

1 HB254
2 115944-2
3 By Representative McDaniel
4 RFD: Boards and Commissions
5 First Read: 14-JAN-10

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8 SYNOPSIS: Under existing law, the Department of Labor
9 is charged with the duty of inspecting boiler and
10 pressure vessels.

11 This bill would authorize the chief
12 inspector to issue written warnings and citations
13 for violations and would provide for civil
14 penalties to be assessed for violations to be
15 deposited in the State General Fund.

16 This bill would provide that special
17 inspectors, their employees, agents, or employers
18 would have the same liability as deputy inspectors.

19 Under existing law, no provision is made for
20 fees for the examination and certificate of
21 competency for inspectors.

22 This bill would allow the Board of Boilers
23 and Pressure Vessels to impose fees for those
24 purposes.

25 Existing law does not specifically provide
26 for the department to inspect boilers and pressure

1 vessels being operated in the state to determine if
2 they are being operated safely.

3 This bill would make this provision.

4 Existing law does not specify the class of
5 misdemeanor for operating without a valid
6 inspection certificate.

7 This bill would specify that a criminal
8 violation would be a Class C misdemeanor.

9 Amendment 621 of the Constitution of Alabama
10 of 1901, now appearing as Section 111.05 of the
11 Official Recompilation of the Constitution of
12 Alabama of 1901, as amended, prohibits a general
13 law whose purpose or effect would be to require a
14 new or increased expenditure of local funds from
15 becoming effective with regard to a local
16 governmental entity without enactment by a 2/3 vote
17 unless: it comes within one of a number of
18 specified exceptions; it is approved by the
19 affected entity; or the Legislature appropriates
20 funds, or provides a local source of revenue, to
21 the entity for the purpose.

22 The purpose or effect of this bill would be
23 to require a new or increased expenditure of local
24 funds within the meaning of the amendment. However,
25 the bill does not require approval of a local
26 governmental entity or enactment by a 2/3 vote to

1 become effective because it comes within one of the
2 specified exceptions contained in the amendment.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 To amend Sections 25-12-8, 25-12-10, 25-12-11,
9 25-12-14, and 25-12-17 of the Code of Alabama 1975, relating
10 to the Boiler and Pressure Vessel Safety Act; to provide
11 further for the duties and powers of the chief inspector; to
12 further provide for the liability of special inspectors, their
13 employees, agents, or employers; to provide for fees to be set
14 by the board for the examination and certificate of
15 competency; to provide for access where a boiler or pressure
16 vessel is being operated; to specify the penalties; and in
17 connection therewith would have as its purpose or effect the
18 requirement of a new or increased expenditure of local funds
19 within the meaning of Amendment 621 of the Constitution of
20 Alabama of 1901, now appearing as Section 111.05 of the
21 Official Recompilation of the Constitution of Alabama of 1901,
22 as amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 25-12-8, 25-12-10, 25-12-11,
25 25-12-14, and 25-12-17 of the Code of Alabama 1975, are
26 amended to read as follows:

27 "§25-12-8.

1 "(a) The commissioner may appoint as chief inspector
2 a citizen of this state who at the time of the appointment
3 shall have not less than five years' experience in the
4 construction, installation, inspection, operation,
5 maintenance, or repair of high pressure boilers and pressure
6 vessels as a mechanical engineer, steam operating engineer,
7 boilermaker, or boiler inspector and who shall pass the same
8 type of examination prescribed under Section 25-12-11. The
9 chief inspector may be removed for cause after due
10 investigation by the board and its recommendation to the
11 commissioner.

12 "(b) The chief inspector, if authorized by the
13 commissioner, shall be charged, directed, and empowered to do
14 all of the following:

15 "(1) To take action necessary for the enforcement of
16 the laws of the state governing the use of boilers and
17 pressure vessels to which this chapter applies and of the
18 rules and regulations of the department.

19 "(2) To keep a complete record of the name of each
20 owner or user and his or her location and, except for pressure
21 vessels covered by an owner or user inspection service, the
22 type, dimensions, maximum allowable working pressure, age, and
23 the last recorded inspection of all boilers and pressure
24 vessels to which the chapter applies.

25 "(3) To publish and make available to anyone
26 requesting them copies of the rules and regulations
27 promulgated by the department.

1 "(4) To issue or to suspend or revoke for cause
2 inspection certificates as provided for in Section 25-12-15.

3 "(5) To cause the prosecution of all violators of
4 this chapter.

