SENATE BILL No. 135

By Committee on Federal and State Affairs

2-6

AN ACT concerning the boiler safety act; transferring duties from the secretary of labor to the state fire marshal; amending K.S.A. 44-916, 44-917, 44-918, 44-919, 44-920, 44-921, 44-922, 44-923, 44-924, 44-925, 44-927 and 44-929 and K.S.A. 2012 Supp. 44-636, 44-914, 44-915, 44-926 and 44-928 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) All of the powers, duties and functions of the secretary of labor under the boiler safety act, K.S.A. 44-913 et seq., and amendments thereto, are hereby transferred to and conferred and imposed upon the office of state fire marshal.

(b) In accordance with the provisions of appropriation acts, the office of state fire marshal shall administer the boiler inspection fee fund, established by K.S.A. 44-926, and amendments thereto.

(c) All liabilities of the secretary of labor, including accrued compensation or salaries of officers and employees who are transferred to the office of state fire marshal under this section shall be assumed and paid by the office of state fire marshal.

New Sec. 2. (a) The state fire marshal shall be the successor in every way to the powers, duties and functions of the secretary of labor under the boiler safety act, K.S.A. 44-913 et seq., and amendments thereto, in which the same were vested prior to the effective date of this act and that are transferred pursuant to section 1, and amendments thereto. Every act performed in the exercise of such transferred powers, duties and functions by or under the state fire marshal pursuant to section 1, and amendments thereto, shall be deemed to have the same force and effect as if performed by the secretary of labor in which such powers, duties and functions were vested prior to the effective date of this act.

(b) Whenever the secretary of labor, or words of like effect, are referred to or designated by a statute, contract or other document and such reference is in regard to any of the powers, duties or functions transferred to the office of state fire marshal pursuant to section 1, and amendments thereto, such reference or designation shall be deemed to apply to the office of state fire marshal or the state fire marshal as the context requires.

(c) All rules and regulations, orders and directives of the secretary of labor adopted or issued pursuant to the powers, duties or functions
transferred to the office of state fire marshal pursuant to section 1, and
amendments thereto, which are in effect on the effective date of this act
shall continue to be effective and shall be deemed to be rules and
regulations, orders and directives of the state fire marshal until revised,
amended, revoked or nullified pursuant to law.
(d) The state fire marshal shall have the legal custody of all records,
memoranda, writings, entries, prints, representations, electronic data or
combinations thereof of any act, transaction, occurrence or event of the
secretary of labor relating to any of the powers, duties or functions
transferred to the office of state fire marshal pursuant to section 1, and
amendments thereto.
(e) The state fire marshal shall be the continuation of the secretary of
labor with respect to the powers, duties and functions transferred to the
office of state fire marshal pursuant to section 1, and amendments thereto.
(f) (1) All officers and employees who, immediately prior to the
effective date of this act, were engaged in the performance of powers,
duties or functions of the secretary of labor transferred pursuant to section
1, and amendments thereto, or the powers, duties and functions of which
are transferred to the office of state fire marshal, and who, in the opinion
of the state fire marshal, are necessary to perform the powers, duties and
functions of the office of state fire marshal, shall be transferred to, and
shall become officers and employees of the office of state fire marshal.
(2) Officers and employees of the department of labor transferred by
this act shall retain all retirement benefits and leave balances and rights
which had accrued or vested prior to the date of transfer, including any
benefits and rights accrued or vested as a result of participating in the
Kansas public employees retirement system or the Kansas police and
firemen’s retirement system and such participation shall continue as
provided by law. The service of each such officer and employee so
transferred shall be deemed to have been continuous. All transfers, layoffs
or abolition of classified service positions under the Kansas civil service
act shall be made in accordance with the civil service laws and any rules
and regulations adopted thereunder. Nothing in this act shall affect the
classified status of any transferred person employed by the department of
labor.
New Sec. 3. (a) When any conflict arises as to the disposition of any
property, power, duty or function or the unexpended balance of any
appropriation as a result of any abolition or transfer made by or under
section 1, and amendments thereto, such conflict shall be resolved by the
governor, whose decision shall be final.
(b) The office of state fire marshal shall succeed to all property,
property rights and records which were used for or pertain to the
performance of powers, duties and functions transferred to the office of
state fire marshal pursuant to section 1, and amendments thereto. Any
conflict as to the proper disposition of property, personnel or records
arising under this section or sections 1 or 2, and amendments thereto, shall
be determined by the governor, whose decision shall be final.

