

SUBJECT: Regulating removal of asbestos and resilient floor coverings

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Gray, Coleman, Capelo, Delisi, Longoria, Maxey, Uresti,
Wohlgemuth

0 nays

1 absent — Glaze

WITNESSES: (On original bill)
For — Robert Crossman, Jr.; Lee Michael; James McNeely, Abatement Contractors Association of Texas; Ron Vangilder, ACAT; Marion Williams, Jr.; *Registered but did not testify*: G.K. Sprinkle, American Lung Association

Against — Luis Acuna, Sun City Analytical; Stephen Brown and Bill Hall, Resilient Floor Covering Institute; Steve Claybrook, City of Lubbock; Grant Curtis, Ysleta ISD; Kenneth Holder and Matthew Wall, Texas Hospital Association and Texas Association of Healthcare Facility Management; John Kozak, Domce Tarkett; Larry McGurk, UAS Automation Systems; David Mintz, Texas Apartment Association; Ralph Young; *Registered but did not testify*: Spencer Chambers, Texas Association of Business and Chambers of Commerce; Jeff Hardwick, Texas Hospital Association and Texas Association of Healthcare Facility Management; Tom Roy, JPS Health Network

On — Claren Kotrla and Frank M. Parker, Texas Department of Health; Neil Pflum, U.S. Environmental Protection Agency; *Registered but did not testify*: Jayne Nussbaum, Texas Department of Health

BACKGROUND: The Texas Asbestos Health Protection Act (Art. 4477-3a, V.T.C.S.) regulates the handling of asbestos in building construction, renovation, or demolition. The regulations include licensing, training, examination, insurance, record keeping, oversight, and penalties. Sec. 15A exempts resilient floor-covering material removal from all licensing and registration

requirements as long as the removal is conducted in compliance with work practices published by the resilient floor-covering industry or other work practices that are comparable and approved by the health commissioner. People who remove resilient floor coverings must have completed a training course of up to eight hours. Intentional violation of this provision is subject to a civil penalty of up to \$5,000. Resilient floor covering includes sheet vinyl flooring, such as linoleum, and flexible tile flooring, such as asphalt tile and rubber tile.

DIGEST: CSHB 1279 would repeal the cap on penalties that the Texas Department of Health (TDH) could impose for violation of rules concerning asbestos abatement. It would require a minimum of eight hours of training in the removal of resilient floor covering.

The bill also would modify the definition of acceptable work practices that are exempt from the asbestos regulations by providing that TDH could determine whether the methods provide public health protection from exposure to asbestos.

This bill would take effect September 1, 2001.

SUPPORTERS SAY: CSHB 1279 would improve TDH's ability to enforce the asbestos regulations now in place. Current law requires TDH to prove that a violation was intentional and penalizes offenders only \$5,000. By repealing the cap and the provision for intent, offenses involving resilient floor removal would be subject to the same penalties as for other types of asbestos containment and removal: \$10,000 per day for each violation and injunction.

TDH needs enforcement tools because it is too easy for some resilient floor-removal companies to ignore the regulations. Appropriate handling of asbestos-containing materials adds costs to a job. Some companies claim that they are in compliance but are not because they want to reduce their costs. A one-time fine of \$5,000 that is unlikely to be imposed because TDH must prove intent does not deter illegal behavior.

This bill would broaden the definition of acceptable work practices and give TDH the opportunity to develop its own. Under current law, acceptable work practices are those published by the resilient floor-covering industry or other

comparable practices. Industry practices are sufficient, but the state should have the option of developing its own. By removing the requirement that other work practices must be comparable to the industry's, TDH could develop other work practices to adapt to changes in technology or more stringent standards.

This bill would ensure that workers were aware of best practices and dangers. Often the workers that remove resilient flooring are day laborers who have no health insurance and little understanding of the health issues involved with asbestos. Current law requires that workers have no more than eight hours of training. A worker's training could consist of brief training, which might not prepare the worker adequately to work with asbestos. The bill would require at least eight hours of training.

CSHB 1279 would preserve the exemption from licensing for resilient floor-covering removal. This is appropriate for floor removal because, as opposed to wall demolition or ceiling removal, floors are less likely to send asbestos flying into the air, where it could be inhaled.

OPPONENTS
SAY:

CSHB 1279 would not go far enough to ensure that resilient floor removers handle asbestos-containing materials safely. TDH rules for other types of removals are much more stringent and should apply to resilient floor removal. For example, industry work practices do not include critical barriers, a way to contain asbestos in the air, while TDH requires full containment.

Companies removing asbestos-containing materials in other situations must obtain a license from TDH that includes education, training, insurance, record keeping, oversight, and other requirements. Resilient floor-covering removal companies should be held to the same standards because their work can release asbestos.

NOTES:

The bill as filed would have repealed the entire section pertaining to the exemption for resilient floor-covering removal as of January 1, 2002.

The companion bill, SB 674 by Barrientos, which is identical to HB 1279 as filed, has been referred to the Senate Business and Commerce Committee.

HB 1279
House Research Organization
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