

Approved March 20, 1984  
Date

MINUTES OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY

The meeting was called to order by Representative Arthur Douville at  
Chairperson

9:00 a.m. ~~pm~~ on February 28, 1984 in room 526-S of the Capitol.

All members were present except:

All members were present.

Committee staff present:

All present.

Conferees appearing before the committee:

Mr. Wayne Maichel, KS AFL-CIO  
Mr. Rob Hodges, KCCI  
Mr. Steve Goodman, Dept. of Human Resources

The Committee took up H.B. 2981. Mr. Wayne Maichel took the speakers stand and testified in opposition to this bill.

Rob Hodges was the next person to testify on H.B. 2981. He said he supports the concept of this bill as a reasonable compromise. He then answered questions of the committee members.

Steve Goodman was then asked to take the speaker's stand and answer questions of the committee members.

Wayne Maichel took the speaker's stand again and spoke about S.B. 876 from 1982, which concerned voluntary quits. Stating that S.B. 876 tripled the penalty for voluntary quits without good cause. And, that S.B. 876 is a tough law.

The committee members then had a lengthy discussion on this bill. The meeting was adjourned at 10:00 a.m.

Committee members were also given additional testimony from Representative Ardena Matlack regarding H.B. 2770. See attachment #1.

ARDENA MATLACK  
REPRESENTATIVE, 93RD DISTRICT  
SEDGWICK COUNTY  
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TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: FEDERAL AND STATE AFFAIRS,  
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GOVERNMENTAL ORGANIZATION  
JOINT COMMITTEE ON ADMINISTRATIVE  
RULES AND REGULATIONS

TESTIMONY TO THE LABOR AND INDUSTRY COMMITTEE  
Rep. Arthur Douville, Chairman

RE: HB 2770

BY REP. ARDEN MATLACK  
February 23, 1984

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

It was my understanding that I would be allowed to offer a further statement and amendments before action was taken on this bill.

When I first started working on this bill, seven states had passed similar laws. By late 1983, sixteen states passed a similar law and it is being considered by nineteen others. Thirty-four local ordinances addressed some of the issues of the "right to know" legislation. Remember, the OSHA ruling applies to some manufacturers, this bill would cover public employees, service employees, construction workers, and others. It would be a companion to the OSHA rules which requires manufacturers to get such information.

I would recommend the following amendments:

Section b (1) "Toxic substance" means any substance which is listed in the latest printed edition of the National Institute for Occupational Safety and Health Registry of toxic effects of chemical substances which shall not include (1) any consumer product packaged for distribution to and used by the general public for which the employees exposure during use is not significantly greater than the use of the product and (2) goods, drugs, cosmetics, or tobacco products intended for personal consumption, and (3) any substance received by an employer in a sealed package and subsequently sold or transferred in a package, if the seal remains intact while the substance is in the employer's workplace.

Add to the definition section after the toxic substance section, (c) "Routinely exposed to any toxic substance" means exposure of at least thirty days per year at exposure levels exceeding 50% of permissible exposure level regardless of the exposure period. Line 36 (c) replaced with (d). Line 39 (d) replaced with (e).

The third amendment I would offer is on page 4, section 3, add:  
(d) Notwithstanding the provisions of subsection (a) and (b) of this section

*Atch. 1*

TESTIMONY  
Rep. A. Matlack

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February 23, 1984

"any manufacturer, supplier, or employer shall provide the required information specified in section 2 of this act upon the request of the employees' authorized health representative stating that the information is necessary for medical treatment of the employee. Any health representative receiving information that is registered under this section as a protectable trade secret or proprietary process shall not disclose this information to any person without the written consent of the patient and of the manufacturer, supplier, or employer."

These amendments would clarify the act and alleviate the objections of school boards, grocery store owners, and similar employers. It would narrow the definition of toxic substances considerably and, therefore, alleviate record keeping of many toxic substances. The Committee could consider an amendment to exempt employers that employ very few people (three to five) from record keeping and reduce the record keeping time to 30 years as is required by OSHA since the main thrust of the bill is for employee safety.

Regardless of whether further action is taken on this bill, I would like to have this testimony and these amendments in the record of the Committee.

Thank you for your consideration.

