

113TH CONGRESS
1ST SESSION

H. R. 369

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2013

Mr. BENISHEK introduced the following bill; which was referred to the
Committee on Veterans' Affairs

A BILL

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

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:

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

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

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

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

12 **SEC. 3. PRESUMPTION OF SERVICE-CONNECTION FOR**
 13 **HEARING LOSS AND TINNITUS.**

14 (a) PRESUMPTION.—

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

18 **“§ 1119. Presumption of service connection for hear-**
 19 **ing loss associated with particular mili-**
 20 **tary occupational specialties or combat**
 21 **service**

22 “(a) IN GENERAL.—(1) For purposes of section 1110
 23 of this title, and subject to section 1113 of this title, diag-
 24 nosed hearing loss, tinnitus, or both of a veteran described
 25 in paragraph (2) shall be considered to have been incurred

1 in or aggravated by the service of the veteran, notwith-
2 standing that there is no record of evidence of such hear-
3 ing loss or tinnitus, as the case may be, during the period
4 of such service.

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

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

9 “(B) served in combat against a hostile force
10 during a period of hostilities (as defined in section
11 1712A(a)(2)(B) of this title).

12 “(b) MILITARY OCCUPATIONAL SPECIALTY.—A mili-
13 tary occupational specialty or equivalent referred to in
14 subsection (a)(2)(A) is a military occupational specialty or
15 equivalent, if any, that the Secretary determines in regula-
16 tions prescribed under this section in which individuals as-
17 signed to such military occupational specialty or equiva-
18 lent in the active military, naval, or air service are or were
19 likely to be exposed to a sufficiently high level of acoustic
20 trauma as to result in permanent hearing loss, tinnitus,
21 or both.

22 “(c) DETERMINATION.—(1) If the Secretary deter-
23 mines under subsection (b) that a presumption of service
24 connection is warranted for a military occupational spe-
25 cialty or equivalent, the Secretary, not later than 60 days

1 after the date of the determination, shall issue proposed
 2 regulations setting forth the Secretary's determination.

3 “(2) If the Secretary determines under subsection (b)
 4 that a presumption of service connection is not warranted
 5 for a military occupational specialty or equivalent, the Sec-
 6 retary, not later than 60 days after the date of the deter-
 7 mination, shall—

8 “(A) publish the determination in the Federal
 9 Register; and

10 “(B) submit to the Committees on Veterans’
 11 Affairs of the Senate and the House of Representa-
 12 tives a report on the determination, including a jus-
 13 tification for the determination.”.

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

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

18 (b) PRESUMPTION REBUTTABLE.—Section 1113 of
 19 title 38, United States Code, is amended by striking “or
 20 1118” each place it appears and inserting “1118, or
 21 1119”.

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

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

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