

Article 7A.

Uniform Boiler and Pressure Vessel Act.

§ 95-69.8. Short title.

This Article shall be known as the Uniform Boiler and Pressure Vessel Act of North Carolina. (1975, c. 895, s. 1.)

§ 95-69.9. Definitions.

(a) The term "board" shall mean the North Carolina Board of Boiler and Pressure Vessel Rules.

(b) The term "boiler" shall mean a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum by the direct or indirect application of heat. The term "boiler" shall also include fired units for heating or vaporizing liquids other than water where these units are complete within themselves.

(b1) The term "Chief Inspector" shall mean the individual appointed by the Commissioner to hold the office of Chief of the Boiler Safety Bureau within the Department of Labor. The Chief Inspector serves as the North Carolina member on the National Board of Boiler and Pressure Vessel Inspectors.

(c) The term "Commissioner" shall mean the North Carolina Commissioner of Labor.

(d) Repealed by Session Laws 2005-453, s. 1.

(d1) The term "Deputy Inspector" shall mean any Boiler and Pressure Vessel Inspector who is employed by the Department of Labor and is subordinate to the Chief Inspector.

(e) The term "inspection certificate" or "certificate of inspection" shall mean certification by the Chief Inspector that a boiler or pressure vessel is in compliance with the rules and regulations adopted under this Article.

(f) The term "inspector's commission" shall mean a written authorization by the Commissioner for a person who has met the qualifications set out in this Article to conduct inspections of boilers and pressure vessels.

(f1) The term "National Board" shall mean the National Board of Boiler and Pressure Vessel Inspectors.

(f2) The term "person" shall mean any individual, association, partnership, firm, corporation, private organization, or the State of North Carolina or any political subdivision of the State or any unit of local government.

(g) The term "pressure vessel" shall mean a vessel in which the pressure is obtained from an indirect source or by the application of heat from an indirect source or a direct source, other than those included within the term "boiler". (1975, c. 895, s. 2; 1993, c. 351, s. 1; 2005-453, s. 1.)

§ 95-69.10. Application of Article; exemptions.

(a) This Article shall apply to all boilers and pressure vessels constructed, used, or designed for operation in this State including all new and existing installations which are operated in connection with business buildings, institutional buildings, industrial buildings, assembly buildings, educational buildings, public residential buildings, recreation buildings, other public buildings, and water supplies. This Article shall also apply to boilers and hot water supply tanks, and heaters located in hotels, motels, tourist courts, camps, cottages, resort lodges, and similar places whenever the owner or operator advertises in any manner for transit patronage, or solicits such business for temporary abode by transit patrons.

(b) This Article shall not apply to:

- (1) Boilers and pressure vessels owned or operated by the federal government, unless the agency in question has asked for coverage by this Article.
- (2) Pressure vessels used for transportation or storage of compressed gases when constructed in compliance with the specifications of the United States Department of Transportation and when charged with gas marked, maintained, and periodically requalified for use, as required by appropriate regulations of the United States Department of Transportation.
- (3) Portable pressure vessels used for agricultural purposes only or for pumping or drilling in an open field for water, gas or coal, gold, talc, or other minerals and metals.
- (4) Boilers and pressure vessels which are located in private residences or in apartment houses of less than six families.
- (5) Repealed by Session Laws 2007-231, s. 1, effective July 18, 2007.
- (6) Air tanks located on vehicles licensed under the rules and regulations of other state authorities operating under rules and regulations substantially similar to those of this State and used for carrying passengers or freight within interstate commerce.
- (7) Air tanks installed on right-of-way of railroads and used directly in the operation of trains.
- (8) Any of the following pressure vessels that do not exceed the listed limitations if the vessel is not equipped with a quick actuating closure:
 - a. Five cubic feet in volume and 250 psig.
 - b. Three cubic feet in volume and 350 psig.
 - c. One and one-half cubic feet in volume and 600 psig.
 - d. An inside diameter of six inches with no limitation on pressure.
- (9) Pressure vessels operating at a working pressure not exceeding 15 psig.
- (10) Pressure vessels with a nominal water capacity not exceeding 120 gallons and containing water under pressure at temperatures not exceeding 120° F, including those containing air, the compression of which serves as a cushion.

