

By: Fraser

S.B. No. 820

Substitute the following for S.B. No. 820:

By: Oliveira

C.S.S.B. No. 820

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the certification of maximum medical improvement and  
3 assignment of an impairment rating for an employee receiving  
4 workers' compensation benefits.

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

6 SECTION 1. Section 408.123, Labor Code, is amended by  
7 adding Subsections (d)-(g) to read as follows:

8 (d) Except as otherwise provided by this section, an  
9 employee's first valid certification of maximum medical  
10 improvement and first valid assignment of an impairment rating is  
11 final if the certification or assignment is not disputed before the  
12 91st day after the date written notification of the certification  
13 or assignment is provided to the employee and the carrier by  
14 verifiable means.

15 (e) An employee's first certification of maximum medical  
16 improvement or assignment of an impairment rating may be disputed  
17 after the period described by Subsection (d) if:

18 (1) compelling medical evidence exists of:

19 (A) a significant error by the certifying doctor  
20 in applying the appropriate American Medical Association  
21 guidelines or in calculating the impairment rating;

22 (B) a clearly mistaken diagnosis or a previously  
23 undiagnosed medical condition; or

24 (C) improper or inadequate treatment of the

1 injury before the date of the certification or assignment that  
2 would render the certification or assignment invalid; or

3 (2) other compelling circumstances exist as  
4 prescribed by commission rule.

5 (f) If an employee has not been certified as having reached  
6 maximum medical improvement before the expiration of 104 weeks  
7 after the date income benefits begin to accrue or the expiration  
8 date of any extension of benefits under Section 408.104, the  
9 impairment rating assigned after the expiration of either of those  
10 periods is final if the impairment rating is not disputed before the  
11 91st day after the date written notification of the certification  
12 or assignment is provided to the employee and the carrier by  
13 verifiable means.

14 (g) If an employee's disputed certification of maximum  
15 medical improvement or assignment of impairment rating is finally  
16 modified, overturned, or withdrawn, the first certification or  
17 assignment made after the date of the modification, overturning, or  
18 withdrawal becomes final if the certification or assignment is not  
19 disputed before the 91st day after the date notification of the  
20 certification or assignment is provided to the employee and the  
21 carrier by verifiable means.

22 SECTION 2. The change in law made by this Act by the  
23 amendment of Section 408.123, Labor Code, applies only to a  
24 certification of maximum medical improvement and assignment of an  
25 impairment rating that is made on or after the effective date of  
26 this Act. A certification of maximum medical improvement or  
27 assignment of an impairment rating that is made before the

1 effective date of this Act is governed by the law in effect on the  
2 date the certification or assignment was made, and the former law  
3 is continued in effect for that purpose.

4 SECTION 3. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2003.