

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:04 a.m. on January 29, 1998 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused

Committee staff present: Jerry Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Bev Adams, Committee Secretary

Conferees appearing before the committee: Susan Somers, Board of Accountancy  
Julie O'Mara, Custom Concrete Cutting  
Hal Hudson, NFIB  
John Samples, Kan-Build, Inc.  
Mike Perry, Custom Homes of Kansas

Others attending: See attached list

Introduction of Bills:

Susan Somers, Executive Director, Board of Accountancy, asked the committee to introduce two bills concerning Certified Public Accountants. The first one is concerned with continuing education requirements and the other concerns the registration of business entities and imposition of civil fines. Rep. Beggs made a motion to introduce the bills as committee bills. It was seconded by Rep. Crow. The motion passed.

Continued Hearing on: **HB 2591 - Exempting self-employed subcontractors from workers compensation**

Julie O'Mara, a proponent of the bill, appeared before the committee representing her husband's business, Custom Concrete Cutting. It is a sole proprietorship but treated as a partnership. The General Contractor that he does one-third of his work for notified him that he must carry workers comp insurance. They purchased the insurance, but were shocked to find it would be over \$3200 per year. They are already covered by liability and health care insurance and feel that the workers comp insurance is unnecessary. (See Attachment 1)

Written testimony was passed out to the committee from Louis Droge, of Louis Droge Construction, who is a proponent of the bill. (See Attachment 2)

Hal Hudson, State Director of the Kansas Chapter of the National Federation of Independent Business (NFIB), appeared as a supporter of the bill. They believe that the wrong bill was enacted in 1997, and that we should return to prior law. They agree that anyone who hires workers in their business should be obligated to provide workers comp insurance. The federation believes that self-employed persons who are the sole person in their business should not be classified as workers (employees) when they do work for a general contractor. (See Attachment 3)

John Samples, President of Kan-Build, Inc., Osage City, and president of the Kansas Building and Industry Association, appeared as an opponent of the bill. He believes that the old law represented a large loophole that allowed sub-contractors to sue general contractors when they were injured on the job. The majority of these sub-contractors did not carry workers comp insurance. In his business he uses many sub-contractors and he does not always know if they are insured until he is on the job. By then it is too late to get the coverage. He feels that if he insures his people that others should insure theirs. He wants to make sure he is protected from suits brought on by uninsured persons. He feels that there is too much misinformation on the new law. Many of the sub-contractors across Kansas are not aware a new law has been enacted.

Mike Perry, past chairman of Topeka Homebuilders Association and now owner and operator of Custom Homes of Kansas and Custom Painting of Kansas, employs several persons. He is opposed to the passage of **HB 2591**. He works as both a general and sub-contractor. He believes that from a small business perspective there is a need to have people in the workforce who are covered by workers comp insurance. In

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR, Room 526-S  
Statehouse, at 9:04 a.m. on January 29, 1998.

addition, there is a need for a level playing field so that sub-contractors can be competitive with other businesses.

The hearing on **HB 2591** will be continued on Tuesday, February 3, 1998.

Chairman Lane adjourned the meeting at 9:54 a.m.

The next meeting is scheduled for January 30, 1998.

# HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE GUEST LIST

DATE: January 29, 1998

NAME	REPRESENTING
SUSAN SOMERS	Bd of Accounting
Julie O'Mara	Self-Employed Subs
Bill Wengert	Ks. Ins. Dept
Dick Cook	Ks Int. Dept.
Wendy Harms	Ks Aggregate Producers' Assn.
RANDY VAZDEZ	Ks Assoc. of Ins Agents
Dinda Robinson	Ks Insurance Dept
Martha Jean Smith	KDHA
FRANK STUCKEY	KBIA SIF
Vern Klassen	KBIA SIF
John Zona	KBIA SIF / All Western Radios.
John Samples	Resident KBIA O Sage City
Terry Leatherman	KCCI
MIKE PERRY	KBIA Board member
BOB BROWN	Mid-Am Consumer
Bick Carter, Jr.	KSIA
Bernie Hentzen	Hentzen Contractors KBTA
Susan Mahoney	Senate Vice Pres. Office
Phil Harless	KDHR - Work-Smp.



