



SPONSOR: Rep. Osienski & Rep. Dorsey Walker & Sen. Walsh
Rep. Lambert

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 255

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE BOILER SAFETY PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

1 Section 1. Amend Chapter 74B, Title 7 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 Chapter 74B. BOILER SAFETY PROGRAM

4 § 7402B. Definitions.

5 (a) "Boiler" ~~shall mean~~ means a closed vessel in which water is heated, steam is generated, steam is superheated,
6 or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the
7 combustion of fuels, or from electricity or nuclear energy. The term "boiler" shall include fired units for heating or
8 vaporizing liquids other than water, where these units are separate from processing systems, and are complete within
9 themselves.

10 (1) "Heating boiler" ~~shall mean~~ means a steam boiler operating at pressures not exceeding 15 psi, or a hot
11 water boiler operating at pressures not exceeding 160 psi and/or temperatures not exceeding 250 degrees Fahrenheit
12 which is supplied to an external heating system.

13 (2) "High temperature water boiler" ~~shall mean~~ means a water boiler operating at a pressure exceeding 160 psi
14 and/or temperatures in excess of 250 degrees Fahrenheit.

15 (3) "Hot water supply boiler" ~~shall mean~~ means a vessel used to heat water for purposes other than space
16 heating, where the water is used external to itself, at pressures not exceeding 160 psi, and/or temperatures not
17 exceeding 250 degrees Fahrenheit at or near the boiler outlet. American Society of Mechanical Engineers (ASME)
18 Stamping would be "ASME Section IV, H."

19 (4) "Jacketed cooking kettle" ~~shall mean~~ means a gas or electrically fired jacketed cooking kettle built and
20 stamped "ASME Section VIII, Division 1." ASME stamping would be "U."

21 (5) "Pool heater" ~~shall mean~~ means an appliance designed for heating nonpotable water stored at atmospheric
22 pressure such as water in swimming pools, spas, hot tubs, and similar applications.

23 (6) "Power boiler" ~~shall mean~~ means a vessel in which steam or other vapor is generated at a pressure of more
24 than 15 PSIG.

25 (7) "Thermal fluid heater" ~~shall mean~~ means a boiler used to heat an organic fluid for heating and or
26 processing that does not vaporize in the process. Object is considered a boiler in the State of Delaware and is required
27 to be built to Section I of the ASME Construction Codes and registered with the National Board. Overpressure
28 protection will be in accordance with ASME Section I Part PVG.

29 (8) "Water heater" ~~shall mean~~ means a closed vessel in which water is heated by gas, oil, electric, or some
30 other fuel supply, and the water is used externally to itself for potable water supply, or used for potable water and space
31 heating, operating at pressures not exceeding 160 psi and water temperatures not in excess of 210 degrees Fahrenheit.
32 ASME Stamping would be "ASME Section IV, HLW."

33 (b) "Council" ~~shall mean~~ means the Governor's Council on Boiler Safety.

34 (c) "Department" ~~shall mean~~ means the Department of Natural Resources and Environmental Control.

35 (d) "National Board" ~~shall mean~~ means the National Board of Boiler and Pressure Vessel Inspectors.

36 (e) "NBIC" shall mean the National Board Inspection Code. The manual for boiler and pressure vessel inspectors,
37 published by the National Board of Boiler and Pressure Vessel Inspectors. The NBIC is recognized for Repairs and
38 Alterations, and Antique (Historical) boilers only (Part 3 only).

39 (f) "Place of public assembly" ~~shall mean~~ means any establishment, building, location or any portion thereof
40 within this State intended and used for occupation by persons while employed therein for compensation of any kind, any
41 commercial structure and/or location to which the public has access.

42 (g) "Pressure vessel" ~~shall mean~~ means containers for the containment of pressure, either internal or external. The
43 pressure may be obtained from an external source or by the application of heat from a direct or indirect source, or any
44 combination thereof.

45 (h) "PSI" or "psi" ~~shall mean~~ means pounds per square inch.

46 (i) "PSIG" or "psig" ~~shall mean~~ means pounds per square inch gauge.

47 (j) "Secretary" ~~shall mean~~ means the Secretary of the Department of Natural Resources and Environmental
48 Control.

49 (k) “Shop review” ~~shall mean~~ means a general survey and examination of a boiler or pressure vessel
50 manufacturing or repair firm’s facilities, methods and records. The examination is performed by a designee of the ASME,
51 and/or the National Board.

52 (l) “Owner” means any person owning any boiler, pressure vessel or nuclear installation within this State other
53 than those exempt under § 7401B(c) of this title and by regulation.

54 (m) “User means any person operating any boiler, pressure vessel, or nuclear installation within this state other
55 than those exempt by § 7401B(c) of this title and by regulation.

56 Section 2. Amend Chapter 74B, Title 7 of the Delaware Code by making deletions as shown by strike through and
57 insertions as shown by underline as follows:

58 § 7403B. Program duties and responsibilities.

59 (a) Notwithstanding the provisions of § 7401B(c) of this title, the Secretary or the Secretary’s designee shall have
60 immediate access to the premises for investigation purposes ~~in the event of an accident~~ related to the construction,
61 operation, maintenance or repair of a boiler, pressure vessel or nuclear installation.

62 (d) ~~The Boiler Safety Program, with the approval of the General Assembly, shall establish appropriate fees for all~~
63 ~~activities and services provided by the Program, including, but not limited to, commissions, inspections and examinations.~~

64 (1) The Department shall establish fees required pursuant to this chapter. The fees shall approximate and
65 reasonably reflect all costs necessary to defray the expenses incurred by the Department in operating the Boiler Safety
66 Program. Fees shall be used solely for the purpose of administering the Boiler Safety Program.