Sec. 4. K.S.A. 2012 Supp. 44-636 is hereby amended to read as
follows: 44-636. (a) The secretary of labor shall have power to enter any
factory or mill, workshop, private works, public works or state agency or
institution, mercantile establishment, laundry or any other place of
business where labor is or is intended to be performed for any purpose,
when the same are open or in operation, for the purpose of gathering facts
and statistics such as are contemplated by this act, and to examine into the
methods of protection from danger to employees and the sanitary
conditions in and around such buildings and places and to keep a record
thereof of such inspection.

If it shall be found upon such investigation that the heating, lighting,
ventilation, occupant capacity or sanitary arrangement of any such
establishment or place is such as to be injurious to the health of persons
employed or residing therein, or that the means of egress in case of fire or
other disaster are not sufficient, or that the belting, shafting, gearing,
elevators, drums, saws, cogs or machinery, in any such establishment or
place are so located or are in a condition so as to be dangerous, or are not
sufficiently guarded, or that the vats, pans or any other structures filled
with molten metal, hot liquid or hazardous materials or substances are not
surrounded with proper safeguards for preventing accidents, injury or
illness to those persons in, or near them, or that the construction or
condition of any building or building, or any boiler machinery or other
apprtenances in or about any place as described in this section is such as
to be dangerous or injurious to the persons employed or residing therein,
or that the methods of operation are such as to be unnecesarily dangerous
or injurious to the persons employed or residing therein, or that any other
condition which is within the control of the owner, proprietor, agent,
administrator or lessee of any such building, establishment or place to be
found to be dangerous or injurious to any persons employed therein or to
any other person or persons, the secretary or the authorized agent of the
secretary after making such inspection shall notify in writing the owner,
proprietor, agent, administrator or lessee of such building, establishment,
or place. Such notification may also include an order that requires the
provisions of such safeguards or safety devices or the making of such
alterations or additions or changes in methods of operation or the taking of
any other measures the secretary may deem appropriate and necessary for
the safety and protection of the employees or other persons endangered by
such conditions and the amount of time granted by the secretary for
making any such alterations, additions, changes or taking such other
methods as required. Such amount of time shall not exceed 60 days after
service of the notice and the order unless an extension thereof is requested
for good cause shown by the person named in the order, and such
extension is granted by the secretary.
(b) The notification required by subsection (a) shall include notice of
the right to a hearing concerning any order included therein. Any such
order shall become final unless within 15 days after service of the notice
and order, the person or persons named therein shall request in writing a
hearing by the secretary. If a request is made for a hearing the date of the
hearing shall not be more than 30 days after such request is made. Orders
under subsection (a), and hearings thereon, shall be subject to the
provisions of the Kansas administrative procedure act.
(c) No person, firm or corporation, nor any officer, agent or employee
thereof, shall remove or require to be removed, or made ineffective any
practical safeguard around or safety attachment to any machinery, vats,
pans, or other apparatus or device mentioned in this section while the same
is in use, except for the purpose of immediately making repairs thereto,
and all safeguards or safety attachments so removed shall be promptly
replaced before the dangerous machine, apparatus or device is returned to
normal use or operation. Except as otherwise provided, no person shall
require or permit the operation of, or operate, the dangerous machine,
apparatus or device without the required safeguards or safety attachments.
(d) If the secretary of labor determines that conditions or products in
any place of employment are such that a danger exists which could
reasonably be expected to cause death or serious physical harm
immediately, or before such danger can be eliminated through the
enforcement provisions otherwise provided by law, the secretary may, in
accordance with the provisions of K.S.A. 77-536, and amendments
thereof, order the immediate taking of any steps necessary to avoid, correct
or remove such imminent danger and prohibit the employment or presence
of any individual in locations or under conditions where such imminent
danger exists, except individuals whose presence is necessary to avoid, or
correct or remove such imminent danger or to prevent any avoidable loss
of production facilities or product.
(e) Upon issuance of the order authorized by subsection (d) of this
section and upon the request of any party who is adversely affected
thereby, the secretary shall fix a place and time for a hearing to be held on
such order in accordance with the provisions of the Kansas administrative
procedure act.
(f) No person shall discharge or in any manner discriminate against
any employee because such employee has filed a complaint with, or
furnished information to, the secretary of labor concerning conditions or
situations alleged to be unsafe or hazardous or otherwise covered by the
provisions of this act.

