

HOUSE BILL No. 5938

May 25, 2004, Introduced by Reps. Lipsey, Hopgood, Bieda, Wenke, Wojno, Palsrok, Howell, Law, Kolb, Gleason, Gaffney, Huizenga, Nitz, Accavitti and Minore and referred to the Committee on Regulatory Reform.

A bill to amend 1965 PA 290, entitled "Boiler act of 1965," by amending the title and sections 2, 4, 4a, 12, 14, and 24 (MCL 408.752, 408.754, 408.754a, 408.762, 408.764, and 408.774), sections 2 and 4a as amended by 1986 PA 277 and section 4 as amended by 1980 PA 274, and by adding sections 13a, 13b, 13c, and 13d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate the ~~use~~ **operation**, construction, installation, and repair of **certain** boilers; to create a board of boiler rules; to prescribe uniform rules and regulations for **certain** boilers; to provide for the licensing of **certain** boiler inspectors, installers, and repairers **and registration of certain boiler operators and stationary engineers; to provide for powers**

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1 **and duties for certain state agencies and officers;** to provide
2 fees for **registrations**, licenses, permits, inspections, and
3 certificates; to provide penalties **and remedies** for the violation
4 of this act; and to repeal ~~certain~~ acts and parts of acts.

5 Sec. 2. As used in this act:

6 (a) "Boiler" means a closed vessel in which water is heated,
7 steam is generated, steam is superheated, or a combination
8 thereof, under pressure or vacuum by the application of heat from
9 combustible fuels, electricity, or nuclear energy. Boiler does
10 not include facilities of an integral part of a continuous
11 processing unit but does include a fired unit for heating or
12 vaporizing liquids other than water, if the unit is separate from
13 a processing system and is complete within itself.

14 (b) "Power boiler" means a closed vessel in which steam or
15 other vapor is generated at a pressure of more than 15 p.s.i.g.
16 by the direct application of heat.

17 (c) "High pressure, high temperature water boiler" means a
18 water heating boiler operating at pressure exceeding 160
19 p.s.i.g. or temperatures exceeding 250 degrees Fahrenheit.

20 (d) "Low pressure boiler" means a steam boiler operated at
21 pressures not exceeding 15 p.s.i.g., or a hot water heating
22 boiler operated at pressures not exceeding 160 p.s.i.g. or
23 temperatures not exceeding 250 degrees Fahrenheit.

24 (e) "Certificate inspection" means an inspection, the report
25 of which is used by the chief inspector to decide whether a
26 certificate, as provided by section ~~19~~ 20, shall be issued.
27 The certificate inspection shall be an internal inspection if

1 construction allows. ~~; otherwise~~ **Otherwise**, the certificate
2 inspection shall be as complete an inspection as possible.

3 (f) "External inspection" means an inspection ~~which~~ **that**
4 does not involve examination of the internal surfaces of the
5 pressure parts of the boiler.

6 (g) "Secondhand boiler" means a boiler ~~which~~ **that** has
7 changed ownership and location after initial use.

8 (h) "Heating surface" means the heating surface determined by
9 the boiler manufacturer and recorded in the manufacturer's data
10 report or by rules established by the board for a boiler if the
11 manufacturer's data report is not available or the boiler is not
12 stamped with its heating surface.

13 (i) "Process boiler" means a boiler operated at a pressure or
14 temperature from which more than 10% of the boiler's capacity is
15 used for direct steam humidification or direct process work.

16 (j) "Boiler for agricultural purposes" means a portable
17 boiler used in a field or similar open area for the sole purpose
18 of operating farm equipment or farm machinery.

19 (k) "Director" means the director of **the department of labor**
20 **and economic growth** or a representative designated by the
21 director.

22 (l) "P.S.I.G." means pounds per square inch gauge.

23 (m) "**Boiler operator**" or "**stationary engineer**" means a person
24 engaged in the operation of boilers and associated auxiliaries.

25 (n) "**Approved apprenticeship program**" means a training
26 program for boiler operators or stationary engineers certified by
27 or meeting the standards of the United States department of labor

1 bureau of apprenticeship training and approved by the board.

2 (o) "Associated auxiliaries" means equipment that is required
3 in the operation of a boiler that includes, but is not limited
4 to, pumps, regulators, feedwater heaters, superheaters,
5 de-superheaters, economizers, air preheaters, draft fans,
6 combustion and pollution control equipment, and prime movers.

7 (p) "Qualified training program" means an in-house training
8 program approved by the board and offered to boiler operators and
9 stationary engineers by a utility as a result of negotiations
10 between a utility and its employees.

