, weekly compensation during one hundred seventy-  
7 five weeks.

8 (2) For occupational hearing loss, weekly compensation as  
9 provided in ~~the Iowa occupational hearing loss Act~~ {chapter  
10 85B}.

11 Sec. 2. Section 85B.4, Code 1995, is amended by striking  
12 the section and inserting in lieu thereof the following:

13 85B.4 DEFINITIONS.

14 As used in this chapter, unless the context otherwise  
15 provides:

16 1. "Excessive noise exposure" means exposure to sound  
17 capable of producing occupational hearing loss.

18 2. "Hearing level" means the measured threshold of hearing  
19 sensitivity using audiometric instruments properly calibrated  
20 to the American national standards institute audiometric zero  
21 reference level.

22 3. "Occupational hearing loss" means that portion of a  
23 permanent sensorineural loss of hearing in one or both ears  
24 that exceeds an average hearing level of twenty-five decibels  
25 for the frequencies five hundred, one thousand, two thousand,  
26 and three thousand Hertz, arising out of and in the course of  
27 employment caused by excessive noise exposure. "Occupational  
28 hearing loss" does not include loss of hearing attributable to  
29 age or any other condition or exposure not arising out of and  
30 in the course of employment.

31 Sec. 3. Section 85B.5, unnumbered paragraph 1, Code 1995,  
32 is amended to read as follows:

33 An excessive noise ~~level~~ exposure is sound which exceeds  
34 the times and intensities listed in the following table:

35 Sec. 4. Section 85B.8, unnumbered paragraph 1, Code 1995,

1 is amended to read as follows:

2 A claim for occupational hearing loss ~~due-to-excessive~~  
3 ~~noise-levels~~ may be filed ~~six-months~~ after separation from the  
4 ~~employment-in-which-the-employee-was-exposed-to~~ excessive  
5 noise levels exposure for a period of one month provided that  
6 the employee will not be returned to such employment either  
7 due to medical restriction or termination of employment. The  
8 date of the injury shall be the date of occurrence of any one  
9 of the following events:

10 Sec. 5. Section 85B.8, subsection 1, Code 1995, is amended  
11 to read as follows:

12 1. Transfer from excessive noise ~~level~~ exposure employment  
13 by an employer.

14 Sec. 6. Section 85B.9, Code 1995, is amended by striking  
15 the section and inserting in lieu thereof the following:

16 85B.9 MEASURING HEARING LOSS.

17 1. Audiometric instruments, properly calibrated to the  
18 American national standards institute specifications shall be  
19 used for measuring hearing levels and in such tests necessary  
20 to establish total hearing loss, if any. The hearing tests  
21 and examinations shall be conducted in environments which  
22 comply with accepted national standards.

23 2. Audiometric examinations shall be administered by  
24 persons who are certified by the council for accreditation in  
25 occupational hearing conservation or by persons licensed as  
26 audiologists under chapter 147, as physicians under chapter  
27 148, as osteopathic physicians under chapter 150, or as  
28 osteopathic physicians and surgeons under chapter 150A,  
29 provided the licensed persons are trained in audiometry.

30 3. In calculating the total amount of hearing loss, the  
31 hearing levels at each of the four frequencies, five hundred,  
32 one thousand, two thousand, and three thousand Hertz shall be  
33 added together and divided by four to determine the average  
34 decibel hearing level for each ear. If the resulting average  
35 decibel hearing level in either ear is twenty-five decibels or

1 less, the percentage hearing loss for that ear shall be zero.  
2 For each resulting average decibel hearing level exceeding  
3 twenty-five decibels, an allowance of one and one-half percent  
4 shall be made up to the maximum of one hundred percent which  
5 is reached at an average decibel hearing level of ninety-two  
6 decibels. In determining the total binaural percentage  
7 hearing loss, the percentage hearing loss for the ear with  
8 better hearing shall be multiplied by five and added to the  
9 percentage hearing loss for the ear with worse hearing and the  
10 sum of the two divided by six.

