

## LEGISLATIVE BILL 438

Approved by the Governor May 23, 1995

Introduced by Fisher, 35

AN ACT relating to the Boiler Inspection Act; to amend sections 48-719, 48-722 to 48-727, 48-729 to 48-733, 48-737, and 48-743, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to boiler inspections and fees charged; to provide for special inspector commissions; to create a fund and change funding; to harmonize provisions; to repeal the original sections; and to outright repeal sections 48-734 and 48-735, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 48-719, Reissue Revised Statutes of Nebraska, is amended to read:

48-719. Sections 48-719 to 48-743 and section 13 of this act shall be known and may be cited as the Boiler Inspection Act.

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

48-722. ~~It shall be the duty of the~~ The state boiler inspector ~~to shall inspect or cause to be inspected at least once every twelve months all boilers required to be inspected by the Boiler Inspection Act in order to determine whether such equipment is the boilers are in a safe and satisfactory condition and properly constructed and maintained for the purpose for which the same boiler is used. No such equipment 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 chief state boiler inspector in the certification of equipment boilers. No boiler covered 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. 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.~~

Sec. 3. Section 48-723, Reissue Revised Statutes of Nebraska, is amended to read:

48-723. The commissioner and the boiler inspectors shall have the right and power to enter any building or structure, public or private, for the purpose of inspecting any equipment covered boilers required to be inspected by the Boiler Inspection Act or gathering information with reference thereto relating to such boilers.

Sec. 4. Section 48-724, Reissue Revised Statutes of Nebraska, is amended to read:

48-724. Upon making an inspection of any equipment covered boilers required to be inspected by the Boiler Inspection Act and upon receipt of the inspection fee and a ten-dollar certificate fee, the boiler inspector shall give to the owner or user thereof of the boilers a certificate of inspection upon forms prescribed by the commissioner. The certificate shall be posted in a place near the location of such equipment. boiler. The commissioner shall establish the amount of the inspection fee and certificate fee by rule or regulation.

Sec. 5. Section 48-725, Reissue Revised Statutes of Nebraska, is amended to read:

48-725. The owner, user, or person or persons in charge of any equipment covered boiler required to be inspected by the Boiler Inspection Act shall not allow or permit a greater pressure in any unit than is stated in the certificate of inspection issued by the inspector.

Sec. 6. Section 48-726, Reissue Revised Statutes of Nebraska, is amended to read:

48-726. The Boiler Inspection Act shall not apply to (1) boilers of railway locomotives subject to federal inspection, (2) boilers operated and regularly inspected by railway companies operating in interstate commerce, (3) boilers under the jurisdiction and subject to inspection by the United States Government, (4) boilers used exclusively for agricultural purposes, (5) steam

heating boilers in single-family residences and apartment houses with four or less units using a pressure of less than fifteen pounds per square inch and having a safety valve set at not higher than fifteen pounds pressure per square inch, (6) heating boilers using water in single-family residences and apartment houses with four or less units using a pressure of less than thirty pounds per square inch and having a safety valve set at not higher than thirty pounds pressure per square inch, (7) fire engine boilers brought into the state for temporary use in times of emergency, (8) boilers of a miniature model locomotive or boat or tractor or stationary engine constructed and maintained as a hobby and not for commercial use and having a diameter of less than ten inches inside diameter and a grate area not in excess of one and one-half square feet and that are properly equipped with a safety valve, and (9) hot water supply boilers not having more than (a) two hundred one hundred fifty thousand British thermal units of input, (b) one hundred twenty gallons of nominal capacity, or (c) two hundred ten degrees Fahrenheit output.