11 (q) "Qualified technical education program" means an
12 educational program approved by the board that has a minimum of
13 350 contact hours in classroom hands-on training, field training,
14 or supervised plant visits for high pressure boiler operators.
15 The board may establish lesser standards for an educational
16 program for low pressure operator training or other entry level
17 training positions only.

18 (r) "Rule" means a rule promulgated pursuant to the
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
20 24.328.

21 Sec. 4. (1) The board shall ~~formulate~~ **promulgate**
22 definitions and rules for the safe construction, installation,
23 inspection, **operation**, and repair of boilers in the state.

24 (2) The definitions and rules ~~formulated~~ **promulgated** for
25 new construction shall be based upon and follow the generally
26 accepted nationwide engineering standards, formulae, and
27 practices established and pertaining to boiler construction and

1 safety. The board, by ~~resolution~~ **rule**, may adopt an existing
2 published codification, known as the boiler and pressure vessel
3 code of the American society of mechanical engineers, with the
4 amendments and interpretations.

5 (3) The board shall ~~formulate~~ **promulgate** rules for the safe
6 inspection and maintenance of boilers ~~—~~ which were in use in
7 the state before July 1, 1966. The rules ~~formulated~~
8 **promulgated** shall be based upon and follow the generally accepted
9 nationwide engineering standards and may be based upon an
10 existing published codification ~~—~~ known as the inspection code
11 of the national board of boiler and pressure vessel inspectors.

12 ~~(4) The rules formulated by the board shall be promulgated~~
13 ~~pursuant to Act No. 306 of the Public Acts of 1969, as amended,~~
14 ~~being sections 24.201 to 24.315 of the Michigan Compiled Laws.~~

15 (4) ~~(5)~~ A departure from the requirements of this section
16 ~~shall be~~ **is** permitted in an unusual situation involving a
17 boiler of special design or construction ~~—~~ if the board is
18 satisfied that a proposed facility will provide a degree of
19 safety commensurate with the intent of this act.

20 (5) Upon payment of a \$30.00 fee and without examination, the
21 board may register an applicant for the use of a title described
22 in section 13a who is a boiler operator or stationary engineer
23 licensed or registered as a boiler operator or stationary
24 engineer in another state, municipality, or country whose
25 requirements for licensure or registration are, at a minimum,
26 substantially equivalent to the requirements of this state for
27 registration as determined by the board, if that other state,

1 municipality, or country extends the same privileges of
2 reciprocity to a boiler operator or stationary engineer
3 registered in this state.

4 Sec. 4a. (1) ~~The~~ **Subject to sections 4(5) and 13a(6), the**
5 board, with the advice of the director, shall promulgate rules
6 ~~pursuant to the administrative procedures act of 1969, Act~~
7 ~~No. 306 of the Public Acts of 1969, as amended, being sections~~
8 ~~24.201 to 24.328 of the Michigan Compiled Laws,~~ **to establish the**
9 **fee schedules for licenses, registrations, permits, certificates,**
10 and inspections. The fees shall reflect the actual costs and
11 expenses for the department of labor **and economic growth** in
12 issuing licenses, **registrations,** permits, and certificates and in
13 conducting inspections.

14 (2) To accomplish the objectives of this section and this
15 act, a state boiler inspection fund is created **as a restricted**
16 **fund in the state treasury.** The state treasurer ~~shall be~~ **is**
17 the custodian of the fund and may invest the surplus of the fund.
18 ~~in investments as in the state treasurer's judgment are in the~~
19 ~~best interest of the fund.~~ Earnings from those investments shall
20 be credited to the fund. The state treasurer shall notify the
21 director and the ~~Legislature~~ **legislature** of interest credited
22 and the balance of the fund as of September 30 of each year. The
23 director shall supervise and administer the fund. Fees received
24 by the department of labor **and economic growth** and money
25 collected under this act shall be deposited in the state boiler
26 inspection fund and ~~shall be appropriated~~ **for appropriation** by
27 the ~~Legislature~~ **legislature** for the operations of the boiler

1 division and **the** indirect overhead expenses in the department of
2 labor **and economic growth**. Funds that are unexpended at the end
3 of each fiscal year shall be returned to the state boiler
4 inspection fund **and shall not revert to the general fund**.

