



MADISON OP-ED SERIES

The James Madison Institute

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OSHA Releases Alligators into Sewer System

by Peter Doherty

Legend says alligators live in New York City's sewers: Long ago New Yorkers traveling to Florida purchased baby alligators, but after returning home they discovered alligators make poor pets. Most died, but some were tossed into toilets and storm drains alive. The alligators liked the sewers. They live there today and every once in a while, they gobble somebody up.

The story is rubbish. It may contain a crumb of fact—it's possible an alligator was found in a sewer—but no people-gobbling colonies exist. Yet, the story persists.

The alligator legend seems apt here because the Occupational Safety and Health Administration (OSHA) has released into the American business world a rumor that may have as much staying power as the alligator myth, but which may do a great deal more harm.

In response to questions from a Texas computer firm eager to move some sales executives from offices to home-based settings, OSHA, despite having no regulations covering home-based white-collar workers, sent an "interpretation and compliance letter" to the company.

In the course of six pages, OSHA ordered the employer to exercise "reasonable diligence ... to ensure that employees are not exposed to reasonably foreseeable hazards created by their at-

home employment." The agency spotlighted "unsafe" stairs leading to a basement office as one example. There were many others.

There is no doubt OSHA's letter would have killed telecommuting. No employer would be willing to shoulder the risk or the expense, and no homeowners would want their homes rebuilt to the agency's idiotic standards.

Happily, on January 5, 2000, the decree was "withdrawn" by OSHA who said the letter was just friendly advice given to a single employer. That is baloney. Their use in the letter of "all employers" and "employers must," not to mention "reasonable diligence" and "foreseeable," prove it was much, much more.

Publicity and protest greeted OSHA's pronouncement, but much less attention was given their retraction. So now it sits like alligators in the sewers. OSHA's control over home offices may not be real anymore, but for a long time many employers, employees, attorneys, and insurers will believe it is.

What a wonderful way to start the new millennium: Focus on business and wound it.

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