

House Study Bill 2

Bill Text

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1 1 Section 1. Section 85.34, subsection 2, paragraph r, Code
1 2 1997, 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 1997, 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.5, unnumbered paragraph 1, Code 1997,
1 32 is amended to read as follows:

1 33 An excessive noise

~~level~~

~~- exposure~~ is sound which exceeds

1 34 the times and intensities listed in the following table:

1 35 Sec. 4. Section 85B.8, unnumbered paragraph 1, Code 1997,

2 1 is amended to read as follows:

2 2 A claim for occupational hearing loss

~~due to excessive~~

~~-~~

2 3

~~noise levels~~

~~- may be filed~~

~~six months~~

- after separation from the

2 4

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

- excessive

2 5 noise

~~levels~~

- exposure for a period of one month provided that

2 6 the employee will not be returned to such employment either

2 7 due to medical restriction or termination of employment. The

2 8 date of the injury shall be the date of occurrence of any one

2 9 of the following events:

2 10 Sec. 5. Section 85B.8, subsection 1, Code 1997, 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 1997, 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 percentage hearing loss for the ear with worse hearing and the

3 10 sum of the two divided by six.

3 11 4. The assessment of the proportion of the total binaural

3 12 percentage hearing loss that is due to occupational noise

3 13 exposure shall be made by the employer's regular or consulting

3 14 physician or licensed audiologist who is trained and has had

3 15 experience with such assessment. If several audiometric

3 16 examinations are available for assessment, the physician or

3 17 audiologist shall determine which examinations shall be used

3 18 in the final assessment of occupational hearing loss.

3 19 If the employee disputes the assessment, the employee may

3 20 select a physician or licensed audiologist similarly trained

3 21 and experienced to give an assessment of the audiometric

3 22 examinations.

3 23 5. This section is applicable in the event of partial

3 24 permanent or total permanent occupational hearing loss in one
3 25 or both ears.

3 26 Sec. 7. NEW SECTION. 85B.9A APPORTIONMENT OF
3 27 OCCUPATIONAL HEARING LOSS.

3 28 Apportionment of the total hearing loss between
3 29 occupational and nonoccupational loss, for purposes of
3 30 determining occupational hearing loss, may be made by an
3 31 audiologist or physician, with qualifications set forth in
3 32 section 85B.9. In determining occupational hearing loss,
3 33 consideration shall be given to all probable employment and
3 34 nonemployment sources of loss and of the existence of any
3 35 prevention measures and programs.

4 1 Sec. 8. Section 85B.10, Code 1997, is amended to read as
4 2 follows:

4 3 85B.10

~~EMPLOYERS~~

- EMPLOYER'S NOTICE OF RESULTS OF TEST.

4 4 The employer shall communicate to the employee, in writing,
4 5 the results of an audiometric examination or physical
4 6 examination of an employee which reflects an average hearing
4 7

~~loss of the employee~~

- level in one or both ears in excess of

4 8 twenty-five decibels

~~ANSI or ISO~~

- for the test frequencies of

4 9 five hundred, one thousand, two thousand, and three thousand
4 10 Hertz, as soon as practicable after the examination. The
4 11 communication shall include the name and

~~address~~

-
4 12 qualifications of the person conducting the audiometric
4 13 examination or physical examination, the site of the
4 14 examination, the kind or type of test or examinations given,
4 15 the results of each

- and the average decibel

~~loss~~

- hearing

4 16 level,

~~in~~

- for the four frequencies, in each ear,

~~if any,~~

- and,

4 17 if known to the employer, whether the hearing loss is
4 18 sensorineural

~~hearing loss~~

- and, if the hearing loss resulted

4 19 from another cause, the

~~name of the~~

- cause.

4 20 Sec. 9. Section 85B.11, Code 1997, is amended to read as
4 21 follows:

4 22 85B.11 PREVIOUS HEARING LOSS EXCLUDED.

4 23 An employer is liable, as provided in this chapter and
4 24 subject to the provisions of chapter 85, for an occupational
4 25 hearing loss to which the employment has contributed, but if

4 26 previous hearing loss, whether occupational or not, is
4 27 established by an audiometric examination or other competent
4 28 evidence, whether or not the employee was exposed to excessive
4 29 noise

~~level~~

- exposure within six months preceding the test, the
4 30 employer is not liable for the previous loss, nor is the
4 31 employer liable for a loss for which compensation has
4 32 previously been paid or awarded. The employer is liable only
4 33 for the difference between the percent of occupational hearing
4 34 loss determined as of the date of the audiometric examination
4 35 used to determine occupational hearing loss and the percentage
5 1 of loss established by the pre-employment audiometric
5 2 examination. An amount paid to an employee for occupational
5 3 hearing loss by any other employer shall be credited against
5 4 compensation payable by an employer for the hearing loss. An
5 5 employee shall not receive in the aggregate greater
5 6 compensation from all employers for occupational hearing loss
5 7 than that provided in this section for total occupational
5 8 hearing loss. A payment shall not be made to an employee
5 9 unless the employee has worked in excessive noise

~~level~~

-
5 10 exposure employment for a total period of at least ninety days
5 11 for the employer from whom compensation is claimed.
5 12 Sec. 10. Section 85B.12, Code 1997, is amended to read as
5 13 follows:

5 14 85B.12 HEARING AID PROVIDED.

5 15 A reduction of the compensation payable to an employee for
5 16 occupational hearing loss shall not be made because the
5 17 employee's ability to communicate may be improved by the use
5 18 of a hearing aid. An employer who is liable for occupational
5 19 hearing loss of an employee is required to provide the
5 20 employee with a hearing aid for each affected ear unless it
5 21 will not materially improve the employee's ability to
5 22 communicate.

5 23 Sec. 11. INTENT. It is the intent of the general assembly
5 24 that the changes in this Act to the following Code sections
5 25 merely confirm, and do not modify, the intent of chapter 85B
5 26 as codified prior to July 1, 1997:

5 27 1. The changes to section 85B.4.

5 28 2. The changes to section 85B.9.

5 29 EXPLANATION

5 30 This bill amends chapter 85B concerning occupational
5 31 hearing loss. The bill provides, however, that the changes to
5 32 sections 85B.4 and 85B.9 reflected in the bill are intended by
5 33 the general assembly to confirm the intent of the chapter
5 34 prior to the changes.

5 35 The bill replaces the current definitions section in
6 1 chapter 85B and provides for the definition of excessive noise
6 2 exposure, hearing level, and occupational hearing loss.
6 3 Current law defines excessive noise level and occupational
6 4 hearing loss.

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

6 9 The bill also replaces the current section measuring
6 10 hearing loss. New section 85B.9A provides that any
6 11 apportionment of occupational and nonoccupational loss be made
6 12 by an audiologist or qualified physician and that
6 13 consideration of all probable sources of loss shall be given
6 14 in determining occupational hearing loss. The bill also
6 15 changes section 85B.12 to provide for a hearing aid for each
6 16 affected ear if certain conditions are met.

6 17 LSB 1252YC 77
6 18 ec/sc/14