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JAN 30 1997

Place On Calendar

HOUSE FILE 108
BY COMMITTEE ON LABOR AND
INDUSTRIAL RELATIONS

(SUCCESSOR TO HSB 2)
(COMPANION TO SF 72 BY FREEMAN)

Passed House, Date 2-6-97 ^(6.258) Passed Senate, Date _____
Vote: Ayes 52 Nays 46 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:

HOUSE FILE 108

H-1019

1 Amend the amendment, H-1014, to House File 108 as
2 follows:

3 1. Page 1, by striking lines 6 through 8 and
4 inserting the following:

5 "3. Page 5, by striking lines 23 through 28."

By SHOULTZ of Black Hawk
MORELAND of Wapello

H-1019 FILED FEBRUARY 6, 1997

ADOPTED P. 257
2-6-97

HOUSE FILE 108

H-1020

1 Amend the amendment, H-1019, to amendment H-1014,
2 to House File 108 as follows:

3 1. Page 1, line 3, by striking the numeral "6"
4 and inserting the numeral "4".

By SHOULTZ of Black Hawk

H-1020 FILED FEBRUARY 6, 1997

ADOPTED BY UNANIMOUS CONSENT P. 257

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21

HF 108

1 Section 1. Section 85.34, subsection 2, paragraph r, Code
2 1997, 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 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 1997, 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 1997,
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 1997,

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 1997, 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 1997, 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 1997, 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 1997, 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 1997, 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, 1997:

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 The bill replaces the current definitions section in

1 chapter 85B and provides for the definition of excessive noise
2 exposure, hearing level, and occupational hearing loss.
3 Current law defines excessive noise level and occupational
4 hearing loss.

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

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

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HOUSE FILE 108

H-1009

1 Amend House File 108 as follows:
2 1. Page 1, line 22, by inserting after the word
3 "means" the following: "one of the following:
4 a. For an employee who files a claim for
5 occupational hearing loss upon separation of
6 employment with an employer that the employee had less
7 than ten years of service with as of July 1, 1997,".
8 2. Page 1, by inserting after line 30 the
9 following:
10 "b. For an employee who files a claim for
11 occupational hearing loss upon separation of
12 employment with an employer that the employee had ten
13 years or more of service with as of July 1, 1997, a
14 permanent sensorineural loss of hearing in one or both
15 ears in excess of twenty-five decibels, which arises
16 out of and in the course of employment caused by
17 excessive noise exposure. In the evaluation of
18 occupational hearing loss, only the hearing levels at
19 the frequencies of five hundred, one thousand, two
20 thousand, and three thousand Hertz shall be
21 considered."
22 3. Page 3, line 35, by inserting after the word
23 "programs." the following: "This section does not
24 apply to an employee who files a claim for
25 occupational hearing loss upon separation of
26 employment with an employer that the employee had ten
27 years or more of service with as of July 1, 1997."

By TAYLOR of Linn

H-1009 FILED FEBRUARY 4, 1997

Lost 2/6/97 (p. 253)

HOUSE FILE 108

H-1010

1 Amend House File 108 as follows:
2 1. Page 2, by striking lines 2 through 9 and
3 inserting the following: "A claim for occupational
4 hearing loss due to excessive noise ~~levels~~ exposure
5 may be filed ~~six-months~~ one month after separation
6 from the employment in which the employee was ~~exposed~~
7 subjected to excessive noise levels exposure. The
8 date of the injury shall be the date of occurrence of
9 any one of the following events:

By KINZER of Scott

H-1010 FILED FEBRUARY 4, 1997

WITHDRAWN

P. 255 2/6/97

HOUSE FILE 108

H-1008

1 Amend House File 108 as follows:
2 1. Page 1, by striking lines 27 through 30 and
3 inserting the following: "employment caused by
4 excessive noise exposure."

By JOCHUM of Dubuque

H-1008 FILED FEBRUARY 3, 1997

WITHDRAWN

2/6/97 (p. 255)

HOUSE FILE 108

H-1015

- 1 Amend House File 108 as follows:
- 2 1. Page 2, by striking lines 2 through 9 and
- 3 inserting the following:
- 4 "A claim for occupational hearing loss due to
- 5 excessive noise ~~levels~~ exposure may be filed six
- 6 months after separation from the employment in which
- 7 the employee was ~~exposed~~ subjected to excessive noise
- 8 ~~levels~~ exposure. The date of the injury shall be the
- 9 date of occurrence of any one of the following
- 10 events:"

By SUKUP of Franklin
TAYLOR of Linn

H-1015 FILED FEBRUARY 5, 1997

Adopted 2/6/97 (P. 255)

HOUSE FILE 108

H-1016

- 1 Amend House File 108 as follows:
- 2 1. Page 4, by striking lines 1 through 19.
- 3 2. By renumbering as necessary.

