

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 593**

Introduced by Carlson, 38.

Read first time January 19, 2011

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to safety inspections; to amend sections 48-720,  
2 48-721, 48-722, 48-723, 48-724, 48-725, 48-726, 48-727,  
3 48-730, 48-731, 48-732, 48-736, and 48-743, Reissue  
4 Revised Statutes of Nebraska; to change and eliminate  
5 provisions of the Boiler Inspection Act; to harmonize  
6 provisions; to repeal the original sections; and to  
7 outright repeal section 48-733, Reissue Revised Statutes  
8 of Nebraska.  
9 Be it enacted by the people of the State of Nebraska,

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

3           48-720 As used in the Boiler Inspection Act, unless the  
4 context otherwise requires:

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

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

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

20           (4) Commissioner means the Commissioner of Labor; ~~and~~

21           (5) Department means the Department of Labor; and -

22           (6) Special inspector means a special inspector  
23 commissioned pursuant to section 48-731.

24           Sec. 2. Section 48-721, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   48-721 The commissioner shall ~~appoint~~employ a state  
2 boiler inspector who shall work under the direct supervision of the  
3 commissioner or his or her designee and devote his or her full time  
4 to the duties of the office. The person so appointed shall (1) be a  
5 practical boilermaker, technical engineer, operating engineer, or  
6 boiler inspector and hold a commission from the National Board of  
7 Boiler and Pressure Vessel Inspectors with an "A" endorsement. The  
8 state boiler inspector shall also either hold a "B" endorsement to  
9 his or her commission or acquire a "B" endorsement within eighteen  
10 months of appointment, (2) be qualified by not less than ten years'  
11 experience in the construction, installation, repair, inspection, or  
12 operation of boilers, steam generators, and superheaters, (3) have a  
13 knowledge of their operation and use for the generating of steam for  
14 power, heating, or other purposes, and (4) neither directly nor  
15 indirectly be interested in the manufacture, ownership, or agency of  
16 the same. The commissioner may ~~appoint~~employ deputy inspectors as  
17 necessary to carry out the Boiler Inspection Act. ~~Deputy inspectors~~  
18 ~~shall hold a commission from the National Board of Boiler and~~  
19 ~~Pressure Vessel Inspectors or acquire the same within twelve months~~  
20 ~~of appointment. Such deputy inspectors shall otherwise be subject to~~  
21 ~~and governed by the same rules and regulations applicable to and~~  
22 ~~governing the acts and conduct of the state boiler inspector. Before~~  
23 entering upon his or her duties under the Boiler Inspection Act, the  
24 state boiler inspector ~~and each deputy inspector~~ shall be bonded or  
25 insured as required by section 11-201.

1           Sec. 3. Section 48-722, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           48-722 (1) Except as otherwise provided in subsections  
4 ~~(3) and (4) of this section, the state boiler inspector shall inspect~~  
5 ~~or cause to~~ each boiler subject to inspection pursuant to the Boiler  
6 Inspection Act shall be inspected by a special inspector at least  
7 once every twelve months ~~all boilers required to be inspected by the~~  
8 ~~Boiler Inspection Act~~ to determine whether the ~~boilers are~~ boiler is  
9 in a safe and satisfactory condition and properly constructed and  
10 maintained for the purpose for which the boiler is used, except that  
11 (a) hobby boilers, steam farm traction engines, portable and  
12 stationary show engines, and portable and stationary show boilers,  
13 which are not otherwise exempted from the act pursuant to section  
14 48-726, shall be subject to inspection at least once every twenty-  
15 four months and (b) the commissioner may, by rule and regulation,  
16 establish inspection periods for pressure vessels of more than twelve  
17 months, but not to exceed the inspection period recommended in the  
18 National Board Inspection Code or the American Petroleum Institute  
19 Pressure Vessel Inspection Code API-510 for pressure vessels being  
20 used for similar purposes. In order to ensure that inspections are  
21 performed in a timely manner, the department may contract with an  
22 authorized inspection agency to perform any inspection authorized  
23 under the Boiler Inspection Act. If the department contracts with an  
24 authorized inspection agency to perform inspections, such contract  
25 shall be in writing and shall contain an indemnification clause

1 wherein the authorized inspection agency agrees to indemnify and  
2 defend the department for loss occasioned by negligent or tortious  
3 acts committed by special inspectors employed by such authorized  
4 inspection agency when performing inspections on behalf of the  
5 department.