(g) Any person who willfully violates any provision of this section or any lawful order issued pursuant to this section shall be guilty of a misdemeanor and shall be subject to a fine of not less than $25 nor more than $100. Each day that such violation exists shall constitute a separate offense.

(h) An action brought pursuant to this section shall not constitute a bar to enforcement of the provisions of this section by injunction or other appropriate remedy, and upon request of the secretary of labor, the attorney general shall have the power to institute and maintain in the name of the state any and all appropriate enforcement procedures.

Sec. 5. K.S.A. 2012 Supp. 44-914 is hereby amended to read as follows: 44-914. As used in this act, unless the context otherwise requires:

(a) "Boiler" means a closed vessel in which water or other liquid is heated, steam or vapor is generated or steam is superheated, or in which any combination of these functions is accomplished, under pressure or vacuum, for use internal or external to itself, by the direct application of energy from the combustion of fuels or of electric or solar power. The term boiler shall also include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

(b) "Certificate inspection" means an inspection, the report of which is used by the chief inspector to determine whether or not an inspection certificate shall be issued as provided by K.S.A. 44-924, and amendments thereto.

(c) "Heating boiler" means a steam or vapor boiler operating at pressures not exceeding 15 pounds per square inch gauge or a hot water heating boiler operating at pressures not exceeding 160 pounds per square inch gauge or temperatures not exceeding 250° Fahrenheit.

(d) "High pressure, high temperature water boiler" means a water boiler operating at pressures exceeding 160 pounds per square inch gauge or temperatures exceeding 250° Fahrenheit.

(e) "Power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 pounds per square inch gauge.

(f) "Secretary" means the secretary of labor.

(g) "Pressure vessel" means a vessel or container used for the containment of pressure either internal or external in which the pressure is obtained from an external source of vapor, liquid or gas.

(h) "Hot water supply boiler" means a vessel heating water for external uses, by gas, oil, electricity or solar energy that does not exceed 160 psi, or 210° Fahrenheit.

(i) "Inspection fee" means any inspection fees collected pursuant to subsection (a) of K.S.A. 44-926, and amendments thereto, and shall not
include any certificate fees collected pursuant to subsection (b) of K.S.A. 44-926, and amendments thereto, and any travel or hotel expense.

Sec. 6. K.S.A. 2012 Supp. 44-915 is hereby amended to read as follows: 44-915. (a) The provisions of this act shall not apply to:

(1) Boilers and pressure vessels under the control of the United States government or federal law;

(2) antique, scale model or other steam boilers which are used exclusively for exhibition purposes and which are inspected by associations that have established an approved inspection procedure and whose inspectors are registered as special inspectors with the boiler-safety unit of the state of Kansas, department of labor state fire marshal;

(3) fire engine boilers brought into the state for temporary use in times of emergency;

(4) boilers and pressure vessels located on producing oil and gas leases or storage areas, and outside the limits of any municipality, used solely for oil and gas production purposes;

(5) hot water supply boilers which are directly fired with oil, gas, electricity or solar energy and which are equipped with pressure and temperature safety relief valves approved by the American society of mechanical engineers or the national board of boiler and pressure vessel inspectors, if none of the following limitations is exceeded:

(A) Heat input of 200,000 BTUH;

(B) water temperature of 210º Fahrenheit; and

(C) nominal water capacity of 85 gallons or 120 gallons for an electrical utility generating plant; and

(6) pressure vessels constructed and installed prior to January 1, 1999; and

(7) pressure vessels used to store or transport anhydrous ammonia.

