

By: Oliveira

H.B. No. 4039

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the enforcement of certain administrative penalties by
3 the Texas Division of Workers' Compensation.

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

5 SECTION 1. Labor Code Section [415.021](#), subsections (c) and
6 (d) are amended to read as follows and the following subsections are
7 renumbered accordingly:

8 (c) In assessing an administrative penalty:

9 (1) the commissioner shall consider:

10 (A) the seriousness of the violation, including
11 the nature, circumstances, consequences, extent, and gravity of the
12 prohibited act;

13 (B) the history and extent of previous
14 administrative violations;

15 (C) the demonstrated good faith of the violator,
16 including actions taken to rectify the consequences of the
17 prohibited act;

18 (D) the penalty necessary to deter future
19 violations; and

20 (E) other matters that justice may require; and

21 (2) the commissioner shall,

22 (A) to the extent reasonable, consider the
23 economic benefit resulting from the prohibited act;

24 (B) consider whether the administrative

1 violation has negative impact on the delivery of benefits to an
2 injured worker; and

3 (C) refrain from assessing administrative
4 penalties solely for failure to comply with electronic data
5 interchange requirements after good faith efforts to comply.

6 (d) The commissioner shall specifically enumerate the
7 relevant statute or rule, the conduct that gives rise to the
8 alleged violation, and how any penalties assessed by the division
9 were determined.

10 ~~(d)~~(e) A penalty may be assessed only after the person
11 charged with an administrative violation has been given an
12 opportunity for a hearing under Subchapter C.

13 SECTION 2. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2017.