
SENATE BILL 6048

State of Washington

53rd Legislature

1994 Regular Session

By Senators Haugen, Winsley, Ludwig, Oke, McAuliffe, Franklin and Roach; by request of Washington State Patrol

Read first time 01/10/94. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to disability of state patrol officers; and
2 amending RCW 43.43.040.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 43.43.040 and 1987 c 185 s 17 are each amended to read
5 as follows:

6 (1) The chief of the Washington state patrol shall relieve from
7 active duty Washington state patrol officers who, while in the
8 performance of their official duties, or while on standby or available
9 for duty, have been or hereafter may be injured or incapacitated to
10 such an extent as to be mentally or physically incapable of active
11 service: PROVIDED, That:

12 (a) Any officer disabled while performing line duty who is found by
13 the chief to be physically incapacitated shall be placed on disability
14 leave for a period not to exceed six months from the date of injury or
15 the date incapacitated. During this period, the officer shall be
16 entitled to all pay, benefits, insurance, leave, and retirement
17 contributions awarded to an officer on active status, less any
18 compensation received through the department of labor and industries.
19 No such disability leave shall be approved until an officer has been

1 unavailable for duty for more than five consecutive work days. Prior
2 to the end of the six-month period, the chief shall either place the
3 officer on disability status or return the officer to active status.

4 For the purposes of this section, "line duty" is active service
5 which encompasses the traffic law enforcement duties and/or other law
6 enforcement responsibilities of the state patrol. These activities
7 encompass all enforcement practices of the laws, accident and criminal
8 investigations, or actions requiring physical exertion or exposure to
9 hazardous elements.

10 The chief shall define by rule the situations where a disability
11 has occurred during line duty;

12 (b) Benefits under this section for a disability that is incurred
13 while in other employment will be reduced by any amount the officer
14 receives or is entitled to receive from workers' compensation, social
15 security, group insurance, other pension plan, or any other similar
16 source provided by another employer on account of the same disability;

17 (c) An officer injured while engaged in wilfully tortious or
18 criminal conduct shall not be entitled to disability benefits under
19 this section; and

20 (d) Should a disability beneficiary whose disability was not
21 incurred in line of duty, prior to attaining age fifty, engage in a
22 gainful occupation, the chief shall reduce the amount of his retirement
23 allowance to an amount which when added to the compensation earned by
24 him in such occupation shall not exceed the basic salary currently
25 being paid for the rank the retired officer held at the time he was
26 disabled. All such disability beneficiaries under age fifty shall file
27 with the chief every six months a signed and sworn statement of
28 earnings and any person who shall knowingly swear falsely on such
29 statement shall be subject to prosecution for perjury. Should the
30 earning capacity of such beneficiary be further altered, the chief may
31 further alter his disability retirement allowance as indicated above.
32 The failure of any officer to file the required statement of earnings
33 shall be cause for cancellation of retirement benefits.

34 (2) Officers on disability status shall receive one-half of their
35 compensation at the existing wage, during the time the disability
36 continues in effect, less any compensation received through the
37 department of labor and industries. ((They)) The chief of the state
38 patrol shall establish rules requiring officers on disability status to
39 submit periodic reports on their disability. Officers on disability

1 status shall be subject to mental or physical examination at any state
2 institution or otherwise under the direction of the chief of the state
3 patrol at any time during such relief from duty to ascertain whether or
4 not they are able to resume active duty. If the mental or physical
5 examination given under the direction of the chief shows the individual
6 capable of returning to active duty, the individual shall be required
7 to return to a position offered by the chief that is equivalent in rank
8 to their previous active duty rank and in the same geographical
9 location where they left active duty or in the location where they
10 currently reside. A refusal to accept such a position shall result in
11 a termination of the disability benefits. The chief of the state
12 patrol shall establish rules under this section pertaining to return to
13 work provisions.

14 (3) If an officer is determined to be disabled under this section,
15 the action shall be conclusive and effective to bar any subsequent
16 application or claim relative to the disability by the officer or
17 beneficiary of the officer that would otherwise exist had such officer
18 not elected to apply for a disability. The chief may require the
19 spouse of the officer to consent in writing as a prerequisite to the
20 receipt of disability status.

21 (4) If an injury results to an officer from the deliberate
22 intention of the state patrol to produce the injury, the officer or
23 beneficiary of the officer may have cause of action against the state
24 patrol for damages in excess of disability benefits paid or payable
25 under this section.

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