

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 598

By: Snyder of the Senate

and

Fields of the House

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations;
providing short title; creating the Building Trades
Commission; stating regulatory authority over
certain trades; providing for membership,
appointments, qualifications, terms of office,
vacancies and removal from office; providing for
meetings, quorum, officers and duties; requiring
compliance with certain acts; requiring members and
certain employees be bonded; clarifying liability
of members and providing for certain expenses;
stating powers and duties; providing for
promulgation of rules and making certain former
rules, orders and actions valid until certain
action by Commission; stating additional powers and
authority; providing for transfer of certain
powers, duties, responsibilities, employees,
records, fund balances, encumbrances and

obligations; limiting certain expenditures;
amending 59 O.S. 1991, Sections 1002, as amended by
Section 1, Chapter 236, O.S.L. 1993, Section 1,
Chapter 293, O.S.L. 1994, 1003, as amended by
Section 2, Chapter 293, O.S.L. 1994, 1004, as
amended by Section 1, Chapter 63, O.S.L. 1996,
1006, 1007, 1008, 1010, as amended by Section 1,
Chapter 251, O.S.L. 1993, Section 3, Chapter 236,
O.S.L. 1993, 1011, 1013, 1014, 1018, as amended by
Section 2, Chapter 236, O.S.L. 1993, 1020, Section
3, Chapter 293, O.S.L. 1994, 1032, 1033, 1034,
1035, 1036, as amended by Section 2, Chapter 9,
O.S.L. 1995, 1037, 1039, 1041, 1042, 1044, 1681, as
last amended by Section 1, Chapter 155, O.S.L.
1994, Section 4, Chapter 293, O.S.L. 1994, 1682, as
last amended by Section 5, Chapter 293, O.S.L.
1994, 1683, as last amended by Section 3, Chapter
318, O.S.L. 1996, 1685, 1686, 1688, as amended by
Section 5, Chapter 155, O.S.L. 1994, 1689, as last
amended by Section 6, Chapter 293, O.S.L. 1994,
1691, 1694, as last amended by Section 7, Chapter
155, O.S.L. 1994, 1696, as amended by Section 9,
Chapter 155, O.S.L. 1994, Section 7, Chapter 293,
O.S.L. 1994, 1800.1, 1800.2, as amended by Section
1, Chapter 295, O.S.L. 1993, 1800.4, 1800.5, as
amended by Section 2, Chapter 295, O.S.L. 1993,
1800.6, 1800.7, 1800.8, as amended by Section 3,
Chapter 295, O.S.L. 1993, 1800.9, 1800.10, as
amended by Section 4, Chapter 295, O.S.L. 1993,
1800.13, 1800.14, 1800.16, as amended by Section 1,
Chapter 330, O.S.L. 1996, 1850.1, 1850.2, as last
amended by Section 8, Chapter 293, O.S.L. 1994,

1850.3, Section 9, Chapter 293, O.S.L. 1994, 1850.4 and 1850.5, as last amended by Sections 10 and 11, Chapter 293, O.S.L. 1994, 1850.7, 1850.8, as last amended by Section 12, Chapter 293, O.S.L. 1994, 1850.9, 1850.13, as amended by Section 9, Chapter 236, O.S.L. 1993, 1850.14, as amended by Section 3, Chapter 251, O.S.L. 1993 and Section 13, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Sections 1002, 1002.1, 1003, 1004, 1010, 1010.1, 1018, 1021.1, 1036, 1681, 1681.1, 1682, 1683, 1688, 1689, 1694, 1696, 1697, 1800.2, 1800.5, 1800.8, 1800.10, 1800.16, 1850.2, 1850.3a, 1850.4, 1850.5, 1850.8, 1850.13, 1850.14 and 1850.16), which relate to licensure and regulation of plumbing, electrical, alarm industry and mechanical trades and building and construction inspectors; modifying language to conform with transfer of regulatory authority over such trades from the State Board of Health to Building Trades Commission; deleting obsolete language; clarifying language and certain references; modifying appointing authority and providing for continuation of service of certain committee members; modifying gender references; making certain provisions consistent with Administrative Procedures Act; amending 40 O.S. 1991, Sections 141.1, 141.2, 141.3, 141.4, 141.5, 141.6, 141.7, 141.8, 141.9, 141.10, 141.11, 141.13, 141.14, 141.15, 141.16, as amended by Section 1, Chapter 305, O.S.L. 1992 and 141.18 (40 O.S. Supp. 1996, Section 141.16), which relate to the Boiler and Pressure Vessel Safety Act; modifying definitions; modifying language to conform with

transfer of regulatory authority over Boiler and Pressure Vessel Safety Act from the Commissioner of Labor and the Department of Labor to the Building Trades Commission; transferring all powers and duties related thereto to the Commission; amending 40 O.S. 1991, Sections 402, as amended by Section 2, Chapter 305, O.S.L. 1992, 403, as last amended by Section 1, Chapter 163, O.S.L. 1994, 407, 410, 412 and 414, as amended by Sections 4, 5 and 6, Chapter 305, O.S.L. 1992, 416, 417, as amended by Section 7, Chapter 305, O.S.L. 1992, 417.1, 418, Section 21, Chapter 349, O.S.L. 1993, as amended by Section 2, Chapter 163, O.S.L. 1994, 424, and Section 12, Chapter 1, O.S.L. 1994, 2nd Extraordinary Session (40 O.S. Supp. 1996, Sections 402, 403, 410, 412, 414, 417, 418.2 and 425), which relate to the Oklahoma Occupational Health and Safety Standards Act; modifying language to conform with transfer of regulatory authority over the Oklahoma Occupational Health and Safety Standards Act from the Commissioner of Labor and the Department of Labor to Building Trades Commission; modifying definitions; transferring all powers and duties related thereto; modifying membership and appointments to the Worker Safety Policy Council; amending 40 O.S. 1991, Sections 451, 452, 453, 454, 455 and 456, as amended by Sections 265, 267, 266, 270, 268 and 269, Chapter 145, O.S.L. 1993 (40 O.S. Supp. 1996, Sections 451, 452, 453, 454, 455 and 456), which relate to the Oklahoma Asbestos Control Act; modifying definitions; modifying language to conform with transfer of regulatory authority over

the Oklahoma Asbestos Control Act from the Commissioner of Labor and the Department of Labor to the Building Trades Commission; transferring all powers and duties related thereto to the Commission; providing for codification; providing for noncodification; providing effective dates; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 5 of this act shall be known and may be cited as the "Building Trades Commission Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Building Trades Commission is hereby created to continue until July 1, 2003, in accordance with the provisions of the Oklahoma Sunset Law. Beginning January 1, 1998, the Commission shall regulate the plumbing, electrical, alarm industry and mechanical trades, building and construction inspectors, operation, construction and inspection of boiler and pressure vessels, administration of the Oklahoma Occupational Health and Safety Standards Act, and the asbestos removal trade through the power and duties set forth in this act and in the respective licensing acts for such trades and services, namely Section 1001 et seq., Section 1031 et seq., Section 1680 et seq., Section 1800.1 et seq. and Section 1850.1 et seq. of Title 59 of the Oklahoma Statutes, and

Section 141.1 et seq., Section 401 et seq., and Section 451 et seq. of Title 40 of the Oklahoma Statutes. In addition, the Commission shall regulate persons in the business of installing automatic water sprinkler systems in residential and commercial buildings.

B. 1. The Commission shall be composed of fifteen (15) voting members, appointed by the Governor as follows:

- a. two members shall have at least ten (10) years' experience in the plumbing trade of which one shall be a plumbing contractor and one shall be a journeyman plumber,
- b. two members shall have at least ten (10) years' experience in the electrical trade of which one shall be an electrical contractor and one shall be a journeyman electrician,
- c. two members shall have at least ten (10) years' experience in the mechanical trade of which one shall be a mechanical contractor and one shall be a mechanical journeyman,
- d. one member shall have at least ten (10) years' experience as a contractor in the alarm industry business pursuant to Section 1800.1 et seq. of Title 59 of the Oklahoma Statutes,
- e. one member shall have at least ten (10) years' experience as a building and construction inspector,
- f. one member shall have at least ten (10) years' experience in the boiler and pressure vessel business,
- g. one member shall have at least ten (10) years' experience in occupational health and safety,
- h. one member shall have at least ten (10) years' experience in asbestos control,
- i. one member shall have at least ten (10) years' experience as a contractor in the business of

installing automatic water sprinkler systems and shall be selected from a list of at least three nominees submitted by the State Fire Marshal Commission,

- j. one member shall represent the public and shall not practice, have practiced or be licensed to practice any of the trades regulated by the Commission, nor be employed by or be related by blood or marriage within the third degree to any person who practices, has practiced or is licensed to practice any such trades,
- k. one member shall be the chair of the Board of Governors of the Licensed Architects and Landscape Architects of Oklahoma, and
- l. one member shall be the chair of the State Board of Registration for Professional Engineers and Land Surveyors.

2. Except for members appointed pursuant to subparagraphs k and l of paragraph 1 of this subsection, members shall be appointed for terms of four (4) years; provided, of those members initially appointed to the Commission, seven voting members shall be appointed for two-year terms, beginning September 1, 1997, and six voting members shall be appointed for four-year terms, beginning September 1, 1997, as designated by the Governor. Members shall continue in office until a successor is appointed by the Governor. The Governor shall fill all vacancies and unexpired terms in the same manner as the appointment of the member whose position is to be filled. Such members may be removed by the Governor for cause.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. The Building Trades Commission shall organize immediately after September 1, 1997, and annually thereafter, by electing from among its members a president, a vice-president and a

secretary-treasurer. The Commission shall hold regularly scheduled meetings at least once each quarter at a time and place determined by the Commission, and may hold such special meetings, emergency meetings, or continued or reconvened meetings as found by the Commission to be expedient or necessary. A majority of the members of the Commission shall constitute a quorum for the transaction of business.

2. The president shall preside at meetings of the Commission, set the agenda, sign orders and other required documents, coordinate Commission activities and perform such other duties as may be prescribed by the Commission.

3. The vice-president shall perform the duties of the president during the president's absence or disability and shall perform such other duties as may be prescribed by the Commission.

4. The secretary-treasurer or the executive director at the discretion of the Commission shall:

- a. keep a record of all proceedings of the Commission and certify to actions of the Commission,
- b. receive and deposit all monies received by the Commission in the appropriate revolving funds,
- c. submit, at the first regular meeting of the Commission after the end of each fiscal year, a full itemized report of the receipts and disbursements for the prior fiscal year, showing the amount of funds on hand, and
- d. perform such other duties as are prescribed in this act or as may be prescribed by the Commission.

B. The Commission shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, and the Administrative Procedures Act.

C. All members of the Commission and such employees as determined by the Commission shall be bonded as required by Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

D. The liability of any member or employee of the Commission acting within the scope of Commission duties or employment shall be governed by the Governmental Tort Claims Act.

E. Members of the Commission shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. Beginning September 1, 1997, pursuant to and in compliance with Article I of the Administrative Procedures Act, the Building Trades Commission shall have the power to adopt, amend, repeal and promulgate rules as may be necessary to regulate the plumbing, electrical, alarm industry and mechanical trades, building and construction inspectors, boiler and pressure vessel business, occupational health and safety standard compliance, asbestos control business, and persons in the business of installing automatic water sprinkler systems in residences and commercial buildings. Provided, such rules shall not become effective prior to January 1, 1998.

2. Beginning January 1, 1998, the Commission shall have the power to enforce the provisions of the Building Trades Commission Act; The Plumbing Licensing Law of 1955, Section 1001 et seq. of Title 59 of the Oklahoma Statutes; the Oklahoma Inspectors Act, Section 1031 et seq. of Title 59 of the Oklahoma Statutes; the Electrical License Act, Section 1680 et seq. of Title 59 of the Oklahoma Statutes; the Alarm Industry Act, Section 1800.1 et seq. of Title 59 of the Oklahoma Statutes; the Mechanical Licensing Act, Section 1850.1 et seq. of Title 59 of the Oklahoma Statutes; the Boiler and Pressure Vessel Safety Act, Section 141.1 et seq. of Title 40 of the Oklahoma Statutes; the Oklahoma Occupational Health and Safety Standards Act, Section 401 et seq. of Title 40 of the

Oklahoma Statutes; and the Oklahoma Asbestos Control Act, Section 451 et seq. of Title 40 of the Oklahoma Statutes.

3. In addition to rules promulgated by the Building Trades Commission, rules promulgated by the State Board of Health and the Commissioner of Labor prior to January 1, 1998, shall be the rules of the Commission and shall continue in effect until such rules are amended or repealed by rules promulgated by the Commission.

4. Any order made or action taken prior to January 1, 1998, by the State Board of Health, the State Department of Health or the State Commissioner of Health pursuant to the provisions of, or rules promulgated pursuant to, The Plumbing Licensing Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Alarm Industry Act and the Mechanical Licensing Act shall be considered valid and in effect unless rescinded by the Commission.

5. Any order made or action taken prior to January 1, 1998, by the Commissioner of Labor or the Department of Labor pursuant to the provisions of, or rules promulgated pursuant to, the Boiler and Pressure Vessel Safety Act, the Oklahoma Occupational Health and Safety Standards Act and the Oklahoma Asbestos Control Act shall be considered valid and in effect unless rescinded by the Commission.

B. The Commission is authorized and empowered to:

1. Exercise all incidental powers and duties which are necessary to effectuate the provisions of The Plumbing Licensing Law of 1955, Section 1001 et seq. of Title 59 of the Oklahoma Statutes; the Oklahoma Inspectors Act, Section 1031 et seq. of Title 59 of the Oklahoma Statutes; the Electrical License Act, Section 1680 et seq. of Title 59 of the Oklahoma Statutes; the Alarm Industry Act, Section 1800.1 et seq. of Title 59 of the Oklahoma Statutes; the Mechanical Licensing Act, Section 1850.1 et seq. of Title 59 of the Oklahoma Statutes; the Boiler and Pressure Vessel Safety Act, Section 141.1 et seq. of Title 40 of the Oklahoma Statutes; the Oklahoma Occupational Health and Safety Standards Act, Section 401

et seq. of Title 40 of the Oklahoma Statutes; and the Oklahoma Asbestos Control Act, Section 451 et seq. of Title 40 of the Oklahoma Statutes;

2. Serve as a code variance and appeals board for the trades it regulates which do not have statutory code variance and appeals boards;

3. Order or subpoena the attendance of witnesses, the inspection of records and premises and the production of relevant books and papers for the investigation of matters that may come before the Commission;

4. Lease office space for the purpose of operating and maintaining a state office and lease or purchase office furniture, equipment and supplies;

5. Employ an executive director and such other personnel as may be necessary, subject to statutory FTE limits, and fix and pay their salaries or wages;

6. Employ legal counsel, as needed, to represent the Commission in all legal matters;

7. Employ one or more investigators, as needed and subject to statutory FTE limits, for the purpose of investigating written complaints which may come before the Commission; and

8. Make such other expenditures as may be necessary in the performance of its duties.

C. Effective January 1, 1998, all powers, duties, responsibilities, employees, records, fund balances, encumbrances and obligations of the State Board of Health, the State Department of Health and the State Commissioner of Health relating to the regulation of the plumbing, electrical, alarm industry and mechanical trades, and building and construction inspectors are hereby transferred to the Building Trades Commission.

D. Effective January 1, 1998, all powers, duties, responsibilities, employees, records, fund balances, emcumbrances

and obligations of the Commissioner of Labor or the Department of Labor relating to the regulation of the operation, construction and inspection of boiler and pressure vessels, the administration of the Oklahoma Occupational Health and Safety Standards Act, and the Oklahoma Asbestos Control Act are hereby transferred to the Building Trades Commission.

SECTION 5. Expenditures, encumbrances and transfers from the following revolving funds by the State Department of Health and the Department of Labor from July 1, 1997, through December 31, 1997, shall not exceed the following amounts:

1. The revolving fund created pursuant to Section 1018 of Title 59 of the Oklahoma Statutes - One Hundred Forty-eight Thousand Eight Hundred and Sixty-four Dollars (\$148,864.00);

2. The Electrical Revolving Fund, created pursuant to Section 1694 of Title 59 of the Oklahoma Statutes - One Hundred Sixty Thousand Seven Hundred Eighty-four Dollars (\$160,784.00);

3. The Alarm Industry Revolving Fund, created pursuant to Section 1800.14 of Title 59 of the Oklahoma Statutes - Fifty-five Thousand Two Hundred Ninety-four Dollars (\$55,294.00);

4. The Oklahoma Mechanical Licensing Revolving Fund, created pursuant to Section 1850.13 of Title 59 of the Oklahoma Statutes - Three Hundred Seventy-two Thousand Five Hundred Twenty-eight Dollars (\$372,528.00); and

5. The Special Occupational Health and Safety Fund created pursuant to Section 417.1 of Title 40 of the Oklahoma Statutes - _____ Dollars (\$0.00).

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1002, as amended by Section 1, Chapter 236, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1002), is amended to read as follows:

Section 1002. A. ~~The State Board of Health, in pursuance of its general power of supervision over the interests of the health and life of the citizens of this state, and over the sanitary~~

~~conditions under which they live,~~ Building Trades Commission is hereby authorized, empowered and directed, ~~through the Commissioner of Health,~~ to make, prescribe, enforce, amend and repeal rules ~~and regulations~~ governing the following:

1. ~~The~~ examination and licensing of persons desiring or intending to engage in the business, trade or calling of ~~master plumber (plumbing contractor)~~ or journeyman plumber, ~~the;~~

2. ~~The~~ registering of and issuing of certificates to persons desiring or intending to work or act as a plumber's apprentice, ~~the;~~

3. ~~The~~ establishment and levying of administrative fines, ~~the;~~

4. ~~The~~ initiation of disciplinary proceedings, ~~the;~~

5. ~~The~~ requesting of prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of ~~this act~~ Section 1001 et seq. of this title or any rule promulgated pursuant to ~~this act,~~ ~~and to establish~~ Section 1001 et seq. of this title; and

6. ~~The establishment of~~ bonding requirements for the issuance of a license as a plumbing contractor, provided, such rules ~~and regulations~~ shall not be inconsistent with the terms and conditions hereinafter provided.

B. Such bonding requirements shall allow the filing of cash or a certificate of deposit in lieu of a bond. A state bond or cash or certificate of deposit filed in lieu of a bond and which is posted pursuant to the provisions of this section shall be deemed sufficient to meet the requirements of any municipality, provided that a copy of said bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed with any municipality in which the licensee does work as a plumbing contractor. A copy of the bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed with the municipality prior to the commencement of any such work by the licensee. ~~The State Board of Health shall establish a Grand Master Plumbing License for~~

~~contractors in Oklahoma which will include all plumbing licenses in one license on an annual basis.~~

SECTION 7. AMENDATORY Section 1, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1002.1), is amended to read as follows:

Section 1002.1 ~~The State Commissioner of Health~~ Building Trades Commission shall establish by rule a process for the formal review of the plans and specifications for a project prior to bid dates for the project to ensure that the project plans and specifications are in conformance with applicable plumbing, electrical and mechanical installation codes. The rule shall provide that the review shall be completed in a timely manner, not to exceed fourteen (14) calendar days from the date of the submission of a completed application for review which is accompanied by the review fee not to exceed Two Hundred Dollars (\$200.00) to be established by the rule. Upon completion of the review, the plans and specifications shall be returned to the applicant with documentation indicating either approval of plans and specifications which are in compliance with the applicable codes, or modifications which must be made to bring the plans and specifications into conformance. Submission of such plans and specifications for review by the ~~Department~~ Commission shall be voluntary.