5 "(6) To issue written warnings and citations for
6 violations of this chapter.

7 "(c) The board may impose a civil penalty of up to
8 one hundred dollars (\$100) for each citation, each day being a
9 new violation. Any penalties received shall be deposited into
10 the State General Fund in the State Treasury.

11 "\$25-12-10.

12 "(a) In addition to the deputy inspectors authorized
13 by Section 25-12-9, the commissioner, upon the request of any
14 company licensed to insure and insuring in this state boilers
15 and pressure vessels, or upon the request of any company
16 operating pressure vessels in this state for which the owner
17 or user maintains a regularly established inspection service
18 which is under the supervision of one or more technically
19 competent individuals whose qualifications are satisfactory to
20 the department and causes the pressure vessels to be regularly
21 inspected and rated by the inspection service in accordance
22 with applicable provisions of the rules and regulations
23 adopted by the department pursuant to Section 25-12-4, shall
24 issue to each inspector of the insurance company a certificate
25 of competency as a special inspector and to each inspector of
26 the company operating a pressure vessel a certificate of
27 competency as owner or user inspectors. Each inspector before

1 receiving his or her certificate of competency shall
2 satisfactorily pass the examination provided for by Section
3 25-12-11 or, in lieu of the examination, shall hold a
4 commission or a certificate of competency as an inspector of
5 boilers or pressure vessels from a state that has a standard
6 of examination substantially equal to that of this state, or a
7 commission as an inspector of boilers and pressure vessels
8 issued by the National Board of Boiler and Pressure Vessel
9 Inspectors. A certificate of competency as an owner or user
10 inspector shall be issued to an inspector of a company
11 operating pressure vessels in this state only if, in addition
12 to meeting the requirements stated in this section, the
13 inspector is employed full time by the company and is
14 responsible for making inspections of pressure vessels used or
15 to be used by the company and which are not for resale.

16 "(b) The expenses or salary of special inspectors or
17 owner or user inspectors shall not be paid by the state. The
18 continuance of their certificates of competency shall be
19 conditioned upon the special inspectors or owner or user
20 inspectors continuing in the employ of the boiler insurance
21 company or in the employ of the company operating pressure
22 vessels in this state and upon their maintenance of the
23 standards imposed by this chapter.

24 "(c) The special inspectors or owner or user
25 inspectors may inspect all boilers and pressure vessels
26 insured or all pressure vessels operated by their respective
27 companies. When inspected, the owners and users of the boilers

1 and pressure vessels shall be exempt from the payment to the
2 state of the inspection fees as prescribed in rules and
3 regulations promulgated by the commissioner.

4 "(d) The special inspectors appointed as provided
5 herein and their employees, agents, and employers shall have
6 the same liability for the performance of their services as
7 deputy inspectors or other state employees in the performance
8 of their services or duties.

9 "§25-12-11.

10 "The examination for chief, deputy, special, or
11 owner or user inspectors shall be in writing and shall be held
12 by the board or by an examining board appointed in accordance
13 with the requirements of the National Board of Boiler and
14 Pressure Vessel Inspectors, with at least two members present
15 at all times during the examination. The examination shall be
16 confined to questions the answers to which shall aid in
17 determining the fitness and competency of the applicant for
18 the intended service and may be those prepared by the National
19 Board of Boiler and Pressure Vessel Inspectors. The board may
20 impose a fee for the examination and certificate of competency
21 to recover the costs of examination and certification. If an
22 applicant fails to pass the examination, the applicant may
23 appeal to the board for another examination which shall be
24 given by the board after 90 days. The record of an applicant's
25 examination shall be accessible to the applicant and employer
26 of the applicant.

27 "§25-12-14.

1 "(a) The commissioner, the chief inspector, or any
2 deputy inspector shall have free access, during reasonable
3 hours, to any premises in the state where a boiler or pressure
4 vessel is being constructed for use in, ~~or~~ is being installed
5 in, or is being operated in this state for the purpose of
6 ascertaining whether the boiler or pressure vessel is being
7 constructed, ~~and installed, or operated~~ in accordance with the
8 provisions of this chapter.