(b) The provisions of subsections (b) and (c) of K.S.A. 44-923, and amendments thereto, and the provisions of K.S.A. 44-924, 44-925 and 44-926, and amendments thereto, shall not apply to:

(1) Boilers and pressure vessels located on farms and used solely for agriculture or horticultural purposes;

(2) heating boilers and pressure vessels which are located in private residences or in apartment houses of less than five family units;

(3) boilers and pressure vessels operated and regularly inspected by railway companies operating in interstate commerce;

(4) any boiler and pressure vessels in any establishment in which petroleum products are refined or processed in which all boiler and pressure equipment is inspected and rated either by an inspection service regularly maintained within such establishment or provided by a manufacturer, designer or insurer of such equipment, in accordance with the applicable provisions of any published code or codes of rules or
recommended practices nationally recognized in the industry of which
such establishment is a part as providing suitable standards for the
inspection, repair and rating of pressure equipment of the type used in such
establishment;
(5) pressure vessels used for transportation and storage of compressed
gases when constructed in compliance with specifications of the United
States department of transportation and when charged with gas marked,
maintained and periodically requalified for use, as required by appropriate
regulations of the United States department of transportation;
(6) pressure vessels located on vehicles operating under the rules and
regulations of other state authorities and used to transport passengers or
freight;
(7) pressure vessels installed on the right-of-way of railroads and
used in the operation of trains;
(8) pressure vessels having an internal or external operating pressure
not exceeding 15 psig with no limit on size;
(9) pressure vessels having an inside diameter, width, height or cross
section diagonal not exceeding six inches, with no limitation on length of
the vessel or pressure;
(10) pressure vessels for containing water or other nonflammable
liquids under pressure, including those containing air, the compression of
which serves only as a cushion, when neither of the following limitations
is exceeded:
   (A) A design pressure of 300 psig; or
   (B) a design temperature of 210° Fahrenheit;
(11) pressure vessels which may be classified as pressure containers
which are an integral part of components of rotating or reciprocating
mechanical devices such as pumps, turbines, generators, engines and
hydraulic or pneumatic cylinders, where the primary design considerations
and stresses are derived from the functional requirements of the device;
(12) pressure vessels that do not exceed: (A) 15 cubic feet and 250
psi pressure; or (B) 1½ cubic feet in volume and 600 psi pressure; and
(13) pressure vessels installed and constructed before January 1,
1999.
Sec. 7. K.S.A. 44-916 is hereby amended to read as follows: 44-916.
(a) The secretary state fire marshal shall adopt rules and regulations,
consistent with the provisions of this act, for the safe construction,
installation, inspection, maintenance and repair of boilers in this state. The
secretary state fire marshal shall adopt rules and regulations, consistent
with the provisions of this act, for the safe construction and installation of
pressure vessels in this state.
(b) Rules and regulations adopted hereunder may include reporting,
monitoring and recordkeeping requirements for owners and users of
boilers and pressure vessels subject to this act.

(b) (c) Rules and regulations adopted hereunder for construction of
new boilers and pressure vessels shall be based upon and at all times
follow generally accepted nationwide engineering standards, formulae and
practices established and pertaining to boiler construction and safety. Such
rules and regulations may incorporate by reference specific editions, or
portions thereof, of the boiler and pressure vessel code of the American
society of mechanical engineers or other approved codes of construction.

(e) (d) Rules and regulations adopted hereunder for the construction,
installation, inspection, maintenance and repair of boilers and pressure
vessels shall be based upon and at all times follow generally accepted
nationwide engineering standards. Such rules and regulations may
incorporate by reference specific editions, or portions thereof, of the
inspection code of the national board of boiler and pressure vessel
inspectors and may require the use of such board's "R" stamp for repairs.

(d) (e) The chief inspector or deputy inspectors may perform
inspections of boilers and pressure vessels and issue, upon completion, a
special certification showing that such inspection was done in accordance
with nationwide engineering standards as adopted by rules and regulations.

Sec. 8. K.S.A. 44-917 is hereby amended to read as follows: 44-917.

(a) All new boilers and pressure vessels shall conform to the rules and
regulations issued adopted pursuant to this statute act which govern new
construction and installation. If a new boiler or pressure vessel is of special
design or construction and the design is consistent with the spirit and
safety objectives of this act and rules and regulations, an interested party
may request a variance from the secretary state fire marshal to build and
operate a nonconforming boiler or pressure vessel.

