

Congress of the United States

Washington, DC 20515

CP99-2

PETITION

July 23, 1999

Office of the Secretary
Consumer Product Safety Commission (CPSC)
Washington, DC 20207

Dear CPSC Members:

We are writing to petition the Consumer Product Safety Commission to issue national safety standards for bleacher and grandstand facilities.

As you may know, in Minnesota there have been numerous recent injuries to children at basketball and hockey arenas resulting from falls between the gaps of bleacher seats and guardrails. In January 1999, a 6-year-old boy was fatally injured when he fell through a 13-inch gap between the footboard and seat at a community sports arena. Safety officials have recently indicated that they are aware of over 50 recent bleacher accidents in the Minnesota and Wisconsin area.

There is no accurate inventory of how many older, potentially dangerous bleachers are in use throughout the country. Most of these facilities were built years ago before building codes adopted standards for bleacher construction. Many state and local governments have begun to address this issue by strengthening existing building codes and creating programs that allow schools and communities to access funds to retrofit older facilities to minimize accidents. However, many communities are either not bound by building code standards or are legally able to opt out of any standards proposed at the state level. Uniform national standards would help efforts at the state and local level to prevent children and adults from being injured or killed due to poorly designed or out of date bleacher facilities. We believe that any national standard should include minimum spacing requirements for gaps between bleacher guardrails and between the seats and footboards for new construction, side and back safety features, and guidelines for the retrofitting of older facilities.

Sporting events are central to so many family and community activities. We all agree that parents need to be watchful of their kids whether at an arena or playing in the park. But there are further things we can do to help keep kids safe by making sure that sporting facilities are not dangerous places for children.

Along with this petition for rulemaking, we have introduced legislation in the House, H.R. 836, The Bleacher Safety Act, asking the CPSC to promulgate bleacher safety standards within 6 months of the bill's passage. While we will continue to pursue strengthening safety

CPSC/OFFICE OF
THE SECRETARY

1999 JUL 30 P 2: 27

8/10/99

CPSA 6 (b)(1) Cleared

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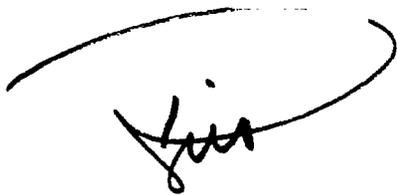
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standards legislatively we believe it is within the jurisdiction of the CPSC to act expeditiously to establish safe bleacher standards.

For your information, we have enclosed numerous news articles describing recent bleacher accidents and highlighting the need for these facilities to be modernized and a copy of a recent law enacted by the Minnesota legislature. If you have any questions about our rulemaking petition, please contact Steven Heuer in Rep. Luther's office at 202/225-2271. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Luther", with a large, sweeping flourish above it.

Bill Luther
Member of Congress

A handwritten signature in black ink, appearing to read "Jim Ramstad", with a large, sweeping flourish above it.

Jim Ramstad
Member of Congress

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Bleacher Safety Act of 1999 (Introduced in the House)

HR 836 IH

106th CONGRESS

1st Session

H. R. 836

To authorize the Consumer Product Safety Commission to issue a standard for bleacher safety.

IN THE HOUSE OF REPRESENTATIVES

February 24, 1999

Mr. LUTHER (for himself and Mr. RAMSTAD) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To authorize the Consumer Product Safety Commission to issue a standard for bleacher safety.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Bleacher Safety Act of 1999'.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Many bleachers and grandstand facilities in the United States do not pass current State and local building code standards.

(2) Infants and children have been injured and killed in recent years by falling between bleacher guardrails and gaps between seats. Injuries have also occurred because older bleacher facilities do not have back and side barriers which prevent children from climbing or falling off the structure.

- (3) Many of the nation's bleacher systems are older units and may be structurally unsound thereby increasing the possibility of collapse. State and local governments should provide for the regular inspections of such facilities to ensure their structural integrity.
- (4) As a result of these accidents, the International Code Council is currently working on a proposed uniform International Building Code and has included provisions in its initial draft requiring gaps between the seat and footboard in bleachers and grandstand facilities to be no greater than 4 inches.
- (5) In Minnesota, the State Department of Administration has recognized the seriousness of this problem and issued bulletins to 500 local governments urging them to assess the safety of bleachers and grandstand facilities in their jurisdiction.
- (6) It is appropriate for the Congress to provide for national standards for the manufacture and retrofitting of bleachers and grandstand facilities.
- (7) The regulatory expertise of the Consumer Product Safety Commission should be used to issue and implement bleacher safety standards.

SEC. 3. BLEACHER SAFETY STANDARD.

(a) **IN GENERAL-** Not later than 6 months after the date of the enactment of this Act, the Consumer Product Safety Commission shall by rule issue a bleacher safety standard for the production, erection, and retrofitting of bleacher and grandstand facilities to reduce the risk of children falling between guardrails and gaps in the seats of bleachers and grandstand facilities. Such standard shall be issued in accordance with the procedures specified in section 9 of the Consumer Product Safety Act (15 U.S.C. 2058). The Commission shall have the inspection and recordkeeping authority authorized by section 16 of such Act (15 U.S.C. 2065) and a violation of the standard shall be considered a violation of section 19 of such Act (15 U.S.C. 2068) for which the civil penalties of section 20 (15 U.S.C. 2069) may be imposed.

(b) **CONSULTATION-** In establishing a bleacher safety standard under subsection (a), the Commission shall consult with the Injury Center at the Centers for Disease Control and Prevention upon completion of its current study to determine the national scope of bleacher injuries.

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Bill Summary & Status for the 106th Congress

Item 1 of 382

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H.R.836

SPONSOR: Rep Luther. Bill (introduced 02/24/99)

STATUS: Detailed Legislative Status

House Actions

Feb 24, 99:

Referred to the House Committee on Commerce.

Mar 11, 99:

Referred to the Subcommittee on Telecommunications, Trade, and Consumer Protection.



JEAN PIERI/PIONEER PRESS

gene Andreotti on Tuesday in the Gov-
also swore in the two newest Minneso-

on first day

health insurance program, he said,
mon pushes prices down — not social-
monopolizing."

by another caller what he would do
lessness, Ventura said. "We have
don't we?" He said he is equally con-
out taxpayers, and thinks "there are
le that choose to be homeless."

ments reflect the libertarian, anti-
streak in Ventura's philosophy. He
tently encouraged Minnesotans to
their own resources and initiative,
questioned the need for such programs
are subsidies and higher education

FIRST DAY CONTINUED ON 3C ▶

6-year-old boy falls through bleachers, dies from injuries

■ Family from Mound was attending
youth hockey game in Hutchinson

ROBERT F. MOORE STAFF WRITER

Parents who send their children off to play youth hockey usu-
ally worry about them getting hurt on the ice, not in the stands.

But after a 6-year-old Mound boy fell through a gap in the
bleachers Sunday and died from head injuries, parents may
have new cause for concern.

"The remarkable
thing is that it hasn't
happened more frequent-
ly," said Roderick Cos-
griff, a parent of one of
the players in the league
run by the Mound-West-
onka Hockey Association.

Toby Lee fell about 8
to 10 feet from the
wooden bleachers at
Hutchinson Civic Arena
at about 6 p.m. Sunday
just before the start of
his 11-year-old brother's
hockey game, witnesses
said.

The boys' father,
Randy Lee, is the team
coach.

Two volunteer fire-
fighters, both of whom
came to watch their
children play in the
game, rushed beneath
the bleachers after the
boy's mother, Kristin
Lee, looked around and
screamed in a panic:
"Where's Toby?"

Witnesses said the boy
appeared to lose con-
sciousness for several
minutes, as he lay on the
concrete floor, surround-
ed by his parents and
others. Onlookers were encouraged when the boy screamed in
pain.

"Everyone, including the parents, was relieved when he came
to," said Cosgriff, appointed as the family's spokesman Tuesday.
"A stream of parents went to the hospital, but most of us really



Toby Lee wears his hockey uniform
in this undated family photograph.
The 6-year-old Mound boy died Sun-
day after falling through bleachers
at a hockey game in Hutchinson,
where his 11-year-old brother's
team was playing.

TOBY CONTINUED ON 4C ▶

able to that of amphetamines lasts up to 24 hours. After it is harvested, it is often

trolled delivery.

When two men — Abdirisak and Abdrahman — arrived to pick up

safety and government in Dakota County, can be reached at jmcmenamin@pioneerpress.com or (651) 228-2172.

charges unfire case

shooting Sunday evening. The showed a man placing something behind the gate of a closed area. Police identified the man as Delacruz-Camarillo and found a bag of crack-cocaine behind the gate, according to a criminal complaint filed Tuesday in Hennepin County Court.

One person was injured when several shots were fired just after 7 p.m. Sunday on the second floor of the north end of the mall.

Police do not believe Delacruz-Camarillo was the gunman, but think someone in the group he was with was the shooter's target, said Detective Mark Elliott of the Moundville Police Department. Police were continuing to interview several witnesses Tuesday. I believe eight to 12 people were involved in the dispute that led to gunfire, Elliott said.

and some very brutal. Although last winter was easy, the winter before that was an ordeal with much snow and cold.

and the winter of 1995-96 had some incredibly cold days, including one with a high of 17-below on Feb. 2. That was the day that recorded the 60-below reading in northern Minnesota, the lowest ever recorded in the state.

we've grown accustomed to winter now for a while, and 1998 was the third-warmest year on record in the Twin Cities. The coldest winter was 1931, and the second-warmest was 1987.

