

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1406

H.P. 1008

House of Representatives, May 1, 1989

Reference to the Committee on Labor suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative PRIEST of Brunswick.

Cosponsored by Representative McHENRY of Madawaska, Representative CONLEY of Portland and Representative RAND of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

**An Act Relating to Compensation for Hearing Losses Under the
Workers' Compensation Act.**



1 Be it enacted by the People of the State of Maine as follows:

3 Sec. 1. 39 MRSA §56-C is enacted to read:

5 §56-C. Occupational loss of hearing

7 In case of loss of hearing resulting in whole or in part
9 from occupational exposure to noise, the following provisions
11 apply in determining eligibility for compensation and the period
13 during which compensation is payable.

15 1. Definitions. As used in this chapter, "occupational
17 hearing loss" means a sensorineural loss of hearing in one or
19 both ears due to prolonged exposure to injurious noise in
21 employment. "Injurious noise" means sound capable of producing
23 occupational hearing loss.

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

37 3. Determination of hearing loss. The percent of hearing
39 loss, for purposes of the determination of compensation claims
41 for occupational deafness, shall be calculated as the average, in
43 decibels, of the thresholds of hearing for the frequencies of
45 500, 1,000, 2,000 and 3,000 cycles per second. Hearing levels
47 shall be measured by means of pure tone air conduction
49 audiometric instruments calibrated in accordance with the
51 American National Standards Institute standards, S3.6-1969-R,
1973 and S3.13-1972, American National Standards Institute, or
American Standards Association Standard Z24.5, 1951, American
Standards Association, and in an area with ambient noise level
within the limits specified in American National Standards
Institute Criteria for Background Noise and Audiometric Room
Standard S3.1, 1960-R 1977. If the losses of hearing average 20
decibels or less, American National Standards Institute, or 12
decibels or less, American Standards Association, in the 4
frequencies, such losses of hearing shall not then constitute any
compensable hearing disability. If the losses of hearing average
92 decibels or more, American National Standards Institute, or 82
decibels or more, American Standards Association, in the 4
frequencies, then the same shall constitute and be total or 100%
compensable hearing loss.

4. Compensation payable. There shall be payable as
permanent partial disability for total occupational deafness, 50
weeks of compensation; for total occupational deafness of both
ears, 200 weeks of compensation; and for partial occupational
deafness in one or both ears, compensation shall be paid for such

1 periods as proportionate to the relation which the hearing loss
2 bears to the amount provided in this subsection for total loss of
3 hearing in one or both ears, as the case may be. The amount of
4 hearing loss shall be reduced by the average amount of hearing
5 loss from nonoccupational causes found in the population at any
6 given age according to the provisions set forth.

7
8 5. Measurement of hearing impairment. In measuring hearing
9 impairment, the lowest measured losses in each of the 4
10 frequencies shall be added together and divided by 4 to determine
11 the average decibel loss. For every decibel of loss exceeding 12
12 decibels, American Standards Association, or 20 decibels,
13 American National Standards Institute, an allowance of 1.5% shall
14 be made up to the maximum of 100% which has reached 82 decibels,
15 American National Standards Institute.

16
17 6. Binaural hearing impairment. In determining the
18 binaural, both ears, percentage of loss, the percentage of
19 impairment in the better ear shall be multiplied by 5. The
20 resulting figure shall be added to the percentage of impairment
21 in the poor ear and the sum of the 2 divided by 6. The final
22 percentage shall represent the binaural hearing impairment.

23
24 7. Presbycusis. Before determining the percentage of
25 hearing impairment, in order to allow for the average amount of
26 hearing loss from nonoccupational causes found in the population
27 at any given age, there shall be deducted from the total average
28 decibel loss a figure to be determined by the Workers'
29 Compensation Commission on an annual basis, based on statistics
30 available to the parties from audiological studies, by age, of
31 the general population.

32
33 8. Filing of claims. The requirements of this section
34 regarding notice and the period within which to file a claim for
35 occupational hearing loss shall run from the date the employee
36 has been advised by a competent medical or audiological authority
37 that the employee's hearing loss is occupational in nature. The
38 date will be taken as the "date of injury" for procedural
39 purposes.

40
41 9. Employer's limit of liability. An employer shall become
42 liable for the entire occupational deafness to which the
43 employee's employment has contributed, except that the employer
44 shall not be liable for any loss for which compensation has
45 previously been paid or awarded. No employer may be liable for
46 the payment of compensation for occupational deafness, unless the
47 employee claiming benefits has worked for the employer and
48 employment exposes the employee to harmful noise for a total
49 period of at least 90 days. No consideration may be given to the
50 questions of whether or not the ability of an employee to
51 understand speech is improved by the use of a hearing aid.

