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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **2855**

February 11, 2010

Authored by Gunther, Mahoney and Nelson

The bill was read for the first time and referred to the Committee on Commerce and Labor

March 4, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Civil Justice

March 11, 2010

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

1.1 A bill for an act
1.2 relating to labor and industry; modifying boiler provisions; amending and
1.3 imposing civil and criminal penalties; amending Minnesota Statutes 2008,
1.4 sections 326B.94, as amended; 326B.954; 326B.956; 326B.958; 326B.961,
1.5 as added if enacted; 326B.964; 326B.966; 326B.97; 326B.98; 326B.986,
1.6 subdivision 10; 326B.99; 326B.994, subdivision 3; 326B.998; Minnesota
1.7 Statutes 2009 Supplement, sections 326B.972; 326B.986, subdivisions 2, 8;
1.8 326B.988; proposing coding for new law in Minnesota Statutes, chapter 326B;
1.9 repealing Minnesota Statutes 2008, sections 326B.952; 326B.96, subdivision 1;
1.10 326B.962; 326B.968; 326B.982; 326B.996; Minnesota Rules, parts 5225.1400;
1.11 5225.3100; 5225.3150; 5225.3200.

1.12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.13 Section 1. Minnesota Statutes 2008, section 326B.94, as amended by Laws 2009,
1.14 chapter 78, article 5, section 26, is amended to read:

1.15 **326B.94 BOATS; MASTERS.**

1.16 Subdivision 1. **Boat.** "Boat" means any vessel navigating inland waters of the state
1.17 that is propelled by machinery or sails; and is carrying more than six passengers for hire;
1.18 ~~and is 21 feet or more in length.~~

1.19 Subd. 2. **Number of passengers.** The department shall designate the number of
1.20 passengers that each boat may safely carry, and no such boat shall carry a greater number
1.21 than is allowed by the inspector's certificate.

1.22 Subd. 3. **Annual permit.** The commissioner shall issue an annual permit to a
1.23 boat for the purpose of carrying passengers for hire on the inland waters of the state
1.24 provided the boat satisfies the inspection requirements of this section. A boat subject
1.25 to inspection under this chapter shall be registered with the department and shall be
1.26 inspected before a permit may be issued. No person shall operate a boat or cause a boat to
1.27 be operated for the purpose of carrying passengers for hire on the inland waters of the

2.1 state without a valid annual permit issued under this section. Boats operating with a
2.2 current inspection certificate issued by the United States Coast Guard are exempt from
2.3 the inspection requirements of this section.

2.4 Subd. 4. **Examinations, licensing.** Every individual who operates a boat must
2.5 hold a current master's license issued by the commissioner, unless the individual holds
2.6 a valid, current Charter Boat Captain's license issued by the United States Coast Guard.
2.7 The commissioner shall develop and administer an examination for all masters of boats
2.8 carrying passengers for hire on the inland waters of the state ~~as to their qualifications and~~
2.9 ~~fitness~~. If found qualified and competent to perform their duties as a master of a boat
2.10 carrying passengers for hire, they shall be issued a license authorizing them to act as such
2.11 on the inland waters of the state. All initial master's licenses shall be for two years. The
2.12 commissioner shall in a manner determined by the commissioner, without the need for
2.13 any rulemaking under chapter 14, phase in the renewal of master's licenses from one year
2.14 to two years. By June 30, 2011, all renewed master's licenses shall be two-year licenses.
2.15 Fees for the original issue and renewal of the license authorized under this section shall be
2.16 pursuant to section 326B.986, subdivision 2.

2.17 Subd. 5. **Rules.** (a) The department shall prescribe rules for the inspection of the
2.18 hulls, machinery, boilers, steam connections, firefighting apparatus, lifesaving appliances,
2.19 and lifesaving equipment of all power boats navigating the inland waters of the state,
2.20 which shall conform to the requirements and specifications of the United States Coast
2.21 Guard in similar cases as provided in Code of Federal Regulations, ~~title~~ titles 33 and 46,
2.22 and COMDTINST M16672.2D, as applicable to inland waters; these rules shall have
2.23 the force of law.

2.24 (b) ~~The commissioner shall make such rules for inspection and operation of boats~~
2.25 ~~subject to inspection under this chapter, the licensing of masters, and the navigation of any~~
2.26 ~~such boat as will require its operation without danger to life or property.~~ For purposes of
2.27 this subdivision, the term "COMDTINST M16672.2D" means United States Department
2.28 of Homeland Security, United States Coast Guard, Navigation Rules: International-Inland,
2.29 as forwarded by Commandant Instruction M16672.2D, dated March 25, 1999, with any
2.30 corrections or revisions.

2.31 Subd. 6. **Drugs, alcohol.** No master shall be under the influence of illegal drugs
2.32 or alcohol when on duty.

2.33 Sec. 2. **[326B.95] DEFINITIONS.**

2.34 Subdivision 1. **Scope.** The definitions in this section apply to sections 326B.93
2.35 to 326B.998.

3.1 Subd. 2. **Authorized inspector.** "Authorized inspector" means a national board
3.2 commissioned inspector who has been examined and found qualified to inspect the
3.3 construction and repair of boilers and pressure vessels, and holds a current certificate
3.4 of competency.

3.5 Subd. 3. **Certificate of competency.** "Certificate of competency" means a certificate
3.6 issued by the department to allow national board commissioned inspectors to perform
3.7 boiler and pressure vessel inspections within the state.

3.8 Subd. 4. **Certificate of inspection.** "Certificate of inspection" means a sticker
3.9 attached to the boiler or pressure vessel which documents the month and year of the
3.10 inspection and the employer of the inspector performing the inspection.

3.11 Subd. 5. **Certificate of registration.** "Certificate of registration" means a document
3.12 that has been made available on the department's Web site that lists all registered boilers
3.13 and pressure vessels at a location, including the last inspection date, the certificate
3.14 expiration date, and the maximum allowable working pressure for each boiler or pressure
3.15 vessel.

