

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 March 11, 1998 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused
Rep. Phyllis Gilmore - excused
Rep. Broderick Henderson - excused

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

Conferees appearing before the committee: Phil Harness, KDHR
Martha Neu Smith, Kansas Manufactured Housing
Ron Seeber, Assistant to the Secretary of Administration

Others attending: See attached list

A motion was made by Rep. Grant to approve the minutes of February 23 and 24 which were passed out today in committee. It was seconded by Rep. Mason. The motion passed and the minutes were approved as written.

Action on: HB 2880 - Real estate brokers' and salepersons' act; fees.

Rep. Mason made a motion to table the bill and Rep. Geringer seconded it. The motion passed.

Hearing on: HB 3005 - Updating and modernizing the boiler inspection law.

Chairman Lane explained to the committee the problems with the original boiler inspection law, HB 2864. The balloon amendments passed out of the committee and the amended bill did not match, therefore the bill was defective. To solve the problem, Revisor Bob Nugent drafted a new bill (HB 3005) which was introduced and referred to the Business, Commerce, and Labor Committee.

Phil Harness, Director of the Division of Workers Compensation, Kansas Department of Human Resources (KDHR), appeared as a proponent of the bill. He gave abbreviated testimony because, as he explained, HB 3005 is virtually the same as HB 2864. He explained five changes listed on the last page of his testimony that were not included in the original balloon amendments but are contained in the new bill. (See Attachment 1)

Written testimony from Brad Smoot, Legislative Counsel, American Insurance Association, supporting the bill was handed out to the committee. (See Attachment 2)

No others were present to testify for or against the bill and Chairman Lane closed the hearing on HB 3005.

Action on: HB 3005 - Updating and modernizing the boiler inspection law.

Rep. Pauls made a motion to pass out the bill favorably and place it on the Consent Calendar. Rep. Geringer seconded the motion. The motion passed.

Hearing on: HB 2754 - Mobile home piers; construction requirements.

Martha Neu Smith, Executive Director, Kansas Manufactured Housing, appeared as a proponent of the bill. A member of their association requested from the Department of Administration approval of a pier different from current statute. Since K.S.A. 75-1231 does not give the Secretary the authority to approve alternative materials, the request was denied. Since then she has done some research and found that the law passed in

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR, Room 526-S
Statehouse, at 9:04 a.m. on March 11, 1998.

1978 was defective. By inserting K.S.A. 75-1230 into **HB 2754** as section 1, the two statutes which were voided by the error in 1978 would be corrected. The bill also gives the Secretary the authority to approve alternative materials for mobile home piers. (See Attachment 3)

A balloon furnished by Bob Nugent, Revisor, was passed out to the committee. It would insert K.S.A. 75-1230 into **HB 2754** as section 1 and would change the numbering system to the current format. (See Attachment 4)

Ron Seeber, Assistant to the Secretary of Administration, appeared as a supporter of the bill. The bill is basically housekeeping in two ways: it changes the numbering system to the current format and gives the Secretary the authority to approve other materials and designs for mobile home piers. (See Attachment 5)

Written testimony was passed out from Sherrie J. Harvey. (See Attachment 6)

No others were present to testify on the bill and Chairman Lane closed the hearing on **HB 2754**.

Action on: **HB 2754 -Mobile home piers; construction requirements.**

Rep. Pauls made a motion to pass out the bill favorably. It was seconded by Rep. Crow.

Rep. Grant made a motion to amend the bill with the balloon furnished by Revisor Bob Nugent. It was seconded by Rep. Geringer. The motion to amend passed.

A substitute motion was made by Rep. Grant to pass out **HB 2754** favorably as amended. Rep. Pauls seconded the motion. The motion passed and the bill was passed out favorably as amended.

Chairman Lane adjourned the meeting at 9:22 a.m.

The next meeting is scheduled for March 12, 1998.

