

# HOUSE BILL REPORT

## HB 2806

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### As Reported By House Committee On:

Commerce & Labor

**Title:** An act relating to industrial insurance deadlines for hearing loss claims.

**Brief Description:** Prescribing industrial insurance deadlines for hearing loss claims.

**Sponsors:** Representatives McMorris, Dyer, Backlund, Boldt and Clements.

### **Brief History:**

#### **Committee Activity:**

Commerce & Labor: 1/28/98, 2/5/98 [DPS].

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Boldt; Clements and Lisk.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Cole and Hatfield.

**Staff:** Chris Cordes (786-7103).

**Background:** For an occupational disease claim to be valid under the industrial insurance law, the claim must be filed within two years after the worker has written notice from a physician that the disease exists and that a claim may be filed. The physician's notice must also state that the worker has two years from the date of the notice to file a claim.

Under Department of Labor and Industries' policy, an occupational hearing loss claim must be filed within two years from the date that: (1) the worker is given the physician's notice and (2) the disease reached a stage for which it is compensable in some degree. Whether a hearing loss has reached a compensable stage is determined using the American Medical Association's impairment rating guide.

**Summary of Substitute Bill:** An exception from the "physician's notice" requirements for determining the time period for filing an industrial insurance occupational disease

claim is created for hearing loss claims. These claims must be filed within two years of the worker's last injurious work-related exposure to noise.

If a worker has a compensable hearing loss for which a claim has not been filed on the bill's effective date, the worker must file the claim within two years of the bill's effective date.

If a compensable hearing loss claim is not filed within the applicable two-year time period, the claim is barred for all benefits except medical aid benefits.

**Substitute Bill Compared to Original Bill:** The substitute bill changes the time period for filing a hearing loss claim from one to two years from the last injurious work-related exposure to noise (and from one to two years after the effective date of the bill for compensable claims that had not been filed on the bill's effective date). It adds that if hearing loss claims are not timely filed, all benefits are barred except medical aid benefits.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** There has been a dramatic increase in hearing loss claims in the last few years and an apparent dramatic increase in advertising regarding hearing loss issues. There is concern that the workers' compensation system is being used to cover nonoccupational hearing loss, which is not fair to employers. It is difficult to identify occupational hearing loss unless testing occurs shortly after exposure. Hearing loss stabilizes after about 10 days following exposure and damage does not get worse over time. Tests conducted years later cannot identify the cause of the hearing loss. For some companies, the average age of the claimants in recently filed claims is 75 years. Other states recognize these problems and have tighter time lines for filing claims.

**Testimony Against:** It is not uncommon for people with hearing loss to compensate for the loss and not realize that exposure to noise at work caused a hearing loss. This issue is similar to problems with asbestos exposure where the disease is not apparent for many years. Many people with hearing loss do not know that an industrial insurance claim can be filed for the loss. The bill's time lines for filing claims will cut off many legitimate claims. Other states require filing the claim within a specified period after the harm has manifested, not after exposure to noise. The increase in claims may be occurring because more people are paying attention to hearing loss issues. Employers need to do a better job of protecting workers from noise at work. Ear protection was not generally used until the 1980s.

**Testified:** (In support) Margie Weinberg, Washington Self-Insurers Association; Linda George, Darigold; Bill Wallace, National Frozen Foods Corporation; Dortha Walters, Kaiser Aluminum; G.G. Randolph, Deborah Lazaldi, Washington Defense Trial Lawyers; and Clif Finch, Association of Washington Business. (Opposed) Bob Hazen, Kristen Weber, and Shahn Divorne, Ear-Tec; Bob Dilger, Washington State Building and Construction Trades Council; Wayne Lieb, Washington State Trial Lawyers Association; Robby Stern, Washington State Labor Council; Harold Abbe, Association of Western Pulp and Paper Workers; Herb Lobdell, Laborers International Union; Gary Walters, International Association of Machinists and Aerospace Workers; Jim Woodward, United Steelworkers of America; and Donald Kropp.