

LEGISLATIVE BILL 462

Approved by the Governor May 29, 1987

Introduced by Business & Labor Committee, Hall, 7,
Chairperson; Landis, 46; Hefner, 19;
Coorsen, 32; Labeledz, 5

AN ACT relating to boiler inspection; to amend sections 48-701 to 48-710, 48-712 to 48-714, and 48-714.02 to 48-718, Reissue Revised Statutes of Nebraska, 1943; to adopt the Boiler Inspection Act; and to repeal the original sections, and also section 48-714.01, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. This act shall be known and may be cited as the Boiler Inspection Act.

Sec. 2. As used in the Boiler Inspection Act, unless the context otherwise requires:

(1) Boiler shall mean 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. Boiler shall include fired units for heating or vaporizing liquids other than water only when such units are separate from processing systems and complete within themselves; and

(2) Commissioner shall mean the Commissioner of Labor.

Sec. 3. That section 48-701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-701- The Commissioner of Labor commissioner shall, on or before the first day of July 1943 and every two years thereafter, appoint a state boiler inspector, subject to the approval of the Governor, who shall work under the direct supervision of the commissioner or his or her designee and devote his or her full time to the duties of his the office. Before entering upon the duties of his office, the state boiler inspector shall be bonded under the blanket surety bond required by section 11-201. The Commissioner of Labor commissioner may, subject to the approval of the Governor, appoint deputy inspectors, possessing the same qualifications as the state boiler

inspector, whenever the same may be necessary to carry out the provisions of sections 48-701 to 48-718 Boiler Inspection Act. Such deputy inspectors shall be subject to and governed by the same rules and regulations applicable to and governing the acts and conduct of the state boiler inspector. The person so appointed shall (1) be a practical boilermaker, technical engineer, operating engineer, or boiler inspector and hold a commission from the National Board of Boiler and Pressure Vessel Inspectors or acquire the commission within twelve months of appointment, (2) be qualified by not less than ten years' experience in the construction, installation, repair, and inspection, or operation of boilers, steam generators, and superheaters, (3) have a knowledge of their operation and use for the generating of steam for power, heating, or other purposes, and shall (4) neither directly nor indirectly be interested in the manufacture, ownership, or agency of the same. Before entering upon his or her duties under the Boiler Inspection Act, the state boiler inspector and each deputy inspector shall be bonded under the blanket surety bond required by section 11-201.

Sec. 4. That section 48-702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-702- It shall be the duty of the state boiler inspector to inspect or cause to be inspected internally and externally at least once every twelve months all steam boilers, tanks, jacket kettles, generators, and other appurtenances used in this state for generating steam under pressure of more than fifteen pounds per square inch for power or for heating purposes, in order to determine whether said such equipment is in a safe and satisfactory condition and properly constructed and maintained for the purpose for which the same is used. No such unit equipment shall be operated without valid and current certification pursuant to rules as prescribed and regulations adopted and promulgated by the Department of Labor and filed commissioner in accordance with the requirements of Chapter 84, article 9. 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 inspector in the certification of equipment. No steam boiler, tank, jacket kettle, generator, or antique engine covered 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 ~~must~~ shall be made and the boiler certified as safe before being operated.

Sec. 5. That section 48-703, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-703- The Commissioner of Labor 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 by ~~sections 48-701 to 48-718~~ the Boiler Inspection Act or gathering information with reference thereto.

Sec. 6. That section 48-704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-704- Upon making an inspection of any equipment covered by ~~sections 48-701 to 48-718~~ the Boiler Inspection Act and upon receipt of the inspection fee and a ten dollar certificate fee, the inspector shall give to the owner or user thereof a certificate of inspection; upon forms prescribed by the Commissioner of Labor commissioner. The certificate shall be posted in a place near the location of ~~said~~ such equipment.

Sec. 7. That section 48-705, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-705- The owner, user, or person or persons in charge of any equipment, covered ~~in sections 48-701 to 48-718~~, 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. 8. That section 48-706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-706- The provisions of ~~sections 48-701 to 48-718~~ 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 ; apartment

houses, and buildings other than schools 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, and (7) (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 thousand British thermal units of input, (b) one hundred twenty gallons of nominal capacity, or (c) two hundred ten degrees Fahrenheit output.

Sec. 9. That section 48-707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-707- The Commissioner of Labor is authorized to prescribe commissioner may adopt and promulgate rules, within the provisions of sections 48-701 to 48-718, and regulations for the purpose of carrying the same into effect effectuating the Boiler Inspection Act, including rules and regulations for the methods of testing equipment and construction and installation of new equipment covered by sections 48-701 to 48-718 the act. Such rules and regulations shall, as nearly as possible, conform to the rules formulated by the boiler code committee of the American Society of Mechanical Engineers and known as the American Society of Mechanical Engineers' Boiler Code of 1937, as amended 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. 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. 10. That section 48-708, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-708-~~ The state boiler inspector shall investigate and report to the commissioner the cause of any boiler explosion that may occur in the state, the loss of life, the injuries sustained, the estimated loss of property, if any, and such other data as may be of benefit in preventing other similar explosions.