3.16 Subd. 6. **High pressure boiler.** "High pressure boiler" means a boiler operating at
3.17 a steam or other vapor pressure in excess of 15 psig, or a water or other liquid boiler in
3.18 which the pressure exceeds 160 psig or the temperature exceeds 250 degrees Fahrenheit.

3.19 Subd. 7. **Inspection due date.** "Inspection due date" means the last possible date
3.20 that the inspection can be completed within the time limits in this chapter.

3.21 Subd. 8. **Insurance company boiler inspector.** "Insurance company boiler
3.22 inspector" means a national board commissioned inspector who holds a current certificate
3.23 of competency.

3.24 Subd. 9. **Low-pressure boiler.** "Low-pressure boiler" means a boiler operating at
3.25 a steam or other vapor pressure of 15 psig or less, or a water or other liquid boiler in
3.26 which the pressure does not exceed 160 psig and the temperature does not exceed 250
3.27 degrees Fahrenheit.

3.28 Subd. 10. **National board.** "National board" means the National Board of Boiler
3.29 and Pressure Vessel Inspectors, which is an organization comprised of chief inspectors
3.30 for the states, cities, and territories of the United States and provinces and territories
3.31 of Canada.

3.32 Subd. 11. **National board commissioned inspector.** "National board commissioned
3.33 inspector" means an individual who has been examined and found qualified to inspect
3.34 in-service boilers and pressure vessels by the national board, and who holds a current
3.35 commission issued by the national board.

4.1 Subd. 12. **National Board Inspection Code.** "National Board Inspection Code" or
 4.2 "NBIC" means a three-part technical document that is written and published by the national
 4.3 board detailing the installation, inspection and repair of boilers and pressure vessels.

4.4 Subd. 13. **Operation.** "Operation" means the on-site act of manipulating,
 4.5 monitoring, and testing of boilers and their appurtenances by a properly licensed engineer
 4.6 or an apprentice under the direct supervision of the properly licensed engineer.

4.7 Subd. 14. **Psig.** "Psig" means pounds per square inch gauge.

4.8 Subd. 15. **Remote monitoring.** "Remote monitoring" means the act of viewing or
 4.9 overseeing the boiler or boiler plant operating parameters and conditions from a remote
 4.10 location.

4.11 Subd. 16. **Repair.** "Repair" means the work necessary to restore a boiler or
 4.12 pressure vessel to a safe and satisfactory operating condition, as defined in National Board
 4.13 Inspection Code, part 3, section 9.

4.14 Subd. 17. **State boiler inspector.** "State boiler inspector" means a national board
 4.15 commissioned boiler inspector who holds a current certificate of competency and a current
 4.16 chief grade A boiler operator's license.

4.17 Sec. 3. Minnesota Statutes 2008, section 326B.954, is amended to read:

4.18 **326B.954 BOILER INSPECTOR LICENSE.**

4.19 Each boiler inspector employed by the department shall be licensed in this state as a
 4.20 chief grade A engineer, and must hold a national board commission as a boiler inspector
 4.21 within 12 months of being employed as a boiler inspector by the department. An inspector
 4.22 shall not be interested in the manufacture or sale of boilers or steam machinery or in any
 4.23 ~~patented~~ article required or ~~generally~~ used in the construction of engines ~~or~~, boilers, or
 4.24 pressure vessels, or their appurtenances.

4.25 Sec. 4. Minnesota Statutes 2008, section 326B.956, is amended to read:

4.26 ~~**326B.956 STEAM FARM TRACTION ENGINES; SHOW BOILERS AND**~~
 4.27 ~~**ENGINES HISTORICAL BOILERS.**~~

4.28 Subdivision 1. **Definition.** For the purpose of sections ~~326B.952~~ 326B.93 to
 4.29 326B.998, the terms "show boiler" and "hobby boiler" are synonymous and mean term
 4.30 "historical boiler" means a boiler that is used only for display and demonstration purposes.
 4.31 The terms "historical boiler," "show boiler," "steam farm traction engine," and "hobby
 4.32 boiler" are synonymous. In recognition of the historical significance of show boilers in
 4.33 maintaining a working reminder of Minnesota's agricultural, transportation, and lumber
 4.34 industries, show boilers and engines are considered to be historical artifacts.

5.1 Subd. 2. **Inspection.** ~~When used for display and demonstration purposes, steam~~
5.2 ~~farm traction engines, portable and stationary show engines and portable and stationary~~
5.3 ~~show boilers~~ (a) Historical boilers shall be inspected every two years ~~according to law.~~
5.4 All historical boilers shall be inspected by ultrasonic examination and hydrostatic testing,
5.5 alternating the type of inspection every two years. Any historical boiler not previously
5.6 inspected in Minnesota shall be subject to both ultrasonic examination and hydrostatic
5.7 testing prior to operation unless the historical boiler has a current operating certificate
5.8 under paragraph (d).

5.9 (b) Except as provided in paragraph (d), historical boilers must display a certificate
5.10 of inspection issued by the department before use.

5.11 ~~(a) Show boilers or engines not certified in Minnesota shall be inspected thoroughly~~
5.12 ~~by a boiler inspector certified to inspect boilers in Minnesota, using inspection standards~~
5.13 ~~in paragraph (b), before being certified for use in Minnesota.~~

5.14 ~~(b)~~ (c) Standards for inspection of ~~show~~ historical boilers shall be those established
5.15 by the National Board Inspection Code ANSI/NB23 and by the rules adopted by the
5.16 department and as follows:

5.17 (1) the boiler ~~shall~~ may be subjected to ~~the appropriate method~~ other methods of
5.18 nondestructive examination, at the owner's expense, as deemed necessary by the boiler
5.19 inspector to determine soundness and safety of the boiler;

5.20 (2) ~~the boiler shall be tested by ultrasonic examination for metal thickness (for~~
5.21 ~~purposes of calculating the maximum allowable working pressure the thinnest reading~~
5.22 ~~shall be used and a safety factor of six shall be used in calculating maximum allowable~~
5.23 ~~working pressure on all non-ASME-code hobby and show boilers);~~ if a historical boiler
5.24 has any longitudinal cracks in riveted longitudinal seams, the vessel shall be sealed and
5.25 not approved for use in Minnesota. If the historical boiler is jacketed, the jacket must be
5.26 removed prior to inspection; and

5.27 (3) repairs and alterations made to ~~show~~ historical boilers must be made pursuant to
5.28 ~~section 326B.966.~~ the National Board Inspection Code ANSI/NB34.

