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SB-623 Workers' compensation: post-traumatic stress disorder. (2023-2024)

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Senate Bill No. 623

CHAPTER 621

An act to amend Section 3212.15 of the Labor Code, relating to workers' compensation.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 623, Laird. Workers' compensation: post-traumatic stress disorder.

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 employment. Existing law provides, until January 1, 2025, that, for certain state and local firefighting personnel and peace officers, the term "injury" includes post-traumatic stress that develops or manifests during a period in which the injured person is in the service of the department or unit and creates a disputable presumption that the injury arises out of and comes in the course of employment. Existing law requires the compensation awarded pursuant to this provision to include full hospital, surgical, medical treatment, disability indemnity, and death benefits.

This bill would instead repeal that provision on January 1, 2029, and would require the Commission on Health and Safety and Workers' Compensation to submit reports to the Legislature analyzing the effectiveness of the presumption and a review of claims filed by specified types of employees, not included in the presumption, such as public safety dispatchers, as defined.

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

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

SECTION 1. Section 3212.15 of the Labor Code is amended to read:

3212.15. (a) This section applies to all of the following:

(1) Active firefighting members, whether volunteers, partly paid, or fully paid, of all of the following fire departments:

(A) A fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision.

(B) A fire department of the University of California and the California State University.

(C) The Department of Forestry and Fire Protection.

(D) A county forestry or firefighting department or unit.

(2) Active firefighting members of a fire department that serves a United States Department of Defense installation and who are certified by the Department of Defense as meeting its standards for firefighters.

(3) Active firefighting members of a fire department that serves a National Aeronautics and Space Administration installation and who adhere to training standards established in accordance with Article 4 (commencing with Section 13155) of Chapter 1 of Part 2 of Division 12 of the Health and Safety Code.

(4) Peace officers, as defined in Section 830.1 of, subdivisions (a), (b), and (c) of Section 830.2 of, Section 830.32 of, subdivisions (a) and (b) of Section 830.37 of, Section 830.5 of, and Section 830.55 of, the Penal Code, who are primarily engaged in active law enforcement activities.

(5) (A) Fire and rescue services coordinators who work for the Office of Emergency Services.

(B) For purposes of this paragraph, "fire and rescue services coordinators" means coordinators with any of the following job classifications: coordinator, senior coordinator, or chief coordinator.

(b) In the case of a person described in subdivision (a), the term "injury," as used in this division, includes "post-traumatic stress disorder," as diagnosed according to the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and that develops or manifests itself during a period in which any person described in subdivision (a) is in the service of the department, unit, office, or agency.

(c) For an injury that is diagnosed as specified in subdivision (b):

(1) The compensation that is awarded shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(2) The injury so developing or manifesting itself in these cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with the presumption. This presumption shall be extended to a person described in subdivision (a) following termination of service for a period of 3 calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(d) Compensation shall not be paid pursuant to this section for a claim of injury unless the person has performed services for the department, unit, office, or agency for at least six months. The six months of employment need not be continuous. This subdivision does not apply if the injury is caused by a sudden and extraordinary employment condition.

(e) This section, as added by Section 2 of Chapter 390 of the Statutes of 2019, applies to injuries occurring on or after January 1, 2020.

(f) (1) The Commission on Health and Safety and Workers' Compensation shall submit a report to the Legislature analyzing the effectiveness of the presumption created by this section. The report shall review data from post-traumatic stress disorder injuries for which compensation is claimed under this section from January 1, 2020, through December 31, 2025. The report shall be provided to the Senate Committee on Labor, Public Employment and Retirement and the Assembly Committee on Insurance no later than January 1, 2027.

(2) The Commission on Health and Safety and Workers' Compensation shall submit a report to the Legislature analyzing claims filed for post-traumatic stress disorder injury for which compensation is claimed by public safety dispatchers, public safety telecommunicators, and emergency response communication employees, from January 1, 2020, through December 31, 2023. The study shall review data, including, but not limited to, the total number of claims, frequency of claim acceptance, frequency of claim denial, the initial claim determination, and the average time between the filing of a claim and the final determination of compensability. The report shall be provided to the Senate Committee on Labor, Public Employment and Retirement and the Assembly Committee on Insurance no later than January 1, 2025. For purposes of this subdivision, a "public safety dispatcher," "public safety telecommunicator," or "emergency response communication employee" means an individual employed by a public safety agency whose primary responsibility is to receive, process, transmit, or dispatch emergency and nonemergency calls for law enforcement, fire, emergency medical, and other public safety services by telephone, radio, or other communication device, and includes an individual who supervises other individuals who perform these functions.

(3) A report submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(g) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.