5 Sec. 12. ~~Examination~~ **The examination** for chief, deputy,
6 or special inspectors shall be ~~in writing and~~ **written**. **The**
7 **examination for certified boiler operators shall be either**
8 **written or oral**. **The examination for certified stationary**
9 **engineers shall be both written and oral**. **The examinations shall**
10 ~~be held~~ **administered** by the board, ~~with at least~~ **and not less**
11 **than 2** members of the board **shall be** present at all times during
12 ~~the~~ **an** examination. ~~Such examination~~ **Examinations** shall be
13 confined to questions ~~, the answers to which~~ **that** will aid in
14 determining the fitness and competency of the applicant for the
15 intended service, and may be those prepared by the national board
16 of boiler and pressure vessel inspectors. **The board may adopt**
17 **any examination it determines appropriate and may delegate any**
18 **administrative functions relating to the conduct of the**
19 **examination**. If an applicant for ~~an inspector's~~ a license fails
20 to pass the examination, ~~he~~ **the applicant** may appeal to the
21 board for another examination which shall be given by the board
22 within 90 days. The record of an applicant's examination shall
23 be accessible to the applicant and ~~his~~ **the applicant's**
24 employer.

25 Sec. 13a. (1) **An individual may operate a boiler and**
26 **associated auxiliaries without obtaining a registration under**
27 **this act**.

1 (2) An individual or business entity shall not use the terms
2 "certified boiler operator", "certified stationary engineer",
3 "low pressure certified boiler operator", "high pressure
4 certified boiler operator", "third-class certified stationary
5 engineer", "second-class certified stationary engineer",
6 "first-class certified stationary engineer", or any other name,
7 style, or description that indicates that the individual or an
8 individual employed by the business entity is registered under
9 this act except under either of the following circumstances:

10 (a) The individual has been issued a registration under this
11 act.

12 (b) The individual is exempt from this act under section 23.

13 (3) The individual participating in an approved
14 apprenticeship program, a qualified technical training program,
15 or a qualified training program may use the title "apprentice
16 certified boiler operator" or "apprentice certified stationary
17 engineer".

18 (4) An individual registered under this act shall only use 1
19 of the titles described in subsection (2) or the abbreviation
20 "C.B.O." or "C.S.E.". The board may conduct an examination
21 designed to establish the competency of applicants for
22 registration and may charge an examination fee.

23 (5) A person applying for a registration under this act shall
24 be not less than 18 years of age, shall possess the physical and
25 mental capacities to perform his or her duties in a competent and
26 safe manner, and shall meet the applicable requirements of
27 section 13d. An applicant shall use a form provided by the

1 director.

2 (6) The director shall issue a registration upon
3 recommendation of the board and upon the applicant's payment of a
4 testing fee of \$10.00 and a registration fee of \$20.00 or a fee
5 prescribed pursuant to section 4a, whichever is higher, for each
6 application. A registration shall be renewed annually upon
7 payment of a fee of \$20.00 or a fee prescribed pursuant to
8 section 4a, whichever is higher.

9 (7) Not later than 1 year after the effective date of the
10 amendatory act that added this section, the board shall recommend
11 for registration without examination an applicant who submits
12 evidence satisfactory to the board of 1 or more of the
13 following:

14 (a) The applicant has had not less than 5 years of experience
15 in the class or category of boiler operator or stationary
16 engineer for which the applicant is applying.

17 (b) The applicant possesses a license as a boiler operator or
18 stationary engineer from the cities of Detroit or Dearborn in a
19 class for which the applicant is applying.

20 (c) The applicant has successfully completed a 4-year
21 approved apprenticeship program, a qualified technical education
22 program, or a 4-year qualified training program.

23 Sec. 13b. Certified boiler operator and certified
24 stationary engineer registrations are classified as follows:

25 (a) Low pressure certified boiler operator, who operates low
26 pressure boiler plants having an aggregate of not more than 4,000
27 square feet of boiler heating surface.

1 (b) High pressure certified boiler operator, who operates
2 boiler plants having an aggregate of not more than 4,000 square
3 feet of boiler heating surface or not more than 10 steam
4 engine-turbine horsepower.

5 (c) Third-class certified stationary engineer, who operates
6 boiler plants having an aggregate of not more than 7,500 square
7 feet of boiler heating surface or not more than 100 steam
8 engine-turbine horsepower.

9 (d) Second-class certified stationary engineer, who operates
10 boiler plants having an aggregate of not more than 20,000 square
11 feet of boiler heating surface or not more than 200 steam
12 engine-turbine horsepower.

13 (e) First-class certified stationary engineer, who operates
14 boiler plants having an aggregate of 20,000 square feet or more
15 of boiler heating surface or 200 steam engine-turbine horsepower
16 or more.

17 Sec. 13c. (1) Not later than 180 days after the effective
18 date of the amendatory act that added this section, the board
19 shall promulgate rules designating the course content for
20 qualified technical education programs for the various categories
21 and classes of registration of boiler operators and stationary
22 engineers.