5.29 (c) ~~Further each such object shall successfully complete an inspection of:~~

5.30 ~~(1) the fusible plug;~~

5.31 ~~(2) the safety valve, which must be of ASME approved design and set at the~~
5.32 ~~maximum allowable working pressure and sealed in an appropriate manner not allowing~~
5.33 ~~tampering with the valve setting without destroying the seal; and~~

5.34 ~~(3) the boiler power piping.~~

6.1 ~~Any longitudinal cracks found in riveted longitudinal seams requires that the vessel~~
6.2 ~~be sealed and not approved for use in Minnesota. If the boiler or show engine is jacketed,~~
6.3 ~~the jacket must be removed prior to inspection.~~

6.4 (d) If a historical boiler has not been inspected in Minnesota and has a current
6.5 operating certificate issued by another state or Canadian province, then that historical
6.6 boiler can be operated in Minnesota without inspection in Minnesota as long as:

6.7 (1) the chief boiler inspector has determined that the requirements for certification
6.8 in the other state or Canadian province are equal to or greater than the requirements for
6.9 certification in Minnesota;

6.10 (2) the historical boiler displays the certificate from the other state or Canadian
6.11 province; and

6.12 (3) the historical boiler is not operated in Minnesota for more than two years without
6.13 inspection in Minnesota.

6.14 Subd. 3. **Inspection fees.** The fee for inspecting ~~traction engines, show boilers, and~~
6.15 ~~show engines~~ historical boilers shall be the hourly rate pursuant to section 326B.986,
6.16 subdivision 4.

6.17 Subd. 4. **Licenses.** When a historical boiler is in operation at any location that is
6.18 open to the public, an individual licensed under this subdivision or exempt from licensure
6.19 under this subdivision must be in attendance at the boiler at all times. A license to operate
6.20 ~~steam farm traction engines, portable and stationary show engines, and portable and~~
6.21 ~~stationary show~~ historical boilers shall be issued to an applicant who:

6.22 (1) is 16 years of age or older;

6.23 (2) has ~~a licensed second class grade A or higher class engineer or steam traction~~
6.24 ~~(hobby) engineer sign~~ provided to the commissioner an affidavit attesting to the applicant's
6.25 competence in operating these devices historical boilers and attesting that the applicant
6.26 has demonstrated the ability to perform each task on ~~the~~ a list, developed and approved by
6.27 the chief boiler inspector, of tasks associated with the operation of the devices; historical
6.28 boilers. The affidavit shall be signed by a licensed historical boiler engineer or an engineer
6.29 licensed as second class grade A or higher;

6.30 (3) has at least 50 hours of operating experience on the devices, eight hours of which
6.31 must be operating the boiler under load, and up to 16 hours of which may be satisfied by
6.32 attendance at a school of instruction in operating the devices;

6.33 (4) passes a written test for competence in operating the devices; and

6.34 (5) pays the required fee.

6.35 A license is valid for the lifetime of the licensee unless revoked for cause. A onetime fee
6.36 pursuant to section 326B.986, subdivision 5, shall be charged for the license.

7.1 Subd. 5. ~~Exemption.~~ Exemptions. (a) Any licensed steam engineer may operate
7.2 ~~steam farm traction engines, portable and stationary show engines and portable and~~
7.3 ~~stationary show~~ historical boilers, subject to the ~~apparatus~~ equipment and horsepower
7.4 ~~restrictions~~ limitations set forth in ~~the license~~ section 326B.978, without obtaining a
7.5 license under subdivision 4.

7.6 (b) Any individual who holds a current historical boiler operator license issued by
7.7 another state or Canadian province may operate historical boilers in Minnesota if the
7.8 chief boiler inspector has determined that the requirements under which the individual
7.9 obtained licensure in the other state or Canadian province are equal to or greater than the
7.10 requirements for an applicant making application in Minnesota for a historical boiler
7.11 license.

7.12 ~~Subd. 6. Licensed operator; presence required.~~ An operator licensed under this
7.13 section must be present when a traction engine, portable or stationary show engine, or
7.14 portable or stationary show boiler is in operation and a member of the public is present.

7.15 Sec. 5. Minnesota Statutes 2008, section 326B.958, is amended to read:

7.16 **326B.958 INSPECTION AND REGISTRATION.**

7.17 Subdivision 1. **Inspection.** (a) Every owner, lessee, or other person having charge
7.18 of boilers or pressure vessels subject to inspection under sections 326B.956 to 326B.998
7.19 shall cause them to be inspected by the department. ~~Except as provided in sections~~
7.20 ~~326B.956 and 326B.96, boilers subject to inspection under sections 326B.956 to 326B.998~~
7.21 ~~must be inspected at least annually and pressure vessels inspected at least every two~~
7.22 ~~years. The commissioner shall assess a \$250 penalty per applicable boiler or pressure~~
7.23 ~~vessel for failure to have the inspection required by this section and may seal the boiler~~
7.24 ~~or pressure vessel for refusal to allow an inspection as required by this section. unless~~
7.25 specifically excepted by section 326B.988 or 326B.99. Inspectors shall subject all boilers
7.26 to a thorough internal and external examination according to the standards in sections
7.27 326B.964 and 326B.966.

