

HOUSE BILL No. 2436

By Committee on Appropriations

3-11

AN ACT relating to the state fire marshal; transferring powers, duties and personnel regarding industrial health and safety from the secretary of human resources to the office of the state fire marshal; transferring the powers and duties of the boiler safety act from the secretary of human resources to the state fire marshal's office; amending K.S.A. 44-636, 44-638, 44-914, 44-915, 44-916, 44-917, 44-918, 44-919, 44-920, 44-922, 44-923, 44-924, 44-925 and 44-928 and K.S.A. 2002 Supp. 44-926 and repealing the existing sections.

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

New Section 1. (a) The powers, duties and functions of the secretary of human resources and the department of human resources concerning industrial health and safety under article 6 of chapter 44 of the Kansas Statutes Annotated are hereby transferred to and conferred and imposed upon the state fire marshal's office.

(b) Except as otherwise provided by this act, the state fire marshal shall be the successor in every way to the powers, duties and functions of the department of human resources and the secretary of the department of human resources concerning industrial health and safety under article 6 of chapter 44 of the Kansas Statutes Annotated in which the same were vested prior to the effective date of this section. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of human resources or the secretary of the department of human resources established by this act shall be deemed to have the same force and effect as if performed by the department of human resources or the secretary of the department of human resources, respectively, in which such powers, duties and functions were vested prior to the effective date of this section.

(c) Except as otherwise provided by this act, whenever the department of human resources, or words of like effect concerning industrial health and safety under article 6 of chapter 44 of the Kansas Statutes Annotated, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the state fire marshal's office.

(d) Except as otherwise provided by this act, whenever the secretary

1 of the department of human resources, or words of like effect concerning
2 industrial health and safety under article 6 of chapter 44 of the Kansas
3 Statutes Annotated, is referred to or designated by a statute, contract or
4 other document, such reference or designation shall be deemed to apply
5 to the state fire marshal's office.

6 (e) All rules and regulations of the department of human resources
7 or the secretary of the department of human resources concerning in-
8 dustrial health and safety under article 6 of chapter 44 of the Kansas
9 Statutes Annotated in existence on the effective date of this act shall
10 continue to be effective and shall be deemed to be duly adopted rules
11 and regulations of the state fire marshal's office until revised, amended,
12 revoked or nullified pursuant to law.

13 (f) All orders and directives of the department of human resources
14 or the secretary of the department of human resources concerning in-
15 dustrial health and safety under article 6 of chapter 44 of the Kansas
16 Statutes Annotated in existence on the effective date of this section shall
17 continue to be effective and shall be deemed to be orders and directives
18 of the state fire marshal until revised, amended or nullified pursuant to
19 law.

20 (g) On the effective date of this section, the state fire marshal shall
21 succeed to whatever right, title or interest the department of human re-
22 sources has acquired in any real property in this state concerning indus-
23 trial health and safety under article 6 of chapter 44 of the Kansas Statutes
24 Annotated, and the state fire marshal shall hold the same for and in the
25 name of the state of Kansas. On and after the effective date of this section,
26 whenever any statute, contract, deed or other document concerns the
27 power or authority of the department of human resources or the secretary
28 of the department of human resources concerning industrial health and
29 safety under article 6 of chapter 44 of the Kansas Statutes Annotated to
30 acquire, hold or dispose of real property or any interest therein, the state
31 fire marshal shall succeed to such power or authority.

32 New Sec. 2. Except as otherwise provided in this act, on July 1, 2003,
33 officers and employees who, immediately prior to such date, were en-
34 gaged in the performance of powers, duties or functions of the depart-
35 ment of human resources concerning industrial health and safety which
36 are transferred by this act, or who become a part of the state fire marshal's
37 office, or the powers, duties and functions of which are transferred to the
38 state fire marshal's office, and who, in the opinion of the state fire marshal
39 are necessary to perform the powers, duties and functions of the state
40 fire marshal's office, shall be transferred to, and shall become officers and
41 employees of the state fire marshal under this act. Any such officer or
42 employee shall retain all retirement benefits and all rights of civil service
43 which had accrued to or vested in such officer or employee prior to the

1 effective date of this section. The service of each such officer and em-
2 ployee so transferred shall be deemed to have been continuous. All trans-
3 fers and any abolition of personnel positions in the classified service under
4 the Kansas civil service act shall be in accordance with civil service laws
5 and any rules and regulations adopted thereto.

