

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 226

Introduced by Cornett, 45

Read first time January 9, 2007

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Boiler Inspection Act; to amend sections
2 48-720, 48-722, 48-730, 48-731, and 48-736, Reissue
3 Revised Statutes of Nebraska; to change provisions
4 relating to boiler inspections; to authorize inspections
5 by authorized inspection agencies; to change a penalty;
6 to repeal the original sections; and to declare an
7 emergency.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-720, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-720 As used in the Boiler Inspection Act, unless the
4 context otherwise requires:

5 (1) Authorized inspection agency means an authorized
6 inspection agency as defined in NB-369, National Board
7 Qualifications and Duties for Authorized Inspection Agencies (AIAs)
8 Performing Inservice Inspection Activities and Qualifications for
9 Inspectors of Boilers and Pressure Vessels;

10 ~~(1)~~ (2) Board means the Boiler Safety Code Advisory
11 Board;

12 ~~(2)~~ (3) Boiler means a closed vessel in which water or
13 other liquid is heated, steam or vapor is generated, steam or
14 vapor is superheated, or any combination thereof, under pressure
15 or vacuum, for internal or external use to itself, by the direct
16 application of heat and an unfired pressure vessel in which the
17 pressure is obtained from an external source or by the application
18 of heat from an indirect or direct source. Boiler includes a fired
19 unit for heating or vaporizing liquids other than water only when
20 such unit is separate from processing systems and complete within
21 itself; and

22 ~~(3)~~ (4) Commissioner means the Commissioner of Labor; and

23 -

24 (5) Department means the Department of Labor.

25 Sec. 2. Section 48-722, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 48-722 (1) Except as provided in subsection ~~(2)~~ (3) of
3 this section, the state boiler inspector shall inspect or cause
4 to be inspected at least once every twelve months all boilers
5 required to be inspected by the Boiler Inspection Act to determine
6 whether the boilers are in a safe and satisfactory condition and
7 properly constructed and maintained for the purpose for which the
8 boiler is used, except that (a) hobby boilers, steam farm traction
9 engines, portable and stationary show engines, and portable and
10 stationary show boilers, which are not otherwise exempted from the
11 act pursuant to section 48-726, shall be subject to inspection
12 at least once every twenty-four months and (b) the commissioner
13 may, by rule and regulation, establish inspection periods for
14 pressure vessels of more than twelve months, but not to exceed the
15 inspection period recommended in the National Board Inspection Code
16 or the American Petroleum Institute Pressure Vessel Inspection Code
17 API-510 for pressure vessels being used for similar purposes. In
18 order to ensure that inspections are performed in a timely manner,
19 the department may contract with an authorized inspection agency
20 to perform any inspection authorized under the Boiler Inspection
21 Act. If the department contracts with an authorized inspection
22 agency to perform inspections, such contract shall be in writing
23 and shall contain an indemnification clause wherein the authorized
24 inspection agency agrees to indemnify and defend the department
25 for loss occasioned by negligent or tortious acts committed by

1 special inspectors employed by such authorized inspection agency
2 when performing inspections on behalf of the department.

3 (2) No boilers required to be inspected by the act shall
4 be operated without valid and current certification pursuant to
5 rules and regulations adopted and promulgated by the commissioner
6 in accordance with the requirements of the Administrative Procedure
7 Act. The owner of any boiler installed after September 2, 1973,
8 shall file a manufacturer's data report covering the construction
9 of such boiler with the state boiler inspector. Such reports shall
10 be used to assist the state boiler inspector in the certification
11 of boilers. No boiler required to be inspected by the Boiler
12 Inspection Act shall be operated at any type of public gathering or
13 show without first being inspected and certified as to its safety
14 by the state boiler inspector or a special inspector commissioned
15 pursuant to section 48-731. Antique engines with boilers may be
16 brought into the state from other states without inspection, but
17 inspection as provided in this section shall be made and the boiler
18 certified as safe before being operated.

19 ~~(2)~~ (3) The commissioner may, by rule and regulation,
20 waive the inspection of unfired pressure vessels registered with
21 the State of Nebraska if the commissioner finds that the owner or
22 user of the unfired pressure vessel follows a safety inspection and
23 repair program that is based upon nationally recognized standards.