7.28 (b) Anyone who installs a boiler must ensure that the boiler is inspected by the
7.29 department after installation is complete and before the boiler is placed in operation.
7.30 Inspection fees pursuant to section 326B.986, associated with this initial inspection are
7.31 the responsibility of the installer.

7.32 (c) The owner of a boiler must ensure that the boiler is inspected at least annually
7.33 after the initial inspection, except as provided in sections 326B.956 and 326B.96.

7.34 (d) The owner of a pressure vessel not specifically excepted by section 326B.988
7.35 must ensure that the pressure vessel is inspected at least every two years.

8.1 (e) The fees under section 326B.986 for inspections conducted by the department
8.2 under paragraphs (c) and (d) shall be the responsibility of the owner of the boiler or
8.3 pressure vessel.

8.4 Subd. 1a. **Certificate of inspection.** After inspecting the boiler or pressure vessel,
8.5 the boiler inspector shall document the condition of the boiler or pressure vessel. If the
8.6 boiler or pressure vessel meets the inspection requirements in sections 326B.964 and
8.7 326B.966, the inspector shall attach a label or sticker to the boiler or pressure vessel
8.8 indicating the month and year inspected and the name of the inspection agency. This label
8.9 is the inspection certificate and shall indicate that the inspected boiler or pressure vessel is
8.10 found to be safe and suitable for use. The boiler inspector shall directly attach a tag to a
8.11 newly installed boiler that displays a unique identification number.

8.12 Subd. 1b. **Defects in boilers or pressure vessels.** If, upon inspecting a boiler or
8.13 pressure vessel, the boiler inspector determines that the boiler or pressure vessel does not
8.14 meet the requirements in sections 326B.964 and 326B.966, the inspector shall notify the
8.15 owner or operator in writing of any defect in the boiler or pressure vessel. The boiler or
8.16 pressure vessel shall not be operated if the inspector determines that the boiler or pressure
8.17 vessel is unsafe. The boiler or pressure vessel shall not be operated until these unsafe
8.18 defects have been corrected and verified by the inspector. If the boiler inspector finds that
8.19 a boiler is being operated by an unlicensed or improperly licensed person, operation of the
8.20 boiler shall cease until all operators are properly licensed according to section 326B.978.
8.21 If circumstances warrant continued operation, the boiler inspector may, at the discretion
8.22 of the boiler inspector, give approval for continuing operation of the boiler for a specific
8.23 period of time, not to exceed 30 days.

8.24 Subd. 2. **Registration.** Every owner, lessee, or other person having charge of
8.25 ~~boilers~~ a boiler or pressure ~~vessels~~ vessel subject to inspection under sections ~~326B.952~~
8.26 ~~326B.93~~ to 326B.998, except ~~hobby~~ historical boilers under section 326B.956, shall
8.27 register ~~said objects~~ the boiler or pressure vessel with the department at the time of the
8.28 initial inspection described in subdivision 1. The registration shall be renewed annually
8.29 ~~and is applicable to each object separately. The fee for registration of a boiler or pressure~~
8.30 ~~vessel shall be pursuant to section 326B.986, subdivision 9. The department may issue~~
8.31 ~~a billing statement for each boiler and pressure vessel on record with the division, and~~
8.32 ~~may determine a monthly schedule of billings to be followed for owners, lessees, or other~~
8.33 ~~persons having charge of a boiler or pressure vessel subject to inspection under sections~~
8.34 ~~326B.952 to 326B.998; for each boiler or pressure vessel on record with the department.~~

8.35 Subd. 3. **Certificate of registration.** The department shall issue ~~a~~ an electronic
8.36 certificate of registration that lists the registered boilers and pressure vessels at the

9.1 location, expiration date of the certificate of registration, last inspection date of each
 9.2 registered boiler and pressure vessel, and maximum allowable working pressure for
 9.3 each registered boiler and pressure vessel. ~~The commissioner may make an electronic~~
 9.4 ~~certificate of registration~~ This certificate shall be available to be printed by the owner,
 9.5 lessee, or other person having charge of the registered boiler or pressure vessel.

9.6 Sec. 6. Minnesota Statutes 2008, section 326B.961, as added by 2009 H.F. No. 927,
 9.7 section 20, if enacted, is amended to read:

9.8 **[326B.961] TRIENNIAL AUDITS AND TEAM LEADER CERTIFICATIONS.**

9.9 Subdivision 1. **Triennial audits; assignment; qualifications.** The chief boiler
 9.10 inspector shall assign a qualified ASME designee or team leader to perform triennial
 9.11 audits on ASME Code and national board stamp holders at the request of the stamp holder.
 9.12 The department shall maintain qualifications for ASME designees and national board team
 9.13 leaders in accordance with ASME and national board requirements.

9.14 Subd. 2. **Fees.** The department's fee for performing ASME and national board
 9.15 triennial audits shall be the hourly rate pursuant to section 326B.986, subdivision 4.

9.16 Sec. 7. Minnesota Statutes 2008, section 326B.964, is amended to read:

9.17 **326B.964 STANDARDS OF INSPECTION.**

9.18 The engineering standards of boilers and pressure vessels for use in this state shall
 9.19 be ~~that~~ those established by Minnesota Rules, chapter 5225, and by the current edition of
 9.20 and amendments addenda to the ASME Code ~~or~~, the National Board Inspection Code,
 9.21 and the National Fire Protection Association's standard NFPA 85 (Boiler and Combustion
 9.22 Systems Hazards Code), as ~~applicable, for they apply to~~ the construction, operation and
 9.23 care of, in-service inspection and testing, and controls and safety devices, ~~and by the~~
 9.24 ~~rules adopted by the department.~~

9.25 Sec. 8. Minnesota Statutes 2008, section 326B.966, is amended to read:

9.26 **326B.966 INSPECTION PROCEDURES AND STANDARDS OF REPAIRS.**

9.27 The ~~rules~~ inspection procedures and requirements for the repair of boilers and
 9.28 pressure vessels for use in this state shall be those established by the most current edition
 9.29 of and addenda to the National Board of Boiler and Pressure Vessel Inspectors inspection
 9.30 ~~code~~ Inspection Code and the rules adopted by the department.

