
By: **Senator Hafer**
Introduced and read first time: January 24, 2000
Assigned to: Finance

A BILL ENTITLED

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; and generally relating to the
7 calculation of hearing loss in workers' compensation.

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

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

15 **Article - Labor and Employment**

16 9-650.

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

- 21 (I) ANSI 3.6-1996;
- 22 (II) ANSI S3.43-1992; AND
- 23 (III) ANSI 3.39-1987.

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

1 (3) AN AUDIOLOGIST MAY OBTAIN:

2 (I) BEHAVIORAL PSYCHOACOUSTIC MEASUREMENTS WITH
3 INSTRUMENTATION THAT USES INSERT EARPHONES, REFERENCED IN ANSI 3.6-1996.

4 (II) ELECTRODIAGNOSTIC MEASUREMENTS SUCH AS AUDITORY
5 EVOKED POTENTIALS OR DISTORTION PRODUCT OTOACOUSTIC EMISSIONS TO
6 DETERMINE THE NATURE AND EXTENT OF WORKPLACE HEARING LOSS.

7 (4) AN AUDIOLOGIST OR PHYSICIAN SHALL USE AUDIOLOGIC RESULTS
8 IN CONJUNCTION WITH OTHER INFORMATION TO EVALUATE A CLAIMANT'S
9 COMPENSABLE HEARING LOSS.

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

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

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

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

19 [(3) To allow for the average amount of hearing loss from nonoccupational
20 causes found in the population at any given age, there shall be deducted from the
21 total average decibel loss determined under paragraphs (1) and (2) of this subsection
22 one-half of a decibel for each year of the covered employee's age over 40 at the time of
23 the last exposure to industrial noise.]

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

27 (2) If the average hearing loss in the [3] 4 frequencies determined under
28 subsection (b) of this section is [82] 91.7 decibels or more, the covered employee has a
29 100% compensable hearing loss.

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

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

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

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

1 (3) dividing that sum by 6.

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

6 (2) (I) IN DETERMINING A WORKERS' COMPENSATION COMPLAINT
7 FOR NOISE RELATED HEARING LOSS, AUDIOLOGIC DATA MUST UTILIZE BOTH BONE
8 CONDUCTION AND AIR CONDUCTION RESULTS.

9 (II) IF A CONDUCTIVE LOSS IS PRESENT, THE BONE CONDUCTION
10 THRESHOLDS FOR EACH EAR, RATHER THAN THE AIR CONDUCTION LEVELS, SHOULD
11 BE UTILIZED TO CALCULATE A CLAIMANT'S AVERAGE HEARING LOSS.

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