SECTION 8. AMENDATORY 59 O.S. 1991, Section 1003, as amended by Section 2, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1003), is amended to read as follows:

Section 1003. As used in ~~this act~~ Section 1001 et seq. of this title:

1. ~~"Board"~~ "Commission" means the ~~State Board of Health Building Trades Commission, created pursuant to Section 2 of this act;~~

2. ~~"Commissioner" means the State Commissioner of Health;~~

~~3.~~ "Committee" means the State Committee of Plumbing Examiners appointed by the ~~State Board of Health~~ Building Trades Commission;

~~4.~~ 3. "Plumbing Hearing Board" means the State Plumbing Hearing Board which shall consist of the ~~State Commissioner of Health~~ executive director of the Building Trades Commission as ~~chairman~~ chair, and the members of the State Committee of Plumbing Examiners;

~~5.~~ 4. "Apprentice" or "plumber's apprentice" means any person sixteen (16) years of age or over who, as his or her principal occupation, is engaged in learning and assisting in the installation of plumbing under the direct supervision of a licensed journeyman plumber or plumbing contractor;

~~6.~~ 5. "Journeyman plumber" means any person other than a master plumber or plumbing contractor who engages in or works at the actual installation, alteration, repair and/or renovation of plumbing;

~~7.~~ 6. "Master plumber" is a term used and defined under laws which have been repealed. A person formerly known as a master plumber is henceforth to be known as a "plumbing contractor" herein defined;

~~8.~~ 7. "Plumbing contractor" means, ~~and is hereby defined to be,~~ any person skilled in the planning, superintending and practical installation of plumbing and is familiar with the laws, rules and regulations governing the same. This definition may be construed to mean any person who has qualified and is licensed under ~~this act~~ Section 1001 et seq. of this title as a plumbing contractor, who may operate as an individual, a firm, partnership, limited liability company or corporation to engage in the business of plumbing, or the business of contracting to do, or furnish labor and/or labor and materials for, the installation, repair, maintenance or renovation of plumbing, according to the requirements of ~~this act~~ Section 1001 et seq. of this title;

~~9.~~ 8. "Plumbing" means, and includes:

- a. all piping, fixtures, appurtenances and appliances for, and in connection with, a supply of water within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a water main or other source of supply,
- b. all piping, fixtures, appurtenances and appliances for sanitary drainage or storm drainage facilities, including venting systems for such facilities, within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a public disposal system or other acceptable terminal, and
- c. the installation, repair, maintenance and renovation of all piping, fixtures, appurtenances and appliances for a supply of water, or for the disposal of waste water, liquid waste, or sewage within or adjacent to any building, structure, or conveyance, on the premises and to the source of supply of water or point of disposal of wastes; and

~~10.~~ 9. "Variance and Appeals Board" means the Oklahoma State Plumbing Installation Code Variance and Appeals Board.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 1004, as amended by Section 1, Chapter 63, O.S.L. 1996 (59 O.S. Supp. 1996, Section 1004), is amended to read as follows:

Section 1004. A. The Oklahoma State Committee of Plumbing Examiners is hereby re-created to continue until July 1, 2002, in accordance with the provisions of the Oklahoma Sunset Law, as provided by Sections 3901 et seq. of Title 74 of the Oklahoma Statutes, and shall consist of six (6) members, each of whom shall be a citizen of the United States, a resident of this state, and reside in a different Congressional District of this state. ~~Members~~ Beginning January 1, 1998, as the terms of members serving on the Committee on such date expire, members of the Committee shall be

appointed by the ~~State Board of Health~~ Building Trades Commission which may also remove them for cause. They will hold office for terms of two (2) years, or until their successors are appointed. Two members of the Committee shall have had at least five (5) years' practical experience as a licensed master plumber ~~and/or~~ or plumbing contractor, and two members shall have had at least five (5) years' practical experience as a licensed journeyman plumber. One member shall be a plumbing inspector selected from lists of names submitted from plumbing inspection industries and one member shall be a lay person. Whenever appointments of initial, new, or replacement plumbing members of the Committee are to be made, the ~~State Board of Health~~ Commission shall choose them only from lists of at least three names to be furnished whenever needed as follows:

1. Master plumber ~~and/or~~ or plumbing contractor member - lists to be furnished by associated plumbing and heating contractors of this state;

2. Journeyman plumber member - lists to be furnished by state pipe trades associations;

3. One licensed master plumber ~~and/or~~ or plumbing contractor who is not a member of an association of plumbing, heating, and cooling contractors of this state; and

4. One licensed journeyman plumber who is not a member of a state pipe trades association.

B. Duties of the Committee shall be to serve the ~~Commissioner~~ Commission in an advisory capacity, to formulate rules pursuant to ~~the Plumbing Licensing Law of 1955~~ Section 1001 et seq. of this title, and to assist and advise the Department on the examination of applicants for licenses as journeyman plumber ~~and/or~~ or plumbing contractor, in accordance with such rules and the terms and conditions hereof. A majority of the Committee shall constitute a quorum for the transaction of business.

C. Each examiner shall be reimbursed ~~his or her~~ for travel expenses in accordance with the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 10. AMENDATORY 59 O.S. 1991, Section 1006, is amended to read as follows:

Section 1006. ~~(a) The Commissioner~~ A. The Building Trades Commission shall issue licenses to ~~such~~ persons who have been certified by the ~~Committee~~ Commission as having successfully passed ~~said the~~ the examination for journeyman plumber or plumbing contractor, as the case may be, and who have paid the fees and have otherwise complied with the applicable requirements of ~~this act~~ Section 1001 et seq. of this title.

~~(b) The Commissioner shall, upon proper application and payment of fees within ninety (90) days from and after the effective date of this act, but not thereafter, issue licenses without examination to persons who, on the effective date of this act, hold an unexpired license as a journeyman plumber or master plumber or plumbing contractor which has been issued by a city or incorporated town of this state, and who have otherwise complied with the requirements of this act. Said license must be produced as a prerequisite to obtaining a state license if applicant is a resident of a city or town having a licensing law.~~

~~(c) The Commissioner shall, upon proper application and payment of fees within ninety (90) days from and after the effective date of this act, but not thereafter, issue licenses without examination to persons from towns or cities of less than two thousand (2,000) population who show proof satisfactory to the Commissioner that they were, on the effective date of this act and for a period of one (1) year prior thereto, engaged in the occupation, trade or business of journeyman plumber, or master plumber, or plumbing contractor, as~~

~~the case may be, and who has otherwise complied with the requirements of this act.~~

~~(d) B.~~ All licenses shall be nontransferable ~~and it.~~ It shall be unlawful for any holder of a license under this act Section 1001 et seq. of this title to loan or allow the use of such license by any other person, firm or corporation, except as specifically provided in this act Section 1001 et seq. of this title.

SECTION 11. AMENDATORY 59 O.S. 1991, Section 1007, is amended to read as follows:

Section 1007. Application for examination, license ~~and/or~~ or renewal of license shall be made to the ~~Commissioner~~ Building Trades Commission in writing and, if required, on forms furnished by the ~~Commissioner~~ Commission and shall be accompanied by the proper fee.

SECTION 12. AMENDATORY 59 O.S. 1991, Section 1008, is amended to read as follows:

Section 1008. The following shall be the fees charged under ~~this act~~ Section 1001 et seq. of this title by the ~~State Commissioner of Health, to wit~~ Building Trades Commission:

Initial fees

Plumbing Contractor's	
Examination	\$50.00
Journeyman Plumber's	
Examination	25.00
Plumbing Contractor's	
License	50.00
Journeyman Plumber's	
License	15.00
Apprentice registration	
Fee	10.00

Renewal of Licenses (if made within thirty (30) days after expiration)

Plumbing contractor's

License \$50.00
 Journeyman Plumber's
 License 15.00
 Penalty for Delayed Renewal
 Plumbing Contractor's
 License 10.00
 Journeyman Plumber's
 License 5.00

SECTION 13. AMENDATORY 59 O.S. 1991, Section 1010, as amended by Section 1, Chapter 251, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1010), is amended to read as follows:

Section 1010. A. The ~~Commissioner of Health~~ executive director of the Building Trades Commission, as ~~chairman~~ chair, and the members of the Oklahoma State Committee of Plumbing Examiners shall constitute a Plumbing Hearing Board, which may on its own motion make investigations and conduct hearings ~~and~~. The Board may, on its own motion or upon complaint in writing duly signed and verified by the complainant, and upon not less than ten (10) days' notice to the licensee, suspend any license issued under ~~this act~~ Section 1001 et seq. of this title, and may revoke such license in the manner hereinafter provided, if it has reason to believe or finds that the holder of the license has:

1. Made a material misstatement in the application for license or renewal thereof;
2. Loaned or illegally used ~~his~~ the license;
3. Demonstrated incompetency to act as a journeyman plumber or plumbing contractor, as the case may be;
4. Violated any provision of ~~this act~~ Section 1001 et seq. of this title, or any rule, ~~regulation~~ or order prescribed by the ~~Board~~ Building Trades Commission, or any ordinance or regulation for the installation of plumbing made or enacted by a city, town or sewer

commission by authority of ~~this act~~ Section 1001 et seq. of this title; or

5. Willfully and unreasonably failed to perform ~~his~~ normal business obligations without justifiable cause.

B. A copy of the complaint with notice of the suspension of license, if ordered by the Plumbing Hearing Board, shall be served on the person complained against, and ~~his~~ the answer thereto shall be filed in the time allowed for the filing of answers in legal proceedings by the statutes of the State of Oklahoma.

C. No order revoking a license shall be made until after a public hearing ~~set~~, held in accordance with the provisions of Article II of the Administrative Procedures Act, by the Plumbing Hearing Board which shall not be less than thirty (30) days and not more than sixty (60) days after the date of notice of such suspension. ~~Such~~ The hearing shall be ~~had~~ held at the place designated by the Plumbing Hearing Board. The person complained against shall have the right to be represented by counsel and to introduce any evidence in ~~his~~ defense. The conduct of the hearing shall be in accordance with recognized rules of legal procedure and any member of the Plumbing Hearing Board or a representative designated by the Plumbing Hearing Board shall have authority to administer oaths and take testimony.

D. Any person whose license has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new license.

E. Notwithstanding any other provision of law, a political subdivision of this state that has adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 or Section 1031 et seq. of this title for such work shall have jurisdiction over the interpretation of said code and the installation of all plumbing work done in that political subdivision, subject to the provisions of the Oklahoma Inspectors

Act, Section 1031 et seq. of ~~Title 59 of the Oklahoma Statutes~~ this title. Provided, a state inspector may work directly with a plumbing contractor or journeyman plumber in such a locality if a violation of the code creates an immediate threat to life or health.

F. In the case of a complaint about, investigation of, or inspection of any license, registration, permit or plumbing in any political subdivision of this state which has not adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 or Section 1031 et seq. of this title for such work, the ~~Commissioner of Health~~ Building Trades Commission shall have jurisdiction over such matters.

G. 1. No individual, business, company, corporation, limited liability company, association or other entity subject to the provisions of Section 1001 et seq. of this title shall install, modify or alter plumbing in any incorporated area of this state which has not adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 or Section 1031 et seq. of this title for such work without providing notice of such plumbing to the ~~Commissioner of Health~~ Building Trades Commission. A notice form for reproduction by an individual or entity required to make such notice shall be provided by the ~~Commissioner of Health~~ Commission upon request.

2. Notice to the ~~Commissioner of Health~~ Commission pursuant to this subsection shall not be required for plumbing maintenance or replacement of an existing plumbing device or fixture, unless such device is gas fired, or of any petroleum refinery or its research facilities.

3. Enforcement of this subsection is authorized pursuant to Section 1001 et seq. of this title, or under authority granted to the ~~Commissioner of Health~~ Commission.

SECTION 14. AMENDATORY Section 3, Chapter 236, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1010.1), is amended to read as follows:

Section 1010.1 A. In addition to other penalties provided by law, if after a hearing in accordance with the provisions of Section 1010 of this title, the Plumbing Hearing Board shall find any person to be in violation of any of the provisions of ~~this act~~ Section 1001 et seq. of this title, such person may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day a person is in violation of ~~this act~~ Section 1001 et seq. of this title may constitute a separate violation. The maximum fine will not exceed One Thousand Dollars (\$1,000.00). All administrative fines collected pursuant to the provisions of this subsection shall be deposited in the fund established in Section 1018 of this title. Administrative fines imposed pursuant to this subsection shall be enforceable in the district courts of this state.

B. The Plumbing Hearing Board may make application to the appropriate court for an order enjoining the acts or practices prohibited by ~~this act~~ Section 1001 et seq. of this title, and upon a showing by the Plumbing Hearing Board that the person has engaged in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

SECTION 15. AMENDATORY 59 O.S. 1991, Section 1011, is amended to read as follows:

Section 1011. An appeal from the decision of the Plumbing Hearing Board upon the suspension or revocation of a license, or upon any decision not specifically provided for in ~~this act~~ Section 1001 et seq. of this title, may be taken to the district court ~~of the residence of the aggrieved party by filing with the Plumbing Hearing Board, within ten (10) days from the date of the Plumbing~~

~~Hearing Board's decision, a notice of appeal, which notice shall specifically set out the grounds upon which such appeal is taken in accordance with the provisions of Article II of the Administrative Procedures Act.~~

SECTION 16. AMENDATORY 59 O.S. 1991, Section 1013, is amended to read as follows:

Section 1013. The ~~Commissioner~~ Building Trades Commission shall, upon proper application and payment of fee, register as plumber's apprentice, and shall issue a certificate of ~~such the~~ registration to, ~~such person or~~ persons who furnish proof satisfactory to the ~~Commissioner~~ Commission that ~~he or~~ they are sixteen (16) years of age or over and are enrolled in a recognized school or training course for plumber apprentices, or have arranged for employment as a plumber's apprentice with a licensed plumbing contractor. Certificate of an apprentice shall expire at the end of four (4) years from date of issuance, at which time the ~~Commissioner~~ Commission may issue a new certificate.

SECTION 17. AMENDATORY 59 O.S. 1991, Section 1014, is amended to read as follows:

Section 1014. Every holder of a license as a journeyman plumber or plumbing contractor, or of a certificate of registration as a plumber's apprentice, shall promptly notify the ~~Commissioner~~ Building Trades Commission of any change in ~~his~~ business address.

SECTION 18. AMENDATORY 59 O.S. 1991, Section 1018, as amended by Section 2, Chapter 236, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1018), is amended to read as follows:

Section 1018. All fees, administrative fines or payments of any type ~~collected~~ received by the ~~Commissioner~~ Building Trades Commission under ~~this act~~ Section 1001 et seq. of this title shall be ~~paid directly into the State Treasury where they shall be kept deposited~~ in a separate revolving fund in trust and for use only to be designated the "Plumbing Licensing Revolving Fund" and are hereby

~~appropriated and may be expended by the Commissioner to meet all expenses deemed necessary to incur in carrying out the intent and purposes of this act~~ Commission for the purpose of implementing Section 1001 et seq. of this title. ~~The funds are to be expended only through the Commissioner's authorization and are to be used for paying operating expenses and in carrying out programs and devices designed to further the efficacy of the plumbing industry and public understanding of it. This may include, among other expenditures to be determined through the Commissioner's discretion, preparation and printing of regulations, bulletins, or other documents and the furnishing of copies to those engaged in the plumbing industry or to the public~~ fund shall be a continuing fund, not subject to fiscal year limitations. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 19. AMENDATORY 59 O.S. 1991, Section 1020, is amended to read as follows:

Section 1020. Nothing in ~~this act~~ Section 1001 et seq. of this title shall prohibit cities and towns from having full authority to provide full supervision and inspection of plumbing by the enactment of codes, rules and regulations in such form as they may determine and prescribe; provided, that no such ordinances, bylaw, rule or regulation shall be inconsistent with ~~this act~~ Section 1001 et seq. of this title, or any rule ~~or regulation~~ adopted or prescribed by the ~~State Board of Health~~ Building Trades Commission through authority of ~~this act~~ Section 1001 et seq. of this title and the provisions of the Building Trades Commission Act. Each state-licensed master plumber, plumbing contractor and journeyman plumber shall be required to register with the plumbing inspector of every city and town in whose jurisdiction ~~he~~ the plumber operates, and each such city or town is hereby authorized to register such

master plumber, plumbing contractor and journeyman plumber, to revoke the same, to charge fees for such registration, for permits and for inspections of plumbing and fixtures. Provided, further, that no master plumber, plumbing contractor or journeyman plumber shall be permitted to do business or work in any city or town wherein ~~his~~ the plumber's local registration has been revoked.

SECTION 20. AMENDATORY Section 3, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1021.1), is amended to read as follows:

Section 1021.1 A. 1. There is hereby created the Oklahoma State Plumbing Installation Code Variance and Appeals Board. The Variance and Appeals Board shall hear testimony and shall review sufficient technical data submitted by an applicant to substantiate the proposed installation of any material, assembly or manufacturer-engineered components, equipment or system that is not specifically prescribed by an appropriate installation code, an industry consensus standard or fabricated or installed according to recognized and generally accepted good engineering practices, where no ordinance or regulation of a governmental subdivision applies. If it is determined that the evidence submitted is satisfactory proof of performance for the proposed installation, the Variance and Appeals Board shall approve such alternative, subject to the requirements of the appropriate installation code. Applications for the use of an alternative material or method of construction shall be submitted in writing to the ~~State Commissioner of Health~~ Building Trades Commission for approval prior to use. Applications shall be accompanied by a filing fee, not to exceed Fifty Dollars (\$50.00), as set by rule of the ~~State Board of Health~~ Commission.

2. The Variance and Appeals Board shall also hear appeals from contractors, licensed by the ~~Occupational Licensing Service of the State Department of Health~~ Building Trades Commission, and any party who has an ownership interest in or is in responsible charge of the

design of or work on the installation, who contest the ~~Department's~~
Commission's interpretation of the state's model plumbing
installation code as applied to a particular installation. Such
appeals shall be based on a claim that:

- a. the true intent of the installation code has been
incorrectly interpreted,
- b. the provisions of the code do not fully apply, or
- c. an equal or better form of installation is proposed.

Such appeals to the Variance and Appeals Board shall be made in
writing to the ~~State Commissioner of Health~~ Commission within
fourteen (14) days after a code interpretation or receipt of written
notice of the alleged code violation by the licensed contractor.

B. The Variance and Appeals Board shall consist of the ~~State
Commissioner of Health or his or her~~ executive director of the
Commission or the director's designated representative and the
following members who, except for the State Fire Marshal or
designee, shall be appointed by the ~~Commissioner~~ Commission from a
list of names submitted by the professional organizations of the
professions represented on the Board and who shall serve at the
pleasure of the ~~Commissioner~~ Commission:

1. Two members shall be appointed from the State Committee of
Plumbing Examiners; one shall be a contractor with five (5) years of
experience and one shall be a journeyman with five (5) years of
experience;

2. One member shall be a registered design professional who is
a registered architect with at least ten (10) years of experience,
five (5) of which shall have been in responsible charge of work;

3. One member shall be a registered design professional with at
least ten (10) years of structural engineering or architectural
experience, five (5) of which shall have been in responsible charge
of work;

4. One member shall be a registered design professional with mechanical or plumbing engineering experience; provided, such member shall have at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work;

5. One member shall be a registered design professional with electrical engineering experience; provided, such member shall have at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work; and

6. One member shall be the State Fire Marshal or a designee of the State Fire Marshal.

Provided, any member serving on the Board on January 1, 1998, may continue to serve on the Board until a replacement is appointed by the Commission.

C. Members, except the ~~Commissioner and~~ executive director of the Commission, the State Fire Marshal, the Commissioner's and State Fire Marshal's their designated representatives, and employees of the ~~Department~~ Commission, shall be reimbursed for travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes, from the revolving fund created pursuant to Section 1018 of ~~Title 59 of the Oklahoma Statutes~~ this title.

D. The Variance and Appeals Board shall meet after the ~~Commissioner~~ Commission receives proper application for a variance, accompanied by the filing fee, or proper notice of an appeal, as provided in subsection A of this section.

E. The ~~State Commissioner of Health~~ executive director of the Commission, or the Commissioner's director's designated representative, shall serve as chair of the Variance and Appeals Board. A majority of the members of the Variance and Appeals Board shall constitute a quorum for the transaction of the business of the Board.

SECTION 21. AMENDATORY 59 O.S. 1991, Section 1032, is amended to read as follows:

Section 1032. The ~~State Board of Health~~ Building Trades Commission shall promulgate rules and regulations governing the examination and licensing of building, electrical, mechanical, plumbing, and other construction inspectors and the establishment of classifications for such inspectors. The ~~State Board of Health~~ Commission may adopt as part of such rules and regulations any or all nationally recognized inspector certification programs or codes for purposes of building and construction inspector licensing. The rules and regulations adopted by the ~~State Board of Health~~ Commission shall provide requirements for continuing education for building and construction inspectors.

SECTION 22. AMENDATORY 59 O.S. 1991, Section 1033, is amended to read as follows:

Section 1033. As used in the Oklahoma Inspectors Act:

1. "~~Commissioner~~" "Commission" means the ~~State Commissioner of Health~~ Building Trades Commission;

2. "Committee" means the Oklahoma Inspector Examiners Committee;

3. "Building and construction inspection" means the inspection of plumbing, electrical, mechanical or structural aspects of building and construction, for the purpose of enforcing compliance with the applicable building codes or standards;

4. "Building and construction inspector" means any person actively engaged in the inspection of any phase of building and construction for the purpose of enforcing compliance with the applicable building codes or standards and includes, but is not limited to, plumbing inspectors, electrical inspectors, mechanical inspectors and structural inspectors; and

5. "Circuit rider inspector" means a person who acts as a building and construction inspector for two or more municipalities

or other political subdivisions and is certified and licensed pursuant to the Oklahoma Inspectors Act.

