

**Senate File 2192 - Introduced**

SENATE FILE 2192

BY T. TAYLOR

**A BILL FOR**

1 An Act relating to employee intoxication under the workers'  
2 compensation program.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 85.16, subsection 2, Code 2020, is  
2 amended to read as follows:

3 2. ~~a.~~ By the employee's intoxication, which did not arise  
4 out of and in the course of employment but which was due  
5 to the effects of alcohol or another narcotic, depressant,  
6 stimulant, hallucinogenic, or hypnotic drug not prescribed by  
7 an authorized medical practitioner, if the intoxication was a  
8 substantial factor in causing the injury.

9 ~~b.~~ ~~For the purpose of disallowing compensation under this~~  
10 ~~subsection, both of the following apply:~~

11 ~~(1) If the employer shows that, at the time of the injury~~  
12 ~~or immediately following the injury, the employee had positive~~  
13 ~~test results reflecting the presence of alcohol, or another~~  
14 ~~narcotic, depressant, stimulant, hallucinogenic, or hypnotic~~  
15 ~~drug which drug either was not prescribed by an authorized~~  
16 ~~medical practitioner or was not used in accordance with the~~  
17 ~~prescribed use of the drug, it shall be presumed that the~~  
18 ~~employee was intoxicated at the time of the injury and that~~  
19 ~~intoxication was a substantial factor in causing the injury.~~

20 ~~(2) Once the employer has made a showing as provided~~  
21 ~~in subparagraph (1), the burden of proof shall be on the~~  
22 ~~employee to overcome the presumption by establishing that the~~  
23 ~~employee was not intoxicated at the time of the injury, or~~  
24 ~~that intoxication was not a substantial factor in causing the~~  
25 ~~injury.~~

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with  
28 the explanation's substance by the members of the general assembly.

29 Under current law, workers' compensation is not allowed for  
30 injury caused by an employee's intoxication, which did not  
31 arise out of and in the course of employment but which was  
32 due to the effects of alcohol or certain substances, if the  
33 intoxication was a substantial factor in causing the injury.

34 If the employer shows that, at the time of the injury or  
35 immediately following the injury, the employee had positive

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1 test results reflecting the presence of alcohol, or certain  
2 other substances, it is presumed under current law that  
3 the employee was intoxicated at the time of the injury and  
4 that intoxication was a substantial factor in causing the  
5 injury. The employee then has the burden to disprove either  
6 presumption. This bill strikes both presumptions.