

112TH CONGRESS
2D SESSION

H. R. 6297

To amend title 38, United States Code, to establish a presumption of service connection for certain veterans with tinnitus or hearing loss, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2012

Mr. BENISHEK introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 38, United States Code, to establish a presumption of service connection for certain veterans with tinnitus or hearing loss, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reducing Barriers to
5 Veterans’ Benefits Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Tinnitus is the most common service-con-
2 nected disability for veterans from all periods of
3 service, accounting for almost 841,000 individuals.

4 (2) Hearing loss is the second leading service-
5 connected disability for veterans from all periods of
6 service, accounting for almost 702,000 individuals.

7 (3) Since fiscal year 1999, the number of vet-
8 erans with service-connected disability for tinnitus
9 has increased by an average rate of 17 percent each
10 year.

11 (4) The number of tinnitus disabilities has
12 grown from 128,600 in fiscal year 1999 to 840,900
13 in fiscal year 2011, an increase of more than 500
14 percent.

15 **SEC. 3. PRESUMPTION OF SERVICE-CONNECTION FOR**
16 **HEARING LOSS AND TINNITUS.**

17 (a) PRESUMPTION.—

18 (1) IN GENERAL.—Subchapter II of chapter 11
19 of title 38, United States Code, is amended by add-
20 ing at the end the following new section:

1 **“§ 1119. Presumption of service connection for hear-**
2 **ing loss associated with particular mili-**
3 **tary occupational specialties or combat**
4 **service**

5 “(a) IN GENERAL.—(1) For purposes of section 1110
6 of this title, and subject to section 1113 of this title, diag-
7 nosed hearing loss, tinnitus, or both of a veteran described
8 in paragraph (2) shall be considered to have been incurred
9 in or aggravated by the service of the veteran, notwith-
10 standing that there is no record of evidence of such hear-
11 ing loss or tinnitus, as the case may be, during the period
12 of such service.

13 “(2) A veteran described in this paragraph is a vet-
14 eran who while on active military, naval, or air service—

15 “(A) was assigned to a military occupational
16 specialty or equivalent described in subsection (b); or

17 “(B) served in combat against a hostile force
18 during a period of hostilities (as defined in section
19 1712A(a)(2)(B) of this title).

20 “(b) MILITARY OCCUPATIONAL SPECIALTY.—A mili-
21 tary occupational specialty or equivalent referred to in
22 subsection (a)(2)(A) is a military occupational specialty or
23 equivalent, if any, that the Secretary determines in regula-
24 tions prescribed under this section in which individuals as-
25 signed to such military occupational specialty or equiva-
26 lent in the active military, naval, or air service are or were

1 likely to be exposed to a sufficiently high level of acoustic
2 trauma as to result in permanent hearing loss, tinnitus,
3 or both.

4 “(c) DETERMINATION.—(1) If the Secretary deter-
5 mines under subsection (b) that a presumption of service
6 connection is warranted for a military occupational spe-
7 cialty or equivalent, the Secretary shall, not later than 60
8 days after the date of the determination, issue proposed
9 regulations setting forth the Secretary’s determination.

10 “(2) If the Secretary determines under subsection (b)
11 that a presumption of service connection is not warranted
12 for a military occupational specialty or equivalent, the Sec-
13 retary shall, not later than 60 days after the date of the
14 determination—

15 “(A) publish the determination in the Federal
16 Register; and

17 “(B) submit to the Committees on Veterans’
18 Affairs of the Senate and the House of Representa-
19 tives a report on the determination, including a jus-
20 tification for the determination.”.

21 (2) CLERICAL AMENDMENT.—The table of sec-
22 tions at the beginning of chapter 11 of such title is
23 amended by inserting after the item relating to sec-
24 tion 1118 the following new item:

“1119. Presumption of service connection for hearing loss associated with par-
ticular military occupational specialties or combat service.”.

1 (b) PRESUMPTION REBUTTABLE.—Section 1113 of
 2 title 38, United States Code, is amended by striking “or
 3 1118” each place it appears and inserting “1118, or
 4 1119”.

5 (c) PRESUMPTION DURING PEACETIME SERVICE.—
 6 Section 1137 of title 38, United States Code, is amended
 7 by striking “and 1113” and inserting “1113, and 1119”.

8 (d) EFFECTIVE DATE.—Section 1119 of title 38,
 9 United States Code, as added by subsection (a)(1), shall
 10 apply with respect to a claim for compensation made on
 11 or after the date that is 60 days after the date on which
 12 the Secretary prescribes regulations pursuant to sub-
 13 section (c)(1) of such section.

14 **SEC. 4. AUDIOMETRIC TEST REQUIRED BEFORE SEPARA-**
 15 **TION OF MEMBERS OF THE ARMED FORCES.**

16 (a) IN GENERAL.—Chapter 59 of title 10, United
 17 States Code, is amended by adding at the end the fol-
 18 lowing new section:

19 **“§ 1179. Audiometric test required**

20 “Under regulations prescribed by the Secretary of
 21 Defense, the Secretary of a military department shall en-
 22 sure that a member of the armed forces under the jurisdic-
 23 tion of the Secretary receives an audiometric test at the
 24 8000 Hz frequency (or other test that the Secretary of
 25 Defense determines has the ability to discover potential

1 future hearing loss) to evaluate the hearing of the member
2 during the 90-day period before the date on which the
3 member is discharged, separated, or retired.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of such chapter is amended by adding
6 after the item relating to section 1178 the following new
7 item:

“1179. Audiometric test required.”.

8 (c) EFFECTIVE DATE.—Section 1179 of title 10,
9 United States Code, as added by subsection (a), shall
10 apply with respect to a member being discharged, sepa-
11 rated, or retired from the Armed Forces on or after the
12 date that is 60 days after the date of the enactment of
13 this Act.

○