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## HOUSE BILL NO. 1869

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice  
on January 30, 2009)

(Patron Prior to Substitute—Delegate Janis)

A *BILL to amend and reenact § 40.1-51.10 of the Code of Virginia, relating to boiler inspections; immunity.*

**Be it enacted by the General Assembly of Virginia:****1. That § 40.1-51.10 of the Code of Virginia is amended and reenacted as follows:**

§ 40.1-51.10. Right of access to premises; certification and recertification; inspection requirements.

A. The Commissioner, his agents or special inspectors shall have free access, during reasonable hours to any premises in the Commonwealth where a boiler or pressure vessel is being constructed, operated or maintained, or is being installed to conduct a variance review, an owner-user inspection agency audit, an emergency repair review, an accident investigation, a violation follow-up, and a secondhand or used boiler review for the purpose of ascertaining whether such boiler or pressure vessel is being constructed, operated or maintained in accordance with this chapter.

B. On and after January 1, 1973, no boiler or pressure vessel used or proposed to be used within this Commonwealth, except boilers or pressure vessels exempted by this chapter, shall be installed, operated or maintained unless it has been inspected by the Commissioner, his agents or special inspectors as to construction, installation and condition and shall be certified. A fee as set under subsection A of § 40.1-51.15 shall be charged for each inspection certificate issued. In lieu of such fees both for certification and recertification, an authorized owner-user inspection agency shall be charged annual filing fees as set under subsection A of § 40.1-51.15.

C. Recertification shall be required as follows:

1. Power boilers and high pressure, high temperature water boilers shall receive a certificate inspection annually and shall also be externally inspected annually while under pressure if possible;

2. Heating boilers shall receive a certificate inspection biennially;

3. Pressure vessels subject to internal corrosion shall receive a certificate inspection biennially;

4. Pressure vessels not subject to internal corrosion shall receive a certificate inspection at intervals set by the Board, but internal inspection shall not be required of pressure vessels, the content of which are known to be noncorrosive to the material of which the shell, heads or fittings are constructed, either from the chemical composition of the contents or from evidence that the contents are adequately treated with a corrosion inhibitor, provided that such vessels are constructed in accordance with the rules and regulations of the Board;

5. Nuclear vessels within the scope of this chapter shall be inspected and reported in such form and with such appropriate information as the Board shall designate;

6. A grace period of two months beyond the periods specified in subdivisions 1, 2, 3 and 4 of this subsection may elapse between certificate inspections. The Chief Inspector may extend a certificate for up to three additional months beyond such grace period subject to a satisfactory external inspection of the object and receipt of a fee as set under subsection A of § 40.1-51.15 for each month of inspection beyond the grace period.

D. Inspection requirements for operating equipment shall be in accordance with generally accepted practice and compatible with the actual service conditions and shall include but not be limited to the following criteria:

1. Previous experience, based on records of inspection, performance and maintenance;

2. Location, with respect to personnel hazard;

3. Qualifications and competency of inspection and operating personnel;

4. Provision for related safe operation controls; and

5. Interrelation with other operations outside of the scope of this chapter.

E. Based upon documentation of such actual service conditions by the owner or user of the operating equipment, the Board may, in its discretion, permit variations in the inspection requirements as provided in this section.

F. If, at the discretion of the Commissioner, a hydrostatic test shall be deemed necessary, it shall be made by the owner or user of the boiler or pressure vessel.

G. All boilers, other than cast iron sectional boilers, and pressure vessels to be installed in this Commonwealth after the six-month period from the date upon which the rules and regulations of the Board shall become effective shall be inspected during construction as required by the applicable rules and regulations of the Board.

H. Ninety-one days after expiration of a certificate for any boiler or pressure vessel subject to this

60 section, the Commissioner may assign an agent or special inspector to inspect such boiler or pressure  
61 vessel, and its owner or operator shall be assessed a fee for such inspection. The fee shall be established  
62 in accordance with subsection A of § 40.1-51.15.

63 *I. An agent or special inspector who is not employed or paid by the Commonwealth but whom the*  
64 *Commissioner authorizes to conduct an inspection pursuant to this article shall be exempt from civil*  
65 *liability arising from furnishing or failing to furnish the inspection. The exemption of this subsection*  
66 *shall not apply if such act or omission results from the gross negligence or willful misconduct of the*  
67 *agent or special inspector. For the purposes of this section, a special inspector is defined as an*  
68 *inspector who holds a Virginia certificate of competency, and who is regularly employed by an*  
69 *insurance company authorized or licensed to write boiler and pressure vessel insurance in the*  
70 *Commonwealth.*