
HOUSE BILL 2283

State of Washington 58th Legislature 2003 1st Special
Session

By Representative Conway

Read first time . Referred to .

1 AN ACT Relating to hearing loss due to occupational noise exposure,
2 but only with respect to requiring claim filing within two years after
3 retirement, requiring consideration of emerging hearing device
4 technologies, and establishing permanent partial disability
5 compensation at seventy-five percent of the monetary value of such
6 disability; amending RCW 51.28.055, 51.36.020, and 51.32.080; and
7 creating a new section.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 **Sec. 1.** RCW 51.28.055 and 1984 c 159 s 2 are each amended to read
10 as follows:

11 (1) Except as provided in subsection (2) of this section, claims
12 for occupational disease or infection to be valid and compensable must
13 be filed within two years following the date the worker had written
14 notice from a physician: ~~((+1))~~ (a) Of the existence of his or her
15 occupational disease, and ~~((+2))~~ (b) that a claim for disability
16 benefits may be filed. The notice shall also contain a statement that
17 the worker has two years from the date of the notice to file a claim.
18 The physician shall file the notice with the department. The
19 department shall send a copy to the worker and to the self-insurer if

1 the worker's employer is self-insured. However, a claim is valid if it
2 is filed within two years from the date of death of the worker
3 suffering from an occupational disease.

4 (2)(a) To be valid and compensable, claims for hearing loss due to
5 occupational noise exposure must be filed within the earlier of the
6 following:

7 (i) The time limits specified in subsection (1) of this section; or
8 (ii) The later of two years after the date that the worker retires
9 or one year after the effective date of this section. A worker is
10 deemed retired when he or she no longer receives income, salary, or
11 wages from any employment that is regular, continuous, and gainful.

12 (b) A claim for hearing loss due to occupational noise exposure
13 that is not timely filed under (a) of this subsection may be allowed
14 only for medical aid benefits under chapter 51.36 RCW.

15 (3) For purposes of this section, hearing loss is due to
16 occupational noise exposure when the hearing loss results from
17 prolonged exposure to injurious noise in employment. A part of such
18 exposure may not be construed to be a sudden and tangible traumatic
19 happening for purposes of RCW 51.28.050.

20 (4) The department may adopt rules to implement this section.

21 **Sec. 2.** RCW 51.36.020 and 1999 c 395 s 1 are each amended to read
22 as follows:

23 (1) When the injury to any worker is so serious as to require his
24 or her being taken from the place of injury to a place of treatment,
25 his or her employer shall, at the expense of the medical aid fund, or
26 self-insurer, as the case may be, furnish transportation to the nearest
27 place of proper treatment.

28 (2) Every worker whose injury results in the loss of one or more
29 limbs or eyes shall be provided with proper artificial substitutes and
30 every worker, who suffers an injury to an eye producing an error of
31 refraction, shall be once provided proper and properly equipped lenses
32 to correct such error of refraction and his or her disability rating
33 shall be based upon the loss of sight before correction.

34 (3) Every worker whose accident results in damage to or destruction
35 of an artificial limb, eye, or tooth, shall have same repaired or
36 replaced.

1 (4) Every worker whose hearing aid or eyeglasses or lenses are
2 damaged, destroyed, or lost as a result of an industrial accident shall
3 have the same restored or replaced. The department or self-insurer
4 shall be liable only for the cost of restoring damaged hearing aids or
5 eyeglasses to their condition at the time of the accident.

6 (5)(a) All mechanical appliances necessary in the treatment of an
7 injured worker, such as braces, belts, casts, and crutches, shall be
8 provided and all mechanical appliances required as permanent equipment
9 after treatment has been completed shall continue to be provided or
10 replaced without regard to the date of injury or date treatment was
11 completed, notwithstanding any other provision of law.

12 (b) The department shall assess the benefits to workers and the
13 costs of emerging technologies in determining which hearing devices are
14 provided to workers under this title. Such new technology shall be
15 made available to workers requiring new or replacement devices as
16 deemed appropriate based on the department's assessment.

17 (6) A worker, whose injury is of such short duration as to bring
18 him or her within the time limit provisions of RCW 51.32.090, shall
19 nevertheless receive during the omitted period medical, surgical, and
20 hospital care and service and transportation under the provisions of
21 this chapter.

22 (7) Whenever in the sole discretion of the supervisor it is
23 reasonable and necessary to provide residence modifications necessary
24 to meet the needs and requirements of the worker who has sustained
25 catastrophic injury, the department or self-insurer may be ordered to
26 pay an amount not to exceed the state's average annual wage for one
27 year as determined under RCW 50.04.355, as now existing or hereafter
28 amended, toward the cost of such modifications or construction. Such
29 payment shall only be made for the construction or modification of a
30 residence in which the injured worker resides. Only one residence of
31 any worker may be modified or constructed under this subsection,
32 although the supervisor may order more than one payment for any one
33 home, up to the maximum amount permitted by this section.