11 4. The assessment of the proportion of the total binaural  
12 percentage hearing loss that is due to occupational noise  
13 exposure shall be made by the employer's regular or consulting  
14 physician or licensed audiologist who is trained and has had  
15 experience with such assessment. If several audiometric  
16 examinations are available for assessment, the physician or  
17 audiologist shall determine which examinations shall be used  
18 in the final assessment of occupational hearing loss.

19 If the employee disputes the assessment, the employee may  
20 select a physician or licensed audiologist similarly trained  
21 and experienced to give an assessment of the audiometric  
22 examinations.

23 5. This section is applicable in the event of partial  
24 permanent or total permanent occupational hearing loss in one  
25 or both ears.

26 Sec. 7. NEW SECTION. 85B.9A APPORTIONMENT OF  
27 OCCUPATIONAL HEARING LOSS.

28 Apportionment of the total hearing loss between  
29 occupational and nonoccupational loss, for purposes of  
30 determining occupational hearing loss, may be made by an  
31 audiologist or physician, with qualifications set forth in  
32 section 85B.9. In determining occupational hearing loss,  
33 consideration shall be given to all probable employment and  
34 nonemployment sources of loss and of the existence of any  
35 prevention measures and programs.

1 Sec. 8. Section 85B.10, Code 1995, is amended to read as  
2 follows:

3 85B.10 EMPLOYERS EMPLOYER'S NOTICE OF RESULTS OF TEST.

4 The employer shall communicate to the employee, in writing,  
5 the results of an audiometric examination or physical  
6 examination of an employee which reflects an average hearing  
7 ~~loss-of-the-employee~~ level in one or both ears in excess of  
8 twenty-five decibels ~~ANSI-or-ISO~~ for the test frequencies of  
9 five hundred, one thousand, two thousand, and three thousand  
10 Hertz, as soon as practicable after the examination. The  
11 communication shall include the name and ~~address~~  
12 qualifications of the person conducting the audiometric  
13 examination or physical examination, the site of the  
14 examination, the kind or type of test or examinations given,  
15 the results of each, and the average decibel ~~loss~~ hearing  
16 level, in for the four frequencies, in each ear, ~~if-any~~, and,  
17 if known to the employer, whether the hearing loss is  
18 sensorineural ~~hearing-loss~~ and, if the hearing loss resulted  
19 from another cause, the ~~name-of-the~~ cause.

20 Sec. 9. Section 85B.11, Code 1995, is amended to read as  
21 follows:

22 85B.11 PREVIOUS HEARING LOSS EXCLUDED.

23 An employer is liable, as provided in this chapter and  
24 subject to the provisions of chapter 85, for an occupational  
25 hearing loss to which the employment has contributed, but if  
26 previous hearing loss, whether occupational or not, is  
27 established by an audiometric examination or other competent  
28 evidence, whether or not the employee was exposed to excessive  
29 noise ~~level~~ exposure within six months preceding the test, the  
30 employer is not liable for the previous loss, nor is the  
31 employer liable for a loss for which compensation has  
32 previously been paid or awarded. The employer is liable only  
33 for the difference between the percent of occupational hearing  
34 loss determined as of the date of the audiometric examination  
35 used to determine occupational hearing loss and the percentage

1 of loss established by the pre-employment audiometric  
2 examination. An amount paid to an employee for occupational  
3 hearing loss by any other employer shall be credited against  
4 compensation payable by an employer for the hearing loss. An  
5 employee shall not receive in the aggregate greater  
6 compensation from all employers for occupational hearing loss  
7 than that provided in this section for total occupational  
8 hearing loss. A payment shall not be made to an employee  
9 unless the employee has worked in excessive noise level  
10 exposure employment for a total period of at least ninety days  
11 for the employer from whom compensation is claimed.

12 Sec. 10. Section 85B.12, Code 1995, is amended to read as  
13 follows:

14 85B.12 HEARING AID PROVIDED.

15 A reduction of the compensation payable to an employee for  
16 occupational hearing loss shall not be made because the  
17 employee's ability to communicate may be improved by the use  
18 of a hearing aid. An employer who is liable for occupational  
19 hearing loss of an employee is required to provide the  
20 employee with a hearing aid for each affected ear unless it  
21 will not materially improve the employee's ability to  
22 communicate.