SECTION 23. AMENDATORY 59 O.S. 1991, Section 1034, is amended to read as follows:

Section 1034. There is hereby created the Oklahoma Inspector Examiners Committee which shall consist of seven (7) members. One member shall be the ~~State Commissioner of Health~~ executive director of the Building Trades Commission or a designee of the executive director. ~~Six~~ Beginning January 1, 1998, as the terms of the six other members serving on the Committee on such date expire, these members shall be appointed ~~prior to December 1, 1989,~~ by the ~~State Board of Health, who~~ Commission which may also remove any appointed member for cause. ~~Three of the appointed members shall serve an initial term of two (2) years and three shall serve an initial term of four (4) years. Thereafter, the appointed~~ Appointed members shall hold office for terms of four (4) years or until their successors are appointed.

Four appointed members shall be residents of this state and each shall have had at least five (5) years of practical experience as a building and construction inspector in his or her respective field. Of these appointees, one member each shall be appointed from the plumbing, electrical, mechanical and structural professions. One appointed member shall be a municipal officer as defined in Section 1-102 of Title 11 of the Oklahoma Statutes, and one appointed member shall be a lay person.

Each member shall serve without pay but shall be reimbursed for his actual expenses in accordance with the State Travel Reimbursement Act.

SECTION 24. AMENDATORY 59 O.S. 1991, Section 1035, is amended to read as follows:

Section 1035. The Committee shall have the power and duty:

1. To assist the ~~State Commissioner of Health~~ Building Trades Commission in certifying, licensing and otherwise regulating persons employed as building and construction inspectors;

2. To assist the ~~Commissioner~~ Commission in establishing and administering examinations to applicants for an Oklahoma inspector's license;

3. To assist the ~~Commissioner~~ Commission in prescribing and adopting forms for certification and licensure applications;

4. To assist the ~~State Board of Health~~ Commission by making recommendations concerning rules ~~and regulations~~ which establish standards of performance for building and construction inspectors;

5. To assist the ~~State Board of Health~~ Commission in determining whether certification by a national certification program or licensing by another governmental entity should be approved as a substitute for a successful completion of the Oklahoma Inspector's Examination;

6. To investigate alleged violations of the provisions of the Oklahoma Inspectors Act and of any rules ~~and regulations~~ promulgated pursuant thereto; and

7. To have such other powers and duties as are necessary to implement the Oklahoma Inspectors Act.

SECTION 25. AMENDATORY 59 O.S. 1991, Section 1036, as amended by Section 2, Chapter 9, O.S.L. 1995 (59 O.S. Supp. 1996, Section 1036), is amended to read as follows:

Section 1036. A. ~~Except as provided in subsection B of this section, after February 1, 1990, applicants~~ Applicants for certification and license shall:

1. Show proof of certification or licensing by a program or governmental entity approved by the ~~State Board of Health~~ Building Trades Commission; or

2. Have been certified by the Committee as having passed the examination.

The ~~Commissioner~~ Commission shall issue a license to any person who has met the requirements of paragraph 1 or 2 of this subsection and who has paid the fees required by the Oklahoma Inspectors Act and has otherwise complied with the applicable requirements of the Oklahoma Inspectors Act. Provided, the ~~Commissioner~~ Commission may issue a provisional license limited to two (2) years to enable an applicant to meet the certification requirements of this subsection.

~~B. The Commissioner shall issue a license without examination to all applicants who were employed by any political subdivision as building and construction inspectors prior to February 1, 1990, and who make proper application and payment of fees prior to February 1, 1990, as provided for in the Oklahoma Inspectors Act, and submit notarized affidavits from a state or municipal official verifying employment as a building and construction inspector.~~

~~C.~~ Examinations shall be uniform and shall be practical in nature but shall be sufficiently strict to test the qualifications and fitness of the applicant as a building and construction inspector. The examination shall be in whole or in part in writing. Examination dates shall be set by the Committee. Any applicant failing to pass the examination shall not be permitted to take another examination for a period of thirty (30) days, and thereafter any such applicants subsequently failing to pass the examination shall not be permitted to take a subsequent examination for a period of ninety (90) days.

~~D.~~ C. All licenses shall be nontransferable and it shall be unlawful for any holder of a license issued pursuant to the Oklahoma Inspectors Act to loan or allow the use of such license by any other person, firm or corporation.

SECTION 26. AMENDATORY 59 O.S. 1991, Section 1037, is amended to read as follows:

Section 1037. Application for examination, certification, or license or renewal of license shall be made to the ~~Commissioner~~

Building Trades Commission in writing on forms furnished by the ~~Commissioner~~ Commission and each application shall be accompanied by a fee of Twenty-five Dollars (\$25.00). Applicants for renewal may also be required to submit proof of compliance with continuing education requirements established by the ~~Board~~ Commission.

SECTION 27. AMENDATORY 59 O.S. 1991, Section 1039, is amended to read as follows:

Section 1039. A. The Committee may, upon its own motion, and shall upon written complaint filed by any person, investigate inspection practices of any building and construction inspector.

B. The Committee may request that an individual proceeding be conducted to determine whether the licensee has:

1. Made a material misstatement in the application for license or renewal thereof;

2. Loaned or illegally used his or her license;

3. Demonstrated incompetency to act as a building and construction inspector; or

4. Violated any provision of the Oklahoma Inspectors Act, or any rule, ~~regulation or order~~ promulgated or order issued pursuant to the Oklahoma Inspectors Act.

C. After a finding by an impartial hearing examiner that the licensee is guilty of any violation as provided for in subsection B of this section, the ~~Commissioner~~ Building Trades Commission may:

1. Suspend or revoke the license;

2. Defer such suspension or revocation pending mitigating or remedial action by the licensee; or

3. Assess administrative penalties pursuant to the provisions of Section ~~1-1701.1A of Title 63 of the Oklahoma Statutes~~ 1044 of this title.

D. Any person whose license has been revoked by the ~~Commissioner~~ Commission may not apply for a new license for at least one (1) year from the date of such revocation.

SECTION 28. AMENDATORY 59 O.S. 1991, Section 1041, is amended to read as follows:

Section 1041. Any municipality or other governmental entity which employs any person as a building and construction inspector for functions normally performed by a building and construction inspector shall notify the ~~Commissioner~~ Building Trades Commission of the employment.

Any municipality or other political subdivision of the state with a population of ten thousand (10,000) or less according to the most current census published by the Oklahoma Employment Security Commission shall be exempt from the provisions of ~~this act~~ Section 1031 et seq. of this title, unless such municipality or other political subdivision of the state employs the services of a circuit rider inspector.

SECTION 29. AMENDATORY 59 O.S. 1991, Section 1042, is amended to read as follows:

Section 1042. There is hereby created in the State Treasury a revolving fund for the ~~State Department of Health~~ Building Trades Commission, to be designated the "Oklahoma Inspectors Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the ~~Commissioner~~ Commission from fees and fines collected pursuant to the Oklahoma Inspectors Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the ~~State Commissioner of Health~~ Commission for the purpose of implementing the provisions of the Oklahoma Inspectors Act for the continuing education of building and construction inspectors, and for implementing programs designed to further the efficiency of the building and construction inspector profession and public understanding of the profession. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims

filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 30. AMENDATORY 59 O.S. 1991, Section 1044, is amended to read as follows:

Section 1044. Any person convicted of acting or performing as a building and construction inspector without the proper license shall be guilty of a misdemeanor and shall be punished by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00), together with the costs of prosecution. Each day of violation shall constitute a separate offense.

Any entity who employs an unlicensed person to perform the duties and responsibilities of a building and construction inspector or who fails to notify the ~~Commissioner~~ Building Trades Commission of the employment of an inspector shall be subject to an administrative penalties pursuant to the provisions of Section 1-1701 and 1-1701.1A of Title 63 of the Oklahoma Statutes fine of not more than Two Hundred Dollars (\$200.00) for each violation. Each day a person is in violation may constitute a separate violation. The maximum fine shall not exceed One Thousand Dollars (\$1,000.00).

SECTION 31. AMENDATORY 59 O.S. 1991, Section 1681, as last amended by Section 1, Chapter 155, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1681), is amended to read as follows:

Section 1681. The ~~State Board of Health~~ Building Trades Commission is hereby authorized to adopt, amend and repeal rules governing the examination and licensing of electrical contractors and journeymen electricians, the defining of categories and limitations for such licenses, the establishment of continuing education requirements and procedures as determined by the Committee of Electrical Examiners, the establishment and levying of administrative fines, the initiation of disciplinary proceedings,

the requesting of prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of ~~this act~~ Section 1681 et seq. of this title or any rule promulgated pursuant to ~~this act~~ Section 1681 et seq. of this title, the establishment of bonding and insurance requirements precluding municipal requirements, the requirement of proof of possession of a Federal Tax ID Number and a State of Oklahoma Employment Security Commission identification number, the registration of electrical apprentices and the standard of electrical installations, and to adopt future editions of the Code. Provided, broiler houses will not be required to meet the electrical wiring requirements for environmentally controlled poultry houses as set out in the National Electric Code.

SECTION 32. AMENDATORY Section 4, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1681.1), is amended to read as follows:

Section 1681.1 The ~~State Commissioner of Health~~ Building Trades Commission shall establish by rule a process for the formal review of the plans and specifications for a project prior to bid dates for the project to ensure that the project plans and specifications are in conformance with applicable plumbing, electrical and mechanical installation codes. The rule shall provide that the review shall be completed in a timely manner, not to exceed fourteen (14) calendar days from the date of the submission of a completed application for review which is accompanied by the review fee not to exceed Two Hundred Dollars (\$200.00) to be established by the rule. Upon completion of the review, the plans and specifications shall be returned to the applicant with documentation indicating either approval of plans and specifications which are in compliance with the applicable codes, or modifications which must be made to bring the plans and specifications into conformance. Submission of such

plans and specifications for review by the ~~Department~~ Commission shall be voluntary.

SECTION 33. AMENDATORY 59 O.S. 1991, Section 1682, as last amended by Section 5, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1682), is amended to read as follows:

Section 1682. As used in the Electrical License Act:

~~1. "Board" means the State Board of Health;~~

~~2. "Commissioner" means the State Commissioner of Health;~~

~~3. "Commission" means the Building Trades Commission, created pursuant to Section 2 of this act;~~

2. "Committee" means the Committee of Electrical Examiners appointed by the ~~State Board of Health~~ Commission;

~~4. "Department" means the State Department of Health;~~

~~5.~~ 3. "Electrical apprentice" means any person sixteen (16) years of age or older whose principal occupation is the learning of and assisting in the installation of electrical work under the direct supervision of a licensed journeyman electrician or electrical contractor;

~~6.~~ 4. "Journeyman electrician" means any person other than an electrical contractor who engages in the actual installation, alteration, repair or renovation of electrical facilities unless specifically exempted by the provisions of the Electrical License Act;

~~7.~~ 5. "Electrical contractor" means any person skilled in the planning, superintending and practical installation of electrical facilities who is familiar with the laws, rules and regulations governing such work. Electrical contractor also means any individual, firm, partnership, corporation, limited liability company or business performing skills of an electrical contractor or an electrician or the business of contracting, or furnishing labor or labor and materials for the installation, repair, maintenance or

renovation of electrical facilities according to the provisions of the Electrical License Act;

~~8.~~ 6. "Electrical facilities" means all wiring, fixtures, appurtenances, and appliances for, and in connection with, a supply of electricity within or adjacent to any building, structure or conveyance on the premises but not including the connection with a power supply meter or other power supply source;

~~9.~~ 7. "Category" means the classification by which licenses and electrical work may be limited. Such categories shall include but shall not be limited to installation, maintenance, repair, alteration, residential, oilfield, and commercial; and

~~10.~~ 8. "Variance and Appeals Board" means the Oklahoma State Electrical Installation Code Variance and Appeals Board.

SECTION 34. AMENDATORY 59 O.S. 1991, Section 1683, as last amended by Section 3, Chapter 318, O.S.L. 1996 (59 O.S. Supp. 1996, Section 1683), is amended to read as follows:

Section 1683. A. There is hereby established the Committee of Electrical Examiners which shall consist of seven (7) members. All members of the Committee shall be residents of this state.

B. ~~1. Six~~ Beginning January 1, 1998, as the terms of members serving on the Committee expire, six voting members of the Committee shall be appointed by the ~~State Board of Health~~ Building Trades Commission as follows:

~~a.~~ one

1. One member shall be an electrical inspector selected from a list of names submitted by the Oklahoma Chapter, International Association of Electrical Inspectors ~~;~~ ;

~~b.~~ one

2. One member shall be selected from a list of names submitted by the Oklahoma Chapters of the National Electrical Contractors Association ~~;~~ ;

~~c.~~ one

3. One member shall be selected from a list of names submitted by the Associated Builders and Constructors~~;~~

~~d.~~ ~~one~~

4. One member shall be a journeyman wireman selected from a list of names submitted by the International Brotherhood of Electrical Workers~~;~~

~~e.~~ ~~one~~

5. One member shall be a journeyman wireman selected from lists of names submitted from the electrical construction industry~~;~~ and

~~f.~~ ~~one~~

6. One member shall be selected on or before January 1, 1997, from a list of names submitted by the Oklahoma Chapters of Independent Electrical Contractors, Incorporated. The term of the initial appointee shall be for two (2) years.

All members shall each have at least ten (10) years of active experience as licensed electrical contractors, journeyman electricians or as an electrical inspector. No member shall be employed by the same person or firm as any other member of the Committee. The terms of members so appointed shall be staggered and shall be for two (2) years, or until their successors are appointed and qualified.

~~2.~~ The nonvoting member shall be designated by the ~~Board~~ Commission from ~~the its~~ staff ~~of the State Department of Health~~ to serve as Program Administrator and serve as the Chief Electrical Inspector for the state.

C. Vacancies which may occur in the membership of the Committee shall be filled by appointment of the ~~Board~~ Commission. Each person who has been appointed to fill a vacancy shall serve for the remainder of the term for which the member he or she succeeds was appointed and until his or her successor has been appointed and has qualified. Members of the Committee may be removed from office by

the ~~Board~~ Commission for cause in the manner provided by law for the removal of officers not subject to impeachment.

D. The Committee shall assist and advise the ~~Commissioner~~ Commission on all matters relating to the formulation of rules, ~~regulations~~ and standards in accordance with the Electrical License Act. The Committee shall administer the examinations of applicants for licenses as electrical contractors or journeyman electricians provided that such examinations shall be in accordance with the provisions of the Electrical License Act. The Committee may authorize the ~~Department~~ Commission to conduct tests on their behalf as the Committee deems necessary.

E. All members of the Committee shall be reimbursed for expenses incurred while in the performance of their duties in accordance with the State Travel Reimbursement Act.

F. A majority of the total membership of the Committee shall constitute a quorum for the transaction of business.

G. The Committee shall elect from among its membership a chairperson, vice-chairperson and secretary to serve terms of not more than one (1) year ending on June 30 of the year designated as the end of the officer's term. The chairperson or vice-chairperson shall preside at all meetings. The chairperson, vice-chairperson and secretary shall perform such duties as may be directed by the Committee. The Committee shall meet at such times as the chairperson or presiding officer deems necessary to ~~implement this section~~ carry out the Committee's responsibilities.

SECTION 35. AMENDATORY 59 O.S. 1991, Section 1685, is amended to read as follows:

Section 1685. A. The ~~Commissioner~~ Building Trades Commission shall issue a license as journeyman electrician or electrical contractor to any person who:

1. Has been certified by the Committee of Electrical Examiners as either having successfully passed the appropriate examination or

having a valid license issued by another governmental entity with licensing requirements similar to those provided in the Electrical License Act; and

2. Has paid the license fee and otherwise complied with the provisions of the Electrical License Act.

B. All licenses shall be nontransferable and it shall be a misdemeanor for any person licensed under the provisions of the Electrical License Act to loan or allow the use of such license by any other person, firm or corporation, except as specifically provided in the Electrical License Act.

~~C. Until October 1, 1982, the Commissioner shall, upon proper application and payment of fees, issue licenses without examinations to persons who prior to July 1, 1982, held unexpired licenses as journeyman electricians or electrical contractors issued by a city or incorporated town of this state, and who have otherwise complied with the requirements of the Electrical License Act. This license must be produced as a prerequisite to obtaining a state license if the applicant is a resident of a city or town having a licensing law.~~

SECTION 36. AMENDATORY 59 O.S. 1991, Section 1686, is amended to read as follows:

Section 1686. A. The ~~Commissioner~~ Building Trades Commission shall, upon proper application and payment of fee, register as an electrical apprentice and issue a certificate of such registration to any person who furnishes satisfactory proof to the ~~Commissioner~~ Commission that the applicant is:

1. Sixteen (16) years of age or over;
2. Enrolled in a school or training course for electrical apprentices recognized by the ~~Commissioner~~ Commission, or has arranged for employment as an electrical apprentice with a licensed electrical contractor.

B. All applications for examination, license or renewal of license shall be made in writing to the ~~Commissioner~~ Commission on forms provided, if necessary, by the ~~Commissioner~~ Commission. All applications shall be accompanied by the appropriate fee.

SECTION 37. AMENDATORY 59 O.S. 1991, Section 1688, as amended by Section 5, Chapter 155, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1688), is amended to read as follows:

Section 1688. A. No license shall be issued for longer than one (1) year and all licenses shall expire on June 30 of each year. A license may be renewed upon application and payment of fees thirty (30) days preceding or following June 30 of each year and not be subject to a late renewal penalty. No penalty for late renewal shall be charged to any holder of a license which expires while the holder is in military service if an application for renewal is made within one (1) year following ~~his service~~ discharge.

B. No journeyman or contractor license shall be renewed unless the licensee has completed the required hours of continuing education by completing a course on the current national electrical code revision, not to exceed six (6) hours of instruction as determined by the Committee and approved by the ~~State Board of Health~~ Building Trades Commission, within one (1) year of adoption of the current national electrical code revision.

C. An apprentice registration certificate shall be issued for not longer than one (1) year and shall expire August 15, at which time the apprentice may reregister upon meeting the requirements set by the ~~State Department of Health~~ Commission.

SECTION 38. AMENDATORY 59 O.S. 1991, Section 1689, as last amended by Section 6, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1689), is amended to read as follows:

Section 1689. A. The ~~Commissioner~~ executive director of the Building Trades Commission and the Committee shall act as the Electrical Hearing Board and shall comply with the provisions of

Article II of the Administrative Procedures Act, Section ~~309~~ 308a et seq. of Title 75 of the Oklahoma Statutes.

B. The Electrical Hearing Board may, upon its own motion, and shall, upon written complaint filed by any person, investigate the business transactions of any electrical contractor, journeyman electrician or electrical apprentice. The Board shall suspend or revoke any license or registration obtained by false or fraudulent representation. The Board shall also suspend or revoke any license or registration for any of the following:

1. Making a material misstatement in the application for a license or registration, or the renewal of a license or registration;

2. Loaning or illegally using a license;

3. Demonstrating incompetence to act as a journeyman electrician or electrical contractor;

4. Violating any provisions of the Electrical License Act, or any rule, ~~regulation~~ or order prescribed by the Commission or any ordinance or regulation for the installation of electrical facilities made or enacted by a city or town by authority of the Electrical License Act; or

5. Willfully failing to perform normal business obligations without justifiable cause.

C. Any person whose license or registration has been revoked by the Electrical Hearing Board may apply for a new license one (1) year from the date of such revocation.

D. Notwithstanding any other provision of law, a political subdivision of this state that has adopted a nationally recognized electrical code and appointed an inspector pursuant to the provisions of Section 1693 or Section 1031 et seq. of this title for such work shall have jurisdiction over the interpretation of said code and the installation of all electrical work done in that political subdivision, subject to the provisions of the Oklahoma

Inspectors Act, Section 1031 et seq. of this title. Provided, a state inspector may work directly with an electrical contractor, journeyman electrician or electrical apprentice in such a locality if a violation of the code creates an immediate threat to life or health.

E. In the case of a complaint about, investigation of, or inspection of any license, registration, permit or electrical work in any political subdivision of this state which has not adopted a nationally recognized electrical code and appointed an inspector pursuant to the provisions of Section 1693 or Section 1031 et seq. of this title for such work, the ~~Commissioner of Health~~ Commission shall have jurisdiction over such matters.

F. 1. No individual, business, company, corporation, association or other entity subject to the provisions of Section 1680 et seq. of this title shall install, modify or alter electrical facilities in any incorporated area of this state which has not adopted a nationally recognized electrical code and appointed an inspector pursuant to the provisions of Section 1693 or Section 1031 et seq. of this title for such work without providing notice of such electrical work to the ~~Commissioner of Health~~ Commission. A notice form for reproduction by an individual or entity required to make such notice shall be provided by the ~~Commissioner of Health~~ Commission upon request.