6 New Sec. 3. (a) When any conflict arises as to the disposition of any
7 power, function or duty or the unexpended balance of any appropriation
8 as a result of any abolition, transfer, attachment or change made by or
9 under authority of this act, such conflict shall be resolved by the governor,
10 whose decision shall be final.

11 (b) The state fire marshal's office shall succeed to all property and
12 records which were used for or pertain to the performance of the powers,
13 duties and functions transferred to the state fire marshal's office. Any
14 conflict as to the proper disposition of property or records arising under
15 this section, and resulting from the transfer or attachment of any state
16 agency, or all or part of the powers, duties and functions thereof, shall be
17 determined by the governor, whose decision shall be final.

18 New Sec. 4. The state fire marshal's office shall have legal custody
19 of all records, memoranda, writings, entries, prints, representations or
20 combinations thereof of any act, transaction, occurrence or event of the
21 department of human resources.

22 New Sec. 5. On the effective date of this act, all funds in the inci-
23 dental fund of the department of human resources pertaining to funds
24 received as a result of the industrial health and safety provisions under
25 article 6 of chapter 44 of the Kansas Statutes Annotated or credited for
26 expenses of such act shall be transferred to the state fire marshal's inci-
27 dental fee fund. All the powers, functions, duties and rules and regulations
28 regarding the secretary of human resource's incidental fee fund are trans-
29 ferred to the state fire marshal's incidental fee fund until revised,
30 amended, revoked or nullified pursuant to law.

31 New Sec. 6. There is hereby created in the state treasury the state
32 fire marshal's incidental fee fund to which moneys received under the
33 industrial health and safety act under article 6 of chapter 44 of the Kansas
34 Statutes Annotated shall be remitted to the state treasurer in accordance
35 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
36 receipt of each such remittance, the state treasurer shall deposit the entire
37 amount in the state treasury to the credit of the state fire marshal's in-
38 cidental fee fund. Expenditures from such fund shall be made in accord-
39 ance with appropriation acts upon warrants of the director of accounts
40 and reports issued pursuant to vouchers approved by the state fire
41 marshal.

42 Sec. 7. K.S.A. 44-636 is hereby amended to read as follows: 44-636.
43 (a) ~~The secretary of human resources~~ *state fire marshal* shall have power

1 to enter any factory or mill, workshop, private works, public works or
2 state agency or institution, mercantile establishment, laundry or any other
3 place of business where labor is or is intended to be performed for any
4 purpose, when the same are open or in operation, for the purpose of
5 gathering facts and statistics such as are contemplated by this act, and to
6 examine into the methods of protection from danger to employees and
7 the sanitary conditions in and around such buildings and places and to
8 keep a record thereof of such inspection.

9 If it shall be found upon such investigation that the heating, lighting,
10 ventilation, occupant capacity or sanitary arrangement of any such estab-
11 lishment or place is such as to be injurious to the health of persons em-
12 ployed or residing therein, or that the means of egress in case of fire or
13 other disaster are not sufficient, or that the belting, shafting, gearing,
14 elevators, drums, saws, cogs or machinery, in any such establishment or
15 place are so located or are in a condition so as to be dangerous, or are
16 not sufficiently guarded, or that the vats, pans or any other structures
17 filled with molten metal, hot liquid or hazardous materials or substances
18 are not surrounded with proper safeguards for preventing accidents, in-
19 jury or illness to those persons in, or near them, or that the construction
20 or condition of any building or buildings, or any boiler, machinery or other
21 appurtenances in or about any place as described in this section is such
22 as to be dangerous or injurious to the persons employed or residing
23 therein, or that the methods of operation are such as to be unnecessarily
24 dangerous or injurious to the persons employed or residing therein, or
25 that any other condition which is within the control of the owner, pro-
26 prietor, agent, administrator or lessee of any such building, establishment
27 or place to be found to be dangerous or injurious to any persons employed
28 therein or to any other person or persons, the ~~secretary~~ *state fire marshal*
29 or the authorized agent of the ~~secretary~~ *state fire marshal* after making
30 such inspection shall notify in writing the owner, proprietor, agent, ad-
31 ministrator or lessee of such building, establishment, or place. Such no-
32 tification may also include an order that requires the provisions of such
33 safeguards or safety devices or the making of such alterations or additions
34 or changes in methods of operation or the taking of any other measures
35 the ~~secretary~~ *state fire marshal* may deem appropriate and necessary for
36 the safety and protection of the employees or other persons endangered
37 by such conditions and the amount of time granted by the ~~secretary~~ *state*
38 *fire marshal* for making any such alterations, additions, changes or taking
39 such other methods as required. Such amount of time shall not exceed
40 60 days after service of the notice and the order unless an extension
41 thereof is requested for good cause shown by the person named in the
42 order, and such extension is granted by the ~~secretary~~ *state fire marshal*.

