

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON HUMAN RESOURCES AND FACILITIES

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 16, 1981

The Senate Committee on Human Resources and Facilities was called to order by Chairman Joe Neal at 9:04 a.m., Monday, March 16, 1981, in Room 323 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Joe Neal, Chairman
Senator James N. Kosinski, Vice Chairman
Senator James H. Bilbray
Senator Richard E. Blakemore
Senator Wilbur Faiss
Senator Virgil M. Getto

STAFF MEMBER PRESENT:

Joy-el McBride, Secretary

SENATE BILL NO. 370

Senator Faiss testified in support of SENATE BILL NO. 370, stating the bill merely points out the potential dangers of the use of formaldehyde in insulation and other uses mostly in the home. He said only Minnesota has passed a law regarding formaldehyde. See Exhibit C. California has a bill in their Assembly regarding formaldehyde. This is Exhibit D.

Ms. Patricea L. Dean, the Legislative Coordinator for the Western Manufactured Housing Institute, testified in opposition to SENATE BILL NO. 370, stating there is no urea foam insulation used in today's manufactured homes. She noted that the bill referred to materials that contained urea formaldehyde, which is one of the most common bonding agents on the chemical market today. Ms. Dean advised the committee that formaldehyde is used in everything from cosmetics and toothpaste to permanent press shirts. The strongest concentration of formaldehyde is in cigarette smoke. There are 40

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to 50 parts per million in every cigarette that is smoked. The chemical industry, the plywood industry, and the home industry have been spending at the rate of 1½ million dollars a year for the last 4 years on research in this area. SENATE BILL NO. 370 provides for a study on formaldehyde but no funding. The industry has already improved the situation by 79 percent over what the formaldehyde emissions were 4 years ago. The industry is in the process of reducing the formaldehyde emissions in any home to less than 1 part per million. They have the capability with their present products to reduce it to about ¼ part per million in all homes. Formaldehyde is used in 10 to 20 percent of the gross national product. Ms. Dean said the bill does not refer to materials that have a high level of formaldehyde.

Senator Faiss stated the bill is new for Nevada and subject to amendments, but it is felt something must be done to change the situation.

Ms. Dean said the Federal Trade Commission has not done any investigations on urea formaldehyde, but the Department of Housing and Urban Development has issued contracts for the study, since they have the responsibility for the Housing and Urban Development Code in manufactured lines. There will be no results for those until the spring of next year. There is no medical evidence whatsoever that formaldehyde is dangerous or toxic to humans.

Senator Faiss asked why then have so many states passed bills against formaldehyde and Ms. Dean answered it is an irritant to some people; 1 to 2 percent of the population, but it is not toxic. She said what the bill should refer to is urea foam formaldehyde insulation only. This bill refers to "materials made with urea formaldehyde", which includes everything, including cosmetics. Ms. Dean added the bill is far-reaching and a little premature.

Senator Getto asked Ms. Dean if the industry would be as concerned if the bill stated urea foam insulation and she said no. Ms. Dean said her association is a member of the Formaldehyde Institute, which is doing a considerable amount of research, and they periodically furnish them with reports. The reports they received showed that the actual incident of irritation is only 1 to 2 percent.

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Senator Neal asked if the Consumer Products Safety Commission had issued regulations regarding formaldehyde and Ms. Dean said they have only proposed them. Senator Neal said if they were proposed, there must have been a basis for doing so.

Mr. Jim Slattery spoke in support of SENATE BILL NO. 370, stating he believed his skin cancer was caused by the formaldehyde in his mobile home he bought a few years ago. His wife is not able to go into the mobile home without getting sick. He presented the secretary with several newspaper articles and letters which supported his belief. (This information is on file with the committee secretary.)

Mr. Jerry Finnigan, Regional Manager of the Owens Corning Fiberglas Company, testified in opposition to SENATE BILL NO. 370 the way it is drafted because it would tend to preclude the use without medical clearance of any insulation material. In their material, the glass itself does not have formaldehyde in it, but the binding agent does. Most of the formaldehyde is cooked off when it is cured. The amount in the finished product is less than 10 to 15 parts per billion. The State of Wisconsin has just approved a bill which restricts formaldehyde to .4 parts per million; their product has about .00015 parts per million. The bill would be directed at the proper product if it was directed at the foam, but as it is written, it would automatically include insulating materials that are not a problem.

Senator Neal asked who regulated their industry in terms of the content of formaldehyde binding. Mr. Finnigan said they regulate themselves and comply with their own specifications.

Senator Faiss said the foam is used mostly in older homes that do not have any insulation.


Mr. Pete Takeda, representing the Recreation Vehicle Industry Association, testified in opposition to SENATE BILL NO. 370, stating they did not feel they should be included in this bill. His testimony is Exhibit E.

Senator Neal rescheduled SENATE BILL NO. 370 for another hearing on Tuesday, March 24, 1981.

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Being no further business, the meeting was adjourned at
8:00 a.m.

Respectfully submitted:


Joy-el McBride, Secretary

APPROVED:


Senator Joe Neal, Chairman

DATE: 3-25-81

SENATE AGENDA

COMMITTEE MEETINGS

Committee on Human Resources and Facilities, Room 323.
Day Monday, Date March 16, Time 9:00 a.m.

S. B. No. 370--Prohibits use of building materials containing urea formaldehyde until found safe.

SB-370

MINNESOTA STATUTES
ANNOTATED

Official Classification

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§ 325F.12 CONSUMER PROTECTION

(a) The manufacturer of the article shall repurchase it from the person to whom he sold it, and shall refund that person the purchase price paid for the article. If the manufacturer requires the return of the article in connection with the repurchase of it, the manufacturer shall also reimburse the person for any reasonable and necessary expenses incurred in returning it to the manufacturer.