- (11) Boilers and pressure vessels on railroad steam locomotives that are subject to federal railway safety regulations pursuant to 49 C.F.R. § 230.
- (12) Repealed by Session Laws 1985, c. 620, s. 2.
- (13) Coil-type hot water supply boilers, generally referred to as steam jennies, where the water can flash into steam when released directly to the atmosphere through a manually operated nozzle and where adequate safety relief valves and controls are installed on them, provided none of the following limitations are exceeded:
 - a. There is no drum, header, or other steam space.
 - b. No steam is generated within the coil.
 - c. Maximum 1 inch tube size.
 - d. Maximum $\frac{3}{4}$ inch nominal pipe size.
 - e. Maximum 6 gallon nominal water storage capacity.
 - f. Water temperature of 350°F.
- (14) Pressure vessels containing water at a temperature not exceeding 110 degrees fahrenheit except that this provision shall not exclude hydropneumatic pressure vessels from regulation.
- (15) An air tank that does not exceed eight cubic feet in volume that is installed on a service vehicle.
- (16) Autoclaves in medical offices and hospitals that are less than five cubic feet in volume, even if they are equipped with a quick actuating closure.
- (17) Coil-type hot water supply boilers of the instantaneous type where adequate safety relief valves and controls are installed if none of the following limitations are exceeded:
 - a. There is no drum, header, or other steam space.
 - b. No steam is generated within the coil.
 - c. Maximum one-inch tube size.
 - d. Maximum three-quarter-inch nominal pipe size.
 - e. Maximum six-gallon nominal water storage capacity.
 - f. Water temperature not to exceed 250°F.
 - g. Maximum heat input does not exceed 400,000 Btu/hr or 110 kW.
 - h. Maximum pressure of 260 psig.
- (18) Toy boilers, if all of the following apply:
 - a. The water containing volume of the boiler is less than one quart.
 - b. The operating pressure does not exceed 15 psig.
 - c. The maximum outside diameter of the shell is no greater than six inches.
 - d. The boiler is manually fired by solid fuels.
- (19) Pressure vessels associated with electrical apparatus in electrical switchyards if the pressure vessels have proper pressure relief devices.
- (20) Carbon dioxide tanks used in beverage dispensing service.

(c) The construction and inspection requirements established by the Department of Labor shall not apply to hot water supply boilers which are directly fired with oil, gas or electricity, or hot water supply tanks heated by steam or any other indirect means, which do not exceed any of the following limitations:

- (1) Heat input of 200,000 Btu/hr or 58.6 kW.
- (2) Repealed by Session Laws 2005-453, s. 2.
- (3) Nominal water capacity of 120 gallons.

provided that they are equipped with ASME Code and National Board certified safety relief valves.

(d) The construction requirements established by the Department of Labor shall not apply to pressure vessels installed in this State prior to December 31, 1981, that:

- (1) Are of one-piece, unwelded, forged construction;
- (2) Are constructed before January 1, 1981, and operating or could be operated, under the laws of any state or Canadian Province that has adopted one or more sections of the ASME Code;
- (3) Are transferred into this State without a change of ownership; and
- (4) Are determined by the Chief Inspector to be constructed under standards substantially equivalent to those established by the department at the time of transfer;

provided that they are equipped with ASME Code and National Board certified safety relief valves.

(e) The construction requirements established by the Department of Labor shall not apply to pressure vessels installed in this State prior to December 31, 1984, that:

- (1) Are manufactured from gray iron casting material, as specified by the American Society for Testing and Materials, (ASTM) 48-60T/30;
- (2) Are constructed before December 31, 1967, and operating or could be operated, under the laws of any state or Canadian Province that has adopted one or more sections of the ASME Boiler and Pressure Vessel Code;
- (3) Are transferred into this State without a change of ownership; and
- (4) Are determined by the Chief Inspector to be constructed under standards substantially equivalent to those established by the department at the time of transfer;

provided that they are equipped with ASME Code and National Board certified safety relief valves.

(f) The construction requirements established by the Department of Labor shall not apply to hydropneumatic tanks installed or operated by a community water system prior to January 1, 1986.

(g) The inspection requirements established by the Department of Labor shall not apply to pressure vessels used for transportation or storage of liquefied petroleum gas that are subject to inspection in accordance with the requirements established by the Department of Agriculture and Consumer Services. (1975, c. 895, s. 3; 1979, c. 920, ss.

