

Approved: 3/15/10

Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:03 a.m. on February 15, 2010, in Room 784 of the Docking State Office Building.

All members were present except:

Representative Delia Garcia- excused

Committee staff present:

Art Griggs, Office of the Revisor of Statutes
Renaë Jefferies, Office of the Revisor of Statutes
Jerry Donaldson, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Eric Stafford, Associated General Contractors of Kansas
Diane Gjerstad, Wichita Public Schools
Phil Perry, Home Builders Association
Kerri Spielman, Kansas Association of Insurance Agents
Tony Zimbelman, Zimbelman Construction
Farrol Brown, Farrol Brown Carpentry
Chris Wilson, Kansas Building Industry Association
Tim Shigley, Shigley Construction Co., Inc.
Bernard Hentzen, Hentzen Contractors, Inc.
Michael Gatschet, Heartland Home Improvements
Gene Bowers, Shigley Construction Company
Jeff Hund, All Seasons Construction
Wilbur Engel, Honey Do Homes, LLC
Rex Smith, Kansas Safety Training Center

Others attending:

See attached list.

The Chairman opened the hearing on **HB 2596**.

HB 2596 Secretary of health and environment; rules and regulations regarding remediation of lead-based paint

Renaë Jefferies, Assistant Revisor gave an explanation of the bill ([Attachment 1](#)). She also introduced Technical Amendment 1 for adoption by the Committee ([Attachment 2](#)).

The following gave written only testimony as proponents of **HB 2596**.

Eric Stafford, Associated General Contractors of Kansas ([Attachment 3](#))
Diane Gjerstad, Wichita Public Schools ([Attachment 4](#))
Phil Perry, Home Builders Association ([Attachment 5](#))
Kerri Spielman, Kansas Association of Insurance Agents ([Attachment 6](#))
Tony Zimbelman, Zimbelman Construction ([Attachment 7](#))
Farrol Brown, Farrol Brown Carpentry ([Attachment 8](#))
Stephen Hund, All Seasons Construction Inc ([Attachment 9](#))

Chris Wilson, Kansas Building Industry Association, presented testimony as a proponent of **HB 2596** ([Attachment 10](#)). Their chief concern was that Kansas not enact a law more stringent than the EPA program. The EPA is pretty stringent as it is and Kansas goes beyond it. Some differences are Kansas requiring all workers to be certified while EPA only requires one certified on the job. Additionally Kansas requires a third party test while the EPA accepts the companies verification.

Tim Shigley, Shigley Construction Co. Inc., presented testimony as a proponent of **HB 2596** ([Attachment 11](#)). He was concerned about the cost of certification for all employees and trade partners. Also the hard cost of

CONTINUATION SHEET

Minutes of the House Commerce and Labor Committee at 9:03 a.m. on February 15, 2010, in Room 784 of the Docking State Office Building.

containment materials is much greater than the EPA. His testimony includes cost estimates and comparisons for material under the Kansas and EPA requirements.

Representative Brunk asked if the Federal regulations were adequate. Tim said they were.

Wes Galyon, Wichita Heritage Builders Association, gave verbal only testimony as a proponent of **HB 2596**. One concern is that there is no opt out provision which is currently allowed by the EPA. His other concern was the requirement that all workers be trained, whereas the EPA only requires a supervisor to be trained.

Representative Quigley asked who was responsible for training. Wes said it was the company owners.

Representative Ruiz asked who certifies the training. OSHA certifies the training and qualifies individuals to be OSHA trainers.

Bernard Hentzen, Hentzen Contractors, Inc., gave testimony as a proponent of **HB 2596** (Attachment 12). He said that he personally has traveled to Las Vegas and attended a six hour classroom course and a two hour hands on training and is now a Certified Renovator. The Kansas requirement would be that all employees must do that. Under the EPA rules he could train his own workers. Additionally the amount of plastic required is much greater than the EPA amount.

Michael Gatschet, Heartland Home Improvements, testified as a proponent of **HB 2596** (Attachment 13). He stated that it was impossible to train 40,000 people and it would cost at least \$24 million to do so. The cost of doing business would rise for everyone and cause price increases in home improvement.

Representative Hermanson asked how long he had been in business and how many lead poisoning cases he had seen. Michael said 10 years and he had seen none.

Gene Bowers, Shigley Construction Company, retired, brought testimony as a proponent of **HB 2596** (Attachment 14). His testimony showed how much more it would cost to remodel his house under the KDHE rules as compared to the EPA rules. His example showed that the KDHE requirements would double the cost of his remodel project.

Jeff Hund, All Seasons Construction, testified as a proponent of **HB 2596** (Attachment 15). His testimony indicated that the use of thicker plastic and multi layers which are changed daily is a waste of materials, With the KDHE regulations, pre 1978 homes are singled out to be much more expensive to remodel.

Wilbur Engel, Honey Do Homes, LLC, gave testimony as a proponent of **HB 2596** (Attachment 16). His testimony indicated that the higher cost of remodeling would cause people to hire untrained contractors or do the job themselves. Either way the children in the home would not be protected.

Chad Bryan, Southwestern Remodeling gave verbal only testimony as a proponent of **HB 2596**. There are three factors to the training, first would be the cost of the training, second the wages the employees are paid while they take the training, and third would be the lost revenue from those labor hours. He estimated that it would cost \$1,444 per employee and to train all my employees would cost \$40,000.00.

Rex Smith, Kansas Safety Training Center, gave testimony as an opponent of **HB 2596** (Attachment 17). He spoke of the systems of lead poisoning in children and adults. He also spoke about how a single gram of lead can contaminate a large area.

Representative Suellentrop asked if he knew anyone who was poisoned with lead by an experienced, certified contractor that did the job as they were supposed to. Rex knew of none.

The next meeting is scheduled for February 16, 2010.

The meeting was adjourned at 10:43 a.m.

COMMERCE & LABOR COMMITTEE

DATE: 2-15-10

NAME	REPRESENTING
Bill Miller	AMERICAN SUBCONTRACTORS ASSOC.
Ken Keller	ASA
Randy Horn	HND
Renee Criqui	HND
THOMAS LANGER	KDHE
SUSAN KANG	KDHE
Janet Stubbs	KBIWCF
Wayne Kufahl	KBIWCF
LARRY Hopkins	HERNLY ASSOCIATES
RICHARD BAKER	BAKER ENV. CONSULTING
Phyllis fast	st. of KS - DEM
TED Hedley	CAPITOL STRATEGIES
HONNY WRIGHT	Wichita Plumber
Rim Swartzendruber	Knight Enterprises Ltd
Tom Knight	Knight Enterprises, Ltd.
Wess Alyon	Wichita Area Plumber Assoc.
Chris Wilson	KBIA
Tom Kuhn	KASB
Wigh Keek	Klein Law firm
CHAD BRYAN	SOUTHWESTERN REMODELING, WICHITA
Bernie Hentzen	Hentzen Contractors, Inc.
TIA SHIGLEY	SHIGLEY CONST CO INC
GENE BOWERS	SHIGLEY CONST. (RETIRED)
TONY ZIMBELMAN	ZIMBELMAN CONSTRUCTION
Jeff Hund	All Seasons Construction

COMMERCE & LABOR COMMITTEE

DATE: 2-15-10

NAME	REPRESENTING
Stephen Hund	All Seasons Const.
Wilbur Engel	Honey Do Homes
Michael Gatschet	Heartland Home Improvements
Kit Zuph	
Rex A. Smith	KANSAS SAFETY TRAINING CENTER INC.
BOB JOHNSON	FEDERICO CONSULTING
Ken Sehn	KIFA
KEV DANIEL	MIDWAY WHOLESALER/TIBA
Kerri Spielman	KIFA
Scott Heidner	ACEC Kansas

Office of Revisor of Statutes
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MEMORANDUM

To: House Committee on Commerce and Labor
From: Renae Jefferies, Assistant Revisor
Date: February 9, 2010
Subject: HB 2596

House bill 2596 amends K.S.A. 65-1,202 of the residential childhood lead poisoning prevention act on page 2 of the bill in lines 12 through 15 to require that the rules and regulations adopted for the act are no more stringent, restrictive or expansive than those adopted by the United States Environmental Agency for the federal residential lead-based paint hazard reduction act.

Lines 20 through 24 on page 2 provide that the secretary has no authority to adopt any rules and regulations or standards or guidelines that require any person who tests for lead-based paint or performs lead-based paint mitigation to make a report regarding such activities.

I would, also, like to point out that on page 2 in line 15, it should read 42 U.S.C. 4851 and not 5851. I have prepared a balloon to make this technical amendment for the committee to adopt if you work the bill.

The act becomes effective upon publication in the Kansas Register.

HOUSE BILL No. 2596

By Committee on Commerce and Labor

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Revisor
Technical Amendment 1
February 8, 2010

9 AN ACT concerning the secretary of health and environment; related to
10 rules and regulations regarding lead-based paint removal, repair and
11 painting; amending K.S.A. 65-1,202 and repealing the existing section.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 65-1,202 is hereby amended to read as follows: 65-
15 1,202. The secretary shall administer the provisions of the residential
16 childhood lead poisoning prevention act. In administering the provisions
17 of the residential childhood lead poisoning prevention act, the secretary
18 shall be authorized to:

19 (a) Develop and implement a childhood lead poisoning prevention
20 program as necessary to protect the health of the children of Kansas,
21 which may include provisions to:

22 (1) Investigate the extent of childhood lead poisoning in Kansas;
23 (2) develop a data management system designed to collect and ana-
24 lyze information on childhood lead poisoning;

25 (3) develop and conduct programs to educate health care providers
26 regarding the magnitude and severity of and the necessary responses to
27 lead poisoning in Kansas;

28 (4) issue recommendations for the methods and intervals for blood
29 lead screening and testing of children, taking into account recommen-
30 dations by the United States centers for disease control and prevention,
31 except that no child shall be screened or tested if the child's parent or
32 guardian objects in writing on the ground that such screening or testing
33 is contrary to the parent's or guardian's religious beliefs and practices;

34 (5) develop and issue health advisories urging health care providers
35 to conduct blood lead screening of children;

36 (6) encourage health care providers to ensure that parents and guard-
37 ians of children are advised of the availability and advisability of screening
38 and testing for lead poisoning;

39 (7) develop a program to assist local health departments in identifi-
40 cation and follow-up of cases of elevated blood lead levels in children and
41 other high-risk individuals; and

42 (8) in consultation with appropriate federal, state and local agencies,
43 develop a comprehensive public education program regarding environ-

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1 mental lead exposures and lead poisoning by:

2 (A) Identifying appropriate target groups that are in a position to
3 prevent lead poisoning or reduce the number of children who are exposed
4 to lead;

5 (B) assessing the information needed for each of the target groups
6 and determine the best means of educating the members of each target
7 groups; and

8 (C) disseminating the information to the target groups in an effective
9 manner.