(b) The distributor of any banned article shall repurchase it from the person to whom he sold it, and shall refund that person the purchase price paid for the article. If the distributor requires the return of the article in connection with his repurchase of it in accordance with this clause, the distributor shall reimburse that person for any reasonable and necessary expenses incurred in returning it to the distributor.

(c) In the case of any banned article sold at retail by a dealer, if the person who purchased it from the dealer returns it to him, the dealer shall refund the purchase price paid for it and reimburse him for any reasonable and necessary transportation charges incurred in its return.

Derivation:
St. 1972, § 325.321.
Laws 1972, c. 467, § 6.

325F.13 Banned hazardous toys; prohibitions

No person shall sell, expose for sale, deliver, give away, have in his possession, or introduce or deliver for introduction into commerce any hazardous toy or article intended to be used by a child or banned hazardous toy or article intended to be used by a child.

Derivation:
St. 1972, § 325.322.
Laws 1972, c. 467, § 6.

325F.14 Seizures

The director shall apply to the district court to seize toys presenting hazards when no other practical method to control the hazard exists. The attorney general shall represent the director in the district court.

Derivation:
St. 1972, § 325.327.
Laws 1972, c. 467, § 7.

325F.15 Director's right of access to premises, records

For the purpose of administering the provisions of sections 325F.08 to 325F.18, the director and inspectors shall have access and entry at reasonable times to any premises in which toys or other articles within the provisions of sections 325F.08 to 325F.18 are held and shall have access to all records pertinent to the enforcement of sections 325F.08 to 325F.18.

Derivation:
St. 1972, § 325.322.
Laws 1972, c. 467, § 2.

325F.16 Penalties

Any person who violates any of the provisions of sections 325F.08 to 325F.18 shall be guilty of a misdemeanor.

Derivation:
St. 1972, § 325.322.
Laws 1972, c. 467, § 9.

325F.17 Citation

Sections 325F.08 to 325F.16 may be cited as the "Safe Toys Act".

Derivation:
St. 1972, § 325.321.
Laws 1972, c. 467, § 10.

CONSUMER PROTECTION § 325F.18

FORMALDEHYDE GASES IN BUILDING MATERIALS

325F.18 Duty of manufacturer

Subdivision 1. No manufacturer shall sell any building materials and no builder shall sell or lease a housing unit containing urea formaldehyde unless the manufacturer or builder has made the following written disclosure to any purchaser of the materials or housing unit or lessee of the housing unit: "WARNING. THIS PRODUCT (HOUSING UNIT) CONTAINS THE CHEMICAL FORMALDEHYDE. FOR SOME PEOPLE FORMALDEHYDE MAY CAUSE HEALTH PROBLEMS, SUCH AS IRRITATION OF THE EYES, NOSE AND THROAT, SNEEZING, COUGHING, HEADACHES, SHORTNESS OF BREATH, OR CHEST OR STOMACH PAINS. CHILDREN UNDER THE AGE OF TWO, ELDERLY PEOPLE, PEOPLE WITH BREATHING PROBLEMS OR PEOPLE WITH ALLERGIES MAY HAVE MORE SERIOUS DIFFICULTIES. IF YOU HAVE QUESTIONS ABOUT PROBLEMS YOU MAY HAVE WITH FORMALDEHYDE, CONSULT A DOCTOR."

Subd. 2. The disclosure required by subdivision 1 shall be made clearly and conspicuously on the label or written warranty of the materials in a manner designed to attract the attention of a prospective buyer or user. If the product or housing unit has neither a label nor a written warranty the disclosure shall be made in a separate writing included with the product or housing unit.

Subd. 3. No person shall sell for use in a dwelling place building materials subject to the written disclosure requirement of subdivision 1 unless the seller has provided to the purchaser a copy of the written disclosure provided by the manufacturer. No person shall for gain install or use in a dwelling place building materials subject to the written disclosure requirement of subdivision 1 unless the installer or user has provided to the person on whose behalf the materials are installed or used a copy of the written disclosure provided by the manufacturer.

Subd. 4. The manufacturer of a product or builder of a housing unit that contains materials made with urea formaldehyde shall pay the reasonable cost of repair or relocation if the consumer can document that the housing unit contains a significant ambient air level of formaldehyde and in addition has documented medical records of illness related to formaldehyde and a statement from a physician that the consumer must vacate the premises. The party who has received the claim has the right to test the ambient air level of the housing unit at reasonable times.

If within 30 days after the presentation of the items set forth above the manufacturer or builder and the consumer do not agree on a remedy the consumer may bring suit to recover the reasonable cost of repair or relocation plus reasonable attorneys' fees. Notwithstanding the remedy under this subdivision, the consumer may bring an action for personal injury, if any, if the action is commenced within one year from the presentation of the items required by this subdivision.

Subd. 5. If the commissioner of health determines pursuant to section 144.485 that there does not exist a significant health problem, the provisions of this section are not effective.

Subd. 6. Any person who is found in violation of subdivisions 1 to 3 shall be deemed in violation of section 325F.69, subdivision 1, and the provisions of section 8.31 shall apply.

Derivation:
Laws 1980, c. 594, § 2. Subdivisions 1 to 3 and 6 are effective January 1, 1981, and subds. 4 and 5 are effective April 24, 1980, pursuant to Laws 1980, c. 594, § 12.

Introduced by Assemblyman Robinson

December 4, 1980

**REFERRED TO COMMITTEE ON LABOR, EMPLOYMENT, AND CONSUMER
AFFAIRS**

An act to add Chapter 16 (commencing with Section 30100) to Division 22 of the Health and Safety Code, relating to insulation.

LEGISLATIVE COUNSEL'S DIGEST

AB 103, as introduced, Robinson (L., E., & C.A.). Urea formaldehyde foam insulation.

