

1 **HB 1797** - H AMD
2 By Representative Conway

3 Strike everything after the enacting clause and insert the
4 following:

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

3 (1) Except as provided in subsection (2) of this section,
4 claims for occupational disease or infection to be valid and
5 compensable must be filed within two years following the date the
6 worker had written notice from a physician: ((+1)) (a) Of the
7 existence of his or her occupational disease, and ((+2)) (b) that
8 a claim for disability benefits may be filed. The notice shall
9 also contain a statement that the worker has two years from the
10 date of the notice to file a claim. The physician shall file the
11 notice with the department. The department shall send a copy to
12 the worker and to the self-insurer if the worker's employer is
13 self-insured. However, a claim is valid if it is filed within two
14 years from the date of death of the worker suffering from an
15 occupational disease.

16 (2)(a) Except as provided in (b) of this subsection, to be
17 valid and compensable, claims for hearing loss due to prolonged or
18 repeated exposure to occupational noise must be filed within the
19 earlier of the following:

20 (i) The time limits specified in subsection (1) of this
21 section; or

22 (ii) The later of two years after the date that the worker
23 attains the age of sixty-five or one year after the effective date
24 of this section.

25 (b) A claim for hearing loss due to prolonged or repeated exposure to
26 occupational noise that is not timely filed under (a) of this
27 subsection may be allowed only for medical aid benefits under
28 chapter 51.36 RCW.

29 (3) The department may adopt rules to implement this section.

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

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

8 (2) Every worker whose injury results in the loss of one or
9 more limbs or eyes shall be provided with proper artificial
10 substitutes and every worker, who suffers an injury to an eye
11 producing an error of refraction, shall be once provided proper and
12 properly equipped lenses to correct such error of refraction and
13 his or her disability rating shall be based upon the loss of sight
14 before correction.

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

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

24 (5)(a) All mechanical appliances necessary in the treatment of
25 an injured worker, such as braces, belts, casts, and crutches,
26 shall be provided and all mechanical appliances required as
27 permanent equipment after treatment has been completed shall
28 continue to be provided or replaced without regard to the date of
29 injury or date treatment was completed, notwithstanding any other
30 provision of law.

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

36 (6) A worker, whose injury is of such short duration as to
37 bring him or her within the time limit provisions of RCW 51.32.090,
38 shall nevertheless receive during the omitted period medical,

1 surgical, and hospital care and service and transportation under
2 the provisions of this chapter.

3 (7) Whenever in the sole discretion of the supervisor it is
4 reasonable and necessary to provide residence modifications
5 necessary to meet the needs and requirements of the worker who has
6 sustained catastrophic injury, the department or self-insurer may
7 be ordered to pay an amount not to exceed the state's average
8 annual wage for one year as determined under RCW 50.04.355, as now
9 existing or hereafter amended, toward the cost of such
10 modifications or construction. Such payment shall only be made for
11 the construction or modification of a residence in which the
12 injured worker resides. Only one residence of any worker may be
13 modified or constructed under this subsection, although the
14 supervisor may order more than one payment for any one home, up to
15 the maximum amount permitted by this section.

16 (8)(a) Whenever in the sole discretion of the supervisor it is
17 reasonable and necessary to modify a motor vehicle owned by a
18 worker who has become an amputee or becomes paralyzed because of an
19 industrial injury, the supervisor may order up to fifty percent of
20 the state's average annual wage for one year, as determined under
21 RCW 50.04.355, to be paid by the department or self-insurer toward
22 the costs thereof.

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

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

30
31 **Sec. 3.** RCW 51.32.080 and 1993 c 520 s 1 are each amended to
32 read as follows:

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

36
37 **LOSS BY AMPUTATION**
38

1	Of leg above the knee joint with short	
2	thigh stump (3" or less below the	\$54,000.0
3	tuberosity of ischium)	0
4	Of leg at or above knee joint with	
5	functional stump	48,600.00
6	Of leg below knee joint	43,200.00
7	Of leg at ankle (Syme)	37,800.00
8	Of foot at mid-metatarsals	18,900.00
9	Of great toe with resection of metatarsal	
10	bone	11,340.00
11	Of great toe at metatarsophalangeal	
12	joint	6,804.00
13	Of great toe at interphalangeal joint . . .	3,600.00
14	Of lesser toe (2nd to 5th) with resection of	
15	metatarsal bone	4,140.00
16	Of lesser toe at metatarsophalangeal	
17	joint	2,016.00
18	Of lesser toe at proximal interphalangeal	
19	joint	1,494.00
20	Of lesser toe at distal interphalangeal	
21	joint	378.00
22	Of arm at or above the deltoid insertion or	
23	by disarticulation at the shoulder . .	54,000.00
24	Of arm at any point from below the	
25	deltoid	
26	insertion to below the elbow joint at	
27	the insertion of the biceps tendon . .	51,300.00
28	Of arm at any point from below the elbow	
29	joint distal to the insertion of the	
30	biceps tendon to and including	
31	mid-metacarpal amputation of the	
32	hand	48,600.00