Gardner can be reached at wgardner@pioneerpress.com or (651) 228-5461.

TOBY

▼ CONTINUED FROM 1C

thought he was going to be all right."

The game continued. Lee's team, coached by two assistants, won the game 8-1. Toby's older brother, Eric, played and was driven home by other parents. The younger boy was taken to Hutchinson Community Hospital, where he died at about 10 p.m. Sunday.

Cosgriff, like others at the game, went home sure that Toby was going to be fine. The phone rang just before midnight, shattering those thoughts with four words Cosgriff said he would never forget.

"A coach called and said, 'Toby didn't make it,'" Cosgriff recalled.

Cosgriff said the opening through which Toby fell was about 15 inches wide. The boy's mother maneuvered through the same opening to reach her son, he said.

The accident was the first tragedy of its kind in the state, according to Richard Martin, director of the Minnesota Amateur Hockey Association's District 5, the governing body for youth hockey in the area. Martin said the older wooden bleachers were not necessarily to blame for the accident.

"Those types of bleachers are fairly common in the state," Martin said. "But anyone could fall

SERVICES

Services for Toby Lee will be at 4 p.m. Thursday at Our Lady of the Lake Catholic Church, 2385 Commerce Blvd., Mound. Memorials may be sent to the Toby Lee Memorial Fund, care of the Huber Funeral Home, 1801 Commerce Blvd., Mound, Minn. 55364.

anywhere."

Tim Horgan, one of the assistant coaches at the Hutchinson Civic Arena on Sunday night, called the incident a "freak accident." Horgan has three sons, ages 5, 8 and 11, who play hockey in the Mound-Westonka Hockey Association. His youngest son plays in a level for children ages 5 and 6. Toby also was on a team at that level.

"All the kids are asking questions," he said. "You worry about them getting hurt playing hockey. This is hard to explain."

The incident remained under investigation Tuesday by the Hutchinson Police Department, the city's parks and recreation department and the League of Minnesota Cities, according to Hutchinson city administrator Gary Plotz. Plotz said the 22-year-old arena, used for youth hockey, a local figure skating group and for concerts, is owned by the central Minnesota city and inspected by the League of Minnesota Cities. He said he was unaware of any previous complaints about safety concerns at the arena.

Officials at the League of Minnesota Cities, which offers insurance and other services to more than 800 cities in the state, said a child was hurt several years ago while playing under the arena's bleachers. That incident, however, was considered minor because it did not result in a claim, according to the league administrator's, Peter Tritz.

The Hutchinson Civic Arena was last inspected in July 1987. Inspectors issued one advisory related to ventilation and noted "a couple of minor fire hazards," Tritz said. Bleachers were not mentioned in the report, he said.

Robert F. Moore, who covers crime and public safety, can be reached at rmoore@pioneerpress.com or (651) 228-5591.

Child's fatal fall prompts safety effort

■ Ice arena bleachers targeted for changes

WAYNE WANGSTAD STAFF WRITER

A group of Minnetonka-area hockey parents plans to mount a campaign to make bleachers in Minnesota's more than 200 hockey arenas safer for spectators.

If successful, the effort would be expanded to so-called open bleachers at parks and athletic fields across Minnesota. Those bleachers probably number in the thousands.

The campaign was spurred by the Jan. 3 death of 6-year-old Toby Lee, who was fatally injured when he fell through the 13-inch gap between the footboards and seats on the 21-year-old bleachers at the Hutchinson Civic Arena. Toby's 11-year-old brother was on the ice at the arena, about to begin skating for a team coached by their father, Randy Lee of Mound.

The accident was the first of its kind in the state, according to a spokesman for District 5 of the Minnesota Amateur Hockey Association, which governs the sport in the Hutchinson area.

"It was clearly an accident, but an accident that didn't have to happen . . . kids are at risk if they go to arenas down the road," said Rod Cosgriff, a St. Paul attorney who is spearheading the parents group. His son is a member of the team coached by Randy Lee.

"We plan to campaign for the retrofitting or replacement of the so-

SAFETY

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called open bleachers so another kid is not hurt or killed," he added.

The group is composed of parents from the Mound-Westonka Hockey Association who were present when the Hutchinson accident occurred and other parents who are association members, Cosgriff said. He said the parents, who have their hockey association's backing, will have an organizational meeting this week.

Initially, the group plans to survey all youth hockey associations in Minnesota to determine the

"It is our view that the problem in ice arenas is not as widespread as it is in other athletic fields."

ROD COSGRIFF
ATTORNEY

type of bleachers in the state's ice arenas and alert their managers to Toby Lee's death "so they are aware of the problem," Cosgriff explained. The next step will be to lobby the Minnesota Legislature and seek funds, probably from the state's Mighty Ducks program, which allocates matching grants for hockey arena construction.

Dean Mulso, who estimates the number of ice arenas in Minnesota

at more than 200, said that until Toby Lee's death he had never heard of any serious injuries at the open-style bleachers. Mulso manages the Cottage Grove Ice Garden and serves on the board of the Minnesota Ice Arena Managers Association. He said he will bring the issues raised by the Hutchinson accident to the board at its Jan. 20 meeting.

Cosgriff acknowledged that not all ice arena bleachers are unsafe.

"It is our view that the problem in ice arenas is not as widespread as it is in other athletic fields," he said.

The goal is to retrofit existing bleachers with safety nets. Such a net was installed at the St. Michael-Albertville Arena, owned by the cities and the St. Michael-Albertville School District.

Kevin Mealhouse, Albertville building inspector, said he followed the Uniform Building Code, which is the standard for Minnesota, in ordering the chain-link safety net placed under temporary bleachers in the St. Michael-Albertville Arena before it opened Dec. 19.

"The distance between the footboard and the bottom of the seat was about 18 inches, a big wide opening," Mealhouse said. "There are going to be a lot of kids on these bleachers. . . . They virtually play on them."

He also required the installation of chain-link fence around the bleachers.

Scott McLellan, a supervisor in the state Building Codes and Stan-

dards Department, said the current standard for all bleachers specifies the space between footboards and seats cannot allow a 9-inch sphere to pass through. The standard for guardrail spacing on bleachers and similar structures is

Dean Mulso, who estimates the number of ice arenas in Minnesota at more than 200, said that until Toby Lee's death he had never heard of any serious injuries at the open-style bleachers.

tougher: a 4-inch sphere cannot pass through.

The Uniform Building Code used by Minnesota is updated every three years. Mark Hensen, a Hutchinson building inspection official, said the city is trying to determine the rules in effect when the city's arena opened 21 years ago.

The Hutchinson arena partially reopened Saturday, but the bleachers are not in use.

Wayne Wangstad can be reached at wwangstad@pioneerpress.com or (651) 228-5442.



Toby Lee, a 6-year-old from Mound, was fatally injured Jan. 3 when he fell through the 13-inch gap between the footboards and seats on the bleachers at the Hutchinson Civic Arena.

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Published: Tuesday, February 9, 1999

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Ramsey County to inspect bleachers

Action follows boy's fall at ice arena in St. Paul

WAYNE WANGSTAD STAFF WRITER

Ramsey County will inspect bleachers in its hockey arenas following a weekend accident in which a 5-year-old boy fell from bleachers in the Oscar Johnson Ice Arena in St. Paul.

Ethan Draz, of St. Paul, apparently slipped through a guardrail Saturday on the top of the bleachers and fell an estimated 20 feet, suffering a skull fracture when he landed on the concrete floor, according to his father, Keith Draz.

At the time, Ethan's mother and brother were leaving a locker room where Mrs. Draz had helped that son put on skates for a hockey tournament.

Ethan is now recovering at home.

Although the Johnson arena bleachers were installed in the 1990s, the safety of older bleachers has become an issue since 6-year-old Toby Lee of Mound was fatally injured Jan. 3 when he fell through a 13-inch gap between the seat and footboards at the Hutchinson, Minn., ice arena. Those bleachers were installed in 1977.

Seventeen days later, a 2-year-old Solway, Minn., girl was injured when she fell 18 feet into a gap between bleachers and a steep stairway in a Bemidji State University gym. The girl was standing at the end of the bleachers. A guardrail apparently was not in place.

The accidents prompted the Minnesota Building Codes and Standards Department to issue a statewide alert about possible problems with older bleachers.

The Minnesota Health Department's Injury and Violence Prevention Unit is surveying other states to determine whether similar accidents have occurred and whether there are common elements to be addressed.

Although Keith Draz was not present when his son fell, he said he was told the arena was crowded. The facility is located off Energy Park Drive near Snelling Avenue.

``My daughter, Kailee (who also was on the bleachers), said she saw him fall and hit the concrete headfirst," Draz said. ``He (Ethan) said he was at the top of the bleachers and he `fell off.' "

While Draz acknowledged parents are responsible for their children, he said Johnson arena bleachers are a problem because they are high and do not abut the wall.

``Kids are on there constantly, and we have told our kids, `Don't ever crawl up the back or down the back.' That doesn't mean they wouldn't do it, but they've been told not to," Draz said.

Greg Mack, county parks and recreation director, said he and operations director Mike Mattson will confer with Draz about his safety concerns. Mack said he checked with Mattson and they could not recall another Ramsey County incident in which someone was injured falling from bleachers.