(1) Existing law requires the Commission of Housing and Community Development to adopt fire safety and fire-resistance standards relating to the manufacture, composition, and use of foam building systems. There are no other provisions of existing statutory law regulating use of urea formaldehyde foam insulation.

This bill would provide for regulation of the sale or installation of urea formaldehyde foam insulation, as defined, on or after January 1, 1982, in residential or commercial structures, as defined. The bill would specify the requirements for installers and manufacturers, including licensing for installations and for the maximum formaldehyde emissions from, and concentrations caused by, such insulation.

The bill would also require the State Energy Resources Conservation and Development Commission to ascertain whether installations of urea formaldehyde foam insulation cause consumer problems, as defined, from emissions of

formaldehyde from such insulation. The bill would provide the procedure for the commission to order remedial action for such consumer problems.

The bill also would provide specified misdemeanor and specified civil penalties for violations of the provisions of the bill.

(2) Article XIII B of the California Constitution and Sections 2231 and 2234 of the Revenue and Taxation Code require the state to reimburse local agencies and school districts for certain costs mandated by the state. Other provisions require the Department of Finance to review statutes disclaiming these costs and provide, in certain cases, for making claims to the State Board of Control for reimbursement.

However, this bill would provide that no appropriation is made and no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1. SECTION 1. Chapter 16 (commencing with Section
2 30100) is added to Division 22 of the Health and Safety
3 Code, to read:

4
5 CHAPTER 16. UREA FORMALDEHYDE INSULATION
6 SAFETY

7
8 Article 1. General Provisions
9

10 30100. This act shall be known and may be cited as the
11 Urea Formaldehyde Foam Insulation Safety Act.

12 30101. The Legislature finds as follows:

13 (a) Too many consumers have experienced adverse
14 physical symptoms in their homes and offices from
15 exposure to formaldehyde after installation of urea
16 formaldehyde foam insulation.

17 (b) No effective controls exist on the manufacture,
18 sale, installation, or use of urea formaldehyde foam

1 insulation to assure the safety of consumers.

2 30102. The Legislature declares that the purposes of
3 this chapter are as follows:

4 (a) To regulate installation of urea formaldehyde foam
5 insulation in order to control its proper manufacture, sale,
6 installation, and use.

7 (b) To allow for the maximum use of urea
8 formaldehyde foam insulation consistent with safety and
9 protection of consumers against shoddy practices.

10 (c) To provide the State Energy Resources
11 Conservation and Development Commission with
12 sufficient flexibility to design a regulatory program which
13 will protect consumers to the extent necessary or
14 appropriate with respect to their likely exposure to
15 formaldehyde emitted from urea formaldehyde foam
16 insulation at minimum cost to industry, consumers, and
17 government.

18
19 Article 2. Definitions

20
21 30105. The definitions contained in this article shall
22 govern the provisions of this chapter.

23 30106. "Commission" means the State Energy
24 Resources Conservation and Development Commission.

25 30107. "Consumer" means any natural person who is
26 or may be reasonably expected to be within a residence
27 or commercial structure. Such term shall include
28 subsequent purchasers, tenants, unborn persons, and
29 foreseeable occasional visitors, such as customers.

30 30108. "Consumer problem" means any adverse
31 physical symptom which, as determined by the
32 commission, is probably caused, in whole or in part, by
33 exposure to formaldehyde emitted from urea
34 formaldehyde foam insulation. Such term includes, but is
35 not limited to, the following symptoms:

- 36 (a) Death.
37 (b) Illness.
38 (c) Teratogenic, mutagenic, and carcinogenic effects.
39 (d) Discomfort.
40 (e) Aggravation of an existing condition.

1 30109. "License board" means the Contractors' State
2 License Board.

3 30110. "Residence or commercial structure" means a
4 building, the primary purpose or use of which is human
5 occupation. Residence or commercial structure includes,
6 but is not limited to, single family dwellings, apartments,
7 condominiums, office structures, and stores.

8 30111. "Urea formaldehyde foam insulation" means
9 any insulation product which consists, in whole or in part,
10 of a multi-celled foam formed through the combination
11 of a urea formaldehyde resin with a catalyst, and
12 expanded with a gas or with a gaseous reaction product
13 generated in the formation of such insulation.
14

15 Article 3. Use of Urea Formaldehyde Foam Insulation
16

17 30120. Except as otherwise provided in this article, no
18 urea formaldehyde foam insulation shall be sold for
19 installation or installed in a residential or commercial
20 structure.

21 30121. The commission shall adopt such regulations,
22 in accordance with the provisions of Article 5
23 (commencing with Section 11346) of Chapter 3.5 of Part
24 1 of Division 3 of Title 2 of the Government Code, as are
25 necessary to assure that installation of urea formaldehyde
26 foam insulation is installed in compliance with such
27 regulations.

28 30122. Except as provided for in Section 30122.5, the
29 regulations promulgated by the commission pursuant to
30 the provisions of Section 30121 shall be adopted as soon
31 as possible, but no later than January 15, 1982, and shall
32 include all of the following:

33 (a) Urea formaldehyde foam insulation shall not emit
34 more than two milligrams of formaldehyde per hour per
35 kilogram of insulation at 45 degrees Celsius and 90
36 percent relative humidity when determined pursuant to
37 the test method adopted by the commission.

38 (b) A test method for determining formaldehyde
39 emission, taking into consideration the chromotropic acid
40 analytical procedure of the National Institute for

1 Occupational Safety and Health and any other test
2 methods determined by the commission.

3 (c) Be consistent with the provisions of Section 17920.9
4 and regulations of the State Fire Marshal.

5 30122.5. (a) On or before March 1, 1982, the
6 commission shall propose regulations pursuant to Section
7 30121 to determine whether a level of formaldehyde
8 released greater or less than that provided in Section
9 30122 should be greater or less in order to protect the
10 public health and safety.

