

House Bill 1416

By: Representatives Rogers of the 20th, Lord of the 121st, Coleman of the 142nd and Smith of the 12th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 34-9-17 of the Official Code of Georgia Annotated, relating to
2 grounds for denial of workers' compensation, so as to provide for a denial of compensation
3 for a change in condition due to certain willful acts by the employee; to repeal conflicting
4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 34-9-17 of the Official Code of Georgia Annotated, relating to grounds for
8 denial of workers' compensation, is amended by striking said Code section in its entirety and
9 inserting in lieu thereof the following:

10 "34-9-17.

11 (a) No compensation shall be allowed for an injury, ~~or death,~~ or change in condition as
12 defined in Code Section 34-9-104 due to the employee's willful misconduct, including
13 intentionally self-inflicted injury, or growing out of his or her attempt to injure another, or
14 for the willful failure or refusal to use a safety appliance or perform a duty required by
15 statute.

16 (b) No compensation shall be allowed for an injury or death due to intoxication by alcohol
17 or being under the influence of marijuana or a controlled substance, except as may have
18 been lawfully prescribed by a physician for such employee and taken in accordance with
19 such prescription:

20 (1) If the amount of alcohol in the employee's blood within three hours of the time of the
21 alleged accident, as shown by chemical analysis of the employee's blood, urine, breath,
22 or other bodily substance, is 0.08 grams or greater, there shall be a rebuttable
23 presumption that the accident and injury or death were caused by the consumption of
24 alcohol;

25 (2) If any amount of marijuana or a controlled substance as defined in paragraph (4) of
26 Code Section 16-13-21, Code Sections 16-13-25 through 16-13-29, Schedule I-V, or 21

1 C.F.R. Part 1308 is in the employee's blood within eight hours of the time of the alleged
2 accident, as shown by chemical analysis of the employee's blood, urine, breath, or other
3 bodily substance, there shall be a rebuttable presumption that the accident and injury or
4 death were caused by the ingestion of marijuana or the controlled substance; or

5 (3) If the employee unjustifiably refuses to submit to a reliable, scientific test to be
6 performed in the manner set forth in Code Section 34-9-415 to determine the presence
7 of alcohol, marijuana, or a controlled substance in an employee's blood, urine, breath, or
8 other bodily substance, then there shall be a rebuttable presumption that the accident and
9 injury or death were caused by the consumption of alcohol or the ingestion of marijuana
10 or a controlled substance.

11 (c) No compensation shall be allowed for a change in condition as defined in Code Section
12 34-9-104 where the change in condition is due to the employee's being under the influence
13 of alcohol, marijuana, or a controlled substance, except as may be lawfully prescribed by
14 a physician for such employee and taken in accordance with such prescription, or if the
15 employee unjustifiably refuses to submit to a reliable, scientific test to be performed in the
16 manner set forth in Code Section 34-9-415 to determine the presence of alcohol, marijuana,
17 or other controlled substance. For the purposes of this subsection, marijuana or a
18 controlled substance shall be as defined in Chapter 13 of Title 16 of 21 C.F.R. Part 1308.

19 ~~(e)~~(d) With the exception of the rebuttable presumptions set forth above, the burden of
20 proof shall be generally upon the party who claims an exemption or forfeiture under this
21 Code section."

22 SECTION 2.

23 All laws and parts of laws in conflict with this Act are repealed.