While St. Paul does not own any ice arenas, Ramsey County has 11 sheets of ice in 10 buildings and all have bleachers, Mack said. Aldrich and Highland arenas have permanent concrete bleachers, but others have free-standing steel or aluminum structures, Mack said.

``We will be inspecting bleachers to see if they meet code for existing facilities. If retrofitting is necessary, we will look at what that retrofit will require," Mack said.

Thomas Joachim, a state building code official, said he has not heard of bleachers condemned or closed since his department sent out warnings late last month. His department has received queries from cities regarding inspection procedures.

``They should bring in someone with experience like a certified code inspection official, an architect or an engineer to examine them for compliance to today's standards," Joachim said.

That's what Jim Rich, a building official in the Duluth, Minn., suburb of Hermantown, did in December with other city officials. After examining 2,000-seat bleachers that were 25 to 30 years old, Rich condemned them. Although they are city property, the field and bleachers were used by the school district.

``The posts for the bleachers were sitting on concrete piers, and frost had lifted the piers so when you stood at one end and looked down, it undulated and looked like a series of hills and valleys," Rich said.

The bleachers, which were razed, had a 17-inch gap between the footboards and seats, a factor in the fatal Hutchinson accident where the gap was 13 inches. State code says the gap cannot exceed 9 inches.

Duluth also inspected its 12 sets of portable aluminum bleachers and discovered damage caused by moving them for various events, said Bob Troolin, street and park maintenance manager. Some

bleachers are being phased out this year and the city is seeking bids on new ones, Troolin said.

The Hutchinson arena has reopened, but the bleachers remain closed. A consulting engineer's report found several areas where the bleachers did not meet current building code, along with serious structural problems.

Hutchinson Mayor Marlin Torgerson said the City Council tonight will review cost estimates for bleacher repair and replacement.

Wayne Wangstad can be reached at wwangstad@pioneerpress.com or (651) 228-5442.

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BLEACHERS

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said. He said the parents, who have their hockey association's backing, will have an organizational meeting this week.

Initially, the group plans to survey all youth hockey associations in Minnesota to determine the type of bleachers in the state's ice arenas and alert their managers to Toby Lee's death "so they are aware of the problem," Cosgriff explained. The next step will be to lobby the Minnesota Legislature and seek funds, probably from the state's Mighty Ducks program, which allocates matching grants for hockey arena construction.

Dean Mulso, who estimates the number of ice arenas in Minnesota at more than 200, said that until Toby Lee's death he had never heard of any serious injuries at the open-style bleachers. Mulso manages the Cottage Grove Ice Garden and serves on the board of the Minnesota Ice Arena Managers Association. He said he will bring the issues raised by the Hutchinson accident to the board at its Jan. 30 meeting.

Cosgriff acknowledged that not all ice arena bleachers are unsafe.

The goal is to retrofit existing bleachers with safety nets. Such a net was installed at the St. Michael-Albertville Arena, owned by the cities and the St. Michael-Albertville School District.

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He also required the installation of chain-link fence around the bleachers.

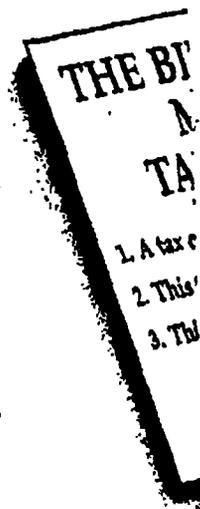
Scott McLellan, a supervisor in the state Building Codes and Standards Department, said the current standard for all bleachers specifies the space between foot-boards and seats cannot allow a 9-inch sphere to pass through. The standard for guardrail spacing on bleachers and similar structures is tougher: A 4-inch sphere cannot pass through.

The Uniform Building Code used by Minnesota is updated every three years. Mark Hensen, a Hutchinson building inspection official, said the city is determining the rules in effect when the city's arena opened 21 years ago.

The Hutchinson arena partially reopened Saturday, but the bleachers are not in use.

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Recent Minnesota bleacher accidents

Published Wednesday, February 10, 1999

Third bleacher accident spurs call for action

Curt Brown / Star Tribune

Stacee Draz admits she's one of those nagging hockey moms, always warning her kids and others to stay off the **bleachers** while their siblings are on the ice.

When 6-year-old Toby Lee of Mound fell through a 13-inch gap in the **bleachers** at the Hutchinson Civic Arena on Jan. 3 and died, Draz had a long talk about the accident with the youngest of her four children, 5-year-old Ethan Draz.

"As parents, we go bonkers during hockey games, telling kids: 'Get down, get down, stay off of there,'" Draz said Tuesday. "But I had no idea how close to home this would hit."



Bruce Bisping photo

During a hockey game Saturday, Ethan ran around the corner to play with a puck made out of used hockey tape. Unbeknownst to his mother, he climbed up the back of the 10-foot-high **bleachers** at the Gustafson-Phalen Ice Arena on St. Paul's East Side and fell to the concrete, fracturing his skull.

On Monday, tape blocked the area where Ethan Draz fell from the back of the bleachers during a hockey game Saturday at the Gustafson-Phalen Ice Arena.

After at least three recent **bleacher** accidents, state officials are urging greater scrutiny of existing **bleachers**, and worried parents are mobilizing to increase **bleacher** safety. The mishaps have occurred when youngsters slipped through openings in the **bleachers** or climbed up the back of exposed grandstands.

In addition to Toby and Ethan, a 2-year-old girl broke an arm and suffered a concussion after an 18-foot fall at Bemidji State University last month.

"It's a miracle Ethan didn't suffer horrendous injuries," Draz said. "We can't lose another little child before something's done. We need to stop having meetings and start having some action."

That action has started.

A bill called the Minnesota **Bleacher** Safety Act is expected to be introduced in the Legislature this month with potential matching grants available from the state's Amateur Sports Commission for

municipalities to update their **bleachers**, shrinking the maximum gap between seats and floorboards from 9 inches to 4 inches.

The building codes and standards division of the state Department of Administration has issued bulletins to 500 local governments, urging them to assess the safety of their **bleachers**.

The state Health Department is working with the Injury Center at the Centers for Disease Control and Prevention in Atlanta to determine the national scope of **bleacher** injuries.

Ramsey County officials, like their counterparts from Elk River to Duluth, are inspecting **bleachers** at all local hockey facilities.

And Hermantown, near Duluth, has razed a 2,000-seat grandstand after local officials deemed it unsafe.

"We've had three serious accidents in the course of one season, so time is of the essence," said Scott McLellan, a supervisor with the building codes and standards division. "I'm sure there were accidents caused by **bleachers** before, but I haven't heard of any in my 10 years on the job."

Mark Kinde, director of injury prevention with the Health Department, said he expects to complete a national study within two weeks that will help determine whether the three recent accidents were flukes and whether a certain type of **bleacher** is causing the injuries.

Experts suggest that Toby's death might have raised awareness of the problem, focusing more attention on the injuries that followed.

"The easiest thing to do, requiring no behavior changes, would be to modify the structures through engineering and retrofitting," Kinde said. "But we don't want to negate the importance that we, as parents, maintain some supervision and awareness, particularly of where our younger kids are."

More legislation

Roderick Cosgriff, a St. Paul attorney from Minnetrista, was in the arena when Toby fell to his death. He's helping to draft a bill that should be introduced in the Legislature soon.

"Parental supervision is not enough," Cosgriff said. "Parents shouldn't have to worry when they watch their child on the ice about taking their eye off their younger children. The penalty for that action should not be the loss of a child's life."

The Minnesota **Bleacher** Safety Act will call for the gaps between seats and floorboards to be no more than 4 inches. Current state codes require no less than a 9-inch gap, but **bleachers** made before that 1979 code rule change are grandfathered in. Experts say 9 inches is large enough for small bodies and heads to slip through.

The bill -- expected to be sponsored by Rep. Steve Smith, R-Mound, and Sen. Gen Olson, R-Minnetrista -- also will call for mandatory and

periodic inspections of **bleachers**.

Rep. Bob Milbert, DFL-South St. Paul, said the logical way to fund the **bleacher** safety initiative is through the so-called Mighty Ducks grant program, enacted in 1995 to build and maintain ice arenas statewide.

Paul Erickson, the director of the Amateur Sports Commission, which oversaw those matching grants, said that \$18 million has been spent the past four years and that the fund is dry. He expects an attempt to pump \$2 million to \$5 million into it this legislative session to address **bleacher** safety.

"The problem with **bleachers** is huge, and we're very open to making **bleacher** safety a special emphasis of renewed Mighty Ducks funding," he said.

He estimates that Minnesota has more than 275 arenas, many with old-style **bleachers** considered more dangerous than newer ones. But Cosgriff said hockey arenas "are just the tip of the iceberg.

"They are probably more safe than the hundreds of **bleachers** used for high school football, Little League and soccer," he said.

Milbert sponsored a bill in 1990 to address garage-door safety after a series of injuries and deaths. It became a national model, he said.

"We need to do with **bleachers** what we did with garage-door openers: Get them fixed," Milbert said. "They had hidden defects parents were unaware of until they killed kids."

Draz said, "To 5-year-olds, **bleachers** look like jungle gyms, no matter how many times we try to shoo them off. It's a miracle Ethan is doing so well, and I just hope all these accidents serve as a constant reminder to kids and hockey parents to look out."

