

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

(d) A covered employee or a dependent of a covered employee is not entitled to compensation or benefits under this title as a result of an accidental PERSONAL injury, compensable hernia, or occupational disease if the accidental PERSONAL injury, compensable hernia, or occupational disease was caused by the willful misconduct of the covered employee.

(e) In a proceeding on a claim for compensation, there is, absent substantial evidence to the contrary, a presumption that an accidental PERSONAL injury, compensable hernia, or occupational disease:

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

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

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

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

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

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(c) (1) If an employer fails to secure compensation in accordance with this title, a covered employee who has sustained an accidental PERSONAL injury, compensable hernia, or occupational disease or, in case of death, the personal representative of the covered employee may:

(i) bring a claim for compensation under this title; or

(ii) bring an action for damages.

(2) In an action of a covered employee or personal representative under this subsection, an employer may not plead as a defense that:

(i) the covered employee assumed the risk of employment;

(ii) the covered employee was contributorily negligent; or

(iii) the negligence of a fellow servant caused the accidental PERSONAL injury, compensable hernia, or occupational disease.