11 (b) The concentration of formaldehyde in any
12 inhabited portions of a residential or commercial
13 structure shall not exceed 0.2 parts of formaldehyde per
14 million parts of air by volume at any time on or after the
15 21st day after installation, taking into account reasonable
16 air changes in that environment as determined by the
17 commission. The installer may, but is not required to,
18 determine the formaldehyde levels before installation to
19 assure the maximum concentration provided in this
20 subdivision is not exceeded. The failure of the installer to
21 make such determination shall establish a rebuttable
22 presumption that the installation is the cause of the excess
23 formaldehyde levels in any hearing conducted pursuant
24 to Section 30133.

25 30123. The regulations promulgated by the
26 commission pursuant to the provisions of Section 30121
27 may include, but are not limited to, the following:

28 (a) Requirements for warnings concerning the
29 potential health effect of formaldehyde in contracts,
30 advertisements, deeds, leases, and other documents
31 relating to use of urea formaldehyde foam insulation in a
32 residential or commercial structure and that every
33 contract contains a statement in 8-point type
34 immediately above the signature of the consumer that
35 complaints of consumer problems may be made to the
36 commission.

37 (b) Requirements respecting the chemical
38 composition, formulation, and formation of urea
39 formaldehyde foam insulation.

40 (c) Limitations on the release of formaldehyde from

1 urea formaldehyde foam insulation into inhabited
2 portions of residential or commercial structures.

3 (d) Prohibitions on the sale, installation, or use of urea
4 formaldehyde foam insulation in any building or
5 structure if the commission reasonably determines that
6 any emission from the insulation is carcinogenic,
7 mutagenic, or teratogenic to humans after consultation
8 with the National Academy of Sciences and the State
9 Department of Health Services.

10 (e) Performance standards for equipment used to
11 manufacture, formulate, form, or install urea
12 formaldehyde foam insulation.

13 (f) Requirements for the training, certification, and
14 bonding of installers of urea formaldehyde foam
15 insulation.

16 (g) Prohibition or special installation requirements on
17 the sale, installation, or use of urea formaldehyde foam
18 insulation in classes of buildings determined by the
19 commission to be primarily for the use of individuals who
20 may be specially sensitive to formaldehyde if the
21 commission reasonably determines that such installation
22 is likely to cause a consumer problem.

23 30123.5. The department may adopt regulations to
24 assure that installation of urea formaldehyde foam
25 insulation in new or existing walls completely fills wall
26 spaces required by the contract, whether express or
27 implied, between a consumer and an installer or
28 manufacturer. Such regulations may include, but not be
29 limited to, requirements for use of infrared or other heat
30 sensing devices, infrared photography, or such other
31 measures as are reasonably necessary to carry out the
32 purposes of this section. Such regulations may provide
33 reasonable time limits for the repair, completion, or other
34 remedial work necessary to assure the installation of urea
35 formaldehyde foam insulation into new or existing walls
36 completely fills the wall space and meets heat transfer
37 resistance representations of the contractor, installer, or
38 manufacturer.

39 30123.7. The installer shall determine and provide
40 cost averages of the installation showing the time

1 necessary to recover the costs of the installation from
2 savings in the cost of providing heat to the structure.

3 30124. No urea formaldehyde foam insulation shall be
4 installed in a residential or commercial structure unless
5 the person installing it has a current, unrevoked, and
6 appropriate contractor's license for the installation of
7 urea formaldehyde foam insulation as determined by the
8 license board. No contractor's license is valid for the
9 installation of urea formaldehyde foam insulation unless
10 it is conditioned upon an annual manufacturer's
11 certification of qualification for use and installation of
12 that manufacturer's product. No contractor's license is
13 valid for the installation of urea formaldehyde foam
14 insulation unless the contractor has posted a bond or filed
15 with the commission a certification of insurance in the
16 face amount of one hundred thousand dollars (\$100,000)
17 for the benefit of any customer, contractor, or owner of
18 property which may be injured by, or for the
19 indemnification of any manufacturer whose product is
20 used in, the installation of urea formaldehyde foam
21 insulation.

22 30125. No urea formaldehyde foam insulation shall be
23 installed in a residential or commercial structure unless
24 the installation complies with installation standards
25 promulgated by the federal Department of Energy and
26 the commission.

27 30126. No urea formaldehyde foam insulation shall be
28 installed in a residential or commercial structure unless
29 the insulation components used are certified by the
30 commission to conform to all of the following:

31 (a) Is properly labeled with a United States Consumer
32 Product Safety Commission warning label, or its
33 equivalent as determined by the commission.

34 (b) Meets or exceeds all federal Department of
35 Housing and Urban Development requirements or
36 certifications, and the proposed rules of the federal
37 Department of Energy relating to urea formaldehyde
38 foam insulation contained in the Federal Register of
39 December 21, 1979, as determined by the commission.

40 (c) Meets or exceeds the requirements of, and is listed

1. by, the State Fire Marshal pursuant to provisions of
2 Chapter 1 (commencing with Section 13100) of Part 2 of
3 Division 12.

4 30127. No urea formaldehyde foam insulation shall be
5 installed unless the person installing it is certified by the
6 manufacturer of the insulation installed as qualified to
7 install it in conformance with the manufacturer's
8 instructions with equipment in proper working order
9 approved by the manufacturer pursuant to a written
10 contract.

11 30128. If a consumer complains of a consumer
12 problem to the commission in writing, the commission
13 shall determine whether the emission requirements
14 provided in subdivision (a) of Section 30122 are being
15 exceeded, or the installed urea formaldehyde foam
16 insulation is the substantial cause of a consumer problem
17 as defined in Section 30108, and shall make any other
18 investigations into the circumstances of the complaint as
19 it deems necessary. If the commission determines there
20 is no consumer problem, the complaint shall be
21 dismissed.