2. Notice to the ~~Commissioner of Health~~ Commission pursuant to this subsection shall not be required for electrical maintenance or replacement of existing electrical appliances or fixtures or of any petroleum refinery or its research facilities.

3. Enforcement of this subsection is authorized pursuant to Section 1680 et seq. of this title, or under authority granted to the ~~Commissioner of Health~~ Commission.

SECTION 39. AMENDATORY 59 O.S. 1991, Section 1691, is amended to read as follows:

Section 1691. Any holder of a license or registration issued in accordance with the provisions of the Electrical License Act shall promptly notify the ~~Commissioner~~ Building Trades Commission of any change in ~~his~~ address.

SECTION 40. AMENDATORY 59 O.S. 1991, Section 1694, as last amended by Section 7, Chapter 155, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1694), is amended to read as follows:

Section 1694. All monies received by the ~~Commissioner~~ Building Trades Commission under the Electrical License Act, including the administrative fines authorized by Section 1695 of this title, shall be deposited with the State Treasurer and credited to the "Electrical Revolving Fund". The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the control and management of the ~~Commissioner~~ Commission. Expenditures from this fund shall be made pursuant to the purposes of the Electrical License Act and shall include, but not be limited to, payment of operating costs and the costs of programs designed to promote public awareness of the electrical industry, and expenditures for the preparation and printing of regulations, bulletins or other documents and the furnishing of copies of such documents to those persons engaged in the electrical industry or the public. Warrants for expenditures shall be drawn by the State Auditor and Inspector based on claims signed by the ~~Commissioner~~ executive director of the Commission and approved for payment by the Director of State Finance. The revolving fund shall be audited at least once each year by the State Auditor and Inspector.

SECTION 41. AMENDATORY 59 O.S. 1991, Section 1696, as amended by Section 9, Chapter 155, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1696), is amended to read as follows:

Section 1696. Nothing in the Electrical License Act shall prohibit cities and towns from having full authority to provide supervision and inspection of electrical facilities by the enactment

of codes, ordinances, bylaws, rules and regulations in such form as they may determine and prescribe for their jurisdiction; provided, that no such codes, ordinances, bylaws, rules or regulations shall be inconsistent with the Electrical License Act, or any rule ~~or~~ ~~regulation~~ adopted or prescribed by the ~~State Board of Health~~ Building Trades Commission as authorized by the Electrical License Act. Each state licensed electrical contractor and journeyman electrician shall be required to register with any city or town in whose jurisdiction ~~he~~ the licensee operates. Each such city or town is authorized to register such electrical contractor or journeyman electrician, to revoke the registration, to charge fees for the registration and for permits and inspections of electrical work. No electrical contractor or journeyman electrician shall be permitted to do business or work in any city or town where his or her local registration has been revoked.

SECTION 42. AMENDATORY Section 7, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1697), is amended to read as follows:

Section 1697. A. 1. There is hereby created the Oklahoma State Electrical Installation Code Variance and Appeals Board. The Variance and Appeals Board shall hear testimony and shall review sufficient technical data submitted by an applicant to substantiate the proposed installation of any material, assembly or manufacturer-engineered components, equipment or system that is not specifically prescribed by an appropriate installation code, an industry consensus standard or fabricated or installed according to recognized and generally accepted good engineering practices, where no ordinance or regulation of a governmental subdivision applies. If it is determined that the evidence submitted is satisfactory proof of performance for the proposed installation, the Variance and Appeals Board shall approve such alternative, subject to the requirements of the appropriate installation code. Applications for

the use of an alternative material or method of construction shall be submitted in writing to the ~~State Commissioner of Health~~ Building Trades Commission for approval prior to use. Applications shall be accompanied by a filing fee, not to exceed Fifty Dollars (\$50.00), as set by rule of the ~~State Board of Health~~ Commission.

2. The Variance and Appeals Board shall also hear appeals from contractors, licensed by the ~~Occupational Licensing Service of the State Department of Health~~ Commission, and any party who has an ownership interest in or is in responsible charge of the design of or work on the installation, who contest the ~~Department's~~ Commission's interpretation of the state's model electrical installation code as applied to a particular installation. Such appeals shall be based on a claim that:

- a. the true intent of the installation code has been incorrectly interpreted,
- b. the provisions of the code do not fully apply, or
- c. an equal or better form of installation is proposed.

Such appeals to the Variance and Appeals Board shall be made in writing to the ~~State Commissioner of Health~~ Commission within fourteen (14) days after a code interpretation or receipt of written notice of the alleged code violation by the licensed contractor.

B. The Variance and Appeals Board shall consist of the ~~State Commissioner of Health or his or her~~ executive director of the Building Trades Commission or the director's designated representative and the following members who, except for the State Fire Marshal or designee, shall be appointed by the ~~Commissioner~~ Commission from a list of names submitted by the professional organizations of the professions represented on the Board and who shall serve at the pleasure of the ~~Commissioner~~ Commission:

1. Two members shall be appointed from the Committee of Electrical Examiners; one shall be a contractor with five (5) years

of experience and one shall be a journeyman with five (5) years of experience;

2. One member shall be a registered design professional who is a registered architect with at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work;

3. One member shall be a registered design professional with at least ten (10) years of structural engineering or architectural experience, five (5) of which shall have been in responsible charge of work;

4. One member shall be a registered design professional with mechanical or plumbing engineering experience; provided, such member shall have at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work;

5. One member shall be a registered design professional with electrical engineering experience; provided, such member shall have at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work; and

6. One member shall be the State Fire Marshal or a designee of the State Fire Marshal.

Provided, any member serving on the Board on January 1, 1998, may continue to serve on the Board until a replacement is appointed by the Commission.

C. Members, except the ~~Commissioner~~ executive director of the Commission and the State Fire Marshal and ~~the Commissioner's and State Fire Marshal's~~ their designated representatives, and employees of the Department, shall be reimbursed for travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes, from the revolving fund created pursuant to Section 1694 of Title 59 of the Oklahoma Statutes.

D. The Variance and Appeals Board shall meet after the ~~Commissioner~~ Commission receives proper application for a variance,

accompanied by the filing fee, or proper notice of an appeal, as provided in subsection A of this section.

E. ~~The State Commissioner of Health~~ executive director of the Commission, or the ~~Commissioner's~~ director's designated representative, shall serve as chair of the Variance and Appeals Board. A majority of the members of the Variance and Appeals Board shall constitute a quorum for the transaction of the business of the Board.

SECTION 43. AMENDATORY 59 O.S. 1991, Section 1800.1, is amended to read as follows:

Section 1800.1 ~~Sections 1 through 16~~ Section 1800.1 et seq. of this ~~act~~ title shall be known and may be cited as the "Alarm Industry Act".

SECTION 44. AMENDATORY 59 O.S. 1991, Section 1800.2, as amended by Section 1, Chapter 295, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1800.2), is amended to read as follows:

Section 1800.2 As used in the Alarm Industry Act:

1. "Alarm industry" means the sale, except as provided in Section 1800.3 of this title, installation, maintenance, alteration, repair, replacement or service of alarm systems or service involving receipt of alarm signals for the purpose of employee response and investigation of such signals or any combination of the foregoing activities;

2. "Alarm system" means one or more devices designed either to detect and signal an unauthorized intrusion or entry or to signal a fire or other emergency condition, which signals are responded to by public law enforcement officers, fire department personnel, private guards or security officers;

3. ~~"Board" means the State Board of Health;~~

4. "Committee" means the Alarm Industry Committee;

5. ~~"Commissioner" means the Commissioner of Health;~~

~~6.~~ 4. "Commission" means the Building Trades Commission, created pursuant to Section 2 of this act;

5. "Licensee" means any person licensed pursuant to the Alarm Industry Act; and

~~7.~~ 6. "Person" means an individual, sole proprietorship, firm, partnership, association, corporation, or other similar entity.

SECTION 45. AMENDATORY 59 O.S. 1991, Section 1800.4, is amended to read as follows:

Section 1800.4 A. There is hereby created the "Alarm Industry Committee", which shall consist of five (5) members. One member shall be the ~~Commissioner of Health or his~~ executive director of the Building Trades Commission or the director's designated representative and, beginning January 1, 1998, as the terms of members serving on the Committee expire, four members shall be appointed by the ~~State Board of Health within thirty (30) days after the effective date of this act~~ Commission. Three of the appointed members shall have at least five (5) years of experience in the alarm industry or in a closely related field with broad knowledge of the alarm industry. One of the appointed members shall be a lay member. No member shall be employed by the same person as any other member of the Committee.

B. The term of office of each appointed member shall be for four (4) years. Provided, the terms of the first appointed members of the Committee shall be as follows:

1. One member shall be appointed to a term ending May 31, 1987;
2. One member shall be appointed to a term ending May 31, 1988;
3. One member shall be appointed to a term ending May 31, 1989;

and

4. One member shall be appointed to a term ending May 31, 1990. Provided further, each appointed member shall hold office until ~~his~~ a successor is appointed and has qualified under the Alarm Industry Act.

C. Members of the Committee may be removed from office by the ~~Board~~ Commission for cause.

D. Vacancies shall be filled by appointment by the ~~Board~~ Commission for the unexpired term of the vacancy.

E. The members of the Committee shall serve without pay but may be reimbursed for actual expenses pursuant to the State Travel Reimbursement Act.

F. The Committee shall elect from among its membership a ~~chairman~~ chair, ~~vice-chairman~~ vice-chair and secretary to serve terms of not more than two (2) years ending on May 31 of the year designated by the Committee. The ~~chairman~~ chair or ~~vice-chairman~~ vice-chair shall preside at all meetings. The ~~chairman~~ chair, ~~vice-chairman~~ vice-chair and secretary shall perform such duties as may be decided by the Committee in order to effectively administer the Alarm Industry Act.

G. A majority of Committee members shall constitute a quorum to transact official business.

H. The Committee shall meet ~~within thirty (30) days after the effective date of this act and shall meet thereafter~~ at such times as the Committee deems necessary to implement the Alarm Industry Act.

I. The Committee shall assist and advise the ~~Commissioner of Health~~ Commission on all matters relating to the formulation of rules, ~~regulations~~ and standards in accordance with the Alarm Industry Act.

SECTION 46. AMENDATORY 59 O.S. 1991, Section 1800.5, as amended by Section 2, Chapter 295, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1800.5), is amended to read as follows:

Section 1800.5 The Alarm Industry Committee shall have the following duties and powers:

1. To assist the ~~Commissioner of Health Building Trades~~ Commission in licensing and otherwise regulating persons engaged in an alarm industry business;
2. To determine qualifications of applicants pursuant to the Alarm Industry Act;
3. To prescribe and adopt forms for license applications and initiate mailing of such application forms to all persons requesting such applications;
4. To assist the ~~Commissioner~~ Commission in the denial, suspension or revocation of licenses as provided by the Alarm Industry Act;
5. To charge and collect such fees as are prescribed by the Alarm Industry Act;
6. To assist the ~~State Board of Health~~ Commission in establishing and enforcing standards governing the materials, services and conduct of the licensees and their employees in regard to the alarm industry;
7. To assist the ~~Board~~ Commission in promulgating rules necessary to carry out the administration of the Alarm Industry Act;
8. To investigate alleged violations of the provisions of the Alarm Industry Act and of any rules ~~and regulations~~ promulgated by the ~~Board thereunder~~ Commission pursuant thereto;
9. To assist the ~~Oklahoma State Board of Health~~ Commission in establishing categories of licenses for the Alarm Industry Act and application requirements for each category including, but not limited to, individual license, experience requirements, fingerprints, photographs, examinations, and fees;
10. To assist the ~~Commissioner~~ Commission in providing for grievance and appeal procedures pursuant to the Oklahoma Administrative Procedures Act for any person whose license is denied, revoked or suspended; and

11. To have such other powers and duties as are necessary to implement the Alarm Industry Act.

SECTION 47. AMENDATORY 59 O.S. 1991, Section 1800.6, is amended to read as follows:

Section 1800.6 No person shall engage in an alarm industry business in this state without first having obtained a license pursuant to the provisions of the Alarm Industry Act. ~~Provided, every person engaged in an alarm industry business in this state on the effective date of the Alarm Industry Act shall have ninety (90) days in which to apply to the Commissioner of Health for a license. A person applying for a license within this ninety-day period may continue business pending a final determination by the Commissioner of his application. Additional time beyond the ninety-day period may be granted by the Commissioner.~~

SECTION 48. AMENDATORY 59 O.S. 1991, Section 1800.7, is amended to read as follows:

Section 1800.7 A. Any person applying for a license to engage in an alarm industry business pursuant to the Alarm Industry Act shall provide evidence to the Committee that the individual within this state having direct supervision over the function and local operations of such alarm industry business or a branch thereof has the following qualifications:

1. Is at least twenty-one (21) years of age;
2. Has not been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease, and has not been restored to competency;
3. Is not a habitual user of intoxicating liquors or habit-forming drugs;
4. Has not been discharged from the Armed Services of the United States under other than honorable conditions;
5. Is of good moral character; and

6. Meets such other standards as may be established by the ~~Board~~ Building Trades Commission relating to experience or knowledge of the alarm industry.

B. The applicant shall advise the Committee and furnish full information on each individual described in subsection A of this section of any conviction of a felony or any crime involving moral turpitude for which a full pardon has not been granted and furnish a recent photograph of a type prescribed by the ~~Board~~ Commission and two classifiable sets of fingerprints of such individual.

SECTION 49. AMENDATORY 59 O.S. 1991, Section 1800.8, as amended by Section 3, Chapter 295, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1800.8), is amended to read as follows:

Section 1800.8 A. An application for a company license shall include:

1. The address of the principal office of the applicant and the address of each branch office of the applicant located within this state;

2. The name per business location under which the applicant intends to do business as a licensee;

3. A statement as to the extent and scope of the applicant's alarm industry business and all other businesses in which the applicant is engaged in this state;

4. A recent photograph of a type prescribed by the ~~Board~~ Building Trades Commission of the applicant, if the applicant is a sole proprietor, or of each officer and of each partner or shareholder who owns a twenty-five percent (25%) or greater interest in the applicant, if the applicant is an entity;

5. Two classifiable sets of fingerprints of the applicant, if the applicant is a sole proprietor, or of each officer and of each partner or shareholder who owns a twenty-five percent (25%) or greater interest in the applicant, if the applicant is an entity; and

6. Such other information, statements or documents as may be required by the ~~Board~~ Commission.

B. An applicant for an individual license shall provide such documents, statements or other information as may be required by the ~~State Board of Health~~ Commission, including two classifiable sets of fingerprints of the applicant.

C. Fees for license and renewal issued pursuant to the Alarm Industry Act shall be adopted by the ~~Board~~ Commission pursuant to Section 1-106.1 of Title 63 of the Oklahoma Statutes. Provided, the fees provided for in this subsection shall not exceed Two Hundred Fifty Dollars (\$250.00). An applicant shall pay the license fee at the time ~~he makes~~ of application.

SECTION 50. AMENDATORY 59 O.S. 1991, Section 1800.9, is amended to read as follows:

Section 1800.9 A. Upon making proper application, payment of the proper license fee, and certification of approval by the Committee, the ~~Commissioner of Health~~ Building Trades Commission shall issue a license to the applicant. The license shall be valid for a one-year term.

B. Renewal of a license shall not prohibit disciplinary proceedings for an act committed prior to the renewal.

C. The ~~State Board of Health~~ Commission may adopt a system under which licenses expire on various dates throughout the year. For any change in such expiration dates, license fees shall be prorated on an appropriate periodic basis.

SECTION 51. AMENDATORY 59 O.S. 1991, Section 1800.10, as amended by Section 4, Chapter 295, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1800.10), is amended to read as follows:

Section 1800.10 A. A license shall not be altered or assigned.

B. A company license shall be posted in a conspicuous place in each alarm industry business location of the licensee.

C. A company licensee shall notify the Committee within fourteen (14) days of any change of information furnished on ~~his~~ the application for license or on ~~his~~ the license including, but not limited to, change of ownership, address, business activities, or any developments related to the qualifications of the licensee or the individual described in Section 1800.7 of this title. If the licensee for any reason ceases to engage in an alarm industry business in this state, the licensee shall notify the Committee within fourteen (14) days of such cessation. If the required notice of cessation is not given to the Committee within fourteen (14) days, the license may be suspended or revoked by the ~~Commissioner~~ Building Trades Commission on recommendation of the Committee.

D. No person shall represent falsely that ~~he is~~ they are licensed or employed by a licensee.

E. Each company licensee shall maintain a record containing such information relative to ~~his~~ employees as may be required by the ~~Board~~ Commission.

SECTION 52. AMENDATORY 59 O.S. 1991, Section 1800.13, is amended to read as follows:

Section 1800.13 A. The ~~Commissioner of Health~~ Building Trades Commission on recommendation of the Committee may suspend any license, upon the conviction of any individual named on the license or on the application for license of a felony, for a period not to exceed thirty (30) days pending a full investigation by the Committee. Such investigation shall be initiated within the thirty-day period of the suspension. A final determination by the Committee shall result in either removal of the suspension or such sanction as the ~~Commissioner~~ Commission considers appropriate, as provided by the Alarm Industry Act.

B. The ~~Commissioner~~ Commission may revoke or suspend any license, reprimand any licensee or deny any application for license or renewal if, in the judgment of the Committee:

1. The applicant or licensee has violated any provision of the Alarm Industry Act or any rule ~~or regulation~~ promulgated hereunder;

2. The applicant or licensee has committed any offense resulting in ~~his~~ conviction of a felony or crime involving moral turpitude. Provided, however, if the applicant has had no felony convictions at least five (5) years prior to making application for a license and ~~said applicant~~ has shown the Committee that ~~he~~ the applicant has been rehabilitated, the Committee may recommend ~~said~~ the applicant for a license;

3. The applicant or licensee has practiced fraud, deceit, or misrepresentation;

4. The applicant or licensee has made a material misstatement in any information required by the ~~State Board of Health~~ Commission; or

5. The applicant or licensee has demonstrated incompetence or untrustworthiness in his or her actions.

C. The Committee shall, before final action under subsection B of this section, provide thirty (30) days of written notice to the applicant or licensee involved, of the action intended and give sufficient opportunity for such person to request a hearing before the Committee and the ~~Commissioner~~ Commission and to be represented by an attorney. A hearing shall be scheduled by the Committee if so requested.

D. In the event the ~~Commissioner~~ Commission denies the application for, or revokes or suspends, any license or imposes any reprimand, a record of such action shall be in writing and officially signed by the ~~Commissioner~~ executive director of the Commission. The original copy shall be filed with the ~~Board~~ Commission and a copy mailed to the affected applicant or licensee within two (2) days of the final action taken by the ~~Commissioner~~ Commission.

E. Notice of the suspension or revocation of any license by the ~~Commissioner~~ Commission shall be sent by the Committee to law enforcement agencies and fire departments in the principal areas of operation of the licensee.

F. A suspended license shall be subject to expiration and may be renewed as provided by the Alarm Industry Act, regardless of suspension. Provided, such renewal shall not remove the suspension.

G. A revoked license terminates on the date of revocation and cannot be reinstated. Provided, the ~~Commissioner~~ Commission may reverse the revocation action. Any licensee whose license is revoked shall apply for a new license and meet all requirements for a license as stated in the Alarm Industry Act prior to engaging in any alarm industry business activities. The Committee and the ~~Commissioner~~ Commission shall take action on the new application and may require additional safeguards against such acts by the applicant as may have been the cause of the revocation of the prior license.

SECTION 53. AMENDATORY 59 O.S. 1991, Section 1800.14, is amended to read as follows:

Section 1800.14 There is hereby created in the State Treasury a revolving fund for the ~~State Department of Health~~ Building Trades Commission, to be designated the "Alarm Industry Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the ~~Department~~ Commission pursuant to the Alarm Industry Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the ~~Department~~ Commission for the purpose of implementing the Alarm Industry Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 54. AMENDATORY 59 O.S. 1991, Section 1800.16, as amended by Section 1, Chapter 330, O.S.L. 1996 (59 O.S. Supp. 1996, Section 1800.16), is amended to read as follows:

Section 1800.16 A. Any individual or person who is found to be in violation of the provisions of the Alarm Industry Act, upon conviction, shall be guilty of a misdemeanor and shall be punished by confinement in the county jail for a period not to exceed one (1) year or by the imposition of a fine not to exceed Five Hundred Dollars (\$500.00), or by both such imprisonment and fine.