(b) The maximum allowable working pressure of a boiler or pressure
vessel carrying the American society of mechanical engineers or other
approved code symbol shall be determined by the applicable sections of
the code under which it was constructed and stamped.

(c) The maximum allowable working pressure of a boiler or pressure
vessel which does not carry the American society of mechanical engineers
code symbol shall be computed in accordance with the rules and
regulations adopted by the secretary state fire marshal.

(d) This act shall not be construed as in any way preventing the use,
sale or reinstallation of a boiler or pressure vessel previously installed in
this state, provided it has been made to conform to the rules and
regulations governing existing installations and provided it has not been
found upon inspection to be in an unsafe condition. If a previously
installed boiler or pressure vessel is of special design or construction and
the design is consistent with the spirit and safety objectives of this act and
rules and regulations, an interested party may request a variance from the
secretary state fire marshal to use, sell; or reinstall a nonconforming boiler
or pressure vessel.

(e) This act shall not be construed to require a pressure vessel
inspection of those pressure vessels moved to a different location by the
same owner.

Sec. 9. K.S.A. 44-918 is hereby amended to read as follows: 44-918.
(a) The secretary state fire marshal shall appoint a chief inspector who
shall be a citizen of this state, or, if not available, a citizen of another state,
and who shall have at the time of appointment not less than 10 years
experience in the construction, installation, inspection, operation,
maintenance or repair of high pressure boilers and pressure vessels as a
mechanical engineer, steam operating engineer, boiler maker or boiler
inspector, and who shall hold a commission issued by the national board of
boiler and pressure vessel inspectors. The chief inspector shall be in the
unclassified civil service and shall receive such compensation as
prescribed by the secretary state fire marshal, subject to the approval of
the governor.

(b) The chief inspector shall serve under the direction of the secretary
and is state fire marshal. The state fire marshal, chief inspector and other
duly authorized representatives of the state fire marshal are hereby
charged, directed and empowered:

1. To take action necessary for the enforcement of this act and of the
   rules and regulations adopted hereunder;
2. To maintain a complete record of all boilers and pressure vessels to
   which this act applies, which record shall include the name and address of
   each owner or user and the type, dimensions, maximum allowable working
   pressure, age and last recorded inspection of each such boiler or pressure
   vessel;
3. To publish and make available copies of rules and regulations
   adopted hereunder to any person requesting them;
4. To issue, or to suspend or revoke for cause, inspection certificates
   as provided in K.S.A. 44-924, and amendments thereto; and
5. To cause the prosecution of all violators of the provisions of this
   act or of the rules and regulations adopted hereunder.

