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## HOUSE BILL NO. 1034

Offered January 22, 1996

A *BILL to amend and reenact § 40.1-51.5 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 40.1-51.9:2, relating to boiler and pressure vessel safety; contract fee inspectors.*

Patrons—Reid and Cox

Referred to Committee on Labor and Commerce

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

**1. That § 40.1-51.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 40.1-51.9:2 as follows:**

§ 40.1-51.5. Short title; definitions.

As used in this chapter, which may be cited as the Boiler and Pressure Vessel Safety Act, the following terms shall have the meanings set forth in this section unless the context requires a different meaning:

(a) "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. The term "boiler" shall include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

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

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

3. "Heating boiler" means a steam or vapor boiler operating at pressures not exceeding 15 pounds per square inch gauge pressure, or a hot water boiler operating at pressures not exceeding 160 pounds per square inch gauge pressure or temperature not exceeding 250Fahrenheit.

(b) "Unfired pressure vessel" means a vessel in which the pressure is obtained from an external source or by the application of heat from an indirect source or from a direct source, other than those vessels defined in subdivision (a) of this section.

(c) "Certificate inspection" means an inspection, the report of which is used by the Chief Inspector to decide whether or not a certificate as provided by § 40.1-51.10 may be issued. This certificate inspection shall be an internal inspection when construction permits; otherwise, it shall be as complete an inspection as possible.

(d) "Board" means the Safety and Health Codes Board.

(e) "Owner-user inspection agency" means any person, firm, partnership or corporation registered with the Chief Inspector and approved by the Board as being legally responsible for inspecting pressure vessels which they operate in Virginia.

(f) "Examining Board" means persons appointed by the Chief Inspector to monitor examinations of inspectors.

(g) "Water heater" means a vessel used to supply (i) potable hot water or (ii) both space heat and potable water in combination which is directly heated by the combustion of fuels, by electricity or any other source and withdrawn for use external to the system at pressures not to exceed 160 pounds per square inch, or temperatures of 210Fahrenheit.

(h) "Contract fee inspector" means any certified boiler inspector contracted to inspect boilers or pressure vessels on an independent basis by the owner or operator of the boiler or pressure vessel.

§ 40.1-51.9:2. Financial responsibility requirements for contract fee inspectors.

A. *Contract fee inspectors inspecting or certifying regulated boilers or pressure vessels in the Commonwealth shall maintain evidence of their financial responsibility, including compensation to third parties, for bodily injury and property damage resulting from, or directly relating to, an inspector's negligent inspection or recommendation for certification of a boiler or pressure vessel.*

B. *Documentation of financial responsibility, including documentation of insurance or bond, shall be provided to the Chief Inspector within thirty days after certification of the inspector. The Chief Inspector may revoke an inspector's certification for failure to provide documentation of financial responsibility in a timely fashion.*

C. *The Safety and Health Codes Board is authorized to promulgate regulations requiring contract fee inspectors, as a condition of their doing business in the Commonwealth, to demonstrate financial*

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60 responsibility sufficient to comply with the requirements of this chapter. Regulations governing the  
61 amount of any financial responsibility required by the contract fee inspector shall take into  
62 consideration the type, capacity and number of boilers or pressure vessels inspected or certified.

63 D. Financial responsibility may be demonstrated by self-insurance, insurance, guaranty or surety, or  
64 any other method approved by the Board, or any combination thereof, under the terms the Board may  
65 prescribe. A contract fee inspector whose financial responsibility is accepted by the Board under this  
66 subsection shall notify the Chief Inspector at least thirty days before the effective date of the change,  
67 expiration, or cancellation of any instrument of insurance, guaranty or surety.

68 E. Acceptance of proof of financial responsibility shall expire on the effective date of any change in  
69 the inspector's instrument of insurance, guaranty or surety, or the expiration date of the inspector's  
70 certification. Application for renewal of acceptance of proof of financial responsibility shall be filed  
71 thirty days before the date of expiration.

72 F. The Chief Inspector, after notice and opportunity for hearing, may revoke his acceptance of  
73 evidence of financial responsibility if he determines that acceptance has been procured by fraud or  
74 misrepresentation, or a change in circumstances has occurred that would warrant denial of acceptance  
75 of evidence of financial responsibility under this section or the requirements established by the Board  
76 pursuant to this section.

77 G. It is not a defense to any action brought for failure to comply with the requirement to provide  
78 acceptable evidence of financial responsibility that the person charged believed in good faith that the  
79 owner or operator of an inspected boiler or pressure vessel possessed evidence of financial  
80 responsibility accepted by the Chief Inspector or the Board.