67 (2) The fees established in subsection (d)(1) of this section shall be credited to a dedicated Boiler Safety
68 Administration Fund established in the accounts of the State Treasurer. Any monies remaining in the Boiler Safety
69 Administration Fund at the end of the fiscal year will remain in the Boiler Safety Administration Fund and not revert to
70 the General Fund. The Boiler Safety Administration Fund shall be maintained in a separate interest-bearing account
71 and shall be administered by the Department.

72 (e) The Boiler Safety Program shall act as the American Society of Mechanical Engineers (ASME) and National
73 Board designees when performing ASME shop reviews and the National Board of Boiler and Pressure Vessel Inspectors
74 (NBBPVI) shop reviews of those manufacturers and repair companies of boilers and pressure vessels in this State.

75 (f) The Boiler Safety Program shall have the authority to require that all boilers and pressure vessels in this State
76 be inspected by persons commissioned as boiler and pressure vessel inspectors in this State, ~~and to issue a certificate~~ State.
77 The Boiler Safety Program shall have the authority to issue certificates of inspection for all boilers and pressure vessels that
78 meet state installation guidelines, except those exempt satisfy the requirements of this chapter and any regulations

79 promulgated under this chapter, except those boilers and pressure vessels exempt from this requirement under § 7401B(c)
80 of this title and by regulation. The Boiler Safety Program shall be responsible for inspecting uninsured boilers and pressure
81 vessels as well as boilers and pressure vessels that the insurer Owner has failed to inspect. have inspected. The Secretary or
82 the Secretary's designee shall have immediate access to the site of all installations for inspection purposes and in the event
83 of an accident. Inspection requirements shall be contained in rules and regulations.

84 (1) All owners, users and/or contractors, who are responsible for the installation of boilers or pressure vessels
85 in this State, shall obtain a certificate of inspection from the Boiler Safety Program prior to the operation of the boiler
86 or pressure vessel. Notwithstanding this provision, any newly installed boiler or pressure vessel may be operated for
87 testing necessary for issuance of a certificate of inspection.

88 ~~(2) Failure to obtain the required certificate of inspection shall subject the owner, user and/or contractor to a~~
89 ~~civil penalty of not less than \$1,000 for the first offense and \$2,000 for a second or subsequent offense. The Justice of~~
90 ~~the Peace Courts shall have jurisdiction over all violations of this subsection. Owners or operators of boilers and~~
91 ~~pressure vessels shall register the boiler or pressure vessel with the Department.~~

92 ~~(j) The Secretary or the Secretary's designee shall have the authority to grant a variance, on a case by case basis, to~~
93 ~~those rules and regulations that pertain to the installation of new boilers to replace existing boilers. Variances and~~
94 ~~temporary emergency variances may be granted by the Secretary from any regulation adopted pursuant to this chapter in~~
95 ~~accordance with § 6011 and 6012 of this title.~~

96 Section 3. Amend Chapter 74B, Title 7 of the Delaware Code by making deletions as shown by strike through and
97 insertions as shown by underline as follows:

98 § 7404B. Council on Boiler Safety.

99 (c) The Council on Boiler Safety shall be composed of ~~5~~ 6 members who shall be appointed for terms of 3 years
100 by the Governor. The Council shall be composed of ~~5~~ 6 members; and, preferably 1 shall be a representative of a company
101 licensed to insure boilers and pressure vessels in Delaware, another, a manufacturer who shall have been actively engaged
102 in the manufacture of boilers, another, a user of boilers, another, a mechanical ~~engineer~~ engineer, another, ~~and the fifth,~~ a
103 licensed stationary ~~engineer.~~ Engineer, and the sixth, a representative from a major labor organization that represents
104 workers performing boiler construction, installation, maintenance and repair.

105 Section 4. Amend Chapter 74B, Title 7 of the Delaware Code by making deletions as shown by strike through and
106 insertions as shown by underline as follows:

107 § 7405B. Enforcement.

108 (a) When the Secretary determines that any person is in violation of any requirement, rule, or regulation under this
109 chapter, the Secretary shall give notice to the violator of said violator's failure to comply with such requirement. If such
110 violation extends beyond the thirtieth day after the Secretary's notification, the Department may issue an order requiring
111 compliance within a specified time period or assess a civil penalty. Any civil penalty assessed under this subsection shall
112 not be less than \$ 1,000 and not more than \$ 10,000 for each day of violation.

113 (b) If a violator fails to take action to correct the violation within the time specified in the order, the violator shall
114 be liable for a civil penalty of not more than \$ 10,000 for each day of continued noncompliance.

115 (c) Orders issued under this section shall state with reasonable specificity the nature of the violation, specify a time
116 for compliance, and assess a penalty as determined by the Secretary based on the seriousness of the violation and any good
117 faith efforts to comply with the applicable requirements.

118 (d) Orders shall become final unless, no later than 20 days after the order is served, any person whose interest is
119 substantially affected by the order appeals to the Environmental Appeals Board (EAB) in accordance with § 6008 of this
120 title.

121 (e) Any expenses or civil penalties collected by the Department under this action shall be credited to the fund
122 established under § 7403B of this title.

SYNOPSIS

This Act makes several updates to the Boiler Safety Program. The Boiler Safety Program can issue certificates of compliance and the Secretary can grant variances. A 6th member is added to the Boiler Safety Council from associated labor unions. It adds an enforcement section for violators who fail to comply with Program requirements. This Act also makes technical corrections to conform with current drafting standards. Finally, the Act allows DNREC to establish fees for the Program that reasonably reflect the cost of the Program and defray its expenses. It therefore requires a 3/5 vote.