

1-1 By: Solomons (Senate Sponsor - Fraser) H.B. No. 2199
1-2 (In the Senate - Received from the House May 12, 2003;
1-3 May 13, 2003, read first time and referred to Committee on State
1-4 Affairs; May 23, 2003, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the right of an insurance carrier to contest the
1-9 compensability of an injury in a workers' compensation case;
1-10 providing an administrative violation.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 409.021, Labor Code, is amended by
1-13 amending Subsections (a) and (e) and adding Subsections (a-1),
1-14 (a-2), and (f) to read as follows:

1-15 (a) An insurance carrier shall initiate compensation under
1-16 this subtitle promptly. Not later than the 15th [~~seventh~~] day after
1-17 the date on which an insurance carrier receives written notice of an
1-18 injury, the insurance carrier shall:

1-19 (1) begin the payment of benefits as required by this
1-20 subtitle; or

1-21 (2) notify the commission and the employee in writing
1-22 of its refusal to pay and advise the employee of:

1-23 (A) the right to request a benefit review
1-24 conference; and

1-25 (B) the means to obtain additional information
1-26 from the commission.

1-27 (a-1) An insurance carrier that fails to comply with
1-28 Subsection (a) does not waive the carrier's right to contest the
1-29 compensability of the injury as provided by Subsection (c) but
1-30 commits an administrative violation subject to Subsection (e).

1-31 (a-2) An insurance carrier is not required to comply with
1-32 Subsection (a) if the insurance carrier has accepted the claim as a
1-33 compensable injury and income or death benefits have not yet
1-34 accrued but will be paid by the insurance carrier when the benefits
1-35 accrue and are due.

1-36 (e) An insurance carrier commits a violation if the
1-37 insurance carrier does not initiate payments or file a notice of
1-38 refusal as required by this section. A violation under this
1-39 subsection shall be assessed at \$500 if the carrier initiates
1-40 compensation or files a notice of refusal within five working days
1-41 of the date required by Subsection (a), \$1,500 if the carrier
1-42 initiates compensation or files a notice of refusal more than five
1-43 and less than 16 working days of the date required by Subsection
1-44 (a), \$2,500 if the carrier initiates compensation or files a notice
1-45 of refusal more than 15 and less than 31 working days of the date
1-46 required by Subsection (a), or \$5,000 if the carrier initiates
1-47 compensation or files a notice of refusal more than 30 days after
1-48 the date required by Subsection (a). The administrative penalties
1-49 are not cumulative. [~~is a Class B administrative violation. Each~~
1-50 ~~day of noncompliance constitutes a separate violation.~~]

1-51 (f) For purposes of this section:

1-52 (1) a certified self-insurer receives notice on the
1-53 date the qualified claims servicing contractor designated by the
1-54 certified self-insurer under Section 407.061(c) receives notice;
1-55 and

1-56 (2) a political subdivision that self-insures under
1-57 Section 504.011, either individually or through an interlocal
1-58 agreement with other political subdivisions, receives notice on the
1-59 date the intergovernmental risk pool or other entity responsible
1-60 for administering the claim for the political subdivision receives
1-61 notice.

1-62 SECTION 2. This Act takes effect September 1, 2003, and
1-63 applies only to a claim for workers' compensation benefits based on
1-64 a compensable injury that occurs on or after that date. A claim

2-1 based on a compensable injury that occurs before the effective date
2-2 of this Act is governed by the law in effect on the date the
2-3 compensable injury occurred, and the former law is continued in
2-4 effect for that purpose.

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