

ASSEMBLY BILL

No. 3478

**Introduced by Committee on Labor and Employment
(Assembly Members House (Chairman), Brewer and
Davis)**

March 18, 1996

An act to amend Section 4800.5 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 3478, as introduced, Committee on Labor and Employment. Workers' compensation.

Under existing law, a person injured in the course of employment is generally entitled to workers' compensation benefits. In the case of a member of the California Highway Patrol who is disabled in the course of employment, he or she shall become entitled, to a leave of absence without loss of salary, in lieu of disability payments, subject to various restrictions. Existing law provides that benefits payable for eligible sworn members of the California Highway Patrol whose disability is solely the result of cumulative trauma or injury shall be limited to the period of temporary disability or entitlement to maintenance allowance.

This bill would limit benefits in that instance to the actual period of temporary disability or entitlement to maintenance allowance, or for one year, whichever is less.

This bill would also specify that peace officers of the California State Police Division who became sworn members of the California Highway Patrol as a result of the Governor's

Reorganization Plan No. 1 of 1995, are included within the above provisions.

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

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

1 SECTION 1. Section 4800.5 of the Labor Code is
2 amended to read:

3 4800.5. (a) Whenever any sworn member of the
4 California Highway Patrol is disabled by a single injury,
5 excluding disabilities that are the result of cumulative
6 trauma or cumulative injuries, arising out of and in the
7 course of his or her duties, he or she shall become entitled,
8 regardless of his or her period of service with the patrol,
9 to leave of absence while so disabled without loss of salary,
10 in lieu of disability payments under this chapter, for a
11 period of not exceeding one year. This section shall apply
12 only to members of the California Highway Patrol whose
13 principal duties consist of active law enforcement and
14 shall not apply to persons employed in the Department
15 of the California Highway Patrol whose principal duties
16 are those of telephone operator, clerk, stenographer,
17 machinist, mechanic, or otherwise clearly not falling
18 within the scope of active law enforcement service, even
19 though this person is subject to occasional call or is
20 occasionally called upon to perform the duties of active
21 law enforcement service.

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

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



1 (d) The appeals board may determine, upon request
2 of any party, whether or not the disability referred to in
3 this section arose out of and in the course of duty. In any
4 action in which a dispute exists regarding the nature of
5 the injury or the period of temporary disability or
6 entitlement to maintenance allowance, or both, and upon
7 the request of any party thereto, the appeals board shall
8 determine when the disability commenced and ceased,
9 and the amount of benefits provided by this division to
10 which the employee is entitled during the period of this
11 disability. The appeals board shall have the jurisdiction to
12 award and enforce payment of these benefits, subject to
13 subdivision (a) or (b), pursuant to Part 4 (commencing
14 with Section 5300). A decision issued by the appeals board
15 under this section is final and binding upon the parties
16 subject to the rights of appeal contained in Chapter 7
17 (commencing with Section 5900) of Part 4.

18 (e) This section shall apply for periods of disability
19 commencing on or after January 1, 1995.

20 (f) *This section does not apply to peace officers*
21 *designated under subdivision (a) of Section 2250.1 of the*
22 *Vehicle Code.*

23 (g) *Peace officers of the California State Police*
24 *Division who became sworn members of the California*
25 *Highway Patrol as a result of the Governor's*
26 *Reorganization Plan No. 1 of 1995, other than those*
27 *officers described in subdivision (f), shall be eligible for*
28 *injury benefits accruing to sworn members of the*
29 *California Highway Patrol under this division only for*
30 *injuries occurring subsequent to the effective date of that*
31 *reorganization plan.*

