

LEGISLATIVE BILL 226

Approved by the Governor May 16, 2007

Introduced by Cornett, 45

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

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

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

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

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

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

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

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

(5) Department means the Department of Labor.

Sec. 2. Section 48-722, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

(b) Each insurance company which special inspector employed by an insurance company or authorized inspection agency who has been issued a special inspector commission under this section shall submit to the state boiler inspector complete data of each boiler required to be inspected by the Boiler Inspection Act which is insured or inspected by such company insurance company or authorized inspection agency on forms approved by the commissioner.

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

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

(2) The inspection required by the act shall not be made required if (a) an annual inspection is made under a city ordinance which meets the standards set forth in the act, (b) a certificate of inspection of the boiler is filed with the commissioner with a certificate fee, and (c) the inspector for the city making such inspection is required by such ordinance to either hold a commission from the National Board of Boiler and Pressure Vessel Inspectors commensurate with the type of inspections performed by the inspector for the city or acquire the commission within twelve months after appointment.

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

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

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

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

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

such inspection. Such insurance policy or policies shall be in an amount not less than the minimum amount as established by the commissioner. Such minimum amount shall be established with due regard to the protection of the general public and the availability of insurance coverage, but such minimum insurance coverage shall not be less than one million dollars for professional errors and omissions and one million dollars for comprehensive and general liability.

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

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

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

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