

CHAPTER 1160

OCCUPATIONAL HEARING LOSS

S.F. 2333

AN ACT relating to occupational hearing loss recovery, providing definitions, and providing for the apportionment and measurement of hearing loss.

Be It Enacted by the General Assembly of the State of Iowa:

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

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

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

Sec. 2. Section 85B.4, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

85B.4 DEFINITIONS.

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

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

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

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

Sec. 3. Section 85B.5, unnumbered paragraph 1, Code 1997, is amended to read as follows:

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

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

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

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

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

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

85B.9 MEASURING HEARING LOSS.

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

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

3. In calculating the total amount of hearing loss, the hearing levels at each of the four frequencies, five hundred, one thousand, two thousand, and three thousand Hertz shall be added together and divided by four to determine the average decibel hearing level for each ear. If the resulting average decibel hearing level in either ear is twenty-five decibels or less, the percentage hearing loss for that ear shall be zero. For each resulting average decibel hearing level exceeding twenty-five decibels, an allowance of one and one-half percent shall be made up to the maximum of one hundred percent which is reached at an average decibel hearing level of ninety-two decibels. In determining the total binaural percentage hearing loss, the percentage hearing loss for the ear with better hearing shall be multiplied by five and added to the percentage hearing loss for the ear with worse hearing and the sum of the two divided by six.

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

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

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

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

Apportionment of the total hearing loss between occupational and nonoccupational loss, for purposes of determining occupational hearing loss, may be made by an audiologist or physician with qualifications set forth in section 85B.9. In determining occupational hearing loss, consideration shall be given to all probable employment and nonemployment sources of loss. The apportionment of age-related loss shall be made by reducing the total binaural percentage hearing loss as calculated pursuant to section 85B.9, subsection 3, by the same percentage as the decibels of age-related loss occurring during the period of employment bears to the total decibel hearing level in each ear. The decibels of age-related loss shall be calculated according to tables adopted by the industrial commissioner consistent with tables of the national institute for occupational safety and health existing on July 1, 1998, and consistent with section 85B.9, subsection 3.

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

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

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

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

85B.11 PREVIOUS HEARING LOSS EXCLUDED.

An employer is liable, as provided in this chapter and subject to the provisions of chapter 85, for an occupational hearing loss to which the employment has contributed, but if previous hearing loss, whether occupational or not, is established by an audiometric examination or other competent evidence, whether or not the employee was exposed to excessive noise level exposure within six months preceding the test, the employer is not liable for the previous loss, nor is the employer liable for a loss for which compensation has previously been paid or awarded. The employer is liable only for the difference between the percent of occupational hearing loss determined as of the date of the audiometric examination used to determine occupational hearing loss and the percentage of loss established by the pre-employment audiometric examination. An amount paid to an employee for occupational hearing loss by any other employer shall be credited against compensation payable by an employer for the hearing loss. An employee shall not receive in the aggregate greater compensation from all employers for occupational hearing loss than that provided in this section for total occupational hearing loss. A payment shall not be made to an employee unless the employee has worked in excessive noise level exposure employment for a total period of at least ninety days for the employer from whom compensation is claimed.

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

85B.12 HEARING AID PROVIDED.

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

Approved May 5, 1998

CHAPTER 1161

SALES AND USE TAXES AND EXEMPTIONS ASSOCIATED WITH PROVIDING WATER

S.F. 2365

AN ACT relating to the imposition of the sales and use tax on infrastructure and electricity associated with providing water.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 357A.15, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A rural water district organized under chapter 504A shall receive a refund of sales or use taxes upon submitting an application to the department of revenue and finance for such refund of taxes imposed upon the gross receipts of all sales of building materials, supplies, or equipment sold to a contractor or used in the fulfillment of a written contract for the construction of facilities for such rural water district to the same extent as a rural water district organized under this chapter may obtain a refund under section 422.45, subsection 7.