

SHORT TITLE: Welding; requiring welders to be qualified, tested, and certified by Commissioner of Labor prior to performing certain work; providing for inspections and administrative fine; repealer; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 25

By: Long

AS INTRODUCED

An Act relating to welding; providing short title; construing act; stating intent and application of act; defining terms; providing for licensure and certification of certain persons and facilities; providing for promulgation of rules and timeframe during which certain rules become mandatory; stating jurisdiction over interpretation of rules; stating powers and duties of Commissioner of Labor; requiring welders to be qualified, tested, and certified by Commissioner prior to performing certain work; requiring certain persons ensure that welder is certified and notify Department of Labor of welded fabrication or repair prior to performance of work; making violators subject to certain penalties; prohibiting interference with performance of duties by inspector or representative of Commissioner; authorizing Commissioner to assess administrative fine and issue cease and desist orders and stating conditions related thereto; providing for hearing and appeal; providing for criminal penalty; stating duties of Bureau of Boiler Inspection and its inspectors; granting Department of Labor total jurisdiction over certain accidents and incidents and requiring Department be notified and area secured immediately; requiring weld-test facilities

to submit certain application and meet certain requirements; deeming weld-test facility license suspended under certain circumstances; prohibiting certain facilities from qualifying own students; requiring certain facilities to be available to general public for certain purpose; deeming licensing nontransferable; requiring welding inspector to be cognizant of certain requirements and rules; stating condition for suspending certain license; stating minimum requirements for application for license as welding inspector; providing for examination; requiring certain actions of welding inspector; prohibiting certain compensation; stating terms for validity of certificate of competency; stating conditions for suspension, revocation, and nonrenewal of certain license or certificate; providing for reinstatement under certain conditions; requiring reapplication if certain action is not taken; stating fees, providing for certain exemption, and requiring revenues be deposited in General Revenue Fund; repealing 59 O.S. 1991, Sections 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640 and 1641, which relate to the welding profession; providing for codification; and providing an effective date.

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 1651 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Pipe Welding Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1652 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this act are intended to supplement any requirements of an employer, code, standard, or specification wherein welding is to be performed on piping and piping components and shall not be construed as a preemption of the employer's responsibility for the work or for the performance of such work.

B. The provisions of this act shall not apply to any welding process performed on any boiler or pressure vessel covered under the Oklahoma Boiler and Pressure Vessel Safety Act of 1982, Sections 141.1 through 141.18 of Title 40 of the Oklahoma Statutes, and the rules promulgated pursuant thereto.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1653 of Title 59, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall apply to:

1. Gas and arc welding of pipe, piping, and piping components used in the compression, pumping, and transmission of crude petroleum, petroleum products, fuel gases, and distribution systems; and

2. Any welded pipe, piping, or any component attached by welding to any pipe or piping wherein steam, or lethal or flammable substance, is transported under pressure from one location to another location.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1654 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Authorized inspection agency" means one of the following:
 - a. a department or division established by a jurisdiction which has adopted and does administer one or more sections of the ASME Code, and whose inspectors hold valid commissions issued by the National Board of Boiler and Pressure Vessel Inspectors,
 - b. an insurance company which has been licensed or registered by the appropriate authority of a state of the United States or a province of Canada to write boiler and pressure vessel insurance or provides inspection service of boilers and pressure vessels in such state or province, or
 - c. an owner/user inspection agency licensed as such by the Commissioner of Labor;
2. "Chief boiler inspector" means an inspector, appointed by the Commissioner of Labor, who has at the time of appointment a valid commission with a "B" endorsement issued in accordance with the constitution and bylaws of the National Board of Boiler and Pressure Vessel Inspectors;
3. "Commissioner" means the Commissioner of Labor;
4. "Contractor" or "subcontractor" means any person, firm, or corporation which contracts, or is party to a contract, to perform work;
5. "Deputy inspector" means an inspector who is employed by the chief boiler inspector, subject to the approval of the Commissioner of Labor, and who is responsible to the chief boiler inspector, and has 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;

6. "Flammable substance" means a substance capable of being easily ignited;

7. "Lethal substance" means any substance likely to cause or capable of causing death when breathed or touched;

8. "Owner/user inspector" means an inspector who has been issued a certificate of competency by the Commissioner of Labor to inspect boilers, pressure vessels, or piping owned or operated by their respective company;