Sec. 7. Section 48-727, Reissue Revised Statutes of Nebraska, is amended to read:

48-727. The commissioner may adopt and promulgate rules and regulations for the purpose of effectuating the Boiler Inspection Act, including rules and regulations for the methods of testing equipment, the and construction and installation of new equipment covered by the act boilers, and a schedule of inspection and certificate fees for boilers required to be inspected by the act. Such rules and regulations may incorporate by reference any portion of (1) the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, as amended, (2) the National Board Inspection Code for Boilers and Pressure Vessels, as amended, (3) the American Society of Mechanical Engineers Safety Code, as amended, concerning controls and safety devices for automatically fired boilers, and (4) the American Petroleum Institute Pressure Vessel Inspection Code ANSI-API-510, and (5) the National Fire Protection Association, series 85, code for controls and safety devices, including codes referenced in such code. A copy of all rules and regulations adopted and promulgated under the Boiler Inspection Act, including copies of all codes incorporated by reference, shall be kept on file in the office of the commissioner and shall be known as the Boiler Safety Code.

Sec. 8. Section 48-729, Reissue Revised Statutes of Nebraska, is amended to read:

48-729. The state boiler inspector shall keep in the office of the commissioner a complete and accurate record of the name of the owner or user of any equipment subject to boiler required to be inspected by the Boiler Inspection Act and a full description of the equipment including the type, dimensions, age, condition, amount of pressure allowed, and date when last inspected.

Sec. 9. Section 48-730, Reissue Revised Statutes of Nebraska, is amended to read:

48-730. Before any equipment covered boiler required to be inspected by the Boiler Inspection Act is installed, by any owner, user, or lessee thereof, a ten days' written notice of intention to install the boiler same shall be given to the commissioner. The notice shall designate the proposed place of installation, the type and capacity of the equipment boiler, the use to be made thereof of the boiler, the name of the company which manufactured the equipment boiler, and whether the equipment boiler is new or used.

Sec. 10. Section 48-731, Reissue Revised Statutes of Nebraska, is amended to read:

48-731. The inspection required by the Boiler Inspection Act shall not be made when any owner or user of any equipment covered by the act obtains an inspection by a representative of a reputable insurance company; obtains a policy of insurance from such company upon the equipment; and files with the commissioner a certification of inspection by such insurance company upon forms approved by the commissioner, a ten-dollar certificate fee; and a statement that the equipment is insured; (1) Each insurance company which 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 by such company on forms approved by the commissioner.

(2) Insurance companies shall notify the Division of Safety and Labor Standards of the Department of Labor of new, canceled, or suspended risks relating to insured boilers. Insurance companies shall notify the division 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.

(3) Insurance companies shall notify the division of defective

boilers. If a special inspector, 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 submit a report of the defects to the state boiler inspector.

(4) The inspection required by the Boiler Inspection Act shall not be made if annual inspection is made under a city ordinance which meets the standards set forth in the act and a certificate of inspection of the boiler such equipment is filed with the commissioner with a ten-dollar certificate fee and if the inspector for the city making such inspection is required by such ordinance to have qualifications equal to those required of the state boiler inspector as set forth in section 48-721. Upon such showing the commissioner shall waive inspection by the state boiler inspector for the period covered by the policy of insurance or certificate issued by the city.

(5) The division 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.

(6) 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 in the time, manner, and form prescribed by the commissioner.

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

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

Sec. 11. Section 48-732, Reissue Revised Statutes of Nebraska, is amended to read:

48-732. The state boiler inspector shall notify the user in writing of any equipment boiler found to be unsafe or unfit for operation setting forth the nature and extent of such defects and condition. The notice shall indicate whether or not the equipment boiler may be used without making repair or replacement of defective parts or may be used in a limited capacity before repairs or replacements are made. The state boiler inspector may permit the user a reasonable time to make such repairs or replacements.