10 (b) adopt rules and regulations necessary for the administration of
11 the residential childhood lead poisoning prevention act *that are not more*
12 *stringent, restrictive or expansive than the rules and regulations adopted*
13 *by the United States environmental protection agency pursuant to the*
14 *federal residential lead-based paint hazard reduction act, and amend-*
15 *ments thereto, (42 U.S.C. 5851 et seq.), including, but not limited to,*
16 licensure of business entities and public agencies, certification of individ-
17 uals, accreditation of training programs, on-site inspections and require-
18 ments, notification and record keeping, procedures and work practice
19 standards relating to lead-based paint activities as are necessary to protect
20 the public health and safety. *The secretary shall have no authority to*
21 *adopt any rules and regulations, standards or guidelines that require any*
22 *person who tests for lead-based paint or performs lead-based paint miti-*
23 *gation in this state to make a report of such testing or mitigation to the*
24 *secretary;*

4851

25 (c) adopt by rules and regulations a reasonable schedule of fees for
26 the issuance and renewal of certificates and licenses, training program
27 accreditations and on-site inspections. The fees shall be periodically in-
28 creased or decreased consistent with the need to cover the direct and
29 indirect costs to administer the program. At no time shall such fees exceed
30 those charged by the United States environmental protection agency for
31 the same or similar regulatory programs. The fees shall be based upon
32 the amount of revenue determined by the secretary to be required for
33 proper administration of the provisions of the residential childhood lead
34 poisoning prevention act. State and local health department personnel
35 certifying for the purpose of environmental investigation of lead poisoned
36 children shall be exempted from licensure fees;

37 (d) conduct on-site inspections of procedures being utilized by a li-
38 censee during an actual abatement project and conduct inspection of the
39 records pertaining to the residential childhood lead poisoning prevention
40 act;

41 (e) adopt rules and regulations regarding the distribution of lead haz-
42 ard information to owners and occupants of housing prior to conducting
43 renovation activities in housing;



Building a Better Kansas Since 1934
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**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE HOUSE COMMITTEE ON COMMERCE & LABOR
HB 2596**

February 9, 2010

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am the Director of Government Affairs for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

The AGC of Kansas supports House Bill 2596 and asks that you recommend it favorably for passage.

The U.S. Environmental Protection Agency's (EPA) new "Renovation, Repair, and Painting" program requires contractors who work in pre-1978 housing and "child-occupied facilities" to be certified and to follow specific lead-safe work practices by April 2010.

Under EPA rules and regulations, one employee per company can become certified and train other employees within that company. The proposed regulations from the Kansas Department of Health and Environment (KDHE) would go above and beyond EPA requirements by calling for every employee who performs work on a jobsite to become certified in lead-safe work practices. If implemented, this rule would be extremely burdensome and costly to general contractors and subcontractors.

Although the new lead-safe regulations mostly apply to residential construction in pre-1978 structures, the EPA has already signed an agreement to expand these regulations to commercial construction projects in the next few years. HB 2596 would simply prevent the Kansas Department of Health and Environment from adopting lead-paint regulations which are more stringent than those adopted by the EPA and could result in excessive burdens on businesses in the construction industry.

Again, the AGC of Kansas respectfully requests that you recommend HB 2596 favorably for passage.

Thank you for your consideration.

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Attachment # 3



House Commerce and Labor Committee

Representative Brunk, Chair H. B. 2596 – Lead based paint regulations

*Submitted by Diane Gjerstad
Wichita Public Schools*

February 15, 2010

Mr. Chairman, members of the Committee:

We rise in support of limiting new lead based paint disturbance regulations to meet the federal guidelines. The Wichita Board of Education legislative platform includes a position cautioning adding mandates to schools during this time of budget reductions.

It is our understanding the proposed KDHE regulations for lead based paint disturbance do exceed the federal requirements; examples include:

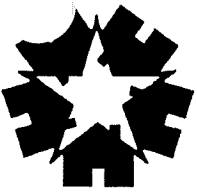
- (a) The proposed K.A.R. for lead regulations requires 8 hours training for all construction workers that disturb six square feet or more of lead paint. The Federal Rule allows for the training of a single competent person in a firm who would receive eight hours training.
- (b) The proposed K.A.R. requires rigorous clearance of a construction/demolition site by a lead risk assessor. The Federal Rule allows for less expensive means for clearance of the construction/demolition site by a lead risk assessor.

The proposed K.A. R. requires a fee schedule for lead related work that could be more costly than the fee schedule utilized by USEPA.

The economic impact statement published last year suggested little or no impact to schools. However the training, disposal and fees noted above will increase costs to schools.

Mr. Chairman, it is not our intent to jeopardize federal funding for communities as the fiscal note warns. We are hopeful the regulations can implemented without exceeding the federal guidelines and maintain eligibility for HUD funding.

House Commerce & Labor
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Attachment # 4



**HOME BUILDERS ASSOCIATION
OF GREATER KANSAS CITY**



600 EAST 103RD STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • www.kchba.org

**Written Testimony on HB 2596
By Phil Perry, Staff VP Government Affairs
House Committee on Commerce and Labor
February 15, 2010**

Chairman Brunk and members of the committee, thank you for the opportunity to provide written testimony concerning HB 2596. The Home Builders Association of Greater Kansas City, which represents nearly 900 small businesses in the Greater Kansas City area strongly supports this legislation.

Upon review of the 195 page document proposed by KDHE concerning lead paint abatement, it appears that the proposed regulations exceed the stringent regulations from the US Environmental Protection Agency (EPA) that will take effect on April 1, 2010. In particular, these changes as proposed by KDHE will drive up the cost of proposed renovations through increased regulation, at best, and in the worst case scenario, will force contractors to work outside the system. The changes allow no opt-out provision for consumers with children under the age of six, require that initial testing and lead-free certification be performed by a risk assessor or lead inspector and not the contractor who has been trained in lead-free abatement, it will require all employees of the contracting firm to be trained, fees will be assessed every two years instead of five, and a quantitative dust sampling will be required before the project may be considered complete. All of these requirements are above and beyond the requirements of the EPA.

And what will the effects of these new regulations be? While no one can say for sure, the obvious ones are increased costs to the contractor, which in this economic climate could be disastrous, and to the consumer, who as the end user always bears the brunt of government regulations. Finally, who will enforce the program, will this be an unfunded mandate for cities and counties and require them to enforce regulations for which they have no training.

I guess the question begs to be asked, why in this economic climate are we adding additional costs on an already beleaguered industry? In an industry with 18-20% unemployment, with permit activity down over 85% in the last 3 years, do we want to add requirements that will only add to the problem, ones that will force more small businesses out of business, and increase the costs to our citizens?

We strongly encourage you to support HB 2596 and thank you for your consideration of our testimony.

Do Business With A Member

House Commerce & Labor
Date: 2-15-10
Attachment # 5

Kansas Association of Insurance Agents



Testimony on House Bill 2596
Before the House Commerce and Labor Committee
By Kerri Spielman
February 15, 2010

Thank you, mister Chairman and members of the committee, for the opportunity to offer testimony in support of HB 2596. My name is Kerri Spielman and I represent the Kansas Association of Insurance Agents. We have approximately 435 member agencies across the state and another 110 branch offices that employ a total of over 2,500 people. Our members write roughly 70% of the business property and liability insurance in Kansas and 35% of the personal insurance. Independent agents are free to represent a number of different insurance companies.

Excessive Regulations = Increased Insurance Costs, or No Insurance

Currently, licensed contractors adhering to federal standards for training in lead based paint removal may be covered for such under their general liability policies. Extensive regulations such as those proposed by the Kansas Department of Health and Environment (KDHE) affect the manner in which insurance companies underwrite a type of business. After some preliminary research, the regulations proposed by KDHE will result in changes in the insurance market. Licensed contractors may find their work on remodel projects classified as "lead abatement" and have their insurance costs go up by thousands of dollars; or they may find that they have to access Excess and Surplus lines to get insurance coverage which would also result in dramatically increased insurance costs. Some contractors may even choose to go without insurance for lead based paint removal due to the additional costs.

Increased Costs = Less Safety

By definition, licensed contractors attempt to play by government rules. They would realize an increased cost of doing business due to the additional costs that would be required by the regulations proposed by KDHE, as well as the additional cost of insuring their business. The additional business costs associated with KDHE's proposed regulations may result in licensed contractors choosing not to bid projects that may involve lead based paint removal, thereby avoiding the increased insurance and regulation costs. If licensed contractors aren't doing that work, it is likely that those who practice the same trade and are unlicensed are doing that work resulting in less safety in lead-based paint removal.

We support HB 2596 which would allow licensed contractors to continue operating under federal regulations, which would keep the cost of insurance down, keep the cost of doing business down and promote safety in lead based paint removal.