10.1 Sec. 9. Minnesota Statutes 2008, section 326B.97, is amended to read:

10.2 **326B.97 INSPECTION OF BOILERS AND PRESSURE VESSELS.**

10.3 The owner ~~or manager~~, lessee, or other person having control of a boiler or pressure
10.4 vessel shall allow inspectors full access ~~thereto~~. to the boiler or pressure vessel. Every
10.5 engineer operating a boiler shall assist the inspector ~~in~~ during the examination, and ~~point~~
10.6 ~~out~~ indicate to the inspector any known defects in the boilers, pressure vessels, steam
10.7 engines, ~~or and~~ turbines ~~in the engineer's charge~~.

10.8 Sec. 10. Minnesota Statutes 2009 Supplement, section 326B.972, is amended to read:

10.9 **326B.972 LICENSE REQUIREMENT.**

10.10 (a) To operate a boiler, steam engine, or steam turbine an individual must have
10.11 received a license for the grade covering that boiler, steam engine, or steam turbine.
10.12 Except for licenses described in section 326B.956 and except for provisional licenses
10.13 described in paragraphs (d) to (g):

10.14 (1) all initial licenses shall be for two years;

10.15 (2) the commissioner shall in a manner determined by the commissioner, without
10.16 the need for any rulemaking under chapter 14, phase in the renewal of licenses from
10.17 one year to two years; and

10.18 (3) by June 30, 2011, all licenses shall be two-year licenses.

10.19 (b) For purposes of sections ~~326B.952~~ 326B.93 to 326B.998, "operation" means
10.20 the act of manipulating and monitoring boilers or appurtenances for their intended
10.21 purpose and to ensure safety, except that operation does not include remote monitoring
10.22 of an automatic boiler, ~~either through on premises inspection of the boiler or by remote~~
10.23 ~~electronic surveillance, provided that no operations are~~. When a boiler is monitored from
10.24 a remote location, the only function that may be performed remotely upon the boiler
10.25 ~~other than~~ is an emergency shut down in alarm situations.

10.26 (c) No individual under the influence of illegal drugs or alcohol may operate a boiler,
10.27 steam engine, or steam turbine or monitor an automatic boiler.

10.28 (d) The commissioner may issue a provisional license to allow an employee of a
10.29 high pressure boiler plant to operate boilers greater than 500 horsepower at only that
10.30 boiler plant if:

10.31 (1) the boiler plant has a designated chief engineer in accordance with Minnesota
10.32 Rules, part 5225.0410;

10.33 (2) the boiler plant employee holds a valid license as a second-class engineer,
10.34 Grade A or B;

11.1 (3) the chief engineer in charge of the boiler plant submits an application to the
11.2 commissioner on a form prescribed by the commissioner ~~to elicit information on whether~~
11.3 ~~the requirements of this paragraph have been met;~~

11.4 (4) the chief engineer in charge of the boiler plant and an authorized representative
11.5 of the owner of the boiler plant both sign the application for the provisional license;

11.6 (5) the owner of the boiler plant has a documented training program with examination
11.7 for boilers and equipment at the boiler plant to train and test the boiler plant employee; and

11.8 (6) if the application were to be granted, the total number of provisional licenses
11.9 for employees of the boiler plant would not exceed the total number of properly licensed
11.10 first-class engineers and chief engineers responsible for the safe operation of the boilers
11.11 at the boiler plant.

11.12 (e) A public utility, cooperative electric association, generation and transmission
11.13 cooperative electric association, municipal power agency, or municipal electric utility
11.14 that employs licensed boiler operators who are subject to an existing labor contract may
11.15 use a provisional licensee as an operator only if using the provisional licensee does not
11.16 violate the labor contract.

11.17 (f) ~~Each provisional license expires 36 months after the date of issuance unless~~
11.18 ~~revoked less than 36 months after the date of issuance.~~ A provisional license is valid for
11.19 36 months from the date of issue, unless revoked before the expiration date. A provisional
11.20 license may not be renewed.

11.21 (g) The commissioner may issue no more than two provisional licenses to any
11.22 individual within a four-year period.

11.23 Sec. 11. Minnesota Statutes 2008, section 326B.98, is amended to read:

11.24 **326B.98 VERIFICATION OF CERTIFICATE.**

11.25 In making an inspection of boilers, ~~machinery, or vessels,~~ and pressure vessels,
11.26 inspectors may act jointly or separately. In all cases inspectors shall verify the certificate
11.27 of ~~inspection.~~ registration to ensure that all registered boilers and pressure vessels, other
11.28 than historical boilers are inspected. Any boilers and pressure vessels that are no longer in
11.29 service shall be removed from the certificate of registration according to rules adopted
11.30 by the department.

11.31 Sec. 12. Minnesota Statutes 2009 Supplement, section 326B.986, subdivision 2,
11.32 is amended to read:

11.33 Subd. 2. **Fee amounts; master's.** The license and application fee for an initial
11.34 master's license is \$70, ~~or \$40 if the applicant possesses a valid, unlimited, current United~~

12.1 ~~States Coast Guard master's license.~~ The renewal fee for a master's license is \$20 for one
 12.2 year or \$40 for two years. If the renewal fee is paid later than 30 days after expiration,
 12.3 then a late fee of \$15 will be added to the renewal fee.

