

By: Hall

S.B. No. 12

A BILL TO BE ENTITLED

AN ACT

relating to workers' compensation benefits for injuries caused by employer-required COVID-19 vaccines and payment of those benefits.

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

SECTION 1. Subchapter A, Chapter 408, Labor Code, is amended by adding Section 408.009 to read as follows:

Sec. 408.009. PRESUMPTION OF COMPENSABILITY FOR INJURY CAUSED BY EMPLOYER-REQUIRED COVID-19 VACCINE. (a) In this section, "COVID-19" means the 2019 novel coronavirus disease.

(b) An employee who suffers an injury caused by an adverse reaction to a COVID-19 vaccine resulting in disability or death is presumed to have suffered the injury during the course and scope of employment if the employee was required to receive the vaccine as a condition of employment.

SECTION 2. Section 409.021(a-3), Labor Code, is amended to read as follows:

(a-3) An insurance carrier is not required to comply with Subsection (a) if the claim results from an employee's disability or death for which a presumption is claimed to be applicable under Section 408.009 of this code or Subchapter B, Chapter 607, Government Code, and, not later than the 15th day after the date on which the insurance carrier received written notice of the injury, the insurance carrier has provided the employee and the division with a notice that describes all steps taken by the insurance

1 carrier to investigate the injury before the notice was given and
2 the evidence the carrier reasonably believes is necessary to
3 complete its investigation of the compensability of the
4 injury. The commissioner shall adopt rules as necessary to
5 implement this subsection.

6 SECTION 3. Section 415.021(c-2), Labor Code, is amended to
7 read as follows:

8 (c-2) In determining whether to assess an administrative
9 penalty involving a claim in which the insurance carrier provided
10 notice under Section 409.021(a-3), the commissioner shall consider
11 whether:

12 (1) the employee cooperated with the insurance
13 carrier's investigation of the claim;

14 (2) the employee timely authorized access to the
15 applicable medical records before the insurance carrier's deadline
16 to:

17 (A) begin payment of benefits; or

18 (B) notify the division and the employee of the
19 insurance carrier's refusal to pay benefits; and

20 (3) the insurance carrier conducted an investigation
21 of the claim, applied the statutory presumptions under Section
22 408.009 of this code or Subchapter B, Chapter 607, Government Code,
23 and expedited medical benefits under Section 504.055.

24 SECTION 4. Section 408.009, Labor Code, as added by this
25 Act, applies only to a claim for workers' compensation benefits
26 filed on or after the effective date of this Act. A claim filed
27 before that date is governed by the law as it existed on the date the

1 claim was filed, and the former law is continued in effect for that
2 purpose.

3 SECTION 5. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect on the 91st day after the last day of the
8 legislative session.