

HOUSE BILL REPORT

HB 2283

As Reported by House Committee On:

Commerce & Labor

Title: An act relating to hearing loss due to occupational noise exposure, but only with respect to requiring claim filing within two years after retirement, requiring consideration of emerging hearing device technologies, and establishing permanent partial disability compensation at seventy-five percent of the monetary value of such disability.

Brief Description: Concerning hearing loss claims.

Sponsors: Representative Conway.

Brief History:

Committee Activity:

Commerce & Labor: 6/4/03 [DP].

Brief Summary of Bill

- Requires industrial insurance claims for hearing loss due to occupational noise exposure to be filed either within two years of a specified notice from a physician or two years after the worker has retired, whichever is earlier.
- Establishes the permanent partial disability (PPD) award for hearing loss due to occupational noise exposure at 75 percent of the monetary value in the PPD schedule for hearing loss disability.
- Requires the Department of Labor and Industries to assess new hearing device technologies and make the new technology available as deemed appropriate.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Hudgins, Kenney and McCoy.

Minority Report: Do not pass. Signed by 3 members: Representatives Chandler, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; and Holmquist.

Staff: Chris Cordes (786-7103).

Background:

Under the Industrial Insurance Act, workers who, in the course of employment, are injured or suffer disability from an occupational disease receive certain benefits. Claims for industrial injuries and occupational diseases must be filed within specific time periods.

For an industrial injury, the claim must be filed within one year after the day the injury occurred. For an occupational disease, the claim must be filed within two years following the date the worker is advised by a physician, in writing, of the existence of the disease and the right to file a claim for benefits. The physician must file the notice with the Department of Labor and Industries (Department), and the Department must send copies of the notice to the worker and any self-insurer.

Permanent partial disability benefits are awarded when a worker is determined to have a permanent disability caused by the industrial injury or occupational disease. The amount of the award for total or partial hearing loss is determined by reference to a statutory schedule.

The Department must provide certain devices necessary to treat an injured worker, including hearing aids. These devices continue to be provided or replaced after treatment is complete.

Summary of Bill:Time Limits for Filing a Claim

The statute of limitations applicable to filing industrial insurance claims for hearing loss due to occupational noise exposure is modified. The claim must be filed within the earlier of:

- two years after a specified notice from a physician; or
- the later of two years after the worker retires or one year after the bill's effective date.

If a claim is not timely filed, the worker may receive medical aid benefits, such as hearing aids, but not permanent partial disability awards and other types of compensation.

Hearing loss is due to occupational noise exposure when the hearing loss results from prolonged exposure to injurious noise in employment. This exposure is not an "injury" for purposes of filing an injury claim.

These provisions apply to all claims filed on or after the bill's effective date regardless of the date of injurious exposure.

Permanent Partial Disability Awards

The permanent partial disability (PPD) award for hearing loss due to occupational noise exposure is established at 75 percent of the monetary value in the PPD schedule for hearing loss disability. This provision applies to claims filed on or after the bill's effective date.

Provision of Hearing Aids

The Department must assess the benefits to workers and the costs of emerging technologies in determining which hearing devices are provided to workers and must make new technology available as deemed appropriate.

Appropriation: None.

Fiscal Note: Requested on June 3, 2003.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: While this bill does not address all of the workers' compensation reform issues that have been discussed this session, it is consistent with the goals of simplicity, financial stability, and fairness. It will help the Department deal with age-related issues, such as when hearing loss claims are filed decades after injurious exposure to noise. It is recognized that these old claims need to be addressed, but if properly implemented, the current time limit for filing a hearing loss claim could do so. This bill is more acceptable than bills heard early this year, but it still reduces benefits to workers who deserve to be compensated for the hearing loss suffered at work. Workers always bear the burden of proving that the loss was caused by work. It must be recognized that Washington has comparatively low workers' compensation rates so that cost should not be the issue. This bill can be accepted because it will send a signal to the Boeing Company that Washington wants the company to stay in Washington. When fully implemented, this bill will save approximately \$9.5 million annually, with a one-time savings to the reserves of \$78 million. Some drafting issues should be addressed, such as what is meant by retirement and when emerging technologies will be considered appropriate.

Testimony Against: The original Department request bill addressing hearing loss was a better bill. It is disappointing that the attempts to agree on a broader reform bill have not yet been successful. The current requirements for filing hearing loss claims do not work because the physician rarely provides a writing that is filed with the Department, as the law requires, even when the worker has been told of the hearing loss. The "date of retirement" is not a bright line test. The bill has ambiguities and technical problems that

need to be resolved. The increasing costs in the workers' compensation system are one piece of a large overall cost increase also involving unemployment compensation and minimum wage. This bill does not provide enough reform to stabilize the concerns about hearing loss cases or to solve the workers' compensation system's problems.

Testified: (In support) Paul Trause, Department of Labor and Industries.

(In support, with concerns) Robby Stern, Washington State Labor Council; and Michael Temple, Washington State Trial Lawyers Association.

(Opposed) Kathleen Collins, Washington Self-Insurers Association; Dan Fazio, Washington State Farm Bureau; Lori Carlson, Sellen Construction and Washington Self-Insurers Association; Mark Johnson, National Federation of Independent Business; Amber Balch, Association of Washington Business; and Jan Gee, Washington Food Industry.