23 (2) The rules described in subsection (1) shall provide that
24 the course content of qualified technical education programs for
25 entry level registrants include at least all of the following
26 subject matter areas:

27 (a) Basic functions, construction, and operation of all types

1 of boilers.

2 (b) The function of boiler appliances, accessories, and
3 associated auxiliaries.

4 (c) Materials used in boilers and the effect of temperature
5 extremes on those materials.

6 (d) The fuels used in boilers and fundamentals of
7 combustion.

8 (e) Basic electricity.

9 (f) Plant operation and boiler maintenance.

10 (g) Instrumentation and controls.

11 (h) Fundamental mathematics and principles of the metric
12 system.

13 (i) General safety procedures.

14 (j) Recognition of dangerous operation conditions.

15 (3) The board shall provide that the course content for
16 categories and classes other than entry level registrants
17 includes subject matter similar to those described in
18 subsection (2) in the degree of depth and difficulty appropriate
19 for the category and class.

20 Sec. 13d. (1) The director shall not issue a registration
21 for a title described in section 13a(2) unless the applicant
22 meets the requirements for the classification as prescribed in
23 subsections (2) to (6).

24 (2) An applicant for a low pressure certified boiler operator
25 registration shall have not less than 1 year of experience
26 operating or maintaining low or high pressure boilers, steam
27 prime movers, or associated auxiliaries.

1 (3) An applicant for a high pressure certified boiler
2 operator registration shall have 1 or more of the following:

3 (a) Not less than 2 years of experience in the operation of a
4 high pressure boiler.

5 (b) A low pressure certified boiler operator's registration
6 and not less than 1 year of experience in the operation of a low
7 pressure boiler.

8 (c) Not less than 1 year of either a qualified training
9 program, a qualified technical education program, or an approved
10 apprenticeship program.

11 (4) An applicant for a third-class certified stationary
12 engineer registration shall meet 1 or more of the following
13 requirements:

14 (a) Be registered as a high pressure certified boiler
15 operator and have not less than 1 year of experience in the
16 operation of a high pressure boiler.

17 (b) Be registered as a low pressure certified boiler
18 operator, have not less than 1 year of experience in the
19 operation of a low pressure boiler, and have not less than 1 year
20 of maintenance experience on high pressure boilers and associated
21 auxiliaries.

22 (c) Be registered as a high pressure certified boiler
23 operator and have not less than 1 year of boiler maintenance
24 experience or not less than 1 year as an apprentice in an
25 approved training program in a high pressure boiler plant having
26 an aggregate heating surface of more than 4,000 square feet.

27 (d) Have not less than 3 years of experience in the operation

1 of boilers in a high pressure boiler plant having an aggregate
2 heating surface of more than 4,000 square feet.

3 (e) Have not less than 1 year of experience in the operation
4 of boilers in a high pressure boiler plant having an aggregate
5 heating surface of more than 4,000 square feet along with
6 sufficient experience operating steam prime movers in excess of
7 10 horsepower for a combined total of not less than 3 years of
8 experience.

9 (f) Have an associate degree in energy technology or a
10 related field as determined by the board with a power engineering
11 option from a 2-year college whose program is approved by the
12 board and employment or cooperative education experience of not
13 less than 360 hours as a power engineer, boiler operator, or
14 stationary engineer in a steam electric generation plant or a
15 high pressure steam heating or process plant.

16 (5) An applicant for a second-class certified stationary
17 engineer registration shall meet 1 or more of the following
18 requirements:

19 (a) Be registered as a third-class certified stationary
20 engineer and have not less than 1 year of experience as a
21 third-class certified stationary engineer.

22 (b) Have a bachelor's degree in engineering, engineering
23 technology, heating/power technology, or energy technology from a
24 college or university whose program is approved by the board and
25 employment experience as an engineer in the engineering or
26 research division of a steam electric power generating plant for
27 not less than 1 year.

1 (c) Have not less than 4 years of experience in the operation
2 of boilers in a high pressure boiler plant having an aggregate
3 heating surface of more than 7,500 square feet.

4 (d) Have not less than 1 year of experience in the operation
5 of boilers in a high pressure boiler plant having an aggregate
6 heating surface of more than 7,500 square feet along with
7 sufficient experience operating steam prime movers in excess of
8 100 horsepower for a combined total of not less than 4 years of
9 experience.

10 (e) Have not less than 1 year of experience in the operation
11 of boilers in a high pressure boiler plant having an aggregate
12 heating surface of more than 7,500 square feet along with
13 sufficient experience operating boilers in a high pressure boiler
14 plant having an aggregate heating surface of more than 4,000
15 square feet for a combined total of not less than 4 years of
16 experience.

