

**SB 5271 - H AMD 613**

By Representative Conway

FAILED 06/10/2003

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

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

21 (i) The time limits specified in subsection (1) of this section; or  
22 (ii) The later of two years after the date that the worker retires  
23 from the work force or one year after the effective date of this  
24 section. A worker is presumed to be retired from the work force when  
25 he or she no longer receives income, salary, or wages from any  
26 employment that is regular, continuous, and gainful.

27 (b) A claim for hearing loss due to prolonged or repeated exposure  
28 to occupational noise that is not timely filed under (a) of this  
29 subsection may be allowed only for medical aid benefits under chapter  
30 51.36 RCW.

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

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

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

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

15       (3) Every worker whose accident results in damage to or destruction  
16 of an artificial limb, eye, or tooth, shall have same repaired or  
17 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 shall  
20 have the same restored or replaced. The department or self-insurer  
21 shall be liable only for the cost of restoring damaged hearing aids or  
22 eyeglasses to their condition at the time of the accident.

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

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

34       (6) A worker, whose injury is of such short duration as to bring  
35 him or her within the time limit provisions of RCW 51.32.090, shall

1 nevertheless receive during the omitted period medical, surgical, and  
2 hospital care and service and transportation under the provisions of  
3 this chapter.

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

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

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

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

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

33 **LOSS BY AMPUTATION**

1	Of leg above the knee joint with short	
2	thigh stump (3" or less below the	
3	tuberosity of ischium) . . . . .	\$54,000.00
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 deltoid	
25	insertion to below the elbow joint at	
26	the insertion of the biceps tendon . . . . .	51,300.00
27	Of arm at any point from below the elbow	
28	joint distal to the insertion of the	
29	biceps tendon to and including	
30	mid-metacarpal amputation of the	
31	hand . . . . .	48,600.00
32	Of all fingers except the thumb at	
33	metacarpophalangeal joints . . . . .	29,160.00
34	Of thumb at metacarpophalangeal joint or	
35	with resection of carpometacarpal	
36	bone . . . . .	19,440.00
37	Of thumb at interphalangeal joint . . . . .	9,720.00

1	Of index finger at metacarpophalangeal	
2	joint or with resection of metacarpal	
3	bone . . . . .	12,150.00
4	Of index finger at proximal	
5	interphalangeal joint . . . . .	9,720.00
6	Of index finger at distal interphalangeal	
7	joint . . . . .	5,346.00
8	Of middle finger at metacarpophalangeal	
9	joint or with resection of metacarpal	
10	bone . . . . .	9,720.00
11	Of middle finger at proximal	
12	interphalangeal joint . . . . .	7,776.00
13	Of middle finger at distal interphalangeal	
14	joint . . . . .	4,374.00
15	Of ring finger at metacarpophalangeal	
16	joint or with resection of metacarpal	
17	bone . . . . .	4,860.00
18	Of ring finger at proximal interphalangeal	
19	joint . . . . .	3,888.00
20	Of ring finger at distal interphalangeal	
21	joint . . . . .	2,430.00
22	Of little finger at metacarpophalangeal	
23	joint or with resection of metacarpal	
24	bone . . . . .	2,430.00
25	Of little finger at proximal interphalangeal	
26	joint . . . . .	1,944.00
27	Of little finger at distal interphalangeal	
28	joint . . . . .	972.00

MISCELLANEOUS

30	Loss of one eye by enucleation . . . . .	21,600.00
31	Loss of central visual acuity in one eye . . .	18,000.00
32	Complete loss of hearing in both ears . . . .	43,200.00
33	Complete loss of hearing in one ear . . . . .	7,200.00

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

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

4 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the  
5 compensation amounts for the specified disabilities listed in (a) of  
6 this subsection, as adjusted under (b)(i) of this subsection, shall be  
7 readjusted to reflect the percentage change in the consumer price  
8 index, calculated as follows: The index for the calendar year  
9 preceding the year in which the July calculation is made, to be known  
10 as "calendar year A," is divided by the index for the calendar year  
11 preceding calendar year A, and the resulting ratio is multiplied by the  
12 compensation amount in effect on June 30 immediately preceding the July  
13 1st on which the respective calculation is made. For the purposes of  
14 this subsection, "index" means the same as the definition in RCW  
15 2.12.037(1).

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

21 (2) Compensation for amputation of a member or part thereof at a  
22 site other than those specified in subsection (1) of this section, and  
23 for loss of central visual acuity and loss of hearing other than  
24 complete, shall be in proportion to that which such other amputation or  
25 partial loss of visual acuity or hearing most closely resembles and  
26 approximates. Compensation shall be calculated based on the adjusted  
27 schedule of compensation in effect for the respective time period as  
28 prescribed in subsection (1) of this section.

29 (3)(a) Compensation for any other permanent partial disability not  
30 involving amputation shall be in the proportion which the extent of  
31 such other disability, called unspecified disability, shall bear to the  
32 disabilities specified in subsection (1) of this section, which most  
33 closely resembles and approximates in degree of disability such other  
34 disability, and compensation for any other unspecified permanent  
35 partial disability shall be in an amount as measured and compared to  
36 total bodily impairment. To reduce litigation and establish more  
37 certainty and uniformity in the rating of unspecified permanent partial

1 disabilities, the department shall enact rules having the force of law  
2 classifying such disabilities in the proportion which the department  
3 shall determine such disabilities reasonably bear to total bodily  
4 impairment. In enacting such rules, the department shall give  
5 consideration to, but need not necessarily adopt, any nationally  
6 recognized medical standards or guides for determining various bodily  
7 impairments.

8 (b) Until July 1, 1993, for purposes of calculating monetary  
9 benefits under (a) of this subsection, the amount payable for total  
10 bodily impairment shall be deemed to be ninety thousand dollars.  
11 Beginning on July 1, 1993, for purposes of calculating monetary  
12 benefits under (a) of this subsection, the amount payable for total  
13 bodily impairment shall be adjusted as follows:

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

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

21 (c) Until July 1, 1993, the total compensation for all unspecified  
22 permanent partial disabilities resulting from the same injury shall not  
23 exceed the sum of ninety thousand dollars. Beginning on July 1, 1993,  
24 total compensation for all unspecified permanent partial disabilities  
25 resulting from the same injury shall not exceed a sum calculated as  
26 follows:

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

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

32 (4) If permanent partial disability compensation is followed by  
33 permanent total disability compensation, any portion of the permanent  
34 partial disability compensation which exceeds the amount that would  
35 have been paid the injured worker if permanent total disability  
36 compensation had been paid in the first instance, shall be deducted

1 from the pension reserve of such injured worker and his or her monthly  
2 compensation payments shall be reduced accordingly.

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

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

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



1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 51.32 RCW  
2 to 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        NEW SECTION.    **Sec. 5.**    Section 1 of this act applies to all claims  
7 filed on or after the effective date of this section for hearing loss  
8 due to prolonged or repeated exposure to occupational noise regardless  
9 of the date of injurious exposure."

10        Correct the title.

EFFECT:    The amendment (1) 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"; and (2) adds that, for determining when the two-year statute of limitations begins to run, a worker will be presumed to be retired from the work force, rather than deemed to be retired, when he or she is no longer receiving income or wages.

--- END ---