Related item

 Recent Minnesota bleacher accidents

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Bleachers crush girl, 7

<http://www.fayettevillenc.com/photo/news/content/1998/bc98jan/24girl.htm>

Saturday, Jan. 24, 1998

Bleachers crush girl, 7

By Michelle Brien

Staff writer

As Jasmine Seawood scrambled beneath the bleachers at Douglas Byrd High School Friday, looking for an umbrella, janitors prepared to move the section of seats.

They could not extend the wooden bleacher section without first pushing it to the wall. When they pulled it out again, they found 7-year-old Jasmine underneath, crushed and bleeding.

Jasmine remained on life support at Cape Fear Valley Medical Center late Friday, in critical condition.

The accident happened about 6:40 p.m., during the second quarter of the girls' basketball game. George Ellis, principal at Douglas Byrd High School, said people had been sitting on the bleachers when someone noticed there was a gap between two sections. Fearing someone would fall through that gap and be injured, janitors cleared everyone off the uneven section and prepared to move it.

Ellis said the procedure takes a few minutes. Side rails have to be removed before the bleachers can be adjusted. Then custodians have to pull up a flap and unlock the accordion mechanism before pushing the bleachers back to the wall.

"It was an accident," Ellis said. The bleacher section was at a back corner of the gym. No one is supposed to stand back there, Ellis said, so no one can sneak into the basketball games. No one saw Jasmine under the bleachers.

Tiffany Bowden said Jasmine's mother yelled "My baby's under there!" when the bleachers started to move. Someone screamed. Witnesses were not sure if it was Jasmine or her mother.

Bowden and Dominique Womack said Jasmine and her parents were at the game to watch her older sister, Geovanni Seawood, who is a junior varsity cheerleader.

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Girl, 2, hurt in fall through bleachers

ASSOCIATED PRESS

A **BEMIDJI, MINN.** 2-year-old girl was injured Wednesday night after falling 12 feet to a gymnasium floor through the bleachers at Bemidji State University.

Maddison Larson was playing on the bleachers with her twin brother when she fell through a 12-inch space between the bleachers and a permanent stairway. Their mother was standing next to the children when the girl fell.

Maddison was trapped under the bleachers for about 10 minutes, and her cries were audible throughout the gym. She was hospitalized in stable condition.

The bleachers are equipped with removable metal guard railings. However, at the time of Maddison's fall, the railings were installed on the lower half of the bleachers but not the top half. A university official said he didn't know why the guard railings were not in place.

Maddison's parents, Kevin and Dawn Larson of Solway, had taken their three children to watch a basketball game.



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Suit Is Settled Over Bleachers At Gar-Field School Pays \$25,000 for Girl's Broken Rib, Arm

By *Christina A. Samuels*
Washington Post Staff Writer
Wednesday, June 16, 1999; Page V03

Prince William County Schools settled a lawsuit Monday, awarding \$25,000 to a family of a child who was injured when she slipped through a 15 1/2-inch gap in the bleachers at Gar-Field Senior High School.

The suit was being tried in Prince William County Circuit Court on Monday, when a juror became ill during opening arguments. The two sides were then able to reach a settlement on the suit, which originally asked for \$1 million in damages.

"This was the first time serious settlement negotiations took place," said John Johnston, attorney for 9-year-old Brittany Bosak, of Woodbridge, and her family. Brittany broke her rib and arm when she fell through the bleachers in 1996.

Her father, Edward Bosak, has appeared several times at School Board meetings to complain about bleachers he says remain unsafe. The settlement did not involve any admission of negligence on the part of the school system.

Superintendent Edward L. Kelly said the decision to settle the case was made by the school system's insurance company. He said he thinks the school system would have won at trial.

"We would have been able to answer very forcefully some of the loose allegations that have been made," Kelly said. "We've always been in compliance."

Bosak said that he was disappointed the case was dismissed and that he plans to continue lobbying the School Board to make changes.

"The whole story wasn't told," Bosak said, adding that he chose to settle because of the stress on his wife and daughter.

Bosak said he plans to continue appearing before the board. "I am not going away, not by a long shot," Bosak said. "I'm not going away until this is eradicated throughout the county."

Kelly said Prince William County has safer bleachers than surrounding districts because of an ongoing retrofitting program to eliminate large gaps between tiers. Closing the gaps costs about \$300,000 to \$400,000 for each school, though not every school needs the work. Newer schools, such as Hylton High School and Forest



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Park High School, opening next fall, have bleachers built to different standards, Kelly said.

Bleachers still to be retrofitted include those at Brentsville District Middle/High School and the visitor's side bleachers at Gar-Field.

The move to close gaps in the bleachers was not made in response to the lawsuit, Kelly said. "We just found that here's a way to make them a little bit more childproof," he said.

"It's putting a Band-Aid on a gaping wound," Bosak said.

Johnston has represented another family whose 6-year-old fell from the bleachers at Stonewall Jackson Senior High School in 1994. The case was dismissed after depositions began.

Kelly said that child fell off the bleachers, not through them.

The issue of bleacher safety has received attention from outside the county.

Rep. Bill Luther (D-Minn.) introduced a congressional bill in February directing the Consumer Product Safety Commission to issue national standards for child-safe bleachers.

His home state already has ruled that gaps in bleachers and handrails can be no larger than 4 inches wide. The move came after 6-year-old Toby Lee was killed after slipping through a gap and hitting a concrete floor.

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Bleacher standards important, sharing strategy

I want to respond to Diana Brattie's letter to the editor regarding the Bleacher Safety Act of 1999 that I recently introduced with Congressman Jim Ramstad, R-Third District, in order to set national standards for bleacher systems and prevent further deaths and injuries of innocent children. Ms. Brattie also raised issues regarding Kosovo.



Rep. Bill Luther

Guest Columnist

First, most Minnesotans are aware of the tragic death of Toby Lee, a 6-year-old boy who fell through a 13-inch gap in the bleachers while watching a hockey game. Since Congressman Ramstad and my introduction of the legislation, we have learned of additional accidents including emergency room reports showing thousands of bleacher-related injuries per year according to the Consumer Product Safety Commission. Some injuries may be minor, but several have resulted in tragic consequences. While

Ms. Brattie references a statistical percentage of the population who have been impacted by bleacher accidents, statistics cannot undo the injuries and deaths that have impacted so many lives. I'm sure the parents of these children would not find great comfort in these statistics.

The legislation Congressman Ramstad and I have introduced simply requires the Consumer Product Safety Commission to issue national

standards for safe bleachers within 6 months - nothing more, nothing less. This is an appropriate role for Congress. The reason accidents are occurring is because we have such a patchwork of codes and regulations nationally, many of which are voluntary thereby providing no framework for safe bleachers.

Unwise

Finally, with regard to Kosovo, my position is that it makes no sense for NATO, the Pentagon, or the president to communicate our military strategy to Slobodan Milosovic or to declare certain military options off the table — including the use of ground troops. The threat of ground forces sends the strongest signal to Slobodan Milosovic of NATO's resolve to stop Milosovic's systematic abuse and slaughter of a people. The most recent reports include Milosovic troops using rape as a yet another weapon of

Stillwater

Gazette

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1071

brutality. The international community, through NATO, has taken steps to stop this human catastrophe, and I support this action.

I welcome Ms. Brattie's questions, and the opportunity to respond to them. It is through this type of dialogue that elected officials are able to do a better job for the people they represent. I have held over 150 Listening Sessions since being elected to Congress, and I learn a great deal from the voters with each session.

If anyone has further questions or concerns about issues before Congress, please be sure to contact me at 651-730-4949 or by e-mail at bill.luther@mail.house.gov.

Rep. Bill Luther of Oak Park Heights represents Minnesota's 6th District in the U.S. House of Representatives.

The Times Feb 4, 1999

Protecting kids and the role of government

Are we callous and cold in saying that the role of government in protecting kids needs a reality check? It seems in today's society when an accident or a problem is discovered, the knee-jerk reaction is to call for a government study or intervention program in an attempt to make sure that nothing will ever again go wrong.

We refer, of course, to the recent tragedy in a state community where a youngster fell through an opening in a grandstand bleacher and died. Nothing could be more tragic and we feel deeply for the family and its loss.

In the wake of the accident have been calls for statewide studies to inspect such seating areas, usually found at sporting arenas or field complexes for hockey, football, softball and baseball. Go to any community and you'll find them, inside and outside. They are probably the property of a city, a township or a school district. We've all seen them, probably all used them.

Without question, there is responsibility for the governing agency that owns these facilities to ensure to the public that they are safe. Bleachers that are substandard and unsafe should be replaced or repaired and this happened in our school district at a number of baseball and softball fields last summer.

But where do you draw the line between what is "safe" and what is natural. Where does the government say it has done enough and count on the common sense and parental control of those using facilities to patrol the behavior and activities of children?

Controlling the behavior of youngsters is no doubt a daunting task. We have seen repeated cases where parents will use recreational outlets, such as the local ice arena, as a drop center for their kids. While arena management can control some of the behavior, officials there can't watch the kids every moment. The same happens at ball fields where kids not in games run unchecked. Some of these fields are next to streets.

Accidents, terrible accidents, can happen. We'd like to think that they all could be prevented, but that may be wishing for too much. Adults need to take control of their kids and do their best to see that kids are kept away from what could be a dangerous situation.