22 30129. If the formaldehyde emission limits provided
23 in subdivision (a) of Section 30122 are being exceeded, or
24 the installed urea formaldehyde foam insulation is the
25 substantial cause of a consumer problem as defined in
26 Section 30108, the commission shall order the installer
27 and the manufacturer of the urea formaldehyde foam
28 insulation to remedy the consumer problem.

29 Article 4. Remedies

30
31
32 30130. A knowing and willfull violation of the
33 provisions of this chapter or the regulations promulgated
34 pursuant thereto is a misdemeanor punishable by a fine
35 of not to exceed one thousand dollars (\$1,000) or by
36 imprisonment in the county jail not to exceed six months,
37 or by both such fine and imprisonment.

38 30130.5. (a) A person who violates any regulation
39 promulgated pursuant to subdivision (c) of Section 30122
40 or Section 30125 is subject to civil penalties of not more

1 than two hundred dollars (\$200) for each day of such
2 violation, including but not limited to, each day in excess
3 of the time limits provided pursuant to subdivision (d) of
4 Section 30126. The Attorney General shall, upon request
5 of the department, or a district attorney in the county
6 where such violation occurs may, or the aggrieved person
7 injured by such violation may, petition the superior court
8 to impose, assess, and recover such sums.

9 (b) If the district attorney brings such action, one-half
10 of the recovery shall be paid to the department to help
11 defray costs of administration of this chapter.

12 (c) In any action brought by an aggrieved person
13 injured by such violation, such sums shall be in addition
14 to actual damages, reasonable attorney's fees, and costs.
15 Any reasonable attorney's fees awarded shall not be
16 limited by, or determined by, the actual damages or civil
17 penalties imposed.

18 30130.7. (a) A person who fails to repair or complete
19 an installation of urea formaldehyde foam insulation in
20 violation of regulations promulgated pursuant to Section
21 30127 is subject to civil penalties as provided in
22 subdivision (b). Such civil penalties are recoverable by
23 the owner or purchaser of such installation from the
24 installer or manufacturer in addition to any other
25 remedy, if any, for breach of the installation contract and
26 shall also be in addition to reasonable attorney's fees and
27 costs. The civil penalties, attorney's fees, and costs
28 provided in this subdivision shall not be waived in any
29 installation contract and any clause in such contract
30 purporting to waive such penalties, fees, or costs is void.

31 (b) The civil penalties provided in subdivision (a)
32 shall be the greater of fifty dollars (\$50) per day or the
33 total actual, unallocated, or nonproportioned energy
34 costs for heating or cooling the residential or commercial
35 structure from the date the installer or manufacturer
36 demands the first payment until the requirements of the
37 regulations promulgated pursuant to Section 30127 are
38 satisfied.

39 30131. Any installer who installs urea formaldehyde
40 foam insulation within 20 days of delivery of an order

1 issued pursuant to Section 30129, shall conduct such
2 reasonable investigations as prescribed by the
3 commission. The manufacturer of the urea formaldehyde
4 foam insulation may conduct such investigations at the
5 request of, or on behalf of, its certified installers. Such
6 investigations shall not unreasonably interfere with the
7 quiet enjoyment of the premises; however, if the
8 consumer who complained refuses reasonable
9 investigation by the installer, or the manufacturer on
10 behalf of the installer, as determined by the commission,
11 the provisions of Section 30132 shall not apply.

12 30132. The installer and the manufacturer, subject to
13 an order delivered pursuant to the provisions of Section
14 30129, shall, on or before a date 20 days after delivery of
15 the order do either of the following:

16 (a) Undertake remedial action in substantial
17 compliance with Section 30134. A copy of the order shall
18 be sent to the license board and placed in the records file
19 of the installer and the manufacturer of the insulation.

20 (1) Upon completion, the commission shall dismiss the
21 complaint; however, the order shall become a matter of
22 public record.

23 (2) If the installer and the manufacturer fail to
24 respond to the remedy order, pursuant to the provisions
25 of Section 30129, such inaction shall be a matter of public
26 record. Such inaction also shall be the basis for license
27 revocation pursuant to subdivision (a) of Section 30139.

28 (b) File with the commission a denial of responsibility,
29 setting forth in detail the basis for such denial and the
30 results of its investigation.

31 30133. (a) Upon receipt of a denial pursuant to the
32 provisions of subdivision (b) of Section 30132, the
33 commission shall review the basis for denial and the
34 report of the results of the installer's investigation.

35 (b) Unless the commission concurs in the installer's
36 and manufacturer's report, within 10 days of the receipt
37 of such denial and report, the commission shall, at the
38 request of either the manufacturer or the installer, set the
39 matter for administrative hearing pursuant to the
40 provisions of Chapter 5 (commencing with Section

1 11500) of Part 1 of Division 3 of Title 2 of the Government
2 Code, and shall name the consumer who complained, the
3 installer, and the manufacturer as proper parties for such
4 hearing.

5 (c) The issues before the hearing officer shall be
6 limited to the following:

7 (1) Whether the installer installed the urea
8 formaldehyde foam insulation.

9 (2) Whether the manufacturer made the insulation
10 components.

11 (3) Whether the installation does not comply with the
12 formaldehyde emission requirements provided in
13 subdivision (a) of Section 30122.

14 (4) Whether the installed urea formaldehyde foam
15 insulation is the substantial cause of a consumer problem
16 as defined in Section 30108.

17 (d) (1) If all of the sufficient issues prescribed in
18 subdivision (c) are determined in the affirmative, the
19 installer and the manufacturer shall undertake remedial
20 action in compliance with the provisions of Section 30134
21 and are liable for the costs thereof, and shall pay the costs
22 of the administrative hearings.