17 (6) An applicant for a first-class certified stationary
18 engineer registration shall meet 1 or more of the following
19 requirements:

20 (a) Be registered as a second-class certified stationary
21 engineer and have not less than 2 years of experience as a
22 second-class stationary engineer.

23 (b) Have not less than 6 years of experience in the operation
24 of boilers in a high pressure boiler plant having an aggregate
25 heating surface of more than 20,000 square feet.

26 (c) Have not less than 2 years of experience in the operation
27 of boilers in a high pressure boiler plant having an aggregate

1 heating surface of more than 20,000 square feet along with
2 sufficient experience operating steam prime movers in excess of
3 200 horsepower for a combined total of not less than 6 years of
4 experience.

5 (d) Have not less than 2 years of experience in the operation
6 of boilers in a high pressure boiler plant having an aggregate
7 heating surface of more than 20,000 square feet along with
8 sufficient experience in the operation of boilers in a high
9 pressure boiler plant having an aggregate heating surface of more
10 than 7,500 square feet of heating surface for a combined total of
11 not less than 6 years of experience.

12 (e) Complete a 4-year approved apprenticeship program or a
13 4-year qualified training program.

14 (f) Complete a 4-year program with a bachelor's degree from a
15 college or university in engineering, engineering technology,
16 heating/power technology, or energy technology whose program is
17 approved by the board and which includes a hands-on power option
18 from a 2-year community college program or the equivalent, as
19 determined by the board, and not less than 1 year of employment,
20 internship, or cooperative education experience in a steam
21 electric generation plant or high pressure steam heating process
22 plant.

23 Sec. 14. (1) ~~An inspector's, repairer's, or installer's~~
24 ~~The chief inspector may suspend the license may be suspended by~~
25 ~~the chief inspector for~~ of an inspector, repairer, or installer
26 or the registration of a certified boiler operator or certified
27 stationary engineer due to the incompetence of the ~~holder~~

1 ~~thereof or for wilful~~ **registrant or licensee or due to willful**
2 falsification of ~~any~~ a matter or statement contained in ~~his~~
3 **that registrant's or licensee's** application or in a report of
4 ~~any~~ inspection made by ~~him~~ **the registrant or licensee.**

5 Written notice of the suspension shall be given by the chief
6 inspector within ~~not more than~~ 10 days **after the suspension** to
7 the **registrant or** licensee, ~~his~~ **the registrant's or licensee's**
8 employer, and the board. A person whose **registration or** license
9 has been suspended may appeal to the board as provided in
10 section 22 and be present in person and be represented by counsel
11 at the hearing of the appeal.

12 (2) If the board has reason to believe that a **registrant or**
13 licensee is no longer qualified to hold his **or her registration**
14 **or** license, the board, upon not less than 10 days' written notice
15 to the **registrant or** licensee and ~~his~~ **the registrant's or**
16 **licensee's** employer, shall hold ~~a~~ **an administrative** hearing at
17 which the **registrant or** licensee and his **or her** employer shall
18 have an opportunity to be heard. If, as a result of the hearing,
19 the board finds that the **registrant or** licensee is no longer
20 qualified to hold his **or her registration or** license, the board
21 shall recommend to the ~~commissioner~~ **director** that the
22 **registration or** license be revoked, and the ~~commissioner~~
23 **director** shall ~~thereupon~~ **immediately** revoke ~~such~~ **the**
24 **registration or** license. ~~forthwith.~~

25 (3) A person whose **registration or** license has been suspended
26 may apply, after 90 days from the date of the suspension, for
27 reinstatement of the **registration or** license.

1 Sec. 24. (1) ~~It shall be unlawful for any~~ **An individual,**
2 **or other** person, ~~firm, partnership, or corporation to~~ **shall not**
3 operate ~~in this state~~ a boiler without a valid inspection
4 certificate. The operation of a boiler without ~~such~~ **a valid**
5 inspection certificate ~~—~~ or at a pressure exceeding that
6 specified in ~~such~~ **the** inspection certificate ~~—~~ is a
7 misdemeanor on the part of the owner, user, or operator ~~thereof~~
8 ~~and shall be~~ punishable by ~~a fine not exceeding \$500.00, or~~
9 imprisonment ~~not to exceed~~ **for not more than** 60 days, or **by a**
10 **fine of not more than \$500.00, or** both. Each day of the unlawful
11 operation is a separate offense.

12 (2) **A person or business entity using a title described in**
13 **section 13a(2) without a registration issued under this act or**
14 **without an exemption from registration under this act is guilty**
15 **of a misdemeanor punishable by imprisonment for not more than 60**
16 **days, a fine of not more than \$500.00, or both.**