TESTIMONY BEFORE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE
HOUSE BILL 3005

March 11, 1998

By Philip S. Harness, Director of Workers Compensation

House Bill 3005 is virtually the same as House Bill 2864, as amended, which has been previously acted upon by this committee.

This bill is mostly a compilation of cleanup measures due in large part to the fact that the Boiler Safety Act has not been substantially amended in approximately 20 years. However, the bill does embrace a new concept, i.e. the inclusion of "pressure vessels" within the act so that those are now regulated. The necessity for this is that all the states surrounding Kansas have legislation regulating pressure vessels; since Kansas did not, the boiler inspection staff has found that the state has become the new dumping ground for non-code pressure vessels. These 1998 amendments are three-fold:

1. Clarify that 20 percent of the inspection fees only are to be credited to the state general fund. Currently, the statute is somewhat ambiguous in that the Department of Administration has interpreted it to mean that 20 percent of all funds collected including inspection and certificate fees, and reimbursed travel expenses, are to be credited to the state general fund.
2. Technical cleanup of various statutes concerning boiler inspections.
3. Institution of a new program to inspect the construction and installation of newly installed pressure vessels (after January 1, 1999).

As to the first, it is important to recognize the distinction between certificate fees and inspection fees. Inspection fees, defined on Page 2, Line 9, mean essentially those fees collected by the state boiler inspector pursuant to a boiler inspection. The amount of those fees are currently set by regulation. A certificate fee is a regulatory fee used to record that the boiler is in safe operating condition. Certificate fees may be collected by the state even though a boiler has been inspected by an insurance company inspector (in which case the state would not collect the inspection fee). Twenty percent of inspection fees yield approximately \$25,000 per year; 20 percent of certificate fees yield approximately \$40,000 per year. To become, and stay, self-sustaining, the certificate fees need to be dedicated completely to the operation of the section.

As to the second and third points, i.e. technical corrections concerning boiler inspections as well as the addition of construction and installation of newly installed pressure vessels, it is important to note the following:

- a. Section 3 alters the volume of inspected hot water supply boilers to 85 gallons, but 120 gallons for electrical utilities. Inspection of private residences or apartment houses with five or more units is required (previously it was six units). Those pressure vessels which will be inspected (concerning construction and installation after January 1, 1999,) contained various exclusions on Page 3, Lines 15-42. Essentially, those pressure vessels which would be inspected, for new installation, would be those exceeding 15 cubic feet and a designed pressure of 250 pounds per square inch of pressure or 1½ cubic feet and 600 pounds per square inch of pressure.
- b. It is the intention of Section 4 of the bill to provide for the authority to pass rules and regulations for the inspection of construction and installation of newly installed pressure vessels, as well as boilers. Since some individuals may prefer to buy used boilers and pressure vessels, it is important to note that what is requested is the ability to inspect the construction and installation of newly installed pressure vessels, not presently installed pressure vessels (those would be essentially "grandfathered" in). Those grandfathered in would not be inspected until such time as they were replaced; thence, it would be a new installation subject to inspection. The Secretary of Human Resources could still issue a variance for those pressure vessels or boilers to be installed which were not constructed pursuant to the American Society of Mechanical Engineers Code, but could still meet the National Board of Boiler and Pressure Vessel Inspectors Code. (Section 5.)
- c. The intent of Section 8 is to define different levels of certificates of competency to allow the state to issue one type of competency certificate to those individuals inspecting antique or hobby boilers, another type to those individuals inspecting insured boilers, or commercial boilers.
- d. Section 11 requires that hot water supply boilers greater than 400,000 BTUH shall require an annual inspection, as opposed to the otherwise three-year inspection. Certain units will be registered with the national board.
- e. Section 12 contains new language concerning the ability of the state to shut down or suspend the operation of certain boiler or pressure vessel units if they do not comply with regulations. Relief would be offered under the Kansas Administrative Procedure Act or, if the owner/operator demonstrates that the danger has been abated, then a re-inspection would occur to ensure safe operation.
- f. Section 14 (c) clarifies that 20 percent of the inspection fees only shall be credited to the state general fund with the balance still credited to the boiler inspection fee fund.

