

MAINE STATE LEGISLATURE

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L.D. 1406

(Filing No. H- 550)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1008, L.D. 1406, Bill, "An Act Relating to Compensation for Hearing Losses Under the Workers' Compensation Act"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 39 MRSA §193, sub-§2, as enacted by PL 1967, c. 374, §6, is amended to read:

2. Limitations on sound frequencies. Losses of hearing due to industrial noise for compensation purposes shall be confined to the frequencies of 500, 1,000 and, 2,000 and 3,000 cycles per second. Loss of hearing ability for frequency tones above 2,000 3,000 cycles per second are is not to be considered as constituting disability for hearing.

Sec. 2. 39 MRSA §193, sub-§3, as amended by PL 1983, c. 496, §1, is further amended to read:

3. Determination of hearing loss. The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness, shall be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000 and, 2,000 and 3,000 cycles per second. Hearing levels shall be measured by means of pure-tone air-conduction audiometric instruments calibrated in accordance with American National Standards Institute Standards S3.6-1969-R 1973 and S3.13-1972, (ANSI) or American Standards Association Standard Z24.5, 1951 (ASA) and in an area with ambient noise level within the limits specified in ~~American National Standards Institute Criteria for Background Noise in Audiometric Room Standard S3.1, 1960-R-1977~~ under the applicable regulations of the federal Occupational Safety and Health Administration. If the losses of hearing average 25 decibels or less (ANSI) or 15 decibels or less

1 (ASA) in the 3 4 frequencies, such losses of hearing shall not
2 then constitute any compensable hearing disability. If the losses
3 of hearing average 92 decibels or more (ANSI) or 82 decibels or
4 more (ASA) in the 3 4 frequencies, then the same shall constitute
5 and be total or 100% compensable hearing loss.

7 Sec. 3. 39 MRSA §193, sub-§4, as amended by PL 1971, c. 318,
8 §3, is further amended to read:

9
10 4. Compensation payable. There shall be payable as
11 permanent partial disability for total occupational deafness of
12 one ear 50 weeks of compensation at 2/3 of the state average
13 weekly wage, as computed by the Bureau of Employment Security,
14 for total occupational deafness of both ears, 200 weeks of
15 compensation at 2/3 of the state average weekly wage, as computed
16 by the Bureau of Employment Security, and for partial
17 occupational deafness in one or both ears, compensation shall be
18 paid for such periods as are proportionate to the relation which
19 the hearing loss bears to the amount provided in this subsection
20 for total loss of hearing in one or both ears, as the case may
21 be. The amount of hearing loss shall be reduced by the average
22 amount of hearing loss from nonoccupational causes found in the
23 population at any given age according to the provisions set forth.

25 Sec. 4. 39 MRSA §193, sub-§5, as amended by PL 1983, c. 496,
26 §2, is further amended to read:

27
28 5. Measurement of hearing impairment. In measuring hearing
29 impairment, the lowest measured losses in each of the 3 4
30 frequencies shall be added together and divided by 3 4 to
31 determine the average decibel loss. For every decibel of loss
32 exceeding 15 decibels (ASA) or 25 decibels (ANSI), an allowance
33 of 1 1/2% shall be made up to the maximum of 100%, which is
34 reached at 82 decibels (ASA) or 92 decibels (ANSI).

37 FISCAL NOTE

38 This bill may result in additional workers' compensation
39 payments by the State as an employer. Neither the amount nor the
40 timing of the additional payments can be estimated.

43 STATEMENT OF FACT

44 This amendment completely replaces the bill and makes the
45 following changes to current law.

46
47 1. The amendment adds the level of 3,000 cycles per second
48 to the current levels at which the loss of hearing due to
49 occupational exposure to noise is measured.
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1 2. The amendment replaces the use of the audiometric
2 testing background noise standard of the American National
3 Standards Institute with the standard adopted under the
4 regulations of the federal Occupational Safety and Health
5 Administration.

7 3. The amendment requires compensation for hearing loss due
8 to occupational noise exposure to be calculated according to the
9 state average weekly wage instead of the individual's average
10 wages. This change is consistent with recent amendments to the
11 method of calculating permanent impairment benefits under the
12 Workers' Compensation Act and ensures that all employees receive
13 the same compensation for equal hearing losses, regardless of
their individual wage levels.

Reported by the Committee on Labor
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