34 (8)(a) Whenever in the sole discretion of the supervisor it is
35 reasonable and necessary to modify a motor vehicle owned by a worker
36 who has become an amputee or becomes paralyzed because of an industrial
37 injury, the supervisor may order up to fifty percent of the state's

1 average annual wage for one year, as determined under RCW 50.04.355, to
2 be paid by the department or self-insurer toward the costs thereof.

3 (b) In the sole discretion of the supervisor after his or her
4 review, the amount paid under this subsection may be increased by no
5 more than four thousand dollars by written order of the supervisor.

6 (9) The benefits provided by subsections (7) and (8) of this
7 section are available to any otherwise eligible worker regardless of
8 the date of industrial injury.

9 **Sec. 3.** RCW 51.32.080 and 1993 c 520 s 1 are each amended to read
10 as follows:

11 (1)(a) Until July 1, 1993, for the permanent partial disabilities
12 here specifically described, the injured worker shall receive
13 compensation as follows:

14 LOSS BY AMPUTATION

15	Of leg above the knee joint with short	
16	thigh stump (3" or less below the	
17	tuberosity of ischium)	\$54,000.00
18	Of leg at or above knee joint with	
19	functional stump	48,600.00
20	Of leg below knee joint	43,200.00
21	Of leg at ankle (Syme)	37,800.00
22	Of foot at mid-metatarsals	18,900.00
23	Of great toe with resection of metatarsal	
24	bone	11,340.00
25	Of great toe at metatarsophalangeal	
26	joint	6,804.00
27	Of great toe at interphalangeal joint	3,600.00
28	Of lesser toe (2nd to 5th) with resection of	
29	metatarsal bone	4,140.00
30	Of lesser toe at metatarsophalangeal	
31	joint	2,016.00
32	Of lesser toe at proximal interphalangeal	
33	joint	1,494.00
34	Of lesser toe at distal interphalangeal	
35	joint	378.00

1	Of arm at or above the deltoid insertion or	
2	by disarticulation at the shoulder	54,000.00
3	Of arm at any point from below the deltoid	
4	insertion to below the elbow joint at	
5	the insertion of the biceps tendon	51,300.00
6	Of arm at any point from below the elbow	
7	joint distal to the insertion of the	
8	biceps tendon to and including	
9	mid-metacarpal amputation of the	
10	hand	48,600.00
11	Of all fingers except the thumb at	
12	metacarpophalangeal joints	29,160.00
13	Of thumb at metacarpophalangeal joint or	
14	with resection of carpometacarpal	
15	bone	19,440.00
16	Of thumb at interphalangeal joint	9,720.00
17	Of index finger at metacarpophalangeal	
18	joint or with resection of metacarpal	
19	bone	12,150.00
20	Of index finger at proximal	
21	interphalangeal joint	9,720.00
22	Of index finger at distal interphalangeal	
23	joint	5,346.00
24	Of middle finger at metacarpophalangeal	
25	joint or with resection of metacarpal	
26	bone	9,720.00
27	Of middle finger at proximal	
28	interphalangeal joint	7,776.00
29	Of middle finger at distal interphalangeal	
30	joint	4,374.00
31	Of ring finger at metacarpophalangeal	
32	joint or with resection of metacarpal	
33	bone	4,860.00
34	Of ring finger at proximal interphalangeal	
35	joint	3,888.00
36	Of ring finger at distal interphalangeal	
37	joint	2,430.00

1	Of little finger at metacarpophalangeal	
2	joint or with resection of metacarpal	
3	bone	2,430.00
4	Of little finger at proximal interphalangeal	
5	joint	1,944.00
6	Of little finger at distal interphalangeal	
7	joint	972.00

8 MISCELLANEOUS

9	Loss of one eye by enucleation	21,600.00
10	Loss of central visual acuity in one eye ...	18,000.00
11	Complete loss of hearing in both ears	43,200.00
12	Complete loss of hearing in one ear	7,200.00

13 (b) Beginning on July 1, 1993, compensation under this subsection
 14 shall be computed as follows:

15 (i) Beginning on July 1, 1993, the compensation amounts for the
 16 specified disabilities listed in (a) of this subsection shall be
 17 increased by thirty-two percent; and

18 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the
 19 compensation amounts for the specified disabilities listed in (a) of
 20 this subsection, as adjusted under (b)(i) of this subsection, shall be
 21 readjusted to reflect the percentage change in the consumer price
 22 index, calculated as follows: The index for the calendar year
 23 preceding the year in which the July calculation is made, to be known
 24 as "calendar year A," is divided by the index for the calendar year
 25 preceding calendar year A, and the resulting ratio is multiplied by the
 26 compensation amount in effect on June 30 immediately preceding the July
 27 1st on which the respective calculation is made. For the purposes of
 28 this subsection, "index" means the same as the definition in RCW
 29 2.12.037(1).