House Bill 3005 varies from House Bill 2864 in the following manner:

1. Page 5, Lines 9-11 - A change was introduced here as the National Board of Boiler and Pressure Vessel Inspectors may change its code periodically and, as such, previous language would have made this an impermissible delegation of legislative authority and power. By referring to “rules and regulations adopted by the Secretary” this would allow the Department to adopt, by rules and regulations, a specific inspection code and, if change is needed, then the regulation would be changed.
2. Section 8, appearing at Page 6, Lines 16-41, has been amended to delete the name of a particular association since there are now at least two associations dealing with antique or “hobby” boilers, and it is proposed that specific rules and regulations be adopted concerning certification requirements for inspectors of antique, scale models, or other steam boilers used exclusively for exhibition purposes.
3. Page 9, Lines 30-32 - The word “boiler” was added before “inspection certificate” being valid for not more than 14 months from its date, unless covered by a variance (pressure vessels will be inspected only for installation, whereas boilers will still be inspected on a periodic basis).
4. Page 9, Lines 38-40 - Previous law required the certificates to be posted under glass in the room containing the boiler; it was believed that the more modern approach would be to maintain the certificates on site and make them available to the boiler inspector (this would still allow the certificate to be posted under glass in the same room as the boiler, but would also allow other record keeping measures).
5. Page 11, Lines 13-25 - This is to clarify that 20 percent of the inspection fees only are to be credited to the state general fund and the balance of those inspection fees, and all of the certificate fees, shall be credited to the boiler inspector fee fund. This is current practice; however, some individuals questioned whether current practice should have been something different due to the wording of this statute, i.e. whether or not 20 percent of both the inspection fees and the certificate fees should have been credited to the state general fund. In order for the program to be self-sufficient, the certificate fees need to be dedicated completely to the operation of the boiler inspection section.

BRAD SMOOT

ATTORNEY AT LAW

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STATEMENT OF BRAD SMOOT, LEGISLATIVE COUNSEL THE AMERICAN INSURANCE ASSOCIATION

KANSAS HOUSE
BUSINESS COMMERCE AND LABOR
1998 HOUSE BILL 3005
MARCH 11, 1998

I am Brad Smoot, Legislative Counsel for the American Insurance Association (AIA), a trade association representing more than 270 companies providing property and casualty insurance, including workers compensation, home owners, general liability, auto and boiler insurance to Kansas and the nation. We appreciate the opportunity to support H 3005.

As this committee is aware, H 3005 is the culmination of the Division's efforts to update Kansas boiler inspection laws. We appreciate the willingness of the Director to respond to our concerns regarding an earlier proposal (H 2864) and we endorse the approach of H 3005.

Property and casualty insurers who cover boilers have a unique, significant and obvious interest in the skills and qualifications of the persons authorized by the state to inspect boilers. Current Kansas law authorizes inspections only by inspectors employed by the state (Section 7) and deputy inspectors employed by insurance companies whose competency is certified by the state (Section 8).

Early drafts of this legislation would have expanded inspecting authority which created considerable concern among our members. It is our firm belief that the job of boiler inspector is so important that inspectors must have a vested interest in the safety of each piece of equipment they inspect. State employees and insurance inspectors have that heightened level of responsibility. H 3005 continues to restrict certification of inspectors to a limited, highly qualified and highly motivated group of specialists.

The modifications made for hobby boilers (antique and scale model) are narrow and appropriate. See Section 8. Again, we appreciate the Division's efforts to maintain the integrity of the current boiler inspection system and support the passage of H 3005.