6 (2) No ~~boilers~~ boiler required to be inspected by the act  
7 shall be operated without ~~valid and current certification pursuant to~~  
8 ~~rules and regulations adopted and promulgated by the commissioner in~~  
9 ~~accordance with the requirements of the Administrative Procedure Act.~~  
10 a current certificate of inspection. The owner of any boiler  
11 installed after September 2, 1973, shall file a manufacturer's data  
12 report covering the construction of such boiler with the state boiler  
13 inspector. Such reports shall be used to assist the state boiler  
14 inspector in the certification of boilers. No boiler required to be  
15 inspected by the Boiler Inspection Act shall be operated at any type  
16 of public gathering or show without first being inspected and  
17 certified as to its safety by ~~the state boiler inspector or a special~~  
18 ~~inspector, commissioned pursuant to section 48-731.~~ Antique engines  
19 with boilers may be brought into the state from other states without  
20 inspection, but inspection as provided in this section shall be made  
21 and the boiler certified as safe before being operated. The  
22 commissioner may waive the inspection of an antique engine with a  
23 boiler if a nonprofit association comprised of owners of antique  
24 engines with boilers certifies that (a) the association contracts  
25 with an authorized inspection agency to perform inspections of

1 boilers owned by its members, (b) the boiler has been inspected and  
2 certified as safe for operation by the authorized inspection agency,  
3 (c) a copy of the inspection report is filed with the commissioner,  
4 and (d) the owner of the boiler pays the certificate of inspection  
5 fee.

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

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

17 (5) Inspection of a boiler by a special inspector shall  
18 not be required if (a) an annual inspection is made under a city  
19 ordinance which meets the standards set forth in the act, (b) a  
20 certificate of inspection of the boiler is filed with the  
21 commissioner along with payment of the certificate of inspection fee,  
22 and (c) the inspector for the city making such inspection is required  
23 by such ordinance to either hold a commission from the National Board  
24 of Boiler and Pressure Vessel Inspectors commensurate with the type  
25 of inspections performed by the special inspector for the city or

1 acquire the commission within twelve months after appointment.

2 (6) Boilers owned by the State of Nebraska and its  
3 political subdivisions may be inspected by the state boiler inspector  
4 in lieu of inspection by a special inspector.

5 Sec. 4. Section 48-723, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 48-723 ~~The commissioner and the boiler~~ Boiler inspectors  
8 employed by the commissioner shall have the right and power to enter  
9 any building or structure, public or private, for the purpose of  
10 inspecting any boilers required to be inspected by the Boiler  
11 Inspection Act or gathering information relating to such boilers.

12 Sec. 5. Section 48-724, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 48-724 ~~(1) Upon making an inspection of any boilers~~  
15 ~~required to be inspected by the Boiler Inspection Act and upon~~  
16 ~~receipt of the inspection fee and certificate fee or registration~~  
17 ~~fee, the boiler inspector shall give to the owner or user of the~~  
18 ~~boilers a certificate of inspection or certificate of registration~~  
19 ~~upon forms prescribed by the commissioner.~~

20 (1) The state boiler inspector shall issue a certificate  
21 of inspection to the owner or user of a boiler required to be  
22 inspected by the Boiler Inspection Act when:

23 (a) A copy of an inspection of the boiler performed by a  
24 special inspector is filed with the commissioner; and

25 (b) The state boiler inspector receives the certificate

1 fee.

2 (2) The certificate of inspection shall be posted in a  
3 place near the location of such boiler.

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

8 Sec. 6. Section 48-725, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 48-725 The owner, user, or person or persons in charge of  
11 any boiler required to be inspected by the Boiler Inspection Act  
12 shall not allow or permit a greater pressure in any unit than is  
13 stated in the certificate of inspection issued by the state boiler  
14 inspector.