B. 1. In addition to any other penalties provided by law, if after a hearing in accordance with Article II of the Administrative Procedures Act, the ~~State Commissioner of Health~~ Building Trades Commission finds any person to be in violation of any of the provisions of the Alarm Industry Act or the rules promulgated pursuant thereto, the person may be subject to an administrative fine of not more than Two Hundred Dollars (\$200.00) for each violation. Each day a person is in violation may constitute a separate violation. The maximum fine shall not exceed One Thousand Dollars (\$1,000.00).

2. All administrative fines collected pursuant to the provisions of this subsection shall be deposited in the Alarm Industry Revolving Fund.

SECTION 55. AMENDATORY 59 O.S. 1991, Section 1850.1, is amended to read as follows:

Section 1850.1 ~~Sections 2 through 14~~ Section 1850.1 et seq. of this ~~act~~ title shall be known and may be cited as the "Mechanical Licensing Act".

SECTION 56. AMENDATORY 59 O.S. 1991, Section 1850.2, as last amended by Section 8, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1850.2), is amended to read as follows:

Section 1850.2 As used in the Mechanical Licensing Act:

1. "Air conditioning system" means the process of treating air by controlling its temperature, humidity, and cleanliness, to meet the requirements of a designated area;

~~2. "Board" means the State Board of Health;~~

~~3. "Committee" means the Committee of Mechanical Examiners;~~

~~4. "Department" means the Oklahoma State Department of Health;~~

~~5.~~ 3. "Commission" means the Building Trades Commission, created pursuant to Section 2 of this act;

4. "Gas piping" means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a natural gas meter, regulator, or other source of supply;

~~6.~~ 5. "Heating systems" means and includes systems consisting of air heating appliances from which the heated air is distributed and shall include any accessory apparatus and equipment installed in connection therewith;

~~7.~~ 6. "Mechanical contractor" or "contractor" means any person engaged in the business of planning, contracting, supervising or furnishing labor or labor and materials for mechanical work;

~~8.~~ 7. "Mechanical journeyman" or "journeyman" means any person other than a contractor or apprentice who engages in mechanical work;

~~9.~~ 8. "Mechanical apprentice" or "apprentice" means any person sixteen (16) years of age or older whose principal occupation is learning mechanical work on the job under the direct supervision of a journeyman or contractor;

~~10.~~ 9. "Mechanical firm" means any corporation, partnership, association, proprietorship, limited liability company or other business entity which plans or engages, or offers to engage, in mechanical work for another within this state;

~~11.~~ 10. "Mechanical work" means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system,

cooling system, mechanical refrigeration system or ventilation system or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under the jurisdiction of the Department of Labor, provided that minor repairs to such systems are excluded;

~~12.~~ 11. "Refrigeration system" means the erection, installation, repairing and servicing of a system employing a fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process;

~~13.~~ 12. "Sheet metal" means the erection, installation and repairing of all ferrous or nonferrous duct work and all other materials used in all air conditioning; and

~~14.~~ 13. "Variance and Appeals Board" means the Oklahoma State Mechanical Installation Code Variance and Appeals Board.

SECTION 57. AMENDATORY 59 O.S. 1991, Section 1850.3, is amended to read as follows:

Section 1850.3 The ~~Board~~ Building Trades Commission shall have the power and duty to:

1. Promulgate, prescribe, amend, and repeal rules ~~and regulations~~ necessary to implement the provisions of the Mechanical Licensing Act including, but not limited to, defining categories and limitations for such licenses, registration of apprentices, and establishing bonding and insurance requirements precluding municipal requirements;

2. Adopt standards for mechanical work, by reference, published by a recognized code body; and

3. Establish minimum standards of mechanical installations in this state.

SECTION 58. AMENDATORY Section 9, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1850.3a), is amended to read as follows:

Section 1850.3a The ~~State Commissioner of Health~~ Building Trades Commission shall establish by rule a process for the formal review of the plans and specifications for a project prior to bid dates for the project to ensure that the project plans and specifications are in conformance with applicable plumbing, electrical and mechanical installation codes. The rule shall provide that the review shall be completed in a timely manner, not to exceed fourteen (14) calendar days from the date of the submission of a completed application for review which is accompanied by the review fee not to exceed Two Hundred Dollars (\$200.00) to be established by the rule. Upon completion of the review, the plans and specifications shall be returned to the applicant with documentation indicating either approval of plans and specifications which are in compliance with the applicable codes, or modifications which must be made to bring the plans and specifications into conformance. Submission of such plans and specifications for review by the ~~Department~~ Commission shall be voluntary.

SECTION 59. AMENDATORY 59 O.S. 1991, Section 1850.4, as last amended by Section 10, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1850.4), is amended to read as follows:

Section 1850.4 A. There is hereby established the Committee of Mechanical Examiners which shall consist of five (5) members. All members shall be citizens of the United States and shall be residents of this state.

B. ~~Four (4)~~ Prior to July 1, 1993, four members of the Committee shall be appointed by the Board~~:-~~:

1. One member of the Committee shall be a contractor;
2. One member of the Committee shall be a journeyman.

Such members shall have at least five (5) years' actual experience in mechanical work; and

3. Two members shall be lay members.

C. 1. In making the initial appointments, the Board shall designate two members for terms expiring in 1988 and two members for terms expiring in 1989. The Board shall make the initial appointments to the Committee by December 1, 1987. Thereafter, the members shall hold office for terms of two (2) years or until their successors have been appointed and qualified.

2. Beginning July 1, 1993, as the terms of these members expire, the positions of the contractor member and the lay member whose term first expires shall be filled by appointment by the Speaker of the House of Representatives and the positions of the journeyman member and the lay member whose term next expires shall be filled by appointment by the President Pro Tempore of the Senate, pursuant to subsection E of this section.

D. 1. The fifth member of the Committee shall be an employee of the Department who shall be appointed by the Commissioner of Health.

2. Beginning July 1, 1993, such member shall be replaced by a lay member appointed pursuant to subsection E of this section.

E. Beginning July 1, 1993, members of the Committee shall be appointed as follows:

1. Two members shall be appointed by the President Pro Tempore of the Senate and shall be mechanical journeymen with five (5) years' actual experience in mechanical work as journeymen;

2. Two members shall be appointed by the Speaker of the House of Representatives and shall be mechanical contractors with five (5) years' actual experience in mechanical work as contractors; and

3. One member shall be a lay member appointed by the ~~Commissioner of Health~~ Building Trades Commission. Provided, the person serving in this position on January 1, 1998, may elect to

continue to serve until the end of the term of office and until a successor has been appointed and qualified.

F. Members appointed pursuant to subsection E of this section shall hold office for terms of two (2) years and until their successors have been appointed and qualified. Any vacancy on the Committee shall be filled for the unexpired term within thirty (30) days in the manner in which that position was originally filled. Members may be removed for misconduct, incompetency or neglect of duty.

G. A majority of the Committee shall constitute a quorum for the transaction of business, and the Committee shall elect a ~~chairman~~ chair from its number. Each member shall receive travel expenses in accordance with the provisions of the State Travel Reimbursement Act. The Committee shall meet at least quarterly to conduct examinations, and special meetings may be called by the ~~chairman~~ chair or the ~~Commissioner of Health~~ executive director of the Commission.

H. The Committee shall:

1. Assist and advise the ~~Board~~ Commission on all matters pertaining to the formation of rules ~~and regulations~~ pursuant to the provisions of the Mechanical Licensing Act;

2. Assist and advise the ~~Department~~ Commission on the examinations for applicants for licenses as a mechanical contractor or journeyman and on all matters relating to the licensing of mechanical contractors and mechanical journeymen and the registering of mechanical apprentices; and

3. Assist and advise the ~~Board or Department~~ Commission in such other matters as is requested thereby.

SECTION 60. AMENDATORY 59 O.S. 1991, Section 1850.5, as last amended by Section 11, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1850.5), is amended to read as follows:

Section 1850.5 The ~~Department~~ Building Trades Commission shall have the power and duty to:

1. Issue, renew, suspend, revoke, modify or deny licenses to engage in mechanical work pursuant to the Mechanical Licensing Act;
2. Register apprentices;
3. Enter upon public and private property for the purpose of inspecting workers' licenses and mechanical work for compliance with the provisions of the Mechanical Licensing Act and of the rules ~~and regulations~~ of the ~~Board~~ Commission promulgated pursuant thereto;
4. Employ personnel to conduct investigations and inspections;
5. Enforce the standards and rules ~~and regulations~~ promulgated pursuant to the Mechanical Licensing Act;
6. Reprimand or place on probation, or both, any holder of a license or registration pursuant to the Mechanical Licensing Act;
7. Investigate complaints and hold hearings;
8. Initiate disciplinary proceedings, request prosecution of and initiate injunctive proceedings against any person who violates any of the provisions of ~~this act~~ the Mechanical Licensing Act or any rule promulgated pursuant ~~to this act~~ thereto;
9. Establish and levy administrative fines against any person who violates any of the provisions of ~~this act~~ the Mechanical Licensing Act or any rule promulgated pursuant ~~to this act~~ thereto;
10. Conduct investigations into the qualifications of applicants for licensure and registration on the request of the ~~Department~~ Commission;
11. Develop and administer the examinations approved by the Committee of Mechanical Examiners for applicants for licenses as a mechanical contractor or journeyman; and
12. Exercise all incidental powers as necessary and proper to implement and enforce the provisions of the Mechanical Licensing Act and the rules ~~and regulations of the Board~~ promulgated pursuant thereto.

SECTION 61. AMENDATORY 59 O.S. 1991, Section 1850.7, is amended to read as follows:

Section 1850.7 ~~After January 1, 1988, no~~ No person, ~~on behalf of himself or of a mechanical firm,~~ shall engage or offer to engage in, by advertisement or otherwise, any mechanical work as a journeyman or contractor who does not possess a valid and appropriate license from the ~~Department~~ Building Trades Commission. No business entity shall act as a mechanical firm unless a contractor is associated with and responsible for all mechanical work of such entity.

SECTION 62. AMENDATORY 59 O.S. 1991, Section 1850.8, as last amended by Section 12, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1850.8), is amended to read as follows:

Section 1850.8 A. ~~Except as authorized by the provisions of subsection B of this section, the Department~~ The Building Trades Commission shall issue a license as a mechanical journeyman or mechanical contractor to any person who:

1. Has been certified by the Committee as having successfully passed the appropriate examination; and
2. Has paid the license fee and has otherwise complied with the provisions of the Mechanical Licensing Act. The license fees shall be annually as follows:

- a. mechanical contractor Fifty Dollars (\$50.00),
- b. mechanical journeyman Twenty-five Dollars (\$25.00),
and
- c. apprentice registration Ten Dollars (\$10.00).

B. ~~The Department shall license without examination any person who can demonstrate to the Committee that such person has been actually engaged in mechanical work for at least one (1) year during the five (5) years preceding January 1, 1988. This license shall be issued at the same level of competency and for the same category of mechanical work in which the person was previously occupied.~~

~~C.~~ All licenses shall be nontransferable. No license shall be issued for longer than one (1) year and all licenses shall expire on June 30 of each year. Licenses may be renewed upon application and payment of the required fees and payment of any penalty for late renewal, as shall be established by the ~~Board~~ Commission. Licenses, issued without state examination, that have not been renewed by June 30 of the year following expiration, shall not be renewed until the applicant passes the appropriate examination. ~~Any person issued a mechanical license pursuant to subsection B of this section which expired June 30, 1993, and was not renewed by December 31, 1993, may renew the license without examination through July 30, 1994.~~

Persons who are licensed under ~~this act~~ the Mechanical Licensing Act may have their license placed on inactive status by paying the annual renewal fee and eliminating the bonding and insurance requirements. No late fee shall be charged to renew a license which expired while the applicant was in military service if application is made within one (1) year of discharge from the military service.

~~D. C.~~ The ~~Department~~ Commission is authorized to establish, ~~upon approval by the Board,~~ and issue, subject to the provisions of the Mechanical Licensing Act, limited licenses in each area of mechanical work based on the experience, ability, examination scores and the education of the applicant. The limited licenses shall authorize the licensee to engage in only those activities and within the limits specified in the license.

~~E. No mechanical licenses shall be issued pursuant to subsection B of this section after July 1, 1993.~~

SECTION 63. AMENDATORY 59 O.S. 1991, Section 1850.9, is amended to read as follows:

Section 1850.9 A. The ~~Department~~ Building Trades Commission, upon proper application and payment of fee, shall register as a mechanical apprentice and issue a certificate of such registration

to any person who furnishes satisfactory proof to the ~~Department~~
Commission that the applicant is:

1. Sixteen (16) years of age or over; and
2. Enrolled in a school or training course for mechanical apprentices recognized by the ~~Department~~ Commission, or has arranged for employment as a mechanical apprentice with a licensed mechanical contractor.

B. Apprentice registration certificates expire four (4) years after date of registration, at which time the apprentice may reregister.

SECTION 64. AMENDATORY 59 O.S. 1991, Section 1850.13, as amended by Section 9, Chapter 236, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1850.13), is amended to read as follows:

Section 1850.13 There is hereby created in the State Treasury a revolving fund for the ~~Oklahoma State Department of Health~~ Building Trades Commission, to be designated the "Oklahoma Mechanical Licensing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the ~~Department~~ Commission pursuant to the Mechanical Licensing Act, including administrative fines authorized by Section ~~& 1850.11~~ of this ~~act~~ title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the ~~Department~~ Commission for the purpose of implementing the Mechanical Licensing Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 65. AMENDATORY 59 O.S. 1991, Section 1850.14, as amended by Section 3, Chapter 251, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1850.14), is amended to read as follows:

Section 1850.14 A. The ~~Department~~ executive director of the Building Trades Commission and the Committee shall act as the

Mechanical Hearing Board and shall comply with the provisions of Article II of the Administrative Procedures Act, Section ~~309~~ 308a et seq. of Title 75 of the Oklahoma Statutes.

B. The Mechanical Hearing Board may, upon its own motion, and shall, upon written complaint filed by any person, investigate the business transactions of any mechanical contractor, mechanical journeyman, mechanical apprentice or mechanical firm. The ~~Department~~ Commission shall suspend or revoke or may refuse to issue or renew any license or registration under the Mechanical Licensing Act for any of the following:

1. Making a material misstatement in the application for a license or registration, or the renewal of a license or registration;

2. ~~Obtain~~ Obtaining any license or registration by false or fraudulent representation;

3. Loaning or allowing the use of such license by any other person or illegally using a license;

4. Demonstrating incompetence to act as a mechanical journeyman or mechanical contractor;

5. Violating any provisions of the Mechanical Licensing Act, or any rule, ~~regulation~~ or order prescribed by the ~~Board~~ Commission pursuant to the provisions of the Mechanical Licensing Act; or

6. Willfully failing to perform normal business obligations without justifiable cause.

C. Any person whose license or registration has been revoked by the Mechanical Hearing Board may apply for a new license one (1) year from the date of such revocation.

D. Notwithstanding any other provision of law, a political subdivision of this state that has adopted a nationally recognized mechanical code and appointed an inspector pursuant to Section 1850.12 or Section 1031 et seq. of this title for such work shall have jurisdiction over the interpretation of said code and the

installation of all mechanical work done in that political subdivision, subject to the provisions of the Oklahoma Inspectors Act, Section 1031 et seq. of Title 59 of the Oklahoma Statutes. Provided, a state inspector may work directly with a mechanical contractor, mechanical journeyman, mechanical apprentice or mechanical firm in such a locality if a violation of the code creates an immediate threat to life or health.

E. In the case of a complaint about, investigation of, or inspection of any license, registration, permit or mechanical work in any political subdivision of this state which has not adopted a nationally recognized mechanical code and appointed an inspector pursuant to Section 1850.12 or Section 1031 et seq. of this title for such work, the ~~Commissioner of Health~~ Commission shall have jurisdiction over such matters.

F. 1. No individual, business, company, corporation, association, limited liability company or other entity subject to the provisions of Section 1850.1 et seq. of this title shall install, modify or alter mechanical systems in any incorporated area of this state which has not adopted a nationally recognized mechanical code and appointed an inspector pursuant to Section 1850.12 or Section 1031 et seq. of this title for such work without providing notice of such mechanical work to the ~~Commissioner of Health~~ Commission. A notice form for reproduction by an individual or entity required to make such notice shall be provided by the ~~Commissioner of Health~~ Commission upon request.

2. Notice to the ~~Commissioner of Health~~ Commission pursuant to this subsection shall not be required for minor repair or maintenance performed according to the mechanical equipment manufacturer's instructions or of any petroleum refinery or its research facilities.

3. Enforcement of this subsection is authorized pursuant to Section 1850.1 et seq. of this title, or under authority granted to the ~~Commissioner of Health~~ Commission.

SECTION 66. AMENDATORY Section 13, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1850.16), is amended to read as follows:

Section 1850.16 A. 1. There is hereby created the Oklahoma State Mechanical Installation Code Variance and Appeals Board. The Variance and Appeals Board shall hear testimony and shall review sufficient technical data submitted by an applicant to substantiate the proposed installation of any material, assembly or manufacturer-engineered components, equipment or system that is not specifically prescribed by an appropriate installation code, an industry consensus standard or fabricated or installed according to recognized and generally accepted good engineering practices, where no ordinance or regulation of a governmental subdivision applies. If it is determined that the evidence submitted is satisfactory proof of performance for the proposed installation, the Variance and Appeals Board shall approve such alternative, subject to the requirements of the appropriate installation code. Applications for the use of an alternative material or method of construction shall be submitted in writing to the ~~State Commissioner of Health~~ Building Trades Commission for approval prior to use. Applications shall be accompanied by a filing fee, not to exceed Fifty Dollars (\$50.00), as set by rule of the ~~State Board of Health~~ Commission.

2. The Variance and Appeals Board shall also hear appeals from contractors, licensed by the ~~Occupational Licensing Service of the State Department of Health~~ Commission, and any person who has ownership interest in or is in responsible charge of the design of or work on the installation, who contest the ~~Department's~~ Commission's interpretation of the state's model mechanical

installation code as applied to a particular installation. Such appeals shall be based on a claim that:

- a. the true intent of the installation code has been incorrectly interpreted,
- b. the provisions of the code do not fully apply, or
- c. an equal or better form of installation is proposed.

Such appeals to the Variance and Appeals Board shall be made in writing to the ~~State Commissioner of Health~~ Commission within fourteen (14) days after a code interpretation or receipt of written notice of the alleged code violation by the licensed contractor.

B. The Variance and Appeals Board shall consist of the ~~State Commissioner of Health or his or her~~ executive director of the Commission or the director's designated representative and the following members who, except for the State Fire Marshal or designee, shall be appointed by the ~~Commissioner~~ Commission from a list of names submitted by the professional organizations of the professions represented on the Board and who shall serve at the pleasure of the ~~Commissioner~~ Commission:

1. Two members shall be appointed from the Committee of Mechanical Examiners; one shall be a contractor with five (5) years of experience and one shall be a journeyman with five (5) years of experience;

2. One member shall be a registered design professional who is a registered architect with at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work;

3. One member shall be a registered design professional with at least ten (10) years of structural engineering or architectural experience, five (5) of which shall have been in responsible charge of work;

4. One member shall be a registered design professional with mechanical or plumbing engineering experience; provided, such member

shall have at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work;

5. One member shall be a registered design professional with electrical engineering experience; provided, such member shall have at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work; and

6. One member shall be the State Fire Marshal or a designee of the State Fire Marshal.

Provided, any member serving on the Board on January 1, 1998, may continue to serve on the Board until a replacement is appointed by the Commission.

C. Members, except the ~~Commissioner~~ executive director of the Commission and the State Fire Marshal, ~~the Commissioner's and State Fire Marshal's~~ their designated representatives, and employees of the ~~Department~~ Commission, shall be reimbursed for travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes, from the revolving fund created pursuant to Section 1850.13 of Title 59 of the Oklahoma Statutes.

D. The Variance and Appeals Board shall meet after the ~~Commissioner~~ Commission receives proper application for a variance, accompanied by the filing fee, or proper notice of an appeal, as provided in subsection A of this section.

E. ~~The State Commissioner of Health, or the Commissioner's~~ executive director of the Commission or the director's designated representative, shall serve as chair of the Variance and Appeals Board. A majority of the members of the Variance and Appeals Board shall constitute a quorum for the transaction of the business of the Board.