Our governments should be expected to make sure facilities and equipment used by the public are safe, but making unreasonable demands won't eliminate the unfortunate fact that accidents will happen. — CLIFF BUCHAN

Luther Takes Action on Bleacher Safety

Congressman Bill Luther has announced plans to introduce legislation directing to Consumer Product Safety Commission to issue national standards for "child safe" bleachers. Luther's action was prompted by the recent injuries to children in Minnesota hockey arenas, including the tragic death of Toby Lee when he fell from a bleacher. Bleacher safety falls within the jurisdiction of Luther's subcommittee, the Telecommunications, Trade and Consumer Protection Subcommittee of the Commerce Committee.

"Toby Lee's death was just shocking - a little boy who became the victim of poor design. We need to make sure these accidents don't happen again" Luther said. "We've found that bleachers currently are not within the jurisdiction of the Consumer Product Safety Commission because they aren't considered 'consumer products.' Similarly, bleachers don't fall within OSHA's jurisdiction for workplace safety. There is a hole here, and it needs to be filled immediately to prevent further accidents." Luther's legislation will direct the Consumer Product Safety Commission to issue national standards within six months which will apply to all sporting facilities, not just hockey arenas. Railings and other safety concerns will be addressed in addition to the gap between footboards and seats.

Congressman Luther has long been involved in amateur sports issues with his efforts while a state senator to create the Minnesota Amateur Sports Commission, and playing a key role in creation of the National Sports Center in Blaine. Luther, who represents Minnesota's Sixth Congressional District, also noted that "the median age of sixth district residents is one of the

youngest in the country, and the district is the fastest growing in the region - filled with young families and kids involved in sports. Safety is critical to these families, and it is a high priority for me."

"The Minnesota sporting community, legislature, parents groups and others have really stepped up to the plate in response to the bleacher accidents. My goal is to complement their efforts, and create national standards so that children in Minnesota and across the country are not injured or killed due to poorly designed bleachers," Luther added. Similar approaches were taken to improve the safety of automatic garage door openers.

"Sporting events are central to so many communities, and athletics is really a family activity. We all agree that parents need to be watchful of their kids whether at an arena or playing in the park. But there are further things we can do to help keep kids safe by making sure that sporting facilities are not dangerous places for children."

In Minnesota, State Representatives Bob Milbert of South St. Paul, author of the successful "Mighty Ducks" arena legislation, is fighting for additional funding for the program. According to Milbert, "the Mighty Ducks program allows for up to \$50,000 per project for retrofitting facilities. We need to fund this now in order to make our facilities safe as quickly as possible." Milbert added that "Bill Luther is right on the money with his approach to federal standards. There is a gap in the law, and Luther's going to plug the gap. We'll do our part in Minnesota to retrofit facilities. Working on a local-state-federal approach will take us a long way to solving this problem."

WHO INVENTED THE WORD 'NERD'?



Answer: Dr. Seuss

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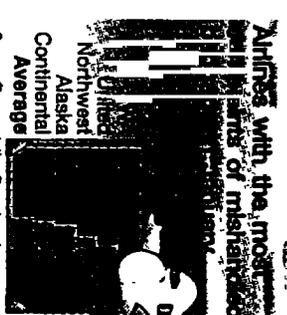
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Name change: Doubletree Guest Suites at Dallas/Fort Worth airport is now DFV South Embassy Suites.

At PDX: A Hawthorn Suites Ltd. opened near Portland, Ore., International Airport.

At LAX: United Express carrier SkyWest added flights Sunday between Los Angeles International (LAX) to Santa Rosa/Sonoma County and Merced, Calif.



Source: Transportation Department
By Nancy E. Mathis, USA TODAY

Growing, growing: Vanguard adds two more flights June 1 between Atlanta Hartsfield and Kansas City, Mo. The

Business Travel Today
By David Field

Directions, please: Hertz gives precise computerized driving directions at rental counters at airports in San Antonio, Nashville, Memphis, Austin, Texas, and Columbus, Ohio, and at downtown offices in Manhattan, San Francisco, Orlando and Chicago.

Rooms, wings: AlrTran (www.alrtran.com) includes Hilton deals in its weekly Net Escapes e-mail offerings.

Bleachers on hot seat to be made more child safe

By Jayne O'Donnell
USA TODAY

Bleachers, which send about 18,000 people to emergency rooms every year, are coming under increased state and federal scrutiny after one child died and two others were injured in separate incidents this year in Minnesota.

The design of bleachers — found at parades and thousands of school sporting events — is being blamed for some of the deaths and injuries. The gaps between bleacher footboards and seats are often wide

enough for children to slip through. And some bleachers may not have adequate front, back or hand rails, critics say.

State and local governments set standards for bleachers that are based on building and fire codes developed by the International Code Council in Falls Church, Va.

During the 1980s, bleacher provisions were amended to require that gaps between footboards and seats be no more than 4 inches. But several states, including Minnesota, have not adopted the new provisions, which often are applied

only to new bleachers and don't cover movable bleachers.

Toby Lee, 6, died in January after falling through a 13-inch gap in bleachers at a Minnesota arena. A 2-year-old girl suffered brain injuries and a broken arm after she fell 18 feet off bleachers at a Minnesota university in January. Ethan Dray, 5, fractured his skull in February after falling 10 feet off the back of bleachers at a Minnesota ice rink.

U.S. Reps. Bill Luther, D-Minn., and Jim Ramstad, R-Minn., introduced legislation in February to force the U.S. Con-

sumer Product Safety Commission to set national standards to make bleachers more "child safe."

The congressmen also want older-model bleachers to be retrofitted with slats or safety nets that would keep kids from falling through the gaps.

"There isn't the kind of uniformity with bleachers that there is with other things, like playground equipment or cars," says Luther. "Unfortunately, it takes this kind of tragedy to get people talking about it."

The Minnesota Legislature is considering bills that would toughen state bleacher stan-

dards and fund retrofits of existing bleachers.

CPSC's Ron Mithord says his agency plans to analyze bleacher-related injury and death reports to see how the accidents are happening and to review national building code provisions for bleachers before deciding on rulemaking.

CPSC knows of three deaths associated with bleachers, including Toby Lee, since 1991. Most of the 18,000 bleacher-related emergency room visits estimated each year by CPSC are for minor abrasions, lacerations and fractures.

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Published Saturday, May 22, 1999

Bleacher safety requirements loosened

Bill McAuliffe / Star Tribune

In what one legislator called "without question the low point of the session," the House on Friday opened a loophole in the Legislature's attempt to tighten bleacher safety.

"I'm really discouraged by what happened today," said Rep. **Bob Milbert**, DFL-South St. Paul, a sponsor of a bipartisan bill intended to reduce the possibility of small children falling through bleachers. "I think it's an unworkable and an unconscionable solution to the problem."

Milbert's criticism focused on an amendment by Rep. Dan Dorman, R-Albert Lea, which was approved 72 to 56 after a lengthy partisan debate in front of observers who included parents of injured children and a national newsmagazine camera crew.

The amendment, born partially out of concern over the financial burden posed by the safety upgrades, would allow cities, schools and other public bleacher owners to avoid closing potentially dangerous gaps in sports bleachers. Instead, they would be required only to post a sign restricting children under 10 to the first three rows.

"My 10-year-old can fall through bleachers as well as a 5-year-old," said Rod Cosgriff, an attorney and spokesman for the family of Toby Lee, a 6-year-old Mound boy who died in a bleacher fall in January. "The people of Minnesota are not going to resolve this issue just by putting up signs."

The overall bill passed 115-14.

Milbert and the bill's chief sponsor, Rep. Steve Smith, R-Mound, were optimistic that the first-three-rows provision could be removed in a conference committee, since the Senate bill doesn't contain it.

In response to Lee's death and other injuries earlier this year, legislation in both the House and the Senate would require public owners of bleachers to limit gaps under seats and along side and top railings to 4 inches or less, or to install safety netting beneath them.

The Senate version comes with a \$100,000 appropriation to help cover the costs of safety upgrades; the House bill included \$500,000.

The fixes would have been required by Jan. 1, 2001, and would have been followed by inspections every five years.

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Proposed safety rules for bleachers

Another Republican amendment to the House bill Friday raised the minimum height of the bleachers affected by the law from 30 to 60 inches.

Minnesota is one of the first states in the nation to be addressing bleacher safety, Milbert said. ABC-TV's "20/20" was filming the House action Friday.

Smith acknowledged that the bill was weakened by his own party's amendments. "But they didn't gut it," he said. "The bill still has raised the awareness of a silent problem and put us on the road to safety of kids in the stands and on the field."

Friday's debate featured a twist on the subject of "unfunded mandates." In recent years Republicans frequently have criticized DFL legislators for approving new regulations for local governments but not appropriating the money to pay for them. Smith's measure included \$500,000 for bleacher safety; DFL efforts to provide more were ruled out of order, prompting DFLers to accuse the new Republican majority of launching an unfunded mandate.

Milbert said closing gaps in bleachers can be done cheaply in most cases.

Late in the debate Rep. Ron Erhardt, R-Edina, also made the facetious suggestion that perhaps children sitting in bleachers should be required to wear seat belts and helmets. Rep. Phil Carruthers, DFL-Brooklyn Center, blasted Erhardt for making light of the issue, prompting applause from parents in the gallery.