Sec. 12. Section 48-733, Reissue Revised Statutes of Nebraska, is amended to read:

48-733. The owner or user of a boiler required to be inspected under the Boiler Inspection Act or inspected by request of the boiler owner shall pay a fee for such inspection or inspections in accordance with the rules and regulations adopted and promulgated by the commissioner. Any boiler required to be inspected by the act may be inspected by the state boiler inspector if the owner or his or her agent makes written request to the state boiler inspector. Fees will be imposed as required for services in support of the act in accordance with rules and regulations adopted and promulgated by the commissioner, following schedule:

(1) A power steam boiler or a high-pressure high-temperature water or other liquid boiler with three hundred square feet of heating surface or less shall be inspected internally for a fee of thirty dollars;

(2) A power steam boiler or a high-pressure high-temperature water or other liquid boiler over three hundred square feet of heating surface but less than four thousand square feet of heating surface shall be inspected internally for a fee of forty dollars;

(3) A power steam boiler or a high-pressure high-temperature water or other liquid boiler of four thousand square feet of heating surface to and including ten thousand square feet of heating surface shall be inspected internally for a fee of fifty dollars;

(4) A power steam boiler or a high-pressure high-temperature water or other liquid boiler over ten thousand square feet of heating surface shall be inspected internally for a fee of seventy dollars;

(5) An external inspection required for a power steam boiler or a high-pressure high-temperature water or other liquid boiler shall be made for a fee of twenty dollars;

(6) If a heating or hot water supply boiler requires an internal inspection for a certificate under the act, such inspection shall be made for a fee of thirty dollars;

(7) If a heating or hot water supply boiler requires an external inspection for a certificate under the act, such inspection shall be made for a fee of twenty dollars;

(8) If an unfired steam vessel having pressures in excess of one hundred fifty pounds per square inch requires inspection under the act, such inspection fee shall be:

(a) Internal inspection, thirty dollars, and

(b) External inspection, twenty dollars;

(9) A power steam boiler or other boiler of a historical nature which is at least thirty years old and has been preserved, restored, or maintained for its historical or heritage value and which is not in general use shall be inspected internally or externally for a fee of twenty dollars for one boiler and six dollars for each additional boiler inspected at the same time, and

(10) All other boilers that may be covered by the act shall receive an internal inspection when required for a fee of thirty dollars. All other boilers that may be covered by the act shall receive an external inspection when required for a fee of twenty dollars.

Fees paid pursuant to this section shall be based upon the size of a boiler as calculated in the American Society of Mechanical Engineers minimum national standards. In calculating the size of an electrically heated boiler, each kilowatt of electric energy provided the boiler at its maximum rating shall be considered the equivalent of one square foot of heating surface of a fire tube boiler.

No fee shall be charged for inspection of a boiler in a state-owned building.

Sec. 13. The Boiler Inspection Cash Fund is created. The commissioner shall use the fund for the administration of the boiler inspection program pursuant to the Boiler Inspection Act. The fund shall consist of money appropriated to it by the Legislature and fees collected in the administration of the act. Fees so collected shall be remitted to the State Treasurer with an itemized statement showing the source of collection. The State Treasurer shall credit the fees to the fund and the money in the fund shall not lapse into the General Fund. Any money in the Boiler Inspection Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 14. Section 48-737, Reissue Revised Statutes of Nebraska, is amended to read:

48-737. In addition to any and all other remedies, if any owner, user, or person in charge of any equipment covered boiler required to be inspected by the Boiler Inspection Act continues to use the same after receiving a notice of defect as provided by the act, without first correcting the defects or making replacements, the commissioner may apply to the district court or any judge thereof by petition in equity, in an action brought in the name of the state, for a writ of injunction to restrain the use of the alleged defective equipment boiler or if the continued operation of the boiler poses serious risk or harm to the general public, the state boiler inspector may take those actions required to immediately shut down and cause to be inoperable any boiler required to be inspected by the act.

Sec. 15. Section 48-743, Reissue Revised Statutes of Nebraska, is amended to read:

48-743. It shall be the duty of the board to The board shall hold hearings and advise the commissioner on rules and regulations for methods of testing equipment and construction and installation of new equipment covered boilers required to be inspected by the Boiler Inspection Act and for inspection and certificate fees for such boilers.

Sec. 16. Original sections 48-719, 48-722 to 48-727, 48-729 to 48-733, 48-737, and 48-743, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 17. The following sections are outright repealed: Sections 48-734 and 48-735, Reissue Revised Statutes of Nebraska.