43 (b) The notification required by subsection (a) shall include notice of

1 the right to a hearing concerning any order included therein. Any such
2 order shall become final unless within 15 days after service of the notice
3 and order, the person or persons named therein shall request in writing
4 a hearing by the ~~secretary~~ *state fire marshal*. If a request is made for a
5 hearing the date of the hearing shall not be more than 30 days after such
6 request is made. Orders under subsection (a), and hearings thereon, shall
7 be subject to the provisions of the Kansas administrative procedure act.

8 (c) No person, firm or corporation, nor any officer, agent or employee
9 thereof, shall remove or require to be removed, or made ineffective any
10 practical safeguard around or safety attachment to any machinery, vats,
11 pan, or other apparatus or device mentioned in this section while the
12 same is in use, except for the purpose of immediately making repairs
13 thereto, and all safeguards or safety attachments so removed shall be
14 promptly replaced before the dangerous machine, apparatus or device is
15 returned to normal use or operation. Except as otherwise provided, no
16 person shall require or permit the operation of, or operate, the dangerous
17 machine, apparatus or device without the required safeguards or safety
18 attachments.

19 (d) If the ~~secretary of human resources~~ *state fire marshal* determines
20 that conditions or products in any place of employment are such that a
21 danger exists which could reasonably be expected to cause death or se-
22 rious physical harm immediately, or before such danger can be eliminated
23 through the enforcement provisions otherwise provided by law, the ~~see-~~
24 ~~retary~~ *state fire marshal* may, in accordance with the provisions of K.S.A.
25 77-536 and amendments thereto, order the immediate taking of any steps
26 necessary to avoid, correct or remove such imminent danger and prohibit
27 the employment or presence of any individual in locations or under con-
28 ditions where such imminent danger exists, except individuals whose
29 presence is necessary to avoid, correct or remove such imminent danger
30 or to prevent any avoidable loss of production facilities or product.

31 (e) Upon issuance of the order authorized by subsection (d) of this
32 section and upon the request of any party who is adversely affected
33 thereby, the ~~secretary~~ *state fire marshal* shall fix a place and time for a
34 hearing to be held on such order in accordance with the provisions of the
35 Kansas administrative procedure act.

36 (f) No person shall discharge or in any manner discriminate against
37 any employee because such employee has filed a complaint with, or fur-
38 nished information to, the ~~secretary of human resources~~ *state fire marshal*
39 concerning conditions or situations alleged to be unsafe or hazardous or
40 otherwise covered by the provisions of this act.

41 (g) Any person who willfully violates any provision of this section or
42 any lawful order issued pursuant to this section shall be guilty of a mis-
43 demeanor and shall be subject to a fine of not less than \$25 nor more

1 than \$100. Each day that such violation exists shall constitute a separate
2 offense.

3 (h) An action brought pursuant to this section shall not constitute a
4 bar to enforcement of the provisions of this section by injunction or other
5 appropriate remedy, and upon request of the ~~secretary of human re-~~
6 ~~sources~~ *state fire marshal*, the attorney general shall have the power to
7 institute and maintain in the name of the state any and all appropriate
8 enforcement procedures.

9 Sec. 8. K.S.A. 44-638 is hereby amended to read as follows: 44-638.
10 All state, county, township and city officers are hereby directed to furnish
11 the secretary of human resources *or the state fire marshal, or both*, upon
12 request, such statistical or other information necessary for the adminis-
13 tration of this act.