SECTION 67. AMENDATORY 40 O.S. 1991, Section 141.1, is amended to read as follows:

Section 141.1 This act shall be known and may be cited as the "Boiler and Pressure Vessel Safety Act", and, except as otherwise herein provided, shall apply to all boilers and pressure vessels. For the purpose of this act, the following definitions apply:

1. "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum, for external use to itself, by the direct application of heat. The term "boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and complete within themselves:

- a. "power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than fifteen (15) pounds per square inch gauge, or as further defined in American Society of Mechanical Engineers Boiler and Pressure Vessel Code Section I,
- b. "high-temperature water boiler" means a water boiler intended for operation at pressures in excess of one hundred sixty (160) pounds per square inch gauge; or temperatures in excess of two hundred fifty (250) degrees Fahrenheit ~~(250 F)~~, or as further defined in American Society of Mechanical Engineers Boiler and Pressure Vessel Code Section I,
- c. "low pressure steam boiler" means a steam boiler operating at pressures not exceeding fifteen (15) pounds per square inch gauge, or as further defined in American Society of Mechanical Engineers Boiler and Pressure Vessel Code Section IV,
- d. "hot water heating boiler" means a heating boiler operating at pressures not exceeding one hundred sixty (160) pounds per square inch gauge - one thousand one hundred three (1,103) kilopascals and/or temperatures

not exceeding two hundred fifty (250) degrees Fahrenheit ~~(250° F)~~, one hundred twenty-one (121) degrees Celsius ~~(121° C)~~, at or near the boiler outlet, or as further defined in American Society of Mechanical Engineers Boiler and Pressure Vessel Code Section IV,

- e. "hot water supply boiler" means a supply boiler operating at pressures not exceeding one hundred sixty (160) pounds per square inch gauge - one thousand one hundred three (1,103) kilopascals and/or temperatures not exceeding two hundred fifty (250) degrees Fahrenheit ~~(250° F)~~, one hundred twenty-one (121) degrees Celsius ~~(121° C)~~, at or near the boiler outlet, or as further defined in American Society of Mechanical Engineers Boiler and Pressure Vessel Code Section IV, and
- f. "hot water supply heater" means a closed vessel in which water is heated by the combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressures not exceeding one hundred sixty (160) pounds per square inch gauge and shall include all controls and devices necessary to prevent water temperature from exceeding two hundred ten (210) degrees Fahrenheit ~~(210° F)~~, one hundred twenty-one (121) degrees Celsius ~~(121° C)~~;

2. "Pressure vessel" means a vessel in which pressure is obtained from an external source or by the application of heat other than those vessels defined in paragraph 1 of this section or as further defined in American Society of Mechanical Engineers Boiler and Pressure Vessel Code Section VIII, Division I;

3. "Certificate of operation" means an annual certificate, unless otherwise provided for in ~~this act~~ the Boiler and Pressure

Vessel Safety Act, issued by the ~~Commissioner of Labor~~ Building Trades Commission permitting the operation of a boiler or pressure vessel which has been inspected as provided for in ~~this act~~ the Boiler and Pressure Vessel Safety Act;

4. "Steam lines" means piping of welded construction in which steam is contained and/or transported at a pressure in excess of fifteen (15) pounds per square inch gauge; and

5. "~~Commissioner~~ Commission" means the ~~Commissioner of Labor or his duly authorized representative~~ Building Trades Commission.

SECTION 68. AMENDATORY 40 O.S. 1991, Section 141.2, is amended to read as follows:

Section 141.2 A. ~~This act~~ The Boiler and Pressure Vessel Safety Act shall not apply to the following boilers, hot water heaters and pressure vessels:

1. Pressure vessels used for the transportation of compressed gases if constructed and operated in compliance with specifications and regulations of the United States Department of Transportation or of the Corporation Commission of Oklahoma and any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the United States Department of Transportation or the Oklahoma Liquefied Petroleum Gas Administration or successor agencies;

2. Pressure vessels containing air located on vehicles operating pursuant to regulations of other jurisdiction authorities;

3. Pressure vessels having an internal or external operating pressure not exceeding fifteen (15) pounds per square inch gauge - one hundred three (103) kilopascals gauge with no limit on size;

4. Pressure vessels having an inside diameter not exceeding six (6) inches (152mm) with no limitation on pressure;

5. Pressure vessels with a nominal water containing capacity of one hundred twenty (120) gallons or four hundred fifty (450) liters or less, to be used for domestic supply purposes, for containing

water under pressure including those containing air, the compression of which serves only as a cushion;

6. Pressure vessels containing water heated by steam or other indirect means when none of the following limitations is exceeded:

- a. a heat input of two hundred thousand (200,000) British thermal units per hour - fifty-eight thousand six hundred (58,600) watts,
- b. a water temperature of two hundred ten (210) degrees Fahrenheit ~~(210° F)~~, or
- c. a water containing capacity of one hundred twenty (120) gallons - four hundred fifty (450) liters;

7. Pressure vessels which may be classified as pressure containers which are integral parts of components of rotating or reciprocating mechanical devices such as pumps, compressors, turbines, generators, engines and hydraulic or pneumatic cylinders where the primary design considerations and/or stresses are derived from the functional requirements of the device, or structures whose primary function is the transport of fluids from one location to another within a system of which it is an integral part, i.e., piping systems;

8. Hot water supply boilers which are directly fired with oil, gas or electricity when none of the following limitations are exceeded:

- a. a heat input of two hundred thousand (200,000) British thermal units per hour - fifty-eight thousand six hundred (58,600) watts,
- b. a water temperature of two hundred ten (210) degrees Fahrenheit ~~(210° F)~~, or
- c. a water containing capacity of one hundred twenty (120) gallons - four hundred fifty (450) liters;

9. Boilers and pressure vessels under federal control and railroad locomotive boilers;

10. Pressure vessels located on remote sites and limited to oil, natural gas gathering facilities or processing plants or gas producing lease locations that have fewer than ten buildings intended for human occupancy per one-fourth (1/4) square mile and where the closest building is at least two hundred twenty (220) yards from any vessel;

11. Pressure vessels in the care, custody and control of research facilities and used solely for research purposes which require one or more details of noncode construction or which involve destruction or reduced life expectancy of those vessels; and

12. Hot water supply heaters as defined in subparagraph f of paragraph 1 of Section ~~±~~ 141.1 of this ~~act~~ title, with piping connections to the potable water supply system which are intended to supply hot water for domestic or commercial purposes other than space heating. However, the ~~Commissioner~~ Commission shall make routine inspections and issue necessary orders regarding existing hot water supply heaters located in facilities or installations owned or operated by the State of Oklahoma or its agencies, counties, municipalities or school districts.

B. The following boilers and pressure vessels shall be exempt from Sections ~~13, 14, 15 and 16~~ 141.13, 141.14, 141.15 and 141.16 of this ~~act~~ title:

1. Pressure vessels not exceeding fifteen (15) cubic feet in volume and two hundred fifty (250) pounds per square inch gauge pressure;

2. Low pressure steam boilers, hot water heating boilers, hot water supply boilers, hot water supply heaters or pressure vessels which are located in private residences or in apartment houses of less than six-family units; and

3. Pressure vessels operated entirely full of water or other liquid which is not materially more hazardous than water, provided the temperature of the vessel contents does not exceed one hundred

fifty (150) degrees Fahrenheit ~~(150° F)~~ or a pressure of two hundred (200) pounds per square inch gauge.

SECTION 69. AMENDATORY 40 O.S. 1991, Section 141.3, is amended to read as follows:

Section 141.3 A. Formulation. The ~~Commissioner of Labor Building Trades Commission~~ shall formulate and adopt definitions, and rules ~~and regulations~~ for the safe construction, installation, inspection, operation, maintenance and repair of boilers and pressure vessels in this state.

1. The definitions, and rules ~~and regulations~~ so formulated for new construction shall be based upon and follow generally accepted national engineering standards, formula and practices related to boiler and pressure vessel construction and safety. The ~~Commissioner of Labor Commission~~ may adopt an existing American National Standard known as the Boiler and Pressure Code of the American Society of Mechanical Engineers, with the addenda and code cases, and may also adopt subsequent revisions in the form of addenda and code cases of that standard provided such revisions are acceptable to the ~~Commissioner~~ Commission. When so adopted, the same shall be deemed incorporated into, and to constitute a part of the whole of the definitions, and rules ~~and regulations~~ of the ~~Commissioner of Labor Commission~~ Commission;

2. The ~~Commissioner of Labor Commission~~ shall formulate rules ~~and regulations~~ to ensure that boiler and pressure vessel manufacturers, jobbers, dealers or individuals selling, renting or leasing or offering for sale, rent or lease or operation, any boiler or pressure vessel which is within the scope of ~~this act~~ the Boiler and Pressure Vessel Safety Act meets the requirements of ~~this act~~ the Boiler and Pressure Vessel Safety Act, and rules ~~and regulations~~ hereinafter adopted. Any manufacturer, jobber, dealer or individual found to be in violation of this section shall be subject to any current penalty as herein provided;

3. The ~~Commissioner of Labor~~ Commission shall formulate rules ~~and regulations~~ which may permit the use of boilers and pressure vessels which were in operation in this state prior to the date upon which the first rules ~~and regulations~~ under ~~this act~~ the Boiler and Pressure Vessel Safety Act pertaining to existing installations become effective, or during the twelve-month period immediately thereafter; and

4. The rules for inspection, maintenance and repair of installed boilers and pressure vessels shall be based upon and follow generally accepted national standards as promulgated by the National Board of Boiler and Pressure Vessel Inspectors or by the American Petroleum Institute Pressure Vessel Inspection Code as a minimum as relates to boiler and pressure vessels.

B. Promulgation. The rules ~~and regulations~~ and any subsequent amendments thereto formulated or adopted by the ~~Commissioner of Labor~~ Commission shall be adopted in accordance with the Oklahoma Administrative Procedures Act, except that the rules applying to the construction of new boilers and pressure vessels shall not become mandatory until six (6) months after their promulgation by the ~~Commissioner~~ Commission.

SECTION 70. AMENDATORY 40 O.S. 1991, Section 141.4, is amended to read as follows:

Section 141.4 A. Twelve (12) months from the date upon which the rules ~~and regulations~~ under ~~this act~~ the Boiler and Pressure Vessel Safety Act become effective, all new boilers and pressure vessels for use in this state shall conform to such rules ~~and regulations~~.

B. If a boiler or pressure vessel is of special design or construction, and cannot comply with the construction requirements of the rules ~~and regulations~~ of ~~this act~~ the Boiler and Pressure Vessel Safety Act, a special installation and operating permit may be granted by the ~~Commissioner of Labor~~ Building Trades Commission

at ~~his~~ its discretion, provided the user presents evidence acceptable to the ~~Commissioner~~ Commission.

C. Welded steam lines - Downstream steam lines fabricated or repaired by welding, operated at in excess of fifteen (15) pounds per square inch gauge shall be fabricated, inspected and tested in accordance with applicable rules ~~and regulations~~.

SECTION 71. AMENDATORY 40 O.S. 1991, Section 141.5, is amended to read as follows:

Section 141.5 A. The maximum allowable working pressure of a boiler stamped with the American Society of Mechanical Engineers Code symbol or a pressure vessel stamped with the American Society of Mechanical Engineers or American Petroleum Institute - American Society of Mechanical Engineers Code symbol shall be determined by the applicable sections of the code under which it was constructed and stamped.

B. The maximum allowable working pressure of a boiler or pressure vessel which is not stamped and does not carry the ASME or the API-ASME Code symbol shall be computed in accordance with standard engineering practice using a factor of safety established by rules adopted by the ~~Commissioner of Labor~~ Building Trades Commission.

C. ~~This act~~ The Boiler and Pressure Vessel Safety Act shall not be construed as in any way preventing the use, sale or reinstallation of a boiler or pressure vessel referred to in subsection B of this section, provided the ~~Commissioner of Labor~~ Commission gives a specific ruling that such boiler or pressure vessel conforms to its rules ~~and regulations~~, and provided further, upon inspection, it has been found to be in safe condition.

D. If a boiler or pressure vessel is of historical significance and cannot comply with the construction requirements of the rules ~~and regulations~~ of ~~this act~~ the Boiler and Pressure Vessel Safety

Act, a special installation and operating permit may be granted by the ~~Commissioner~~ Commission.

SECTION 72. AMENDATORY 40 O.S. 1991, Section 141.6, is amended to read as follows:

Section 141.6 A. All firms or corporations engaged in the service, repair and/or installation of boilers or pressure vessels located in this state shall be licensed by the ~~Commissioner~~ Building Trades Commission to perform such work. Provided, no license shall be required for any firms or corporations engaged in the service, repair and/or installation of hot water supply heaters as provided in paragraph 12 of subsection A of Section ~~2~~ 141.2 of this ~~act~~ title. The ~~Commissioner of Labor~~ Commission shall abide by any existing code of installation presently adopted or as may be hereinafter adopted by this state or its agencies or by any county, municipality or school district as pertains to hot water supply heaters. The annual license fee shall be payable in advance on or before January 31 of each calendar year. Each firm or corporation must furnish evidence suitable to the ~~Commissioner~~ Commission that they are qualified to perform such work.

B. All hearings for the issuance or revocations of license under this section shall comply with the Oklahoma Administrative Procedures Act.

C. Any person who shall violate any of the provisions of ~~this act~~ the Boiler and Pressure Vessel Safety Act or who violates any rule or order of the ~~Commissioner~~ Commission pursuant to ~~this act~~ the Boiler and Pressure Vessel Safety Act shall be guilty of a misdemeanor, and in addition thereto, may be enjoined from continuing such action. Each day upon which such violation occurs shall constitute a separate violation.

SECTION 73. AMENDATORY 40 O.S. 1991, Section 141.7, is amended to read as follows:

Section 141.7 There is hereby established a bureau of boiler inspection in the ~~Department of Labor~~ Building Trades Commission under the direction of the chief boiler inspector, who shall have at the time of appointment a valid commission issued in accordance with the constitution and bylaws of the National Board of Boiler and Pressure Vessel Inspectors and shall be responsible to the ~~Commissioner of Labor~~ Commission or ~~his~~ its duly authorized representative for the supervision, inspection and testing of boilers and pressure vessels throughout the state.

B. The bureau of boiler inspection shall be furnished with sufficient personnel, deputy inspectors and clerical aides to perform the assigned duties with the limits prescribed by the ~~Commissioner of Labor~~ Commission.

C. Powers. The chief boiler inspector and deputy inspectors, under the supervision of the ~~Commissioner of Labor~~ Building Trades Commission, shall:

1. Take action necessary for the enforcement of ~~this act~~ the Boiler and Pressure Vessel Safety Act and ~~these rules and regulations~~ promulgated thereto;

2. Keep a complete record of the name and address of the owner or user, location, type, dimensions, maximum allowable working pressure, age, dates of installation and last-recorded inspection of all boilers and pressure vessels to which ~~this act~~ the Boiler and Pressure Vessel Safety Act applies;

3. Make available upon request copies of the rules ~~and regulations~~ promulgated by the ~~Department~~ Commission;

4. Issue, suspend or revoke for cause, certificates of operation as provided for in Section ~~14~~ 141.14 of this ~~act~~ title; and

5. Cause the prosecution of violators of the provisions of ~~this act~~, the Boiler and Pressure Vessel Safety Act and rules ~~and~~

~~regulations~~ promulgated pursuant to the Boiler and Pressure Vessel Safety Act.

SECTION 74. AMENDATORY 40 O.S. 1991, Section 141.8, is amended to read as follows:

Section 141.8 A. The chief boiler inspector shall employ deputy inspectors, subject to approval of the ~~Commissioner of Labor Building Trades Commission~~, who shall be responsible to the chief boiler inspector and who shall have at the time of appointment a valid commission issued in accordance with the constitution and bylaws of the National Board of Boiler and Pressure Vessel Inspectors.

B. The deputy inspectors may at the ~~Commissioner's~~ Commission's discretion be appointed in a trainee status provided said trainees successfully complete the examination as defined in Section ~~10~~ 141.10 of this ~~act~~ title and receive a valid National Board Commission within eighteen (18) months after appointment.

SECTION 75. AMENDATORY 40 O.S. 1991, Section 141.9, is amended to read as follows:

Section 141.9 A. 1. Certificates of competency designating special inspectors of boilers and pressure vessels shall be issued by the ~~Commissioner~~ Building Trades Commission upon request of any authorized inspection agency, which has been licensed or registered by the appropriate authority of this state. All such authorized inspection agencies shall provide boiler and pressure vessel insurance coverage and be actively engaged in writing this type coverage in this state;

2. Before receiving a certificate of competency, each inspector shall receive a passing grade on the examination provided for by Section ~~10~~ 141.10 of this ~~act~~ title, or shall hold a commission or certificate of competency as an inspector of boilers or pressure vessels from a state that has a standard of examination equal to that of this state, or a commission as an inspector of boilers and

pressure vessels issued by the National Board of Boiler and Pressure Vessel Inspectors;

3. Special inspectors shall not receive any salary or expenses from this state, and a certificate of competency shall be valid only as long as such special inspectors are in full-time employment of an authorized inspection agency;

4. Special inspectors may inspect all boilers and pressure vessels insured by their respective authorized inspection agency; and

5. The insurance company shall apply on or before January 31 of each year for renewal of certificates of competency for each special inspector employed who inspects boilers and pressure vessels insured in this state. The fee must accompany application.

B. 1. Certificates of competency designating owner-user inspectors of boilers or pressure vessels or both shall be issued by the ~~Commissioner~~ Commission upon request of any company operating boilers or pressure vessels or both in this state. The owner-user shall maintain a regularly established inspection department which is under the supervision of one or more technically competent individuals whose qualifications and whose organization and inspection procedures are in accordance with paragraph 4 of subsection A of Section ~~3~~ 141.3 of this ~~act~~ title and acceptable to the ~~Commissioner of Labor~~ Commission. Boilers and pressure vessels shall be inspected regularly and in accordance with applicable provisions of the rules ~~and regulations~~ adopted by the ~~Commissioner~~ Commission pursuant to ~~this act~~ the Boiler and Pressure Vessel Safety Act;

2. Before receiving a certificate of competency, each inspector shall attain a passing grade on the examination provided for by Section ~~10~~ 141.10 of this ~~act~~ title, or shall hold a certificate of competency as an inspector from a state that has a standard of examination equal to that of this state, or who holds a valid

commission issued in accordance with the constitution and bylaws of the National Board of Boiler and Pressure Vessel Inspectors;

3. A certificate of competency as an owner-user inspector shall be issued only if, in addition to meeting the requirements in paragraph 2 of this subsection, the inspector is continuously employed by the company and is responsible for making inspection of boilers and pressure vessels used by such company;

4. Owner-user inspectors shall not receive any salary or expenses from this state, and a certificate of competency shall be valid only as long as such owner-user inspector is employed full time by a qualified owner-user inspection agency, in accordance with the applicable provisions of the rules ~~and regulations~~ adopted pursuant to ~~this act~~ the Boiler and Pressure Vessel Safety Act;

5. The owner-user inspection agency will apply on or before January 31 of each year for renewal of competency for each owner-user inspector employed in this state. The fee must accompany application; and

6. Such owner-user inspectors may inspect all pressure vessels operated by their respective companies and, when so inspected, the owners and users of such pressure vessels shall be exempt from the payment to the state of the inspection fees provided for in Section ~~16~~ 141.16 of this ~~act~~ title.

SECTION 76. AMENDATORY 40 O.S. 1991, Section 141.10, is amended to read as follows:

Section 141.10 A. The examination for chief boiler inspector, deputy inspectors, special inspectors or owner-user inspectors, except those owner-user inspectors within the scope of the American Petroleum Institute Pressure Vessel Inspection Code, shall be written and shall be held in accordance with the constitution and bylaws of the National Board of Boiler and Pressure Vessel Inspectors.

B. A separate written examination for owner-user inspectors within the scope of the American Petroleum Institute Pressure Vessel Inspection Code shall be administered by the ~~Department of Labor~~ Building Trades Commission based upon the content of the American Petroleum Institute Pressure Vessel Inspection Code and the American Society of Mechanical Engineers Boiler and Pressure Vessel Codes pertaining to pressure vessels.

SECTION 77. AMENDATORY 40 O.S. 1991, Section 141.11, is amended to read as follows:

Section 141.11 An inspector's certificate of competency may be suspended by the ~~Commissioner of Labor~~ Building Trades Commission after due investigation for the incompetence or untrustworthiness of the inspector or for the willful falsification of any matter or statement contained in ~~his~~ the application, or a report of any inspections made by ~~him~~ the inspector. Written notice of any such suspension shall be transmitted by the ~~Commissioner of Labor~~ Commission to the inspector and his or her employer not more than ten (10) days following the suspension. A person whose certificate of competency has been suspended shall be entitled to an appeal as provided by the Oklahoma Administrative Procedures Act.