House Commerce & Labor
Date: 2-15-10
Attachment # 6

STATEMENT OF TONY ZIMBELMAN
ZIMBELMAN CONSTRUCTION
TO THE HOUSE COMMERCE AND LABOR COMMITTEE
REPRESENTATIVE STEVE BRUNK, CHAIR
REGARDING H.B. 2596
FEBRUARY 15, 2010

Thank you for the opportunity to speak to you in support of H.B. 2596. My company builds affordable housing in the Wichita area. I am primarily concerned about the impact of the proposed KDHE regulations on housing affordability. Kansas should not impose costs on homeowners which go well beyond the cost of compliance with the federal regulations and those being implemented in other states.

This bill does not ask that Kansas not implement the EPA program. All that is required under the federal program will be done. The bill simply asks that Kansas not be more stringent than the federal program.

This is one of numerous proposed programs and regulations that will affect housing affordability in our state and prevent families from owning or improving their homes.

I ask you to support H.B. 2596.

House Commerce & Labor
Date: 2-15-10
Attachment # 7

**STATEMENT OF FARROL BROWN, FARROL BROWN CARPENTRY
TO THE HOUSE COMMERCE AND LABOR COMMITTEE**

REPRESENTATIVE STEVE BRUNK, CHAIR

REGARDING H B 2596

FEBRUARY 15, 2010

I'm a small remodeler. Most of my customers are in houses built before 1978. These are the people needing to upgrade to more efficient windows and doors. Some have looked at that bathroom or kitchen for the last 31 plus years and want a change, but the extra cost puts it out of the range they can afford. In Hutchinson, Kansas, where I do most of my work, the homes were built before 1978. In my home town of Pretty Prairie, Kansas there is just a few homes built after 1978. So I would be very limited to work only on homes built after 1978. There wouldn't be enough work to keep my company open. There is a lot of companies like mine that is in the same position. We can't afford to be selective in who we work for, but most of our customers can't afford the extra cost this would put on the price of a job. **Let's not make our rules any stricter than EPA rules.**

FARROL BROWN CARPENTRY

16514 S Old Stage Rd
Pretty Prairie KS 67570
620-459-6629 620-727-7790 cell

House Commerce & Labor
Date: 2-15-10
Attachment # 8

STATEMENT OF STEPHEN HUND, ALL SEASONS CONSTRUCTION INC.
TO THE HOUSE COMMERCE AND LABOR COMMITTEE
REPRESENTATIVE STEVE BRUNK, CHAIR
REGARDING H.B. 2596
FEBRUARY 15, 2010

Thank you for the opportunity to speak with you today regarding the additional regulations that will soon be a detriment to our business, and those in our community that we serve. I specialize in interior renovation of homes in the Wichita metro area. I have only been in the sales and project management field of construction for two years now, but a large majority of the homes I service, will fall under the new guidelines for dealing with homes that may contain lead based paint.

Currently, the EPA has a provision that would allow pre-1978 homeowners to opt-out of the new work practices by signing a waiver, if there are no children under the age of 6, and no one in the home is pregnant. The largest set-back in the Kansas regulations is the lack of an opt-out provision. An opt-out waiver would allow homeowners to make the decision of whether the additional costs and testing would be necessary for their home. A majority of my current customers are retired with no children in the home, and on a fixed income. If there are no children living in the home to be harmed by possible lead dust, then the cost of testing and prevention is a waste of money for these people, and many do not have that kind of disposable income.

A majority of my interior projects are done out of necessity. Because of the age of the homes, customers must make improvements to keep the home usable. If remodeling costs become too high for low or fixed income people, then the only affordable housing available will be renting. This will force thousands of people from their homes and hurt responsible businesses, such as ourselves.

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Attachment # 9



STATEMENT OF THE
KANSAS BUILDING INDUSTRY ASSOCIATION
TO THE HOUSE COMMERCE & LABOR COMMITTEE
REPRESENTATIVE STEVE BRUNK, CHAIR

REGARDING H.B. 2596

MONDAY, FEBRUARY 15, 2010

Chairman Brunk and Members of the Committee, thank you for the opportunity to come before you today in support of H.B. 2596. I am Chris Wilson, Executive Director of Kansas Building Industry Association (KBIA), the statewide association representing the residential construction industry in Kansas, with approximately 2300 members.

H.B. 2596 was introduced by this Committee to require that Kansas regulations for the Lead Renovation, Repair and Painting Program are no more stringent than the federal EPA regulations. Beginning in April of this year, EPA's Lead: Renovation, Repair and Painting rule takes effect.

I will briefly provide some background regarding this program, because there are several members of my association who are involved in renovations every day and who have the practical experience and knowledge to provide you with more information. In 25 years of lobbying, I have never had so many members wanting to testify on a bill.

Here's what's required under this rule:

1. Training and Certification Beginning in April 2010, firms working in pre-1978 homes will need to be certified. In addition to firm certification, an employee will also need to be a Certified Renovator. This employee is responsible for training other employees and overseeing work practices and cleaning. The training curriculum for certification, in development with the EPA, will be an eight-hour class with two hours of hands-on training. Both the firm and renovator certifications are valid for five years. A Certified Renovator must take a four-hour refresher course to be recertified.

2. Work Practices Once work starts on a pre-1978 renovation, the Certified Renovator has a number of responsibilities. Beginning with distributing EPA's *Renovate Right* brochure to the homeowner and having them sign the pre-renovation form in the booklet. Before the work starts the Certified Renovator will post warning signs outside the work area and supervise setting up containment to prevent spreading dust. The rule lists specific containment procedures for both interior and exterior projects. It forbids certain work practices including open flame or torch burning, use of a heat gun that exceeds 1100°F, and high-speed sanding and grinding unless the tool is equipped with a HEPA exhaust control. Once the work is completed, the regulation specifies cleaning and waste disposal procedures. Clean up procedures must be supervised by a Certified Renovator.

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Attachment # 10

3. Verification and Record Keeping After clean up is complete the Certified Renovator must verify by matching a cleaning cloth with an EPA verification card. If the cloth appears dirtier or darker than the card, the cleaning must be repeated. A complete file of records on the project must be kept by the certified renovator for three years. These records include, but aren't limited to: verification of owner/occupant receipt of the *Renovate Right* pamphlet or attempt to inform, documentation of work practices, Certified Renovator certification, and proof of worker training.

4. Exemptions It is important to note that these work practices may be waived under these conditions:

The home or child occupied facility was built after 1978.

The repairs are minor, with interior work disturbing less than six sq. ft. or exteriors disturbing less than 20 sq. ft.

The homeowner may also opt out by signing a waiver if there are no children under age six frequently visiting the property, no one in the home is pregnant, or the property is not a child-occupied facility.

If the house or components test lead free by a Certified Risk Assessor, Lead Inspector, or Certified Renovator.

In Kansas, however, the proposed rules for compliance with the lead program are more stringent than the EPA rules! Major differences between the federal and state program include:

- **Kansas has no opt-out provision** (however, EPA has proposed a regulation to modify their rules and not allow opt-out for homes where there are no children present)

- **Kansas rules require every worker to have the training, as opposed to a supervisory employee** with EPA. We estimate there are at least 40,000 people in Kansas who will have to be trained, at the cost of at least \$600 per employee - or \$24 million. This amount does not include income foregone while the employee is in training, so the true cost may well be double that amount. Keep in mind this is the cost for the training alone. Our association is working furiously on the development of online training to help comply with this requirement. Online training can help bring down the travel costs for the program, so I am taking that into account in the previous estimate. Of the 8 hours of training, 2 is required to be hands on and cannot be completed online.

We would point out that this type of system is not new to EPA nor the State of Kansas and has functioned well. An example is pesticide application, where supervisory workers are required to have additional training and certification and applicators work in the field under the direction of the supervisor. That system has been in place for decades and worked well.

- **Kansas rules require a 3rd party test**, and will not permit the company verification as required by EPA. This alone will cost the homeowner an additional \$300-400.

Overall, the rules are expected to increase the cost of a remodeling job in a pre-1978 home by 10-12%. I've heard a lot of comments from people who no longer want to work in pre-1978 homes; owners of those homes talking about doing it themselves or hiring unlicensed individuals for evening or weekend work; and owners who think they won't do the remodel job they would have before.

We believe this is a disincentive for people to do renovations in a safe manner. The pre-1978 housing stock may instead decline in condition and not have energy efficiency and safety renovations. Kansas is also at a competitive disadvantage with other states if we go forward with being more stringent than EPA and other states.

An economic analysis was completed by our national economics staff in December which will be of interest to the Committee and accompanies this statement. This analysis was done in part for the Housing Affordability Task Force which we convened to discuss issues negatively impacting housing affordability in Kansas. Attached to this statement is a document from the analysis which shows the numbers of families in Kansas that are "priced out" when costs are increased by \$1,000.

This analysis gives you a picture of how housing affordability is impacted by regulations such as this. **Please remember that this program is being implemented this year nationwide. We are not asking for anything in H.B. 2596 except that Kansas be no more stringent than the already very restrictive EPA program.** The EPA program satisfies EPA that it is stringent enough to respond to public health concerns. It satisfies the activist groups that brought suit against EPA to bring this program about. We think it ought to be sufficient in Kansas that our state does not go well beyond the EPA program.

We ask that you report H.B. 2596 favorable for passage. Thank you for the opportunity to share this information and the concerns of the homebuilding industry.

