

HOUSE BILL 372

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SB 668/97 - FIN

1998 Regular Session
8lr1018
CF 8lr0591

By: **Delegates V. Mitchell, W. Baker, Baldwin, Beck, Bissett, Bozman, Branch, Brinkley, E. Burns, M. Burns, Cadden, Ciliberti, Clagett, Comeau, Conway, Crumlin, Cryor, Dewberry, Donoghue, Eckardt, Edwards, Elliott, Faulkner, Flanagan, Fulton, Getty, Greenip, Guns, Harkins, Hecht, Holt, Hubbard, D. Hughes, Hutchins, Jacobs, Jones, Kach, Kelly, Kittleman, Klausmeier, Klima, Kopp, La Vay, Leopold, Linton, Love, McClenahan, McKee, Minnick, C. Mitchell, Morgan, Mossburg, D. Murphy, Muse, Owings, O'Donnell, Patterson, Perry, Poole, Ports, Rawlings, Redmer, Rudolph, Rzepkowski, Schisler, Shade, Slade, Snodgrass, Stocksedale, Stull, Stup, Taylor, Valderrama, Walkup, Weir, and Wood**

Introduced and read first time: February 2, 1998

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Use of Controlled Dangerous Substances or**
3 **Alcohol**

4 FOR the purpose of establishing that, under certain circumstances, a covered
5 employee or a dependent of a covered employee is not entitled to certain
6 compensation or benefits under the workers' compensation law if the primary
7 cause of an accidental personal injury, compensable hernia, or occupational
8 disease was the effect on the employee of intoxication or a certain controlled
9 dangerous substance; defining a certain term; providing that certain benefits
10 shall not be denied under certain circumstances; providing that in a proceeding
11 on a certain claim there is, absent substantial evidence to the contrary, a certain
12 presumption; and generally relating to eligibility for compensation or benefits
13 under workers' compensation law.

14 BY repealing and reenacting, with amendments,
15 Article - Labor and Employment
16 Section 9-506
17 Annotated Code of Maryland
18 (1991 Volume and 1997 Supplement)

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

Article - Labor and Employment

2 9-506.

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

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

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

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

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

13 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant
14 drug; or

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

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

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

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

26 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
27 PARAGRAPH, A COVERED EMPLOYEE OR DEPENDENT OF A COVERED EMPLOYEE IS
28 NOT ENTITLED TO COMPENSATION OR BENEFITS UNDER THIS TITLE, EXCEPT FOR
29 MEDICAL BENEFITS UNDER §§ 9-660 AND 9-661 OF THIS TITLE, AS A RESULT OF AN
30 ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL
31 DISEASE, IF THE PRIMARY CAUSE OF THE ACCIDENTAL PERSONAL INJURY,
32 COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE WAS THE EFFECT ON THE
33 COVERED EMPLOYEE OF A CONTROLLED DANGEROUS SUBSTANCE DEFINED OR
34 LISTED UNDER ARTICLE 27, § 277 OR § 279 OF THE CODE.

35 (II) COMPENSATION OR BENEFITS SHALL NOT BE DENIED UNDER
36 SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE CONTROLLED DANGEROUS
37 SUBSTANCE WAS ADMINISTERED, TAKEN, OR USED IN ACCORDANCE WITH THE

1 PRESCRIPTION OF A PHYSICIAN AND THE ADMINISTERING, TAKING, OR USE OF THE
2 CONTROLLED DANGEROUS SUBSTANCE WAS NOT EXCESSIVE OR ABUSIVE.

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

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

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

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

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

21 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant
22 drug; or

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

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

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

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

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

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 1998.