

Introduced by Senator RomeroFebruary 24, 2006

An act to amend Section 4800.5 of, and to add Article 7.5 (commencing with Section 4860) to Chapter 2 of Part 3 of Division 4 of, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1815, as introduced, Romero. Workers' compensation: peace officers.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment.

Existing law provides that, whenever any sworn member of the Department of the California Highway Patrol whose principal duties consist of active law enforcement is disabled by a single injury, excluding disabilities that are the result of cumulative trauma or cumulative injuries, arising out of and in the course of his or her duties, the person shall be entitled, regardless of his or her period of service with the patrol, to leave of absence while so disabled without a loss of salary, in lieu of disability payments, for a period not exceeding one year.

This bill, instead, would provide that this provision would not apply when the disability is solely the result of cumulative trauma or cumulative injuries.

The bill would require that an employee who is a peace officer who suffers an injury that arises out of, or in the course of, employment has the right to be treated for that injury by a physician of his or her choice at a facility of his or her choice within a reasonable geographic area.

The bill would require an employer, with respect to an employee who is a peace officer and who suffers an injury that arises out of, or in the course of, employment to provide all reasonable medical treatment recommended by the employee's designated treating physician to cure or relieve the employee from the effects of his or her injury. The bill would allow an employer to contest liability for the provision or scope of any recommended treatment, based on sound medical or scientific evidence that the treatment is contraindicated for the employee's injury. The bill would prohibit an employer from modifying, delaying, or denying reasonable medical treatment recommended by the employee's designated physician, on the grounds that certain medical guidelines do not address the specific treatment recommended.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (a) Peace officers swear an oath to protect the public even at
4 the risk of suffering personal injury or death in the line of duty.
- 5 (b) Law enforcement work is unpredictable and dangerous,
6 and peace officers are more likely than other employees to suffer
7 injury or death as a result of their employment.
- 8 (c) California citizens expect peace officers to put themselves
9 in harm's way if necessary and, for that reason, California law
10 should provide for prompt, reasonable medical care and adequate
11 disability benefits for these law enforcement employees.
- 12 (d) The Legislature has recognized the need for peace officers
13 to receive adequate medical care and disability benefits for
14 injuries sustained on the job, but recent legislation has severely
15 curtailed many workers' compensation benefits and has
16 adversely affected the ability of injured peace officers to obtain
17 reasonable medical care and related benefits that would enable
18 those public safety employees to quickly recover from their
19 injuries and return to work on a timely basis.
- 20 (e) Long delays and denials of appropriate medical treatment
21 for injured peace officers can cause manpower shortages in
22 critical public safety positions.

1 SEC. 2. It is the intent of the Legislature to enact legislation
2 that would provide peace officers who sustain job-related injuries
3 with prompt and appropriate medical care and related benefits,
4 and allow those employees to resolve any medical treatment
5 disputes expeditiously.

6 SEC. 3. Section 4800.5 of the Labor Code is amended to
7 read:

8 4800.5. (a) Whenever any sworn member of the Department
9 of the California Highway Patrol is disabled by a single injury,
10 excluding disabilities that are *solely* the result of cumulative
11 trauma or cumulative injuries, arising out of and in the course of
12 his or her duties, he or she shall become entitled, regardless of
13 his or her period of service with the patrol, to leave of absence
14 while so disabled without loss of salary, in lieu of disability
15 payments under this chapter, for a period of not exceeding one
16 year. This section shall apply only to members of the Department
17 of the California Highway Patrol whose principal duties consist
18 of active law enforcement and shall not apply to persons
19 employed in the Department of the California Highway Patrol
20 whose principal duties are those of telephone operator, clerk,
21 stenographer, machinist, mechanic, or otherwise clearly not
22 falling within the scope of active law enforcement service, even
23 though this person is subject to occasional call or is occasionally
24 called upon to perform the duties of active law enforcement
25 service.

26 (b) Benefits payable for eligible sworn members of the
27 Department of the California Highway Patrol whose disability is
28 solely the result of cumulative trauma or injury shall be limited to
29 the actual period of temporary disability or entitlement to
30 maintenance allowance, or for one year, whichever is less.

31 (c) This section shall not apply to periods of disability that
32 occur subsequent to termination of employment by resignation,
33 retirement, or dismissal. When this section does not apply, the
34 employee shall be eligible for those benefits that would apply
35 had this section not been enacted.

36 (d) The appeals board may determine, upon request of any
37 party, whether or not the disability referred to in this section
38 arose out of and in the course of duty. In any action in which a
39 dispute exists regarding the nature of the injury or the period of
40 temporary disability or entitlement to maintenance allowance, or

1 both, and upon the request of any party thereto, the appeals board
2 shall determine when the disability commenced and ceased, and
3 the amount of benefits provided by this division to which the
4 employee is entitled during the period of this disability. The
5 appeals board shall have the jurisdiction to award and enforce
6 payment of these benefits, subject to subdivision (a) or (b),
7 pursuant to Part 4 (commencing with Section 5300). A decision
8 issued by the appeals board under this section is final and binding
9 upon the parties subject to the rights of appeal contained in
10 Chapter 7 (commencing with Section 5900) of Part 4.

11 (e) Except as provided in subdivision (g), this section shall
12 apply for periods of disability commencing on or after January 1,
13 1995.

14 (f) This section does not apply to peace officers designated
15 under subdivision (a) of Section 2250.1 of the Vehicle Code.

16 (g) Peace officers of the California State Police Division who
17 become sworn members of the Department of the California
18 Highway Patrol as a result of the Governor's Reorganization Plan
19 No. 1 of 1995, other than those officers described in subdivision
20 (f), shall be eligible for injury benefits accruing to sworn
21 members of the Department of the California Highway Patrol
22 under this division only for injuries occurring on or after July 12,
23 1995.

24 SEC. 4. Article 7.5 (commencing with Section 4860) is added
25 to Chapter 2 of Part 3 of Division 4 of the Labor Code, to read:

26
27 Article 7.5. Peace Officers
28

29 4860. For purposes of this article, "peace officer" shall have
30 the same meaning as in Section 50920 of the Government Code.

31 4860.1. Notwithstanding any other provision of law, an
32 employee who is a peace officer who suffers an injury that arises
33 out of, or in the course of, employment shall have the right to be
34 treated for that injury by a physician or his or her choice at a
35 facility of his or her own choice within a reasonable geographic
36 area.

37 4860.2. (a) Notwithstanding any other provision of law, with
38 respect to an employee who is a peace officer and who suffers an
39 injury that arises out of, or in the course of, employment, an
40 employer shall provide to that injured employee all reasonable

1 medical treatment recommended by the employee's designated
2 treating physician to cure or relieve the employee from the
3 effects of his or her injury.

4 (b) The employer may contest liability for the provision or
5 scope of any recommended medical treatment, based on sound
6 medical or scientific evidence that the treatment is
7 contraindicated for the employee's injury. The employer may not
8 modify, delay, or deny reasonable medical treatment
9 recommended by the employee's designated treating physician,
10 on the grounds that American Medical College of Occupational
11 and Environmental Medicine's Occupational Medicine Practice
12 Guidelines (ACOEM) do not address the specific treatment
13 recommended. In no case may an employer modify, delay, or
14 deny treatment based on the ACOEM guidelines when the
15 requested treatment will occur more than 90 days after the date of
16 injury.