1, 2; 1981, c. 591; 1983, c. 654; 1985, c. 620, ss. 1, 2; c. 629; 1993, c. 351, s. 2; 2005-453, s. 2; 2007-231, s. 1.)

§ 95-69.11. Powers and duties of Commissioner.

The Commissioner of Labor is hereby charged, directed, and empowered:

- (1) To adopt, modify, or revoke rules governing the construction, operation, and use of boilers and pressure vessels, including, where necessary, requirements for fencing to prevent unauthorized persons from coming in contact with boilers and pressure vessels or the systems they are connected to.
- (2) To delegate to the Chief Inspector any powers, duties, and responsibilities that the Commissioner determines will best serve the public interest in the safe operation of boilers and pressure vessels, and to supervise the Chief Inspector in the performance of those duties.
- (3) To enforce rules adopted under authority of this Article.
- (4) To inspect boilers and pressure vessels covered under this Article.
- (5) To issue inspection certificates to those boilers and pressure vessels found in compliance with this Article.
- (6) To enjoin violations of this Article in the civil and criminal courts of this State.
- (7) To keep adequate records of the type, dimensions, age, conditions, pressure allowed upon, location, and date of the last inspection of all boilers and pressure vessels to which this Article applies.
- (8) To require such periodic reports from inspectors, owners, and operators of boilers and pressure vessels as he deems appropriate in carrying out the purposes of this Article.
- (9) To have free access, without notice, to any location in this State, during reasonable hours, where a boiler or pressure vessel is being built, installed, or operated for the purpose of ascertaining whether such boiler or pressure vessel is built, installed, or operated in accordance with the provisions of this Article.
- (10) To investigate serious accidents involving boilers and pressure vessels to determine the causes of the accidents, and to have full subpoena powers in conducting the investigation.
- (11) To establish reasonable fees for the inspection and issuance of inspection certificates for boilers and pressure vessels that are in use.
- (12) To establish reasonable fees for the examination and certification of inspectors.
- (13) To appoint qualified individuals to the Board of Boiler and Pressure Vessel Rules.
- (14) To perform inspections and audits relating to the construction and repair of boilers and pressure vessels and to establish and collect fees for these activities.

- (15) To order the payment of civil penalties provided by this section.
- (16) To require that before any boiler or pressure vessel that is subject to this Article is transferred into the State, or is moved from one location to another within the State, the owner or the owner's authorized agent shall file with the Commissioner a written notice of intent to do so and the type of device involved and provide a copy of the specifications, previous inspection documents, or other information that the Commissioner deems necessary to determine whether the boiler or pressure vessel is in compliance with the provisions of this Article and the rules adopted under this Article. (1975, c. 895, s. 4; 1985, c. 620, s. 3; 1993, c. 351, s. 3; 2005-453, s. 3.)

§ 95-69.12. Boiler Safety Bureau established.

There is established a Boiler Safety Bureau within the Department of Labor. The Commissioner shall appoint a Chief Inspector of the Boiler Safety Bureau and any other employees that the Commissioner deems necessary to assist the Chief Inspector in administering the provisions of this Article and the rules adopted under this Article. (1975, c. 895, s. 5; 1981 (Reg. Sess., 1982), c. 1187, ss. 2, 3; 2005-453, s. 4.)

§ 95-69.13. Board of Boiler and Pressure Vessels Rules created; appointment, terms, compensation and duties.

(a) There is hereby created the North Carolina Board of Boiler and Pressure Vessels Rules consisting of nine members appointed by the Commissioner for a term of five years each. Of these nine appointed members, one shall be a representative of the owners and users of steam boilers within this State, one a representative of boiler manufacturers within this State, one a representative of boilermakers within this State who has had not less than five years' practical experience as a boilermaker, one shall be a representative of the owners or users of pressure vessels within the State, one shall be a representative of the pressure vessel manufacturers within the State, one a representative of boiler inspection and insurance companies authorized to insure boilers and pressure vessels within the State, one a representative of the antique boiler owners and operators in this State, one a contractor holding a Group I North Carolina Heating License, and one a mechanical engineer on the faculty of a recognized engineering college or a licensed professional engineer having boiler and pressure vessel experience. The Commissioner of Labor shall serve as chair. The Chief Inspector shall serve on the Board and in the absence of the Commissioner shall serve as chair.