23 (2) If either the installer is found to have installed the
24 insulation or the manufacturer's product is found to have
25 been used, and the installation does not comply with the
26 formaldehyde emission requirements, or is the cause of a
27 consumer problem as defined in Section 30108, the
28 installer or the manufacturer, as so found responsible,
29 shall undertake remedial action in compliance with the
30 provisions of Section 30134 and is liable for the costs
31 thereof, and shall pay the costs of the administrative
32 hearings. Upon compliance with the remedy order, the
33 commission shall dismiss the order; however, such order
34 shall become a matter of public record.

35 (3) If either the installer is found to have installed the
36 insulation or the manufacturer's product is found to have
37 been used, and neither installer nor manufacturer
38 undertake remedial action in compliance with the
39 provisions of Section 30134, the commission shall submit
40 a report on noncompliance to the board. Upon receipt of

1 such finding, the board shall revoke the license.

2 (4) If neither the installer or the manufacturer's
3 product is found responsible, or if the emission
4 requirements are not found to be exceeded, the
5 consumer shall be so notified, and costs of the hearing
6 shall be paid by the commission. Upon such finding the
7 complaint shall be dismissed; however, the report shall
8 become a matter of public record.

9 30134. (a) The installer, or the manufacturer on
10 behalf of the installer, shall remedy any installation of
11 urea formaldehyde foam insulation which fails to meet
12 the emission requirements of subdivision (a) of Section
13 30122, or is the substantial cause of a consumer problem
14 as defined in Section 30108 as needed in order to correct
15 the problem and shall provide any reasonable temporary
16 relocation expenses and assistance to the occupant during
17 such remedial actions. A copy of the abstract hearing and
18 orders shall be filed with the license board.

19 (b) Upon completion of such remedial action, the
20 installer, or the manufacturer on behalf of the installer,
21 shall notify the commission.

22 (c) The commission shall investigate the remedial
23 action and determine whether the remedial action
24 completed conforms to the requirements of this chapter,
25 and shall take such further action and issue such further
26 orders as it determines are necessary to provide such
27 compliance. A copy of the abstract hearing and orders
28 shall be filed with the license board.

29 (d) The commission shall survey every installation
30 made within the preceding six months by the installer to
31 determine if any other consumer problems exist.

32 30135. If the commission has not begun a hearing
33 pursuant to subdivision (b) of Section 30133 within 20
34 working days after the matter has been set, for reasons
35 other than at the request of the consumer, the consumer
36 may file a civil action in a court of competent jurisdiction.

37 30136. Any installer who fails to remedy a consumer
38 problem filed with the license board pursuant to the
39 provisions of subdivision (a) of Section 30132 or
40 subdivision (c) of Section 30134 shall not enter into any

1 further contracts to install urea formaldehyde foam
2 insulation and shall not perform any executory contracts
3 on which actual installation has not been commenced.
4 Subject to the provisions of Section 30138, if an installer
5 fails to remedy a consumer problem, the commission shall
6 notify the license board, and that board shall temporarily
7 suspend any license which authorizes contracts for
8 installation of urea formaldehyde foam insulation issued
9 to such installer.

10 30137. (a) Subject to the provisions of Section 30138,
11 any manufacturer who has been subject to two or more
12 orders to remedy a consumer problem pursuant to the
13 provisions of subdivision (a) of Section 30132 or
14 subdivision (c) of Section 30134 shall be placed on
15 probation for one year commencing on the date of the
16 later of the two orders, which probation shall be a public
17 record of the commission and the license board.

18 (b) Any manufacturer who is subject to any additional
19 order to remedy a consumer problem pursuant to the
20 provisions of subdivision (a) of Section 30132 or
21 subdivision (c) of Section 30134 while on probation shall
22 not sell or distribute any urea formaldehyde foam
23 insulation or component thereof in this state thereafter.

24 (c) (1) Any manufacturer who is prohibited from
25 selling or distributing urea formaldehyde foam insulation
26 pursuant to the provisions of subdivision (b), after a date
27 one year after the date of the additional order causing the
28 prohibition, may petition the commission for
29 reconsideration of the prohibition.

30 (2) The commission shall conduct a hearing, pursuant
31 to the provisions of Chapter 5 (commencing with Section
32 11500) of Part 1 of Division 3 of Title 2 of the Government
33 Code, on the petition for reconsideration, and may, upon
34 good cause shown, revoke or suspend the prohibition.

35 30138. Prior to making a determination pursuant to
36 Sections 30135 and 30136, the commission and the license
37 board, as appropriate, shall conduct a hearing pursuant to
38 the provisions of Chapter 5 (commencing with Section
39 11500) of Part 1 of Division 3 of Title 2 of the Government
40 Code.

1 30139. An installer or a manufacturer who causes any
2 unreasonable delay or failure to remedy a consumer
3 problem required pursuant to the provisions of this
4 article shall be liable for civil penalties not to exceed the
5 sum of five thousand dollars (\$5,000) for each such
6 consumer problem.

7 30140. The alternative remedies provided in this
8 chapter for correction of consumer problems are
9 cumulative and not exclusive and are in addition to any
10 other rights or remedies provided by law.

11 30141. In any action brought by a consumer injured
12 by a violation of the provisions of this chapter, the civil
13 penalties provided in Section 30136 shall be in addition to
14 actual damages, reasonable attorney's fees, and costs. Any
15 reasonable attorney's fees awarded shall not be limited
16 by, or determined by, the actual damages or civil
17 penalties imposed.

18 SEC. 2. No appropriation is made and no
19 reimbursement is required by this act pursuant to Section
20 6 of Article XIII B of the California Constitution or
21 Section 2231 or 2234 of the Revenue and Taxation Code
22 because the only costs which may be incurred by a local
23 agency or school district will be incurred because this act
24 creates a new crime or infraction, changes the definition
25 of a crime or infraction, changes the penalty for a crime
26 or infraction, or eliminates a crime or infraction.

