

By: Solomons

H.B. No. 2199

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the right of an insurance carrier to contest the
3 compensability of an injury in a workers' compensation case;
4 providing an administrative violation.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 409.021, Labor Code, is amended by
7 amending Subsections (a) and (e) and adding Subsections (a-1),
8 (a-2), and (f) to read as follows:

9 (a) An insurance carrier shall initiate compensation under
10 this subtitle promptly. Not later than the 15th [~~seventh~~] day after
11 the date on which an insurance carrier receives written notice of an
12 injury, the insurance carrier shall:

13 (1) begin the payment of benefits as required by this
14 subtitle; or

15 (2) notify the commission and the employee in writing
16 of its refusal to pay and advise the employee of:

17 (A) the right to request a benefit review
18 conference; and

19 (B) the means to obtain additional information
20 from the commission.

21 (a-1) An insurance carrier that fails to comply with
22 Subsection (a) does not waive the carrier's right to contest the
23 compensability of the injury as provided by Subsection (c) but
24 commits an administrative violation subject to Subsection (e).

1 (a-2) An insurance carrier is not required to comply with
2 Subsection (a) if the insurance carrier has accepted the claim as a
3 compensable injury and income or death benefits have not yet
4 accrued but will be paid by the insurance carrier when the benefits
5 accrue and are due.

6 (e) An insurance carrier commits a violation if the
7 insurance carrier does not initiate payments or file a notice of
8 refusal as required by this section. A violation under this
9 subsection shall be assessed at \$500 if the carrier initiates
10 compensation or files a notice of refusal within five working days
11 of the date required by Subsection (a), \$1,500 if the carrier
12 initiates compensation or files a notice of refusal more than five
13 and less than 16 working days of the date required by Subsection
14 (a), \$2,500 if the carrier initiates compensation or files a notice
15 of refusal more than 15 and less than 31 working days of the date
16 required by Subsection (a), or \$5,000 if the carrier initiates
17 compensation or files a notice of refusal more than 30 days after
18 the date required by Subsection (a). The administrative penalties
19 are not cumulative. ~~[is a Class B administrative violation. Each~~
20 ~~day of noncompliance constitutes a separate violation.]~~

21 (f) For purposes of this section:

22 (1) a certified self-insurer receives notice on the
23 date the qualified claims servicing contractor designated by the
24 certified self-insurer under Section 407.061(c) receives notice;
25 and

26 (2) a political subdivision that self-insures under
27 Section 504.011, either individually or through an interlocal

1 agreement with other political subdivisions, receives notice on the
2 date the intergovernmental risk pool or other entity responsible
3 for administering the claim for the political subdivision receives
4 notice.

5 SECTION 2. This Act takes effect September 1, 2003, and
6 applies only to a claim for workers' compensation benefits based on
7 a compensable injury that occurs on or after that date. A claim
8 based on a compensable injury that occurs before the effective date
9 of this Act is governed by the law in effect on the date the
10 compensable injury occurred, and the former law is continued in
11 effect for that purpose.