



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

June 1, 1988

Honorable Brad Wright, Chairman
Public Health Committee
Texas House of Representatives
P. O. Box 2910
Austin, Texas 78769

LO-88-63

Dear Representative Wright:

By letter of October 23, 1987, you asked two questions about House Bill No. 36 of the 70th Legislature, which relates to the regulation of persons engaged in removing asbestos from public buildings or encapsulating that asbestos. I apologize for the delay in answering it.

House Bill No. 36, codified as article 4477-3a, V.T.C.S., requires a license to remove or encapsulate asbestos from public schools. V.T.C.S. art. 4477-3a, §2. The Texas Board of Health is charged with administering the statute and is required to adopt rules to carry out the act. Id. §11(a). The Texas Department of Health is required to appoint an advisory committee to advise the department "concerning rules, fee, courses of instruction, and any other topics the department considers necessary to administer this Act." Id. §12. You set out facts about the approval of rules for publication in the Texas Register and appointment of the advisory committee. You then ask the following two questions:

1. Do the proposed rules follow the intent of House Bill No. 36? Do the rules overstep the bounds of legislative intent?
2. Has proper public input been allowed for in the public hearing process?

These are questions which cannot be definitively answered in the opinion process. Although this office has reviewed adopted administrative rules that implement a narrow provision of law or that apply to a particular narrow fact situation, we do not review a group of proposed rules in the abstract. Question two involves the investigation and resolution of fact questions, which cannot be done by

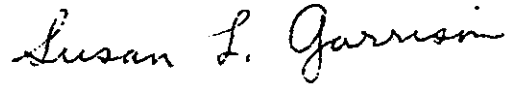
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Attorney General Opinion. If you have a more specific question about a particular rule please let us know, and we will attempt to deal with it in a more speedy manner than your present letter.

Yours very truly,

A handwritten signature in cursive script that reads "Susan L. Garrison".

Susan L. Garrison
Assistant Attorney General
Opinion Committee

SIG/er

#2375

cc: Department of Health