Related item



Proposed safety rules for bleachers



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Published Sunday, May 9, 1999

House approves new bleacher restrictions

Brian Bakst / Associated Press

ST. PAUL -- Bleachers more than 5 feet tall would be subject to greater restrictions and state scrutiny under a House bill approved Friday.

The bill, passed 115-14, requires that gaps be no more than 4 inches wide on handrails and between tiers. Communities could install safety nets to avoid constructing new bleachers.

Bleachers new and old would be subject to the restrictions and local building inspectors would do periodic compliance checks.

"If you don't want to fix them up, take them down," said Rep. Bob Milbert, DFL-South St. Paul.

Minnesota would be among the first states to impose stiff requirements on bleachers, said the bill's author, Rep. Steve Smith, R-Mound. A bill in Congress, sponsored by Minnesota Reps. Jim Ramstad, a Republican, and Bill Luther, a Democrat, would require the Consumer Product Safety Commission to issue a federal standard.

Both efforts are a response to several incidents where children have been injured or killed when they slipped through gaps in bleachers.

Six-year-old Toby Lee of Mound died after falling 8 to 10 feet from the Hutchinson Civic Arena bleachers Jan. 3. He hit his head on concrete.

"It's not right that these public buildings have these hidden dangers," Smith said.

Bleacher safety has been addressed in the state's Uniform Building Code since 1970. Revisions to the code in 1979 stated that the gap between seat and foot board should be no more than 9 inches. But that only applies to bleachers built since 1972 and not all Minnesota communities are covered by the code.

Under an amendment to the House bill, existing bleachers would be exempted if children under 10 are kept to the first three rows and signs are posted. Some lawmakers argued it is a loophole that makes the legislation virtually meaningless.

"What we have is just a shell, kind of like those shells of bleachers that kill kids," said Rep. Phil Carruthers, DFL-Brooklyn Center.
"That's what we've got because nothing is being done by this House

to deal with a real problem."

The restrictions on new bleachers would go into affect in July and old bleachers would have to be brought into compliance by July 2001.

The bill includes \$500,000 to help communities bring their bleachers up to the new requirements. That money would be matched dollar-for-dollar.

There is no parallel Senate bill, but the Senate included \$100,000 for bleacher upgrades in a larger spending bill. Another \$1 million fund also could be tapped to provide some money for renovating existing bleachers.



1 seats must not exceed four inches, unless approved safety nets
2 are installed;

3 (2) bleachers must have vertical perimeter guardrails with
4 no more than four-inch rail spacing between vertical rails to
5 prevent accidents; and

6 (3) bleachers must comply with all existing Uniform
7 Building Code provisions for bleacher safety.

8 Subd. 4. [ENFORCEMENT.] (a) A statutory or home rule
9 charter city that is not covered by the code because of action
10 taken under section 16B.72 or 16B.73 is responsible for
11 enforcement in the city of the code's requirements for bleacher
12 safety. In all other areas where the code does not apply
13 because of action taken under section 16B.72 or 16B.73, the
14 county is responsible for enforcement of those requirements.

15 (b) Municipalities which have not adopted the code may
16 enforce the code requirements for bleacher safety by either
17 entering into a joint powers agreement for enforcement with
18 another municipality which has adopted the code; or contracting
19 for enforcement with an individual certified under section
20 16B.65, subdivision 3, to enforce the code.

21 (c) Municipalities, school districts, organizations,
22 individuals, and other persons, operating or owning places of
23 public accommodation with bleachers, shall provide a signed
24 affidavit of compliance to the commissioner by the effective
25 date of this section. The affidavit shall be prepared by a
26 qualified and certified building official and shall certify that
27 the bleachers have been inspected and are in compliance with the
28 requirements of this section and are structurally sound.

29 Subd. 5. [PENALTIES.] The commissioner, in addition to
30 other remedies provided for violations of this chapter, shall
31 shut down places of public accommodation not in compliance with
32 this section.

33 Subd. 6. [RULES.] The commissioner shall adopt rules to
34 implement this section. The rules must provide for periodic
35 inspections of places of public accommodation. The rules
36 adopted pursuant to this section shall be stated in simple and

1 nontechnical language.

2 Sec. 3. Minnesota Statutes 1998, section 16B.72, is
3 amended to read:

4 16B.72 [REFERENDA ON STATE BUILDING CODE IN NONMETROPOLITAN
5 COUNTIES.]

6 Notwithstanding any other provision of law to the contrary,
7 a county that is not a metropolitan county as defined by section
8 473.121, subdivision 4, may provide, by a vote of the majority
9 of its electors residing outside of municipalities that have
10 adopted the State Building Code before January 1, 1977, that no
11 part of the State Building Code except the building requirements
12 for handicapped persons, the requirements for bleacher safety,
13 and the requirements for elevator safety applies within its
14 jurisdiction.

15 The county board may submit to the voters at a regular or
16 special election the question of adopting the building code.
17 The county board shall submit the question to the voters if it
18 receives a petition for the question signed by a number of
19 voters equal to at least five percent of those voting in the
20 last general election. The question on the ballot must be
21 stated substantially as follows:

22 "Shall the State Building Code be adopted in
23 County?"

24 If the majority of the votes cast on the proposition is in
25 the negative, the State Building Code does not apply in the
26 subject county, outside home rule charter or statutory cities or
27 towns that adopted the building code before January 1, 1977,
28 except the building requirements for handicapped persons, the
29 requirements for bleacher safety, and the requirements for
30 elevator safety do apply.

31 Nothing in this section precludes a municipality or town
32 that has not adopted the State Building Code from adopting and
33 enforcing by ordinance or other legal means the State Building
34 Code within its jurisdiction.

35 Sec. 4. Minnesota Statutes 1998, section 16D.73, is
36 amended to read:

1 16B.73 [STATE BUILDING CODE IN MUNICIPALITIES UNDER 2,500;
2 LOCAL OPTION.]

3 The governing body of a municipality whose population is
4 less than 2,500 may provide that the State Building Code, except
5 the requirements for handicapped persons, the requirements for
6 bleacher safety, and the requirements for elevator safety, will
7 not apply within the jurisdiction of the municipality, if the
8 municipality is located in whole or in part within a county
9 exempted from its application under section 16B.72. If more
10 than one municipality has jurisdiction over an area, the State
11 Building Code continues to apply unless all municipalities
12 having jurisdiction over the area have provided that the State
13 Building Code, except the requirements for handicapped persons,
14 the requirements for bleacher safety, and the requirements for
15 elevator safety, does not apply within their respective
16 jurisdictions. Nothing in this section precludes a municipality
17 or town from adopting and enforcing by ordinance or other legal
18 means the State Building Code within its jurisdiction.

19 Sec. 5. [325F.015] [UNSAFE BLEACHERS.]

20 Subdivision 1. [BLEACHER BAN.] No person, corporation,
21 partnership, joint venture, firm, or association shall
22 manufacture, sell, or distribute bleachers within Minnesota that
23 are not in compliance with section 16B.616.

24 Subd. 2. [PENALTY.] Any person, corporation, partnership,
25 joint venture, firm, or association who violates this section
26 shall be subject to a civil penalty of \$..... for each
27 violation.

28 Sec. 6. [APPROPRIATION.]

29 \$..... is appropriated from the general fund to the
30 commissioner of administration for the purpose of making grants
31 to municipalities and school districts to assist them in
32 bringing school district and municipally owned places of public
33 accommodation in compliance with the bleacher safety
34 requirements of section 2. State grants to the municipality or
35 school district are available when the commissioner of
36 administration has determined matching funds in an amount equal

02/23/99

[REVISOR] JSK/KJ 99-2925

1 to the municipality or school district's grant have been
2 committed. This appropriation is available until June 30, 2001.

3 Sec. 7. [EFFECTIVE DATE.]

4 Sections 2 to 5 are effective one year after the date of
5 final enactment, except the rulemaking provisions in section 2
6 are effective the day following final enactment.



Department of Administration
Building Codes and Standards Division
121 7th Place East, #408
St. Paul, MN 55101-2181

Voice: 651-296-4639
FAX: 651-297-1973
TTY: 651-297-5353

BULLETIN

DATE: January 29, 1999

TO: Municipal officials and other interested
Associations and organizations

FROM: Thomas R. Joachim, State Building Official 

SUBJECT: BLEACHER SAFETY

This bulletin is to alert you that existing bleachers in your community—which were built to previous standards or no standards at all—may represent a safety hazard. In the past few weeks there have been two serious accidents reported which involved children using bleachers; one, tragically, resulted in a fatality. The apparent cause of one accident was due to the open space between the footboard and seat. The other accident was apparently due to a removable guardrail that was not in place.

Building code provisions, beginning with the 1970 Uniform Building Code, have addressed safety issues for bleachers constructed since July of 1972. Enclosed with this bulletin is a chronology of the changes to the Uniform Building Code provisions for bleachers and grandstands. The condition, maintenance, and continued use of existing bleachers is regulated in Sections 303.2.2.3 and 3402 of the 1997 Uniform Building Code and in the state amendment, 1305.0102. Existing bleachers can be re-inspected under these provisions in communities enforcing the state building code.

For communities that have not adopted the state building code, state statute 463.15 to 463.26, which relates to hazardous and substandard buildings, could be used to inspect existing bleachers.

Enclosed are newspaper articles regarding both incidents. We ask your assistance in raising public awareness of safety issues on bleachers through articles in your local community newsletters, school district newsletters and publications from your Parks & Rec associations.