###

State of Kansas Priced-Out Analysis

Area	Mortgage Rate	House Price	Monthly Mortgage Payment	Taxes and Insurance	Minimum Income Needed	Households That Can Afford House
Kansas	5.0%	\$95,000	\$483	\$163	\$27,686	802,341
Kansas	5.0%	\$96,000	\$488	\$165	\$27,977	798,674
Difference		\$1,000	\$5	\$2	\$291	-3,667
Kansas	5.0%	\$151,517	\$770	\$260	\$44,156	597,611
Kansas	5.0%	\$152,517	\$775	\$262	\$44,448	594,288
Difference		\$1,000	\$5	\$2	\$291	-3,323
Kansas	5.0%	\$253,473	\$1,288	\$435	\$73,869	332,259
Kansas	5.0%	\$254,473	\$1,293	\$437	\$74,160	330,008
Difference		\$1,000	\$5	\$2	\$291	-2,251



STATEMENT OF
TIM SHIGLEY, CGR, CAPS, GMB, CGP
Certified Graduate Remodeler,
Certified Aging in Place Specialist
Graduate Master Builder
Certified Green Professional
SHIGLEY CONSTRUCTION CO. INC.

TO THE HOUSE COMMERCE AND LABOR COMMITTEE

REPRESENTATIVE STEVE BRUNK, CHAIR

REGARDING H.B.2596

FEBRUARY 15, 2010

Chairman Brunk and Member of the Committee, thank you for the opportunity to come before you today to report concerning regulations impacting the housing industry in Kansas. I am Tim Shigley, President of Shigley Construction Co. Inc, a General Contractor in the Wichita, Ks and South Central Kansas Area. We are primarily a Remodeling Company specializing in renovation of Kitchens, Bathrooms, Basements, and Window Replacement, and construction of Room Additions on existing structures. Shigley Construction Co. Inc., has been in business for over 22 years in the State of Kansas. I have been involved now in some part of the renovation industry for over thirty. And I have passion for professionalism and higher standards, for our Remodeling Industry.

There are areas of concern that I will review in regards to the Kansas Department of Health and Education Proposed Regulation. The basis is that the Proposed Regulations are more restrictive than the EPA's: 40 CFR Part 45 Lead: Renovation, Repair, and Painting (RRP); Final Rule, Published April 22, 2008.

I would like to address a brief example of the over reaching requirements of the proposed Kansas Regulation before I discuss in detail the main concerns. Under the Kansas proposed regulation 28-72-1a through 28-72-1x, there has been forty-eight (48) new definitions added beyond the EPA's RRP that are not defined or even discussed in the Federal Register April 22, 2008. Also the proposed regulation adds ten (10) new job descriptions or job titles requirement, of which four (4) would directly affect our residential building industry in Kansas with added costs.

I believe that if the Kansas proposed regulation goes into effect, there will be higher cost to typical remodeling projects through out Kansas. First, the cost to meet Kansas

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Regulations to become a certified firm – causes the hard cost to certify employees as required is above and beyond the EPA's requirement. Second, the additional cost of education of all participating trade partners. Third, the hard cost of added requirements of daily clean up and containment of work sites.

1. *The Cost of Certification and Employee Certification.* If the proposed regulation for Kansas go into effect, firms working in pre-1978 homes will need to be a Certified Firm, which would require educational class time; a class fee and lost production time, and pay a license fee to the state. Each employee would need to become a Certified Renovator, which would also require education class time; a class fee and lost production time, and license fee to the state. The cost associated with the education of the firm owner Certified Firm is a class fee that has not be set at this time. A license fee to the state of \$300, loss of production for one day to the owner operator, only each firm knows the value of this. The cost of each employee's training, wages and benefits during class; \$360, loss of production to projects; \$560, a class fee of \$ 150, license fee of \$50, a total of \$1120 per employee. This cost will be passed on to all homeowners. My main problem is that there is higher cost of doing business for professional contractor that are following the proposed regulation.

The EPA's RRP will only require that one employee be certified and that the Responsibilities of that Certified Remodeler include the following.

- A. Train the entire crew on proper practices
- B. To be present and to facilitate the posting of appropriate signage
- C. Hand out the informational pamphlet no more that 60 days before the renovation work and obtain written confirmation that the occupant has received it.
- D. To ensure that the proper containment aids are being set up.
- E. Make certain that lead safe work practices are implemented
- F. To be present on-site during cleanup
- G. Perform the cleaning verification at the end of the process
- H. Keep accurate records of the entire process.

With this requirement, why would the State of Kansas require that all employee's and employees of each sub-contractor and trade partner be required to attend the exact same training at an additional cost to all involved? Where is the intrinsic value in duplicating the educational cost?

2. *The Cost of required Certification of all participation Trade Partners:* This will include all sub-contractors and trade employees. On a typical Kitchen Remodel, even a pre-1978 remodel, there are over 27 companies involved; including Lumber yards, Cabinet manufactures, Electricians, Plumbers, Drywall suppliers, Installer, Finishers, Insulators, Counter Top fabricators, Floor Covering suppliers, etc., that will be involved with the project. The total sub-contractor and trade partner personal count on those projects will be close to forty-three (43) craftsmen. With the Kansas Proposed Regulation, each personal on the jobsite would need to become a Certified Renovator through the State and be required to attend the certification class and pay the same license fee.

The Kansas Building Industry Association estimates that there are at least 40,000 people in Kansas who will need to be trained, at the cost of at least \$1120 per

employee- or \$44,800,000. cost to our industry.. These training costs incurred by Trade Partners and sub-contractor will be passed on to the General Contractor, ultimately to all the home owners in Kansas. Most Trade Contractors also participate in both new construction and remodeling and will not be able to assign that overhead expense to just pre-1978 homes. All home owners in the State of Kansas that need any service will incur a higher cost in home maintenance under the proposed Kansas regulations.

3. *The Hard Cost of Containment Materials and Labor; EPA's RRP Regulation Vs. The Kansas Proposed Regulations.* With the EPA's regulation the main differences are in the hard cost of Containment materials and installation. EPA's minimum cover material for containment is 4 mil poly plastic and one layer on floor protection, unless protection material is damaged. Kansas Proposed regulations 28-72-18d, 7 – 9 states, "6 mil poly plastic is required and a second layer on the floor is required, and at the end of each work shift, the top layer of 6-mil polyethylene sheeting shall be removed and used to wrap and contain the debris generated by the shift." This is an incredible waste of plastic and is incredibly UN GREEN. This one section alone will drive cost of pre-1978 renovation cost to 10-12% higher than the anticipated 3-5% with the EPA's regulation. It is estimated that the cost on a typical Kitchen Renovation in a pre-1978 home with a budget of \$56,000 there will be an additional cost to meet the Kansas Regulation a hard cost before Contractor Overhead and Profit, to the home owner of **\$7,113** for containment and disposal. This will generate over **493 lbs of plastic which goes to the landfill.** Under the EPA's Regulation the same project would only have an additional cost before Overhead and Profit to the home owner of **\$2955** for containment and disposal , and will generated waste of only **40 lbs of plastic to the landfill.** Under the EPA's ruling the renovation project would be MORE GREEN and healthier to our environment.

See attached Estimated Cost Spread Sheets;

These hard costs would be added to perform work on a pre-1978 home. The added cost are a disincentive for people to do renovation work in Kansas under the Kansas proposed Regulation with Certified Firms and Certified Renovators. It will give rise to un-regulated, un-certified contractors performing the work for home owners. Some homeowners may choose under the "Radar" or "underground", of "unprofessional" individuals for evening or weekend work. Other homeowners will choose to do nothing and start the influx of neighborhood degradation and devaluing homes across the state in pre-1978 homes.

In closing, there are intrinsic and efficiency values in duplication of process in business, government and education practices in the United States. I support Lead Safe Work Practices. I support a Lead Free Kansas. But what I do not support is each State developing Regulations that are different than the next. We do not need 50 individual state standards and regulated fees. I support Kansas H.B. 2596, based on the incredible amount of work that has been completed to date by our Federal Government's Environmental Protection Agency, 40 CFR Part 745 Lead; Renovation, Repair, and

Painting Program and the efficiencies that are generated by continuity of policies and uniform practices and regulation for companies performing similar work between states. Also based on continuity of one uniform educational process with out conflicting regulations being delivered from local and national training firms, national association delivering a uniform message and Departments of Health and Educations across our nation delivering the same regulations with out unique and requirements that add higher cost to the home owners. I support non-conflicting regulation and educational requirements between states and the federal agencies. I believe that shelter in United States and Kansas needs continuity in policies and regulation that allow reliable safe work practices and rendering lead safe homes, through professional renovation with accessible pricing for all home owners and with emphasis on pre-1978 housing which is more that sixty percent (60 %) of our housing stock in Kansas without excessive regulation that develop non green waste practices.

Thank you for the opportunity to share this information about the concerns of our industry.

Estimated Cost Under Kansas Proposed RRP Regulations

Based on a average Kitchen Remodel in a Pre 1978 Target Home.

