

NEBRASKA DEPARTMENT OF LABOR

BOILER INSPECTION ACT

Neb. Rev. Stat. §§48-719 TO 48-743



PETE RICKETTS, GOVERNOR

JOHN H. ALBIN, COMMISSIONER

[Current Through 2018 Legislature, Regular Session]

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48-719. Act, how cited.

Sections 48-719 to 48-743 shall be known and may be cited as the Boiler Inspection Act.

Source: Laws 1987, LB 462, § 1; Laws 1988, LB 863, § 1; Laws 1995, LB 438, § 1.

48-720. Terms, defined.

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;

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

(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;

(4) Commissioner means the Commissioner of Labor; and

(5) Department means the Department of Labor.

Source: Laws 1987, LB 462, § 2; Laws 1988, LB 863, § 2; Laws 1997, LB 641, § 1; Laws 2007, LB226, § 1.

48-721. State boiler inspector; deputy inspectors; qualifications; bond or insurance.

(1) The commissioner shall employ a state boiler inspector 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 the office. The person so appointed shall:

(a) Be a practical boilermaker, technical engineer, operating engineer, or boiler inspector;

(b) Hold an "AI" or "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors. The state boiler inspector shall also either hold "B" and "R" endorsements to his or her commission at the time of hire or acquire such endorsements within eighteen months of employment;

(c) Be qualified by not less than ten years' experience in the construction, installation, repair, inspection, or operation of boilers, steam generators, and superheaters;

(d) Have a knowledge of the operation and use of boilers, steam generators, and superheaters for the generating of steam for power, heating, or other purposes; and

(e) Neither directly nor indirectly be interested in the manufacture, ownership, or agency of boilers, steam generators, and superheaters.

(2) The commissioner may hire deputy inspectors as necessary to carry out the Boiler Inspection Act. Deputy inspectors shall hold an "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors or acquire the same within twelve months of hire. Such deputy inspectors shall otherwise be subject to and governed by the same rules and regulations applicable to and governing the acts and conduct of the state boiler inspector.

(3) Before entering upon his or her duties under the Boiler Inspection Act, the state boiler inspector and each deputy inspector shall be bonded or insured as required by section 11-201.

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Source: Laws 1943, c. 112, § 1, p. 392; R.S.1943, § 48-701; Laws 1978, LB 653, § 12; R.S.1943, (1984), § 48-701; Laws 1987, LB 462, § 3; Laws 1998, LB 395, § 12; Laws 1999, LB 66, § 1; Laws 2004, LB 884, § 23; Laws 2017, LB264, § 1.

Effective Date: August 24, 2017

48-722. State boiler inspector; inspection; exception; contract with authorized inspection agency; certification.

(1) Except as provided in subsections (3) and (4) 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.

(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.

(4) A boiler that is used as a water heater to supply potable hot water and that is not otherwise exempt from inspection under the act pursuant to section 48-726 shall be subject to inspection at least once every twenty-four months in accordance with a schedule of inspection established by the commissioner by rule and regulation.

Source: Laws 1943, c. 112, § 2(1), p. 392; R.S.1943, § 48-702; Laws 1961, c. 235, § 5, p. 698; Laws 1971, LB 886, § 1; Laws 1973, LB 481, § 1; R.S.1943, (1984), § 48-702; Laws 1987, LB 462, § 4; Laws 1995, LB 438, § 2; Laws 1997, LB 641, § 2; Laws 1998, LB 395, § 13; Laws 1999, LB 66, § 2; Laws 2007, LB226, § 2; Laws 2009, LB627, § 1.

Cross References

- **Administrative Procedure Act**, see section 84-920.

48-723. Commissioner and boiler inspectors; right of entry.

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 boilers required to be inspected by the Boiler Inspection Act or gathering information relating to such boilers.

Source: Laws 1943, c. 112, § 2(2), p. 393; R.S.1943, § 48-703; R.S.1943, (1984), § 48-703; Laws 1987, LB 462, § 5; Laws 1995, LB 438, § 3.

48-724. Certificate of inspection; certificate of registration; fees.

(1) Upon making an inspection of any boilers required to be inspected by the Boiler Inspection Act and upon receipt of the inspection fee and certificate fee or registration fee, the boiler inspector shall give to the owner or user of the boilers a certificate of inspection or certificate of registration upon forms prescribed by the commissioner. The certificate shall be posted in a place near the location of such boiler.

