



Senate Finance Committee  
March 5, 2024

## Testimony of Chesapeake Employers' Insurance Company and Injured Workers' Insurance Fund in Opposition to Senate Bill 843

Senate Bill 843 proposes to amend how hearing loss is calculated under Labor and Employment, § 9-650 as well as adding tinnitus to the hearing loss percentage granted by the Workers' Compensation Commission.

The suggested hearing loss calculation amendment is twofold, adding a decibel to the hearing loss formula (4000 hertz) and amending the age deduction that is currently in the statute from a half a decibel for each year that the employee is over 50 to the lesser of a half a decibel for each year that the employee is over 50 or for each year the employee was last exposed to industrial noise.

The amendments to Labor and Employment, § 9-650 eliminate the carefully crafted statutory language in which there was consideration for both industrial hearing loss and hearing loss which is from nonoccupational causes found in the population at any given age (see Labor and Employment, §9-650 (b)(3)).

In terms of the hearing loss calculation under Labor and Employment, § 9-650, Chesapeake Employers' Insurance Company and the Injured Workers' Insurance Fund found 142 claims related to Labor and Employment, § 9-650 from 2018 – 2023. The new calculations provided in the bill resulted in an overall increase in payment on the claims where prior audiology tests were available in the file with all appropriate details to calculate using the new hearing loss calculation. The average increase per claim was an additional 6.86% in permanent partial disability, averaging a \$12,620 increase per permanency award for the claims evaluated. (The increase varied per claim and ranged from 1.56% to 13.56%.)

The addition of tinnitus in the hearing loss statute, often already awarded in hearing loss claims, is an average of 5% permanent partial disability, or about \$11,675 per claim, using 2023 rates and assuming public safety status. Tinnitus is a subjective finding, without any objective test being available, therefore, by making it available as simply an addition to hearing loss, it will likely open the door to an additional fiscal impact. Finally, the addition of tinnitus in the hearing loss section creates a “stand alone” claim for tinnitus, which we foresee as creating additional litigation with proper employer, statute of limitations, and average weekly wage issues needing to be addressed.

Given that the proposed amendments to Labor and Employment, § 9-650 creates a fiscal impact to the State of Maryland, its municipalities, and thousands of small businesses; essentially removes

any deduction for age related hearing loss; and has the potential to increase litigation over tinnitus, Chesapeake Employers' Insurance Company and the Injured Workers' Insurance Fund respectfully oppose Senate Bill 843.

*Contact: Carmine G. D'Alessandro, Esq.  
Chief Legal Officer  
Chesapeake Employers Insurance Company/IWIF  
(410)-494-2305  
[cdalessandro@ceiwc.com](mailto:cdalessandro@ceiwc.com)*

*Lyndsey Beidle Meninger, Esq.  
Vice President of Legal Services  
Chesapeake Employers Insurance Company/IWIF  
(410)-494-2057  
[lmeninger@ceiwc.com](mailto:lmeninger@ceiwc.com)*