

Senate Study Bill 2149

Bill Text

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1 1 Section 1. Section [85.34](#), subsection 2, paragraph r, Code
1 2 Supplement 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~~

~~- exposure~~ may be filed

~~six months~~

~~- beginning one~~

2 4 month after separation from the employment in which the
2 5 employee was

~~exposed~~
- subjected to excessive noise

~~levels~~

-
2 6 exposure. The date of the injury shall be the date of
2 7 occurrence of any one of the following events:
2 8 Sec. 5. Section 85B.8, subsection 1, Code 1997, is amended
2 9 to read as follows:
2 10 1. Transfer from excessive noise

~~level~~

- exposure employment
2 11 by an employer.
2 12 Sec. 6. Section 85B.9, Code 1997, is amended by striking
2 13 the section and inserting in lieu thereof the following:
2 14 85B.9 MEASURING HEARING LOSS.
2 15 1. Audiometric instruments, properly calibrated to the
2 16 American national standards institute specifications, shall be
2 17 used for measuring hearing levels and in such tests necessary
2 18 to establish total hearing loss, if any. The hearing tests
2 19 and examinations shall be conducted in environments which
2 20 comply with accepted national standards.
2 21 2. Audiometric examinations shall be administered by
2 22 persons who are certified by the council for accreditation in
2 23 occupational hearing conservation or by persons licensed as
2 24 audiologists under chapter 147, as physicians under chapter
2 25 148, as osteopathic physicians under chapter 150, or as
2 26 osteopathic physicians and surgeons under chapter 150A,
2 27 provided the licensed persons are trained in audiometry.
2 28 3. In calculating the total amount of hearing loss, the
2 29 hearing levels at each of the four frequencies, five hundred,
2 30 one thousand, two thousand, and three thousand Hertz shall be
2 31 added together and divided by four to determine the average
2 32 decibel hearing level for each ear. If the resulting average
2 33 decibel hearing level in either ear is twenty-five decibels or
2 34 less, the percentage hearing loss for that ear shall be zero.
2 35 For each resulting average decibel hearing level exceeding
3 1 twenty-five decibels, an allowance of one and one-half percent
3 2 shall be made up to the maximum of one hundred percent which
3 3 is reached at an average decibel hearing level of ninety-two
3 4 decibels. In determining the total binaural percentage
3 5 hearing loss, the percentage hearing loss for the ear with
3 6 better hearing shall be multiplied by five and added to the
3 7 percentage hearing loss for the ear with worse hearing and the
3 8 sum of the two divided by six.
3 9 4. The assessment of the proportion of the total binaural
3 10 percentage hearing loss that is due to occupational noise
3 11 exposure shall be made by the employer's regular or consulting
3 12 physician or licensed audiologist who is trained and has had
3 13 experience with such assessment. If several audiometric
3 14 examinations are available for assessment, the physician or
3 15 audiologist shall determine which examinations shall be used
3 16 in the final assessment of occupational hearing loss.
3 17 If the employee disputes the assessment, the employee may
3 18 select a physician or licensed audiologist similarly trained
3 19 and experienced to give an assessment of the audiometric
3 20 examinations.
3 21 5. This section is applicable in the event of partial
3 22 permanent or total permanent occupational hearing loss in one
3 23 or both ears.
3 24 Sec. 7. NEW SECTION. 85B.9A APPORTIONMENT OF
3 25 OCCUPATIONAL HEARING LOSS.
3 26 Apportionment of the total hearing loss between

3 27 occupational and nonoccupational loss, for purposes of
3 28 determining occupational hearing loss, may be made by an
3 29 audiologist or physician with qualifications set forth in
3 30 section 85B.9. In determining occupational hearing loss,
3 31 consideration shall be given to all probable employment and
3 32 nonemployment sources of loss and of the existence of any
3 33 prevention measures and programs.
3 34 Sec. 8. Section [85B.10](#), Code 1997, is amended to read as
3 35 follows:
4 1 85B.10

~~EMPLOYERS~~

~~EMPLOYER'S NOTICE OF RESULTS OF TEST.~~

4 2 The employer shall communicate to the employee, in writing,
4 3 the results of an audiometric examination or physical
4 4 examination of an employee which reflects an average hearing
4 5