30 (2) Compensation for amputation of a member or part thereof at a
 31 site other than those specified in subsection (1) of this section, and
 32 for loss of central visual acuity and loss of hearing other than
 33 complete, shall be in proportion to that which such other amputation or
 34 partial loss of visual acuity or hearing most closely resembles and
 35 approximates. Compensation shall be calculated based on the adjusted
 36 schedule of compensation in effect for the respective time period as
 37 prescribed in subsection (1) of this section. However, beginning with

1 claims filed on or after the effective date of this section,
2 compensation for permanent partial disabilities for hearing loss due to
3 occupational noise exposure shall be paid at an amount equal to
4 seventy-five percent of the monetary value of such disability under
5 this section.

6 (3)(a) Compensation for any other permanent partial disability not
7 involving amputation shall be in the proportion which the extent of
8 such other disability, called unspecified disability, shall bear to the
9 disabilities specified in subsection (1) of this section, which most
10 closely resembles and approximates in degree of disability such other
11 disability, and compensation for any other unspecified permanent
12 partial disability shall be in an amount as measured and compared to
13 total bodily impairment. To reduce litigation and establish more
14 certainty and uniformity in the rating of unspecified permanent partial
15 disabilities, the department shall enact rules having the force of law
16 classifying such disabilities in the proportion which the department
17 shall determine such disabilities reasonably bear to total bodily
18 impairment. In enacting such rules, the department shall give
19 consideration to, but need not necessarily adopt, any nationally
20 recognized medical standards or guides for determining various bodily
21 impairments.

22 (b) Until July 1, 1993, for purposes of calculating monetary
23 benefits under (a) of this subsection, the amount payable for total
24 bodily impairment shall be deemed to be ninety thousand dollars.
25 Beginning on July 1, 1993, for purposes of calculating monetary
26 benefits under (a) of this subsection, the amount payable for total
27 bodily impairment shall be adjusted as follows:

28 (i) Beginning on July 1, 1993, the amount payable for total bodily
29 impairment under this section shall be increased to one hundred
30 eighteen thousand eight hundred dollars; and

31 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the
32 amount payable for total bodily impairment prescribed in (b)(i) of this
33 subsection shall be adjusted as provided in subsection (1)(b)(ii) of
34 this section.

35 (c) Until July 1, 1993, the total compensation for all unspecified
36 permanent partial disabilities resulting from the same injury shall not
37 exceed the sum of ninety thousand dollars. Beginning on July 1, 1993,

1 total compensation for all unspecified permanent partial disabilities
2 resulting from the same injury shall not exceed a sum calculated as
3 follows:

4 (i) Beginning on July 1, 1993, the sum shall be increased to one
5 hundred eighteen thousand eight hundred dollars; and

6 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the sum
7 prescribed in (b)(i) of this subsection shall be adjusted as provided
8 in subsection (1)(b)(ii) of this section.

9 (4) If permanent partial disability compensation is followed by
10 permanent total disability compensation, any portion of the permanent
11 partial disability compensation which exceeds the amount that would
12 have been paid the injured worker if permanent total disability
13 compensation had been paid in the first instance, shall be deducted
14 from the pension reserve of such injured worker and his or her monthly
15 compensation payments shall be reduced accordingly.

16 (5) Should a worker receive an injury to a member or part of his or
17 her body already, from whatever cause, permanently partially disabled,
18 resulting in the amputation thereof or in an aggravation or increase in
19 such permanent partial disability but not resulting in the permanent
20 total disability of such worker, his or her compensation for such
21 partial disability shall be adjudged with regard to the previous
22 disability of the injured member or part and the degree or extent of
23 the aggravation or increase of disability thereof.

24 (6) When the compensation provided for in subsections (1) through
25 (3) of this section exceeds three times the average monthly wage in the
26 state as computed under the provisions of RCW 51.08.018, payment shall
27 be made in monthly payments in accordance with the schedule of
28 temporary total disability payments set forth in RCW 51.32.090 until
29 such compensation is paid to the injured worker in full, except that
30 the first monthly payment shall be in an amount equal to three times
31 the average monthly wage in the state as computed under the provisions
32 of RCW 51.08.018, and interest shall be paid at the rate of eight
33 percent on the unpaid balance of such compensation commencing with the
34 second monthly payment. However, upon application of the injured
35 worker or survivor the monthly payment may be converted, in whole or in
36 part, into a lump sum payment, in which event the monthly payment shall
37 cease in whole or in part. Such conversion may be made only upon
38 written application of the injured worker or survivor to the department

1 and shall rest in the discretion of the department depending upon the
2 merits of each individual application. Upon the death of a worker all
3 unpaid installments accrued shall be paid according to the payment
4 schedule established prior to the death of the worker to the widow or
5 widower, or if there is no widow or widower surviving, to the dependent
6 children of such claimant, and if there are no such dependent children,
7 then to such other dependents as defined by this title.

8 (7) Except as otherwise provided in this section, awards payable
9 under this section are governed by the schedule in effect on the date
10 of injury.

11 NEW SECTION. **Sec. 4.** Section 1 of this act applies to all claims
12 filed on or after the effective date of this section for hearing loss
13 due to occupational noise exposure regardless of the date of injurious
14 exposure.

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