12.4 Sec. 13. Minnesota Statutes 2009 Supplement, section 326B.986, subdivision 8,
 12.5 is amended to read:

12.6 Subd. 8. **Certificate of competency.** The fee for issuance of the original ~~state of~~
 12.7 ~~Minnesota~~ certificate of competency ~~for inspectors~~ is \$85 for inspectors who did not
 12.8 pay the national board examination fee specified in subdivision 6, or \$35 for inspectors
 12.9 who paid ~~the~~ that examination fee. Each applicant for a certificate of competency must
 12.10 complete an interview with the chief boiler inspector before issuance of the certificate of
 12.11 competency. All initial certificates of competency shall be effective for more than one
 12.12 calendar year and shall expire on December 31 of the year after the year in which the
 12.13 application is made. The commissioner shall in a manner determined by the commissioner,
 12.14 without the need for any rulemaking under chapter 14, phase in the renewal of certificates
 12.15 of competency from one calendar year to two calendar years. By June 30, 2011, all
 12.16 renewed certificates of competency shall be valid for two calendar years. The fee for
 12.17 renewal of the state of Minnesota certificate of competency is \$35 for one year or \$70 for
 12.18 two years, and is due the day after the certificate expires.

12.19 Sec. 14. Minnesota Statutes 2008, section 326B.986, subdivision 10, is amended to
 12.20 read:

12.21 Subd. 10. **Late fee.** The commissioner ~~may~~ shall assess a late fee of ~~up to~~ \$100
 12.22 for each invoice issued under subdivision 1, 3, or 4 that is not paid in full by the due
 12.23 date stated on the invoice.

12.24 Sec. 15. Minnesota Statutes 2009 Supplement, section 326B.988, is amended to read:

12.25 **326B.988 EXCEPTIONS.**

12.26 (a) The provisions of sections ~~326B.952~~ 326B.93 to 326B.998, shall not apply to:

12.27 (1) boilers and pressure vessels in buildings occupied solely for residence purposes
 12.28 with accommodations for not more than five families;

12.29 (2) railroad locomotives operated by railroad companies for transportation purposes;

12.30 (3) air tanks installed on the right-of-way of railroads and used directly in the
 12.31 operation of trains;

12.32 (4) boilers and pressure vessels under the direct jurisdiction of the United States;

- 13.1 (5) unfired pressure vessels having an internal or external working pressure not
13.2 exceeding 15 p.s.i.g. with no limit on size;
- 13.3 (6) pressure vessels used for storage of compressed air not exceeding five cubic feet
13.4 in volume and equipped with an ASME code stamped safety valve set at a maximum
13.5 of 100 p.s.i.g.;
- 13.6 (7) pressure vessels having an inside diameter not exceeding six inches;
- 13.7 (8) every vessel that contains water under pressure, including those containing air
13.8 that serves only as a cushion, whose design pressure does not exceed 300 p.s.i.g. and
13.9 whose design temperature does not exceed 210 degrees Fahrenheit;
- 13.10 (9) boiler or pressure vessels located on farms used solely for agricultural or
13.11 horticultural purposes; for purposes of this section, boilers used for mint oil extraction
13.12 are considered used for agricultural or horticultural purposes, provided that the owner or
13.13 lessee complies with the inspection requirements contained in section 326B.958;
- 13.14 (10) tanks or cylinders used for storage or transfer of liquefied petroleum gases;
- 13.15 (11) unfired pressure vessels in petroleum refineries;
- 13.16 (12) an air tank or pressure vessel which is an integral part of a passenger motor
13.17 bus, truck, or trailer;
- 13.18 (13) hot water heating and other hot liquid boilers not exceeding a heat input of
13.19 750,000 BTU per hour;
- 13.20 (14) hot water supply boilers (water heaters) not exceeding a heat input of 500,000
13.21 BTU per hour, a water temperature of 210 degrees Fahrenheit, a nominal water capacity of
13.22 120 gallons, or a pressure of 160 p.s.i.g.;
- 13.23 (15) a laundry and dry cleaning press not exceeding five cubic feet of steam volume;
- 13.24 (16) pressure vessels operated full of water or other liquid not materially more
13.25 hazardous than water, if the vessel's contents' temperature does not exceed ~~140~~ 210
13.26 degrees Fahrenheit or a pressure of 200 p.s.i.g.;
- 13.27 (17) steam powered turbines at papermaking facilities which are powered by steam
13.28 generated by steam facilities at a remote location; ~~and~~
- 13.29 (18) manually fired boilers for model locomotive, boat, tractor, stationary engine,
13.30 or antique motor vehicles constructed or maintained only as a hobby for exhibition,
13.31 educational or historical purposes and not for commercial use, if the boilers have an
13.32 inside diameter of 12 inches or less, or a grate area of two square feet or less, and are
13.33 equipped with an ASME stamped safety valve of adequate size, a water level indicator,
13.34 and a pressure gauge;
- 13.35 (19) any pressure vessel used as an integral part of an electrical circuit breaker;

14.1 (20) pressure vessels used for the storage of refrigerant if they are built to ASME
 14.2 code specifications, registered with the national board, and equipped with an ASME
 14.3 code stamped pressure relieving device set no higher than the maximum allowable
 14.4 working pressure of the vessel. This does not include pressure vessels used in ammonia
 14.5 refrigeration systems;

14.6 (21) pressure vessels used for the storage of oxygen, nitrogen, helium, carbon
 14.7 dioxide, argon, nitrous oxide, or other medical gas, provided the vessel is constructed to
 14.8 ASME or Minnesota Department of Transportation specifications and equipped with an
 14.9 ASME code stamped pressure relieving device. The owner of the vessel shall perform
 14.10 annual visual inspections and planned maintenance on these vessels to ensure vessel
 14.11 integrity;

14.12 (22) pressure vessels used for the storage of compressed air for self-contained
 14.13 breathing apparatuses;

14.14 (23) hot water heating or other hot liquid boilers vented directly to the atmosphere;
 14.15 and

14.16 (24) pressure vessels used for the storage of compressed air not exceeding 1.5 cubic
 14.17 feet (11.22 gallons) in volume with a maximum allowable working pressure of 600 psi or
 14.18 less.

14.19 (b) An engineer's license is not required for hot water supply boilers.