(b) The Board shall meet at least twice annually and shall be responsible for:

- (1) Studying and proposing rules and regulations, for adoption, modification or revocation by the Commissioner, governing the construction, installation, inspection, repair, alteration, use and operation of boilers and pressure vessels in this State. The rules and regulations so formulated shall conform as nearly as possible to the standards of the American Society of Mechanical Engineers.

- (2) Devise and proctor examinations covering this Article and the rules adopted under this Article to applicants seeking a commission as inspectors of boilers and pressure vessels in this State.
- (2a) Act as proctors during the administration of the National Board commissioning examination.
- (3) Issue, suspend, or revoke inspector's commissions as inspectors of boilers and pressure vessels within this State. Whenever action is taken under this section to suspend or revoke a commission, the affected party shall be given notice of the availability of an administrative hearing and of judicial review in accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act.

(c) The members of the Board shall serve without salary but shall be paid a subsistence and travel allowance as established in accordance with Chapter 138 of the General Statutes. (1975, c. 895, s. 6; 1977, c. 788; 1981 (Reg. Sess., 1982), c. 1187, s. 4; 1983, c. 717, s. 16; 1985, c. 620, s. 5; 2005-453, s. 5.)

§ 95-69.14. Rules and regulations governing the construction, operation and use of boilers and pressure vessels.

The Commissioner, after consultation with the Board, may adopt, modify, or revoke any rules and regulations governing the construction, installation, repair, alteration, inspection, use, and operation of boilers and pressure vessels as the Commissioner deems appropriate to insure the safe operation and avoidance of injury to person or property from boilers and pressure vessels. The rules and regulations will conform as nearly as possible to the standards of the American Society of Mechanical Engineers and the amendments and interpretations of those engineering standards.

The procedure for the adoption, modification, or revocation of the rules and regulations shall be in accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act. (1975, c. 895, s. 7; 1985, c. 620, s. 4; 1987, c. 827, s. 1; 2005-453, s. 6.)

§ 95-69.15. Classification of inspectors; qualifications; examinations; inspector's commission.

(a) There shall be three types of inspectors authorized to conduct inspections and report their findings to the Chief Inspector under this Article:

- (1) Boiler and Pressure Vessel Inspector or Deputy Inspector. – Shall be a qualified individual, employed by the Department of Labor and appointed by the Commissioner, to assist in conducting inspections under this Article and report on the suitability of boilers and pressure vessels so inspected.
- (2) Special Inspector or Insurance Inspector. – Shall be a qualified individual regularly employed by an insurance company authorized to insure in this State against injury to person or property or both from explosions and accidents involving boilers and pressure vessels. Special

Inspectors shall not include employees of private contract inspection agencies.

- (3) Owner-User Inspectors. – Shall be a qualified individual employed on a full-time basis by a company operating pressure vessels for its own use and not for resale, and maintains an established inspection program for periodic inspection of pressure vessels owned or used by that company and where such inspection program is under the supervision of one or more engineers having qualifications satisfactory to the Commissioner.

(b) Inspector's Commission. – Any company authorized to insure in this State against loss to person or property as a result of an explosion or accident involving boilers and pressure vessels or operating boilers or pressure vessels or both for its own use and not for resale, may apply for the issuance of an inspector's commission for an individual within its employ who has a commission from the National Board.

A North Carolina commission authorizes an inspector to make inspections on boilers and pressure vessels and report on the suitability of said boilers and pressure vessels to the Chief Inspector. Those inspectors holding commissions as special inspectors shall be limited to making inspections on boilers and pressure vessels insured by their employer. Owner-user inspectors shall be limited to conducting inspections on boilers and pressure vessels operated by their respective employers.

A person seeking a commission from this State to conduct in-service inspections of boilers and pressure vessels must take and pass an examination on this Article and the rules adopted pursuant to this Article prior to receiving the commission. Any person who has had a commission in this State but who has been inactive for more than one year must take or retake and pass the State examination before conducting further in-service inspections of boilers and pressure vessels.

(c) Repealed by Session Laws 2007, c. 231, s. 2, effective July 18, 2007. (1975, c. 895, s. 8; 2005-453, s. 7; 2007-231, s. 2.)

