

SENATE BILL 36

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1998 Regular Session  
(8lr0591)

*ENROLLED BILL*  
*-- Finance/Economic Matters --*

Introduced by **Senators Roesser, Bromwell, Colburn, Craig, Derr, Ferguson,  
Forehand, Lawlah, Madden, McCabe, Munson, and Stoltzfus**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

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~~  
10 ~~compensation or benefits shall not be denied under certain circumstances~~  
11 ~~involving a controlled dangerous substance or alcohol~~ *providing that certain*  
12 *benefits may not be denied under certain circumstances*; providing that in a  
13 proceeding on a certain claim there is, absent substantial evidence to the  
14 contrary, a certain presumption; and generally relating to eligibility for  
15 compensation or benefits under workers' compensation law.

16 BY repealing and reenacting, with amendments,

1 Article - Labor and Employment  
 2 Section 9-506  
 3 Annotated Code of Maryland  
 4 (1991 Volume and 1997 Supplement)

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

7 **Article - Labor and Employment**

8 9-506.

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

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

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

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

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

19 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant  
 20 drug; or

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

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

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

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

32 (2) (I) EXCEPT AS PROVIDED IN ~~PARAGRAPH (4) OF THIS SUBSECTION~~  
 33 ~~AND~~ SUBPARAGRAPH (II) OF THIS PARAGRAPH, A COVERED EMPLOYEE OR  
 34 DEPENDENT OF A COVERED EMPLOYEE IS NOT ENTITLED TO COMPENSATION OR  
 35 BENEFITS UNDER THIS TITLE, EXCEPT FOR MEDICAL BENEFITS UNDER §§ 9-660 AND  
 36 9-661 OF THIS TITLE, AS A RESULT OF AN ACCIDENTAL PERSONAL INJURY,

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

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

11 (3) ~~EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION AND~~  
 12 FOR MEDICAL BENEFITS UNDER §§ 9-660 AND 9-661 OF THIS TITLE, A COVERED  
 13 EMPLOYEE OR DEPENDENT OF A COVERED EMPLOYEE IS NOT ENTITLED TO  
 14 COMPENSATION OR BENEFITS UNDER THIS TITLE AS A RESULT OF AN ACCIDENTAL  
 15 PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE, IF THE  
 16 PRIMARY CAUSE OF THE ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA,  
 17 OR OCCUPATIONAL DISEASE WAS THE INTOXICATION OF THE COVERED EMPLOYEE  
 18 WHILE ON DUTY.

19 ~~(4) COMPENSATION OR BENEFITS SHALL NOT BE DENIED UNDER~~  
 20 ~~PARAGRAPH (2) OR (3) OF THIS SUBSECTION IF:~~

21 ~~(i) THE COVERED EMPLOYEE IS A LAW ENFORCEMENT OFFICER~~  
 22 ~~CARRYING OUT THE OFFICER'S OFFICIAL DUTIES; AND~~

23 ~~(ii) THE CONTROLLED DANGEROUS SUBSTANCE OR ALCOHOL WAS~~  
 24 ~~ADMINISTERED, TAKEN, OR USED BY THE COVERED EMPLOYEE AS REQUIRED BY~~  
 25 ~~LAW.~~

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  
 28 personal injury, compensable hernia, or occupational disease if the accidental  
 29 personal injury, compensable hernia, or occupational disease was caused by the  
 30 willful misconduct of the covered employee.

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

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

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

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

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

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

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

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