Sec. 10. K.S.A. 44-919 is hereby amended to read as follows: 44-919.
The secretary state fire marshal shall employ one or more deputy
inspectors who shall be responsible to the chief inspector. Each deputy
inspector shall have at the time of appointment not less than three years
experience in the construction, installation, inspection, operation,
maintenance or repair of high pressure boilers and pressure vessels as a
mechanical engineer, steam operating engineer, boilermaker or boiler
inspector. Deputy inspectors shall be in the unclassified civil service and
shall receive such compensation as prescribed by the secretary state fire
Sec. 11. K.S.A. 44-920 is hereby amended to read as follows: 44-920.
(a) In addition to the deputy inspectors authorized by K.S.A. 44-919, and amendments thereto, the secretary state fire marshal, upon the request of any company licensed to insure and insuring boilers and pressure vessels in this state shall issue to any inspectors of such insurance company certificates of competency as special inspectors, provided that each such inspector shall hold a commission issued by the national board of boiler and pressure vessel inspectors.
(b) Special inspectors shall receive no salary from, nor shall any of their expenses be paid by, the state, and the continuance of their certificates of competency shall be conditioned upon their continuing in the employ of the boiler insurance company duly authorized as aforesaid and upon their maintenance of the standards imposed by this act and by rules and regulations adopted hereunder.
(c) Special inspectors shall inspect all boilers insured by their respective companies and, when so inspected, the owners and users of such boilers shall be exempt from the payment to the state of the inspection fees provided for in subsection (a) of K.S.A. 44-926, and amendments thereto.
(d) The secretary state fire marshal shall fix, by rules and regulations, certification requirements for inspectors of antique, scale models or other steam boilers used exclusively for exhibition purposes.
Sec. 12. K.S.A. 44-921 is hereby amended to read as follows: 44-921.
The chief inspector state fire marshal may suspend or revoke a special inspector's certificate of competency for cause, after due investigation, if the chief inspector state fire marshal finds incompetence, untrustworthiness, falsification of any matter or statement contained in a special inspector's application or report, or a failure by the special inspector to report findings of any inspection made by such inspector to the chief inspector. Such a suspension or revocation of certificate shall be effective as soon as notice of the suspension or termination has been delivered to the special inspector or the inspector's employer.
Sec. 13. K.S.A. 44-922 is hereby amended to read as follows: 44-922.
If a certificate of competency is lost or destroyed, a new certificate of competency shall be issued in its place without another examination. The secretary state fire marshal may charge a fee for a replacement certificate.
Sec. 14. K.S.A. 44-923 is hereby amended to read as follows: 44-923.
(a) The secretary state fire marshal, the chief inspector or any deputy inspector shall have free access, during reasonable hours, to any premises in the state where boilers and pressure vessels are being operated, repaired, installed or constructed for use in this state, for the purpose of ascertaining whether boilers or pressure vessels have been constructed and installed in
accordance with the provisions of this act and the rules and regulations
adopted hereunder.
(b) Each boiler used or proposed to be used within this state, except
for boilers exempt under K.S.A. 44-915, and amendments thereto, shall be
thoroughly inspected as to construction, installation and condition as
follows:
(1) Power boilers and high pressure, high temperature water boilers
shall receive an annual certificate inspection which shall be an internal
inspection, where construction permits, or as complete an inspection as
possible, where construction does not permit internal inspection. Such
boilers shall also be externally inspected while under pressure.
(2) Steam heating boilers shall receive an annual certificate
inspection, with an internal inspection every three (3) years where
construction permits.
(3) All other boilers subject to this section shall receive an annual
certificate inspection, with an internal inspection at the discretion of the
inspector. An electrical generating utility may apply for, and receive a
variance granting such utility up to an additional year between inspections.
(4) A grace period of two months beyond the periods specified in
subdivisions paragraphs (1), (2) and (3) of this subsection may elapse
between certificate inspections.
(5) The secretary state fire marshal may provide, by rules and
regulations, for longer periods between certificate inspections.
(e) The inspections herein required shall be made by the chief
inspector, by a deputy inspector or by a special inspector provided for in
this act.
(d) If, at the discretion of the inspector, a pressure test shall be
deemed necessary, it shall be made by the owner or user of the boiler.
(e) All pressure vessels installed after January 1, 1999, and boilers,
other than cast iron sectional boilers, 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 commission
issued by the national board of boiler and pressure vessel inspectors. All
pressure vessels installed after January 1, 1999, and boilers, regardless of
code of construction, shall be registered with the national board of boiler
and pressure vessel inspectors.
(f) Hot water supply boilers shall receive an external certificate
inspection every three years.
(g) Low pressure hot water supply boilers with a heat input over
400,000 BTUH shall receive an annual external certificate inspection.
(h) Hot water supply boilers over 200,000 BTUH or 120 gallon
capacity shall be stamped and registered with the national board of boiler
and pressure vessels inspectors.

(a) All inspections made by any inspector shall be reported to the office of the chief inspector state fire marshal within 30 days following each certificate inspection upon the appropriate form as approved by the secretary state fire marshal. The filing of reports of external inspections, other than certificate inspections, shall be required whenever such inspections disclose that the boiler or pressure vessel is in an unsafe condition.