~~loss of the employee~~

~~level~~ in one or both ears in excess of
4 6 twenty-five decibels

~~ANSI or ISO~~

~~for the test frequencies of~~
4 7 five hundred, one thousand, two thousand, and three thousand
4 8 Hertz, as soon as practicable after the examination. The
4 9 communication shall include the name and

~~address~~

4 10 qualifications of the person conducting the audiometric
4 11 examination or physical examination, the site of the
4 12 examination, the kind or type of test or examinations given,
4 13 the results of each

~~and~~ the average decibel

~~loss~~

~~hearing~~
4 14 level,

~~in~~

~~for~~ the four frequencies, in each ear,

~~if any,~~

~~and,~~

4 15 if known to the employer, whether the hearing loss is
4 16 sensorineural

~~hearing loss~~

~~and,~~ if the hearing loss resulted
4 17 from another cause, the

~~name of the~~

~~cause.~~

4 18 Sec. 9. Section [85B.11](#), Code 1997, is amended to read as
4 19 follows:

4 20 85B.11 PREVIOUS HEARING LOSS EXCLUDED.

4 21 An employer is liable, as provided in this chapter and
4 22 subject to the provisions of chapter 85, for an occupational
4 23 hearing loss to which the employment has contributed, but if
4 24 previous hearing loss, whether occupational or not, is
4 25 established by an audiometric examination or other competent
4 26 evidence, whether or not the employee was exposed to excessive
4 27 noise

~~level~~

- exposure within six months preceding the test, the
4 28 employer is not liable for the previous loss, nor is the
4 29 employer liable for a loss for which compensation has
4 30 previously been paid or awarded. The employer is liable only
4 31 for the difference between the percent of occupational hearing
4 32 loss determined as of the date of the audiometric examination
4 33 used to determine occupational hearing loss and the percentage
4 34 of loss established by the pre-employment audiometric
4 35 examination. An amount paid to an employee for occupational
5 1 hearing loss by any other employer shall be credited against
5 2 compensation payable by an employer for the hearing loss. An
5 3 employee shall not receive in the aggregate greater
5 4 compensation from all employers for occupational hearing loss
5 5 than that provided in this section for total occupational
5 6 hearing loss. A payment shall not be made to an employee
5 7 unless the employee has worked in excessive noise

~~level~~

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5 8 exposure employment for a total period of at least ninety days
5 9 for the employer from whom compensation is claimed.
5 10 Sec. 10. Section [85B.12](#), Code 1997, is amended to read as
5 11 follows:
5 12 85B.12 HEARING AID PROVIDED.
5 13 A reduction of the compensation payable to an employee for
5 14 occupational hearing loss shall not be made because the
5 15 employee's ability to communicate may be improved by the use
5 16 of a hearing aid. An employer who is liable for occupational
5 17 hearing loss of an employee is required to provide the
5 18 employee with a hearing aid for each affected ear unless it
5 19 will not materially improve the employee's ability to
5 20 communicate.
5 21 Sec. 11. INTENT. It is the intent of the general assembly
5 22 that the changes in this Act to Code sections 85B.4 and 85B.9
5 23 merely confirm, and do not modify, the intent of chapter 85B
5 24 as codified prior to July 1, 1998.
5 25 EXPLANATION
5 26 This bill amends Code chapter 85B concerning occupational
5 27 hearing loss. The bill provides, however, that the changes to
5 28 Code sections 85B.4 and 85B.9 reflected in the bill are
5 29 intended by the general assembly to confirm the intent of the
5 30 chapter prior to the changes.
5 31 The bill replaces the current definitions section in Code
5 32 chapter 85B and provides for the definitions of excessive
5 33 noise exposure, hearing level, and occupational hearing loss.
5 34 Current law defines excessive noise level and occupational
5 35 hearing loss.
6 1 Code section 85B.8 is changed to provide that a claim for
6 2 occupational hearing loss may be filed beginning one month
6 3 after separation from the excessive noise.
6 4 The bill also replaces the current section providing for
6 5 the measurement of hearing loss. New Code section 85B.9A
6 6 provides that any apportionment of occupational and
6 7 nonoccupational loss be made by an audiologist or qualified
6 8 physician and that consideration of all probable sources of
6 9 loss shall be given in determining occupational hearing loss.
6 10 The bill also changes section 85B.12 to provide for a hearing
6 11 aid for each affected ear if certain conditions are met.
6 12 LSB 3696XC 77
6 13 ec/sc/14