1	Of all fingers except the thumb at	
2	metacarpophalangeal joints	29,160.00
3	Of thumb at metacarpophalangeal joint or	
4	with resection of carpometacarpal	
5	bone	19,440.00
6	Of thumb at interphalangeal joint	9,720.00
7	Of index finger at metacarpophalangeal	
8	joint or with resection of metacarpal	
9	bone	12,150.00
10	Of index finger at proximal	
11	interphalangeal joint	9,720.00
12	Of index finger at distal interphalangeal	
13	joint	5,346.00
14	Of middle finger at metacarpophalangeal	
15	joint or with resection of metacarpal	
16	bone	9,720.00
17	Of middle finger at proximal	
18	interphalangeal joint	7,776.00
19	Of middle finger at distal interphalangeal	
20	joint	4,374.00
21	Of ring finger at metacarpophalangeal	
22	joint or with resection of metacarpal	
23	bone	4,860.00
24	Of ring finger at proximal interphalangeal	
25	joint	3,888.00
26	Of ring finger at distal interphalangeal	
27	joint	2,430.00
28	Of little finger at metacarpophalangeal	
29	joint or with resection of metacarpal	
30	bone	2,430.00
31	Of little finger at proximal interphalangeal	
32	joint	1,944.00

1 Of little finger at distal interphalangeal
2 joint 972.00

3
4 MISCELLANEOUS

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

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

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

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

27 (c) For occupational disease claims filed on or after the effective
28 date of this section, compensation for permanent partial disabilities for
29 hearing loss due to prolonged or repeated exposure to occupational noise
30 shall be paid at an amount equal to seventy-five percent of the monetary
31 value of such disability under this section.

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

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

16 (b) Until July 1, 1993, for purposes of calculating monetary benefits
17 under (a) of this subsection, the amount payable for total bodily
18 impairment shall be deemed to be ninety thousand dollars. Beginning on
19 July 1, 1993, for purposes of calculating monetary benefits under (a) of
20 this subsection, the amount payable for total bodily impairment shall be
21 adjusted as follows:

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

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

29 (c) Until July 1, 1993, the total compensation for all unspecified
30 permanent partial disabilities resulting from the same injury shall not
31 exceed the sum of ninety thousand dollars. Beginning on July 1, 1993,
32 total compensation for all unspecified permanent partial disabilities
33 resulting from the same injury shall not exceed a sum calculated as
34 follows:

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

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

1 (4) If permanent partial disability compensation is followed by
2 permanent total disability compensation, any portion of the permanent
3 partial disability compensation which exceeds the amount that would have
4 been paid the injured worker if permanent total disability compensation
5 had been paid in the first instance, shall be deducted from the pension
6 reserve of such injured worker and his or her monthly compensation
7 payments shall be reduced accordingly.

8 (5) Should a worker receive an injury to a member or part of his or
9 her body already, from whatever cause, permanently partially disabled,
10 resulting in the amputation thereof or in an aggravation or increase in
11 such permanent partial disability but not resulting in the permanent
12 total disability of such worker, his or her compensation for such partial
13 disability shall be adjudged with regard to the previous disability of
14 the injured member or part and the degree or extent of the aggravation or
15 increase of disability thereof.

16 (6) When the compensation provided for in subsections (1) through (3)
17 of this section exceeds three times the average monthly wage in the state
18 as computed under the provisions of RCW 51.08.018, payment shall be made
19 in monthly payments in accordance with the schedule of temporary total
20 disability payments set forth in RCW 51.32.090 until such compensation is
21 paid to the injured worker in full, except that the first monthly payment
22 shall be in an amount equal to three times the average monthly wage in
23 the state as computed under the provisions of RCW 51.08.018, and interest
24 shall be paid at the rate of eight percent on the unpaid balance of such
25 compensation commencing with the second monthly payment. However, upon
26 application of the injured worker or survivor the monthly payment may be
27 converted, in whole or in part, into a lump sum payment, in which event
28 the monthly payment shall cease in whole or in part. Such conversion may
29 be made only upon written application of the injured worker or survivor
30 to the department and shall rest in the discretion of the department
31 depending upon the merits of each individual application. Upon the death
32 of a worker all unpaid installments accrued shall be paid according to
33 the payment schedule established prior to the death of the worker to the
34 widow or widower, or if there is no widow or widower surviving, to the
35 dependent children of such claimant, and if there are no such dependent
36 children, then to such other dependents as defined by this title.

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

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.32 RCW to
2 read as follows:

3 A claim for hearing loss due to prolonged or repeated exposure to
4 occupational noise is allowed under this title only if it otherwise
5 satisfies the definition of "occupational disease" under RCW 51.08.140.
6

7 NEW SECTION. **Sec. 5.** Section 1 of this act applies to all claims
8 filed on or after the effective date of this section for hearing loss due
9 to prolonged or repeated exposure to occupational noise regardless of the
10 date of injurious exposure."
11
12

Correct the title.

--- END <

EFFECT: The amendment (1) requires that claims for hearing loss due to occupational noise exposure be filed within the later of two years after the date the worker attains age 65 or one year after the bill takes effect; and (2) makes the bill apply to hearing loss that is due to prolonged or repeated exposure to occupational noise and requires a claim for such hearing loss to satisfy the current definition of "occupational disease."