By TAYLOR of Linn

H-1016 FILED FEBRUARY 5, 1997

Adopt 2/6/97 (P. 258)

HOUSE FILE 108

H-1017

- 1 Amend House File 108 as follows:
- 2 1. Page 1, line 16, by striking the words
- 3 "exposure" means exposure to" and inserting the
- 4 following: "level" means".
- 5 2. Page 1, line 27, by striking the words
- 6 "excessive noise exposure" and inserting the
- 7 following: "prolonged exposure to excessive noise
- 8 levels".
- 9 3. Page 1, by striking lines 31 through 34.
- 10 4. Page 2, by striking line 4 and inserting the
- 11 following: "employment in which the employee was
- 12 exposed to excessive".
- 13 5. Page 2, line 5, by striking the words "~~levels~~
- 14 exposure" and inserting the following: "levels".
- 15 6. Page 2, by striking lines 10 through 13.
- 16 7. By striking page 4, line 20, through page 5,
- 17 line 11.
- 18 8. By renumbering as necessary.

By TAYLOR of Linn

H-1017 FILED FEBRUARY 5, 1997

*Adopt 2/6/97
(P. 252)*

HOUSE FILE 108

H-1012

- 1 Amend House File 108 as follows:
- 2 1. Page 3, by striking lines 26 through 35.
- 3 2. By renumbering as necessary.

By MURPHY of Dubuque

H-1012 FILED FEBRUARY 5, 1997

Lost 2/6/97 (P. 255)

HOUSE FILE 108

H-1013

- 1 Amend House File 108 as follows:
- 2 1. Page 1, line 22, by striking the words "that
- 3 portion of".
- 4 2. Page 1, by striking lines 27 through 30 and
- 5 inserting the following: "employment caused by
- 6 excessive noise exposure."

By JOCHUM of Dubuque

H-1013 FILED FEBRUARY 5, 1997

Lost 2/6/97 (P. 255)

HOUSE FILE 108

H-1014

- 1 Amend House File 108 as follows:
- 2 1. By striking page 2, line 14, through page 3,
- A 3 line 35.
- 4 2. Page 5, line 24, by striking the word
- 5 "sections" and inserting the following: "section".
- B 6 3. Page 5, by striking lines 27 and 28 and
- 7 inserting the following:
- 8 "The changes to section 85B.4."
- 9 4. Title page, by striking lines 1 through 3 and
- A 10 inserting the following: "An Act relating to
- 11 occupational hearing loss."
- 12 5. By renumbering as necessary.

By DOTZLER of Black Hawk
TAYLOR of Linn

H-1014 FILED FEBRUARY 5, 1997

A. Lost 2/6/97 (P. 257)

B. Lost 2/6/97 (P. 258)

Session, Resolved

HOUSE FILE 108
BY COMMITTEE ON LABOR AND
INDUSTRIAL RELATIONS

(SUCCESSOR TO HSB 2)
(COMPANION TO SF 72 BY FREEMAN)

As Amended and Passed by the House, February 6, 1997

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
3 hearing loss.

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

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House Amendments _____

1 Section 1. Section 85.34, subsection 2, paragraph r, Code
2 1997, 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 1997, 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 1997,
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 1997,

1 is amended to read as follows:

2 A claim for occupational hearing loss due to excessive
3 noise levels exposure may be filed six months after separation
4 from the employment in which the employee was exposed
5 subjected to excessive noise levels exposure. The date of the
6 injury shall be the date of occurrence of any one of the
7 following events:

8 Sec. 5. Section 85B.8, subsection 1, Code 1997, is amended
9 to read as follows:

10 1. Transfer from excessive noise level exposure employment
11 by an employer.

12 Sec. 6. Section 85B.9, Code 1997, is amended by striking
13 the section and inserting in lieu thereof the following:

14 85B.9 MEASURING HEARING LOSS.

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

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

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

35 For each resulting average decibel hearing level exceeding

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

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

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

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

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

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

34 Sec. 8. Section 85B.10, Code 1997, is amended to read as
35 follows:

1 85B.10 EMPLOYERS EMPLOYER'S NOTICE OF RESULTS OF TEST.

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

18 Sec. 9. Section 85B.11, Code 1997, is amended to read as
19 follows:

20 85B.11 PREVIOUS HEARING LOSS EXCLUDED.

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

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

10 Sec. 10. Section 85B.12, Code 1997, is amended to read as
11 follows:

12 85B.12 HEARING AID PROVIDED.

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

21 Sec. 11. INTENT. It is the intent of the general assembly
22 that the changes in this Act to the following Code sections
23 merely confirm, and do not modify, the intent of chapter 85B
24 as codified prior to July 1, 1997:

- 25 1. The changes to section 85B.4.
26 2. The changes to section 85B.9.

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*Sukup, Ch
Barry
Kinzel*

HSB 2

LABOR & INDUSTRIAL RELATIONS

Succeeded By
SF (HF) 108

HOUSE FILE

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

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1 ~~Section 1.12~~ Section 85.34, subsection 2, paragraph r, Code
2 1997, 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 1997, is amended by striking
12 the section and inserting in lieu thereof the following:

13 85B.4 DEFINITIONS.

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15 provides:

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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
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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 1997,

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 1997, 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 1997, 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 1997, 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 1997, 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 1997, 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, 1997:

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 The bill replaces the current definitions section in

1 chapter 85B and provides for the definition of excessive noise
2 exposure, hearing level, and occupational hearing loss.
3 Current law defines excessive noise level and occupational
4 hearing loss.

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

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

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