14 New Sec. 9. (a) The powers, duties and functions of the boiler safety
15 act established in K.S.A. 44-913 through 44-928 and amendments thereto
16 are hereby transferred to and conferred and imposed upon the state fire
17 marshal's office. The state fire marshal's office shall be the successor in
18 every way to the powers, duties and functions associated with the boiler
19 safety act established in K.S.A. 44-913 through 44-928 and amendments
20 thereto. Every act performed in the exercise of such powers, duties and
21 functions by or under the authority of the state fire marshal's office shall
22 be deemed to have the same force and effect as if performed by the
23 secretary of human resources in whom such powers, duties and functions
24 were vested prior to the effective date of this act.

25 (b) Whenever the boiler safety act, or words of like effect, is referred
26 to or designated by a statute, contract or other document, and such ref-
27 erence or designation is in regard to one of the powers and duties trans-
28 ferred pursuant to subsection (a), such reference or designation shall be
29 deemed to apply to the boiler safety act established in K.S.A. 44-913
30 through 44-928 and amendments thereto. Whenever the secretary of hu-
31 man resources, or words of like effect are referred to or designated by a
32 statute, contract or other document, and such reference is in regard to
33 one of the powers and duties transferred to the state fire marshal's office
34 pursuant to subsection (a), such reference shall be deemed to apply to
35 the state fire marshal.

36 New Sec. 10. On the effective date of this act, the boiler inspection
37 fee fund shall be transferred to the control and authority of the state fire
38 marshal's office. All the powers, functions, duties and rules and regula-
39 tions of such fee fund are transferred to the state fire marshal and remain
40 in effect until revised, amended, revoked or nullified pursuant to law.

41 Sec. 11. K.S.A. 44-914 is hereby amended to read as follows: 44-914.
42 As used in this act, unless the context otherwise requires:

43 (a) "Boiler" means a closed vessel in which water or other liquid is

1 heated, steam or vapor is generated or steam is superheated, or in which
2 any combination of these functions is accomplished, under pressure or
3 vacuum, for use internal or external to itself, by the direct application of
4 energy from the combustion of fuels or of electric or solar power. The
5 term boiler shall also include fired units for heating or vaporizing liquids
6 other than water where these units are separate from processing systems
7 and are complete within themselves.

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

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

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

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

21 ~~(f) "Secretary" means the secretary of human resources.~~

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

25 ~~(h)~~ (g) "Hot water supply boiler" means a vessel heating water for
26 external uses, by gas, oil, electricity or solar energy that does not exceed
27 160 psi, or 210° Fahrenheit.

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

32 Sec. 12. K.S.A. 44-915 is hereby amended to read as follows: 44-915.

33 (a) The provisions of this act shall not apply to:

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

36 (2) antique, scale model or other steam boilers which are used exclu-
37 sively for exhibition purposes and which are inspected by associations that
38 have established an approved inspection procedure and whose inspectors
39 are registered as special inspectors with the boiler safety unit of the state
40 of Kansas, ~~department of human resources~~ *fire marshal's office*;

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

43 (4) boilers and pressure vessels located on producing oil and gas

1 leases or storage areas, and outside the limits of any municipality, used
2 solely for oil and gas production purposes;

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

8 (A) Heat input of 200,000 BTUH;

9 (B) water temperature of 210° Fahrenheit; and

10 (C) nominal water capacity of 85 gallons or 120 gallons for an elec-
11 trical utility generating plant; and

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

13 (b) The provisions of subsections (b) and (c) of K.S.A. 44-923, and
14 amendments thereto, and the provisions of K.S.A. 44-924, 44-925 and
15 44-926, and amendments thereto, shall not apply to:

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

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

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

22 (4) any boiler and pressure vessels in any establishment in which pe-
23 troleum products are refined or processed in which all boiler and pressure
24 equipment is inspected and rated either by an inspection service regularly
25 maintained within such establishment or provided by a manufacturer,
26 designer or insurer of such equipment, in accordance with the applicable
27 provisions of any published code or codes of rules or recommended prac-
28 tices nationally recognized in the industry of which such establishment is
29 a part as providing suitable standards for the inspection, repair and rating
30 of pressure equipment of the type used in such establishment;

31 (5) pressure vessels used for transportation and storage of com-
32 pressed gases when constructed in compliance with specifications of the
33 United States department of transportation and when charged with gas
34 marked, maintained and periodically requalified for use, as required by
35 appropriate regulations of the United States department of
36 transportation;

37 (6) pressure vessels located on vehicles operating under the rules and
38 regulations of other state authorities and used to transport passengers or
39 freight;

