

HOUSE BILL 827

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2000 Regular Session
(01r2138)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Delegate Love**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Workers' Compensation - Calculation of Hearing Loss**

3 FOR the purpose of requiring the calculation of hearing loss for workers'
4 compensation to be measured by certain criteria; requiring the measurements to
5 be conducted in a sound room that meets certain criteria; increasing the
6 threshold of hearing for certain frequencies; ~~requiring the Maryland Academy of~~
7 ~~Audiology to develop certain materials for certain businesses to promote their~~
8 ~~awareness of legislative changes; altering the levels of hearing loss for which~~
9 ~~certain employers must provide certain compensation;~~ and generally relating to
10 the calculation of hearing loss in workers' compensation.

11 BY repealing and reenacting, with amendments,
12 Article - Labor and Employment
13 Section 9-505 and 9-650
14 Annotated Code of Maryland
15 (1999 Replacement Volume)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Labor and Employment**

4 9-505.

5 (a) Except as otherwise provided, an employer shall provide compensation in
6 accordance with this title to a covered employee for loss of hearing by the covered
7 employee due to industrial noise in the frequencies of 500, 1,000, [and] 2,000, AND
8 3,000 HERTZ [cycles per second].

9 (b) An employer is not liable for compensation for occupational deafness under
10 subsection (a) of this section unless the covered employee claiming benefits worked
11 for the employer in employment that exposed the covered employee to harmful noise
12 for at least 90 days.

13 9-650.

14 (a) (1) Hearing loss shall be measured by [pure tone air conduction
15 audiometric instruments approved by nationally recognized authorities in the field of
16 hearing loss.] ~~AN AUDIOLOGIST UTILIZING~~ AUDIOMETRIC INSTRUMENTATION THAT
17 MEETS THE FOLLOWING CRITERIA:

18 (I) ANSI 3.6-1996;

19 (II) ANSI S3.43-1992; AND

20 (III) ANSI 3.39-1987 OR ANY ANSI STANDARD THAT SUPERSEDES THE
21 PREVIOUS CALIBRATION OR MEASUREMENT CRITERIA.

22 (2) MEASUREMENTS SHALL BE CONDUCTED IN A SOUND ROOM THAT
23 MEETS THE ANSI 3.1-1991 CRITERIA FOR MAXIMUM PERMISSIBLE AMBIENT NOISE
24 FOR AUDIOMETRIC TEST ROOMS.

25 (3) BEHAVIORAL PSYCHOACOUSTIC MEASUREMENTS ~~WILL~~ SHALL BE
26 OBTAINED WITH INSTRUMENTATION THAT UTILIZES INSERT EARPHONES, AS
27 REFERENCED IN ANSI 3.6-1996.

28 (4) ~~AN AUDIOLOGIST MAY OBTAIN~~ ELECTRODIAGNOSTIC
29 MEASUREMENTS SUCH AS AUDITORY EVOKED POTENTIALS, ACOUSTIC EMITTANCE
30 MEASUREMENTS, OR DISTORTION PRODUCT OTOACOUSTIC EMISSIONS MAY BE
31 OBTAINED TO DETERMINE THE NATURE AND EXTENT OF WORKPLACE HEARING
32 LOSS.

33 (5) ~~AN AUDIOLOGIST OR PHYSICIAN SHALL USE~~ AUDIOLOGIC RESULTS
34 SHALL BE USED IN CONJUNCTION WITH OTHER INFORMATION TO EVALUATE A
35 CLAIMANT'S COMPENSABLE HEARING LOSS.

1 (b) (1) The percentage of hearing loss for purposes of compensation for
2 occupational deafness shall be determined by calculating the average, in decibels, of
3 the thresholds of hearing for the frequencies of 500, 1,000, [and] 2,000, AND 3,000
4 HERTZ [cycles per second] in accordance with [paragraphs] PARAGRAPH (2) [and
5 (3)] of this subsection.

6 (2) The average of the thresholds in hearing shall be calculated by:

7 (i) adding together the lowest measured losses in each of the [3] 4
8 frequencies; and

9 (ii) dividing the total by [3] 4.

10 {(3) To allow for the average amount of hearing loss from nonoccupational
11 causes found in the population at any given age, there shall be deducted from the
12 total average decibel loss determined under paragraphs (1) and (2) of this subsection
13 one-half of a decibel for each year of the covered employee's age over 40 50 at the time
14 of the last exposure to industrial noise.}

15 (c) (1) If the average hearing loss in the [3] 4 frequencies determined under
16 subsection (b) of this section is [15] 25 decibels or less, the covered employee does not
17 have a compensable hearing loss.

18 (2) If the average hearing loss in the [3] 4 frequencies determined under
19 subsection (b) of this section is [82] 91.7 decibels or more, the covered employee has a
20 100% compensable hearing loss.

21 (3) For every decibel that the average hearing loss exceeds [15] 25
22 decibels, the covered employee shall be allowed 1.5% of the compensable hearing loss,
23 up to a maximum of 100% compensable hearing loss at [82] 91.7 decibels.

24 (d) The binaural percentage of hearing loss shall be determined by:

25 (1) multiplying the percentage of hearing loss in the better ear by 5;

26 (2) adding that product to the percentage of hearing loss in the poorer
27 ear; and

28 (3) dividing that sum by 6.

29 (e) (1) In determining the percentage of hearing loss under this section,
30 consideration may not be given to whether the use of [a hearing aid] AN
31 AMPLIFICATION DEVICE improves the ability of a covered employee to understand
32 speech OR ENHANCE BEHAVIORAL HEARING THRESHOLDS.

33 (2) (I) ~~IN DETERMINING A WORKERS' COMPENSATION COMPLAINT~~
34 CLAIM FOR NOISE-RELATED HEARING LOSS, AUDIOLOGIC DATA SHALL USE BOTH
35 BONE CONDUCTION AND AIR CONDUCTION RESULTS.

1 (II) IF A CONDUCTIVE LOSS IS PRESENT, THE BONE CONDUCTION
2 THRESHOLDS FOR EACH EAR, RATHER THAN THE AIR CONDUCTION LEVELS, SHALL
3 BE USED TO CALCULATE A CLAIMANT'S AVERAGE HEARING LOSS.

4 ~~SECTION 2. AND BE IT FURTHER ENACTED, That, in conjunction with~~
5 ~~interested business entities, the Maryland Academy of Audiology shall develop a plan~~
6 ~~to reach the small business community and encourage the initiation of hearing~~
7 ~~conservation programs which include early employment hearing assessments and~~
8 ~~other currently available preventive measures. The Maryland Academy of Audiology~~
9 ~~will participate in developing educational materials to be disseminated to these~~
10 ~~businesses in order to promote their awareness of the legislative changes.~~

11 SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
12 effect October 1, 2000.