9. "Owner/user weld-test facility" means a company or facility that is licensed by the Commissioner of Labor to test the proficiency of its employees in welding as required by this act;

10. "Petroleum" means crude oil, condensate, natural gasoline, natural gas liquids, and liquified petroleum gas;

11. "Petroleum products" means flammable, toxic, or corrosive products obtained from the distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks, or other miscellaneous hydrocarbon compounds;

12. "Pipe", "piping", or "piping components" means a tube, usually cylindrical, through which a crude petroleum, petroleum product, fuel gas, steam, or other lethal or flammable substance is transported under pressure from one location to another location;

13. "Pipeline" or "pipeline system" means all parts of a pipeline facility through which petroleum, a petroleum product, fuel gas, steam, or other lethal or flammable substance moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations, and fabricated assemblies therein;

14. "Special inspector" means an inspector who has been issued a certificate of competency by the Commissioner of Labor to inspect

boilers, pressure vessels, and piping that have been insured by their respective authorized inspection agency;

15. "Steam" means vapor into which water is converted when heated to the boiling point, including water vapor used to supply energy for heating, cooking, mechanical work, and other activities;

16. "Welder" means a person who performs a manual or semiautomatic welding process;

17. "Welding inspector" means a person who witnesses tests performed by welders and verifies that the work inspected conforms to the requirements of the applicable codes and standards;

18. "Weldments" means a welded assembly in which the bulk of the component parts are prepared and joined by any combination of the cutting and welding process; and

19. "Weld-test facility" means a qualified testing facility, approved and licensed by the Commissioner of Labor, which provides the necessary facilities, equipment, and personnel to perform the required testing of welders for certification by the Commissioner of Labor.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1655 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner of Labor may issue a license to any facility requesting to be licensed as a weld-test facility for the purpose of testing welders, provided the facility meets the requirements set forth by the Commissioner pursuant to the provisions of this act.

B. The Commissioner may issue a welding inspector license to any applicant for the purpose of witnessing tests performed by welders, provided the applicant is continuously employed by a licensed weld-test facility and meets the requirements set forth by the Commissioner pursuant to the provisions of this act.

C. The Commissioner may issue an owner/user inspector license to any applicant for the purpose of witnessing tests performed by welders, provided the applicant is continuously employed by a licensed owner/user weld-test facility.

D. The Commissioner of Labor may issue a certificate to a person to perform weldments who has qualified under the provisions of this act, provided the welder has been qualified and tested at a licensed weld-test facility as described in this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1656 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner of Labor shall promulgate rules for the safe construction, installation, repair, maintenance, and inspection of pipe, piping, and piping components that have been constructed, installed, or repaired by welding, and for the safety of life, limb, and property related thereto, and shall have jurisdiction over the interpretation and application of the requirements as provided for in the rules.

B. The Commissioner shall promulgate rules to provide for retesting of welders.

C. Any rules adopted pursuant to this act, and any amendments thereto, shall be promulgated by the Commissioner of Labor in accordance with the Administrative Procedures Act, except that the rules applying to the construction of new piping or piping components shall not become mandatory until six (6) months after their promulgation by the Commissioner.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1657 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Commissioner of Labor shall have the following duties in addition to any other duties prescribed by law:

1. To examine, certify, and renew the certification of applicants qualified to perform weldments;
2. To designate, approve, and certify persons qualified to administer welding tests;
3. To designate, approve, and license testing facilities or other establishments qualified for testing welders and weldments; and
4. To keep a record of all such proceedings and submit annual reports of the same to the Governor.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1658 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. All welders, prior to performing weldments on any pipe, piping or piping components which are subject to the provisions of this act shall be qualified, tested, and certified to perform such work by the Commissioner of Labor, in accordance with the provisions of this act.

2. The owner, contractor, or subcontractor to whom a contract is awarded shall:

- a. ensure that any welder who performs welding on any pipe, piping or piping components and which are covered by this act is certified by the Commissioner of Labor prior to performing any weldments, and
- b. notify the Department of Labor of any welded fabrication or repair to any pipe, piping or piping components covered by this act prior to the performance of such work.

B. 1. Any welder who does not comply with the provisions of this act and any officer, agent, or representative owner, contractor, or subcontractor who does not comply with the provisions of this act shall be subject to the penalties set forth in this act.

