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1997 Regular Session  
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**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

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 1997

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Workers' Compensation - Use of ~~Drugs~~ Controlled Dangerous Substances 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~~ controlled dangerous substance; defining  
8 a certain term; providing that certain benefits shall not be denied under certain  
9 circumstances; providing that in a proceeding on a certain claim there is, absent  
10 substantial evidence to the contrary, a certain presumption; and generally relating  
11 to eligibility for compensation or benefits under workers' compensation law.

12 BY repealing and reenacting, with amendments,  
13 Article - Labor and Employment  
14 Section 9-506  
15 Annotated Code of Maryland  
16 (1991 Volume and 1996 Supplement)

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

19 **Article - Labor and Employment**

20 9-506.

21 (a) 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:

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

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

4 (b) 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:

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

9 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant drug;  
10 or

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

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

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

20 ~~(D) EXCEPT FOR MEDICAL BENEFITS UNDER §§ 9-660 AND 9-661 OF THIS TITLE,~~  
21 ~~A COVERED EMPLOYEE OR DEPENDENT OF A COVERED EMPLOYEE IS NOT~~  
22 ~~ENTITLED TO COMPENSATION OR BENEFITS UNDER THIS TITLE AS A RESULT OF AN~~  
23 ~~ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL~~  
24 ~~DISEASE, IF THE PRIMARY CAUSE OF THE ACCIDENTAL PERSONAL INJURY,~~  
25 ~~COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE WAS:~~

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

27 ~~(2) THE EFFECT ON THE COVERED EMPLOYEE OF A DEPRESSANT,~~  
28 ~~HALLUCINOGENIC, HYPNOTIC, NARCOTIC, OR STIMULANT DRUG THAT WAS NOT~~  
29 ~~ADMINISTERED OR TAKEN IN ACCORDANCE WITH THE PRESCRIPTION OF A~~  
30 ~~PHYSICIAN; OR~~

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

34 (D) (1) IN THIS SUBSECTION, "PRIMARY CAUSE" MEANS THE CAUSE THAT IS  
35 FIRST IN IMPORTANCE.

36 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
37 PARAGRAPH, A COVERED EMPLOYEE OR DEPENDENT OF A COVERED EMPLOYEE IS  
38 NOT ENTITLED TO COMPENSATION OR BENEFITS UNDER THIS TITLE, EXCEPT FOR  
39 MEDICAL BENEFITS UNDER §§ 9-660 AND 9-661 OF THIS TITLE, AS A RESULT OF AN  
40 ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL

1 DISEASE, IF THE PRIMARY CAUSE OF THE ACCIDENTAL PERSONAL INJURY,  
2 COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE WAS THE EFFECT ON THE  
3 COVERED EMPLOYEE OF A CONTROLLED DANGEROUS SUBSTANCE DEFINED OR  
4 LISTED UNDER ARTICLE 27, § 277 OR § 279 OF THE CODE.

5 (II) COMPENSATION OR BENEFITS SHALL NOT BE DENIED UNDER  
6 SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE CONTROLLED DANGEROUS  
7 SUBSTANCE WAS ADMINISTERED, TAKEN, OR USED IN ACCORDANCE WITH THE  
8 PRESCRIPTION OF A PHYSICIAN AND THE ADMINISTERING, TAKING, OR USE OF THE  
9 CONTROLLED DANGEROUS SUBSTANCE WAS NOT EXCESSIVE OR ABUSIVE.

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

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

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

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

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

28 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant drug;  
29 or

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

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

34 (G) IN A PROCEEDING ON A CLAIM FOR COMPENSATION UNDER SUBSECTION  
35 (D) OF THIS SECTION, THERE IS, ABSENT SUBSTANTIAL EVIDENCE TO THE  
36 CONTRARY, A PRESUMPTION THAT:

37 (1) THE EFFECT ON THE COVERED EMPLOYEE OF A CONTROLLED  
38 DANGEROUS SUBSTANCE WAS NOT THE PRIMARY CAUSE OF THE ACCIDENTAL  
39 PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE; AND

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1                   (2) THE INTOXICATION OF THE COVERED EMPLOYEE WAS NOT THE  
2 PRIMARY CAUSE OF THE ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA,  
3 OR OCCUPATIONAL DISEASE.

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