SECTION 78. AMENDATORY 40 O.S. 1991, Section 141.13, is amended to read as follows:

Section 141.13 A. The ~~Commissioner of Labor~~ Building Trades Commission or the chief boiler inspector, or any deputy inspector, shall have free access, during reasonable hours, to any premises in the state where a boiler or pressure vessel is being constructed for use in, or is being installed in this state for the purpose of ascertaining whether such boiler or pressure vessel is being constructed and installed in accordance with the provisions of ~~this act~~ the Boiler and Pressure Vessel Safety Act.

B. ~~On the effective date of this act, each~~ Each boiler and pressure vessel covered by ~~this act~~ the Boiler and Pressure Vessel

Safety Act shall be thoroughly inspected as to its construction, installation and condition as follows:

1. Power boilers and high pressure high temperature water boilers shall receive an inspection annually which shall be an internal inspection where construction permits; otherwise it shall be as complete an inspection as possible. Such boilers shall also be externally inspected annually preferably while under pressure;

2. Low pressure steam or vapor heating boilers shall receive an external inspection annually with an internal inspection at least every two (2) years where construction permits;

3. Hot water heating and hot water supply boilers shall receive an external inspection annually with an internal inspection at the discretion of the inspector;

4. Pressure vessels, excluding those within the scope of the American Petroleum Institute Pressure Vessel Inspection Code, subject to internal corrosion and waste heat steam generators shall receive an internal inspection triennially where construction permits. Pressure vessels not subject to internal corrosion shall receive an inspection at intervals set by the ~~Commissioner~~ Building Trades Commission. Frequency of external inspections of pressure vessels shall be set by the ~~Commissioner~~ Commission;

5. A grace period of two (2) months beyond the periods specified in paragraphs 1, 2, 3 and 4 of this subsection is permitted between inspections; however, the inspection due date shall not be affected;

6. The ~~Commissioner of Labor~~ Commission may provide for longer periods between inspections in the rules ~~and regulations~~ for specific boilers and pressure vessels; and

7. Under the provisions of ~~this act~~ the Boiler and Pressure Vessel Safety Act, the ~~Commissioner of Labor~~ Commission is responsible to provide rules for the safety of life, limb and property and therefore has jurisdiction over the interpretation and

application of the inspection requirements as provided for in the rules ~~and regulations~~. Inspection during construction and installation shall certify as to the minimum requirement for safety as defined in the American Society of Mechanical Engineers Code or other construction standards acceptable to the ~~Commissioner of Labor Commission~~. Inspection requirements of operating equipment shall be in accordance with generally accepted practice and compatible with the actual service condition, such as:

- a. previous experience, based on records of inspection, performance and maintenance,
- b. location, with respect to personnel hazard,
- c. quality of inspection and operating personnel,
- d. provision for related safe operating controls, and
- e. interrelation with other operations outside the scope of this act.

Based upon the documentation of such actual service conditions by the owner or user of the operating equipment, the ~~Commissioner of Labor Commission~~ may, at ~~his~~ its discretion, permit variations in the inspection requirements.

C. The inspections herein required shall be made by the ~~Commissioner Commission~~, chief boiler inspector, deputy inspector or a special inspector as provided for in ~~this act~~ the Boiler and Pressure Vessel Safety Act.

D. Owner-user inspection of boilers and pressure vessels is permitted provided the owner-user inspection service is regularly established and is under the supervision of one or more individuals whose qualifications are satisfactory to the ~~Commissioner of Labor Commission~~ and said owner-user causes the pressure vessels to be inspected in conformance with the National Board Inspection Code or American Petroleum Institute Pressure Vessel Inspection Code as applicable.

E. If, at the discretion of the inspector, a hydrostatic test shall be deemed necessary, it shall be made by the owner or user or his or her licensed representative and witnessed by an inspector as authorized by ~~this act~~ the Boiler and Pressure Vessel Safety Act, before a certificate of operation is issued.

F. All boilers, other than cast iron sectional boilers, and pressure vessels to be installed in this state after the twelve-month period from the date upon which the rules ~~and regulations~~ of the ~~Commissioner~~ Commission become effective, shall be inspected during construction as required by the applicable rules ~~and regulations~~ by an inspector authorized to inspect boilers and pressure vessels in this state, or if constructed outside of the state, by an inspector holding a valid commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

G. No person, firm or corporation shall in any manner interfere with the performance of the official duties of any inspector authorized by ~~this act~~ the Boiler and Pressure Vessel Safety Act.

SECTION 79. AMENDATORY 40 O.S. 1991, Section 141.14, is amended to read as follows:

Section 141.14 A. 1. Each authorized inspection agency employing special inspectors meeting the requirements of subsection A of Section ~~9~~ 141.9 of this ~~act~~ title shall, within thirty (30) days following each inspection made by such inspectors, file an exact copy of the report of the inspection with the chief boiler inspector upon appropriate forms as promulgated by the ~~Commissioner of Labor~~ Building Trades Commission; and

2. Each company operating pressure vessels covered by owner-user inspections service meeting the requirements of subsection B of Section ~~9~~ 141.9 of this ~~act~~ title shall maintain in its files an inspection record which shall list, by number and such abbreviated description as may be necessary for identification, each pressure vessel covered by ~~this act~~ the Boiler and Pressure Vessel

Safety Act, the date of the last inspection of each pressure vessel and the approximate date for the next inspection. The inspection record shall be available for examination by the chief inspector or his or her authorized representative during business hours. Each such company shall, in addition, file annually with the chief inspector a statement, signed by the individual having supervision over the inspections made during the period covered thereby, stating the number of pressure vessels covered by ~~this act~~ the Boiler and Pressure Vessel Safety Act inspected during the year and certifying that each such inspection was conducted pursuant to the inspection requirements provided for by ~~this act~~ the Boiler and Pressure Vessel Safety Act.

Such annual statement shall be accompanied by a fee equal to that shown in subparagraph c of paragraph 2 of subsection A of Section ~~16~~ 141.16 of this ~~act~~ title.

B. If the report filed pursuant to subsection A of this section shows that a boiler or pressure vessel is found to comply with the rules ~~and regulations~~ of the ~~Commissioner of Labor~~ Building Trades Commission and upon direct payment to the ~~Department of Labor~~ Commission by the owner or user of the fee prescribed, the Commission shall issue the owner or user a certificate of operation. The certificate of operation shall be valid for a period consistent with the inspection frequency as required by Section ~~13~~ 141.13 of this ~~act~~ title. In the case of those boilers and pressure vessels covered by paragraphs 1, 2, 3 and 4 of subsection B of Section ~~13~~ 141.13 of this ~~act~~ title for which the ~~Commissioner of Labor~~ Commission has established or extended the operating period between required inspections, pursuant to the provisions of paragraph 7 or 8 of subsection B of Section ~~13~~ 141.13 of this ~~act~~ title, the certificate of operation shall be valid for a period of not more than two (2) months beyond the period set by the ~~Commissioner~~ Commission. Certificates of operation for boilers shall be posted

under glass, or similarly protected, in the room containing the boiler. Pressure vessel certificates of operation shall be posted in like manner, if convenient, or filed where they will be readily accessible for examination by the ~~Commissioner~~ Commission, chief boiler inspector or deputy inspector.

C. The chief boiler inspector or deputy inspectors may at any time suspend a certificate of operation if the boiler or pressure vessel for which it is issued is deemed a menace to the public safety, or when the boiler or pressure vessel is found not to comply with the rules ~~and regulations~~ herein provided. Each suspension of a certificate of operation shall continue in effect until such boiler or pressure vessel shall have been made to conform to the rules ~~and regulations~~, and until said certificate of operation shall have been reinstated.

SECTION 80. AMENDATORY 40 O.S. 1991, Section 141.15, is amended to read as follows:

Section 141.15 ~~After twelve (12) months for power boilers, twenty-four (24) months for low pressure steam heating, hot water heating and hot water supply boilers, and thirty-six (36) months for pressure vessels following the date on which this act becomes effective, it~~ It shall be unlawful for any person, firm, partnership or corporation to operate in this state a boiler or pressure vessel covered by ~~this act~~ the Boiler and Pressure Vessel Safety Act, including boilers and pressure vessels covered by owner-user inspection service provided for in Section ~~14~~ 141.14 of this act, without a valid certificate of operation. The operation of a boiler or pressure vessel without such certificate of operation, or at a pressure exceeding that specified in such certificate of operation or in violation of ~~this act~~ the Boiler and Pressure Vessel Safety Act or the rules ~~and regulations~~ promulgated under it, shall constitute a misdemeanor on the part of the owner, user or operator

thereof. Each day of such unlawful operation shall be deemed a separate offense.

SECTION 81. AMENDATORY 40 O.S. 1991, Section 141.16, as amended by Section 1, Chapter 305, O.S.L. 1992 (40 O.S. Supp. 1996, Section 141.16), is amended to read as follows:

Section 141.16 A. Schedule of Fees

1. Annual certificate of operation fee

- a. with manway state inspector \$ 50.00
- b. without manway state inspector \$ 25.00
- c. any size special - or owner/user inspector \$ 25.00

Note: Only one certificate of operation fee per year may be charged; except an additional fee equal to the certificate of operation fee may be charged for witnessing a hydrostatic test required after repairs.

2. Other Fees

- a. hydrostatic test of steam pipeline per day \$ 150.00
(for each additional half-day or part thereof) \$
75.00
- b. shop review \$1,250.00
- c. licensing fee \$ 50.00
- d. certificate of competency fee \$ 15.00
- e. examination fee \$ 50.00
- f. boiler or pressure vessel inspection fee for
certificate inspections by state inspectors \$
100.00

B. Exemptions. All institutions owned or operated by the State of Oklahoma or its agencies or by any county, municipality or school district, and such institutions or agencies, and all owners or users of boilers or pressure vessels of historical significance as specified in subsection D of Section 141.5 of this title are exempt from the payment of any fees provided for herein.

C. Disposition of fees. The ~~Commissioner of Labor~~ Building Trades Commission shall account for and transfer all fees so received to the State Treasury to the credit of the General Revenue Fund together with a detailed report of same.

D. All fees shall be paid directly to the ~~Department of Labor~~ Commission.

SECTION 82. AMENDATORY 40 O.S. 1991, Section 141.18, is amended to read as follows:

Section 141.18 A. The ~~Department of Labor~~ Building Trades Commission has total jurisdiction over the investigation or inquiry into accidents and incidents arising within the definitions of ~~this act~~ the Boiler and Pressure Vessel Safety Act.

B. It shall be mandatory for all owners, users or operators to immediately notify the ~~Department of Labor~~ Commission and secure the total accident or incident area by whatever means is practical until such time as the ~~Department of Labor~~ Commission representative or a designee of the ~~Commissioner~~ Commission arrives on the scene, except in case of the protection of life or limb as a result of said accident or incident.

SECTION 83. AMENDATORY 40 O.S. 1991, Section 402, as amended by Section 2, Chapter 305, O.S.L. 1992 (40 O.S. Supp. 1996, Section 402), is amended to read as follows:

Section 402. As used in the Oklahoma Occupational Health and Safety Standards Act:

1. "Employer" means the state and all its political subdivisions which has in its employ one or more individuals performing services for it in employment; ~~and~~

2. "Employee" means a person permitted to work by an employer in employment; ~~and~~

3. "Place of employment" means the plant or premises in or about which an employee is permitted to work; ~~and~~

4. ~~"Department" means the Oklahoma Department of Labor; and~~

5. ~~"Commissioner"~~ "Commission" means the ~~Commissioner of Labor Building Trades Commission;~~ ~~and~~

6. ~~5.~~ 5. "Division" means the Health and Safety Education and Training Division; ~~and~~

7. ~~6.~~ 6. "Standard" has the same meaning as, and includes, the words "regulation", "code", and "rule"; ~~and~~

8. ~~7.~~ 7. "National consensus standards" means any occupational safety or health standard adopted under a consensus method by a nationally recognized standards-producing organization; and

9. ~~8.~~ 8. "Employment" includes all services for pay pursuant to a contract of hire except service in agricultural employment.

SECTION 84. AMENDATORY 40 O.S. 1991, Section 403, as last amended by Section 1, Chapter 163, O.S.L. 1994 (40 O.S. Supp. 1996, Section 403), is amended to read as follows:

Section 403. A. Each employer shall furnish to each of his or her employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his or her employees, commensurate with the Oklahoma Occupational Safety and Health and Safety Standards Act of 1970.

B. No person shall discharge, discriminate or take adverse personnel action against any employee because such employee has filed any complaint, or instituted or caused to be instituted any proceeding under or related to ~~this act~~ the Oklahoma Occupational Health and Safety Standards Act, or has testified or is about to testify in any such proceeding, or because of the exercise by such employee on behalf of himself or herself or others of any right affected by ~~this act~~ the Oklahoma Occupational Health and Safety Standards Act.

C. Within forty-eight (48) hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer

of any employees so injured or killed shall report the accident in writing to the Oklahoma City office of the ~~Oklahoma Department of Labor~~ Building Trades Commission, in a manner prescribed by the ~~Department~~ Commission. The ~~Commissioner of Labor~~ Commission may require such additional reports as he deems necessary, including the official death certificate from the Oklahoma State Department of Health.

D. No rule or standard promulgated under ~~this act~~ the Oklahoma Occupational Health and Safety Standards Act shall, or shall be deemed to, establish legal standards of conduct or legal duties, the violation of which standards or duties would constitute negligence or gross negligence in any civil proceeding.

E. Every employer having twenty-five (25) or more full- or part-time employees shall:

1. Designate an employee who shall coordinate all safety programs of the employer;

2. Provide safety classes to each type or class of employee no less than quarterly, except that public schools shall only be required to provide safety classes or instruction to their employees during the school year. Provided further, public school employees who are certified personnel and are in compliance with federal OSHA occupational safety and health standards shall be exempt from such safety classes or instruction and shall not be included in the computation of the number of employees set forth in subsection E of this section for determining the requirement of such safety classes or instruction; and

3. Cooperate with the ~~Department of Labor~~ Commission including allowing any announced inspection of the premises for the purpose of determining compliance with this subsection.

The provisions of this subsection shall not apply to any hospital which is subject to the rules of the U.S. Department of Health and Human Services, Health Care Financing Administration

(HCFA), as set forth in 42 CFR Parts 405, 412, 416, 417, 440, 441, 456, 482 and 489; Medicare and Medicaid Programs; Conditions of Participation for Hospitals, Final Regulations.

SECTION 85. AMENDATORY 40 O.S. 1991, Section 407, is amended to read as follows:

Section 407. A. The ~~Commissioner~~ Building Trades Commission pursuant to the provisions of Sections 301 through 326 of Title 75 of the Oklahoma Statutes may prescribe, adopt, promulgate, amend and rescind health and safety standards, which shall be derived from national consensus standards designed for the prevention of accidents in all places of employment and for the protection of the life, health and safety of employees.

B. Authority to promulgate health and safety standards is limited to that not granted to other state departments or other legally constituted state boards or commissions.

SECTION 86. AMENDATORY 40 O.S. 1991, Section 410, as amended by Section 4, Chapter 305, O.S.L. 1992 (40 O.S. Supp. 1996, Section 410), is amended to read as follows:

Section 410. A. The ~~Commissioner~~ Building Trades Commission shall administer and enforce the provisions of the Oklahoma Occupational Health and Safety Standards Act.

1. It is not intended that the Oklahoma Occupational Health and Safety Standards Act be an issue or be involved in any labor dispute, or be used or asserted to advantage in collective bargaining by employer or employee, or by their respective representatives.

2. The ~~Commissioner~~ Building Trades Commission shall cause to be inspected any place of employment to ensure the presence of a functioning safety and health program which meets the requirements of Title 40 of the Oklahoma Statutes and adopted and referenced standards.

B. Subject to the provisions of subsection A of this section, authorized employees of the ~~Department~~ Commission may enter and inspect places of employment, including premises and buildings under construction, demolition or repair, at all reasonable times, in order to investigate such facts, conditions, practices or matters as deemed appropriate, and to determine if any person is violating any provisions of the Oklahoma Occupational Health and Safety Standards Act or any standard promulgated pursuant to the Oklahoma Occupational Health and Safety Standards Act.

C. Upon receipt by the ~~Department~~ Commission of a signed complaint of violation of any of the provisions of the Oklahoma Occupational Health and Safety Standards Act or of any standard promulgated pursuant to the Oklahoma Occupational Health and Safety Standards Act, an authorized employee shall investigate the alleged violation and inform the complainant of the result of the investigation.

D. If upon inspection or investigation, or whenever the ~~Commissioner~~ Commission determines a violation of the Oklahoma Occupational Health and Safety Standards Act or of any standard, or rule, ~~or regulation~~ promulgated pursuant to the provisions of the Oklahoma Occupational Health and Safety Standards Act has occurred, the ~~Commissioner~~ Commission shall give written notice to the alleged violator specifying the cause of the determination. Such notice shall require that the violations be corrected and specify the terms of such correction or that the alleged violator appear before the ~~Commissioner~~ Commission at a time and place specified in the notice and answer the charges. The notice shall be delivered to the alleged violator in accordance with the provisions of subsection G of this section.

E. The ~~Commissioner~~ Commission or ~~his~~ its designee shall afford the alleged violator an opportunity for a fair hearing in accordance with the provisions of subsection H of this section. On the basis

of the evidence produced at the hearing, the ~~Commissioner~~ Commission shall make findings of fact and conclusions of law and enter an order thereon. The ~~Commissioner~~ Commission shall give written notice of such order to the alleged violator and to such other persons as shall have appeared at the hearing and made written request for notice of the order. The order of the ~~Commissioner~~ Commission shall become final and binding on all parties unless appealed to the district court as provided in Sections 301 through 326 of Title 75 of the Oklahoma Statutes within thirty (30) days after notice has been sent to the parties.

F. Whenever the ~~Commissioner~~ Commission finds that an emergency exists requiring immediate action to protect the public health or welfare pursuant to the provisions of the Oklahoma Occupational Health and Safety Standards Act, the ~~Commissioner~~ Commission may without notice or hearing issue an order stating the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such an order is directed shall comply with said order immediately but on application to the ~~Commissioner~~ Commission shall be afforded a hearing within ten (10) days of receipt of said notice. On the basis of such hearing, the ~~Commissioner~~ Commission shall continue such order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided for in this subsection may appeal to the district court of the county in which the place of employment is located within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on said docket, except criminal cases. If compliance with said emergency order is not immediately taken, the ~~Commissioner~~ Commission or ~~his~~ its duly authorized employee may also request the district attorney of Oklahoma County, or the district attorney in any other district where service can be obtained, to file legal proceedings to enjoin the acts or practices

contained in the emergency order to enforce immediate compliance with said order.

G. Except as otherwise expressly provided by law, any notice, order, or other instrument issued by or pursuant to authority of the ~~Commissioner~~ Commission may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by registered mail directed to the person affected at his last-known post office address as shown by the files or records of the ~~Commissioner~~ Commission. Proof of service shall be made as in the case of service of a summons or by publication in a civil action or may be made by the affidavit of the person who did the mailing. Such proof of service shall be filed in the office of the ~~Commissioner~~ Commission.

Every certificate or affidavit of service made and filed as in this section provided shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

H. The hearings authorized by this section may be conducted by the ~~Commissioner~~ Commission or the ~~Commissioner~~ Commission may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the ~~Commissioner~~ Commission at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided by the provisions of Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

I. The employer to whom a health and safety order is directed shall notify the ~~Department~~ Commission of his or her compliance therewith in a manner specified by the ~~Department~~ Commission.

J. If an employer fails to comply with a health and safety order issued pursuant to this section, the ~~Commissioner~~ Commission may grant an additional time for compliance therewith, modify, alter or dismiss the health and safety order or refer the matter to the Board.

SECTION 87. AMENDATORY 40 O.S. 1991, Section 412, as amended by Section 5, Chapter 305, O.S.L. 1992 (40 O.S. Supp. 1996, Section 412), is amended to read as follows:

Section 412. A. Any person failing to comply with any standard or interfering with, impeding or obstructing in any manner the administration of standards pursuant to the provisions of the Oklahoma Occupational Health and Safety Standards Act, upon conviction, shall be guilty of a misdemeanor.

B. Any person who violates any of the provisions of the Oklahoma Occupational Health and Safety Standards Act, upon conviction, shall be guilty of a misdemeanor and in addition thereto may be enjoined from continuing such violation. Each day upon which such violation occurs shall constitute a separate violation.

C. The Attorney General, on the request of the ~~Commissioner~~ Commission, shall bring an action against any person violating any of the provisions of the Oklahoma Occupational Health and Safety Standards Act or violating any order or determination of the ~~Commissioner~~ Commission promulgated pursuant to the Oklahoma Occupational Health and Safety Standards Act.

