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Assembly Bill No. 1749

CHAPTER 707

An act to amend Section 3600.2 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 23, 2018. Filed with Secretary of State September 23, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1749, Daly. Workers' compensation: off-duty peace officer.

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 requires workers' compensation proceedings to commence within one year of specified dates and circumstances, including, among others, the date of injury.

Existing law provides that whenever any peace officer, as defined, is injured, dies, or is disabled from performing his or her duties as a peace officer by reason of engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or the preservation of the peace anywhere in this state, including the local jurisdiction in which he or she is employed, but is not at the time acting under the immediate direction of his or her employer, the peace officer or his or her dependents, as the case may be, shall be accorded by his or her employer all of the same benefits, including the benefits that the peace officer or his or her dependents would have received had that peace officer been acting under the immediate direction of his or her employer. Existing law provides that any injury, disability, or death incurred under the circumstances described in this section shall be deemed to have arisen out of and been sustained in the course of employment for purposes of workers' compensation and all other benefits.

This bill would state that an employer, at its discretion or in accordance with specified policies, is not precluded from accepting liability for compensation for an injury sustained by a peace officer by reason of engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or the preservation of the peace, outside the state of California, but who was not at the time acting under the immediate direction of his or her employer, including any claims for injuries sustained by peace officers during the October 1, 2017, mass shooting in Las Vegas, Nevada, if the employer determines providing compensation serves its public purposes. The bill, for purposes of worker's compensation claims filed for injuries sustained during the October 1, 2017, mass shooting in Las Vegas, Nevada, would deem the date of injury as the operative date of these provisions. The bill would provide that acceptance of liability shall not affect the determination of whether or not the peace officer acted within the scope of his or her employment for any other purpose.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 3600.2 of the Labor Code is amended to read:

3600.2. (a) Whenever any peace officer, as defined in Section 50920 of the Government Code, is injured, dies, or is disabled from performing his or her duties as a peace officer by reason of engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or the preservation of the peace, anywhere in this state, including the local jurisdiction in which he or she is employed, but is not at the time acting under the immediate direction of his or her employer, the peace officer or his or her dependents, as the case may be, shall be accorded by the peace officer's employer all of the same benefits, including the benefits of this division, that the peace officer or his or her dependents would have received had that peace officer been acting under the immediate direction of his or her employer. Any injury, disability, or death incurred under the circumstances described in this section shall be deemed to have arisen out of and been sustained in the course of employment for purposes of workers' compensation and all other benefits.

(b) Nothing in this section shall be deemed to:

(1) Require the extension of any benefits to a peace officer who at the time of his or her injury, death, or disability is acting for compensation from one other than the city, county, city and county, judicial district, or town of his or her primary employment.

(2) Require the extension of any benefits to a peace officer employed by a city, county, city and county, judicial district, or town which by charter, ordinance, or departmental regulation, whether now in force or hereafter enacted or promulgated, expressly prohibits the activity giving rise to the injury, disability, or death.

(3) Enlarge or extend the authority of any peace officer to make an arrest; provided, however, that illegality of the arrest shall not affect the extension of benefits by reason of this act if the peace officer reasonably believed that the arrest was not illegal.

(4) Preclude an employer, at its discretion or in accordance with written policies adopted by resolution of the employer's governing body, from accepting liability for compensation under this division for an injury sustained by a peace officer, as defined in Section 50920 of the Government Code, by reason of engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or the preservation of the peace, outside the state of California, but who was not at the time acting under the immediate direction of his or her employer, including any claims for injuries sustained by peace officers during the October 1, 2017, mass shooting in Las Vegas, Nevada, if the employer determines that providing compensation serves the public purposes of the employer. For claims filed pursuant to this paragraph by peace officers for injuries sustained during the October 1, 2017, mass shooting in Las Vegas, Nevada, the date of injury for purposes of subdivision (a) of Section 5405 shall be deemed the operative date of the act adding this paragraph. Acceptance of liability under this subdivision shall not affect the determination of whether or not the peace officer acted within the scope of his or her employment for any other purpose.