

By: Solomons

H.B. No. 2199

Substitute the following for H.B. No. 2199:

By: Bohac

C.S.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 the maximum amount permitted for  
10 [is] a Class B administrative violation. Each day of noncompliance  
11 constitutes a separate violation. In addition to the assessment  
12 for the insurance carrier's initial violation under this  
13 subsection, the insurance carrier is liable for and shall pay to the  
14 employee, without order from the commission, a penalty of \$500 for  
15 the carrier's initial violation.

16       (f) For purposes of this section:

17               (1) a certified self-insurer receives notice on the  
18 date the qualified claims servicing contractor designated by the  
19 certified self-insurer under Section 407.061(c) receives notice;  
20 and

21               (2) a political subdivision that self-insures under  
22 Section 504.011, either individually or through an interlocal  
23 agreement with other political subdivisions, receives notice on the  
24 date the intergovernmental risk pool or other entity responsible  
25 for administering the claim for the political subdivision receives  
26 notice.

27       SECTION 2. This Act takes effect September 1, 2003, and

1 applies only to a claim for workers' compensation benefits based on  
2 a compensable injury that occurs on or after that date. A claim  
3 based on a compensable injury that occurs before the effective date  
4 of this Act is governed by the law in effect on the date the  
5 compensable injury occurred, and the former law is continued in  
6 effect for that purpose.