

SENATE BILL 36

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SB 668/97 - FIN

1998 Regular Session
8lr0591

(PRE-FILED)

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

Requested: October 23, 1997

Introduced and read first time: January 14, 1998

Assigned to: Finance

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:

21 **Article - Labor and Employment**

22 9-506.

23 (a) 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:

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

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

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

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

7 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant
8 drug; or

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

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

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

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

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

29 (II) COMPENSATION OR BENEFITS SHALL NOT BE DENIED UNDER
30 SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE CONTROLLED DANGEROUS
31 SUBSTANCE WAS ADMINISTERED, TAKEN, OR USED IN ACCORDANCE WITH THE
32 PRESCRIPTION OF A PHYSICIAN AND THE ADMINISTERING, TAKING, OR USE OF THE
33 CONTROLLED DANGEROUS SUBSTANCE WAS NOT EXCESSIVE OR ABUSIVE.

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

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

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

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

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

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

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

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

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

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

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

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