

# VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

## CHAPTER 97

*An Act to amend and reenact §§ 40.1-51.9, 40.1-51.10, 40.1-51.12 and 40.1-51.15 of the Code of Virginia, relating to the Boiler and Pressure Vessel Safety Act.*

[H 2402]

Approved March 7, 1995

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 40.1-51.9, 40.1-51.10, 40.1-51.12 and 40.1-51.15 of the Code of Virginia are amended and reenacted as follows:**

§ 40.1-51.9. Employment and appointment of inspectors and other personnel; inspections; reports.

The Commissioner is authorized to employ persons to enforce the provisions of this chapter and the regulations of the Board. He shall be authorized to require examinations or other information which he deems necessary to aid him in determining the fitness, competency, and professional or technical expertise of any applicant to perform the duties and tasks to be assigned.

The Commissioner is authorized to appoint a Chief Inspector, ~~deputy inspectors~~ and *to certify* special inspectors who shall meet all qualifications set forth by the Commissioner and the Board. Special inspectors shall be authorized to inspect specified premises and without cost or expense to the Commonwealth. ~~Inspection fees shall not be collected for inspections made by special inspectors.~~ Reports of all violations of the regulations or of this chapter shall be immediately made to the Commissioner. Other reports shall be made as required by the Commissioner.

§ 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 ~~or his appointed representative, his agents or special inspectors~~ as to construction, installation and condition and shall be certified. A twenty-dollar fee 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 forth in § 40.1-51.11:1.

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 of twenty dollars 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.

§ 40.1-51.12. Violation for operating boiler or pressure vessel without inspection certificate; civil penalty.

A. After twelve months following July 1, 1972, it shall be unlawful for any person, firm, partnership or corporation to operate in this Commonwealth a boiler or pressure vessel without a valid inspection certificate. ~~The operation of a boiler or pressure vessel without such inspection certificate, or at a pressure exceeding that specified in such inspection certificate, shall constitute a misdemeanor on the part of the owner, user or operator or agent of any such person who actually operates or is responsible for operating such boiler or pressure vessel thereof and shall be punishable by a fine not exceeding \$100. Any owner, user, operator or agent of any such person who actually operates or is responsible for operating such boiler or pressure vessel thereof who operates a boiler or pressure vessel without such inspection certificate, or at a pressure exceeding that specified in such inspection certificate shall be in violation of this section and subject to a civil penalty not to exceed \$100.~~ Each day of such ~~unlawful operation~~ violation shall be deemed a separate offense.

B. All procedural rights guaranteed to employers pursuant to § 40.1-49.4 shall apply to penalties under this section.

C. Investigation and enforcement for violations of this section shall be carried out by the Department of Labor and Industry. Civil penalties imposed for violations of this section shall be paid into the general fund.

§ 40.1-51.15. Fees.

A. The owner or user of a boiler or pressure vessel required by this chapter to be ~~inspected~~ reviewed shall pay directly to the Commissioner, upon completion of inspection, fees in accordance with the following schedule:

1. ~~Power boilers and high pressure, high temperature water boilers:~~

<del>Internal Inspections</del>	
<del>Boilers of 50 square feet of heating surface or less.....</del>	<del>\$12.00</del>
<del>Boilers over 50 square feet of heating surface and less than 4,000 square feet of heating surface.....</del>	<del>\$20.00</del>
<del>Boilers of 4,000 square feet of heating surface or more and less than 10,000 square feet of heating surface .....</del>	<del>\$25.00</del>
<del>Boilers of 10,000 square feet of heating surface or more .....</del>	<del>\$30.00</del>

<del>External Inspections</del>	
<del>Boilers of 50 square feet of heating surface or less .....</del>	<del>\$ 7.00</del>
<del>Boilers over 50 square feet of heating surface .....</del>	<del>\$10.00</del>
<del>Not more than the equivalent of the certificate and external inspection fees shall be charged or collected for any and all inspections as above of any boiler in any one year.</del>	

2. ~~Heating boilers:-~~

<del>Inspections</del>	
<del>Hot water heating boilers and cast iron boilers .....</del>	<del>\$12.00</del>
<del>Steam heating boilers except cast iron boilers .....</del>	<del>\$15.00</del>
<del>Hot water supply boilers .....</del>	<del>\$ 7.00</del>
<del>Not more than one fee shall be charged or collected for any and all inspections as above of any heating boiler in any required inspection period.</del>	

3. ~~Pressure vessels:-~~

<del>Inspections</del>	
<del>Fees to be based on the maximum length of the vessel times the maximum width or diameter</del>	

~~thereof. Each pressure vessel subject to inspection  
having a cross sectional area of 50 square feet  
or less .....\$ 7.00~~

~~For each additional 100 square feet of area in  
excess of 50 square feet..... \$ 5.00~~

~~Not more than fifty dollars shall be paid for each  
inspection on any one vessel.~~

~~A group of pressure vessels, such as the rolls of a paper  
machine or dryer operating as a single machine or unit,  
shall be considered as one pressure vessel.~~

~~Not more than one fee shall be charged or collected for any and  
all inspections as above of any pressure vessel in any required  
inspection period.~~

~~4. Hydrostatic tests:~~

~~When it is necessary to make a special trip to witness the  
application of a hydrostatic test, an additional fee based  
on the scale of fees applicable to a certificate inspection  
of the boiler or pressure vessel shall be charged.~~

~~5. 1. Conducting or participating in reviews and surveys of boiler or  
pressure vessel manufacturers or repair organizations for the  
purpose of national accreditation, shall be charged at a rate  
of \$600 per review or survey.~~

~~6. 2. a. All other inspections, including shop inspections, special  
inspections, and inspections variance reviews, emergency repair  
reviews, and reviews of secondhand or used boilers or  
pressure vessels made by the Commissioner or his appointed  
representative shall be charged for at the rate of not less  
than \$100 for one-half day of four hours, and \$200 for one full  
day of eight hours, plus all expenses, including traveling and  
lodging.~~

~~b. "Secondhand" shall mean an object which has changed ownership and  
location after primary use.~~

B. The Commissioner shall transfer all fees so received to the State Treasurer for deposit into the general fund of the state treasury.