**Testimony before House Business  
Joint Committee on Economic Development  
House Bill No. 2591  
January 27, 1998**

**Julie A. O'Mara**

Mr. Chairman and members of the Committee, I am here today representing my husband's business, Custom Concrete Cutting. Kevin is a self-employed subcontractor with no employees. This sole proprietorship has existed since March of 1994. My role in this business and our other pursuits is to handle the telephone, scheduling, paperwork, accounting, etc. - everything but the actual concrete sawing. Our business is technically a sole proprietorship but it is treated as a partnership.

We found out about the 1997 Bill #2011 in December of 1997 when our primary customer told us that we must now carry worker compensation insurance or they would have to find a different subcontractor. They were told that if we didn't have workers compensation they would be billed for it. We have worked for this particular company as a subcontractor since March of 1994 and they have provided about one-third of our total business ever since. In order to appease this company and the new law we have purchased the insurance. We were totally shocked to find out that we would be charged over \$3,200.00 per year for this coverage.

Since 1991 we have carried full-coverage health insurance to cover our entire family including our 3 children- ages 1,2, and 5. Since 1994 we have carried liability insurance with a 2 million dollar umbrella for Custom Concrete Cutting. We feel that we have already taken the necessary precautions to protect Kevin and our family in the event of an injury and situations where liability insurance would be deemed necessary. We currently pay \$1,424.00 for liability insurance and \$3,300.00 for health coverage - which is a total of \$4,724.00 per year. The law now says that we must spend an additional \$3,200.00 for worker's compensation insurance so that we can't hold the general contractor (or our customer) liable for any possible injury Kevin might receive on their job site. We are already covered by our health insurance in event of any injury. Our insurance will cover Kevin in case of an injury if a worker's compensation claim is not made or is required to be. If he was injured to the extent of having to be off work for any extended period of time we would examine our options at that time on how to deal with the situation whether it be hiring an employee or shutting down the business - either way it is a personal decision. Requiring self-employed subcontractors with no employees to carry worker's compensation on themselves is more than just the cost of doing business. It is an extremely expensive and unnecessary expense. It is a total waste of our hard earned money.

As a self-employed family whatever income we bring is how we live. We try to minimize our expenses so that we can live better. We work hard so that we can provide the best opportunities for our children such as the best health care and the best schooling. We should not have to make a choice between health care for our children and an unnecessary worker's compensation policy which would only cover Kevin.

*House Business, Commerce  
& Labor Committee  
1/29/98  
Att. 1*

**BEN SCHREINER CONCRETE CONSTRUCTION**

2520 EAST 2ND  
TOPEKA, KANSAS 66607  
**(913) 232-0445**  
**FAX (913) 232-1017**

January 27, 1998

Custom Concrete Sawing  
614 NE Sumner  
Topeka, Kansas 66616

To Whom It May Concern:

We would not require subcontractors that are owner operated and hire no employees to furnish Workman's Comp insurance on the owner, provided that they carry health and liability insurance on themselves.

Thank you,



Beverly Schreiner



\* Independent Licensees of the Blue Cross and Blue Shield Association

Other Party Liability (913) 291-4013  
Toll Free 1-800-430-1274

1133 SW Topeka Boulevard  
Topeka, Kansas 66629-0001



PremierBlue

January 27, 1998

**PATIENT NAME: Kevin Omara**  
**IDENTIFICATION #: 513763587**

**Julie Omara**  
**fax 785-234-4763**

*This letter is in response to your recent inquiry regarding coverage for work related injuries. Blue Cross and Blue Shield of Kansas would specifically exclude services for injuries or diseases related to your job to the extent you are covered or are required to be covered by a worker's compensation law. It is our understanding that each self-employed person is not required by law to carry Worker's Compensation: so if he chooses not to, services for injuries or diseases related to the job would be eligible for coverage.*

*Sincerely,*

**Dawn Crow**  
**Other Party Liability**  
**CC: 217**

# Louis Droge Construction

Since 1975

437 NW The Drive • Topeka, Kansas 66606 • (913) 357-6794



I was notified by my insurance company approximately 12-02-97 that I would be required to carry workman's comp. insurance on myself based on a <sup>#</sup>24,000.00 annual payroll. It would be retroactive to 7-01-97 and the cost would be a minimum of <sup>#</sup>2803.00.

