

HOUSE BILL 372

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SB 668/97 - FIN

1998 Regular Session  
8r1018  
CF 8r0591

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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, Schade, Slade, Snodgrass, Stocksdale, Stull, Stup, Taylor, Valderrama, Walkup, Weir, and Wood**

Introduced and read first time: February 2, 1998  
Assigned to: Economic Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: February 25, 1998

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CHAPTER \_\_\_\_\_

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

1 (1991 Volume and 1997 Supplement)

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

4 **Article - Labor and Employment**

5 9-506.

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

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

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

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

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

16 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant  
17 drug; or

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

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

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

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

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

1 COVERED EMPLOYEE OF A CONTROLLED DANGEROUS SUBSTANCE DEFINED OR  
2 LISTED UNDER ARTICLE 27, § 277 OR § 279 OF THE CODE.

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

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

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

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

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

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

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

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

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

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

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

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, 1998.