

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 491

S.P. 182

In Senate, February 8, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ESTY of Cumberland

Cosponsored by Representative CLARK of Millinocket, Representative LEMKE of Westbrook and Senator CONLEY of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

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



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

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

6 2. **Limitations on sound frequencies.** Losses of hearing due
8 to industrial noise for compensation purposes ~~shall--be~~ are
10 confined to the frequencies of 500, 1,000 and, 2,000 and 3,000
12 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.

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

16 3. **Determination of hearing loss.** The percent of hearing
18 loss, for purposes of the determination of compensation claims
for occupational deafness, ~~shall-be~~ is calculated as the average,
20 in decibels, of the thresholds of hearing for the frequencies of
500, 1,000 and, 2,000 and 3,000 cycles per second. Hearing
22 levels ~~shall-be~~ are measured by means of ~~pure-tone-air-conduction~~
pure tone air conduction audiometric instruments calibrated in
24 accordance with American National Standards Institute Standards
S3.6-1969-R 1973 and S3.13-1972, (ANSI) or American Standards
26 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~~
28 ~~Audiometric--Room--Standard--S3.1,--1960--R--1977~~ under the applicable
regulations of the federal Occupational Safety and Health
30 Administration. If the losses of hearing average 25 decibels or
32 less (ANSI) or 15 decibels or less (ASA) in the ~~3~~ 4 frequencies,
~~such~~ the losses of hearing ~~shall~~ do not then constitute any
34 compensable hearing disability. If the losses of hearing average
92 decibels or more (ANSI) or 82 decibels or more (ASA) in the ~~3~~
4 frequencies, then the same ~~shall-constitute-and-be~~ constitutes
36 total or 100% compensable hearing loss.

38 Sec. 3. 39 MRSA §193, sub-§4, as amended by PL 1971, c. 318,
40 §3, is further amended to read:

42 4. **Compensation payable.** ~~These~~ The employer shall be
44 ~~payable~~ pay as permanent partial disability for total
occupational deafness of one ear 50 weeks of compensation at 2/3
46 of the state average weekly wage, as computed by the Bureau of
Employment Security, for total occupational deafness of both
48 ears, 200 weeks of compensation,--and--for at 2/3 of the state
average weekly wage, as computed by the Bureau of Employment
Security. For partial occupational deafness in one or both ears,
50 the employer shall pay compensation shall--be--paid for such
52 periods as that are proportionate to the relation ~~which~~ that
the hearing loss bears to the amount provided in this subsection for
total loss of hearing in one or both ears, as the case may be.

2 The amount of hearing loss shall-be is reduced by the average
amount of hearing loss from nonoccupational causes found in the
4 population at any given age according to the provisions set forth.

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

8 **5. Measurement of hearing impairment.** In measuring hearing
impairment, the lowest measured losses in each of the 3 4
10 frequencies shall-be are added together and divided by 3 4 to
determine the average decibel loss. For every decibel of loss
12 exceeding 15 decibels (ASA) or 25 decibels (ANSI), an allowance
of 1 1/2% shall-be is made up to the maximum of 100%, which is
14 reached at 82 decibels (ASA) or 92 decibels (ANSI).

16
18 **STATEMENT OF FACT**

20 This bill makes the following changes to the workers'
compensation law.

22 1. The bill adds the level of 3,000 cycles per second to
24 the current levels at which the loss of hearing due to
occupational exposure to noise is measured.

26 2. The bill replaces the use of the audiometric testing
28 background noise standard of the American National Standards
Institute with the standard adopted under the regulations of the
30 federal Occupational Safety and Health Administration.

32 3. The bill requires compensation for hearing loss due to
occupational noise exposure to be calculated according to the
34 state average weekly wage instead of the individual's average
wages. This change is consistent with recent amendments to the
36 method of calculating permanent impairment benefits under the
Workers' Compensation Act and ensures that all employees receive
38 the same compensation for equal hearing losses, regardless of
their individual wage levels.
40