

1-1-1987

Workers' Compensation

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Recommended Citation

University of the Pacific; McGeorge School of Law, *Workers' Compensation*, 18 PAC. L. J. 771 (1987).

Available at: <https://scholarlycommons.pacific.edu/mlr/vol18/iss2/32>

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Workers' Compensation

Workers' Compensation; disaster service workers

Labor Code §§ 4351, 4352, 4353, 4354, 4354.5, 4355 (repealed and new); §§ 4361, 4362, 4363, 4364, 4365, 4368 (repealed); § 3600.6 (new).

AB 3298 (Bader); 1986 STAT. Ch. 554

Sponsor: Department of Industrial Relations

Under prior law a disaster service worker¹ was subject to certain conditions² and limitations³ regarding the receipt of workers' compensation benefits⁴ for injuries⁵ arising out of and occurring in the

1. CAL. LAB. CODE § 3211.92 (definition of disaster service worker). A disaster service worker's dependents are also subject to the conditions and limitations. 1946 Cal. Stat. ch. 104, sec. 6, at 133 (enacting CAL. LAB. CODE §§ 4351, 4352).

2. 1974 Cal. Stat. ch. 1158, sec. 6, at 2467 (amending CAL. LAB. CODE § 4353). The following conditions must have occurred: (1) at the time of the injury the disaster service worker must have been performing services as a disaster service worker, and acting within the course of his duties as such; (2) at the time of the injury the disaster service worker must have been registered with an accredited disaster service council or impressed into service 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 duties; and (3) the injury must have been proximately caused by the worker's service as a disaster service worker, must not have been caused by the intoxication of the injured worker, and must not have been intentionally self-inflicted. *Id.*

3. Under prior law, when a disaster service worker received compensation from (1) the State, (2) the disaster city council with which the disaster service worker was registered, or (3) the county or city which empowered the disaster council to register the disaster service worker and direct the worker's activities, the disaster service worker was only entitled to the compensation listed in the disaster service worker remedy provisions of the Labor Code. 1946 Cal. Stat. ch. 104, sec. 6, at 133 (enacting CAL. LAB. CODE § 4351). *See id.* §§ 3351, 3351.5, 3352, 3352.94 (definition of employee); 3211.92 (definition of disaster service worker); 5410 (new and further disability of an employee). *See also* 1946 Cal. Stat. ch. 104, sec. 6, at 133 (enacting CAL. LAB. CODE §§ 4351, 4352). No disability payment could be made to a disaster service worker during a period of temporary disability for the loss of wages due to such a disability. *Id.* at 135 (enacting CAL. LAB. CODE § 4364). *Compare* 1968 Cal. Stat. ch. 4, sec. 3, at 31 (amending CAL. LAB. CODE § 4368) (compensation for a disaster service worker's burial expenses was limited to \$700) with CAL. LAB. CODE § 4701 (allows other workers to have their burial expenses compensated up to \$2,000). Under prior law, a disaster service worker would have been classified as an employee and received workers' compensation benefits as such. 1957 Cal. Stat. ch. 1103, sec. 2, at 2408 (enacting CAL. LAB. CODE § 4354.5).

4. *See generally* CAL. LAB. CODE §§ 139.6, 5450 (information, assistance, and advice regarding the receipt of benefits must be provided by the administrative director of the Division of Industrial Accidents).

5. CAL. LAB. CODE § 3208 (definition of injury).

course of disaster service⁶ activity.⁷ Chapter 554 removes the prior conditions and limitations⁸ and entitles a disaster service worker⁹ to receive the same workers' compensation benefits¹⁰ as other injured employees.¹¹

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6. *Id.* §§ 3211.93, 3211.93a (definition of disaster service).

7. 1946 Cal. Stat. ch. 104, sec. 6, at 133 (enacting CAL. LAB. CODE § 4351).

8. CAL. LAB. CODE § 3600.6. However, liability for the payment or furnishing of compensation is dependent upon and limited to the availability of money appropriated for the purpose of furnishing compensation to disaster service workers and their dependents. *Id.* § 4352.

9. *Id.* § 4351 (includes a disaster service worker's dependents). The disaster service worker must be either registered by a disaster council and performing services under the general direction of the disaster council, or impressed into performing service as a disaster service worker during a state of war emergency, a state of emergency, or a local emergency. *Id.* § 3600.6.

10. *See generally id.* §§ 4353, 4354 (providing for temporary and permanent disability indemnity). One exception to the similarities is that a disaster service worker's average weekly earnings as determined for temporary and permanent disability shall be taken at the maximum allowable by statute. *Id.* § 4353.

11. *Id.* § 3600.6.

Workers' Compensation; felonious act by injured employee

Labor Code § 3600 (amended).

AB 3297 (Bader); 1986 STAT. Ch. 755

Sponsor: Department of Industrial Relations

Opposition: California Applicant's Attorneys Association; California Labor Federation; United Farm Workers

Existing law provides that an employer¹ is liable for workers' compensation for any injury² sustained by an employee,³ arising out of⁴ and in the course of employment,⁵ when certain conditions of

1. CAL. LAB. CODE § 3300 (definition of employer).

2. *Id.* § 3208 (definition of injury).

3. *Id.* §§ 3351-3352 (definition of employee).

4. The injury does not need to be a kind anticipated by the employer nor one peculiar to the employment in order to arise out of the employment. An injury to a worker arises out of employment when the employment is a contributory cause to the injury. *Employers Mut. Liab. Ins. Co. v. Industrial Accident Comm'n*, 41 Cal. 2d 676, 680, 263 P.2d 4, 8 (1953).

5. For the activity of an employee to be within the course of employment, the employee

compensation are met.⁶ Chapter 755 prohibits an employee from receiving compensation when the injury is caused by a felonious act for which the injured employee has been convicted.⁷

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must be engaging in duties which the employee was employed to perform, or be engaged in acts which incidentally or indirectly contribute to the employer's service. *See generally* Harris v. Oro-Dam Constructors, 269 Cal. App. 2d 911, 75 Cal. Rptr. 544 (1969); California Compensation & Fire Co. v. Workmen's Compensation Appeals Bd., 68 Cal. 2d 157, 436 P.2d 67, 65 Cal. Rptr. 155 (1968).

6. CAL. LAB. CODE § 3600 (conditions required for compensation).

7. *Id.* § 3600(a)(8).