9 "(b) (1) ~~On and after January 1, 2002, each~~ Each
10 boiler and pressure vessel used or proposed to be used within
11 this state, except for pressure vessels covered by an owner or
12 user inspection service as described in subsection (d) or
13 except for boilers or pressure vessels exempt under Section
14 25-12-7, the owners and users of which may request to waive
15 this exemption, shall be thoroughly inspected as to their
16 construction, installation, and condition as follows:

17 "a. Power boilers and high pressure, high
18 temperature water boilers shall receive a certificate
19 inspection annually which shall be an internal inspection
20 where construction permits; otherwise it shall be as complete
21 an inspection as possible. The boilers shall also be
22 externally inspected while under pressure, if possible.

23 "b. Low pressure steam or vapor heating boilers
24 shall receive a certificate inspection biennially with an
25 internal inspection every four years where construction
26 permits.

1 "c. Hot water heating and hot water supply boilers
2 shall receive a certificate inspection biennially with an
3 internal inspection at the discretion of the inspector.

4 "d. Pressure vessels subject to internal corrosion
5 shall receive a certificate inspection every three years with
6 an internal inspection at the discretion of the inspector.
7 Pressure vessels not subject to internal corrosion shall
8 receive a certificate of inspection at intervals set by the
9 board.

10 "e. Nuclear vessels within the scope of this chapter
11 shall be inspected and reported in the form and with the
12 appropriate information as designated by the board.

13 "(2) A grace period of two months beyond the periods
14 specified in paragraphs a. and b. of subdivision (1) may
15 elapse between certificate inspections.

16 "(3) The department may provide for longer periods
17 between certificate inspection in its rules and regulations.

18 "(4) Pursuant to this chapter, the department shall
19 be responsible for providing for the safety of life, limb, and
20 property and shall have jurisdiction over the interpretation
21 and application of the inspection requirements as provided for
22 in the rules and regulations which it has promulgated. The
23 person conducting the inspection during construction and
24 installation shall certify as to the minimum requirements for
25 safety as defined in the ASME Code. Inspection requirements of
26 operating equipment shall be in accordance with generally

1 accepted practice and compatible with the actual service
2 conditions, which shall include all of the following:

3 "a. Previous experience, based on records of
4 inspection, performance, and maintenance.

5 "b. Location, with respect to personnel hazard.

6 "c. Quality of inspection and operating personnel.

7 "d. Provision for related safe operation controls.

8 "e. Interrelation with other operations outside the
9 scope of this chapter.

10 "(5) The board may permit variations in the
11 inspection requirements based upon documentation of the actual
12 service conditions by the owner or user of the operating
13 equipment.

14 "(c) The inspections required in this chapter shall
15 be made by the chief inspector, by a deputy inspector, by a
16 special inspector, or by an owner or user inspector provided
17 for in this chapter.

18 "(d) Owner or user inspection of pressure vessels
19 shall be permitted. The owner or user inspection service shall
20 be regularly established, and shall be under the supervision
21 of one or more individuals whose qualifications are
22 satisfactory to the board. The owner or user shall cause the
23 pressure vessels to be inspected in conformance with the
24 National Board Inspection Code or API 510, as applicable.

25 "(e) If the inspector deems a hydrostatic test shall
26 be necessary, it shall be made by the owner or user of the
27 boiler or pressure vessel.

1 "(f) All boilers, other than cast iron sectional
2 boilers, and pressure vessels to be installed in this state
3 after the 12-month period from the date upon which the rules
4 and regulations of the board shall become effective, shall be
5 inspected during construction as required by the applicable
6 rules and regulations of the board by an inspector authorized
7 to inspect boilers and pressure vessels in this state or, if
8 constructed outside of the state, by an inspector holding a
9 commission issued by the National Board of Boiler and Pressure
10 Vessel Inspectors.

11 "§25-12-17.

12 "After 12 months for power boilers, 24 months for
13 low pressure steam heating, hot water heating, and hot water
14 supply boilers, and 36 months for pressure vessels following
15 July 1, 2001, it shall be unlawful for any person, firm,
16 partnership, or corporation to operate in this state a boiler
17 or pressure vessel, except a pressure vessel covered by owner
18 or user inspection service as provided for in Section
19 25-12-15, without a valid inspection certificate. The
20 operation of a boiler or pressure vessel without the
21 inspection certificate or at a pressure exceeding that
22 specified in the inspection certificate or in violation of
23 this chapter shall constitute a Class C misdemeanor."

24 Section 2. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official Recompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime. This act shall not apply to any oil or natural
5 gas production or treating facilities onshore or offshore. Nor
6 shall it apply to any oil refining facilities, or to any
7 hydrocarbon-based chemicals production or processing
8 facilities.

9 Section 3. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.