

1 SB180
2 116230-1
3 By Senator Mitchell
4 RFD: Business and Labor
5 First Read: 12-JAN-10

2
3
4
5
6
7
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 Under existing law, no provision is made for
17 fees for the examination and certificate of
18 competency for inspectors.

19 This bill would allow the Board of Boilers
20 and Pressure Vessels to impose fees for those
21 purposes.

22 This bill would specifically provide for the
23 department to inspect boilers and pressure vessels
24 being operated in the state to determine if they
25 are being operated safely.

1 Existing law does not specify the class of
2 misdemeanor for operating without a valid
3 inspection certificate.

4 This bill would specify that a criminal
5 violation would be a Class C misdemeanor.

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

19 The purpose or effect of this bill would be
20 to require a new or increased expenditure of local
21 funds within the meaning of the amendment. However,
22 the bill does not require approval of a local
23 governmental entity or enactment by a 2/3 vote to
24 become effective because it comes within one of the
25 specified exceptions contained in the amendment.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 To amend Sections 25-12-8, 25-12-11, 25-12-14, and
5 25-12-17 of the Code of Alabama 1975, relating to the Boiler
6 and Pressure Vessel Safety Act; to provide further for the
7 duties and powers of the chief inspector; to provide for fees
8 to be set by the board for the examination and certificate of
9 competency; to provide for access where a boiler or pressure
10 vessel is being operated; to specify the penalties; and in
11 connection therewith would have as its purpose or effect the
12 requirement of a new or increased expenditure of local funds
13 within the meaning of Amendment 621 of the Constitution of
14 Alabama of 1901, now appearing as Section 111.05 of the
15 Official Recompilation of the Constitution of Alabama of 1901,
16 as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 25-12-8, 25-12-11, 25-12-14, and
19 25-12-17 of the Code of Alabama 1975, are amended to read as
20 follows:

21 "§25-12-8.

22 "(a) The commissioner may appoint as chief inspector
23 a citizen of this state who at the time of the appointment
24 shall have not less than five years' experience in the
25 construction, installation, inspection, operation,
26 maintenance, or repair of high pressure boilers and pressure
27 vessels as a mechanical engineer, steam operating engineer,

1 boilermaker, or boiler inspector and who shall pass the same
2 type of examination prescribed under Section 25-12-11. The
3 chief inspector may be removed for cause after due
4 investigation by the board and its recommendation to the
5 commissioner.

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

9 "(1) To take action necessary for the enforcement of
10 the laws of the state governing the use of boilers and
11 pressure vessels to which this chapter applies and of the
12 rules and regulations of the department.

13 "(2) To keep a complete record of the name of each
14 owner or user and his or her location and, except for pressure
15 vessels covered by an owner or user inspection service, the
16 type, dimensions, maximum allowable working pressure, age, and
17 the last recorded inspection of all boilers and pressure
18 vessels to which the chapter applies.

19 "(3) To publish and make available to anyone
20 requesting them copies of the rules and regulations
21 promulgated by the department.

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

24 "(5) To cause the prosecution of all violators of
25 this chapter.

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

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

5 "\$25-12-11.

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

23 "\$25-12-14.

24 "(a) The commissioner, the chief inspector, or any
25 deputy inspector shall have free access, during reasonable
26 hours, to any premises in the state where a boiler or pressure
27 vessel is being constructed for use in, ~~or~~ is being installed

1 in, or is being operated in this state for the purpose of
2 ascertaining whether the boiler or pressure vessel is being
3 constructed, ~~and installed, or operated~~ in accordance with the
4 provisions of this chapter.

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

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

19 "b. Low pressure steam or vapor heating boilers
20 shall receive a certificate inspection biennially with an
21 internal inspection every four years where construction
22 permits.

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

26 "d. Pressure vessels subject to internal corrosion
27 shall receive a certificate inspection every three years with

1 an internal inspection at the discretion of the inspector.
2 Pressure vessels not subject to internal corrosion shall
3 receive a certificate of inspection at intervals set by the
4 board.

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

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

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

13 "(4) Pursuant to this chapter, the department shall
14 be responsible for providing for the safety of life, limb, and
15 property and shall have jurisdiction over the interpretation
16 and application of the inspection requirements as provided for
17 in the rules and regulations which it has promulgated. The
18 person conducting the inspection during construction and
19 installation shall certify as to the minimum requirements for
20 safety as defined in the ASME Code. Inspection requirements of
21 operating equipment shall be in accordance with generally
22 accepted practice and compatible with the actual service
23 conditions, which shall include all of the following:

24 "a. Previous experience, based on records of
25 inspection, performance, and maintenance.

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

27 "c. Quality of inspection and operating personnel.

1 "d. Provision for related safe operation controls.

2 "e. Interrelation with other operations outside the
3 scope of this chapter.

4 "(5) The board may permit variations in the
5 inspection requirements based upon documentation of the actual
6 service conditions by the owner or user of the operating
7 equipment.

8 "(c) The inspections required in this chapter shall
9 be made by the chief inspector, by a deputy inspector, by a
10 special inspector, or by an owner or user inspector provided
11 for in this chapter.

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

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

22 "(f) All boilers, other than cast iron sectional
23 boilers, and pressure vessels to be installed in this state
24 after the 12-month period from the date upon which the rules
25 and regulations of the board shall become effective, shall be
26 inspected during construction as required by the applicable
27 rules and regulations of the board by an inspector authorized

1 to inspect boilers and pressure vessels in this state or, if
2 constructed outside of the state, by an inspector holding a
3 commission issued by the National Board of Boiler and Pressure
4 Vessel Inspectors.

5 "§25-12-17.

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

18 Section 2. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime. This act shall not apply to any oil or natural
26 gas production or treating facilities onshore or offshore. Nor
27 shall it apply to any oil refining facilities, or to any

1 hydrocarbon-based chemicals production or processing
2 facilities.

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