

SENATE BILL 36

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SB 668/97 - FIN

1998 Regular Session  
8r0591  
CF 8r1018

(PRE-FILED)

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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

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Committee Report: Favorable  
Senate action: Adopted with floor amendments  
Read second time: January 22, 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  
10 compensation or benefits shall not be denied under certain circumstances  
11 involving a controlled dangerous substance or alcohol; providing that in a  
12 proceeding on a certain claim there is, absent substantial evidence to the  
13 contrary, a certain presumption; and generally relating to eligibility for  
14 compensation or benefits under workers' compensation law.

15 BY repealing and reenacting, with amendments,  
16 Article - Labor and Employment  
17 Section 9-506  
18 Annotated Code of Maryland  
19 (1991 Volume and 1997 Supplement)

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

1 **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; or15 (ii) another drug that makes the covered employee incapable of  
16 satisfactory job performance; and17 (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 PARAGRAPH (4) OF THIS SUBSECTION  
27 AND SUBPARAGRAPH (II) OF THIS PARAGRAPH, A COVERED EMPLOYEE OR  
28 DEPENDENT OF A COVERED EMPLOYEE IS NOT ENTITLED TO COMPENSATION OR  
29 BENEFITS UNDER THIS TITLE, EXCEPT FOR MEDICAL BENEFITS UNDER §§ 9-660 AND  
30 9-661 OF THIS TITLE, AS A RESULT OF AN ACCIDENTAL PERSONAL INJURY,  
31 COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE, IF THE PRIMARY CAUSE OF  
32 THE ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL  
33 DISEASE WAS THE EFFECT ON THE COVERED EMPLOYEE OF A CONTROLLED  
34 DANGEROUS SUBSTANCE DEFINED OR LISTED UNDER ARTICLE 27, § 277 OR § 279 OF  
35 THE CODE.36 (II) COMPENSATION OR BENEFITS SHALL NOT BE DENIED UNDER  
37 SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE CONTROLLED DANGEROUS

1 SUBSTANCE WAS ADMINISTERED, TAKEN, OR USED IN ACCORDANCE WITH THE  
2 PRESCRIPTION OF A PHYSICIAN AND THE ADMINISTERING, TAKING, OR USE OF THE  
3 CONTROLLED DANGEROUS SUBSTANCE WAS NOT EXCESSIVE OR ABUSIVE.

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

12 (4) COMPENSATION OR BENEFITS SHALL NOT BE DENIED UNDER  
13 PARAGRAPH (2) OR (3) OF THIS SUBSECTION IF:

14 (I) THE COVERED EMPLOYEE IS A LAW ENFORCEMENT OFFICER  
15 CARRYING OUT THE OFFICER'S OFFICIAL DUTIES; AND

16 (II) THE CONTROLLED DANGEROUS SUBSTANCE OR ALCOHOL WAS  
17 ADMINISTERED, TAKEN, OR USED BY THE COVERED EMPLOYEE AS REQUIRED BY  
18 LAW.

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

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

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

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

30 (i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant  
31 drug; or

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

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

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

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

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

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