*House Business, Commerce
& Labor Committee*

3/11/98

Att. 2



214 SW 6th St., Suite 206
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785-357-5257 fax
kmha@cjnetworks.com

**TESTIMONY BEFORE THE
HOUSE
BUSINESS, COMMERCE AND LABOR
COMMITTEE**

TO: Representative Al Lane, Chairman and
Members of the Committee

FROM: Martha Neu Smith
Executive Director

DATE: March 11, 1998

RE: House Bill 2754

Mr. Chairman and members of the committee, my name is Martha Neu Smith and I am the executive director of the Kansas Manufactured Housing Association, and I appreciate the opportunity to comment. KMHA is a statewide trade association representing all facets of the manufactured housing industry.

I became aware that there may be a problem with K.S.A. 75-1231 (b) this past summer, when a KMHA member approached the Secretary of Administration with a request for approval of a pier that differed from current statute. Initially we were turned down due to the fact that the Secretary's legal counsel felt that since K.S.A. 75-1231 (b) does not specifically state that the Secretary has the authority to approve alternative materials and designs for piers as it does in K.S.A. 75-1230 (tie downs) and K.S.A. 75-1231 (a) (pier foundations), he could not approve my members request. But, in preparation for this hearing, I went through KMHA's archives and discovered that in 1978 the Kansas Legislature **did** give the Secretary of Administration the authority to approve alternative piers. **But**, because of a technical error in the printing of the bill the sentence that gave the Secretary approval authority was mistakenly left out. This error has been documented by the Office of Revisor of Statutes and is attached to my testimony. Consequently, the bill Governor Bennett signed was not the bill the Senate and the House of Representatives passed in February, 1978, and according to our attorney, Mark Burkhart and Bob Nugent of the Revisor's Office, the error in 1978 makes K.S.A. 75-1230 and K.S.A. 75-1231 void.

*House Business, Commerce
& Labor Committee
3/11/98
Att. 3*

While this Substitute bill looks drastically different from the Secretary's original bill (HB2754), the only change is to re-instate the two statutes which were voided by the error in 1978.

With that explanation, I respectfully ask for your support of Sub. for HB 2754.

Thank you for the opportunity to comment and I would be happy to try to answer any questions.

NORMAN J. FURSE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

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ON INTERSTATE COOPERATION
KANSAS STATUTES ANNOTATED
EDITING AND PUBLICATION
LEGISLATIVE INFORMATION SYSTEM

COMPUTER INFORMATION STAFF
MARY O. CHENG, M.S.
RICHARD M. CHAMPNEY, B.S.

March 4, 1998

Martha Neu Smith
Executive Director
Kansas Manufactured Housing Assn.
214 SW 6th St., Ste. 206
Topeka, KS 66603-3719

Dear Ms. Smith:

Following is a portion of the legislative history concerning Senate Bill No. 361, chapter 340 of the Session Laws of 1978, culminating in the signature of the wrong version thereof:

1978 House Journal, p. 1304 (1-24-78) -- Reports of standing committees recommends that S.B. 361 be amended in accordance with the committee report and be passed as amended. The committee report recommended inserting on page 4...in line 133, before the period, " or shall be of such other material and design as approved by the director".

1978 House Journal, p. 1326, (1-30-78) -- Committee report is adopted.

1978 House Journal, p. 1340, (1-31-78) -- Bill is bulked for roll call vote and passed by the House 125 to 0.

1978 Senate Journal, p. 852, (2-2-78) -- Senator Reilly moved the Senate concur in the House amendments to S.B. 361; roll call vote was 40 to 0.

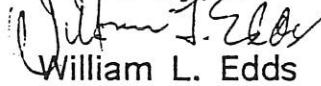
1978 Senate Journal, p. 880, (2-8-78) -- S.B. 361 reported correctly enrolled, properly signed and presented to the governor.

1978 Senate Journal, P. 903, (2-13-78) -- Message from governor that S.B. 361 approved on February 10, 1978. Examination of the enrolled

bill furnished from the official records of the Kansas State Historical Society finds a version signed by President Doyen, Speaker Carlin and Governor Bennett absent the language quoted above. Thus, the bill passed by both houses of the legislature was not the bill approved and signed by the governor. In addition to the foregoing, the 1978 Session Laws of Kansas have the same version of S.B. 361 as signed by the governor, president and speaker.

