
By: Senators Roesser, Derr, Middleton, Hogan, Hafer, Astle, Forehand, Madden, Bromwell, Lawlah, and McCabe

Introduced and read first time: January 31, 1997

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of establishing that, under certain circumstances, a covered employee
4 or a dependent of a covered employee is not entitled to certain compensation or
5 benefits under the workers' compensation law if the primary cause of an accidental
6 personal injury, compensable hernia, or occupational disease was the effect on the
7 employee of intoxication or a certain drug; and generally relating to eligibility for
8 compensation or benefits under workers' compensation law.

9 BY repealing and reenacting, with amendments,
10 Article - Labor and Employment
11 Section 9-506
12 Annotated Code of Maryland
13 (1991 Volume and 1996 Supplement)

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

16 **Article - Labor and Employment**

17 9-506.

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

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

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

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

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

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1 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant drug;
2 or

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

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

7 (c) A covered employee or a dependent of a covered employee is not entitled to
8 compensation or benefits under this title as a result of an accidental personal injury,
9 compensable hernia, or occupational disease if the accidental personal injury,
10 compensable hernia, or occupational disease was caused solely by the intoxication of the
11 covered employee while on duty.

12 (D) EXCEPT FOR MEDICAL BENEFITS UNDER §§ 9-660 AND 9-661 OF THIS TITLE,
13 A COVERED EMPLOYEE OR DEPENDENT OF A COVERED EMPLOYEE IS NOT
14 ENTITLED TO COMPENSATION OR BENEFITS UNDER THIS TITLE AS A RESULT OF AN
15 ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL
16 DISEASE, IF THE PRIMARY CAUSE OF THE ACCIDENTAL PERSONAL INJURY,
17 COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE WAS:

18 (1) THE INTOXICATION OF THE COVERED EMPLOYEE WHILE ON DUTY;

19 (2) THE EFFECT ON THE COVERED EMPLOYEE OF A DEPRESSANT,
20 HALLUCINOGENIC, HYPNOTIC, NARCOTIC, OR STIMULANT DRUG THAT WAS NOT
21 ADMINISTERED OR TAKEN IN ACCORDANCE WITH THE PRESCRIPTION OF A
22 PHYSICIAN; OR

23 (3) the effect on the covered employee of another drug that was not
24 administered or taken in accordance with the prescription of a physician and that makes
25 the covered employee incapable of satisfactory job performance.

26 [(d)] (E) A covered employee or a dependent of a covered employee is not
27 entitled to compensation or benefits under this title as a result of an accidental personal
28 injury, compensable hernia, or occupational disease if the accidental personal injury,
29 compensable hernia, or occupational disease was caused by the willful misconduct of the
30 covered employee.

31 [(e)] (F) In a proceeding on a claim for compensation, there is, absent substantial
32 evidence to the contrary, a presumption that an accidental personal injury, compensable
33 hernia, or occupational disease:

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

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

37 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant drug;
38 or

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

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1997.