

1-1 By: Fraser S.B. No. 819  
1-2 (In the Senate - Filed March 3, 2003; March 10, 2003, read  
1-3 first time and referred to Committee on State Affairs; May 2, 2003,  
1-4 reported favorably by the following vote: Yeas 6, Nays 1;  
1-5 May 2, 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 to read  
1-13 as follows:

1-14 Sec. 409.021. INITIATION OF BENEFITS; INSURANCE CARRIER'S  
1-15 REFUSAL; ADMINISTRATIVE VIOLATION. (a) An insurance carrier  
1-16 shall initiate compensation under this subtitle promptly. Not  
1-17 later than the seventh day after the date on which an insurance  
1-18 carrier receives written notice of an injury, the insurance carrier  
1-19 shall:

1-20 (1) begin the payment of benefits as required by this  
1-21 subtitle; or

1-22 (2) notify the commission and the employee in writing  
1-23 of its refusal to pay and advise the employee of:

1-24 (A) the right to request a benefit review  
1-25 conference; and

1-26 (B) the means to obtain additional information  
1-27 from the commission.

1-28 (b) An insurance carrier who fails to begin the payment of  
1-29 benefits or file a notice of refusal on or before the seventh day  
1-30 after the date on which the insurance carrier is notified of the  
1-31 injury does not waive the carrier's right to contest the  
1-32 compensability of the injury but commits an administrative  
1-33 violation subject to Subsection (f).

1-34 (c) An insurance carrier shall notify the commission in  
1-35 writing of the initiation of income or death benefit payments in the  
1-36 manner prescribed by commission rules.

1-37 (d) [~~(c)~~] If an insurance carrier does not contest the  
1-38 compensability of an injury on or before the 60th day after the date  
1-39 on which the insurance carrier is notified of the injury, the  
1-40 insurance carrier waives its right to contest compensability. The  
1-41 initiation of payments by an insurance carrier does not affect the  
1-42 right of the insurance carrier to continue to investigate or deny  
1-43 the compensability of an injury during the 60-day period.

1-44 (e) [~~(d)~~] An insurance carrier may reopen the issue of the  
1-45 compensability of an injury if there is a finding of evidence that  
1-46 could not reasonably have been discovered earlier.

1-47 (f) [~~(e)~~] An insurance carrier commits a violation if the  
1-48 insurance carrier does not initiate payments or file a notice of  
1-49 refusal as required by this section. A violation under this  
1-50 subsection is a Class B administrative violation. Each day of  
1-51 noncompliance constitutes a separate violation.

1-52 SECTION 2. This Act takes effect September 1, 2003, and  
1-53 applies only to a claim for workers' compensation benefits based on  
1-54 a compensable injury that occurs on or after that date. A claim  
1-55 based on a compensable injury that occurs before the effective date  
1-56 of this Act is governed by the law in effect on the date the  
1-57 compensable injury occurred, and the former law is continued in  
1-58 effect for that purpose.

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