Cc: AIA Minnesota
Amateur Sports Commission
Association of Counties
Association of Metropolitan Municipalities
Association of Townships
Consumer Product Safety Commission – St. Paul
Consulting Engineers Council
Department of Administration, Building Construction Division
Department of Children, Families and Learning
Department of Health, Injury and Violence Prevention Unit
Department of Military Affairs
Department of Natural Resources, Parks and Rec Division
Department of Public Safety
League of MN Cities
MNScU
MN Association of Small Cities
MN Society of Professional Engineers
Pioneer Press (Wayne Wangstead for press release)
Star Tribune
State Board of Architecture
State Fair

STATE BUILDING CODE

Effective dates and significant changes to the Reviewing Stands, Grandstands and Bleacher Provisions

1970 UBC - Adopted July 1, 1972

- Reviewing Stands, Grandstands and Bleachers

1973 UBC - Adopted January 14, 1974

- Section rewritten in it's entirety

1976 UBC - Adopted September 19, 1978

- Changes to the definitions of Bleachers, Footboards and Grandstands for clarification. UBC Sec. 3321(b)
- Moved the Height of Grandstands and Bleachers requirements from Section 702(c) to 3321(c).
- Clarified that the guardrail requirement is for elevated seating areas more than 30 inches above the floor in addition to grade. UBC Sec.3321(e) 7
- Reduced the guardrail requirement height from 36 inches to 30 inches at the end of an aisle. UBC Sec.3321(e) 7
- Clarified that a toeboard is not required at the end of footboards.
- Clarified that grandstands and bleachers are also required to comply with the other applicable provisions of the code. UBC Sec.3321(f) 1 & 2

1979 UBC - Adopted September 9, 1980

- Provided separate requirements for Folding and Telescopic Seating (UBC Sec. 3322) from Reviewing Stands, Grandstands and Bleachers (UBC Sec. 3321).
- Clarifies that a guardrail is required at the back of seatboards regardless of whether they are used as a walking surface or not. [UBC Sec. 3321(e) 7]
- Identifies that the open vertical space between footboards and seats shall not exceed 9 inches when footboards are more than 30 inches above grade (or floor). [UBC Sec. 3321(e) 7]
- Minor change to correlate the requirement for 18 inch wide footboards when aisles are required under UBC Sec 3321(e) 4 instead of number of rows.
- Identifies a maximum dead end in vertical aisles of 16 for grandstands and bleachers within buildings when seats are without backrests.
- Provides new section (3322) for Folding and Telescoping Seating.

1982 UBC - Adopted March 1, 1983

- No changes

1985 UBC - Adopted February 17, 1987

- Established maximum height for grandstands, bleachers and reviewing stands for different types of construction. [UBC Sec. 602(a)]
- Raised the height from 9 feet to 12 feet in cases where construction (of the bleachers) is with combustible members in the structural frame and located indoors. [UBC Sec. 602(a)]
- Moved the provision for Height of Grandstands and Bleachers to UBC Sec. 602(a).
- Inserted a new exception to the provisions for rise between rows for automatic - or self-rising seats. Exception allows a rise of 24 inches when the horizontal spacing back to back is 33 inches. [UBC 3323(e) 2]
- Reduced the guardrail requirement height from 30 inches to 26 inches at the end of an aisle. [UBC Sec.3323(e) 7]

1988 UBC - Adopted July 6, 1990

- No changes

1991 UBC

- Several changes were based on combining Reviewing Stands, Grandstands, and Bleachers and Folding and Telescoping Seating into the same section. [UBC Sec. 3322 (a)]
- Clarified the definition of Folding and Telescoping Seating [UBC Sec.3322(b)]
- Requires that the minimum aisle width be determined by the greater of UBC Sec.3315 (b) (Aisles) in addition to UBC Sec. 3322(e) 4. C.
- Also requires that the cross aisle and vomitory width be determined by the greater of UBC 3315 or UBC Sec. 3322(e) 5.
- Requires handrail on both sides of aisle steps or a center handrail. [UBC Sec.3322(e) 6]

1994 UBC - Adopted March 20, 1995

- First edition of the common code format
- Several exceptions were inserted for temporary seating facilities. [UBC Sec. 1021.5.4.3, 1021.5.5 & 1021.5.6]

1997 UBC - Adopted October 5, 1998

- Chapter rewritten in it's entirety
- UBC Sec. 1008.5.4.1 Aisles Required - changed so that aisles are required in most instances unless seating is designed equivalent to stairways.



Department of Administration

DATE: February 12, 1999

TO: Minnesota Certified Building Officials, Municipal officials, and other interested Associations and organizations

FROM: Thomas R. Joachim, State Building Official 

SUBJECT: **ADDITIONAL BLEACHER SAFETY ISSUES**

We are issuing this notice in view of pending code development changes and inquiries received since our Bulletin of January 29 regarding bleacher safety. Please note:

1. The structures we are referring to as *bleachers* also include reviewing stands, grandstands, folding and telescoping seating.
2. If recommendations are made or discussed regarding retrofitting existing bleacher structures, you should be aware that the final draft of the *2000 International Building Code (IBC)* prohibits passage of a 4-inch diameter sphere between the seat and footboard as compared to the 9-inch sphere currently established in the *1997 Uniform Building Code*. Because we are anticipating adoption of the IBC in the year 2001 and a 4 inch sphere is the current standard for guardrails, it may be prudent at this time to *recommend* that the 4-inch provision be used in any reconstruction of seat and foot board spacing.
3. Also be aware that there is a proposal to change the IBC by regulating the non-climbability of guardrails. Essentially the provision states that in those areas intended for public occupancy, "...guardrails between the heights of 6 inches and 34 inches that can provide a toe hold shall not exceed a width of 2 inches." Again, in light of the most recent accident, it may be prudent to *recommend* this configuration if retrofit construction is proposed.
4. You should be aware that the 9-inch sphere provision between seat and footboard in Section 1008.5.7 of the 1997 UBC does not appear in the first printing of volume one. This was an oversight by the publisher and has since been corrected.
5. Just a reminder that all-new or remodeled bleacher structures are subject to the state or municipal plan review, permit and inspection process prior to use. In most cases, this may involve plans prepared by licensed design professionals.

Thank you for raising public awareness of bleacher safety issues. If you have additional questions regarding this subject, please call Scott McLellan at 651.297-1658.

Congress of the United States

Washington, DC 20515

February 24, 1999

Help Prevent Bleacher Accidents

Please join us in cosponsoring the Bleacher Safety Act of 1999 to give the Consumer Product Safety Commission the authority to promulgate safety standards for bleacher facilities.

In Minnesota there have been numerous recent injuries to children at basketball and hockey arenas resulting from falls between the gaps of bleacher seats and guardrails. Last month a 6-year-old boy was fatally injured when he fell through a 13-inch gap between the footboard and seat at a community sports arena. Safety officials have recently indicated that they are aware of over 50 bleacher accidents in the Minnesota and Wisconsin area.

There is no accurate inventory of how many older, potentially dangerous bleachers are in use throughout the country. Most of these facilities were built years ago before building codes adopted standards for bleacher construction. Many state and local governments have begun to address this issue by strengthening existing building codes and creating programs that allow schools and communities to access funds to retrofit older facilities to minimize accidents. Our goal is to complement these efforts by establishing national standards so that children across the country are not injured or killed due to poorly designed or out of date bleachers.

This legislation would simply require that the Consumer Product Safety Commission promulgate a safety standard for the erection and use of bleacher facilities. Currently bleachers are not under the jurisdiction of the commission because they are not considered "consumer products." Similarly bleachers do not fall within OSHA's jurisdiction for workplace safety. There is a "hole" here that needs to be filled to prevent similar accidents in the future.

Sporting events are central to so many family and community activities. We all agree that parents need to be watchful of their kids whether at an arena or playing in the park. But there are further things we can do to help keep kids safe by making sure that sporting facilities are not dangerous places for children.

If you need additional information or would like to cosponsor the Bleacher Safety Act of 1999, please contact either Laura Hayes or Steve Heuer at 5-2271.

Sincerely,



Bill Luther
Member of Congress



Jim Ramstad
Member of Congress

Sixth District, Minnesota
Anoka, Washington and Central Dakota
Counties



117 CANNON HOUSE OFFICE BUILDING
WASHINGTON DC 20515-2306
(202) 225-2271
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COMMITTEE ON COMMERCE

Subcommittee on Telecommunications,
Trade and Consumer Protection

Subcommittee on Finance and
Hazardous Materials

Congress of the United States
House of Representatives
Washington, DC 20515

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tell.bill@mail.house.gov
<http://www.house.gov/luther>

REGIONAL WHIP

FOR IMMEDIATE RELEASE
February 10, 1999

Contact: Ted Thompson
Phone: 202-225-2271

LUTHER TAKES ACTION ON BLEACHER SAFETY

*Plans legislation requiring Consumer Product Safety
Commission to enact minimum national standards*

(WASHINGTON, DC) – Congressman Bill Luther has announced plans to introduce legislation directing the Consumer Product Safety Commission to issue national standards for “child safe” bleachers. Luther’s action was prompted by the recent injuries to children in Minnesota hockey arenas, including the tragic death of Toby Lee when he fell from a bleacher. Bleacher safety falls within the jurisdiction of Luther’s subcommittee, the Telecommunications, Trade and Consumer Protection Subcommittee of the Commerce Committee.