24 Sec. 3. Section 48-730, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 48-730 Before any boiler required to be inspected by the
2 Boiler Inspection Act is installed, a ten days' written notice of
3 intention to install the boiler shall be given to the commissioner,
4 except that the commissioner may, upon application and good cause
5 shown, waive the ten-day prior notice requirement. The notice shall
6 designate the proposed place of installation, the type and capacity
7 of the boiler, the use to be made of the boiler, the name of the
8 company which manufactured the boiler, and whether the boiler is
9 new or used. A boiler moved from one location to another shall be
10 reinspected prior to being placed back into use.

11 Sec. 4. Section 48-731, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 48-731 (1) (a) ~~The Division of Safety and Labor Standards~~
14 ~~of the Department of Labor~~ commissioner may issue a special
15 inspector commission to an inspector in the employ of a company
16 if the inspector has previously passed the examination prescribed
17 by the National Board of Boiler and Pressure Vessel Inspectors and
18 the company is an insurance company authorized to insure boilers
19 in this state against loss from explosion or is an authorized
20 inspection agency.

21 (b) ~~Each insurance company which~~ special inspector
22 employed by an insurance company or authorized inspection agency
23 who has been issued a special inspector commission under this
24 section shall submit to the state boiler inspector complete data of
25 each boiler required to be inspected by the Boiler Inspection Act

1 which is insured or inspected by such company insurance company or
2 authorized inspection agency on forms approved by the commissioner.

3 (c) Insurance companies shall notify the ~~division~~
4 department of new, canceled, or suspended risks relating to insured
5 boilers. Insurance companies shall notify the ~~division~~ department
6 of all boilers which the company insures, or any boiler for which
7 insurance has been canceled, not renewed, or suspended within
8 thirty days after such action. Authorized inspection agencies shall
9 notify the department of any new or canceled agreements relating to
10 the inspection of boilers or pressure vessels within thirty days
11 after such action.

12 (d) Insurance companies and authorized inspection
13 agencies shall immediately notify the ~~division~~ department of
14 defective boilers. If a special inspector employed by an insurance
15 company, upon the first inspection of new risk, finds that the
16 boiler or any of the appurtenances are in such condition that
17 the inspector's company refuses insurance, the company shall
18 immediately submit a report of the defects to the state boiler
19 inspector.

20 (2) The inspection required by the act shall not be ~~made~~
21 required if (a) an annual inspection is made under a city ordinance
22 which meets the standards set forth in the act, (b) a certificate
23 of inspection of the boiler is filed with the commissioner with
24 a certificate fee, and (c) the inspector for the city making
25 such inspection is required by such ordinance to either hold a

1 commission from the National Board of Boiler and Pressure Vessel
2 Inspectors commensurate with the type of inspections performed by
3 the inspector for the city or acquire the commission within twelve
4 months after appointment.

5 (3) The commissioner may, by rule and regulation, provide
6 for the issuance of a special inspector commission to an inspector
7 in the employ of a company using or operating an unfired pressure
8 vessel subject to the act for the limited purpose of inspecting
9 unfired pressure vessels used or operated by such company.

10 (4) All inspections made by a special inspector shall be
11 performed in accordance with the act, and a complete report of such
12 inspection shall be filed with the ~~division~~ department in the time,
13 manner, and form prescribed by the commissioner.

14 (5) The state boiler inspector may, at his or her
15 discretion, inspect any boiler to which a special inspector
16 commission applies.

17 (6) The commissioner may, for cause, suspend or revoke
18 any special inspector commission.

19 (7) No authorized inspection agency shall perform
20 inspections of boilers in the State of Nebraska unless
21 the authorized inspection agency has insurance coverage for
22 professional errors and omissions and comprehensive and general
23 liability under a policy or policies written by an insurance
24 company authorized to do business in this state in effect at the
25 time of such inspection. Such insurance policy or policies shall be

1 in an amount not less than the minimum amount as established by
2 the commissioner. Such minimum amount shall be established with due
3 regard to the protection of the general public and the availability
4 of insurance coverage, but such minimum insurance coverage shall
5 not be less than one million dollars for professional errors and
6 omissions and one million dollars for comprehensive and general
7 liability.

8 Sec. 5. Section 48-736, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 48-736 Any person, persons, corporations, and the
11 directors, managers, superintendents, and officers of such
12 corporations violating the Boiler Inspection Act shall be guilty of
13 a Class V III misdemeanor.

14 Sec. 6. Original sections 48-720, 48-722, 48-730, 48-731,
15 and 48-736, Reissue Revised Statutes of Nebraska, are repealed.

16 Sec. 7. Since an emergency exists, this act takes effect
17 when passed and approved according to law.