

By: Fraser

S.B. No. 819

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 to read
7 as follows:

8 Sec. 409.021. INITIATION OF BENEFITS; INSURANCE CARRIER'S
9 REFUSAL; ADMINISTRATIVE VIOLATION. (a) An insurance carrier shall
10 initiate compensation under this subtitle promptly. Not later than
11 the seventh day after the date on which an insurance carrier
12 receives written notice of an 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 (b) An insurance carrier who fails to begin the payment of
22 benefits or file a notice of refusal on or before the seventh day
23 after the date on which the insurance carrier is notified of the
24 injury does not waive the carrier's right to contest the

1 compensability of the injury but commits an administrative
2 violation subject to Subsection (f).

3 (c) An insurance carrier shall notify the commission in
4 writing of the initiation of income or death benefit payments in the
5 manner prescribed by commission rules.

6 (d) [~~(c)~~] If an insurance carrier does not contest the
7 compensability of an injury on or before the 60th day after the date
8 on which the insurance carrier is notified of the injury, the
9 insurance carrier waives its right to contest compensability. The
10 initiation of payments by an insurance carrier does not affect the
11 right of the insurance carrier to continue to investigate or deny
12 the compensability of an injury during the 60-day period.

13 (e) [~~(d)~~] An insurance carrier may reopen the issue of the
14 compensability of an injury if there is a finding of evidence that
15 could not reasonably have been discovered earlier.

16 (f) [~~(e)~~] An insurance carrier commits a violation if the
17 insurance carrier does not initiate payments or file a notice of
18 refusal as required by this section. A violation under this
19 subsection is a Class B administrative violation. Each day of
20 noncompliance constitutes a separate violation.

21 SECTION 2. This Act takes effect September 1, 2003, and
22 applies only to a claim for workers' compensation benefits based on
23 a compensable injury that occurs on or after that date. A claim
24 based on a compensable injury that occurs before the effective date
25 of this Act is governed by the law in effect on the date the
26 compensable injury occurred, and the former law is continued in
27 effect for that purpose.