\$ 56,000.00 Budget

288 Sqft foot print remodel.

8 week project duration, Deconstruction through Final Inspection

40 Production Days

QTY	Unit	Discription	Unit Cost	Each	Ext. Cost
3	Box / Roll	6 Mil Poly Plastic	\$ 47.61	box	\$ 142.83
		each box / roll of 6 mil poly's plastic weight is 29 LBS			
		Will need Two Layers of 6 mill plastic on floor.			
3	Roll	Duct Tape	\$ 6.34	roll	\$ 19.02
5	Hrs	Labor, Area/Containment Protector	\$ 65.00		\$ 325.00
		2 men, 2 1/2 hrs each			
		Daily Clean-up: 2 men, 1 Hr Each= 1 Hr per Day			
80	Hrs	2 hrs for 40 Days	\$ 65.00		\$ 5,200.00
		Daily Pick-up and replacement of 6 mil plastic			
		Top lay will need to Vacuumed an picked up and replaced each Day			
		Per K.A.R. 28-72-18d, #7-9			
		Additional Plastic Requirement			
		.333 Roll Per Day			
		40 Days X .333= 13.32 Additional Rolls, round up to 14			
14	Box / Roll	6 Mil Poly Plastic	\$ 47.61	box	\$ 666.54
40	Roll	Duct Tape	\$ 6.34	roll	\$ 253.60
		Disposal of Generated Protection Waste			
		This is just the plastic used for containment			
		17 rolls of 6 mil plastic generates 2.25 Cubic yards of waste			
		each roll of 6 mil plastic weight is 29 LBS			
		or 493 LBS of waste to the land fill			
2.25	Cubic Yarc	Disposal Cost per Cubic Yard	\$ 19.00		\$ 42.75
		493 LBS- IS NOT GREEN , a tremendous amount of plastic			
		Waste going to the land fill.			
		Clearance Testing By Third Party Independent Tester w/ Report			
		is to be a 24 Hr turn a round, but in reality it is a 48 hr			
		24 is from the time the Test Sample is received at Lab.			
		These Cost are estimated By: Allied Environmental, Wichita, Ks.			
1	Third Party Test w/ Report		\$ 400.00		\$ 400.00
1	Shipping Cost		\$ 50.00		\$ 50.00
1	Site/ EPA Clearance test swifter kit		\$ 14.00		\$ 14.00

Estimated Cost under Kansas Proposed Regulations **\$ 7,113.74**

These Costs are and additional cost to the Home Owner above and beyond the \$56,000.00 Kitchen Budget.

Estimated Cost Under EPA RRP Regulations

Based on a average Kitchen Remodel in a Pre 1978 Target Home.
 288 Sqft foot print remodel.
 8 week project duration, Deconstruction through Final Inspection
 40 Production Days

\$ 56,000.00 Budget

2 Box / Roll	4 Mil Poly Plastic	\$ 31.67 box	\$ 63.34
	each box / roll of 4 mill poly's plastic weight is 20 LBS		
2 Roll	Duct Tape	\$ 6.34 roll	\$ 12.68
4 Hrs	Labor, Area/Containment Protection	\$ 65.00	\$ 260.00
	2 men, 2 hrs each		
	Daily Clean-up: 2 men, 1/2 Hr Each= 1 Hr per Day		
40 Hrs	1 hr for 40 Days	\$ 65.00	\$ 2,600.00
	Disposal of Generated Protection Waste		
	This is just the plastic used for containment		
	2 rolls of 4 mill plastic generates .28 Cubic yards of waste		
	each roll of 4 mill plastic weight is 20 LBS		
	or 40 LBS of waste to the land fill		
0.28 Cubic Yard	Disposal Cost per Cubic Yard	\$ 19.00	\$ 5.32
	<u>40 LBS- FAIRLY GREEN</u> , Not a tremendous amount of plastic		
	Waste going to the land fill.		
1 Site/ EPA Clearance test swifter kit		\$ 14.00	<u>\$ 14.00</u>
Estimated Cost under EPA's Renovate, Repair , and Painting Program			\$ 2,955.34

These Costs are and additional cost to the Home Owner above and beyond the \$56,000.00 Kitchen Budget.

Statement of Bernard M (Bernie) Hentzen, Hentzen Contractors, Inc.

To the House of Commerce and Labor Committee

Representative Steve Brunk, Chair

Re: H.B 2596

February 15, 2010

History of Hentzen Contractors, Inc.

- 1963—Bernard A. (Bud) Hentzen founded Hentzen Contractors Inc. as an insurance repair contractor serving Wichita and south central Kansas
- Focus of the company shifted from solely insurance repair to include remodeling
- Reputation, and company, grew as many people became repeat customers and referrals
- 1975/1977—Sons, Bernie and Bob Hentzen, start work as estimators
- 1985—The second generation took over the day-to-day management duties
- 2005—Work is completed on Hentzen Contractors new office and workshops located at 37th St. North and Hillside
- Present day—Hentzen Contractors serves the needs of its customers in Wichita and throughout Kansas and Western Missouri in the areas of Residential Remodeling and Custom Home Building, Commercial Building and Remodeling, Insurance Restoration, and Outdoor Living Spaces

Overview of Hentzen Contractors, Inc.

Hentzen Contractors consists of four divisions:

- Residential Remodeling and Custom Home Building
- Commercial Building and Remodeling
- Insurance Restoration
- Outdoor Living Spaces

Our offices are located at 37th Street North and Hillside. Our facilities include:

- 7,000 square foot office building with showroom
- Two 11,400 square foot workshops
- A custom cabinetry and furniture shop
- A state of the art paint booth

We are members of:

- National Association of Home Builders
- Wichita Area Builders Association
- The Apartment Association of Greater Wichita
- The Wichita Metro Chamber of Commerce
- Wichita Independent Business Association
- The Wichita Hispanic Chamber of Commerce

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Training and Certification

In mid January of 2010, I traveled to Las Vegas and attended a six hour classroom course and a two hour hands on training. The cost of the course was \$258 per person. By attending both the classroom session and the hands on training and attaining a passing grade on the written test, I was granted the EPA Certified Renovator status. Following this personal certification and certification of our company, I will be able to train my employees and the employees of the subcontractors on projects relating to pre-1978 properties.

In contrast the proposed KAR regulations will require that every worker take and pass the same training that I completed in January. In our company we have around thirty five trades men, so at a cost \$250 for the training, plus a full day of wages at approximately \$165, plus \$25 per person certification fee, plus a modest travel budget of \$160; the cost to our company for the training alone will be a minimum of \$21,000. It has been suggested in the State of Kansas that all workers will want to get their own certification. At a cost of around \$600 per person, I think it is very unlikely that workers in the construction industry will seek out this certification at their own expense.

The EPA Certified Renovator is similar to the OSHA Qualified Person status. This person has received extensive training and is then required to go back and train all other employees on OSHA rules and requirements, most especially the use of PPE (Personal Protective Equipment) that is provided at the cost of the employer.

Work Practice Standards – KAR 28-72-18a thru 28-72-19

The EPA requires that 3 mil plastic be taped to the floor, whereas KAR 28-72-18a item (e) requires at least two layers of 6 mil plastic be placed on the floor in the enclosure area. We contacted Sherwin Williams and PPG Architectural Finishes, two of the national paint supply companies and inquired about price and availability of 3 mil plastic and 6 mil plastic. Both companies had the 3 mil plastic in stock, but neither of the companies had 6 mil plastic. The price per roll (1 roll = 1200 sq feet) for the 3 mil plastic was \$26.00. However the price per roll (1 roll = 1200 sq feet) for the 6 mil plastic was \$51.00. The base price for plastic per the EPA requirements would be increased by 2 times because of price of the plastic and then doubled because of the two layer requirements. In some cases the cost associated with the plastic would increase every day because of the requirement to change the top layer at the end of every shift.

In my opinion based on four decades of renovation work, the cost for the enclosures, signage, and daily maintenance of the work area under the EPA standards labor and material is a minimum of \$265.00. Under the KAR regulations we believe this cost will rise by a factor of six or a minimum of \$1,590.00 just for the use of the plastic.

As a Certified Green Professional (CGP) the truckload of plastic containing lead dust that will be taken to our landfill is of great concern.

Lead or Not?

The EPA has the option to test a structure prior to renovations in order to determine if lead is present and therefore mandating these procedures. The KAR regulations assume lead is present in any and all structures built prior to 1978. In reality the production of lead paint ceased in 1970 and now forty years later many of those structures have been renovated and probably contain no lead. Since the cost of compliance is so high the option to pretest these structures should be available to all homeowners in the State of Kansas.

Personally

I grew up in a farmhouse that was built in 1905. This house was home to me and nine other brothers and sisters. This house was sold in 1978 and moved to a different piece of property just down the road and to this day continues to be called "home" for another family. I presently own two houses built in 1977. One is the home that I raised my family in and the other is a rental house that my parents currently live in. Based solely on the date of the building permit for both of these houses, I would have to post signage that contained the words "DANGER" "POISON" "KEEP OUT" if I did any work to these houses. In order to maintain my home and show pride of ownership I have to advertise it as a hazardous waste site.

What year was your house built? Or what year was the apartment built that you stay in here in Topeka?
What year was the house built that your parents, or kids, or your grandkids are living in?

Conclusion

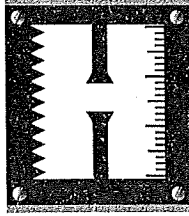
Hentzen Contractors, Inc. has always been concerned with containing dust, any kind of dust. We have used technology and work practices to contain dust for the comfort and safety of our clients and our workers. Becoming a Certified Renovator is just another way we have continued to learn and to stay current within the construction industry. We are in support of the bill H.B 2596 because it requires KDHE to be no more restrictive in its regulations than the EPA.

Bernard M. (Bernie) Hentzen



HENTZEN
CONTRACTORS INC.

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February 15, 2010

Statement of Michael Gatschet, Certified Graduate Remodeler, Certified Aging in Place Specialist

President of Heartland Home Improvements, Wichita, KS.

To The House of Commerce and Labor Committee

Representative Steve Brunk, Chair

Regarding H.B 2596

Thank you for the opportunity to come before you today to report my concerns regarding an issue that will have a huge impact on homeowners and businesses nationwide and specifically in Kansas.

My business is a design-build residential remodeling business in the Wichita area. My beliefs are centered on doing business the right way, following all building codes, proper licensing, insurance, building practice, with a well educated team of professionals. My commitment to the industry is cemented by my active participation in many local organizations and national organizations, namely the National Association of Home Builders and the Wichita Area Builders Association. These associations promote the best practices that are available to the public and affordable housing for all.

In Addition, I am recognized by the National Association of Home Builders as a "Certified Graduate Remodeler," and as a Certified Aging in Place Specialist." I have met nationally defined criteria for previous experience adhering to prescribed business standards and education. These designations solidify the professional commitment I bring to the remodeling industry.