Sec. 11. That section 48-709, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-709-~~ The state boiler inspector shall keep in the office of the ~~Commissioner of Labor~~ commissioner a complete and accurate record of the name of the owner or user of ~~each steam boiler or other any~~ equipment subject to ~~sections 48-701 to 48-718~~ the Boiler Inspection Act and a full description of the equipment including the type, dimensions, age, condition, amount of pressure allowed, and ~~the~~ date when last inspected.

Sec. 12. That section 48-710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-710-~~ Before any equipment, ~~included under the provisions of sections 48-701 to 48-718~~ covered by the Boiler Inspection Act is installed by any owner, user, or lessee thereof, a ten days' written notice of intention to install the same shall be given to the ~~Commissioner of Labor~~ commissioner. The notice shall designate the proposed place of installation, the type and capacity of ~~such the~~ equipment, the use to be made thereof, the name of the company which manufactured ~~same the equipment,~~ and whether ~~said the~~ equipment is new or used.

Sec. 13. That section 48-712, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-712-~~ The inspection required by ~~sections 48-701 to 48-718~~ the Boiler Inspection Act shall not be made when any owner or user of any equipment ~~under sections 48-701 to 48-718~~ 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 of Labor~~ commissioner a certification of inspection by ~~said such~~ insurance company upon forms approved by the commissioner, a ten dollar certificate fee, and a statement that ~~said the~~ equipment is insured. The

inspection required by ~~sections 48-701 to 48-718~~ the Boiler Inspection Act shall not be made if annual inspection is made under the provisions of a city ordinance which meets the standards set forth in sections 48-701 to 48-718, the act and a certificate of inspection of such equipment is filed with the Commissioner of Labor commissioner with a ten dollar certificate fee; PROVIDED, 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 ~~48-701~~ 3 of this act. Upon such showing the commissioner shall waive inspection by the Department of Labor state boiler inspector for the period covered by said the policy of insurance or certificate issued by the city.

Sec. 14. That section 48-713, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-713-~~ The state boiler inspector shall notify the user in writing of any equipment ~~or appurtenance~~, found to be unsafe or unfit for operation setting forth the nature and extent of such defects and condition. ~~Said The~~ notice shall indicate whether or not ~~said the~~ equipment 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. 15. That section 48-714, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-714-~~ The owner or user of a boiler ~~or pressure vessel~~ required by ~~this act~~ to be inspected under the Boiler Inspection Act shall pay a fee for such inspection, or inspections, in accordance with the 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 ~~this act~~ 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 ~~this act~~ 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 ~~this act~~ 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 or pressure vessel 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 pressure vessels boilers that may be ~~included under this act~~ will covered by the act shall receive an internal inspection when required for a fee of thirty dollars. All other pressure vessels boilers that may be ~~included under this act~~ will 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. 16. That section 48-714.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-714-02-~~ The ~~A~~ school shall pay to the ~~Commissioner of Labor~~ commissioner an inspection fee based on fifty per cent of the fee schedule as provided in section ~~48-714~~, 15 of this act for each boiler inspected, which fee shall be remitted to the State Treasurer as provided in section ~~48-715~~ 17 of this act.

Sec. 17. That section 48-715, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-715-~~ All fees, provided for in ~~sections 48-701 to 48-718~~, the Boiler Inspection Act shall be collected by the ~~Commissioner of Labor~~ commissioner and remitted to the State Treasurer together with an itemized statement showing the source of collection. Such fees shall be placed in the General Fund of this state.

Sec. 18. That section 48-716, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-716-~~ Any person, persons, corporations, and the directors, managers, superintendents, and officers of such corporations violating any of the provisions of sections 48-701 to 48-718, the Boiler Inspection Act shall be guilty of a Class V misdemeanor.

Sec. 19. That section 48-717, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-717-~~ In addition to any and all other remedies, if any owner, user, or person in charge of any equipment, covered by ~~sections 48-701 to 48-718~~, the Boiler Inspection Act continues shall ~~continue~~ to use the same, after receiving a notice of defect as provided by ~~sections 48-701 to 48-718~~ the act, without first correcting ~~said~~ the defects or making replacements, the ~~Commissioner of Labor~~ 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 ~~said~~ the alleged defective equipment.

Sec. 20. That section 48-718, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-718-~~ The ~~Commissioner of Labor~~ commissioner shall notify the owner or user of ~~said~~ the equipment in writing of the time and place of hearing of

said the petition, as fixed by the court or judge, and serve said the notice on the defendant, at least five days prior to said the hearing, in the same manner as original notices are served. The general provisions relating to civil practice and procedure, insofar as the same may be applicable, shall govern such proceedings, except as otherwise provided in sections 48-701 to 48-718 the Boiler Inspection Act. In the event the defendant does not appear or plead to said such action, default shall be entered against the defendant. The action shall be tried in equity, and the court or judge shall make such order or decree as the evidence warrants.

Sec. 21. That original sections 48-701 to 48-710, 48-712 to 48-714, and 48-714.02 to 48-718, Reissue Revised Statutes of Nebraska, 1943, and also section 48-714.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.