REP. ARDEN MATLACK

# Benzene Award Is \$3 Million

By Joe Earle  
Staff Writer

A federal court jury in Wichita Friday ordered petrochemical company Texaco Inc. to pay \$3.15 million to the family of a man who died of leukemia that the jurors decided was caused by exposure to benzene.

The nine-member jury said the money should be paid for the suffering and death of Otis "Butch" Mason, who used benzene in his job as an instructor with the U.S. Coast Guard.

Mason used liquid benzene to test the oil in ship motors to determine whether it should be changed. Mason taught others how to use the test kits. He was diagnosed in 1977 as having leukemia, a type of cancer that attacks the blood-forming organs.

**HE DIED** two years later at age 32.

The jurors decided that the family should be awarded a total of \$9 million — thought to be the largest jury verdict ever in a personal injury case in Kansas. However, the amount the family would get from the verdict is \$3.15 million because Texaco was held only partially responsible and was the only defendant in the trial.

The \$9 million verdict also was substantially higher than previous jury awards in benzene cases, according to figures kept by the American Trial Lawyers Association.

Mason's widow, Diana Mason of Wichita, said she hoped the verdict would force Texaco and other petrochemical companies to warn their customers about the dangers of using liquid benzene.

**"HOPEFULLY, BY** this verdict, my late husband's death was not in vain," she said. "Hopefully, it'll get

● BENZENE, 6A, Col. 1

## Jury Finds Texaco Partially Liable in Benzene Suit

● BENZENE, From 1A

the word around. My family for the last six years has lived a really awful life, to put it mildly . . . .

"I don't want other families to have to live that way."

Texaco, in a statement issued through its corporate offices in White Plains, N.Y., said it would appeal.

The U.S. District Court jury deliberated for about three days during the past week after hearing 12 weeks of testimony in the case.

The jury found Texaco, which made the benzene, was 35 percent responsible for Mason's pain and death. Under that finding, Texaco was ordered to pay 35 percent of the total, or \$3.15 million.

**THE JURORS** divided the rest of the blame for Mason's death among

other companies that bought and repackaged the benzene, the Coast Guard and Mason. The jurors assigned 3 percent of the blame to Mason.

The jury did not award punitive damages against Texaco, although Mason's lawyers had asked for up to \$8 million to punish Texaco for not properly telling its customers of benzene's dangers.

Diana Mason and her lawyer, Richard Cordry of Wichita, said they were disappointed that the verdict included no punitive damages. But Cordry said the verdict "is a lot of money, and I think it's going to get some people's attention."

**TEXACO KNEW** of benzene's dangers in the 1950s, Cordry said, but did not properly warn people working with the chemical about it.

"People have a right to know and

Otis "Butch" Mason's widow, Diana Mason of Wichita, said she hoped the verdict would force Texaco and other petrochemical companies to warn their customers about the dangers of using liquid benzene.

make a reasonable, intelligent choice," Cordry said.

Cordry said he did not expect the verdict to lead to a number of new lawsuits over benzene exposure. The time lag between exposure and developing a related illness may, in many cases, be too long to allow people to bring lawsuits, he said.

Also, federal officials have said, industrial uses of benzene are declining because of the chemical's links to leukemia and other diseases.

workers may have been exposed to benzene.

"I sure hope people get the word that if you see benzene on the label, you better find out if it's going to vaporize," Cordry said. "There isn't any excuse for manufacturers to use benzene today as a solvent."

Diana Mason said she was pleased that the jury divided the fault for her husband's death between several of the companies that distributed the benzene he used.

**"BY HAVING** the different amounts allotted to different companies, hopefully that will make them realize that anyone dealing with chemicals, anyone selling or manufacturing them, is responsible," she said. "They're responsible for the people working with them."

In its statement, Texaco said it

was "extremely disappointed" in the verdict.

"It is the company's position that this verdict is not supported by the evidence and is contrary to law," said the statement, read by Texaco media specialist Jim Callahan. "Texaco intends to make every effort to seek a reversal of the verdict by post-trial motions and, if necessary, by an appeal to higher courts."

**CORDRY SAID** that if Texaco does appeal, the Masons may file a cross-appeal challenging the jury's finding that Mason bore some of the fault and arguing that punitive damages should have been awarded.

Diana Mason said she also plans to write the federal Environmental Protection Agency about its recent decision that proposed benzene emission regulations are too costly.

**WEATHER SUMMARY**