I carry my own healthcare and disability income insurance which cost <sup>#</sup>2637.20 a year.

I now have to have double coverage because of the old house bill (2011).

I am a small business with one full time employee, my son. We work approximately 3500 hours a year.

I will have to add <sup>#</sup>1.00 per hour to my bill.

I can not add the <sup>#</sup>1.00 per hour to work already completed or already bid.

The amount will have to come out of pocket.

This has an annual effect of about 10% of my income.

Louis Droge

House Business, Commerce  
& Labor Committee  
1/29/98  
Att. 2



# American Family Insurance Group

6000 AMERICAN PKY • MADISON WI 53783-0001 • PHONE: (608) 249-2111



AMERICAN FAMILY MUTUAL INSURANCE COMPANY  
AMERICAN STANDARD INSURANCE COMPANY OF WISCONSIN  
AMERICAN FAMILY LIFE INSURANCE COMPANY  
AMERICAN FAMILY FINANCIAL SERVICES, INC.  
AMERICAN FAMILY INSURANCE COMPANY  
AMERICAN STANDARD INSURANCE COMPANY OF OHIO

12/02/97

182-659

Droge, Louis F  
437 NW The Drive  
Topeka KS 66606-1368

RE: Policy Number 15 X04578-90-0000

Dear Policyholder:

Your continued business is very important to us. That's why we want to explain a new law that went into effect this summer. We waited to relay this information to you because, after a number of meetings with interested groups and one of the sponsors of this new legislation, the Kansas Director of Workers' Compensation has revised his interpretation of the new law. We are providing you with the best information we now have available.

The new law covers self-employed subcontractors as employers under the Workers' Compensation Act - regardless of the \$20,000 minimum payroll requirement. In addition to their status as "employers," under this new law a self-employed subcontractor is also considered to be a "workman," "employee," or "worker," as those terms are used in the workers' compensation law.

In other words, any self-employed subcontractor performing work for a contractor is deemed to have elected to be covered by law and must secure workers' compensation insurance for himself/herself, as well as any employees. It is no longer necessary for a self-employed subcontractor to file an election Form 113 to be covered under the workers' compensation law when performing work for a contractor. (You are a self-employed subcontractor when you perform work for someone that is part of their trade or business. Although this type of relationship occurs most often in the construction business, it could and does arise in all types of enterprises.)

The workers' compensation premium for a subcontractor to cover himself/herself will be based on the annual payroll of \$24,900 for sole proprietors, partners, or LLC members, which is the amount set by state law. If you currently have a Workers' Compensation policy in force with us, and you need to add yourself to the policy, the payroll amount will be prorated from the time you notify us for the remaining time in your policy period. If you increase your coverage, the corresponding premium adjustment will be processed when we audit your policy.

All employers, including self-employed subcontractors, may be fined for not having workers' compensation insurance. The fines may be twice the annual premium the employer would have had to pay for workers' compensation insurance, or \$25,000, whichever is greater. Please be sure to contact me immediately if you are affected by this new law.

If you have any questions regarding the insurance aspect of this new law, please contact me. If you want specific legal advice about the provisions of this new law, we recommend you consult your attorney.