If I may be of further information, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "William L. Edds".

William L. Edds

Assistant Revisor of Statutes

75-1230. Same; placement of approved tie downs; roof protectors; over-the-top tie downs. (a) Approved tie downs shall be placed on a mobile home as follows:

(1) On any mobile home not less than thirty-six (36) feet in length and not more than ~~fifty (50)~~ 50 feet in length, three ~~(3)~~ frame tie downs shall be placed on each side, or three ~~(3)~~ over-the-top tie downs shall be used or any combination thereof approved by the secretary;

(2) On any mobile home more than ~~fifty (50)~~ 70 feet in length and not more than ~~seventy (70)~~ 70 feet in length, four ~~(4)~~ frame tie downs shall be placed on each side, or four ~~(4)~~ over-the-top tie downs shall be used or any combination thereof approved by the secretary;

(3) On any mobile home more than ~~seventy (70)~~ 70 feet in length, five ~~(5)~~ frame tie downs shall be placed on each side, or five ~~(5)~~ over-the-top tie downs shall be used or any combination thereof approved by the secretary;

(4) On any doublewide mobile home, not more than ~~fifty (50)~~ 50 feet in length, three ~~(3)~~ frame tie downs shall be placed on each side or three over-the-top tie downs shall be used, or any combination thereof approved by the secretary; and on any such mobile home more than ~~fifty (50)~~ 50 feet in length, four ~~(4)~~ frame tie downs shall be used on each side or four ~~(4)~~ over-the-top tie downs shall be used or any combination thereof approved by the secretary.

(b) Whenever over-the-top tie downs are required on any mobile home, one ~~(1)~~ tie down shall be placed as close to each end of the mobile home as practicable, and the center tie down, if any, shall be located as close to the center of the mobile home as possible. The distance between all such adjacent tie downs shall be as nearly equal as practicable.

(c) Roof protectors shall be used with all over-the-top tie downs securing mobile homes not

equipped with such tie downs by the manufacturer. Roof protectors shall be made of rust-resistant material and placed at stud and rafter locations on a mobile home.

(d) Over-the-top tie downs may be attached to the same ground anchor as frame tie downs.

50

70

50

ATTACHMENT 4
3-11-98
HOUSE BUSINESS, COMMERCE & LABOR

House Business, Commerce & Labor Committee
3/11/98 Att. 4



BILL GRAVES
Governor

DAN STANLEY
Secretary of Administration
Room 263-E
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DEPARTMENT OF ADMINISTRATION

HB 2754 MOBILE HOME PIERS

Testimony for the COMMITTEE ON BUSINESS, COMMERCE AND LABOR

by Ron Seeber, Assistant to the Secretary of Administration

This bill is basically housekeeping in two ways:

First it changes the numbering system to the current format (single digit numbers spelled out and double digit numbers in numeric form). No numbers are changed in their amounts.

Second, the bill adds that "Piers also may be constructed of other materials and designs approved by the Secretary." In the original legislation, the secretary of administration has the authority in section (a) to approve other materials and designs for the FOUNDATION of the pier, but does not have the similar authority in section (b) to approve other designs for the PIER itself. There are other pier designs that would be more economical and/or easily used in some situations and would still be equally suitable. The addition of this authority would allow this flexibility.

We respectfully request you support of this bill.

*House Business, Commerce
& Labor Committee*

3/11/98

Att. 5

Sherrie J. Harvey
103 East 5th Street
Eskridge, Kansas 66423
785-449-7283

3-5-98

Good morning Senators:

In 1992 I would help write the Kansas Mobile Home Parks Residential Landlord & Tenant Act. And set the legal precedence for Kansas and the nation.

May I take a few minutes to educate your respective Senators on mobile and manufactured home industry of Kansas.