My commitment to good business practice has always been about doing what's right for my clients and for the betterment of the industry as a whole. But, there is one area of concern regarding the new lead based paint regulations that have been proposed that will impact the public conversely to economic growth, property values, and business practices. The EPA's Lead: Renovation, Repair, and Painting rule takes effect April 22 of this year. And, while the EPA's rule is very restrictive, the Kansas proposed rules are even more stringent without any qualitative data to support this proposal, having the potential to being a devastating blow to housing and the economy in a time when it is unwarranted.

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I will conduct my business, as always, in accordance with the laws regulations set before me, but I cannot support a rule that has no warrant other than financial gain for the state, at the cost of millions to the homeowners who have no idea this is something posing a threat to their home values and their pocket books.

The restricting differences in the Federal Rule and the proposed state rules have been stated by others, but here's how the proposal will change things as I see them:

1. **Training and Certification:** We have 40,000 individuals who need trained before April. I have asked several trade contractors I know, all of whom do top notch work and follow strict business practice guidelines, how they are going to handle getting certified in the very near future. A few of them have heard about the proposed rule, but none of them had any plans to do anything yet as far as training. Not only is it impossible to train 40,000 individuals in short order, most of them don't even know it. The curriculum has not been approved for training, nor are there enough approved trainers to conduct the training required. There is no factual support for the requirement of every worker in the state of Kansas to be required to be certified when the EPA requires only a supervisory employee to be trained. This person will be on site to direct the others in lead safe practices, training and documentation. Requiring every worker in the state to be certified will cost the homeowner at least \$24 million, not even counting the time they are testing as non-revenue time.
2. **The Cost of Doing Business:** If every worker becomes "certified" to perform lead safe work, this will have the potential to open up every worker to possible litigation. Individuals who are certified to do lead work are now in a category that the insurance companies class as lead abatement workers, asbestos removal, and mold remediation. A standard rider for company insurance for this type of classification will cost an average of an additional \$4,000 per year per company policy. In perspective, this is about double the cost of liability insurance for a company similar to mine.
3. **The Real Costs of a Project:** There are many different types of remodeling companies who have a specific niche such as siding, roofing, windows or decks. My company is what many would refer to as "full-service," meaning we do everything from siding to room additions and everything in between, big and small. This is probably the most common type of remodeling company. Like most remodeling companies who are structured the same way, we do a lot of work on homes built before 1978. It would be common in a year for a company like ours to perform half of their jobs on homes built before 1978. In smaller, more rural areas of Kansas, work on homes built before 1978 may be almost all that they do. The Federal EPA rule requires that the project be tested for the presence of lead after the project is complete, and that the certified person within a company can perform this testing. The testing must be completely documented and retained for a minimum of 3 years. The Kansas proposal, however, requires that this testing be conducted by an outside party at an additional \$300 to \$400 to the homeowner. At the risk of being subjected to possible litigation happening in

the future, it would make sense that many remodeling companies would desire a "baseline" test before a project starts to determine if there is lead already present on the job from work that a homeowner has possibly performed prior to the current project. Under this proposed rule the added cost to the project would be \$600 to \$800 for testing alone. A common project for many remodeling companies like mine would be to replace a couple of windows in a home. The price of the testing alone may be as much as the windows cost. It would make perfect sense that homeowners will seek out non-certified, non insured, non-licensed contractors who will perform work like this "underground" to avoid having to pay the high price of testing. There is no reason the Kansas rules should be more restrictive in this area than the EPA rule.

I have heard that the proposed rules will increase the cost of a remodeling job by 10%. I know that this number is low because it doesn't take into account the additional cost of insurance, the revenue lost due to time in training, the time it takes to coordinate not only one 3rd party test, but many times two tests per job. The 10% number is a low number that would affect mostly larger scale projects, but smaller projects may actually be double the price.

Again, thank you for the opportunity to come before you today to voice my concerns. I will continue to be an advocate for doing business the right way, for the public, for the clients I serve and the betterment of the remodeling industry. The new EPA lead rules which goes into effect April of this year will have a huge impact on businesses and on the public. In a time when every dollar matters, is no time to pose millions and millions of more dollars on the public. The EPA rule is restrictive. The Kansas proposal on the lead rules is too restrictive and will cost the public dearly in a time when they don't need it.

Thank you for this opportunity.

STATEMENT OF GENE BOWERS, CGR, CAPS
CERTIFIED GRADUATE REMODELER, CERTIFIED AGING-IN-PLACE SPECIALIST
BEL AIRE, KANSAS
PRODUCTION MANAGER, SHIGLEY CONSTRUCTION COMPANY, INC. (RETIRED)
TO THE HOUSE COMMERCE AND LABOR COMMITTEE
REPRESENTATIVE STEVE BRUNK, CHAIR
REGARDING H.B. 2596
FEBRUARY 15, 2010

Chairman Brunk and Members of the Committee, thank you for the opportunity to come before you today so I may express my concerns about regulations impacting the remodeling industry in the State of Kansas. As a remodeling professional for twenty-four (24) years I have been aware of the concerns about Lead Based Paint for some time. With the run up of regulations on Lead Based Paint by the EPA and the corresponding issuance of proposed regulations by KDHE, I am here to speak as a proponent of House Bill 2596.

A large number of members of the Wichita Area Builders Association have been working diligently to fully understand the ramifications of both the EPA and the KDHE regulations and to discern the impact on the professional remodelers of our industry and the clients who occupy homes that fall within the pre-1978 construction window. As you will hear, there is great concern by owners and operators of professional remodeling companies about all of the regulations being imposed on the industry concerning Lead Based Paint removal and disposition. My fellow association members will extol upon their concerns.

As a retired member of the community of professional remodelers, I wish to take a different view of the problems than those who are actively operating a remodeling company. I want to look at the problems from the outside-in. In January of 2009 I embarked upon a total home remodel of my home, something that has been needed for some time. This project took a total of seven (7) months, with a budget of some \$40,000.00. My home was constructed in 1984 so I have no worries about the proposed KDHE requirements for Lead Based Paint removal and disposition. However, for purposes of this statement I would like to apply only a small segment of the proposed KDHE requirements to my project to illustrate an issue that is looming in the KDHE document.

Assuming that the work on this project occurred five (5) days a week, four (4) weeks a month, for seven (7) months, a total of 280 work days would be used to complete the projects. The KDHE proposed regulations suggest that a job be broken down into components. On a whole house remodel there is only one component, the entire house. I visited the **“Kansas Department of Health and Environment, Proposed New Regulations, Article 72. Residential Childhood Lead Poison Prevention Program”**. In section **28-72-18d Work Practices; lead abatement: removal, sub-sections 7, 8 and 9**, I discovered the procedures required for cleaning up after each day’s work. There is a major difference between what the EPA requires and what the KDHE requires. A substantial cost difference becomes apparent.

In the afore mentioned section from the KDHE proposed regulations the subject is the cleaning of the work space at the conclusion of each work day. As I understand what I read, all walls and flooring must be covered with six (6) mil plastic sheeting to seal off the work space from other parts of the house. In my case, the entire house, both walls and flooring would have to be covered and sealed. A second layer of six (6) mil plastic must be placed upon the flooring for purposes of daily removal to contain the day’s debris. The work space is then vacuumed with the hepa filtered shop vacuum to make the work space as clean as possible. Up to now the cost between six (6) mil plastic required by KDHE and the three (3) mil plastic required by the EPA is costly, but not a deal breaker. However, it is the KDHE requirement that, for the next day’s work, a new second layer of six (6) mil plastic be placed upon the existing plastic covering the flooring, now the problems begin. Please take note of the following example:

For purposes of this example, I remodeled 2,388 sq. ft. of my home. At current prices, 1,000 sq. ft. of six (6) mil plastic costs \$47.61, with sales tax. It takes approximately eight (8) boxes of plastic to seal the walls and flooring. The daily change out of the top layer of plastic on the floor uses approximately 3 boxes each work day. The calculation is:

280 work days X 3 boxes of plastic per day = 840 boxes of plastic for the project X \$47.61 per box = **\$39,992.40** to comply with the proposed KDHE regulations. If I can fold the used plastic tightly enough to fit back in the box it came from, then the 20 cubic yard dumpsters required to haul all of the plastic removed from the floor to the land fill would be approximately six (6), at a cost of \$340.00 per dumpster or **\$2,040.00**.

In comparison to the KDHE requirements, the EPA requires a three (3) mil plastic to cover the walls and flooring. There would be no daily removal of flooring plastic, just daily cleaning similar to KDHE requirements. So, the calculation is:

Eight (8) boxes of four (4) mil plastic [three (3) mil plastic is not available in the area] X \$31.67 with sales tax = **\$253.36**

This comparison looks like it is bordering on the edge of insanity. However, numbers do not lie. If I had to follow the KDHE regulations on my project, I would have had to spend twice the

amount of money I had budgeted for the project. This is but one small example of what can happen if the KDHE regulations are put in force.

If the KDHE stacks on more requirements to the EPA requirements with the idea that more stringent requirements will produce a healthier end product, I find this assumption to be false. What the increase of requirements will do is to greatly increase the cost of each project and reduce the number of projects that qualified and trained general contractors will be allowed to do. This may then force the clients in pre-1978 homes to go underground to save money. This action will encourage the non-qualified and non-trained personnel to move in and create issues that have to be remedied in the future.

As I understand the KDHE requirements, the general contractor must provide a “certified renovator” to oversee the project. I was the general contractor on my project, therefore, I would need to be trained and certified as a certified renovator to conduct my project. The expense of this training and certification would also add to the cost of my project. In fact, if I wished to sell my home, any time in the future, I would have to follow the KDHE regulations to get my clearances from a third party inspector at the conclusion of the project. This is the only way I could show the prospective buyer that the remodel complied with KDHE regulations. I could then bullet proof myself from possible future litigation.