“Toby Lee’s death was just shocking – a little boy who became the victim of a poor design. We need to make sure these accidents don’t happen again” Luther said. “We’ve found that bleachers currently are not within the jurisdiction of the Consumer Product Safety Commission because they aren’t considered ‘consumer products.’ Similarly, bleachers don’t fall within OSHA’s jurisdiction for workplace safety. There is a hole here, and it needs to be filled immediately to prevent further accidents.” Luther’s legislation will direct the Consumer Product Safety Commission to issue national standards within six months which will apply to all sporting facilities, not just hockey arenas. Railings and other safety concerns will be addressed in addition to the gap between footboards and seats.

Congressman Luther has long been involved in amateur sports issues beginning with his efforts while a state senator to create the Minnesota Amateur Sports Commission, and playing a key role in creation of the National Sports Center in Blaine. Luther, who represents Minnesota’s Sixth Congressional District, also noted that “the median age of sixth district residents is one of the youngest in the country, and the district is the fastest growing in the region – filled with young families and kids involved in sports. Safety is critical to these families, and it is a high priority for me.”

“The Minnesota sporting community, legislature, parents groups and others have really stepped up to the plate in response to the bleacher accidents. My goal is to complement their efforts, and create national standards so that children in Minnesota and across the country are

Luther Takes Action on Bleacher Safety
February 10, 1999
Page 2 of 2

not injured or killed due to poorly designed bleachers,” Luther added. Similar approaches were taken to improve the safety of automatic garage door openers.

“Sporting events are central to so many communities, and athletics is really a family activity. We all agree that parents need to be watchful of their kids whether at an arena or playing in the park. But there are further things we can do to help keep kids safe by making sure that sporting facilities are not dangerous places for children.”

In Minnesota, State Representative Bob Milbert of South St. Paul, author of the successful “Mighty Ducks” arena legislation, is fighting for additional funding for the program. According to Milbert, “the Mighty Ducks program allows for up to \$50,000 per project for retrofitting facilities. We need to fund this now in order to make our facilities safe as quickly as possible.” Milbert added that “Bill Luther is right on the money with his approach to federal standards. There is a gap in the law, and Luther’s going to plug the gap. We’ll do our part in Minnesota to retrofit facilities. Working on a local-state-federal approach will take us a long way to solving this problem.”

30

LANNY R. BERKE, P.E., C.S.P.
Consultant

4470 Forestview Lane
Plymouth, Minnesota 55442
(612) 559-1534

February 11, 1999

Mr. Ted Thompson
1811 Weir Drive
Suite 150
Woodbury, MN 55125

RE: Bleachers

Dear Mr. Thompson:

This letter is in response to our telephone conversation today.

I am a safety consultant in Plymouth, Minnesota, and have investigated 50-60 accidents that have occurred involving sports bleachers. I am the expert being used by WCCO-TV in their "Dimension" broadcast on Sunday, February 14, 1999, concerning bleachers.

My findings during the preparation of this broadcast was that:

1. most of the bleachers in Minnesota are extremely dangerous to children, and that some of the bleachers were, in fact, very dangerous to adults.
2. Most of the bleachers examined were more than ten years old.
3. Most of the bleachers did not meet the requirements of the Uniform Building Code-1997.
4. Some of the dangerous bleachers had been modified to be made safe, and the intent was admirable, but even after the modification the bleachers were dangerous and did not meet the Uniform Building Code.

The dangers noted were two fold.

1. The dangerous bleachers had openings that children, and in some cases adults, could easily fall through and be injured.

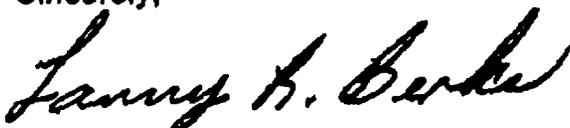
2. The older bleachers were in substantial disrepair where the bleachers obviously were not capable of holding the weight that the bleachers were designed to support. The structural problems included missing bolts, missing or broken support members, severe corrosion of support members, and damaged support members.

Other "Dimension" broadcasts that I have done for WCCO-TV were about:

1. Automatic doors that knock down and injure the elderly and the handicapped. Target was one of the featured stores in this program.
2. The Hollydazzle sudden acceleration accident. I have investigated many dozens of sudden acceleration accidents, and have yet to find a mechanical or electronic cause. It has always been human error, as it was in the Hollydazzle accident. Enclosed is a copy of a letter that I sent to the Minneapolis Star and Tribune and to the St. Paul Dispatch-Pioneer Press.

Enclosed with this letter is some literature that will give you a little information regarding my background. If I can be of service, please call me.

Sincerely,

A handwritten signature in cursive script that reads "Lanny R. Berke".

Lanny R. Berke, P.E., C.S.P.

1480 Westwood Drive
Minnetrista, Minnesota 55364
July 1, 1999

Minnesota State Senators
Minnesota State Representatives

Re: Bleacher Accident / Injury to Adult

Dear Representative:

I am writing to provide you with information about my accidental fall from a bleacher. Because bleacher safety has been an issue this past legislative session, many people, including legislators, have expressed their opinions and personal suppositions based on information provided by interested third parties. I feel an obligation to provide you with a first party account of a bleacher accident that happened to me.

On Friday, May 14, I was injured when I fell through a structurally deficient bleacher at a suburban Twin City high school varsity baseball field. The bleacher was metal framed with six to eight inch square metal plates attached, metal brackets to be bolted to the plates, and two inch by eight inch wood planks laid in the metal brackets. The bleacher was relatively small, approximately six feet high, about twenty five feet wide, sitting on a cement slab.

It was about 6:45 p.m. and the high school- varsity baseball game had just ended. I was crossing the bleacher, walking slowly and carefully, on the second seating plank from the top. As I stepped from one plank to another, I immediately felt a weakness in the plank and instantly it broke (exploding with a bang) and I fell through the bleacher to the cement slab below. I landed on the right side of my back, on the area near my right kidney and liver. I cracked two ribs. I suffered other bruises, but because there was no criss cross framing under the bleacher, I was spared other significant injury. My medical bills have exceeded \$3,750.

If you do not have a first hand experience with a bleacher accident, you might mistakenly attribute the incidents that you hear about, especially those involving children, to carelessness and / or inadequate supervision. I will no longer make that mistake. My accident occurred so quickly that I could do nothing to prevent it or to protect myself once it happened. I was instantaneously in free fall.

Here are my answers to some questions that you might pose:

1. I am a fifty year old male, five foot eight inches tall and I weigh one hundred ninety pounds.
2. I am the treasurer of a small company and a certified public accountant.

3. I am not physically impaired, have been involved in athletics throughout my life, and I remain active as a coach of a legion baseball team (17 and 18 year old players).
4. I have not had a similar accident at any time during my life.
5. In my opinion, I was extremely lucky. I did not land on my head or my spine, nor any limbs that could have been broken. And, apparently, my ribs protected my internal organs. I don't think I could make the same fall again and survive with only cracked ribs.
6. I was immobilized, transported to a hospital, x-rayed, cat scanned, had my urine check for blood, admitted to the hospital for the night and released the next day. I returned to the hospital on Tues., May 18, for further x-rays, examination and diagnosis.
7. I did nothing to contribute to the cause of this accident other than to be in the wrong place at the wrong time.

On Sunday, May 16, I returned to the bleacher to examine its structure, hence my earlier description. The plank that had broken was gone and there were no signs, warnings or restrictions of any type to prevent others from climbing onto the bleacher. The metal brackets I examined were not bolted to the metal plates. The bleacher, as it stood, was wood planks, laying in metal brackets, set on metal plates which were part of the metal frame. I did not climb the bleacher to determine if there were any other weak planks.

According to a representative of the school district, on Monday, May 17, a facilities employee examined the bleacher, judged it to be structurally deficient and directed that it be disassembled and removed from the site, which it was that same day. I was told that at least one other bleacher was also taken down that day by school district employees.

What do I hope to accomplish with this correspondence? I want you to take the information that I am providing and include it with other pertinent considerations to help you determine your position on specific bleacher safety proposals. But, most of all, I want you to know that when a bleacher is faulty, an accident can happen to anyone. If you believe that this type of accident could only happen to someone (a child) who contributes to the cause of the accident, then you have not fallen, as I have.

My personal criteria for the improvement of bleacher safety includes:

- a) Local control and responsibility without a new layer of state regulation and reporting.
- b) Safety information and improvement suggestions to be provided by the state of Minnesota to school districts, hockey arenas and cities.
- c) A reasonable, quick, effective and cost efficient response to this dangerous situation that will prevent accidents now, consisting of the following:

- (1) State funding for structural engineering students to, upon request, examine existing bleachers, on an internship or academic credit related basis, with direct reporting of their findings to local authorities.
- (2) The establishment of a central resource data base consisting of private business contractors who are willing and able, on a competitive basis, to help cities, arenas and local districts correct bleacher deficiencies.

Thank you for your time and consideration of this very serious concern. Please keep in mind that at the time of my accident I was keenly aware of the danger, I was very careful while on the bleacher, and there was nothing I could have done to prevent the accident or diminish its impact. I was the victim of an accident over which I had no control.

Sincerely,



W. John Bill
(612) 472-2649 (H)
(612) 550-9200 (W)