In Kansas alone this portion of the housing market is not represented at any level of government.
Disclosure:

1. Doesn't have to disclose if your home is going into a flooding area.
2. That most of the mobile and manufactured home parks are on land fills. And where established before federal laws on toxic waste dumping went into effect.
3. No one knows the high rate of cancer cases. Water quality and soil.

No one can tell you how many mobile and manufactured homes are being sold. Billions of dollars are going unreported.

Families do you know what it is like to lose your home because it's the wrong year, wrong color, or maybe they don't like how you cut your grass. Where are you to turn? The cost.

H. B. 2754 is to exclude mobile home parks?
K.S. A. 58-25-105-E

The fact of mobile home parks are on land fills.

Insurance Industry: these peers wouldn't allow for settling and could cause a home to become unstable.

Banking industry is posing larger expenses that couldn't be justified.

Find enclosed a copy of Topeka Capitol-Journal dated 12-2-96. It doesn't disclose that I am legally handicapped nor that I helped write this law.

We had the criminal case transferred from Topeka about four months after our move to Wabaunsee county.

Would you like to see the damage done to our land and our home here in Eskridge Kansas.

Thank you for your time.

House Business, Commerce
& Labor Committee

3/11/98 Sincerely,

Att6 Sherrie J. Harvey

Topeka/Kansas

Monday, December 2, 1996 Page 7-A

THE CAPITAL JOURNAL

Despite eviction, tenant keeps battling

By ROB CURLEY
The Capital-Journal

Lawyer says Legislature needs to set better standards for trailer park residents.

ESKRIDGE — Sherry Harvey has battled for the rights of mobile-home owners for more than 20 years, and now she is fighting for her own rights with already having lost at least one argument. "They've already ruined my life," Harvey recently said from her trailer home, transplanted to Eskridge from Topeka. "What we accomplish now will have little or no affect on me."

But the effects already have been substantial for Harvey. Earlier this fall when she returned to her mobile home in a Topeka trailer park, the locks on her mobile home doors had been changed. She also was left with an eviction notice.

Harvey says this eviction and eviction notices served to her in the past have been the result of her efforts to strengthen legislation protecting mobile home owners.

She has been in litigation with her former landlord, Midwest Properties, for more than two years over whether eviction notices from the landlord were based on retaliation. The two sides returned to the Kansas Court of Appeals last week, with a decision expected about Jan. 1.

According to Pantaleon Florez, Harvey's attorney, Kansas' mobile-home act "has some holes in it, allowing gaps that the law doesn't address."

More specifically, Kansas trailer park owners can evict tenants without a "good-faith reason." Florez argues the act states there can be no rent increase without a good-faith showing of necessity.

"We have just asked the court to increase that to include evictions and to

supply the missing terms in the current legislation," Florez said. "Some standards need to be established."

Bruce Beye, an Overland Park lawyer representing Midwest Properties, was reluctant to talk about the case under its current status. However, he pointed to Shawnee County District Judge Thomas Conklin's ruling in December 1994.

In the decision, Conklin determined there was evidence of retaliation from Harvey's past action on behalf of mobile-home owners.

He also awarded Harvey a month and a half of rent, which Harvey said she had never received.

But Conklin also wrote "that there is culpability on behalf of the defendant-ten-

ant which has been continuing in nature by Harvey's constantly filing numerous complaints alleging city code or federal regulation violations on behalf of the plaintiff, which to date have proven to be meritless.

"She complains all the time, and prefers not to work with management, but, instead always wants to deal with the owners; and she creates many problems, and seems to feel entitled to treatment different from other tenants."

Harvey said it isn't a matter of her being a nuisance as much as it is a matter of her trying to get standards of living raised for those who live in trailer parks.

"We've got a law on the books that even the district judges aren't adhering to," Harvey said. "To my knowledge, there has been no effort by legislators to bring the mobile-home act into compliance or bring it to the standards that other states have."

6-2