15 Sec. 7. Section 48-726, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 48-726 The Boiler Inspection Act shall not apply to:

18 (1) Boilers of railway locomotives subject to federal  
19 inspection;

20 (2) Boilers operated and regularly inspected by railway  
21 companies operating in interstate commerce;

22 (3) Boilers under the jurisdiction and subject to regular  
23 periodic inspection by the United States Government;

24 (4) Boilers used exclusively for agricultural purposes;

25 (5) Steam heating boilers in single-family residences and



1 apartment houses with four or less units using a pressure of less  
2 than fifteen pounds per square inch and having a safety valve set at  
3 not higher than fifteen pounds pressure per square inch;

4 (6) Heating boilers using water in single-family  
5 residences and apartment houses with four or less units using a  
6 pressure of less than thirty pounds per square inch and having a  
7 safety valve set at not higher than thirty pounds pressure per square  
8 inch;

9 (7) Fire engine boilers brought into the state for  
10 temporary use in times of emergency;

11 (8) Boilers of a miniature model locomotive or boat or  
12 tractor or stationary engine constructed and maintained as a hobby  
13 and not for commercial use and having a diameter of less than ten  
14 inches inside diameter and a grate area not in excess of one and one-  
15 half square feet and that are properly equipped with a safety valve;

16 (9) Hot water supply boilers if none of the following  
17 limitations is exceeded: (a) Two hundred thousand British thermal  
18 units of input; (b) one hundred twenty gallons of nominal capacity;  
19 or (c) two hundred ten degrees Fahrenheit output;

20 (10) Unfired pressure vessels not exceeding (a) five  
21 cubic feet in volume or (b) a pressure of two hundred fifty pounds  
22 per square inch;

23 (11) Unfired pressure vessels owned and maintained by a  
24 district or corporation organized under the provisions of Chapter 70,  
25 article 6; ~~and~~

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

9           (13) Potable hot water heaters, pool heaters, and spa  
10 heaters installed in single-family residences and apartment houses  
11 with four or less units.

12           Sec. 8. Section 48-727, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           48-727 (1) The commissioner may adopt and promulgate  
15 rules and regulations for the purpose of effectuating the Boiler  
16 Inspection Act, including rules and regulations ~~for the governing (a)~~  
17 ~~methods of testing equipment, (b) the construction and installation~~  
18 ~~of new boilers, and (c) fees charged for inspections performed by the~~  
19 state boiler inspector and for certificates of inspection. and a  
20 ~~schedule of inspection and certificate fees for boilers required to~~  
21 ~~be inspected by the act.~~

22           (2) Such rules and regulations may incorporate by  
23 reference any portion of ~~(1)-(a)~~ the Boiler and Pressure Vessel Code  
24 of the American Society of Mechanical Engineers, as amended, ~~(2)-(b)~~  
25 the National Board Inspection Code for Boilers and Pressure Vessels,

1 as amended, ~~(3)~~(c) the American Society of Mechanical Engineers Code  
2 for Controls and Safety Devices for Automatically Fired Boilers, as  
3 amended, concerning controls and safety devices for automatically  
4 fired boilers, ~~(4)~~(d) the American Petroleum Institute Pressure  
5 Vessel Inspection Code API-510, and ~~(5)~~(e) the National Fire  
6 Protection Association, series 85, code for controls and safety  
7 devices, including codes referenced in such code.

8 (3) A copy of all rules and regulations adopted and  
9 promulgated under the Boiler Inspection Act, including copies of all  
10 codes incorporated by reference, shall be kept on file in the office  
11 of the commissioner and shall be known as the Boiler Safety Code.

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

14 48-730 ~~Before~~ Not less than thirty days before any boiler  
15 required to be inspected by the Boiler Inspection Act is installed, a  
16 ~~ten days' written notice of intention~~ a permit to install the boiler  
17 shall be ~~given to~~ obtained from the ~~commissioner,~~ state boiler  
18 inspector. ~~except that the commissioner~~ The state boiler inspector  
19 may, upon application and good cause shown, waive the ~~ten-day prior~~  
20 ~~notice~~ thirty-day requirement. The ~~notice~~ application for the permit  
21 to install shall designate the proposed place of installation, the  
22 type and capacity of the boiler, the use to be made of the boiler,  
23 the name of the company which manufactured the boiler, and whether  
24 the boiler is new or used. A boiler moved from one location to  
25 another shall be reinspected prior to being placed back into use.

