
By: Delegates V. Mitchell, Wood, Kach, McClenahan, Mossburg, and Love

Introduced and read first time: February 2, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Use of Drugs or Alcohol**

3 FOR the purpose of establishing that a certain employee or dependent is not entitled to
4 certain workers' compensation benefits under certain circumstances relating to the
5 use of certain drugs or alcohol; and generally relating to use of drugs or alcohol on
6 eligibility for workers' compensation benefits.

7 BY repealing and reenacting, with amendments,
8 Article - Labor and Employment
9 Section 9-506
10 Annotated Code of Maryland
11 (1991 Volume and 1995 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Labor and Employment**

15 9-506.

16 (a) A covered employee or a dependent of a covered employee is not entitled to
17 compensation or benefits under this title as a result of:

18 (1) an intentional, self-inflicted accidental personal injury, compensable
19 hernia, or occupational disease; or

20 (2) an attempt to injure or kill another.

21 (b) A covered employee or a dependent of a covered employee is not entitled to
22 compensation or benefits under this title as a result of an accidental personal injury,
23 compensable hernia, or occupational disease if:

24 (1) the accidental personal injury, compensable hernia, or occupational
25 disease was caused solely by the effect on the covered employee of:

26 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant drug;
27 or

28 (ii) another drug that makes the covered employee incapable of
29 satisfactory job performance; and

1 (2) the drug was not administered or taken in accordance with the
2 prescription of a physician.

3 (c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
4 A covered employee or a dependent of a covered employee is not entitled to
5 compensation or benefits under this title as a result of an accidental personal injury,
6 compensable hernia, or occupational disease if [the accidental personal injury,
7 compensable hernia, or occupational disease was caused solely by the intoxication of the
8 covered employee while on duty]:

9 (I) THE COVERED EMPLOYEE'S EMPLOYMENT IS SUBJECT TO THE
10 REQUIREMENTS OF A "DRUG-FREE WORKPLACE PROGRAM" THAT COMPLIES WITH
11 THE GUIDELINES FOR A DRUG-FREE WORKPLACE ESTABLISHED BY THE
12 GOVERNOR'S DRUG AND ALCOHOL ABUSE COMMISSION;

13 (II) THE DRUG-FREE WORKPLACE PROGRAM IS CERTIFIED ON AN
14 ANNUAL BASIS BY THE WORKERS' COMPENSATION COMMISSION OR BY AN
15 EVALUATING AUTHORITY APPROVED BY THE WORKERS' COMPENSATION
16 COMMISSION IN ACCORDANCE WITH REGULATIONS SET FORTH BY THE WORKERS'
17 COMPENSATION COMMISSION;

18 (III) A SUBSTANTIAL CAUSE OF THE ACCIDENTAL INJURY,
19 COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE WAS THE EFFECT ON THE
20 COVERED EMPLOYEE OF INTOXICATION, A DEPRESSANT, HALLUCINOGENIC,
21 HYPNOTIC, NARCOTIC, STIMULANT, OR OTHER DRUG THAT MAKES THE COVERED
22 EMPLOYEE INCAPABLE OF SATISFACTORY JOB PERFORMANCE AND WAS NOT
23 ADMINISTERED OR TAKEN IN ACCORDANCE WITH THE PRESCRIPTION OF A
24 PHYSICIAN;

25 (IV) THE INTOXICATION OR DRUG WAS DETECTED BY A DRUG OR
26 ALCOHOL TEST CONDUCTED IN ACCORDANCE WITH PROCEDURES SET FORTH IN A
27 CERTIFIED DRUG-FREE WORKPLACE POLICY AND APPROPRIATE CONFIRMATION
28 TEST PERFORMED BY A LABORATORY CERTIFIED BY THE MARYLAND DEPARTMENT
29 OF HEALTH AND MENTAL HYGIENE TO PERFORM THE TESTS; AND

30 (V) THE LEVEL OF INTOXICANT OR DRUGS EQUALS OR EXCEEDS
31 THE MINIMUM POSITIVE LEVELS ESTABLISHED BY THE U.S. DEPARTMENT OF
32 TRANSPORTATION.

33 (2) A COVERED EMPLOYEE SUBJECT TO THIS SUBSECTION IS ENTITLED
34 TO MEDICAL SERVICES AND TREATMENT UNDER § 9-660 OF THIS TITLE.

35 (d) A covered employee or a dependent of a covered employee is not entitled to
36 compensation or benefits under this title as a result of an accidental personal injury,
37 compensable hernia, or occupational disease if the accidental personal injury,
38 compensable hernia, or occupational disease was caused by the willful misconduct of the
39 covered employee.

40 (e) In a proceeding on a claim for compensation, there is, absent substantial
41 evidence to the contrary, a presumption that an accidental personal injury, compensable
42 hernia, or occupational disease:

HOUSE BILL 788

3

1 (1) was not caused by the intent of the covered employee to injure or kill the
2 covered employee or another individual;

3 (2) was not caused solely by the effect on the covered employee of:

4 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant drug;
5 or

6 (ii) another drug that makes the covered employee incapable of
7 satisfactory job performance; and

8 (3) was not caused solely by the intoxication of the covered employee while
9 on duty.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 1996.