

Senate Bill No. 942

Passed the Senate September 12, 2007

Secretary of the Senate

Passed the Assembly September 10, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 3201.81, 4658.5, and 4658.6 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 942, Migden. Workers' compensation: disability.

(1) Existing Workers' Compensation Law requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment.

Existing law provides for the payment of temporary disability indemnity payments to any injured employee under specified circumstances, with certain exceptions, and provides that, if an injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days of the termination of temporary disability indemnity payments, the injured employee shall be eligible to receive a supplemental job displacement benefit, as specified.

This bill would, instead, provide that, for injuries occurring on or after January 1, 2008, if the injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days after the disability becomes permanent and stationary, the employee shall be entitled to receive a supplemental job displacement benefit, and would revise the amounts of benefits an injured employee would be eligible to receive, as specified.

(2) Existing law provides that the employer shall not be liable for the supplemental job displacement benefit if, within 30 days of the termination of temporary disability indemnity benefits, the employer offers, and the employee rejects, or fails to accept, modified or alternative work, as specified.

This bill instead would provide that an employer shall not be liable for supplemental job displacement benefits if, within 60 days of the disability becoming permanent and stationary, the employer offers the injured employee regular work or modified work. It would also make a technical, clarifying change.

(3) This bill would incorporate additional changes in Section 4658.5 of the Labor Code, proposed by this bill and AB 1636, to be operative only if this bill and AB 1636 are both chaptered and become effective January 1, 2008, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 3201.81 of the Labor Code is amended to read:

3201.81. In the horse racing industry, the organization certified by the California Horse Racing Board to represent the majority of licensed jockeys pursuant to subdivision (b) of Section 19612.9 of the Business and Professions Code is the labor organization authorized to negotiate the collective bargaining agreement establishing an alternative dispute resolution system for licensed jockeys pursuant to Section 3201.7.

SEC. 2. Section 4658.5 of the Labor Code is amended to read:

4658.5. (a) (1) Except as provided in Section 4658.6, if the injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days of the termination of temporary disability, the injured employee shall be eligible for a supplemental job displacement benefit in the form of a nontransferable voucher for education-related retraining or skill enhancement, or both, at state-approved or accredited schools, as follows:

(A) Up to four thousand dollars (\$4,000) for permanent partial disability awards of less than 15 percent.

(B) Up to six thousand dollars (\$6,000) for permanent partial disability awards between 15 and 25 percent.

(C) Up to eight thousand dollars (\$8,000) for permanent partial disability awards between 26 and 49 percent.

(D) Up to ten thousand dollars (\$10,000) for permanent partial disability awards between 50 and 99 percent.

(2) Except as provided in Section 4658.6, for injuries occurring on or after January 1, 2008, if the injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days after the disability becomes permanent and stationary, the employee shall be entitled to a supplemental job displacement benefit in the form of a nontransferable voucher for education-related retraining or skill enhancement, or both, at

state accredited schools. The voucher shall not exceed a total amount of ten thousand dollars (\$10,000). The maximum amount of the voucher available for the payment of tuition, fees, books, and other expenses required by the school in any one semester, in any one quarter, or in any other academic term into which the school divides the academic year shall be prorated for the academic term at a rate not to exceed five thousand dollars (\$5,000) per year.

(b) The voucher may be used for payment of tuition, fees, books, and other expenses required by the school for retraining or skill enhancement. No more than 10 percent of the voucher moneys may be used for vocational or return to work counseling. The administrative director shall adopt regulations governing the form of payment, direct reimbursement to the injured employee upon presentation to the employer of appropriate documentation and receipts, and any other matters necessary to the proper administration of the supplemental job displacement benefit.

(c) Within 10 days of the date of the last payment of temporary disability the employer shall provide to the employee, in the form and manner prescribed by the administrative director, information that provides notice of rights under this section. This notice shall be sent by certified mail.

(d) Except as provided in paragraph (2) of subdivision (a), this section shall apply to injuries occurring on or after January 1, 2004.

SEC. 2.5. Section 4658.5 of the Labor Code is amended to read:

4658.5. (a) (1) Except as provided in Section 4658.6, if the injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days of the termination of temporary disability, the injured employee shall be eligible for a supplemental job displacement benefit in the form of a nontransferable voucher for education-related retraining or skill enhancement, or both, at state-approved or accredited schools, as follows:

(A) Up to four thousand dollars (\$4,000) for permanent partial disability of less than 15 percent.

(B) Up to six thousand dollars (\$6,000) for permanent partial disability between 15 and 25 percent.

(C) Up to eight thousand dollars (\$8,000) for permanent partial disability between 26 and 49 percent.

(D) Up to ten thousand dollars (\$10,000) for permanent partial disability between 50 and 99 percent.

(2) Except as provided in Section 4658.6, for injuries occurring on or after January 1, 2008, if the injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days after the disability becomes permanent and stationary, the employee shall be entitled to a supplemental job displacement benefit in the form of a nontransferable voucher for education-related retraining or skill enhancement, or both, at state accredited schools. The voucher shall not exceed a total amount of ten thousand dollars (\$10,000). The maximum amount of the voucher available for the payment of tuition, fees, books, and other expenses required by the school in any one semester, in any one quarter, or in any other academic term into which the school divides the academic year shall be prorated for the academic term at a rate not to exceed five thousand dollars (\$5,000) per year.

(b) The voucher may be used for payment of tuition, fees, books, and other expenses required by the school for retraining or skill enhancement. No more than 10 percent of the voucher moneys may be used for vocational or return to work counseling. The administrative director shall adopt regulations governing the form of payment, direct reimbursement to the injured employee upon presentation to the employer of appropriate documentation and receipts, and any other matters necessary to the proper administration of the supplemental job displacement benefit.

(c) Within 10 days of the date of the last payment of temporary disability, the employer shall provide to the employee, in the form and manner prescribed by the administrative director, information that provides notice of rights under this section. This notice shall be sent by certified mail.

(d) (1) For injuries occurring on or after January 1, 2008, if the employee has not returned to work within 60 days of a disability becoming permanent and stationary, except as provided in Section 4658.6, the voucher shall be provided no later than 74 days after the date the disability has been determined to be permanent and stationary. If the percentage of permanent disability has not yet been determined, the employer shall provide a voucher based on the reasonable estimate of the percentage of permanent disability, as required in subdivision (b) of Section 4650. If the percentage of permanent disability is later determined to be higher than the

estimate, the employer shall provide the additional voucher amount immediately upon determining the correct percentage of permanent disability. If the percentage of permanent disability is later determined to be lower than the estimate, the employer shall reissue the voucher in the correct amount and notify the employee that any unused portion of the original voucher in excess of the appropriate amount is no longer available.

(2) The employer shall notify the employee, in a manner prescribed by the administrative director, of the determination of the percentage of permanent disability consistent with this section, and of any delay in determining the correct percentage of permanent disability benefits.

(e) Except as provided in paragraph (2) of subdivision (a) and subdivision (d), this section shall apply to injuries occurring on or after January 1, 2004.

SEC. 3. Section 4658.6 of the Labor Code is amended to read:

4658.6. The employer shall not be liable for the supplemental job displacement benefit within 60 days of the disability becoming permanent and stationary if the employer offers the injured employee regular work, modified work, or alternative work in the form and manner prescribed by the administrative director, lasting for a period of at least 12 months.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 4658.5 of the Labor Code proposed by both this bill and AB 1636. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 4658.5 of the Labor Code, and (3) this bill is enacted after AB 1636, in which case Section 2 of this bill shall not become operative.

Approved _____, 2007

Governor