(2) The commissioner shall establish the amount of the inspection fee, certificate fee, and registration fee by rule or regulation at the level necessary to meet the costs of administering the act.

Source: Laws 1943, c. 112, § 2(3), p. 393; R.S.1943, § 48-704; Laws 1965, c. 288, § 1, p. 824; Laws 1980, LB 959, § 1; R.S.1943, (1984), § 48-704; Laws 1987, LB 462, § 6; Laws 1995, LB 438, § 4; Laws 1996, LB 1047, § 2; Laws 1998, LB 395, § 14.

48-725. Excessive pressure prohibited.

The owner, user, or person or persons in charge of any 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.

Source: Laws 1943, c. 112, § 2(4), p. 393; R.S.1943, § 48-705; R.S.1943, (1984), § 48-705; Laws 1987, LB 462, § 7; Laws 1995, LB 438, § 5.

48-726. Boilers and vessels to which act does not apply.

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 regular periodic 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;
- (9) Hot water supply boilers if none of the following limitations is exceeded: (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;
- (10) Unfired pressure vessels not exceeding (a) five cubic feet in volume or (b) a pressure of two hundred fifty pounds per square inch;
- (11) Unfired pressure vessels owned and maintained by a district or corporation organized under the provisions of Chapter 70, article 6; and

(12) Unfired pressure vessels (a) not exceeding a maximum allowable working pressure of five hundred pounds per square inch, (b) that contain carbon dioxide, helium, oxygen, nitrogen, argon, hydrofluorocarbon refrigerant, or any other nonflammable gas determined by the commissioner not to be a risk to the public, (c) that are manufactured and repaired in accordance with applicable American Society of Mechanical Engineers standards, and (d) that are installed in accordance with the manufacturer's specifications.

Source: Laws 1943, c. 112, § 3, p. 393; R.S.1943, § 48-706; Laws 1965, c. 288, § 2, p. 825; Laws 1969, c. 406, § 1, p. 1404; R.S.1943, (1984), § 48-706; Laws 1987, LB 462, § 8; Laws 1995, LB 438, § 6; Laws 1997, LB 641, § 3; Laws 1998, LB 395, § 15; Laws 1999, LB 66, § 3; Laws 2005, LB 122, § 1.

48-727. Commissioner; adopt rules and regulations; adopt schedule of fees; incorporation of codes.

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 construction and installation of new 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 Code for Controls and Safety Devices for Automatically Fired Boilers, as amended, concerning controls and safety devices for automatically fired boilers, (4) the American Petroleum Institute Pressure Vessel Inspection Code 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.

Source: Laws 1943, c. 112, § 4(1), p. 393; R.S.1943, § 48-707; R.S.1943, (1984), § 48-707; Laws 1987, LB 462, § 9; Laws 1995, LB 438, § 7; Laws 1999, LB 66, § 4.

48-728. Boiler explosion; investigation; report.

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.

Source: Laws 1943, c. 112, § 4(2), p. 394; R.S.1943, § 48-708; R.S.1943, (1984), § 48-708; Laws 1987, LB 462, § 10.

48-729. State boiler inspector; record of equipment.

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 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.

Source: Laws 1943, c. 112, § 4(3), p. 394; R.S.1943, § 48-709; R.S.1943, (1984), § 48-709; Laws 1987, LB 462, § 11; Laws 1995, LB 438, § 8.

48-730. Equipment; installation; notice to commissioner; reinspection.

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.

Source: Laws 1943, c. 112, § 5, p. 394; R.S.1943, § 48-710; R.S.1943, (1984), § 48-710; Laws 1987, LB 462, § 12; Laws 1995, LB 438, § 9; Laws 1998, LB 395, § 16; Laws 2007, LB226, § 3.

48-731. Special inspector commission; requirements; inspection under provision of a city ordinance; inspection under the act not required; when; insurance coverage required.

(1)(a) The 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 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 insurance company or authorized inspection agency on forms approved by the commissioner.

(c) Insurance companies shall notify the department of new, canceled, or suspended risks relating to insured boilers. Insurance companies shall notify the 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 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 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 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.

Source: Laws 1943, c. 112, § 6(2), p. 394; R.S.1943, § 48-712; Laws 1947, c. 176, § 1, p. 584; Laws 1980, LB 959, § 2; R.S.1943, (1984), § 48-712; Laws 1987, LB 462, § 13; Laws 1995, LB 438, § 10; Laws 1998, LB 395, § 17; Laws 2007, LB226, § 4.

48-732. Defective boiler; notice to user.

