

LABOR CODE

SECTION 3600-3605

3600. (a) **Liability for the compensation** provided by this division, in lieu of any other liability whatsoever to any person except as otherwise specifically provided in Sections 3602, 3706, and 4558, shall, **without regard to negligence**, exist against an employer for **any injury sustained by his or her employees arising out of and in the course of the employment** and for the death of any employee if the injury proximately causes death, in those cases where the following conditions of compensation concur:

(1) Where, at the time of the injury, both the employer and the employee are subject to the compensation provisions of this division.

(2) Where, at the time of the injury, the employee is **performing service growing out of and incidental to his or her employment and is acting within the course of his or her employment.**

(3) Where the injury is **proximately caused by the employment**, either with or without negligence.

(4) Where the injury is **not caused by the intoxication**, by alcohol or the unlawful use of a controlled substance, of the injured employee. As used in this paragraph, "controlled substance" shall have the same meaning as prescribed in Section 11007 of the Health and Safety Code.

(5) Where the injury is **not intentionally self-inflicted.**

(6) Where the employee has **not willfully and deliberately** caused his or her own death.

(7) **Where the injury does not arise out of an altercation in which the injured employee is the initial physical aggressor.**

(8) Where the injury is not caused by the commission of a **felony**, or a crime which is punishable as specified in subdivision (b) of Section 17 of the Penal Code, by the injured employee, for which he or she has been convicted.

(9) Where the injury does not arise out of **voluntary participation in any off-duty recreational**, social, or athletic activity not constituting part of the employee's work-related duties, except where these activities are a reasonable expectancy of, or are expressly or impliedly required by, the employment. The administrative director shall promulgate reasonable rules and regulations requiring employers to post and keep posted in a conspicuous place or places a notice advising employees of the provisions of this subdivision. Failure of the employer to post the notice shall not constitute an expression of intent to waive the provisions of this subdivision.

(10) Except for psychiatric injuries governed by subdivision (e) of Section 3208.3, where the claim for compensation is filed after notice of termination or layoff, including voluntary layoff, and the claim is for an injury occurring prior to the time of notice of termination or layoff, no compensation shall be paid unless the employee demonstrates by a preponderance of the evidence that one or more of the following conditions apply:

(A) The employer has notice of the injury, as provided under Chapter 2 (commencing with Section 5400), prior to the notice of termination or layoff.

(B) The employee's medical records, existing prior to the notice of termination or layoff, contain evidence of the injury.

(C) The date of injury, as specified in Section 5411, is subsequent to the date of the notice of termination or layoff, but prior to the effective date of the termination or layoff.

(D) The date of injury, as specified in Section 5412, is subsequent to the date of the notice of termination or layoff.

For purposes of this paragraph, an employee provided notice pursuant to Sections 44948.5, 44949, 44951, 44955, 72411, 87740, and 87743 of the Education Code shall be considered to have been provided a notice of termination or layoff only upon a district's final decision not to reemploy that person.

A notice of termination or layoff that is not followed within 60 days by that termination or layoff shall not be subject to the provisions of this paragraph, and this paragraph shall not apply until receipt of a later notice of termination or layoff. The issuance of frequent notices of termination or layoff to an employee shall be considered a bad faith personnel action and shall make this paragraph inapplicable to the employee.

(b) Where an employee, or his or her dependents, receives the compensation provided by this division and secures a judgment for, or settlement of, civil damages pursuant to those specific exemptions to the employee's exclusive remedy set forth in subdivision (b) of Section 3602 and Section 4558, the compensation paid under this division shall be credited against the judgment or settlement, and the employer shall be relieved from the obligation to pay further compensation to, or on behalf of, the employee or his or her dependents up to the net amount of the judgment or settlement received by the employee or his or her heirs, or that portion of the judgment as has been satisfied.

(c) For purposes of determining whether to grant or deny a workers' compensation claim, if an employee is injured or killed by a third party in the course of the employee's employment, no personal relationship or personal connection shall be deemed to exist between the employee and the third party based only on a determination that the third party injured or killed the employee solely because of the third party's personal beliefs relating to his or her perception of the employee's race, religious creed, color, national origin, age, disability, sex, gender, gender identity, gender expression, or sexual orientation.

3600.1. (a) Whenever any **firefighter** of the state, as defined in Section 19886 of the Government Code, is injured, dies, or is disabled from performing his or her duties as a firefighter by reason of his or her proceeding to or engaging in a fire-suppression or rescue operation, or the protection or preservation of life or property, anywhere in this state, including the jurisdiction in which he or she is employed, but is not at the time acting under the immediate direction of his or her employer, he or she or his or her dependents, as the case may be, shall be accorded by his or her employer all of the same benefits of this division that he, she, or they would have received had that firefighter 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 do either of the following:

(1) Require the extension of any benefits to a firefighter who, at the time of his or her injury, death, or disability, is acting for compensation from one other than the state.