EXHIBIT E

PRESENTATION PREPARED BY

**Recreation Vehicle Industry Association
14550 Lee Road
Chantilly, Virginia 22021**

**Submitted to
SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES
STATE OF NEVADA**

**ON
SB. 370**

**Date Presented
March 16, 1981**

CHAIRMAN NEAL, MEMBERS OF THE COMMITTEE:

MY NAME IS PETER TAKEDA AND I AM THE DIRECTOR OF MEMBERSHIP SERVICES & SHOWS FOR THE RECREATION VEHICLE INDUSTRY ASSOCIATION. THE RVIA IS A NATIONAL NON-PROFIT TRADE ASSOCIATION WHICH REPRESENTS OVER 100 MANUFACTURERS AND 200 COMPONENT SUPPLIERS WHO PRODUCE AMERICA'S FAMILY CAMPING VEHICLES. OUR MEMBERS PRODUCE OVER 95% OF THE RECREATION VEHICLES SOLD IN THE UNITED STATES. THEREFORE, WE FEEL THAT WE CAN SPEAK FOR THE ENTIRE RV INDUSTRY.

MY PURPOSE HERE TODAY IS TO SPEAK IN OPPOSITION TO SB 370 AS INTRODUCED ON MARCH 5 BY SENATOR FAISS. WE FEEL THAT THIS EFFORT BY THE SENATOR WAS FOUNDED ON GOOD INTENTIONS, BUT IF PASSED AS DRAFTED WOULD VIRTUALLY ELIMINATE THE RV INDUSTRY AND RELATED INDUSTRIES SUCH AS MANUFACTURED HOUSING AND FACTORY-BUILT BUILDINGS FROM THE STATE OF NEVADA. THIS DEVELOPMENT WOULD CAUSE THE LOSS OF HUNDREDS OF DEALERS AND RELATED JOBS AND UNNECESSARILY PENALIZE THE CITIZENS OF THIS STATE BY ELIMINATING ANY OPPORTUNITY THEY MIGHT HAVE TO ENJOY THE BENEFITS OF FAMILY CAMPING IN A TRAVEL TRAILER.

SENATE BILL 370, AS I UNDERSTAND IT, WOULD PROHIBIT THE DIVISION FROM ISSUING A CERTIFICATE OF COMPLIANCE OR LABEL OF COMPLIANCE FOR MOBILE HOMES OR TRAVEL TRAILERS WHICH CONTAIN MATERIALS MADE WITH UREA FORMALDEHYDE UNTIL THE STATE HEALTH OFFICER HAS DETERMINED THAT SUCH USE IS NOT DANGEROUS TO HUMAN HEALTH OR LIFE. BANNING A SUBSTANCE SUCH AS UREA FORMALDEHYDE IS NOT

EASILY ACCOMPLISHED UNLESS THE STATE OF NEVADA IS READY TO BAN A LONG LIST OF BUILDING PRODUCTS SUCH AS PAINTS, DYES, ADHESIVES, PARTICLE BOARD, FLOOR COVERINGS. ACTUALLY IT WOULD BE EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO BUILD A TRAVEL TRAILER WITHOUT USING A SINGLE MATERIAL CONTAINING UREA FORMALDEHYDE.

IN FACT, LIFE WITHOUT PRODUCTS MADE WITH FORMALDEHYDE WOULD BE UNTHINKABLE FOR MOST AMERICANS. FORMALDEHYDE IS NOT A NEW CHEMICAL. IT HAS BEEN USED AS FAR BACK AS 1909. ALTHOUGH POPULARLY KNOWN ONLY IN ASSOCIATION WITH THE EMBALMING PROCESS, FORMALDEHYDE IS EXTENSIVELY UTILIZED TODAY AS A BASIC CHEMICAL BUILDING BLOCK IN MODERN TECHNOLOGY.

FORMALDEHYDE HAS ENJOYED WIDE INDUSTRIAL USAGE AS A PART OF FUNGICIDES, GERMICIDES AND DISINFECTANTS. IT IS USED IN ARTIFICIAL SILK, LATEX, LEATHER TANNING, PHOTOGRAPHY, AND RUBBER PRODUCTS. IN THE HOME ENVIRONMENT, IN ADDITION TO ANY INDUSTRIAL END PRODUCTS WHICH MAY BE PRESENT, FORMALDEHYDE IS FOUND IN COSMETICS, SHampoos, DEODORANTS, DISINFECTANTS, STARCHES, PERMANENT PRESS CLOTHING.

THE LIST I JUST MENTIONED IS NOT ALL INCLUSIVE BY ANY MEANS, BUT DEMONSTRATES THE CONVENIENCE, AND EVEN THE NECESSITY, OF FORMALDEHYDE USE. NOW YOU MIGHT ASK YOURSELVES WHY FORMALDEHYDE MUST BE USED. IT IS A GENERALLY ACCEPTED FACT THAT THERE IS NO PRACTICAL, ECONOMICAL ALTERNATIVE TO FORMALDEHYDE IN MOST OF THE CHEMICAL'S PRESENT APPLICATIONS.

RYIA'S SECOND MAIN OBJECTION TO THIS PARTICULAR LEGISLATION IS PROCEDURAL, QUITE APART FROM OUR INITIAL SUBSTANTIVE

OBJECTION. THE CALL FOR THE STUDY MANDATED IN SECTION 4 SEEMS TO BE PROMPTED BY THE MISTAKEN IMPRESSION THAT FORMALDEHYDE IS DANGEROUS TO HEALTH. IN OTHER WORDS, FORMALDEHYDE IS GUILTY UNTIL PROVEN INNOCENT UNDER THE PROVISIONS OF THIS BILL. I REALLY DON'T THINK THAT I HAVE TO BELABOR THIS CONTRADICTION OF TRADITIONAL AMERICAN JURISPRUDENCE.