40 (7) pressure vessels installed on the right-of-way of railroads and used
41 in the operation of trains;

42 (8) pressure vessels having an internal or external operating pressure
43 not exceeding 15 psig with no limit on size;

1 (9) pressure vessels having an inside diameter, width, height or cross
2 section diagonal not exceeding six inches, with no limitation on length of
3 the vessel or pressure;

4 (10) pressure vessels for containing water or other nonflammable liq-
5 uids under pressure, including those containing air, the compression of
6 which serves only as a cushion, when neither of the following limitations
7 is exceeded:

8 (A) A design pressure of 300 psig; or

9 (B) a design temperature of 210° Fahrenheit;

10 (11) pressure vessels which may be classified as pressure containers
11 which are an ~~integral~~ *integral* part of components of rotating or reciprocating
12 mechanical devices such as pumps, turbines, generators, engines
13 and hydraulic or pneumatic cylinders, where the primary design consid-
14 erations and stresses are derived from the functional requirements of the
15 device;

16 (12) pressure vessels that do not exceed: (A) 15 cubic feet and 250
17 psi pressure; or (B) 1½ cubic feet in volume and 600 psi pressure; and

18 (13) pressure vessels installed and constructed before January 1,
19 1999.

20 Sec. 13. K.S.A. 44-916 is hereby amended to read as follows: 44-916.

21 (a) The ~~secretary~~ *state fire marshal* shall adopt rules and regulations,
22 consistent with the provisions of this act, for the safe construction, in-
23 stallation, inspection, maintenance and repair of boilers in this state. The
24 ~~secretary~~ *state fire marshal* shall adopt rules and regulations, consistent
25 with the provisions of this act, for the safe construction and installation
26 of pressure vessels in this state.

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

34 (c) Rules and regulations adopted hereunder for the construction,
35 installation, inspection, maintenance and repair of boilers and pressure
36 vessels shall be based upon and at all times follow generally accepted
37 nationwide engineering standards. Such rules and regulations may incor-
38 porate by reference specific editions, or portions thereof, of the inspec-
39 tion code of the national board of boiler and pressure vessel inspectors
40 and may require the use of such board's "R" stamp for repairs.

41 (d) The chief inspector or deputy inspectors may perform inspections
42 of boilers and pressure vessels and issue, upon completion, a special cer-
43 tification showing that such inspection was done in accordance with na-

1 tionwide engineering standards as adopted by rules and regulations.

2 Sec. 14. K.S.A. 44-917 is hereby amended to read as follows: 44-917.

3 (a) All new boilers and pressure vessels shall conform to the rules and
4 regulations issued pursuant to this statute which govern new construction
5 and installation. If a new boiler or pressure vessel is of special design or
6 construction and the design is consistent with the spirit and safety objec-
7 tives of this act and rules and regulations, an interested party may request
8 a variance from the ~~secretary~~ *state fire marshal* to build and operate a
9 nonconforming boiler or pressure vessel.

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

14 (c) The maximum allowable working pressure of a boiler or pressure
15 vessel which does not carry the American society of mechanical engineers
16 code symbol shall be computed in accordance with the rules and regu-
17 lations adopted by the ~~secretary~~ *state fire marshal*.

18 (d) This act shall not be construed as in any way preventing the use,
19 sale or reinstallation of a boiler or pressure vessel previously installed in
20 this state, provided it has been made to conform to the rules and regu-
21 lations governing existing installations and provided it has not been found
22 upon inspection to be in an unsafe condition. If a previously installed
23 boiler or pressure vessel is of special design or construction and the design
24 is consistent with the spirit and safety objectives of this act and rules and
25 regulations, an interested party may request a variance from the ~~secretary~~
26 *state fire marshal* to use, sell, or reinstall a nonconforming boiler or pres-
27 sure vessel.

28 (e) This act shall not be construed to require a pressure vessel in-
29 spection of those pressure vessels moved to a different location by the
30 same owner.

