

# Senate Study Bill 2199

## Conference Committee Text

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1 1 Section 1. Section 85.34, subsection 2, paragraph r, Code  
1 2 1995, is amended to read as follows:  
1 3 r. (1) For the loss of hearing, other than occupational  
1 4 hearing loss as defined in section 85B.4,

~~subsection 1,~~

~~weekly~~

1 5 compensation during fifty weeks, and for the loss of hearing  
1 6 in both ears, weekly compensation during one hundred seventy-  
1 7 five weeks.

1 8 (2) For occupational hearing loss, weekly compensation as  
1 9 provided in

~~the Iowa occupational hearing loss Act [~~

~~chapter~~

1 10 85B

~~]~~

1 11 Sec. 2. Section [85B.4](#), Code 1995, is amended by striking  
1 12 the section and inserting in lieu thereof the following:

1 13 85B.4 DEFINITIONS.

1 14 As used in this chapter, unless the context otherwise  
1 15 provides:

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

1 18 2. "Hearing level" means the measured threshold of hearing  
1 19 sensitivity using audiometric instruments properly calibrated  
1 20 to the American national standards institute audiometric zero  
1 21 reference level.

1 22 3. "Occupational hearing loss" means that portion of a  
1 23 permanent sensorineural loss of hearing in one or both ears  
1 24 that exceeds an average hearing level of twenty-five decibels  
1 25 for the frequencies five hundred, one thousand, two thousand,  
1 26 and three thousand Hertz, arising out of and in the course of  
1 27 employment caused by excessive noise exposure. "Occupational  
1 28 hearing loss" does not include loss of hearing attributable to  
1 29 age or any other condition or exposure not arising out of and  
1 30 in the course of employment.

1 31 Sec. 3. Section [85B.8](#), unnumbered paragraph 1, Code 1995,  
1 32 is amended to read as follows:

1 33 A claim for occupational hearing loss

~~due to excessive~~

1 34

~~noise levels~~

~~may be filed~~

~~six months~~

~~after separation from the~~

1 35

~~employment in which the employee was exposed to~~

~~excessive~~

2 1 noise

~~level~~

- exposure for a period of one month provided that

2 2 the employee will not be returned to such employment either  
2 3 due to medical restriction or termination of employment. The  
2 4 date of the injury shall be the date of occurrence of any one  
2 5 of the following events:  
2 6 Sec. 4. Section [85B.5](#), unnumbered paragraph 1, Code 1995,  
2 7 is amended to read as follows:  
2 8 An excessive noise

~~level~~

- exposure is sound which exceeds

2 9 the times and intensities listed in the following table:  
2 10 Sec. 5. Section [85B.8](#), subsection 1, Code 1995, is amended  
2 11 to read as follows:  
2 12 1. Transfer from excessive noise

~~level~~

- exposure employment

2 13 by an employer.  
2 14 Sec. 6. Section [85B.9](#), Code 1995, is amended by striking  
2 15 the section and inserting in lieu thereof the following:  
2 16 [85B.9](#) MEASURING HEARING LOSS.  
2 17 1. Audiometric instruments, properly calibrated to the  
2 18 American national standards institute specifications shall be  
2 19 used for measuring hearing levels and in such tests necessary  
2 20 to establish total hearing loss, if any. The hearing tests  
2 21 and examinations shall be conducted in environments which  
2 22 comply with accepted national standards.  
2 23 2. Audiometric examinations shall be administered by  
2 24 persons who are certified by the council for accreditation in  
2 25 occupational hearing conservation or by persons licensed as  
2 26 audiologists under chapter 147, as physicians under chapter  
2 27 148, as osteopathic physicians under chapter 150, or as  
2 28 osteopathic physicians and surgeons under chapter 150A,  
2 29 provided the licensed persons are trained in audiometry.  
2 30 3. In calculating the total amount of hearing loss, the  
2 31 hearing levels at each of the four frequencies, five hundred,  
2 32 one thousand, two thousand, and three thousand Hertz shall be  
2 33 added together and divided by four to determine the average  
2 34 decibel hearing level for each ear. If the resulting average  
2 35 decibel hearing level in either ear is twenty-five decibels or  
3 1 less, the percentage hearing loss for that ear shall be zero.  
3 2 For each resulting average decibel hearing level exceeding  
3 3 twenty-five decibels, an allowance of one and one-half percent  
3 4 shall be made up to the maximum of one hundred percent which  
3 5 is reached at an average decibel hearing level of ninety-two  
3 6 decibels. In determining the total binaural percentage  
3 7 hearing loss, the percentage hearing loss for the ear with  
3 8 better hearing shall be multiplied by five and added to the  
3 9 ear with worse hearing and the sum of the two divided by six.  
3 10 4. The assessment of the proportion of the total binaural  
3 11 percentage hearing loss that is due to occupational noise  
3 12 exposure shall be made by the employer's regular or consulting  
3 13 physician or licensed audiologist who is trained and has had  
3 14 experience with such assessment. If several audiometric  
3 15 examinations are available for assessment, the physician or  
3 16 audiologist shall determine which examinations shall be used  
3 17 in the final assessment of occupational hearing loss.  
3 18 If the employee disputes the determination, the employee  
3 19 may select a physician or licensed audiologist similarly  
3 20 trained and experienced to give an assessment of the  
3 21 audiometric examinations.  
3 22 5. This section is applicable in the event of partial  
3 23 permanent or total permanent occupational hearing loss in one

3 24 or both ears.