(b) If a 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 adopted hereunder, the owner or user thereof shall pay directly to the chief inspector office of the state fire marshal the certificate fee prescribed by subsection (b) of K.S.A. 44-926, and amendments thereto, and the chief inspector state fire marshal or the chief inspector's state fire marshal's duly authorized representative shall issue to such owner or user an inspection certificate bearing the date of inspection and specifying the maximum pressure under which the boiler or pressure vessel may be operated. Such boiler inspection certificate shall be valid for not more than 14 months from its date unless covered by a variance. In the case of those boilers covered by subsection (b) of K.S.A. 44-923, and amendments thereto, for which the secretary state fire marshal has established or extended the operating period between required inspections pursuant to the provisions of subdivision (5) of subsection (b) (5) of K.S.A. 44-923, and amendments thereto, the certificate shall be valid for a period of not more than two months beyond the period set by the secretary state fire marshal. Certificates shall be maintained on site and available upon request of the state fire marshal, chief inspector or any deputy inspector.

(c) Whenever a boiler becomes uninsured or there is a change of insurers, the owner or new insurer must notify the chief boiler inspector office of the state fire marshal within 30 days.

(d) The chief inspector or deputy inspector may shut down or suspend the operation of a boiler or pressure vessel in accordance with the Kansas administrative procedure act if the chief inspector or deputy inspector finds that the boiler or pressure vessel cannot be operated without an immediate danger to the public health, safety or welfare or does not comply with the rules and regulations adopted hereunder. The suspension or shutdown of the boiler or pressure vessel shall continue in effect until the owner or operator demonstrates that the danger has been abated and the applicable rules and regulations have been complied with. The chief inspector or deputy inspector shall reinspect the boiler or pressure vessel to ensure it is safe and that applicable rules and regulations have been complied with, before issuing a permit to restart or resume operations. The
state fire marshal, chief inspector and any deputy inspector are authorized
to order the revocation or suspension of any certificate issued pursuant to
this act, and order any owner, operator or resident agent of an owner to
cease and desist operation of any boiler or pressure vessel subject to this
act for failure to comply with any of the provisions of this act or any rules
and regulations promulgated under the authority of this act. The state fire
marshal, chief inspector and any deputy inspector are further authorized
to order any owner, operator or resident agent of an owner to cease and
desist operation of any boiler or pressure vessel subject to this act if the
state fire marshal, chief inspector or deputy inspector finds that such
boiler or pressure vessel does not have a certificate as required by this act,
or finds that such boiler or pressure vessel cannot be operated without an
immediate danger to the public health, safety or welfare.

(e) An order revoking or suspending a certificate or any cease and
desist order shall continue in effect until the owner or operator
demonstrates that any danger has been abated and the applicable rules
and regulations have been complied with. The state fire marshal, chief
inspector or any deputy inspector shall reinspect the boiler or pressure
vessel to ensure that it is safe to operate and that all applicable rules and
regulations have been complied with before issuing or reinstating a
certificate to operate the boiler or pressure vessel.

Sec. 16. K.S.A. 44-925 is hereby amended to read as follows: 44-925.
(a) It shall be unlawful for any person, firm, partnership, corporation or
other entity to operate in this state a pressure vessel installed after January
1, 1999, or a boiler without a valid inspection certificate, and. The
operation of a pressure vessel installed after January 1, 1999, or a boiler
without such inspection certificate or at a pressure exceeding that specified
in such inspection certificate shall constitute a class C A misdemeanor.
Each day of such unlawful operation shall be deemed a separate offense.
(b) If an inspection certificate is lost or destroyed, a new certificate
shall be issued in its place without another inspection. The secretary state
fire marshal may charge a fee for a replacement certificate.

(c) It shall be unlawful for any person, firm, partnership, corporation
or other entity to install or operate any boiler or pressure vessel in this
state or to construct any boiler or pressure vessel for use in this state in
violation of this act or the rules and regulations adopted hereunder, and
any such unlawful installation, operation or construction shall constitute a
class C A misdemeanor. Each day of unlawful installation, operation or
construction shall be deemed a separate offense.