I did not touch on the increased costs of trade partners and material handlers due to the KDHE proposed regulations. I think I made my point with the plastic example.

Thank you for allowing me to share my thoughts with you concerning the Lead Based Paint proposed regulations.

14-3

Chairman Steve Brunk and members of the committee,

Thank you for the opportunity to speak with you on the regulations affecting the remodeling industry and my customers. I am Jeff Hund president of All Seasons Construction Wichita Kansas. I am a licensed commercial and residential contractor who has worked primarily in the residential remodeling field for 35 years.

The certification that the state of Kansas is requiring for lead-based paint removal on every job site requires that every worker be certified. This is like requiring that every worker having a general contractor's license. This is not feasible and is discriminatory for many of the workers who have learning disabilities, such as dyslexia and alexia. These individuals would lose their jobs under the proposed Kansas rules, because of an inability to pass the certification test. Whereas, according to the EPA regulations, these workers would have direction from a certified renovator.

The practice of using thicker plastic and multi-layers which are changed daily is a waste of materials. The disposal of this increased use of plastic adds to our landfills and increases the cost of the job for the homeowner.

Requiring third-party testing for jobs -- both big and small -- will increase the time required to finish the jobs, resulting in more expense and annoyance for homeowners.

The proposed Kansas lead-based paint removal requirements will lead to greatly increased costs for pre-1978 homeowners. With the new regulations, pre-1978 homes are singled out to be much more expensive to remodel. Therefore many energy saving projects will not be done, or will be done by unlicensed individuals. This will result in no taxes or permit fees being paid on these jobs, no regulations being followed, no workman's compensation insurance being paid, and in a severe devaluation of pre-1978 homes.

Thank you for the opportunity to voice my concerns about these increased regulations.

House Commerce & Labor
Date: 2-15-10
Attachment # 15

Statement of Wilbur Engel Honey Do Homes L.L.C.

To The House Commerce And Labor Committee

Representative Steve Bunk, Chair

Regarding H. B. 2596

February 15, 2010

I would like to address one type of impact to a remodeling project, if the KDHE is Allowed to add regulations to the already ridged EPA Lead Base Paint Guide Lines. The prediction to the cost of a project would increases as much as 10% to 15% witch Could cause the lower income home owners to search out contractors that are not properly trained Therefore not charging as much, or trying to do the work them selves. In either case what Is the main objective of the KDHE to protect kids will not happen.

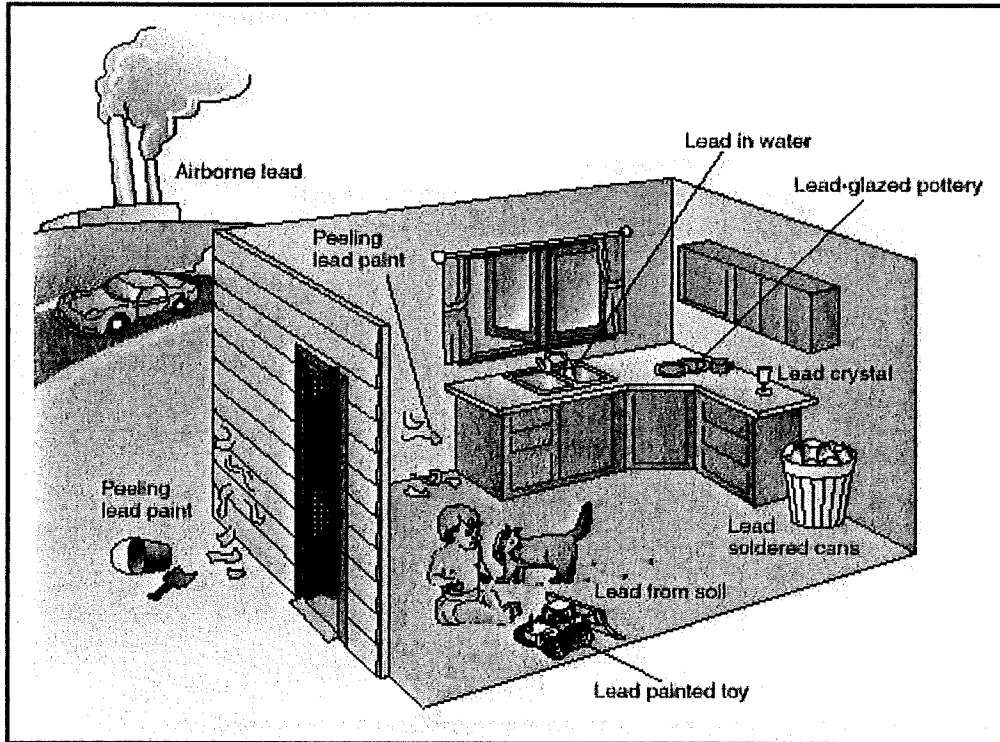
It is my opinion that Children will be at grater risk in both cases and if nothing is done the value of the Properties will decrease.

The best case scenario would be for the contractors is Kansas to continue with the proper training and fallow the Lead Base Paint guidelines as lined out by the EPA only.

Thank you,
Wilbur Engel
Honey Do Homes

House Commerce & Labor
Date: 2-15-10
Attachment # 16

Let Kansas Move Forward
to
Protect Children, Family, and Workers



Testimony to have no action taken
on
HOUSE BILL. No. 2596

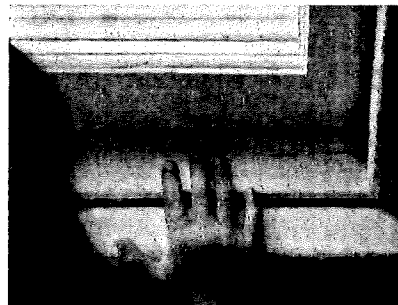
Prepared by: Rex A. Smith

House Commerce & Labor
Date: 2-15-10
Attachment # 17

Lead Shot was outlawed to protect waterfowl.
HOUSE BILL No. 2596
Should be STOPPED to protect all people.



Is there a cure to stop Lead Poisoning
of children and adults ?



Why all the concern?

Health Effects

Children under six are most at risk from small amounts of lead.

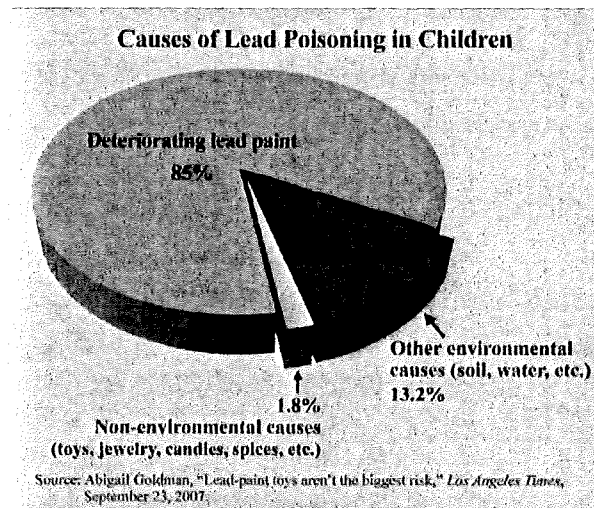
- Children are at a greater risk than adults because their bodies are developing . During normal and frequent playing or hand-to-mouth activity, children may swallow or inhale dust from their hands, toys, food or other objects.

Why all the concern?

In children, lead can cause:

- Nervous system and kidney damage.
- Decreased intelligence, attention deficit disorder, and learning disabilities.
- Speech, language, and behavior problems.

According to the U.S. Centers for Disease Control and Prevention (CDCP), about 310,000 children are diagnosed with lead poisoning annually.



Why all the concern?

Among adults, pregnant women are especially at risk from exposure to lead.

