

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1692 of the Regular Session

As Engrossed: H3/18/05 H3/21/05

A Bill

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

HOUSE BILL 2917

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5 By: Representative Burris
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For An Act To Be Entitled

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9 AN ACT CONCERNING THE DEFINITION FOR OBJECTIVE
10 EVIDENCE NECESSARY TO PROVE PERMANENT DISABILITY
11 IN OCCUPATIONAL HEARING LOSS CASES; AND FOR OTHER
12 PURPOSES.
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Subtitle

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15 AN ACT CONCERNING THE DEFINITION FOR
16 OBJECTIVE EVIDENCE NECESSARY TO PROVE
17 PERMANENT DISABILITY IN OCCUPATIONAL
18 HEARING LOSS CASES.
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20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 *SECTION 1. Arkansas Code § 11-9-102(16)(A), concerning definitions*
24 *used in worker's compensation law, is amended to read as follows:*

25 *"(16)(A)(i) "Objective findings" are those findings which cannot come*
26 *under the voluntary control of the patient.*

27 *(ii) When determining physical or anatomical impairment,*
28 *neither a physician, any other medical provider, an administrative law judge,*
29 *the Workers' Compensation Commission, nor the courts may consider complaints*
30 *of pain; for the purpose of making physical or anatomical impairment ratings*
31 *to the spine, straight-leg-raising tests or range-of-motion tests shall not*
32 *be considered objective findings.*

33 *(iii)(a) Objective evidence necessary to prove physical or*
34 *anatomical impairment, in occupational hearing loss cases, may be established*
35 *by medically recognized and accepted clinical diagnostic methodologies,*



1 including, but not limited to, audiological tests that measure air and bone
2 conduction thresholds and speech discrimination ability.

3 (b) Any difference in the base line hearing
4 levels must be confirmed with a subsequent test within the next four (4)
5 weeks but not before five (5) days and adjusted for presbycusis.

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7 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
8 General Assembly of the State of Arkansas that the objective evidence
9 necessary to prove physical or anatomical impairment in worker's compensation
10 cases needs to be clarified; that such changes need to be in effect
11 immediately to provide for clarity with respect worker's compensation
12 insurance coverage; and that this act is immediately necessary to protect the
13 health and safety of workers. Therefore, an emergency is declared to exist
14 and this act being immediately necessary for the preservation of the public
15 peace, health, and safety shall become effective on:

16 (1) The date of its approval by the Governor;

17 (2) If the bill is neither approved nor vetoed by the Governor,
18 the expiration of the period of time during which the Governor may veto the
19 bill; or

20 (3) If the bill is vetoed by the Governor and the veto is
21 overridden, the date the last house overrides the veto.

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23 /s/ Burris

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26 **APPROVED: 4/05/2005**

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