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

3           48-731 (1)(a) The commissioner may issue a special  
4 inspector commission to an inspector in the employ of ~~a company an~~  
5 insurance company authorized to insure boilers in this state against  
6 loss from explosion or an authorized inspection agency if the  
7 inspector has previously passed the examination prescribed by the  
8 National Board of Boiler and Pressure Vessel Inspectors. ~~and the~~  
9 ~~company is an insurance company authorized to insure boilers in this~~  
10 ~~state against loss from explosion or is an authorized inspection~~  
11 ~~agency.~~

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

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

1 inspection of boilers or pressure vessels within ~~thirty-fifteen~~ days  
2 after such action.

3 (d) On or before the fifteenth day of each month,  
4 insurance companies and authorized inspection agencies shall submit a  
5 copy of all inspections performed by the company or agency during the  
6 previous month. An insurance company may contract with an authorized  
7 inspection agency to perform inspections on its behalf or accept  
8 inspections by a special inspector employed by an authorized  
9 inspection agency that has contracted directly with the owner or user  
10 to perform the inspection. Insurance companies and authorized  
11 inspection agencies shall immediately notify the department of  
12 defective boilers. If a special inspector employed by an insurance  
13 company, upon the first inspection of new risk, finds that the boiler  
14 or any of the appurtenances are in such condition that the  
15 inspector's company refuses insurance, the company shall immediately  
16 submit a report of the defects to the state boiler inspector.

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

1 ~~appointment.~~

2           ~~(3)~~—(2) The commissioner may, by rule and regulation,  
3 provide for the issuance of a special inspector commission to an  
4 inspector in the employ of a company using or operating an unfired  
5 pressure vessel subject to the act for the limited purpose of  
6 inspecting unfired pressure vessels used or operated by such company.

7           ~~(4)~~—(3) All inspections made by a special inspector shall  
8 be performed in accordance with the act, and a complete report of  
9 such inspection shall be filed with the department in the time,  
10 manner, and form prescribed by the commissioner.

11           ~~(5)~~—(4) The state boiler inspector may, at his or her  
12 discretion, inspect any boiler to which a special inspector  
13 commission applies.

14           ~~(6)~~—(5) The commissioner may, for cause, suspend or  
15 revoke any special inspector commission.

16           ~~(7)~~—(6) No authorized inspection agency shall perform  
17 inspections of boilers in the State of Nebraska unless the authorized  
18 inspection agency has insurance coverage for professional errors and  
19 omissions and comprehensive and general liability under a policy or  
20 policies written by an insurance company authorized to do business in  
21 this state in effect at the time of such inspection. Such insurance  
22 policy or policies shall be in an amount not less than the minimum  
23 amount as established by the commissioner. Such minimum amount shall  
24 be established with due regard to the protection of the general  
25 public and the availability of insurance coverage, but such minimum

1 insurance coverage shall not be less than one million dollars for  
2 professional errors and omissions and one million dollars for  
3 comprehensive and general liability.

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

6 48-732 ~~The state boiler~~ A special inspector shall notify  
7 the user and the state boiler inspector in writing of any boiler  
8 found to be unsafe or unfit for operation setting forth the nature  
9 and extent of such defects and condition. ~~The notice shall indicate~~  
10 state boiler inspector shall notify the user whether or not the  
11 boiler may be used without making repair or replacement of defective  
12 parts or may be used in a limited capacity before repairs or  
13 replacements are made. The state boiler inspector may permit the user  
14 a reasonable time to make such repairs or replacements.

15 Sec. 12. Section 48-736, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 48-736 Any person, ~~persons, corporations, and the~~  
18 ~~directors, managers, superintendents, and officers of such~~  
19 ~~corporations~~ violating the Boiler Inspection Act shall be guilty of a  
20 ~~Class III~~ Class I misdemeanor.

21 Sec. 13. Section 48-743, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 48-743 The board shall hold hearings and advise the  
24 commissioner on rules and regulations for methods of testing  
25 equipment and construction and installation of new boilers required

1 to be inspected by the Boiler Inspection Act and for inspection and  
2 certificate of inspection fees for such boilers.

3           Sec. 14. This act becomes operative on January 1, 2012.

4           Sec. 15. Original sections 48-720, 48-721, 48-722,  
5 48-723, 48-724, 48-725, 48-726, 48-727, 48-730, 48-731, 48-732,  
6 48-736, and 48-743, Reissue Revised Statutes of Nebraska, are  
7 repealed.

8           Sec. 16. The following section is outright repealed:  
9 Section 48-733, Reissue Revised Statutes of Nebraska.