

By: Laubenberg

H.B. No. 3533

A BILL TO BE ENTITLED

AN ACT

relating to the operation and regulation of the workers' compensation system.

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

ARTICLE 1. MISUSE OF COMMISSION NAME

SECTION 1.01. Subtitle A, Title 5, Labor Code, is amended by adding Chapter 405 to read as follows:

CHAPTER 405. MISUSE OF COMMISSION NAME

Sec. 405.001. DEFINITIONS. (a) In this chapter:

(1) "Representation of the commission's star logo" includes a nonexact representation that is deceptively similar to the star logo used by the commission.

(2) "Representation of the state seal" has the meaning assigned by Section 17.08(a)(2), Business & Commerce Code.

(b) A term or representation is "deceptively similar" for purposes of this chapter if:

(1) a reasonable person would believe that the term or representation is in any manner approved, endorsed, sponsored, authorized by, the same as, or associated with the commission, this state, or an agency of this state; or

(2) the circumstances under which the term is used could mislead a reasonable person as to its identity.

Sec. 405.002. MISUSE OF COMMISSION NAME OR SYMBOLS PROHIBITED. (a) Except as authorized by law, a person, in

1 connection with any impersonation, advertisement, solicitation,  
2 business name, business activity, document, product, or service  
3 made or offered by the person, may not knowingly use or cause to be  
4 used:

5 (1) the words "Texas Workers' Compensation  
6 Commission," "Workers' Compensation Commission," or "Texas  
7 Workers' Compensation";

8 (2) any term using both "Texas" and "Workers'  
9 Compensation" or any term using both "Texas" and "Workers' Comp";

10 (3) the initials "T.W.C.C."; or

11 (4) any combination or variation of the words or  
12 initials, or any term deceptively similar to the words or initials,  
13 described by Subdivisions (1)-(3).

14 (b) A person subject to Subsection (a) may not knowingly use  
15 or cause to be used a word, term, or initials described by  
16 Subsection (a) alone or in conjunction with:

17 (1) the state seal or a representation of the state  
18 seal;

19 (2) a picture or map of this state; or

20 (3) the official logo of the commission or a  
21 representation of the commission's star logo.

22 Sec. 405.003. RULES. The commission may adopt rules  
23 relating to the regulation of the use of the commission's name and  
24 other rules as necessary to implement this chapter.

25 Sec. 405.004. CIVIL PENALTY. (a) A person who violates  
26 Section 405.002 or a rule adopted under this chapter is liable for a  
27 civil penalty not to exceed \$5,000 for each violation.

1           (b) The attorney general, at the request of the commission,  
2 shall bring an action to collect a civil penalty under this section  
3 in a district court in Travis County.

4           Sec. 405.005. ADMINISTRATIVE PENALTY. (a) The commission  
5 may assess an administrative penalty against a person who violates  
6 Section 405.002 or a rule adopted under this chapter.

7           (b) An administrative penalty imposed under this section:  
8                   (1) may not exceed \$5,000 for each violation; and  
9                   (2) is subject to the procedural requirements adopted  
10 for administrative penalties imposed under Section 415.021.

11           Sec. 405.006. INJUNCTIVE RELIEF. (a) At the request of the  
12 commission, the attorney general or a district attorney may bring  
13 an action in district court in Travis County to enjoin or restrain a  
14 violation or threatened violation of this chapter on a showing that  
15 a violation has occurred or is likely to occur.

16           (b) The commission may recover the costs of investigating an  
17 alleged violation of this chapter if an injunction is issued.

18           Sec. 405.007. REMEDIES NOT EXCLUSIVE. The remedies  
19 provided by this chapter are not exclusive and may be sought in any  
20 combination determined by the commission as necessary to enforce  
21 this chapter.

22                                   ARTICLE 2. EMPLOYER NOTICES

23           SECTION 2.01. Section 406.004(a), Labor Code, is amended to  
24 read as follows:

25           (a) On the request of the commission, an [An] employer who  
26 does not obtain workers' compensation insurance coverage shall  
27 notify the commission in writing[~~, in the time and as prescribed by~~

1 ~~commission rule,~~] that the employer elects not to obtain coverage.

2 SECTION 2.02. Section 406.007(a), Labor Code, is amended to  
3 read as follows:

4 (a) On the request of the commission, an [~~An~~] employer who  
5 terminates workers' compensation insurance coverage obtained under  
6 this subtitle shall file a written notice with the commission [~~by~~  
7 ~~certified mail not later than the 10th day after the date on which~~  
8 ~~the employer notified the insurance carrier to terminate the~~  
9 ~~coverage~~]. The notice must include a statement certifying the date  
10 that notice was provided or will be provided to affected employees  
11 under Section 406.005.

12 ARTICLE 3. BENEFIT REVIEW CONFERENCE

13 SECTION 3.01. Section 410.025(b), Labor Code, is amended to  
14 read as follows:

15 (b) On conclusion of [~~At the time~~] a benefit review  
16 conference [~~is scheduled~~], the commission shall schedule a  
17 contested case hearing [~~to be held not later than the 60th day after~~  
18 ~~the date of the benefit review conference~~] if the disputed issues  
19 are not resolved at the benefit review conference.

20 ARTICLE 4. ACCESS TO RECORDS

21 SECTION 4.01. Chapter 414, Labor Code, is amended by adding  
22 Section 414.0045 to read as follows:

23 Sec. 414.0045. REVIEW OF WORKERS' COMPENSATION RECORDS OF  
24 OTHER PERSONS. (a) As required to ensure compliance with this  
25 subtitle, the division may review the workers' compensation records  
26 of:

27 (1) persons claiming benefits under this subtitle;

1           (2) employers; and

2           (3) attorneys and other representatives of parties.

3           (b) Each person described by Subsection (a) shall cooperate  
4 with the division and make available to the division any records or  
5 other necessary information.

6           (c) A person described by Subsection (a)(2) or (3) shall  
7 allow the division access to the information at reasonable times at  
8 the person's offices.

9           (d) This section does not apply to records maintained by an  
10 attorney that are protected from disclosure under the  
11 attorney-client privilege.

12   ARTICLE 5. EFFECTIVE DATE

13           SECTION 5.01. This Act takes effect September 1, 2003, and  
14 applies only to a claim for workers' compensation benefits based on  
15 a compensable injury that occurs on or after that date. A claim  
16 based on a compensable injury that occurs before that date is  
17 governed by the law in effect on the date that the compensable  
18 injury occurred, and the former law is continued in effect for that  
19 purpose.