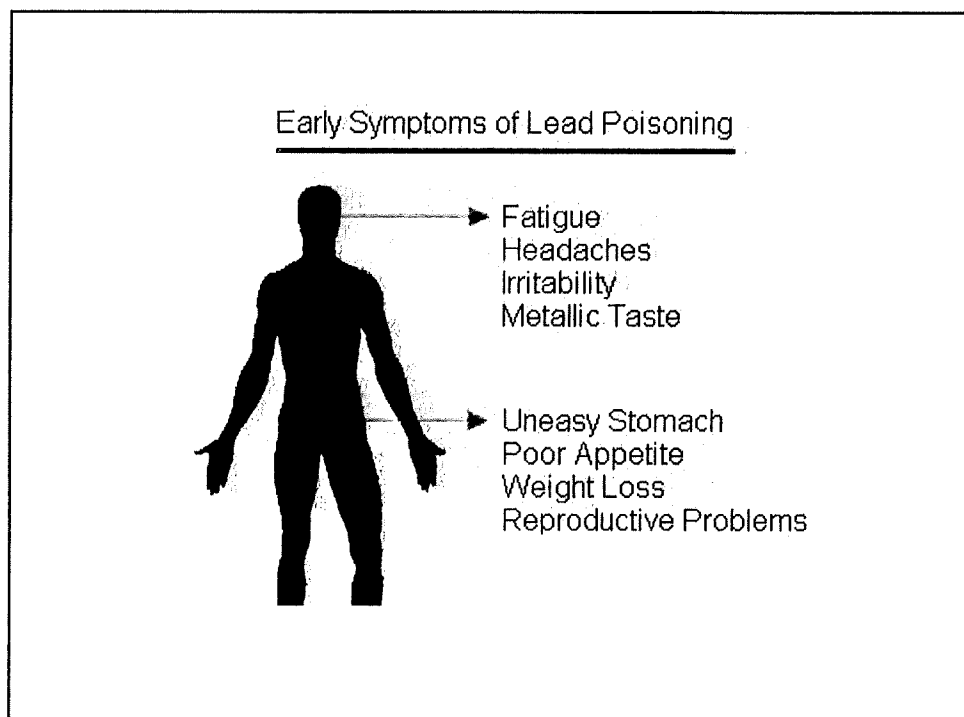
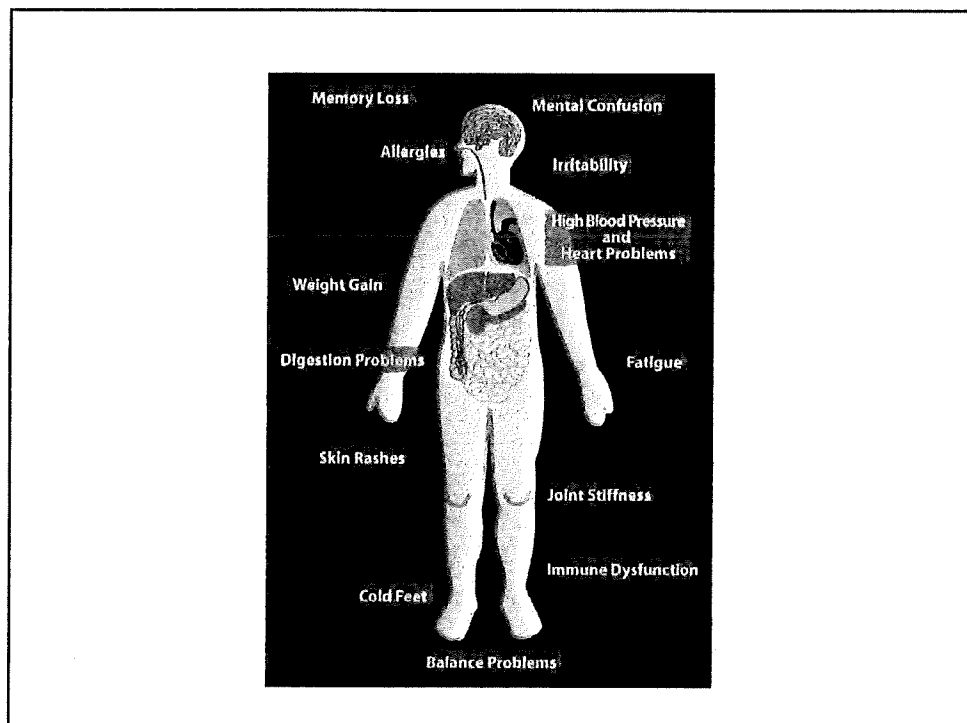
- Lead is passed from the mother to the fetus and can cause:
 - Miscarriages
 - Premature births
 - Brain damage
 - Low birth weight
 - Stillbirth

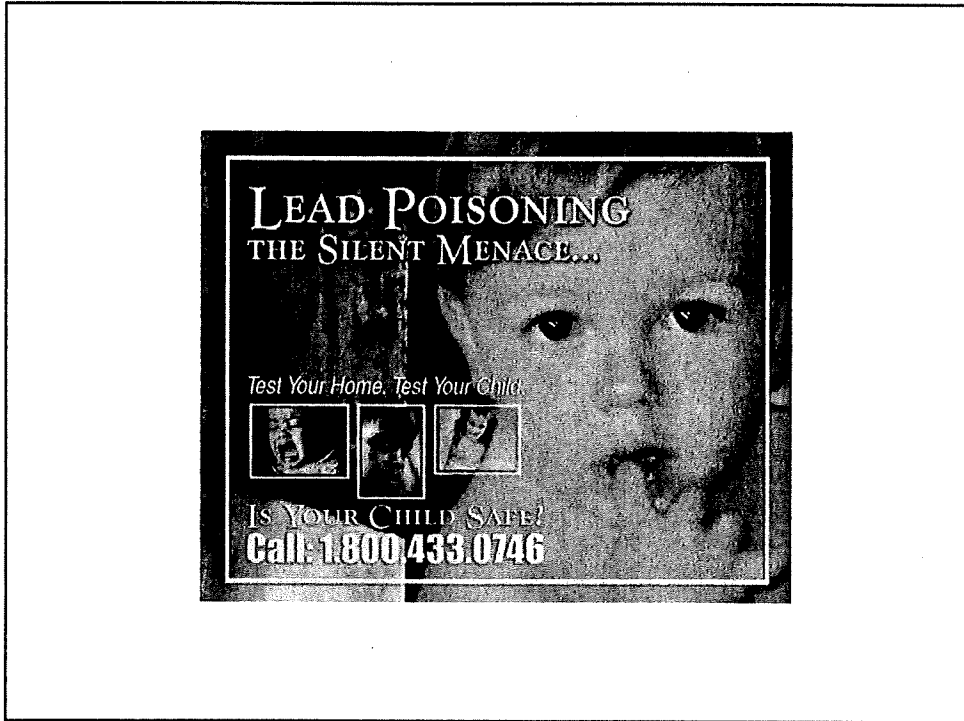
Health effects of lead in adults continued.

- Nerve disorders
- Memory and concentration problems
- Sexual disorders
- Muscle or joint pain.

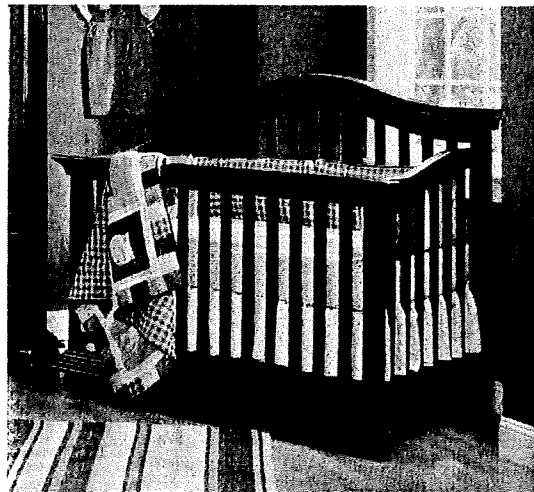
Why all the concern?

- Health effects of lead in adults include:
 - High blood pressure.
 - Fertility problems in men and women.
 - Loss of sex drive and/or capability.
 - Digestive problems.
- Lead exposure causes permanent damage.

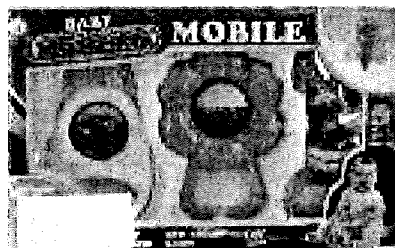
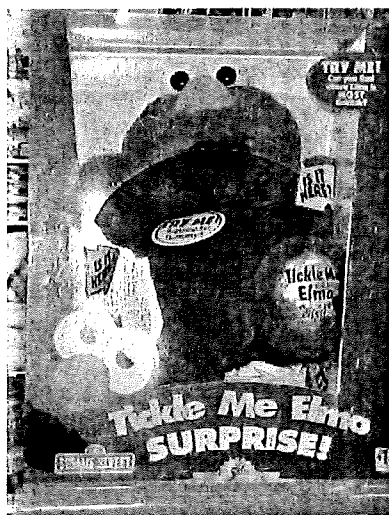


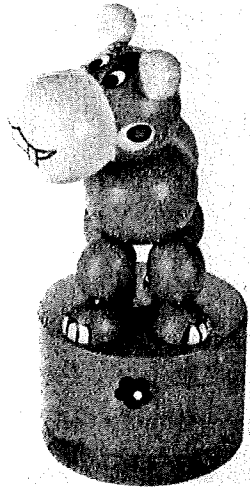


Recalls because of lead paint hazards.



Surprise! Is Right: Elmo is contaminated with lead.





Sources: U.S. Consumer Product Safety Commission (CPSC)
U.U. S. Food and Drug Administration (FDA)

A Little Dust Goes a Long Way

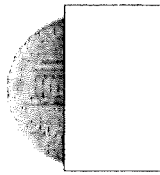
- One gram of lead-based paint can contaminate a large area!
 - You can't see it.
 - It's hard to sweep up.
 - And, it travels.
- One gram of lead can contaminate several homes!

A penny weighs about two grams.



This penny represents two million pieces of lead.

- There are 1 million micrograms in half of a penny.



- This is enough dust to affect the health of children and adults.

Lead poisoning is not a problem for KANSAS.
I don't know anyone who is Lead Poisoned.

- Do you know anyone who is lead poisoned?

This is the question I ask in every Lead Safe
Work Practices class given.

Since 1999, I have had only ten classes where no
has been the answer.

Lead poisoning is not a problem for KANSAS.

- 3 Children removed from Grandparents home
in Wichita, KS. All 3 children attend school for
learning difficulties.
- Grandchild poisoned in home of grandparents in
Newton, KS.
- Small child poisoned living in housing addition in
Wichita, KS.

Lead poisoning is not a problem for KANSAS

- Training provider in Kansas child lead poisoned.
- Aunt & Uncle has two children lead poisoned.
- Kansas high school girl lead poisoned.
- Friend in Kansas baby stillbirth and one lead poisoned son.

Conflict of Interest

- As a professional training provider for Kansas, I have no conflict of interest here because I will teach the Kansas requirements or EPA.
- Two reasons for being here today.
 - relay the danger of lead poisoning to our children and adults.
 - to put a stop to HOUSE BILL. No. 2596

Is there a cure to stop Lead Poisoning

- Remove consumer items that contain lead.
- Educate the public about the hazards of lead.
- Get children and adults tested for lead levels.
- Train all trades of the dangers, health effects and proper safe work practices.
- Stop HOUSE BILL No. 2596

Extremely Important for Kansas to run the Lead Paint Program.

- Let Kansas move forward with the current regulations.
- No need to have two different agencies to deal with.
- Current regulations offer the most protection for contractors.
- Current regulations offer the best protection for our children and adults.

Thank you

Rex A. Smith
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