SECTION 88. AMENDATORY 40 O.S. 1991, Section 414, as amended by Section 6, Chapter 305, O.S.L. 1992 (40 O.S. Supp. 1996, Section 414), is amended to read as follows:

Section 414. A. The ~~Commissioner~~ Commission shall not assert enforcement jurisdiction pursuant to Section 401 et seq. of this title over any occupational safety or health issue with respect to which a federal standard has been issued pursuant to Section (6) of Public Law 91-596, also known as the Williams-Steiger Occupational Safety and Health Act of 1970.

B. The ~~Commissioner~~ Commission shall provide competent occupational safety and health consultation, education and training for private and public employers in coordination with the State

Department of Vocational and Technical Education and other available community resources.

C. Such consultation shall be provided on a priority basis to those private employers which, based on their certification, have occupational injury and illness rates exceeding the national average incidence rate for private employers of similar character.

D. No such consultation shall be provided except upon written request by the private employer.

E. Except when a condition of "imminent danger" exists, no reports, communication, or other information regarding safety and health hazards discovered by the ~~Commissioner~~ Commission, pursuant to the administration of Section 401 et seq. of this title, or ~~his~~ its representative in the workplaces of private employers, shall be reported to any enforcement authority whatsoever without the prior approval of the employer.

F. The ~~Commissioner~~ Commission may, in providing services to private employers upon request, refer private employers for participation in other safety and health consultation, education and training programs including but not limited to the programs authorized by Section 7(C)1 of Public Law 91-596.

G. The ~~Commissioner~~ Commission may, upon request, refer qualifying private employers to programs operated by the U.S. Department of Labor for recognition or for exemption from inspection by the U.S. Department of Labor Occupational Safety and Health Administration.

H. The ~~Commissioner~~ Commission shall certify successful participation in the occupational safety and health consultation, education and training program pursuant to the provisions of Section 924.2 of Title 36 of the Oklahoma Statutes.

I. The ~~Commissioner~~ Commission may promulgate such rules ~~and regulations~~ as may be necessary to implement the provisions of this section.

J. As used in this section:

1. "Private employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any state or political subdivision of a state; and

2. "Imminent danger" means any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death, or serious physical harm immediately.

SECTION 89. AMENDATORY 40 O.S. 1991, Section 416, is amended to read as follows:

Section 416. The ~~Commissioner~~ Commission shall establish within the ~~Department~~ Commission an experienced and competent staff to discharge the duties and responsibilities provided in Sections ~~13~~ 413 through ~~17~~ 417 of this ~~act~~ title.

SECTION 90. AMENDATORY 40 O.S. 1991, Section 417, as amended by Section 7, Chapter 305, O.S.L. 1992 (40 O.S. Supp. 1996, Section 417), is amended to read as follows:

Section 417. ~~(1)~~ A. To assure the availability of accurate, timely statistical data concerning occupational health and safety in Oklahoma, all employers as defined in Section 402 of this title shall submit reports, on a form and in a manner prescribed by the ~~Commissioner of Labor~~ Commission. Reports shall include only those injuries arising from employment within the State of Oklahoma.

~~(2)~~ B. The ~~Department~~ Commission may exempt from this requirement those classes of employers for whose operations adequate records of safety experience are already available or the ~~Department~~ Commission may exempt any employer from this requirement when, in the judgment of the ~~Commissioner~~ Commission, the submission of annual reports by such employer is not necessary to carry out the purposes of ~~this act~~ the Oklahoma Occupational Health and Safety Standards Act and would be an undue burden upon such employer

because of size, the nature of its operation or other special circumstances.

~~(3)~~ C. The ~~Department~~ Commission shall publish each year a detailed summary of the statistical data received from employers. A copy of such summary shall be available on request to each reporting establishment required to file reports of disabling work injuries and shall be made available to anyone having a legitimate interest in the subject matter of the report.

~~(4)~~ D. Upon publication of the annual summary, the ~~Commissioner of Labor~~ Commission shall provide to the State Insurance Fund Commissioner, upon request, the reports of each employer subject to the provisions of this section, and any derivation, tables or analysis generated by the ~~Department of Labor~~ Commission in the preparation of such summary.

SECTION 91. AMENDATORY 40 O.S. 1991, Section 417.1, is amended to read as follows:

Section 417.1 There is hereby created in the State Treasury a fund for the ~~Department of Labor~~ Building Trades Commission to be designated the "Special Occupational Health and Safety Fund". The fund shall be subject to legislative appropriation and shall consist of monies collected pursuant to Section 418 of ~~Title 40 of the Oklahoma Statutes~~ this title.

SECTION 92. AMENDATORY 40 O.S. 1991, Section 418, is amended to read as follows:

Section 418. ~~(1)~~ A. Each insurance carrier writing workers' compensation insurance in this state, the State Insurance Fund and each self-insured employer authorized to make workers' compensation payments directly to employees shall pay to the Oklahoma Tax Commission up to a sum equal to three-fourths of one percent (3/4 of 1%) of the total workers' compensation losses, excluding medical payments and temporary total disability compensation, based on the records of the Workers' Compensation Court, paid out or payable

during each quarter-year period of the calendar year, said percentage to be fixed by the ~~Commissioner~~ Commission and based upon ~~his~~ its certification that the proceeds thereof are reasonable and necessary to accomplish the objectives of Section 401 et seq. of this title. Such payments to the Oklahoma Tax Commission shall be made not later than the fifteenth day of the month following the close of the quarter-year in which compensation is paid or becomes payable. Payments made, under the provisions of this section, shall be considered losses for the purpose of computing workers' compensation rates.

~~(2)~~ B. The refund provisions of Title 68 of the Oklahoma Statutes, Sections 227 through 229, shall be applicable to any payments made under the provisions of ~~this act~~ the Oklahoma Occupational Health and Safety Standards Act.

~~(3)~~ C. In making and entering awards for compensation, the Workers' Compensation Court shall determine and fix the amounts that shall be paid to the Oklahoma Tax Commission under the provisions of this section. The total amount so determined and fixed shall have the same force and effect as an award of the Workers' Compensation Court for compensation and all provisions relating to the collection of awards of said court shall apply to such judgments.

~~(4)~~ D. It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for herein, and said Commission is hereby given authority to bring an action for the recovery of any delinquent and unpaid payment or payments. In the alternative, the Oklahoma Tax Commission may enforce payments by proceeding in accordance with the provisions of Section 42 of Title 85 of the Oklahoma Statutes.

~~(5)~~ E. The Oklahoma Tax Commission shall, monthly, as the same are collected, pay to the State Treasurer of this state, to the credit of the Special Occupational Health and Safety Fund, all monies collected under the provisions of this section. Monies shall

be paid out of said Fund exclusively for the operation and administration of Section 401 et seq. of this title and for other necessary expenses of the ~~Department of Labor~~ Commission pursuant to appropriations by the Oklahoma Legislature.

~~(6)~~ F. The ~~Commissioner~~ Commission shall determine the needs of the program, considering statistical data on disabling work injuries, depth and scope of the program as evidenced by the needs and demands of employers and the present, planned and anticipated budgetary needs of the program, and submit same to the Legislature.

SECTION 93. AMENDATORY Section 21, Chapter 349, O.S.L. 1993, as amended by Section 2, Chapter 163, O.S.L. 1994 (40 O.S. Supp. 1996, Section 418.2), is amended to read as follows:

Section 418.2 A. There is hereby created the Worker Safety Policy Council to study and formulate reforms for worker safety that could result in lower work-related injuries and result in lower workers' compensation costs for business.

B. The Beginning January 1, 1998, as the terms of members serving on the Council expire, the Worker Safety Policy Council shall be comprised of fourteen (14) members as follows:

1. ~~The Commissioner of Labor~~ A member of the Building Trades Commission, elected from the membership of the Commission, or ~~his~~ designee, who shall act as chairman for the Council;

2. The Administrator of the Workers' Compensation Court or ~~his~~ designee;

3. The Commissioner of the State Insurance Fund or ~~his~~ designee;

4. The Insurance Commissioner or ~~his~~ designee;

5. The Director of the Department of Commerce or ~~his~~ designee;

6. A representative from the Oklahoma Safety Council who shall be appointed by the ~~Commissioner of Labor~~ Commission and shall serve at the pleasure of the ~~Commissioner~~ Commission;

7. A representative from an American society or organization of safety engineers who shall be appointed by the ~~Commissioner of Labor Commission~~ and shall serve at the pleasure of the ~~Commissioner Commission~~;

8. A representative from an American industrial hygiene association who shall be appointed by the ~~Commissioner of Labor Commission~~ and shall serve at the pleasure of the ~~Commissioner Commission~~;

9. A representative from an Oklahoma labor union who shall be appointed by the ~~Commissioner of Labor Commission~~ and shall serve at the pleasure of the ~~Commissioner Commission~~;

10. A representative from the Oklahoma State Chamber of Commerce and Industry who shall be appointed by the ~~Commissioner of Labor Commission~~ and shall serve at the pleasure of the ~~Commissioner Commission~~;

11. A representative from an organization of the private sector who shall be appointed by the ~~Commissioner of Labor Commission~~ and shall serve at the pleasure of the ~~Commissioner Commission~~;

12. A representative from an organization of public employees who shall be appointed by the ~~Commissioner of Labor Commission~~ and shall serve at the pleasure of the ~~Commissioner Commission~~;

13. A representative from the Oklahoma Municipal League who shall be appointed by the ~~Commissioner of Labor Commission~~ and shall serve at the pleasure of the ~~Commissioner Commission~~; and

14. A representative of the public schools who shall be appointed by the ~~Commissioner of Labor Commission~~ and shall serve at the pleasure of the ~~Commissioner Commission~~.

Provided, any member serving on the Council on January 1, 1998, may continue to serve on the Council until a replacement is appointed by the Commission.

C. Vacancies on the Council shall be filled by the ~~Commissioner of Labor~~ Commission. A simple majority of the Council shall constitute a quorum.

D. The ~~Department of Labor~~ Commission shall provide such office supplies and personnel as may be necessary to assist the Council.

E. Members of the Council shall receive no compensation for serving on the Council, but shall be reimbursed by the ~~Department of Labor~~ Commission for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

F. The Council shall hold at least two regular meetings each calendar year at a place and time to be fixed by the Council. The Council shall make annual recommendations for legislative and policy changes to public and private employers to reduce worker injuries and the resulting costs associated with those injuries. Commencing September 1, 1994, and annually thereafter, the Council shall submit a report of its recommendations to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 94. AMENDATORY 40 O.S. 1991, Section 424, is amended to read as follows:

Section 424. The provisions as to qualifications of persons in positions or jobs created or provided for under provisions of Sections 401 through 423 of ~~Title 40 of the Oklahoma Statutes~~ this title, the Oklahoma Occupational Health and Safety Standards Act of 1970, shall not apply to officers or employees of the Department of Labor, it being intended that their qualifications for such positions or jobs be determined by the Commissioner of Labor.

SECTION 95. AMENDATORY Section 12, Chapter 1, O.S.L. 1994, 2nd Extraordinary Session (40 O.S. Supp. 1996, Section 425), is amended to read as follows:

Section 425. A. The ~~Commissioner of Labor~~ Building Trades Commission shall for each calendar year approve a list of the most hazardous industries in the state by Standard Industrial Classification Code based on the most current data available from the Federal Occupational Health and Safety Administration. In computing level of hazard the ~~Commissioner of Labor~~ Commission shall include the following factors:

1. Total injuries;
2. Fatalities;
3. Number of fatal incidents;
4. High experience modifiers; and
5. Other factors as determined by the ~~Commissioner~~ Commission

to indicate a high hazard industry.

B. The ~~Commissioner of Labor~~ Commission shall approve the annual list by November 1 of the prior year. The list shall be transmitted to the Insurance Commissioner for distribution to insurance companies providing workers' compensation insurance or an equivalent product in this state and to the State Insurance Fund.

SECTION 96. AMENDATORY 40 O.S. 1991, Section 451, as amended by Section 265, Chapter 145, O.S.L. 1993 (40 O.S. Supp. 1996, Section 451), is amended to read as follows:

Section 451. As used in the Oklahoma Asbestos Control Act:

1. "Friable asbestos material" means any material that contains asbestos of one percent (1%) or more that can be crumbled, pulverized or reduced to powder by hand pressure;
2. "Friable asbestos material abatement" means the removal, encapsulation or enclosure of friable asbestos containing material;
3. "Friable asbestos material encapsulation" means the application of a bonding agent called a sealant, which penetrates and hardens the asbestos material or covers the surface of the material with a protective coating, thus preventing fiber release from the asbestos material;

4. "Friable asbestos material removal" means the actual physical removal of any friable asbestos containing material from a facility, when the asbestos is either attached to or detached from any device or structure;

5. "Contractor" means any public or private entity that engages in friable asbestos containing material abatement in any facility in this state except private residences or apartment houses of less than six family units;

6. ~~"Commissioner"~~ "Commission" means the ~~Commissioner of Labor Building Trades Commission~~.

SECTION 97. AMENDATORY 40 O.S. 1991, Section 452, as amended by Section 267, Chapter 145, O.S.L. 1993 (40 O.S. Supp. 1996, Section 452), is amended to read as follows:

Section 452. A. No contractor shall abate any friable material containing asbestos without having first obtained a license to do so from the ~~Commissioner of Labor Building Trades Commission~~. The ~~Commissioner~~ Commission shall issue an asbestos abatement license to a qualified contractor upon proper application, as determined by the ~~Commissioner~~ Commission. The annual fee for such license shall be Five Hundred Dollars (\$500.00). A nonrefundable initial application fee of One Thousand Dollars (\$1,000.00) shall be charged. The ~~Commissioner~~ Commission may deny a license to applicants whose past abatement performance for abatement of friable asbestos does not comply with federal and other states' requirements. A minimum waiting period of one hundred twenty (120) days will be required before issuance of a license to permit the ~~Commissioner~~ Commission to perform a work performance investigation of the applicant.

The annual fee for examining and certifying workers employed by a contractor for asbestos abatement shall be Twenty-five Dollars (\$25.00). Uncertified workers shall not be used on any asbestos abatement projects.

B. The state and political subdivisions thereof, counties and political subdivisions thereof and municipalities and political subdivisions thereof, and their supervisors and employees, shall be exempt from any certification fees required by this section when such entities act as a contractor. Any contractor not performing abatement work which falls under the jurisdiction of the ~~Commissioner~~ Commission during the period of the issued license shall be considered a new applicant for purposes of licensing and training.

C. A fee of Six Hundred Dollars (\$600.00) shall be paid by contractors to the ~~Department of Labor~~ Commission, to be deposited in the General Revenue Fund, for each separate containment area of any asbestos abatement project. There shall be a minimum of three inspections of each containment area. For projects which are not a part of a definite containment area, or are performed with multiple glovebags or miniature containments, a fee of Two Hundred Dollars (\$200.00), plus Five Dollars (\$5.00) per such glovebag or miniature containment, shall be made.

Asbestos abatement projects performed on properties owned by the state or any political subdivision thereof shall be exempt from this fee.

D. Any asbestos abatement contractor transporting asbestos-containing material shall be required to provide to the ~~Commissioner~~ Commission a Certificate of Insurance by a carrier licensed to do business in the State of Oklahoma demonstrating a minimum of One Million Dollars (\$1,000,000.00) of environmental impairment insurance.

E. No state agency or political subdivision thereof, county or political subdivision thereof, or municipalities or political subdivisions thereof shall solicit or receive any estimate or bid for abatement of asbestos from any person or party who is not a licensed asbestos abatement contractor.

SECTION 98. AMENDATORY 40 O.S. 1991, Section 453, as amended by Section 266, Chapter 145, O.S.L. 1993 (40 O.S. Supp. 1996, Section 453), is amended to read as follows:

Section 453. A. The ~~Commissioner of Labor~~ Building Trades Commission shall have the power and duty to:

1. Develop and promulgate rules for the abatement of friable asbestos materials which shall be consistent with general industry standards;
2. Instruct and examine contractors, employees and supervisors on the safe abatement of friable asbestos materials;
3. Hire sufficient personnel to carry out the provisions of ~~this act~~ the Oklahoma Asbestos Control Act consistent with funds allocated and full-time-equivalent employees authorized;
4. Inspect all asbestos abatement projects, to issue, modify and revoke orders; to issue cease and desist orders; and to require mandamus and seek injunctive relief for enforcement of orders;
5. Inspect public buildings for the presence of friable asbestos materials;
6. Collect samples to determine the presence and condition of friable asbestos materials in public buildings;
7. Recommend appropriate abatement measures for friable asbestos materials in public buildings;
8. Make and enter into all contracts and agreements necessary or incidental to the performance of the ~~Department's~~ Commission's duties and the execution of its powers under the Oklahoma Asbestos Control Act including, but not limited to, contracts with the United States, other states, agencies, and political subdivisions of this state;
9. Accept grants from the United States government, its agencies and instrumentalities, and any other source. To these ends, the ~~Department~~ Commission shall have the power to comply with

such conditions and execute such agreements as may be necessary and desirable;

10. Supervise, administer, and enforce the provisions of the Oklahoma Asbestos Control Act rules promulgated thereunder;

11. Hold hearings;

12. Institute legal proceedings, including suits for injunctions for the enforcement of ~~his~~ its orders, rules, and for the enforcement of penalties;

13. Investigate any violations of the Oklahoma Asbestos Control Act; and

14. Exercise all incidental powers which are necessary to carry out the provisions of the Oklahoma Asbestos Control Act.

B. The violations of any rule shall be grounds for the ~~Commissioner~~ Commission to evoke any penalties set forth in Section 456 of this title.

SECTION 99. AMENDATORY 40 O.S. 1991, Section 454, as amended by Section 270, Chapter 145, O.S.L. 1993 (40 O.S. Supp. 1996, Section 454), is amended to read as follows:

Section 454. If the ~~Commissioner~~ Building Trades Commission finds that a contractor has violated any of the provisions of the Oklahoma Asbestos Control Act or any rule promulgated pursuant to the Oklahoma Asbestos Control Act, the ~~Commissioner~~ Commission may suspend, revoke or refuse to issue the license of the contractor after a hearing held for such purpose. Such hearing shall be held within thirty (30) days after written notice has been sent to the contractor by certified mail. If, after such hearing, the ~~Commissioner~~ Commission finds cause to suspend, revoke or refuse to issue a license, the contractor shall be given written notice of the decision of the ~~Commissioner~~ Commission and the basis therefor. The decision shall become final at the end of thirty (30) days from the date of such notice, unless appealed to the district court. All

appeals from the ~~Commissioner's~~ Commission's order shall be taken in the manner prescribed by law.

SECTION 100. AMENDATORY 40 O.S. 1991, Section 455, as amended by Section 268, Chapter 145, O.S.L. 1993 (40 O.S. Supp. 1996, Section 455), is amended to read as follows:

Section 455. The ~~Commissioner of Labor~~ Building Trades Commission or an authorized representative shall have the power and authority to enter at reasonable times upon any property for the purpose of inspecting and investigating contractors relating to the abatement of any friable material containing asbestos pursuant to the Oklahoma Asbestos Control Act.

SECTION 101. AMENDATORY 40 O.S. 1991, Section 456, as amended by Section 269, Chapter 145, O.S.L. 1993 (40 O.S. Supp. 1996, Section 456), is amended to read as follows:

Section 456. A. In addition to any administrative or civil penalty, any person who violates any of the provisions of the Oklahoma Asbestos Control Act or who violates any rule or order promulgated pursuant thereto shall be guilty of a misdemeanor and may be enjoined from continuing such action. Upon conviction thereof, said person shall be punished by imprisonment in the county jail for not more than six (6) months and by a fine of not less than One Hundred Dollars (\$100.00). Each day's violations shall constitute a separate violation.

B. The Attorney General shall, upon request of the ~~Commissioner~~ Commission, bring an action for injunction against any person violating any provision of the Oklahoma Asbestos Control Act or violating any order or determination of the ~~Commissioner~~ Commission. In any action for injunction, any finding of the ~~Commissioner~~ Commission, after notice, shall be prima facie evidence of the facts found therein.

C. A district attorney, upon request of the ~~Commissioner~~
Commission, shall prosecute any violation of the Oklahoma Asbestos
Control Act.

SECTION 102. NONCODIFICATION The provisions of Section 5
of this act shall not be codified in the Oklahoma Statutes.

SECTION 103. Sections 1 through 5 of this act shall become
effective July 1, 1997.

SECTION 104. Sections 6 through 101 of this act shall become
effective January 1, 1998.

SECTION 105. It being immediately necessary for the
preservation of the public peace, health and safety, an emergency is
hereby declared to exist, by reason whereof this act shall take
effect and be in full force from and after its passage and approval.

46-1-7258

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