(d) In addition to any other penalty provided by law, the state fire
marshal, upon finding that any person has violated any of the provisions
of this act or any rule or regulation promulgated under the authority of
this act, is authorized to impose a civil penalty not to exceed $1,000 per
violation for each day of such unlawful operation, which shall constitute
an actual and substantial economic deterrent to the violation for which the
penalty is assessed. No civil penalty shall be imposed pursuant to this
subsection except upon the written order of the state fire marshal to the
person who committed the violation. Such order shall state the violation,
the penalty to be imposed and the right of the person to request a hearing
as provided in K.S.A. 44-928, and amendments thereto.
(e) All moneys received from civil penalties imposed pursuant to
subsection (d) shall be remitted to the state treasurer in accordance with
the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
of each such remittance, the state treasurer shall deposit the entire amount
in the state treasury to the credit of the boiler inspection fee fund.
Sec. 17. K.S.A. 2012 Supp. 44-926 is hereby amended to read as
follows: 44-926. (a) The owner or user of a boiler or pressure vessel
required by this act to be inspected by the chief inspector or a deputy
inspector shall pay directly to the chief-inspector office of the state fire
marshal, upon completion of inspection, inspection fees fixed by the
secretary state fire marshal in accordance with this subsection (a) section.
The secretary state fire marshal shall fix annually, by rules and
regulations, a schedule of fees for inspections of pressure vessels installed
after January 1, 1999, and boilers by state inspectors and may fix different
fees for inspection of boilers and pressure vessels in the various categories.
Such fees shall not exceed $500 per day for each boiler or pressure vessel
inspected.
(b) The owner or user of a boiler or pressure vessel for which an
inspection certificate is to be issued pursuant to subsection (b) of K.S.A.
44-924, and amendments thereto, shall pay directly to the chief-inspector
office of the state fire marshal, before issuance of such certificate, a
certificate fee fixed by the secretary state fire marshal by rules and
regulations of not to exceed $55.
(c) There is hereby created in the state treasury the boiler inspection
fee fund. The chief inspector shall pay daily to the secretary all moneys
received from the fees established hereunder, and the secretary The state
fire marshal shall remit all such moneys received from the fees established
hereunder to the state treasurer in accordance with the provisions of
K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
remittance, the state treasurer shall deposit the entire amount in the state
treasury. Ten percent of such inspection fees shall be credited to the state
general fund and the balance including all of the certificate fees shall be
credited to the boiler inspection fee fund. All expenditures from the boiler
inspection fee fund shall be made in accordance with appropriation acts
upon warrants of the director of accounts and reports issued pursuant to
vouchers approved by the secretary of labor state fire marshal, or by a
person or persons designated by the secretary state fire marshal.

Sec. 18. K.S.A. 44-927 is hereby amended to read as follows: 44-927.

The chief inspector and each deputy inspector shall be required to furnish
bond under the provisions of article 41 of chapter 75 of the Kansas
Statutes Annotated, and amendments thereto.

Sec. 19. K.S.A. 2012 Supp. 44-928 is hereby amended to read as
follows: 44-928. (a) Any person aggrieved by any act or determination of
the secretary or of the chief inspector, performed or made pursuant to the
provisions of this act, or rules and regulations adopted hereunder an order
issued pursuant to the provisions of this act, may request a hearing thereon
within 15 days from the date of the service of such order by filing such
request in writing with the office of the state fire marshal. Such hearing
shall be conducted by the secretary or the secretary's designee in
accordance with the provisions of the Kansas administrative procedure act.
The filing of a request for a hearing shall not abate or operate as a stay of
the effect of an order to cease and desist unless otherwise stated in such
order.

(b) Any action of the secretary pursuant to this act is subject to
review Judicial review and civil enforcement of agency actions under this
act shall be in accordance with the Kansas judicial review act.

Sec. 20. K.S.A. 44-929 is hereby amended to read as follows: 44-929.
No city, county or other political subdivision of this state shall have the
power to make any laws, ordinances or resolutions providing for the
construction, installation, inspection, maintenance and repair of boilers or
any pressure vessels installed after January 1, 1999, within the limits of
such city, county or political subdivision, and any such laws, ordinances or
resolutions heretofore made or passed shall be void and of no effect.

Sec. 21. K.S.A. 44-916, 44-917, 44-918, 44-919, 44-920, 44-921, 44-
44-630, 44-914, 44-915, 44-926 and 44-928 are hereby repealed.

Sec. 22. This act shall take effect and be in force from and after its
publication in the statute book.