14.20 (c) An engineer's license and annual inspection by the department is not required
 14.21 for boilers, steam cookers, steam kettles, steam sterilizers or other steam generators not
 14.22 exceeding 100,000 BTU per hour input, 25 kilowatt, ~~2-1/2 horsepower~~ and a pressure of
 14.23 15 p.s.i.g.

14.24 (d) Electric boilers not exceeding a maximum working pressure of 50 p.s.i.g.,
 14.25 maximum of 30 kilowatt input or three horsepower rating shall be inspected as pressure
 14.26 vessels and shall not require an engineer license to operate.

14.27 Sec. 16. Minnesota Statutes 2008, section 326B.99, is amended to read:

14.28 **326B.99 REPORT OF INSURER; EXEMPTION FROM INSPECTION.**

14.29 Subdivision 1. **Report Inspection required.** Any insurance company insuring
 14.30 boilers and pressure vessels in this state shall ~~file a report showing the most recent date~~
 14.31 ~~of inspection, the name of the individual making the inspection, the condition of the~~
 14.32 ~~boiler or pressure vessel as disclosed by the inspection, whether the boiler was operated~~
 14.33 ~~by a properly licensed engineer, whether a policy of insurance has been issued by the~~
 14.34 ~~company with reference to the boiler or pressure vessel, and other information as directed~~
 14.35 ~~by the commissioner.~~ inspect each insured boiler or pressure vessel. Within 21 days

15.1 after the inspection, the insurance company shall file ~~the~~ an inspection report with the
15.2 commissioner. ~~The insurer shall provide a copy of the report to the person owning or~~
15.3 ~~operating the inspected boiler or pressure vessel. The inspection report shall be on the~~
15.4 applicable national board form. The inspection report must indicate who is the properly
15.5 licensed engineer in charge of the boiler or pressure vessel, including the engineer's
15.6 license grade, class, and telephone number. Such report shall be made annually for
15.7 boilers and biennially for pressure vessels, and must be submitted in the format required
15.8 by the department.

15.9 Subd. 2. **Exemption.** Every boiler or pressure vessel as to which any insurance
15.10 company authorized to do business in this state has issued a policy of insurance, after the
15.11 inspection thereof, is exempt from inspection by the department made under sections
15.12 ~~326B.952~~ 326B.93 to 326B.998, ~~while the same continues to be insured and provided it~~
15.13 ~~continues to be inspected in accordance with the inspection schedule set forth in sections~~
15.14 ~~326B.958 and 326B.96, and the person owning or operating the same has an unexpired~~
15.15 ~~certificate of registration.~~ except the initial inspection by the department under section
15.16 326B.96, subdivision 1, as long as:

15.17 (1) the boiler or pressure vessel continues to be insured;

15.18 (2) the boiler or pressure vessel continues to be inspected in accordance with the
15.19 inspection schedule in sections 326B.958 and 326B.96; and

15.20 (3) the person owning or operating the boiler or pressure vessel has an unexpired
15.21 certificate of registration.

15.22 Subd. 3. **Notice of insurance coverage.** The insurer shall notify the commissioner
15.23 in writing of its policy to insure and inspect boilers and pressure vessels at a location
15.24 within 30 days of ~~receipt of notification from the insured that a boiler or pressure vessel is~~
15.25 ~~present at an insured location. The insurer must also provide a duplicate of the notification~~
15.26 ~~to the insured.~~ the date coverage is provided.

15.27 Subd. 4. **Notice of discontinued coverage.** The insurer shall notify the
15.28 commissioner in writing, within 30 days of the effective date, of the discontinuation of
15.29 insurance coverage of the boilers and pressure vessels at a location ~~and the cause or reason~~
15.30 ~~for the discontinuation if the insurer has received notice from the insured that a boiler or~~
15.31 ~~pressure vessel is present at an insured location, as provided under subdivision 3.~~ This
15.32 notice shall show the effective date when the discontinued policy takes effect.

15.33 Subd. 5. **Penalties.** The commissioner shall assess upon the insurer a \$50 penalty,
15.34 per applicable boiler and pressure vessel, for failing to submit an inspection report or
15.35 notify the commissioner of insurance coverage or discontinuation of insurance coverage
15.36 as set forth in this section. The commissioner shall assess upon the insurer a penalty

16.1 of \$100, per applicable boiler and pressure vessel, for failing to conduct the required
 16.2 in-service inspection within ~~120~~ 60 days after the inspection was due ~~in accordance with~~
 16.3 ~~section 326B.958.~~, or within 60 days of the date of coverage for boilers or pressure vessels
 16.4 that are overdue for inspection. The penalties in this subdivision may only be assessed for
 16.5 notice, reports, and inspections required during the period that the insurance coverage was
 16.6 in effect ~~and for which the insurer has received notice from the insured that a boiler or~~
 16.7 ~~pressure vessel is present at an insured location, as provided under subdivision 5.~~

16.8 Sec. 17. Minnesota Statutes 2008, section 326B.994, subdivision 3, is amended to read:

16.9 Subd. 3. **Sale violation.** No manufacturer, ~~jobber~~, dealer, or other person shall sell
 16.10 or offer for sale a boiler or pressure vessel that does not meet the minimum construction
 16.11 requirements of the ASME boiler and pressure vessel code and the rules of the department.

16.12 Sec. 18. Minnesota Statutes 2008, section 326B.998, is amended to read:

16.13 **326B.998 PENALTY FOR UNLAWFUL OPERATION: OPERATORS.**

16.14 (a) ~~Every person who shall apply, or cause to be applied, to a boiler or pressure~~
 16.15 ~~vessel a higher pressure than is allowed by law, or by the inspector, officer, or person~~
 16.16 ~~authorized to limit the same; and every owner and lessee of a boiler or pressure vessel~~
 16.17 ~~having knowledge of such application, or of circumstances which would cause such an~~
 16.18 ~~application, shall be guilty of a gross misdemeanor.~~ No person shall operate or cause to be
 16.19 operated a boiler or pressure vessel at a higher pressure than is indicated on the data plate
 16.20 attached to the boiler or pressure vessel.