Your American Family Agent

2-2

AMERICAN FAMILY MUTUAL INSURANCE COMPANY  
MADISON, WISCONSIN

182-659  
08/25/97

PREMIUM DUE for the stated period of time  
from 09-28-97 to 12-28-97

FOR INFORMATION OR SERVICE CALL:  
LARRY J SHIPMAN  
PO BOX 5203  
TOPEKA KS 66605  
913-267-1741

SEE POLICY FOR COVERAGE DATA AND LIMITS  
PLEASE READ REVERSE SIDE FOR PAYMENT INFORMATION

DROGE, LOUIS F  
437 THE DRIVE  
TOPEKA KS 66606-1368

HEALTHCARE POLICY

POLICY NUMBER 15-E03355-01-KS

Limits \$250,000  
Deductible \$25  
Coinsurance \$500

Named Insured	PREMIUM
Spouse	\$541.20
Dependents	-----
Endorsements	5.00
Optional Riders	-----

TOTAL PREMIUM \$546.20

DISABILITY INCOME POLICY

POLICY NUMBER 15-A16070-01-KS

Benefits Begin: On Day 8 For Accidental Injury  
On Day 8 For Sickness

Months of Benefits: 24 Months For Accidental Injury  
24 Months For Sickness

Monthly Benefit Amount: \$600

Accident & Sickness	PREMIUM
	\$113.10

TOTAL PREMIUM \$113.10

15-X04578-01	MONTHLY PREMIUM	35.92
0097-BLBK-KS	OVERPAYMENT CREDIT	107.80CR
BUSINESS KEY		

15-X04578-90	MONTHLY PREMIUM	201.00
0000-BLWC-KS	ADD POL FIRST BILL	05 02 97 201.00
WORKERS COMP	UNDERPAYMENT DEBIT	

AMPLAN MONTHLY CHARGE 8.16

TOTAL AMOUNT DUE 338.28

\* THIS IS A ONE TIME ADJUSTMENT RESULTING FROM CHANGES AS INDICATED ABOVE.

OPTIONAL ADVANCE PAYMENT AMOUNTS SEE REVERSE FOR EXPLANATION

1 MONTH	\$338.28	2 MONTHS	\$575.20
3 MONTHS	\$812.12	6 MONTHS	\$1,522.88

OPTIONAL ADVANCE PAYMENT AMOUNTS INCLUDE ONE MONTHLY CHARGE

P-1 0-6-97

2-3

LEGISLATIVE



TESTIMONY

**Testimony of Hal Hudson, State Director  
Kansas Chapter  
National Federation of Independent Business  
Before the House Business, Commerce & Labor Committee  
On HB 2591  
January 1998**

Mr. Chairman and Members of the Committee: Thank you for this opportunity to appear here today. My name is Hal Hudson, and I am here today representing the more than 7,000 small business owners of Kansas who are members of the National Federation of Independent Business.

Small business owners abhor government intervention into management of their businesses. It is on the basis of this long-standing philosophical position that I come to you in support of HB 2591.

Last year we were faced with two bills that were diametrically opposed on this issue of subcontractors purchase of workers comp insurance. We believe the wrong bill was enacted in 1997, and that we should return to prior law.

We understand the position of general contractors, and their associations, who wish to have protection against worker compensation claims. It's probably good business for the general contractor to require subcontractors to show evidence of insurance before they can begin work on their jobs. But that is what it should be -- a business decision -- not a mandate by state law.

Further, we agree that anyone who hires others as workers in their business should be obligated to provide the protection afforded by workers compensation insurance. But self-employed persons, if they are the sole person in their business should not be classified as workers (employees) when they do work for a general contractor.

Last year we heard testimony from a self-employed electrician who said he was forced to pay a \$750 premium, even though he had, appropriately under Kansas's law at that time, excluded himself from the policy. He felt this was nothing more than a tax or a license fee for the privilege of doing business.

To the extent that we can support enactment of HB 2591, we suggest that the Committee also look to the new section (i) beginning on line 17, page 3 of HB 2592. These two bills seems to be interdependent. We will discuss further HB 2592 when the hearing on it is scheduled.

Thank you.

*House Business, Commerce  
& Labor Committee  
1/29/98  
Att. 3*