

By: Elkins

H.B. No. 4371

Substitute the following for H.B. No. 4371:

By: Christian

C.S.H.B. No. 4371

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to failure to submit to an examination by a designated  
3 doctor under the workers' compensation system.

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

5 SECTION 1. Section 408.0041, Labor Code, is amended by  
6 amending Subsections (f) and (j) and adding Subsection (j-1) to  
7 read as follows:

8 (f) Unless otherwise ordered by the commissioner, the  
9 insurance carrier shall pay benefits based on the opinion of the  
10 designated doctor during the pendency of any dispute. If the report  
11 of a designated doctor indicates that the injured employee has  
12 reached maximum medical improvement or is otherwise able to return  
13 to work immediately, the insurance carrier may suspend or reduce  
14 the payment of temporary income benefits. If an insurance carrier  
15 is not satisfied with the opinion rendered by a designated doctor  
16 under this section, the insurance carrier may request the  
17 commissioner to order an employee to attend an examination by a  
18 doctor selected by the insurance carrier.

19 (j) An [~~employee is not entitled to temporary income~~  
20 ~~benefits, and an~~] insurance carrier is authorized to suspend the  
21 payment of [~~temporary~~] income benefits[~~7~~] during and for a period  
22 in which the employee fails to submit without good cause to an  
23 examination required by Subsection (a) or (f) [~~unless the~~  
24 ~~commissioner determines that the employee had good cause for the~~

1 ~~failure to submit to the examination. The commissioner may order~~  
2 ~~temporary income benefits to be paid for the period for which the~~  
3 ~~commissioner determined that the employee had good cause]. The~~  
4 commissioner by rule shall ensure that:

5 (1) an employee receives reasonable notice of an  
6 examination and the insurance carrier's basis for suspension; and

7 (2) the employee is provided a reasonable opportunity  
8 to reschedule an examination for good cause.

9 (j-1) If an employee attends a rescheduled examination  
10 under Subsection (j)(2), the commissioner shall order income  
11 benefits to be paid after the examination if the employee is  
12 otherwise entitled to income benefits under this subchapter.  
13 Income benefits under this subsection shall be paid retroactive to:

14 (1) the date of suspension of the benefits, if the  
15 employee had good cause for the failure to submit to the examination  
16 described by Subsection (j); or

17 (2) the earlier of:

18 (A) the seventh day after the date of the  
19 suspension of the benefits; or

20 (B) the date on which the rescheduled examination  
21 occurs.

22 SECTION 2. Section 408.0041(k), Labor Code, is repealed.

23 SECTION 3. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2009.