16.21 (b) ~~Every captain~~ No master or other person having charge of the machinery of
 16.22 a boat used for the conveyance of passengers in the waters of this state ~~and every, or~~
 16.23 engineer or other person having charge of a boiler, steam engine, or other apparatus for
 16.24 generating or employing steam, ~~who shall willfully, or from ignorance or gross neglect,~~
 16.25 shall create, or allow to be created any condition whereby human life is endangered, ~~and~~
 16.26 ~~every.~~ Every owner and lessee of a boat, boiler, steam engine, or other apparatus for
 16.27 generating or supplying steam who has knowledge of ~~such~~ such a condition whereby human
 16.28 life is endangered, or of circumstances which would cause such a condition, ~~shall be guilty~~
 16.29 ~~of a gross misdemeanor.~~ shall take prompt action to correct the condition or circumstances
 16.30 and eliminate the danger to human life.

16.31 (c) Any person who violates paragraph (a) or (b) is guilty of a gross misdemeanor.

16.32 Sec. 19. **REPEALER.**

- 17.1 (a) Minnesota Statutes 2008, sections 326B.952; 326B.96, subdivision 1; 326B.962;
- 17.2 326B.968; 326B.982; and 326B.996, are repealed.
- 17.3 (b) Minnesota Rules, parts 5225.1400; 5225.3100; 5225.3150; and 5225.3200, are
- 17.4 repealed.

326B.952 BOILER INSPECTOR; INSPECTIONS; EXAMINATIONS; LICENSES.

Subdivision 1. **All boilers inspected.** The commissioner shall inspect all boilers and pressure vessels in use not expressly excepted from such inspection by law. Upon inspection the commissioner shall issue a certificate of inspection therefor or a certificate condemning the boiler or pressure vessel and shall seal it. Forms for these licenses and certificates shall be prepared and furnished by the commissioner. The commissioner shall examine all applicants for engineer's licenses. The commissioner shall issue such license to an applicant as the examination shall show the applicant is entitled to receive.

Subd. 2. **Inspector's examination.** For the purpose of examining applicants for a National Board of Boiler and Pressure Vessel Inspectors commission, the commissioner shall fix and determine a time and place for the examinations, and give notice to all applicants of the time and place. The commissioner shall grant and sign such license certificates as applicants are entitled to receive upon examination. Applicants may be examined and issued certificates of competency as inspectors of boilers and pressure vessels.

326B.96 INSPECTION.

Subdivision 1. **Inspection requirements.** All boilers and steam generators must be inspected by the department before they are used and all boilers must be inspected at least once each year thereafter except as provided under subdivision 2 or section 326B.956. Inspectors may subject all boilers to hydrostatic pressure or hammer test, and shall ascertain by a thorough internal and external examination that they are well made and of good and suitable material; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat, are of proper dimensions and free from obstructions; that the flues are circular in form; that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby; and that such boilers and their connections may be safely used without danger to life or property. Inspectors shall ascertain that the safety valves are of suitable dimensions, sufficient in number, and properly arranged, and that the safety valves are so adjusted as to allow no greater pressure in the boilers than the amount prescribed by the inspector's certificate; that there is a sufficient number of gauge cocks, properly inserted, to indicate the amount of water, and suitable gauges that will correctly record the pressure; and that the fusible metals are properly inserted where required so as to fuse by the heat of the furnace whenever the water in the boiler falls below its prescribed limit; and that provisions are made for an ample supply of water to feed the boilers at all times; and that means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts when under pressure.

326B.962 TESTS.

In subjecting both high- and low-pressure boilers and pressure vessels to the hydrostatic test, and to determine the safe allowable working pressure, the inspector shall use the latest approved formula of the ASME Code or National Board Inspection Code, as applicable.

326B.968 EXAMINATION FINDING BOILER UNSAFE.

If an inspector examines a boiler or pressure vessel and determines that the boiler or pressure vessel is unsafe, the inspector shall notify the owner or operator of any defect in that boiler or pressure vessel. Such boiler or pressure vessel shall not thereafter be used until the defect is corrected. Boilers found to be operated by unlicensed or improperly licensed persons shall not be used until the operators are properly licensed. If circumstances warrant continued operation, approval may be given for continuing operation for a specific period of time, not to exceed 30 days, at the discretion of the boiler inspector.

326B.982 CERTIFICATE DELIVERY; PAYMENT OF INSPECTION FEES.

Subdivision 1. **Inspection certificate.** After examination and tests of the boiler or pressure vessel being inspected, the boiler inspector shall document the condition of the boiler or pressure vessel as required by the commissioner. The inspector shall issue an inspection certificate, as prescribed by the commissioner, to the owner or operator for the inspected boilers and pressure vessels found to be safe and suitable for use. The inspector shall immediately notify the owner or operator of any deficiencies found on the boilers and pressure vessels during the inspection on a form prescribed by the commissioner.

APPENDIX

Repealed Minnesota Statutes: H2855-1

Subd. 2. **Failure to pay fee.** If the owner or lessee of any boiler or pressure vessel, which boiler or pressure vessel has been duly inspected, refuses to pay the required fee within 30 days from the date of the invoice, the department may seal the boiler or pressure vessel until the fee is paid.

326B.996 VIOLATIONS BY THOSE RESPONSIBLE FOR OPERATION.

Subdivision 1. **Inspection violation.** No person shall cause to be operated or shall operate any boiler or boat without having the same inspected at least once each year, or pressure vessel, steam farm traction engine, portable or stationary show engine, or portable or stationary show boiler without having it inspected biennially, or without having the proper engineer or master license.

Subd. 2. **Failure to repair.** After any boiler or pressure vessel has been examined and found to be unsafe and after the owner or operator of the boiler or pressure vessel has been notified of any defect in it, no person shall operate the boiler or pressure vessel or cause it to be operated unless and until the defect has been corrected.