(2) Require the extension of any benefits to a firefighter employed by the state where by departmental regulation, whether now in force or hereafter enacted or promulgated, the activity giving

rise to the injury, disability, or death is expressly prohibited.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

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 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 is employed, but is not at the time acting under the immediate direction of his employer, he or his dependents, as the case may be, shall be accorded by his employer all of the same benefits, including the benefits of this division, which he or they would have received had that peace officer been acting under the immediate direction of his 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 injury, death, or disability is acting for compensation from one other than the city, county, city and county, judicial district, or town of his 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.

3600.3. (a) For the purposes of Section 3600, an off-duty peace officer, as defined in subdivision (b), who is performing, within the jurisdiction of his or her employing agency, a service he or she would, in the course of his or her employment, have been required to perform if he or she were on duty, is performing a service growing out of and incidental to his or her employment and is acting within the course of his or her employment if, as a condition of his or her employment, he or she is required to be on call within the jurisdiction during off-duty hours.

(b) As used in subdivision (a), "peace officer" means those employees of the Department of Forestry and Fire Protection named as peace officers for purposes of subdivision (b) of Section 830.37 of the Penal Code.

(c) This section does not apply to any off-duty peace officer while he or she is engaged, either as an employee or as an independent contractor, in any capacity other than as a peace

officer.

3600.4. (a) Whenever any firefighter of a city, county, city and county, district, or other public or municipal corporation or political subdivision, or any firefighter employed by a private entity, is injured, dies, or is disabled from performing his or her duties as a firefighter by reason of his or her proceeding to or engaging in a fire suppression or rescue operation, or the protection or preservation of life or property, 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, he or she or his or her dependents, as the case may be, shall be accorded by his or her employer all of the same benefits of this division which he or she or they would have received had that firefighter 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 firefighter 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, district, or other public or municipal corporation or political subdivision, or private entity, of his or her primary employment or enrollment.

(2) Require the extension of any benefits to a firefighter employed by a city, county, city and county, district, or other public or municipal corporation or political subdivision, or private entity, which by charter, ordinance, departmental regulation, or private employer policy, whether now in force or hereafter enacted or promulgated, expressly prohibits the activity giving rise to the injury, disability, or death. However, this paragraph shall not apply to relieve the employer from liability for benefits for any injury, disability, or death of a firefighter when the firefighter is acting pursuant to Section 1799.107 of the Health and Safety Code.

3600.5. (a) If an employee who has been hired or is regularly employed in the state receives personal injury by accident arising out of and in the course of such employment outside of this state, he, or his dependents, in the case of his death, shall be entitled to compensation according to the law of this state.

(b) Any employee who has been hired outside of this state and his employer shall be exempted from the provisions of this division while such employee is temporarily within this state doing work for his employer if such employer has furnished workmen's compensation insurance coverage under the workmen's compensation insurance or similar laws of a state other than California, so as to cover such employee's employment while in this state; provided, the extraterritorial provisions of this division are recognized in such other state and provided employers and employees who are covered in this state are likewise exempted from the application of the workmen's compensation insurance or similar laws of such other state. The benefits under the Workmen's Compensation Insurance Act or similar laws of such other state, or other remedies under such act or such laws, shall be the exclusive remedy against such employer for any injury, whether resulting in death or not, received by such employee

while working for such employer in this state.

A certificate from the duly authorized officer of the appeals board or similar department of another state certifying that the employer of such other state is insured therein and has provided extraterritorial coverage insuring his employees while working within this state shall be prima facie evidence that such employer carries such workmen's compensation insurance.

3600.6. Disaster service workers registered by a disaster council while performing services under the general direction of the disaster council shall be entitled to all of the same benefits of this division as any other injured employee, except as provided by Chapter 10 (commencing with Section 4351) of Part 1. For purposes of this section, an unregistered person impressed into performing service as a disaster service worker during a state of war emergency, a state of emergency, or a local emergency by a person having authority to command the aid of citizens in the execution of his or her duties shall also be deemed a disaster service worker and shall be entitled to the same benefits of this division as any other disaster service worker.

3600.8. (a) No employee who voluntarily participates in an alternative commute program that is sponsored or mandated by a governmental entity shall be considered to be acting within the course of his or her employment while utilizing that program to travel to or from his or her place of employment, unless he or she is paid a regular wage or salary in compensation for those periods of travel. An employee who is injured while acting outside the course of his or her employment, or his or her dependents in the event of the employee's death, shall not be barred from bringing an action at law for damages against his or her employer as a result of this section.

(b) Any alternative commute program provided, sponsored, or subsidized by an employee's employer in order to comply with any trip reduction mandates of an air quality management district or local government shall be considered a program mandated by a governmental entity. An employer's reimbursement of employee expenses or subsidization of costs related to an alternative commute program shall not be considered payment of a wage or salary in compensation for the period of travel. If an employer's salary is not based on the hours the employee works, payment of his or her salary shall not be considered to be in compensation for the period of travel unless there is a specific written agreement between the employer and the employee to that effect. If an employer elects to provide workers' compensation coverage for those employees who are passengers in a vehicle owned and operated by the employer or an agent thereof, those employees shall be considered to be within the course of their employment, provided the employer notifies employees in writing prior to participation of the employee or coverage becoming effective.