23 Sec. 11. INTENT. It is the intent of the general assembly  
24 that the changes in this Act to the following Code sections  
25 merely confirm, and do not modify, the intent of chapter 85B  
26 as codified prior to July 1, 1996:

- 27 1. The changes to section 85B.4.
- 28 2. The changes to section 85B.9.

29 EXPLANATION

30 This bill amends chapter 85B concerning occupational  
31 hearing loss. The bill provides, however, that the changes to  
32 sections 85B.4 and 85B.9 reflected in the bill are intended by  
33 the general assembly to confirm the intent of the chapter  
34 prior to the changes.

35 Section 2 provides for the definition of excessive noise

1 exposure, hearing level, and occupational hearing loss.  
2 Current law defines excessive noise level and occupational  
3 hearing loss.

4 Section 85B.8 is changed to provide that a claim for  
5 occupational hearing loss may be filed after separation from  
6 the excessive noise for a period of one month provided that  
7 the employee will not be returned to such employment.

8 The bill also replaces the current section measuring  
9 hearing loss. New section 85B.9A provides that any  
10 apportionment of occupational and nonoccupational loss be made  
11 by an audiologist or qualified physician and that  
12 consideration of all probable sources of loss shall be given  
13 in determining occupational hearing loss. The bill also  
14 changes section 85B.12 to provide for a hearing aid for each  
15 affected ear if certain conditions are met.

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*HSB 672*

LABOR & INDUSTRIAL RELATIONS

Succeeded By

HOUSE FILE SF/HF 2362

BY (PROPOSED COMMITTEE ON  
LABOR AND INDUSTRIAL  
RELATIONS BILL BY  
CHAIRPERSON TYRRELL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to occupational hearing loss, concerning the  
2 definitions, apportionment of hearing loss, and measurement of  
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3 r. (1) For the loss of hearing, other than occupational  
4 hearing loss as defined in section 85B.4, ~~subsection 1,~~ weekly  
5 compensation during fifty weeks, and for the loss of hearing  
6 in both ears, weekly compensation during one hundred seventy-  
7 five weeks.

8 (2) For occupational hearing loss, weekly compensation as  
9 provided in ~~the Iowa occupational hearing loss Act (chapter~~  
10 85B).

11 Sec. 2. Section 85B.4, Code 1995, is amended by striking  
12 the section and inserting in lieu thereof the following:

13 85B.4 DEFINITIONS.

14 As used in this chapter, unless the context otherwise  
15 provides:

16 1. "Excessive noise exposure" means exposure to sound  
17 capable of producing occupational hearing loss.

18 2. "Hearing level" means the measured threshold of hearing  
19 sensitivity using audiometric instruments properly calibrated  
20 to the American national standards institute audiometric zero  
21 reference level.

22 3. "Occupational hearing loss" means that portion of a  
23 permanent sensorineural loss of hearing in one or both ears  
24 that exceeds an average hearing level of twenty-five decibels  
25 for the frequencies five hundred, one thousand, two thousand,  
26 and three thousand Hertz, arising out of and in the course of  
27 employment caused by excessive noise exposure. "Occupational  
28 hearing loss" does not include loss of hearing attributable to  
29 age or any other condition or exposure not arising out of and  
30 in the course of employment.

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3 ~~noise-levels~~ may be filed ~~six-months~~ after separation from the  
4 ~~employment-in-which-the-employee-was-exposed-to~~ excessive  
5 noise ~~levels~~ exposure for a period of one month provided that  
6 the employee will not be returned to such employment either  
7 due to medical restriction or termination of employment. The  
8 date of the injury shall be the date of occurrence of any one  
9 of the following events:

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21 and examinations shall be conducted in environments which  
22 comply with accepted national standards.

23 2. Audiometric examinations shall be administered by  
24 persons who are certified by the council for accreditation in  
25 occupational hearing conservation or by persons licensed as  
26 audiologists under chapter 147, as physicians under chapter  
27 148, as osteopathic physicians under chapter 150, or as  
28 osteopathic physicians and surgeons under chapter 150A,  
29 provided the licensed persons are trained in audiometry.