§ 95-69.16. Inspection certificate required.

All boilers and pressure vessels subject to the provisions of this Article shall be inspected by a commissioned inspector. The Commissioner may determine both the frequency and the method of inspection. In determining the frequency of inspection, the Commissioner shall give due consideration to the hazard involved and the need for the protection of the public. The method of inspection must provide an adequate procedure to insure the safety of individuals likely to be injured by an explosion or accident involving a boiler or pressure vessel.

No boiler or pressure vessel may be operated without an inspection certificate, except pressure vessels being operated under an owner-user provision where administrative procedures of equal safety and competency have been approved by the Board and Commissioner. No more than 60 days grace period may be granted beyond the certificate expiration date. (1975, c. 895, s. 9; 1993, c. 351, s. 4; 2005-453, s. 8; 2007-231, s. 3.)

§ 95-69.17. Noncomplying devices; appeal.

(a) If the Commissioner determines that a boiler or pressure vessel is subject to the provisions of this Article and that the operation of the boiler or pressure vessel is exposing the public to an unsafe condition likely to result in serious personal injury or property damage, the Commissioner may immediately order in writing that the use of the boiler or pressure vessel be stopped or limited until the Commissioner determines that the boiler or pressure vessel has been made safe for operation.

(b) If the Commissioner determines that the provisions of this Article or the rules adopted pursuant to this Article have not been complied with, the Commissioner may refuse to issue or renew or may revoke, suspend, or amend an inspection certificate.

(c) Whenever action is taken under this section, the affected party shall be given notice of the availability of an administrative hearing and of judicial review in accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act. (1975, c. 895, s. 10; 1987, c. 827, s. 263; 1993, c. 351, s. 5; 2005-453, s. 9.)

§ 95-69.18. Operation without inspection certificate; operation not in compliance with this Article; operation after nonissuance or revocation of certificate.

(a) No person may operate or permit to be operated any boiler or pressure vessel subject to the provisions of this Article without a valid inspection certificate unless the absence of a valid inspection certificate is the result of the Commissioner's failure to inspect the device.

(b) No person may operate or permit to be operated any boiler or pressure vessel subject to the provisions of this Article other than in accordance with this Article and the rules adopted pursuant to this Article.

(c) No person may operate or permit to be operated any boiler or pressure vessel subject to the provisions of this Article after the Commissioner has refused to issue or has revoked the inspection certificate for the boiler or pressure vessel. (1975, c. 895, s. 11; 1993, c. 539, s. 665; 1994, Ex. Sess., c. 24, s. 14(c); 2005-453, s. 10.)

§ 95-69.19. Violations; civil penalties; appeals.

(a) Any person who violates G.S. 95-69.18(a) or (b) (operation without inspection certificate; operation not in accordance with Article or rules and regulations) shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250.00) for each day each boiler or pressure vessel is so operated or used.

(b) Any person who violates G.S. 95-69.18(c) (operation after refusal to issue or after revocation of inspection certificate) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00) for each day any such boiler or pressure vessel is so operated or used.

(c) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person being charged, the gravity of the violation, the good faith of the person, and the record of previous violations.

(d) The determination of the amount of the penalty by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail with return

receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination in which event the final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act.

(e) The Commissioner may file in the office of the clerk of the superior court of the county where the violation occurred or where the person against whom a civil penalty has been ordered resides, or if a corporation is involved in the county where the corporation maintains its principal place of business, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal. Upon filing of the final order, the clerk of superior court shall enter judgment in accordance with the order and notify the parties. The judgment shall have the same force and effect as a judgment by the superior court of the General Court of Justice. (2005-453, s. 11; 2007-231, s. 6.)

§ 95-69.20. Violations; criminal penalties.

(a) Any person who knowingly and willfully misrepresents himself as an authorized inspector administering or enforcing the provisions of this Article or the rules adopted pursuant to this Article shall be guilty of a Class 2 misdemeanor.

(b) Any person knowingly making a material and false statement, representation, or certification in any application, record, report, plan, or any other document filed or required to be maintained pursuant to this Article or the rules adopted pursuant to this Article shall be guilty of a Class 2 misdemeanor. (2005-453, s. 12.)