(c) As used in this section, "governmental entity" means a regional air district, air quality management district, congestion management agency, or other local jurisdiction having authority to enact air pollution or congestion management controls or impose them upon entities within its jurisdiction.

(d) Notwithstanding any other provision of law, vanpool programs may continue to provide workers' compensation benefits to employees who participate in an alternative commute program by riding in a vanpool, in the case in which the vanpool vehicle is owned or registered to the employer.

(e) Employees of the state who participate in an alternative commute program, while riding in a vanpool vehicle that is registered to or owned by the state, shall be deemed to be within the course and scope of employment for workers' compensation purposes only.

3601. (a) Where the conditions of compensation set forth in Section 3600 concur, the right to recover such compensation, pursuant to the provisions of this division is, except as specifically provided in this section, the exclusive remedy for injury or death of an employee against any other employee of the employer acting within the scope of his or her employment, except that an employee, or his or her dependents in the event of his or her death, shall, in addition to the right to compensation against the employer, have a right to bring an action at law for damages against the other employee, as if this division did not apply, in either of the following cases:

(1) When the injury or death is proximately caused by the willful and unprovoked physical act of aggression of the other employee.

(2) When the injury or death is proximately caused by the intoxication of the other employee.

(b) In no event, either by legal action or by agreement whether entered into by the other employee or on his or her behalf, shall the employer be held liable, directly or indirectly, for damages awarded against, or for a liability incurred by the other employee under paragraph (1) or (2) of subdivision (a).

(c) No employee shall be held liable, directly or indirectly, to his or her employer, for injury or death of a coemployee except where the injured employee or his or her dependents obtain a recovery under subdivision (a).

3602. (a) Where the conditions of compensation set forth in Section 3600 concur, the right to recover compensation is, except as specifically provided in this section and Sections 3706 and 4558, the sole and exclusive remedy of the employee or his or her dependents against the employer. The fact that either the employee or the employer also occupied another or dual capacity prior to, or at the time of, the employee's industrial injury shall not permit the employee or his or her dependents to bring an action at law for damages against the employer.

(b) An employee, or his or her dependents in the event of his or her death, may bring an action at law for damages against the employer, as if this division did not apply, in the following instances:

(1) Where the employee's injury or death is proximately caused by a willful physical assault by the employer.

(2) Where the employee's injury is aggravated by the employer's fraudulent concealment of the existence of the injury and its connection with the employment, in which case the employer's liability shall be limited to those damages proximately caused by the aggravation. The burden of proof respecting apportionment of damages between the injury and any subsequent aggravation thereof is upon the employer.

(3) Where the employee's injury or death is proximately caused by a defective product manufactured by the employer and sold, leased, or otherwise transferred for valuable consideration to an independent third person, and that product is thereafter provided for the employee's use by a third person.

(c) In all cases where the conditions of compensation set forth in Section 3600 do not concur, the liability of the employer shall be

the same as if this division had not been enacted.

(d) (1) For the purposes of this division, including Sections 3700 and 3706, an employer may secure the payment of compensation on employees provided to it by agreement by another employer by entering into a valid and enforceable agreement with that other employer under which the other employer agrees to obtain, and has, in fact, obtained workers' compensation coverage for those employees. In those cases, both employers shall be considered to have secured the payment of compensation within the meaning of this section and Sections 3700 and 3706 if there is a valid and enforceable agreement between the employers to obtain that coverage, and that coverage, as specified in subdivision (a) or (b) of Section 3700, has been in fact obtained, and the coverage remains in effect for the duration of the employment providing legally sufficient coverage to the employee or employees who form the subject matter of the coverage. That agreement shall not be made for the purpose of avoiding an employer's appropriate experience rating as defined in subdivision (c) of Section 11730 of the Insurance Code.

(2) Employers who have complied with this subdivision shall not be subject to civil, criminal, or other penalties for failure to provide workers' compensation coverage or tort liability in the event of employee injury, but may, in the absence of compliance, be subject to all three.

(e) As provided in paragraph (12) of subdivision (f) of Section 1202.4 of the Penal Code, in cases where an employer is convicted of a crime against an employee, a payment to the employee or the employee's dependent that is paid by the employer's workers' compensation insurance carrier shall not be used to offset the amount of the restitution order unless the court finds that the defendant substantially met the obligation to pay premiums for that insurance coverage.

3603. Payment of compensation in accordance with the order and direction of the appeals board shall discharge the employer from all claims therefor.

3604. It is not a defense to the State, any county, city, district or institution thereof, or any public or quasi-public corporation, that a person injured while rendering service for it was not lawfully employed by reason of the violation of any civil service or other law or regulation respecting the hiring of employees.

3605. The compensation due an injured minor may be paid to him until his parent or guardian gives the employer or the latter's compensation insurance carrier written notice that he claims such compensation.

Compensation paid to such injured minor prior to receipt of such written notice is in full release of the employer and insurance carrier for the amount so paid. The minor can not disaffirm such payment upon appointment of a guardian or coming of age.