30 3. In calculating the total amount of hearing loss, the  
31 hearing levels at each of the four frequencies, five hundred,  
32 one thousand, two thousand, and three thousand Hertz shall be  
33 added together and divided by four to determine the average  
34 decibel hearing level for each ear. If the resulting average  
35 decibel hearing level in either ear is twenty-five decibels or

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1 less, the percentage hearing loss for that ear shall be zero.  
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4 shall be made up to the maximum of one hundred percent which  
5 is reached at an average decibel hearing level of ninety-two  
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18 If the employee disputes the determination, the employee  
19 may select a physician or licensed audiologist similarly  
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7 twenty-five decibels ~~ANSI-or-ISO~~ for the test frequencies of  
8 five hundred, one thousand, two thousand, and three thousand  
9 Hertz, as soon as practicable after the examination. The  
10 communication shall include the name and ~~address~~  
11 qualifications of the person conducting the audiometric  
12 examination or physical examination, the site of the  
13 examination, the kind or type of test or examinations given,  
14 the results of each, and the average decibel ~~loss~~ hearing  
15 level, ~~in~~ for the four frequencies, in each ear, ~~if-any~~, and,  
16 if known to the employer, whether the hearing loss is  
17 sensorineural ~~hearing-loss~~ and, if the hearing loss resulted  
18 from another cause, the ~~name-of-the~~ cause.

19 Sec. 9. Section 85B.11, Code 1995, is amended to read as  
20 follows:

21 85B.11 PREVIOUS HEARING LOSS EXCLUDED.

22 An employer is liable, as provided in this chapter and  
23 subject to the provisions of chapter 85, for an occupational  
24 hearing loss to which the employment has contributed, but if  
25 previous hearing loss, whether occupational or not, is  
26 established by an audiometric examination or other competent  
27 evidence, whether or not the employee was exposed to excessive  
28 noise ~~level~~ exposure within six months preceding the test, the  
29 employer is not liable for the previous loss, nor is the  
30 employer liable for a loss for which compensation has  
31 previously been paid or awarded. The employer is liable only  
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2 hearing loss by any other employer shall be credited against  
3 compensation payable by an employer for the hearing loss. An  
4 employee shall not receive in the aggregate greater  
5 compensation from all employers for occupational hearing loss  
6 than that provided in this section for total occupational  
7 hearing loss. A payment shall not be made to an employee  
8 unless the employee has worked in excessive noise ~~level~~  
9 exposure employment for a total period of at least ninety days  
10 for the employer from whom compensation is claimed.

11 Sec. 10. Section 85B.12, Code 1995, is amended to read as  
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14 A reduction of the compensation payable to an employee for  
15 occupational hearing loss shall not be made because the  
16 employee's ability to communicate may be improved by the use  
17 of a hearing aid. An employer who is liable for occupational  
18 hearing loss of an employee is required to provide the  
19 employee with a hearing aid for each affected ear unless it  
20 will not materially improve the employee's ability to  
21 communicate.

22 Sec. 11. INTENT. It is the intent of the general assembly  
23 that the changes in this Act to the following Code sections  
24 merely confirm, and do not modify, the intent of chapter 85B  
25 as codified prior to July 1, 1996:

26 1. The changes to section 85B.4.

27 2. The changes to section 85B.9.

28 EXPLANATION

29 This bill amends chapter 85B concerning occupational  
30 hearing loss. The bill provides, however, that the changes to  
31 sections 85B.4 and 85B.9 reflected in the bill are intended by  
32 the general assembly to confirm the intent of the chapter  
33 prior to the changes.

34 Section 2 provides for the definition of excessive noise  
35 exposure, hearing level, and occupational hearing loss.

1 Current law defines excessive noise level and occupational  
2 hearing loss.

3 Section 85B.8 is changed to provide that a claim for  
4 occupational hearing loss may be filed after separation from  
5 the excessive noise for a period of one month provided that  
6 the employee will not be returned to such employment.

7 The bill also replaces the current section measuring  
8 hearing loss. New section 85B.9A provides that any  
9 apportionment of occupational and nonoccupational loss be made  
10 by an audiologist or qualified physician and that  
11 consideration of all probable sources of loss shall be given  
12 in determining occupational hearing loss. The bill also  
13 changes section 85B.12 to provide for a hearing aid for each  
14 affected ear if certain conditions are met.

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