WHERE HEALTH IS THREATENED, THE GOVERNMENT SHOULD TAKE STRONG ACTION, BUT THE PRESENCE OF UREA FORMALDEHYDE HAS NOT BEEN SHOWN TO BE A HEALTH HAZARD. THE SPONSOR OF THIS BILL MAY HAVE BEEN MOTIVATED BY THE CONTROVERSY SURROUNDING UREA FORMALDEHYDE FOAM INSULATION (UFFI) WHICH HAS RECENTLY BEEN NOTED IN THE PRESS AND IN OTHER STATE LEGISLATURES. THE DISTINCTION SHOULD BE MADE HERE BETWEEN A SINGLE PRODUCT, UFFI, AND A BAN ON ALL MATERIALS CONTAINING THE CHEMICAL FORMALDEHYDE.

ADDITIONALLY, IT IS UNUSUAL THAT TRAVEL TRAILERS ARE INCLUDED IN THIS BILL AT ALL, GIVEN THEIR TRADITIONAL USE. THE PRESENCE OF FREE OR AIRBORNE FORMALDEHYDE IN A TRAVEL TRAILER (OR FOR THAT MATTER IN ANY CONFINED SPACE) IS DIRECTLY RELATED TO THE TEMPERATURE OF THE AREA IN QUESTION AND THE INFILTRATION OF AIR FROM THE OUTSIDE. THUS, A HIGHER TEMPERATURE AND/OR A STAGNANT AREA WILL ALL WORK TO CONTRIBUTE TO AN INCREASED LEVEL OF FREE FORMALDEHYDE WITH ALL OTHER FACTORS REMAINING EQUAL.

A TRAVEL TRAILER OWNER WILL USUALLY NOTICE THE PRESENCE OF FREE FORMALDEHYDE IN THE UNIT WHICH HAS BEEN SEALED AIRTIGHT FOR STORAGE. USUALLY, THE UNIT IS STORED IN THE DIRECT SUNLIGHT.

AND THE INTERIOR TEMPERATURE CAN EASILY REACH 200°. THE TRAVEL TRAILER, HOWEVER, WILL NEVER BE USED IN THIS CONDITION. NO ONE WANTS TO SPEND A CAMPING EXPERIENCE IN AN AIRTIGHT OVEN.

TRAVEL TRAILERS ARE PRIMARILY USED AS A TEMPORARY RESIDENCE IN CONJUNCTION WITH FAMILY VACATIONS OR WEEK-END TRIPS. DURING THIS USAGE, THE TRAVEL TRAILER IS TOWED TO A LOCATION SUCH AS AN RV CAMPGROUND AND PLACED IN THE SHADE. MOST WINDOWS, DOORS, AND ROOF VENTS ARE THEN OPENED TO ALLOW THE FRESH AIR TO FLOW INSIDE. --- AFTER ALL, ONE OF THE REASONS FOR CAMPING'S GREAT POPULARITY IS THE FRESH CLEAR AIR AND AN INVIGORATING ESCAPE FROM THE CONFINES OF ONE'S NORMAL RESIDENCE.

THE ASSOCIATION'S THIRD MAIN OBJECTION TO S.B. 370 FOLLOWS FROM THE FIRST TWO. AN ACTION BY AN ARM OF GOVERNMENT, SUCH AS THE INTRODUCTION OF A BILL INTO A STATE LEGISLATURE, IS GIVEN GREAT CREDENCE BY THE GENERAL PUBLIC. THEREFORE, IT IS GOVERNMENT'S RESPONSIBILITY TO CONSIDER ALL THE IMPLICATIONS OF AN ACTION. IN THIS PARTICULAR CASE, THE IMPLICATIONS OF SENATE BILL 370 COULD BE QUITE DAMAGING TO SEVERAL INDUSTRIES EVEN IF THE MEASURE NEVER REACHES THE SENATE FLOOR. A QUICKLY READ NEWS ITEM MIGHT LEAD SOMEONE TO BELIEVE THAT TRAVEL TRAILERS CONTAIN A SUBSTANCE WHICH IS HARMFUL. A SERIES OF EVENTS LIKE THIS COULD SERIOUSLY DAMAGE SALES OF A PRODUCT WHICH WILL BE SHOWN TO BE WITHOUT RISK FROM FORMALDEHYDE. A BOYCOTT OF OUR PRODUCTS RESULTING FROM AN ILL-CONCEIVED LEGISLATIVE EFFORT COULD APPROXIMATE THE ADVERSE EFFECTS OF THE PROPOSED WEEK-END GASOLINE BAN. S.B. 370 WILL LIVE ON LONG AFTER YOU ACT. IT MAY JUST BE A

DOWNTICK IN OUR SALES CHARTS OR IT MAY BE THE ELIMINATION OF NEVADA AS A MARKET FOR TRAVEL TRAILERS.

THE RECREATION VEHICLE INDUSTRY ASSOCIATION ASKS THAT THIS COMMITTEE CONSIDER OUR COMMENTS IN OPPOSITION TO S.B. 370.

WE FURTHER ASK THAT RVIA BE KEPT APPRISED OF THE STATUS OF S.B. 370, AND BE GIVEN THE OPPORTUNITY TO COMMENT AGAIN IF FURTHER ACTION IS CONSIDERED.

FINALLY, WE URGE THE MEMBERS OF THE COMMITTEE TO VOTE AGAINST REPORTING THIS BILL TO THE FULL SENATE.

MEMBERS OF THE COMMITTEE, I THANK YOU FOR YOUR ATTENTION. I WILL TRY TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

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