3 25 Sec. 7. NEW SECTION. 85B.9A APPORTIONMENT OF  
3 26 OCCUPATIONAL HEARING LOSS.

3 27 Apportionment of the total hearing loss between  
3 28 occupational and nonoccupational loss, for purposes of  
3 29 determining occupational hearing loss, may be made by an  
3 30 audiologist or physician, with qualifications set forth in  
3 31 section 85B.9.

3 32 Sec. 8. Section 85B.10, Code 1995, is amended to read as  
3 33 follows:

3 34 85B.10 EMPLOYERS NOTICE OF RESULTS OF TEST.

3 35 The employer shall communicate to the employee, in writing,  
4 1 the results of an audiometric examination or physical  
4 2 examination of an employee which reflects an average hearing  
4 3

~~loss of the employee~~

- level in one or both ears in excess of  
4 4 twenty-five decibels

~~ANSI or ISO~~

- for the test frequencies of  
4 5 five hundred, one thousand, two thousand, and three thousand  
4 6 Hertz, as soon as practicable after the examination. The  
4 7 communication shall include the name and

~~address~~

-  
4 8 qualifications of the person conducting the audiometric  
4 9 examination or physical examination, the site of the  
4 10 examination, the kind or type of test or examinations given,  
4 11 the results of each

- and the average decibel

~~loss~~

- hearing  
4 12 level,

~~in~~

- for the four frequencies, in each ear,

~~if any,~~

- and,

4 13 if known to the employer, whether the hearing loss is  
4 14 sensorineural

~~hearing loss~~

- and, if the hearing loss resulted  
4 15 from another cause, the

~~name of the~~

- cause.

4 16 Sec. 9. Section 85B.11, Code 1995, is amended to read as  
4 17 follows:

4 18 85B.11 PREVIOUS HEARING LOSS EXCLUDED.

4 19 An employer is liable, as provided in this chapter and  
4 20 subject to the provisions of chapter 85, for an occupational  
4 21 hearing loss to which the employment has contributed, but if  
4 22 previous hearing loss, whether occupational or not, is  
4 23 established by an audiometric examination or other competent  
4 24 evidence, whether or not the employee was exposed to excessive  
4 25 noise

~~level~~

- exposure within six months preceding the test, the

4 26 employer is not liable for the previous loss, nor is the  
4 27 employer liable for a loss for which compensation has  
4 28 previously been paid or awarded. The employer is liable only  
4 29 for the difference between the percent of occupational hearing  
4 30 loss determined as of the date of the audiometric examination  
4 31 used to determine occupational hearing loss and the percentage  
4 32 of loss established by the pre-employment audiometric  
4 33 examination. An amount paid to an employee for occupational  
4 34 hearing loss by any other employer shall be credited against  
4 35 compensation payable by an employer for the hearing loss. An  
5 1 employee shall not receive in the aggregate greater  
5 2 compensation from all employers for occupational hearing loss  
5 3 than that provided in this section for total occupational  
5 4 hearing loss. A payment shall not be made to an employee  
5 5 unless the employee has worked in excessive noise

~~level~~

5 6 exposure employment for a total period of at least ninety days  
5 7 for the employer from whom compensation is claimed.  
5 8 Sec. 10. Section 85B.12, Code 1995, is amended to read as  
5 9 follows:

5 10 85B.12 HEARING AID PROVIDED.

5 11 A reduction of the compensation payable to an employee for  
5 12 occupational hearing loss shall not be made because the  
5 13 employee's ability to communicate may be improved by the use  
5 14 of a hearing aid. An employer who is liable for occupational  
5 15 hearing loss of an employee is required to provide the  
5 16 employee with a hearing aid for each affected ear unless it  
5 17 will not materially improve the employee's ability to  
5 18 communicate.

5 19 Sec. 11. INTENT. It is the intent of the general assembly  
5 20 that the changes in this Act to the following Code sections  
5 21 merely confirm, and do not modify, the intent of chapter 85B  
5 22 as codified prior to July 1, 1996:

5 23 1. The changes to section 85B.4.

5 24 2. The changes to section 85B.9.

5 25 EXPLANATION

5 26 This bill amends chapter 85B concerning occupational  
5 27 hearing loss. The bill provides, however, that the changes to  
5 28 sections 85B.4 and 85B.9 reflected in the bill are intended by  
5 29 the general assembly to confirm the intent of the chapter  
5 30 prior to the changes.

5 31 Section 2 provides for the definition of excessive noise  
5 32 exposure, hearing level, and occupational hearing loss.  
5 33 Current law defines excessive noise level and occupational  
5 34 hearing loss.

5 35 Section 85B.8 is changed to provide that a claim for  
6 1 occupational hearing loss may be filed after separation from  
6 2 the excessive noise for a period of one month provided that  
6 3 the employee will not be returned to such employment.

6 4 The bill also replaces the current section measuring  
6 5 hearing loss. New section 85B.9A provides that any  
6 6 apportionment of occupational and nonoccupational loss be made  
6 7 by an audiologist or qualified physician. The bill also  
6 8 changes section 85B.12 to provide for a hearing aid for each  
6 9 affected ear if certain conditions are met.

6 10 LSB 4207SC 76

6 11 ec/sc/14