

1994 SESSION

INTRODUCED

LD1268629

SENATE BILL NO. 162

Offered January 20, 1994

A BILL to amend and reenact § 65.2-306 of the Code of Virginia, relating to workers' compensation; employee intoxication.

Patrons—Chichester, Calhoun, Goode, Hawkins, Holland, C.A., Holland, E.M., Holland, R.J., Houck, Marye, Norment, Potts, Reasor, Robb, Schewel, Stolle, Stosch, Trumbo and Wampler

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-306 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-306. When compensation not allowed for injury or death; burden of proof.

A. No compensation shall be awarded to the employee or his dependents for an injury or death caused by:

1. The employee's willful misconduct or intentional self-inflicted injury;

2. The employee's attempt to injure another;

3. The employee's intoxication;

4. The employee's willful failure or refusal to use a safety appliance or perform a duty required by statute;

5. The employee's willful breach of any reasonable rule or regulation adopted by the employer and brought, prior to the accident, to the knowledge of the employee; or

6. The employee's use of a nonprescribed controlled substance identified as such in Chapter 34 of Title 54.1.

B. The person or entity asserting any of the defenses in this section shall have the burden of proof with respect thereto. *However, where the employer raises as a defense the employee's intoxication, a blood alcohol factor of 0.10 shall constitute a rebuttable presumption of the employee's intoxication.*

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