The state boiler inspector shall notify the user in writing of any 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 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.

Source: Laws 1943, c. 112, § 6(3), p. 395; R.S.1943, § 48-713; R.S.1943, (1984), § 48-713; Laws 1987, LB 462, § 14; Laws 1995, LB 438, § 11.

48-733. Boiler; inspection; fees.

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.

Source: Laws 1943, c. 112, § 7, p. 395; R.S.1943, § 48-714; Laws 1963, c. 294, § 1, p. 880; Laws 1980, LB 959, § 3; R.S.1943, (1984), § 48-714; Laws 1987, LB 462, § 15; Laws 1995, LB 438, § 12.

48-734. Repealed. Laws 1995, LB 438, § 17.

48-735. Repealed. Laws 1995, LB 438, § 17.

48-735.01. Boiler Inspection Cash Fund; created; use; investment.

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, except that money in the Boiler Inspection Cash Fund may be transferred to the General Fund at the direction of the Legislature. 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.

The State Treasurer shall transfer one hundred fifty thousand dollars from the Boiler Inspection Cash Fund to the General Fund on or before June 15, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1995, LB 438, § 13; Laws 2017, LB331, § 25.

Effective Date: May 16, 2017

Cross References

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska State Funds Investment Act**, see section 72-1260.

48-736. Violation; penalty.

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 III misdemeanor.

Source: Laws 1943, c. 112, § 9, p. 396; R.S.1943, § 48-716; Laws 1977, LB 40, § 297; R.S.1943, (1984), § 48-716; Laws 1987, LB 462, § 18; Laws 2007, LB226, § 5.

48-737. Defective boiler; commissioner; state boiler inspector; powers.

In addition to any and all other remedies, if any owner, user, or person in charge of any 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 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.

Source: Laws 1943, c. 112, § 10, p. 396; R.S.1943, § 48-717; R.S.1943, (1984), § 48-717; Laws 1987, LB 462, § 19; Laws 1995, LB 438, § 14.

48-738. Petition for injunction; notice to owner or user; procedure.

The commissioner shall notify the owner or user of the equipment in writing of the time and place of hearing of the petition, as fixed by the court or judge, and serve the notice on the defendant at least five days prior to 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 the Boiler Inspection Act. In the event the defendant does not appear or plead to 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.

Source: Laws 1943, c. 112, § 11, p. 396; R.S.1943, § 48-718; R.S.1943, (1984), § 48-718; Laws 1987, LB 462, § 20.

48-739. Boiler Safety Code Advisory Board; created; members; terms.

There is hereby created the Boiler Safety Code Advisory Board. The board shall consist of seven members appointed by the Governor with the approval of the Legislature. Within thirty days after July 9, 1988, the Governor shall appoint three members for terms of two years and four members for terms of four years. Each succeeding member of the board shall be appointed for a term of four years, except that a member appointed to fill a vacancy shall serve for the unexpired term. If the Legislature is not in session when members of the board are appointed, such members shall take office and act as appointees until the next session of the Legislature.

Source: Laws 1988, LB 863, § 3.

48-740. Board; members; qualifications.

The membership of the board shall consist of one member who represents owners and users of boilers and has experience with boilers, one member who represents sellers of boilers, one member who represents the crafts involved in the construction, repair, or operation of boilers, one member who represents the insurance industry, one member who is a licensed professional engineer with experience with boilers, one member who represents the interest of public safety, and one member who represents the public. The state boiler inspector shall be a nonvoting member of the board.

Source: Laws 1988, LB 863, § 4.

48-741. Board; meetings; chairperson; quorum.

The members of the board shall conduct an annual meeting in July of each year, or at such other time as the board determines, and shall elect a chairperson from their members at the annual meeting. Other meetings of the board shall be held when called with at least seven days' notice to all members by the chairperson of the board or pursuant to a call signed by four other members. Four members of the board shall constitute a quorum for the transaction of business.

Source: Laws 1988, LB 863, § 5; Laws 1998, LB 395, § 18.

48-742. Board member; compensation; expenses.

Each board member shall be paid the sum of fifty dollars per day while actually engaged in the business of the board. The members of the board shall be paid their mileage and expenses in attending meetings of the board and

carrying out their official duties as provided in sections 81-1174 to 81-1177 for state employees.

Source: Laws 1988, LB 863, § 6.

48-743. Board; duties.

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

Source: Laws 1988, LB 863, § 7; Laws 1995, LB 438, § 15.