



*Your Essential
Connection*

February 6, 2003

Representative Chris Kolb
Michigan House of Representatives
P.O. Box 30014
State Capitol
Lansing, MI 48909-7514

Via E-Mail: chriskolb@house.mi.gov

Dear Representative Kolb:

On behalf of the American Industrial Hygiene Association (AIHA) I would like to comment on Michigan House Bill 4094, a bill introduced by you that creates the “toxic mold protection act”.

AIHA members in Michigan and around the country share your interest and commitment to address an issue that has received high-profile media attention, considerable litigation nationwide, and impacts the health of countless individuals. In 2002, nearly a dozen states considered legislation to address this issue. While few bills were enacted, we suspect that this year we will see as many, if not more, measures introduced. Already, six states have introduced legislation addressing this issue.

I am sure you are aware of the federal interest in this issue, with legislation introduced by Michigan Rep. John Conyers in the last session of Congress. AIHA has met with Rep. Conyers’ staff on numerous occasions and is working with them on reintroduction of this legislation in the 108th Congress.

Founded in 1939, the American Industrial Hygiene Association is the premier association of occupational and environmental health and safety professionals. AIHA’s 12,000 members play a crucial role on the front line of worker health and safety everyday. Members represent a cross-section of industry, private business, labor, academia, and government.

The key role of AIHA members in our society is protecting individuals from exposure to hazardous substances, (i.e., lead, asbestos, noise, radiation, biological chemicals) including exposure to fungi and other potentially hazardous microorganisms, commonly referred to as “mold”.

AIHA

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AIHA and our members are in favor of any legislation or regulation that would assist in addressing the issue of mold. However, one of the concerns we have is that many policy makers are considering the issue on such a fast pace that adequate language is not being used that would provide the utmost protection for everyone involved. We ask that you be very careful when enacting legislation that may be difficult to enforce because of a lack of adequate science and research. Convening a task force to advise the department is the proper approach to this issue and AIHA commends you for this approach.

I feel it is also important to provide you with the views of AIHA on the issue of mold, as well as our thoughts on any legislation and/or regulations that might be considered to address this issue:

AIHA does not believe it is possible to define or set permissible exposure levels for mold.

With the current science, AIHA does not believe it is possible for any single study to ascertain levels of exposure to mold or their products that may be harmful to human health. It is virtually impossible to specify levels at which the many different kinds of mold may be considered “toxic.”

As stated by Dr. Stephen Redd from the Centers for Disease Control in recent testimony before a U.S. House of Representatives oversight committee hearing on the issue of mold, “There are no accepted standards for mold sampling environments or for analyzing and interpreting the data in terms of human health. Molds are ubiquitous in the environment, and can be found almost anywhere samples are taken. It is not known, however, what quantity of mold is acceptable in indoor environments with respect to health. For these reasons, and because individuals have different sensitivities to molds, setting standards and guidelines for indoor mold exposure levels is difficult and may not be practical.” Therefore, AIHA believes other, more appropriate performance measures will need to be explored.

As to some of the specifics of your bill, House Bill 4094, AIHA has the following comments:

AIHA is pleased that you recognize the importance of national or international entities with expertise on public health, mold identification and remediation, or environmental health. Your inclusion of the American Industrial Hygiene Association and the American Conference of Governmental Industrial Hygienists as “authoritative bodies” assures the public that these entities have the necessary expertise.

AIHA is supportive of your inclusion of a Certified Industrial Hygienist (CIH) under the “definitions” and is supportive of the inclusion of a CIH on the task force that is to be created. Inclusion of a CIH is not unprecedented, as several other states have included the same language; as well as the fact that the task force compiling the California report on mold includes three AIHA members.

AIHA is concerned that the language in the bill specifies that the department shall adopt permissible exposure limits for mold. As stated earlier, AIHA does not believe it is possible to define or set permissible exposure limits for mold without additional research. I would recommend that this language be changed (in several sections of the bill) to state that the department, in consultation with the task force shall “consider the feasibility of adopting permissible exposure limits to mold”. At the present time, no federal, state or local entity has determined a proper exposure limit to mold.

AIHA is concerned about standards for individuals involved with inspection, assessment, analysis and remediation of mold. This, of course, is of great concern to everyone involved with the issue. AIHA supports efforts to assure that individuals are properly educated and trained in the occupational and environmental hazards of mold.

House Bill 4094 does not specifically address the qualifications of individuals involved in inspection and/or remediation of mold. However, AIHA recommends that perhaps you consider strengthening the bill with inclusion of at least minimum standards of competency.

A significant portion of our membership is comprised of certified industrial hygienists. Certified industrial hygienists (CIH) are one of the leading professional disciplines currently qualified and capable of inspecting and remediating mold, as recognized by you when including the definition of a CIH and including a CIH on the task force. A CIH has *already* met stringent education and experience requirements in order to become certified.

While AIHA is not opposed to standards that allow other individuals to become involved in mold inspection and remediation through training and examination, we believe any legislation or regulation needs to recognize those individuals already deemed qualified, such as certified industrial hygienists.

AIHA would support providing the department with the authority to adopt rules to effect reciprocity agreements with other states with similar programs. This recommendation is being considered in other states and would put you ahead of many other jurisdictions in assuring competency, yet providing for government coordination of rules and regulations. One needn't go back too far in time to see the problems encountered by numerous states that did not enact reciprocity agreements when dealing with issues such as lead and asbestos.

Need for accredited laboratories to analyze mold samples. One of the requirements to address the potentially harmful effects of mold contamination is to identify the type of mold and the level of exposure. As stated earlier, AIHA does not believe that with the current science available it is possible to set minimum exposure levels. If sampling is conducted to identify the mold or assess potential mold exposures or other issues (or in research), AIHA feels it is advisable that only qualified laboratories should be used to correctly analyze samples collected as part of the investigation process.

This recommendation comes with substantial previous interest and involvement on both the state and federal levels. The OSHA guidelines on mold in the workplace contain specific language that refers to the use of qualified laboratories. The OSHA language states, “The American Industrial Hygiene Association offers accreditation to microbial laboratories (Environmental Microbiology Laboratory Accreditation Program (EMLAP)). Accredited laboratories must participate in quarterly proficiency testing (Environmental Microbiology Proficiency Analytical Testing Program (EMPAT))”. This identical language appears in the New York City Department of Health guidelines on mold and the Environmental Protection Agency guide on indoor air quality suggests that “sample analysis should follow analytical methods recommended by the American Industrial Hygiene Association, the American Conference of Governmental Industrial Hygienists, or other professional guidelines”.

House Bill 4094 does not specifically address this issue, but does mention “assessment standards” in several sections. If this suggestion were considered AIHA would be pleased to provide you with the proper language to be used.

In conclusion, AIHA shares your concern about the potentially harmful effects microbial growth may have on the health of students in our public schools and other exposed individuals. We hope our suggestions and recommendations are helpful in your efforts to address this concern. AIHA will continue to push for legislation and/or regulations that include “good science” and do whatever is possible to see that workers and others are protected.

Should you have any questions or need additional information regarding AIHA’s expertise and interest in this area, please do not hesitate to contact me. I am sure that members of our local sections in Michigan will also be in touch with you regarding this legislation. I have also taken the liberty to see that a copy of AIHA’s brochure “The Facts About Mold” is sent to you.

Sincerely,

(signature)

Aaron K. Trippler

Aaron K. Trippler
Director, Government Affairs

cc: Michigan Local Section Officers
Steven Davis, AIHA Executive Director