

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 378

By: Fair of the Senate

and

Vaughn of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to occupational health and safety; amending 40 O.S. 1991, Section 141.9 and Section 20, Chapter 349, O.S.L. 1993, as last amended by Section 16, Chapter 363, O.S.L. 1996 (40 O.S. Supp. 1998, Section 415.1), which relate to inspections of insured boiler and pressure vessels and to certification of non-coverage under Workers' Compensation Act; clarifying references; modernizing usage; making certain inspection of insured boiler and pressure vessels mandatory; authorizing petty cash fund pursuant to certain rules and procedures; stating purpose of fund; authorizing two-year fee for certificate of non-coverage under Worker's Compensation Act; providing for codification; and declaring an emergency.

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

SECTION 1. 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 of Labor 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~~ be actively engaged in writing 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~~ shall 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 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. Boilers and pressure vessels shall be inspected regularly and in accordance with applicable provisions of the rules and regulations adopted by the Commissioner 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~~ the 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~~ shall 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~~ The owner-user inspectors may inspect all pressure vessels operated by their respective companies and, when so inspected, the owners and users of ~~such~~ the 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 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 141.20 of Title 40, unless there is created a duplication in numbering, reads as follows:

A. The Director of State Finance is hereby authorized, upon request by the Commissioner of Labor, to establish a petty cash fund for the Department of Labor in an amount not to exceed Four Hundred Dollars (\$400.00), to be used for the purpose of making change for

persons obtaining licenses and transacting other business with the Department.

B. The fund shall be established and replenished from any monies available to the Department for operating expenses.

C. The Director of State Finance shall prescribe all forms, systems, and procedures for administering the fund.

SECTION 3. AMENDATORY Section 20, Chapter 349, O.S.L. 1993, as last amended by Section 16, Chapter 363, O.S.L. 1996 (40 O.S. Supp. 1998, Section 415.1), is amended to read as follows:

Section 415.1 A. Any person who is not required to be covered under a workers' compensation insurance policy or other plan for the payment of workers' compensation may apply to the Commissioner of Labor for a "Certificate of Non-Coverage Under the Workers' Compensation Act". Applications shall be made on forms prescribed by the Commissioner and shall be accompanied by a nonrefundable application fee in an amount to be set by the Commissioner by rule not to exceed Ten Dollars (\$10.00) for a one-year certificate or Twenty Dollars (\$20.00) for a two-year certificate.

B. The Commissioner of Labor shall issue a certificate to any individual ~~who~~ whom the Commissioner finds, after reasonable inquiry, to be exempt from the definition of employee under Section 3 of Title 85 of the Oklahoma Statutes. Issuance of the certificate by the Commissioner shall establish a rebuttable presumption that the filer is not an employee for purposes of the Workers' Compensation Act.

C. The Commissioner of Labor shall develop necessary procedures for determining eligibility for the certificates.

D. Except as otherwise provided in Section 11 of Title 85 of the Oklahoma Statutes, the filing of a certificate shall not affect the rights or coverage of any employee of the individual filing the certificate.

E. 1. Knowingly providing false information to the Department of Labor for the purpose of obtaining a "Certificate of Non-Coverage Under the Workers' Compensation Act" shall constitute a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00).

2. Application forms for such certificates shall conspicuously state on the front thereof in at least ten-point bold-faced print that it is a crime to falsify information on the form.

3. The Commissioner of Labor shall immediately notify the Workers' Compensation Fraud Unit in the Office of the Attorney General of any violations or suspected violations of this section. The Commissioner shall cooperate with the Fraud Unit in any investigation involving certificates issued pursuant to this section.

F. Application fees collected pursuant to this section shall be deposited in the State Treasury to the credit of the Workers' Compensation Enforcement Revolving Fund.

SECTION 4. 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.