

HERNIA, OR OCCUPATIONAL DISEASE IF THE ACCIDENTAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE WAS CAUSED SOLELY BY THE INTOXICATION OF THE COVERED EMPLOYEE WHILE ON DUTY.

(D) WILLFUL MISCONDUCT.

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 INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE IF THE ACCIDENTAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE WAS CAUSED BY THE WILLFUL MISCONDUCT OF THE COVERED EMPLOYEE.

(E) PRESUMPTION.

IN A PROCEEDING ON A CLAIM FOR COMPENSATION, THERE IS, ABSENT SUBSTANTIAL EVIDENCE TO THE CONTRARY, A PRESUMPTION THAT AN ACCIDENTAL 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.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 101, § 45, § 64(c) and (d), the first and second sentences of § 15, and, as it related to providing that an occupational disease shall be treated as an accidental injury, § 22(a).

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that subsection (e) of this section provides a presumption that an accidental injury, compensable hernia, or occupational disease was not caused by an intentional act under subsection (a) of this section, drugs under subsection (b) of this section, or intoxication under subsection (c) of this section. It does not, however, provide a presumption that an accidental injury, compensable hernia, or an occupational