31 Sec. 15. K.S.A. 44-918 is hereby amended to read as follows: 44-918.

32 (a) The ~~secretary~~ *state fire marshal* shall appoint a chief inspector who
33 shall be a citizen of this state, or, if not available, a citizen of another
34 state, and who shall have at the time of appointment not less than 10
35 years experience in the construction, installation, inspection, operation,
36 maintenance or repair of high pressure boilers and pressure vessels as a
37 mechanical engineer, steam operating engineer, boiler maker or boiler
38 inspector and who shall hold a commission issued by the national board
39 of boiler and pressure vessel inspectors. The chief inspector shall be in
40 the unclassified civil service and shall receive such compensation as pre-
41 scribed by the ~~secretary~~ *state fire marshal*, subject to the approval of the
42 governor.

43 (b) The chief inspector shall serve under the direction of the ~~secretary~~

1 *state fire marshal* and is hereby charged, directed and empowered:

2 (1) To take action necessary for the enforcement of this act and of
3 the rules and regulations adopted hereunder;

4 (2) to maintain a complete record of all boilers and pressure vessels
5 to which this act applies, which record shall include the name and address
6 of each owner or user and the type, dimensions, maximum allowable
7 working pressure, age and last recorded inspection of each such boiler or
8 pressure vessel;

9 (3) to publish and make available copies of rules and regulations
10 adopted hereunder to any person requesting them;

11 (4) to issue, or to suspend or revoke for cause, inspection certificates
12 as provided in K.S.A. 44-924, and amendments thereto; and

13 (5) to cause the prosecution of all violators of the provisions of this
14 act or of the rules and regulations adopted hereunder.

15 Sec. 16. K.S.A. 44-919 is hereby amended to read as follows: 44-919.
16 The ~~secretary~~ *state fire marshal* shall employ one or more deputy in-
17 spectors who shall be responsible to the chief inspector. Each deputy
18 inspector shall have at the time of appointment not less than three years
19 experience in the construction, installation, inspection, operation, main-
20 tenance or repair of high pressure boilers and pressure vessels as a me-
21 chanical engineer, steam operating engineer, boilermaker or boiler in-
22 spector. Deputy inspectors shall be in the unclassified civil service and
23 shall receive such compensation as prescribed by the ~~secretary~~ *state fire*
24 *marshal*, subject to the approval of the governor.

25 Sec. 17. K.S.A. 44-920 is hereby amended to read as follows: 44-920.
26 (a) In addition to the deputy inspectors authorized by K.S.A. 44-919 and
27 amendments thereto, the ~~secretary~~ *state fire marshal*, upon the request
28 of any company licensed to insure and insuring boilers and pressure ves-
29 sels in this state shall issue to any inspectors of such insurance company
30 certificates of competency as special inspectors, provided that each such
31 inspector shall hold a commission issued by the national board of boiler
32 and pressure vessel inspectors.

33 (b) Special inspectors shall receive no salary from, nor shall any of
34 their expenses be paid by, the state, and the continuance of their certif-
35 icates of competency shall be conditioned upon their continuing in the
36 employ of the boiler insurance company duly authorized as aforesaid and
37 upon their maintenance of the standards imposed by this act and by rules
38 and regulations adopted hereunder.

39 (c) Special inspectors shall inspect all boilers insured by their respec-
40 tive companies and, when so inspected, the owners and users of such
41 boilers shall be exempt from the payment to the state of the inspection
42 fees provided for in subsection (a) of K.S.A. 44-926 and amendments
43 thereto.

1 (d) The ~~secretary~~ *state fire marshal* shall fix, by rules and regulations,
2 certification requirements for inspectors of antique, scale models or other
3 steam boilers used exclusively for exhibition purposes.

4 Sec. 18. K.S.A. 44-922 is hereby amended to read as follows: 44-922.
5 If a certificate of competency is lost or destroyed, a new certificate of
6 competency shall be issued in its place without another examination. The
7 ~~secretary~~ *state fire marshal* may charge a fee for a replacement certificate.

8 Sec. 19. K.S.A. 44-923 is hereby amended to read as follows: 44-923.
9 (a) The ~~secretary~~ *state fire marshal*, the chief inspector or any deputy
10 inspector shall have free access, during reasonable hours, to any premises
11 in the state where boilers and pressure vessels are being operated, re-
12 paired, installed or constructed for use in this state, for the purpose of
13 ascertaining whether boilers or pressure vessels have been constructed
14 and installed in accordance with the provisions of this act and the rules
15 and regulations adopted hereunder.

