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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 21, 2000

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; 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;

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

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

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

7 ~~(3) AN AUDIOLOGIST MAY OBTAIN:~~

8 ~~(4) BEHAVIORAL PSYCHOACOUSTIC MEASUREMENTS WITH~~
9 ~~INSTRUMENTATION THAT USES INSERT EARPHONES, REFERENCED IN ANSI 3.6-1996.~~

10 ~~(II) ELECTRODIAGNOSTIC MEASUREMENTS SUCH AS AUDITORY~~
11 ~~EVOKED POTENTIALS OR DISTORTION PRODUCT OTOACOUSTIC EMISSIONS TO~~
12 ~~DETERMINE THE NATURE AND EXTENT OF WORKPLACE HEARING LOSS.~~

13 (3) BEHAVIORAL PSYCHOACOUSTIC MEASUREMENTS SHALL BE
14 OBTAINED WITH INSTRUMENTATION THAT UTILIZES INSERT EARPHONES, AS
15 REFERENCED IN ANSI 3.6-1996.

16 (4) AN AUDIOLOGIST MAY OBTAIN ELECTRODIAGNOSTIC
17 MEASUREMENTS SUCH AS AUDITORY EVOKED POTENTIALS, ACOUSTIC EMITTANCE
18 MEASUREMENTS, OR DISTORTION PRODUCT OTOACOUSTIC EMISSIONS TO
19 DETERMINE THE NATURE AND EXTENT OF WORKPLACE HEARING LOSS.

20 ~~(4) (5) IN ACCORDANCE WITH THEIR SCOPES OF PRACTICES AS~~
21 ~~DEFINED IN THE HEALTH OCCUPATIONS ARTICLE, AN AUDIOLOGIST OR PHYSICIAN~~
22 ~~SHALL USE AUDIOLOGIC RESULTS IN CONJUNCTION WITH OTHER INFORMATION~~
23 ~~MEDICAL DATA FROM THE PHYSICIAN'S HISTORY, PHYSICAL, AND LABORATORY~~
24 ~~TESTS TO EVALUATE A CLAIMANT'S COMPENSABLE HEARING LOSS.~~

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

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

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

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

34 ~~(3)~~ (3) To allow for the average amount of hearing loss from nonoccupational
35 causes found in the population at any given age, there shall be deducted from the
36 total average decibel loss determined under paragraphs (1) and (2) of this subsection

1 one-half of a decibel for each year of the covered employee's age over ~~40~~ 50 at the time
2 of the last exposure to industrial noise.}

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

6 (2) If the average hearing loss in the [3] 4 frequencies determined under
7 subsection (b) of this section is [82] 91.7 decibels or more, the covered employee has a
8 100% compensable hearing loss.

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

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

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

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

16 (3) dividing that sum by 6.

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

21 (2) (I) IN DETERMINING A WORKERS' COMPENSATION COMPLAINT
22 ~~FOR NOISE-RELATED~~ NOISE-RELATED HEARING LOSS, AUDIOLOGIC DATA ~~MUST~~
23 ~~UTILIZE~~ SHALL USE BOTH BONE CONDUCTION AND AIR CONDUCTION RESULTS.

24 (II) IF A CONDUCTIVE LOSS IS PRESENT, THE BONE CONDUCTION
25 THRESHOLDS FOR EACH EAR, RATHER THAN THE AIR CONDUCTION LEVELS, ~~SHOULD~~
26 SHALL BE UTILIZED USED TO CALCULATE A CLAIMANT'S AVERAGE HEARING LOSS.

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