

# **Testimony from Jonathan Byrd: MI Laborers District Council**

## **RE: HB 5046-5051**

Let me first start by thanking Chairman Howell and the House Natural Resources and Outdoor Recreation Committee for allowing me to discuss the proposed legislation regarding asbestos abatement in the construction industry.

My name is Jonathan Byrd, and I am the Director of External Affairs for the Michigan Laborers District Council, which includes seven local unions that represent all 83 counties in Michigan.

Joining me is Jeff "Wilee" Smrz, the Site Manager for the St. Joseph Center of the Michigan Laborers Training and Apprenticeship Institute and an expert in the area of abating hazardous asbestos.

In principle, and substantially by detail, the Michigan Laborers District Council, and the 13,000 Union Construction Laborers we represent, supports in concept House Bills 5046-5051, which updates laws impacting asbestos abatement.

As a general principle, the Michigan Laborers believe that this proposed legislation takes proactive steps to protect the public and individuals construction workers impacted by the asbestos abatement industry.

As it relates specifically to the proposed bill package, the Michigan Laborers would recommend the creation of a work group of industry leaders to discuss additional changes and updates to the current law.

Our Union takes great pride in being a trade that provides state-of-the-art training to all our Members. Our Training Fund spends millions of dollars every year, at no cost to the State, to ensure that a highly-skilled workforce is available to our signatory contractors. Our Union trains asbestos workers on a monthly basis and to-date has trained over 5000 Michigan workers for Asbestos Supervisor. We are consistently ready and willing to meet the needs of the industry.

Unfortunately, bad actors are prevalent in the asbestos abatement industry. I've attached to my testimony a recent example of an asbestos contractor in DeWitt putting the public in danger by not properly abating asbestos in an elementary school. We applaud the committee again for taking up this important issue.

Working in the construction industry is far different than other sectors of the economy. While we applaud the committee's efforts to go after bad contractors and owners in the abatement industry, we also want to recommend a system of penalties for asbestos workers and supervisors who knowingly put the public at risk. This system could be demerit-based similar to a driver's license and require additional training and penalties for repeat offenders.

Simply put, the Michigan Laborers believe that this legislation is a positive step toward making the asbestos abatement industry safer for the general public and the Laborers performing the work.

I would like to again thank the committee for allowing me to address this issue. On behalf of the Michigan Laborers and all skilled construction workers in this State, I thank you all for your interest and look forward to providing our expertise on this issue.

We are available to answer any questions that the committee may have.

Attached: Lyons, Craig. "Contractor Fined \$15k for asbestos release at DeWitt Elementary School." Lansing State Journal. October 17<sup>th</sup>, 2019



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# Contractor fined \$15K for asbestos release at DeWitt elementary school

Craig Lyons, Lansing State Journal Published 10:00 p.m. ET Oct. 17, 2019



David Scott Elementary School in DeWitt. State environmental regulators fined a contractor overseeing renovations \$15,000 for an asbestos release. (Photo: Craig Lyons)

DEWITT – Michigan regulators fined a contractor overseeing renovations at a DeWitt elementary school \$15,000 for exposing asbestos in the building.

Skillman Corp., based in Indianapolis, agreed to pay the fine to settle violations of air quality laws when workers disturbed asbestos and left it exposed during renovations at David Scott Elementary School in DeWitt this summer. The Michigan Department of Environment, Great Lakes and Energy said Skillman failed to notify the state that asbestos would be removed and did not properly handle the material.

The Michigan Occupational Safety and Health Administration still is investigating the asbestos removal.

“(The asbestos) was cleaned up long before school was ready to start,” DeWitt Superintendent John Deiter said.

This summer’s renovation work was part of district-wide improvements to school buildings. Skillman Corp. was the project’s construction manager and the district hired other firms for individual projects.

The asbestos release was no fault of DeWitt Public Schools, Deiter said, adding it was “human error” by a contractor.

Skillman Corp. did not respond to a request for comment.

## Inspectors find multiple violations at school

When EGLE inspectors went to the school on July 9, they found a heap of dry asbestos tiles covered by a sheet of plastic. Inspectors found potentially contaminated material in the lunchroom, on construction equipment and in a waste container.

The violations EGLE found during a July 9 inspection of the school included:

- No notice of intent to remove asbestos materials.
- No water was used while the asbestos material was removed.
- The removed tile was not properly contained.
- The tile was dry during the inspection.
- The tile remained on site during the inspection.

Once EGLE finds a violation of environmental regulations, companies get a chance to respond and explain how they will comply, said Chris Ethridge, of EGLE's air quality division. He said violations or compliance problems are usually resolved at that point.

Repeated violations, the severity of a violation, negligence or "if violations are particularly egregious" could trigger a complaint going to EGLE's enforcement division.

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"There's a lot of things we take into account," Ethridge said.

## Asbestos hidden by layer of tile

A plumbing contractor on June 24 first found the 9-by-9-inch asbestos tiles hidden beneath a layer of 12-by-12-inch tiles when a slab of concrete was removed, state records said. The plumbing contractor told EGLE the environmental evaluation did not say the asbestos floor tile was there.

A test confirmed the tiles contained asbestos, state records said.

Tiles pulled up with the concrete slab were hauled away before being tested for asbestos, records said.

An environmental contractor advised Skillman that a 10-day notice to the state was needed and protective measures to contain any asbestos had to be in place when it was removed.

By then it was July 3. Workers had moved to other parts of the building to avoid any asbestos.

## Fingers pointed over who dug up asbestos tile

When work stopped for the July 4th holiday weekend, the bulk of the asbestos tile remained in place. That had changed by the morning of July 8.

During the work break, someone went into the school, removed the asbestos tile and left it piled in an office area, state records said. Renovation work stopped at the school because of the asbestos releases.

A contractor told Skillman officials and the school that one of Skillman's employees had removed the tile during the holiday weekend.

"There is no unequivocal proof" that a Skillman employee removed the tile, Deiter told state regulators, but the Skillman site manager did access the building during the holiday weekend.

"We are aware of no evidence that any other individual removed the tiles," Deiter told EGLE.

Skillman's employee "maintains that he did not remove any tile containing asbestos," Patrick Porteus, a Skillman vice president, said in a letter to EGLE.

Skillman removed the project superintendent from the site until MIOSHA completed its investigation at the request of the school, Porteus said.

"In the meantime, a building cleaning plan has been implemented and completed to clean the building of possible ACM (asbestos containing material)," Porteus told state regulators in July.

## Skillman still on site as renovations wind down

Skillman still is working on the district-wide renovations, Deiter said. He said an office addition at the high school should open next week and small aesthetic work is what's left.

"They're going to finish the job," Deiter said.

The school plans to recoup added costs from the asbestos exposure from Skillman, Deiter said. Skillman told EGLE the district is asking for \$186,000 for overtime and clean-up costs.

"We're still trying to get that resolved," Deiter said.

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