16 (b) Each boiler used or proposed to be used within this state, except
17 for boilers exempt under K.S.A. 44-915, and amendments thereto, shall
18 be thoroughly inspected as to construction, installation and condition as
19 follows:

20 (1) Power boilers and high pressure, high temperature water boilers
21 shall receive an annual certificate inspection which shall be an internal
22 inspection, where construction permits, or as complete an inspection as
23 possible, where construction does not permit internal inspection. Such
24 boilers shall also be externally inspected while under pressure.

25 (2) Steam heating boilers shall receive an annual certificate inspection
26 with an internal inspection every three (3) years where construction
27 permits.

28 (3) All other boilers subject to this section shall receive an annual
29 certificate inspection with an internal inspection at the discretion of the
30 inspector. An electrical generating utility may apply for, and receive a
31 variance granting such utility up to an additional year between
32 inspections.

33 (4) A grace period of two months beyond the periods specified in
34 subdivisions (1), (2) and (3) of this subsection may elapse between cer-
35 tificate inspections.

36 (5) The ~~secretary~~ *state fire marshal* may provide, by rules and regu-
37 lations, for longer periods between certificate inspections.

38 (c) The inspections herein required shall be made by the chief in-
39 spector, by a deputy inspector or by a special inspector provided for in
40 this act.

41 (d) If, at the discretion of the inspector, a pressure test shall be
42 deemed necessary, it shall be made by the owner or user of the boiler.

43 (e) All pressure vessels installed after January 1, 1999, and boilers,

1 other than cast iron sectional boilers, shall be inspected during construc-
2 tion as required by the applicable rules and regulations by an inspector
3 authorized to inspect boilers and pressure vessels in this state, or, if con-
4 structed outside of the state, by an inspector holding a commission issued
5 by the national board of boiler and pressure vessel inspectors. All pressure
6 vessels installed after January 1, 1999, and boilers, regardless of code of
7 construction, shall be registered with the national board of boiler and
8 pressure vessel inspectors.

9 (f) Hot water supply boilers shall receive an external certificate in-
10 spection every three years.

11 (g) Low pressure hot water supply boilers with a heat input over
12 400,000 BTUH shall receive an annual external certificate inspection.

13 (h) Hot water supply boilers over 200,000 BTUH or 120 gallon ca-
14 pacity shall be stamped and registered with the national board of boiler
15 and pressure vessels inspectors.

16 Sec. 20. K.S.A. 44-924 is hereby amended to read as follows: 44-924.

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

23 (b) If a report filed pursuant to subsection (a) of this section shows
24 that a boiler or pressure vessel is found to comply with the rules and
25 regulations adopted hereunder, the owner or user thereof shall pay di-
26 rectly to the chief inspector the certificate fee prescribed by subsection
27 (b) of K.S.A. 44-926, and amendments thereto, and the chief inspector
28 or the chief inspector's duly authorized representative shall issue to such
29 owner or user an inspection certificate bearing the date of inspection and
30 specifying the maximum pressure under which the boiler or pressure
31 vessel may be operated. Such boiler inspection certificate shall be valid
32 for not more than 14 months from its date unless covered by a variance.
33 In the case of those boilers covered by subsection (b) of K.S.A. 44-923,
34 and amendments thereto, for which the ~~secretary~~ *state fire marshal* has
35 established or extended the operating period between required inspec-
36 tions pursuant to the provisions of subdivision (5) of subsection (b) of
37 K.S.A. 44-923, and amendments thereto, the certificate shall be valid for
38 a period of not more than two months beyond the period set by the
39 ~~secretary~~ *state fire marshal*. Certificates shall be maintained on site and
40 available upon request.

41 (c) Whenever a boiler becomes uninsured or there is a change of
42 insurers, the owner or new insurer must notify the chief boiler inspector
43 within 30 days.

1 (d) The chief inspector or deputy inspector may shut down or sus-
2 pend the operation of a boiler or pressure vessel in accordance with the
3 Kansas administrative procedure act if the chief inspector or deputy in-
4 spector finds that the boiler or pressure vessel cannot be operated without
5 an immediate danger to the public health, safety or welfare or does not
6 comply with the rules and regulations adopted hereunder. The suspension
7 or shutdown of the boiler or pressure vessel shall continue in effect until
8 the owner or operator demonstrates that the danger has been abated and
9 the applicable rules and regulations have been complied with. The chief
10 inspector or deputy inspector shall reinspect the boiler or pressure vessel
11 to ensure it is safe and that applicable rules and regulations have been
12 complied with, before issuing a permit to restart or resume operations.