2. No person, firm, or corporation, or agent thereof, shall in any manner interfere with the performance of the duties of any inspector or representative of the Commissioner of Labor for the implementation of this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1659 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In addition to any other penalty prescribed by law, any welder, owner, contractor, or subcontractor who is in violation of this act shall be liable for an administrative fine, to be assessed by the Commissioner of Labor, of not more than One Thousand Dollars (\$1,000.00) for each offense. The maximum administrative fine shall not exceed Ten Thousand Dollars (\$10,000.00) for all related violations. All administrative fines collected pursuant to this section shall be deposited in the Department of Labor Revolving Fund created pursuant to Section 141.19 of Title 40 of the Oklahoma Statutes, and shall be used to administer the provisions of this act.

B. After a violator is cited for two unrelated offenses of failure to comply with the provisions of this act, the Commissioner of Labor shall have the authority to issue cease and desist orders, in accordance with the rules of the Department of Labor, against the violator until such time as compliance with the act is met. Any order to cease and desist issued by the Commissioner may be enforced in district court. The district court may issue the Commissioner an injunction without bond, for the purpose of enforcing this section.

C. The Commissioner of Labor shall assess and collect administrative fines incurred under subsection A of this section and, at the Commissioner's discretion, may remit, mitigate, or negotiate the fines. In determining the fine to be assessed, or the amount agreed upon in any negotiation, consideration shall be given to the appropriateness of the fine in light of the gravity of the

violation and the extent to which the person charged has attempted to remedy the consequences of the violation. Individual proceedings shall be conducted pursuant to the provisions of Section 9 of this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1660 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of determining if an administrative fine should be assessed, a summary hearing shall be conducted by a hearing officer designated by the Commissioner of Labor. The hearing officer shall determine from all of the evidence submitted by the Department of Labor and the person alleged to be in violation of this act a fair and equitable resolution of the violation, taking into consideration the mitigating circumstances as required by Section 8 of this act. The hearing officer shall assess, upon the examination of the evidentiary record, a fine commensurate with the violation so adjudged. A person alleged to be in violation of this act may provide additional mitigating circumstances or evidence to the hearing officer within ten (10) days of the assessment and a reevaluation of the fine shall be conducted. Unless a formal hearing is requested pursuant to the provisions of subsection B of this section, the fine shall become final within thirty (30) days of assessment. Upon becoming final, the fine shall be regarded as any other money judgment and may be pursued for collection as prescribed by law for any other such remedy.

B. The decision of the hearing officer may be appealed to the Commissioner of Labor by filing, within thirty (30) days of the date of assessment, a written request for a formal hearing. The hearing shall be conducted in accordance with the provisions of the Administrative Procedures Act, Section 308a et seq. of Title 75 of the Oklahoma Statutes. A final order from the hearing may be appealed to the district court in the county in which the violation

occurred pursuant to the provisions of the Administrative Procedures Act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1661 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any person, firm, or corporation, or agent thereof, who violates any provision of this act shall be guilty of a misdemeanor and, upon conviction, shall be punished by payment of a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) or by imprisonment in the county jail for not less than thirty (30) days nor more than sixty (60) days, or by both such fine and imprisonment.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1662 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Bureau of Boiler Inspection, under the direction of the Chief Boiler Inspector, who shall be responsible to the Commissioner of Labor or an authorized representative, and deputy inspectors under the supervision of the Chief Boiler Inspector shall:

1. Take action necessary for the enforcement of this act and any rules promulgated pursuant thereto;

2. Keep a complete record of the name and address of each licensed weld-test facility, certified weld-test inspector, and certified welder to which this act applies;

3. Issue necessary documentation attesting to the certification of any applicant who has met the requirements of this act and any rules promulgated pursuant thereto;

4. Make available, upon request, copies of the rules promulgated by the Commissioner of Labor;

5. Assess an administrative fine pursuant to Sections 8 and 9 of this act, on any person, firm, or corporation who is found to be in violation of any provision of this act or rules promulgated pursuant thereto; and

6. Cause the prosecution of violators of the provisions of this act.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1663 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Department of Labor has total jurisdiction over the investigation or inquiry into accidents and incidents arising within the definitions of this act.

