

HOUSE BILL 669

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4lr2197
CF SB 843

By: **Delegate Pruski**

Introduced and read first time: January 25, 2024

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 2, 2024

CHAPTER _____

1 AN ACT concerning

2 **Workers' Compensation – Benefits – Hearing Loss**

3 FOR the purpose of altering the frequencies in which industrial noise must be for an
4 employer to be required to provide workers' compensation to a covered employee for
5 hearing loss; altering the method used to determine the percentage of hearing loss
6 deafness for purposes of workers' compensation; altering the method used to
7 determine the deduction required to be made to allow for the average amount of
8 hearing loss from nonoccupational causes in the population for purposes of
9 calculating workers' compensation benefits for occupational deafness; ~~requiring~~
10 ~~tinnitus to be considered part of a covered employee's hearing loss~~; and generally
11 relating to workers' compensation benefits.

12 BY repealing and reenacting, with amendments,
13 Article – Labor and Employment
14 Section ~~9–505~~ and 9–650
15 Annotated Code of Maryland
16 (2016 Replacement Volume and 2023 Supplement)

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

19 **Article – Labor and Employment**

20 9–505.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (3) To allow for the average amount of hearing loss from nonoccupational
 2 causes found in the population at any given age, there shall be deducted from the total
 3 average decibel loss determined under paragraphs (1) and (2) of this subsection one-half of
 4 a decibel for each year of the covered employee's age over 50 [at the time of the last exposure
 5 to industrial noise] **OR FOR EACH YEAR SUBSEQUENT TO THE DATE OF THE COVERED**
 6 **EMPLOYEE'S LAST INJURIOUS EXPOSURE TO INDUSTRIAL NOISE, WHICHEVER IS**
 7 **LESS.**

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

11 (2) If the average hearing loss in the [4] 5 frequencies determined under
 12 subsection (b) of this section is 91.7 decibels or more, the covered employee has a 100%
 13 compensable hearing loss.

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

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

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

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

20 and

21 (3) dividing that sum by 6.

22 ~~(E) (1) TINNITUS SHALL BE CONSIDERED PART OF A COVERED~~
 23 ~~EMPLOYEE'S HEARING LOSS UNDER THIS SECTION.~~

24 ~~(2) WHEN DETERMINING THE PERCENTAGE OF HEARING LOSS~~
 25 ~~ATTRIBUTABLE TO TINNITUS, THE COMMISSION SHALL:~~

26 ~~(I) CONSIDER THE PROVISIONS OF § 9-721(A) OF THIS TITLE~~
 27 ~~AND THE APPLICABLE PROVISIONS OF § 9-721(B) OF THIS TITLE; AND~~

28 ~~(H) ADD THE PERCENTAGE OF HEARING LOSS ATTRIBUTABLE~~
 29 ~~TO TINNITUS TO THE HEARING LOSS PERCENTAGE DETERMINED UNDER~~
 30 ~~SUBSECTION (D) OF THIS SECTION TO DETERMINE THE TOTAL PERCENTAGE OF THE~~
 31 ~~COVERED EMPLOYEE'S HEARING LOSS.~~

32 ~~(3) A COVERED EMPLOYEE MAY HAVE A COMPENSABLE CLAIM FOR~~
 33 ~~HEARING LOSS ATTRIBUTABLE TO TINNITUS UNDER THIS SUBSECTION IN THE~~

1 ~~ABSENCE OF A COMPENSABLE CLAIM FOR HEARING LOSS UNDER SUBSECTIONS (B)~~
2 ~~THROUGH (D) OF THIS SECTION.~~

3 ~~(e)~~ (f) (1) In determining the percentage of hearing loss under this section,
4 consideration may not be given to whether the use of an amplification device improves the
5 ability of a covered employee to understand speech or enhance behavioral hearing
6 thresholds.

7 (2) (i) In determining a workers' compensation claim for noise-related
8 hearing loss, audiologic data shall use both bone conduction and air conduction results.

9 (ii) If a conductive loss is present, the bone conduction thresholds for
10 each ear, rather than the air conduction levels, shall be used to calculate a claimant's
11 average hearing loss.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.