13 Sec. 21. K.S.A. 44-925 is hereby amended to read as follows: 44-925.

14 (a) It shall be unlawful for any person, firm, partnership, corporation or
15 other entity to operate in this state a pressure vessel installed after January
16 1, 1999, or a boiler without a valid inspection certificate, and the operation
17 of a pressure vessel installed after January 1, 1999, or a boiler without
18 such inspection certificate or at a pressure exceeding that specified in
19 such inspection certificate shall constitute a class C misdemeanor. Each
20 day of such unlawful operation shall be deemed a separate offense.

21 (b) If an inspection certificate is lost or destroyed, a new certificate
22 shall be issued in its place without another inspection. The ~~secretary~~ *state*
23 *fire marshal* may charge a fee for a replacement certificate.

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

31 Sec. 22. K.S.A. 2002 Supp. 44-926 is hereby amended to read as
32 follows: 44-926. (a) The owner or user of a boiler or pressure vessel re-
33 quired by this act to be inspected by the chief inspector or a deputy
34 inspector shall pay directly to the chief inspector, upon completion of
35 inspection, inspection fees fixed by the ~~secretary~~ *state fire marshal* in
36 accordance with this subsection (a). The ~~secretary~~ *state fire marshal* shall
37 fix annually, by rules and regulations, a schedule of fees for inspections
38 of pressure vessels installed after January 1, 1999, and boilers by state
39 inspectors and may fix different fees for inspection of boilers and pressure
40 vessels in the various categories. Such fees shall not exceed \$500 per day
41 for each boiler or pressure vessel inspected.

42 (b) The owner or user of a boiler or pressure vessel for which an
43 inspection certificate is to be issued pursuant to subsection (b) of K.S.A.

1 44-924, and amendments thereto, shall pay directly to the chief inspector,
2 before issuance of such certificate, a certificate fee fixed by the ~~secretary~~
3 ~~state fire marshal~~ by rules and regulations of not to exceed \$35.

4 (c) There is hereby created in the state treasury the boiler inspection
5 fee fund. The chief inspector shall pay daily to the ~~secretary~~ ~~state fire~~
6 ~~marshal~~ all moneys received from the fees established hereunder, and
7 the ~~secretary~~ ~~state fire marshal~~ shall remit all such moneys to the state
8 treasurer in accordance with the provisions of K.S.A. 75-4215, and
9 amendments thereto. Upon receipt of each such remittance, the state
10 treasurer shall deposit the entire amount in the state treasury. Twenty
11 percent of such inspection fees shall be credited to the state general fund
12 and the balance including all of the certificate fees shall be credited to
13 the boiler inspection fee fund. All expenditures from the boiler inspection
14 fee fund shall be made in accordance with appropriation acts upon war-
15 rants of the director of accounts and reports issued pursuant to vouchers
16 approved by the ~~secretary of human resources~~ ~~state fire marshal~~ or by a
17 person or persons designated by the ~~secretary~~ ~~state fire marshal~~.

18 Sec. 23. K.S.A. 44-928 is hereby amended to read as follows: 44-928.

19 (a) Any person aggrieved by any act or determination of the ~~secretary~~
20 ~~state fire marshal~~ or of the chief inspector, performed or made pursuant
21 to the provisions of this act, or rules and regulations adopted hereunder,
22 may request a hearing thereon. Such hearing shall be conducted by the
23 ~~secretary~~ ~~state fire marshal~~ or the ~~secretary's~~ ~~state fire marshal's~~ designee
24 in accordance with the provisions of the Kansas administrative procedure
25 act.

26 (b) Any action of the ~~secretary~~ ~~state fire marshal~~ pursuant to this act
27 is subject to review in accordance with the act for judicial review and civil
28 enforcement of agency actions.

29 Sec. 24. K.S.A. 44-636, 44-638, 44-914, 44-915, 44-916, 44-917, 44-
30 918, 44-919, 44-920, 44-922, 44-923, 44-924, 44-925 and 44-928 and
31 K.S.A. 2002 Supp. 44-926 are hereby repealed.

32 Sec. 25. This act shall take effect and be in force from and after its
33 publication in the statute book.

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