B. All owners, users, operators and contractors shall immediately notify the Department of Labor and secure the total accident or incident area by whatever means is practical until such time as the Department of Labor representative or a designee of the Commissioner of Labor arrives on the scene, except in case of the protection of life or limb as a result of the accident or incident.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1664 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. All persons, firms or corporations requesting a license as a weld-test facility shall submit an application to the Commissioner of Labor on forms approved by the Commissioner and shall as a minimum:

1. Have the necessary facilities and testing equipment, and make the facilities and testing equipment available for inspection by a designee of the Commissioner, prior to the granting of a license;

2. Submit to a biannual inspection as required by the Commissioner, or at any other time during normal working hours, when deemed necessary by the Commissioner;

3. Employ only inspectors who have been licensed by the Commissioner of Labor to administer welding tests for the purpose of certifying welders; and

4. Test all welders who perform weldments covered by the provisions of this act and submit a copy of the welders' test reports to the Commissioner for review or certification.

B. Upon the termination of employment of all certified welding inspectors at a weld-test facility, the weld-test facility license shall be deemed temporarily suspended until such time as the Commissioner certifies another welding inspector for the facility.

C. Any weld-test facility licensed by the Commissioner of Labor wherein welders are instructed or undergoing welding training is prohibited from certifying the qualifications of its own student welders connected with the school. Welder trainees shall be tested by a testing facility independent of the school wherein the students are trained.

D. Any weld-test facility, except an owner/user facility licensed by the Commissioner, shall make its facilities available to the general public as a testing lab for qualifying welders.

E. A weld-test facility license is nontransferable.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1665 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. In order to safeguard the public health and safety and to maintain integrity and high standards of skill, practice, and conduct in the occupation of welding inspection, a licensed welding inspector shall be cognizant of the requirements of this act and rules promulgated pursuant thereto.

2. Any unauthorized practice of a welding inspector is subject to review by the Commissioner of Labor and may, at the Commissioner's discretion, result in suspension or revocation of the welding inspector's license.

B. Any applicant requesting a license as a welding inspector shall, as a minimum:

1. Have a current American Welding Society Welding Inspectors Certification;

2. Have a minimum of seven (7) years of the last ten (10) years of verifiable documentation of experience in the weld-inspection field; or

3. Have current employment documentation as an owner/user welding inspector or owner/user inspector.

C. The Commissioner of Labor is authorized to require by rule an examination prior to the issuance of the inspector's license.

D. A welding inspector shall:

1. Be available and physically witness the testing of all procedures of welders requesting authorization to perform welding covered by the provisions of this act; and

2. Not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to in writing by all interested parties or their authorized agents.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1666 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Special inspectors and owner/user inspectors shall receive no salary or compensation for expenses from this state.

B. A certificate of competency as a special inspector or owner/user inspector shall be valid only as long as such persons are employed full time as inspectors by their respective agency.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1667 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner of Labor shall have the power to suspend or revoke the license or certification of any welder, welding inspector, or weld-test facility for the nonpayment of the fees set

forth in Section 18 of this act that have not been paid in full within sixty (60) calendar days after the expiration date.

B. The Commissioner shall have the power to suspend, revoke, or not renew the license or certification of any welder, welding inspector, or weld-test facility which willfully violates the provisions of this act and rules promulgated pursuant thereto.

C. The Commissioner shall reinstate the license or certification of any license or certificate holder whose license or certificate has been suspended or revoked, upon compliance with the provisions of this act and rules promulgated pursuant thereto.

D. Any license or certificate which has expired may be reinstated upon payment of an additional fee equal to the appropriate fee set forth in Section 18 of this act if such additional fee is paid in full prior to sixty (60) calendar days after the expiration date.

E. If after the sixty-day period the additional fee set forth in subsection D of this section has not been paid, the license or certificate shall be deemed invalid. A new license or certificate may be issued only upon reapplication with the Commissioner, examination, and certification as required by this act.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1668 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The schedule of fees is as follows:

1. Owner/User Weld-test Facility \$300.00
2. Weld-test Facility \$300.00
3. Welding Inspector \$150.00
4. Welder (one year) \$ 30.00

B. A welder, at his or her discretion, may be issued a certification card valid for a period of two (2) years for a reduced fee in the amount of Fifty Dollars (\$50.00).

C. All institutions owned or operated by this state or by any county, municipality, or school district, or the agencies thereof, are exempt from the payment of any fees provided for in this act.

D. All revenues collected pursuant to this section shall be paid by the Department of Labor to the State Treasurer and placed to the credit of the General Revenue Fund of this state.

SECTION 19. REPEALER 59 O.S. 1991, Sections 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640 and 1641, are hereby repealed.

SECTION 20. This act shall become effective January 1, 1998.

46-1-0132 JY