
A BILL FOR AN ACT

RELATING TO THE BOILER AND ELEVATOR SAFETY LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to allow the
2 department of labor and industrial relations to establish re-
3 inspection frequencies for elevators and kindred equipment based
4 on factors that may affect the safe operation of the equipment.
5 Currently, the law requires that re-inspections for renewals of
6 permits to operate not exceed one year. The intent is to
7 provide incentives to building owners and managers to take the
8 necessary steps to provide for the safe operation of elevators
9 and kindred equipment. Those who have newer equipment with
10 fail-safe technology and who regularly maintain the equipment in
11 a safe operating condition will be allowed a longer interval
12 between re-inspections and thus incur fewer costs in
13 inspections. Equipment that is older and inadequately
14 maintained will be subjected to more frequent re-inspections and
15 the owner will have to pay for the additional inspections.
16 Involvement by the regulated community is necessary to assure
17 the safe operation of the equipment.



1 Other amendments are mostly housekeeping in nature,
2 including a provision that when the department needs to gather
3 information as part of its investigations or inspections,
4 records and documents may be requested in addition to asking
5 questions.

6 SECTION 2. Section 397-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§397-4 Powers and duties.** (a) Administration.

9 (1) The department shall establish a boiler and elevator
10 inspection branch for the enforcement of the rules
11 adopted under this chapter and other duties as
12 assigned;

13 (2) The department shall:

14 (A) Implement and enforce the requirements of this
15 chapter; and

16 (B) Keep adequate and complete records of the type,
17 size, location, identification data, and
18 inspection findings for boilers, pressure
19 systems, amusement rides, and elevators and
20 kindred equipment required to be inspected
21 pursuant to this chapter;



- 1 (3) The department shall formulate definitions and adopt
2 and enforce standards and rules pursuant to chapter 91
3 that may be necessary for carrying out this chapter.
4 Definitions and rules adopted in accordance with
5 chapter 91 under the authority of chapter 396, prior
6 to the adoption of this chapter that pertain to
7 boilers, pressure systems, amusement rides, and
8 elevators and kindred equipment required to be
9 inspected pursuant to this chapter, shall be continued
10 in force under the authority of this chapter;
- 11 (4) Emergency temporary standards may be adopted without
12 conforming to chapter 91 and without hearings to take
13 immediate effect upon giving public notice of the
14 emergency temporary standards or upon another date
15 that may be specified in the notice. An emergency
16 temporary standard may be adopted, if the director
17 determines:
- 18 (A) That the public or individuals are exposed to
19 grave danger from exposure to hazardous
20 conditions or circumstances; and



1 (B) That the emergency temporary standard is
2 necessary to protect the public or individuals
3 from danger.

4 Emergency temporary standards shall be effective until
5 superseded by a standard adopted under chapter 91, but
6 in any case shall be effective no longer than six
7 months;

8 (5) Variances from standards adopted under this chapter
9 may be granted upon application of an owner, user,
10 contractor, or vendor. Application for variances
11 shall correspond to procedures set forth in the rules
12 adopted pursuant to this chapter. The director may
13 issue an order for variance, if the director
14 determines that the proponent of the variance has
15 demonstrated that the conditions, practices, means,
16 methods, operations, or processes used or proposed to
17 be used will provide substantially equivalent safety
18 as that provided by the standards;

19 (6) Permits.

20 (A) The department shall issue a "permit to operate"
21 regarding any boiler, pressure system, amusement
22 ride, or elevator and kindred equipment if found



1 to be safe in accordance with rules adopted
2 pursuant to chapter 91;

3 (B) The department may immediately revoke any "permit
4 to operate" of any boiler, pressure system,
5 amusement ride, or elevator and kindred equipment
6 found to be in an unsafe condition or where a
7 user, owner, or contractor ignores prior
8 department orders to correct specific defects or
9 hazards and continues to use or operate the above
10 mentioned apparatus without abating the hazards
11 or defects;

12 (C) The department shall reissue a "permit to
13 operate" to any user, owner, or contractor who
14 demonstrates that the user, owner, or contractor
15 is proceeding in good faith to abate all
16 nonconforming conditions mentioned in department
17 orders and the boilers, pressure systems,
18 amusement rides, and elevators and kindred
19 equipment are safe to operate; and

20 (D) The department shall establish criteria for the
21 periodic reinspection and renewal of the permits
22 to operate, and may provide for the issuance of



1 temporary permits to operate while any
2 noncomplying boiler, pressure system, amusement
3 ride, and elevator and kindred equipment are
4 being brought into full compliance with the
5 applicable standards and rules adopted pursuant
6 to this chapter[~~;~~ ~~provided that the period~~
7 ~~between an initial safety inspection or the~~
8 ~~inspection used as a basis for the issuance of a~~
9 ~~permit to operate, and any subsequent inspection~~
10 ~~of elevators and kindred equipment shall not~~
11 ~~exceed one year;]. Criteria to be used for the
12 periodic reinspection and renewal of a permit to
13 operate shall include age and type of equipment,
14 discrepancy history, and whether the equipment is
15 regularly and adequately maintained in a safe
16 operating condition, and shall be based upon the
17 American Society of Mechanical Engineers
18 standards contained in ASME A17.1-2000 Section
19 8.6;~~

- 20 (7) No boiler, pressure system, amusement ride, or
21 elevator and kindred equipment which are required to
22 be inspected by this chapter or by any rule adopted



1 pursuant to this chapter shall be operated, except as
2 necessary to install, repair, or test, unless a permit
3 to operate has been authorized or issued by the
4 department and remains valid; and

5 (8) The department, upon the application of any owner or
6 user or other person affected thereby, may grant time
7 that may reasonably be necessary for compliance with
8 any order. Any person affected by an order may for
9 cause petition the department for an extension of
10 time.

11 (b) Inspection and investigation.

12 (1) Authorized representatives of the director shall have
13 the right to enter without delay during regular
14 working hours and at other reasonable times any place,
15 establishment, or premises in which are located
16 boilers, pressure systems, amusement rides, and
17 elevators and kindred equipment requiring inspection
18 pursuant to this chapter.

19 (2) The department shall inspect for the purpose of
20 insuring compliance with the purposes and provisions
21 of this chapter any activity related to the erection,
22 construction, alteration, demolition or maintenance of



1 buildings, structures, bridges, highways, roadways,
2 dams, tunnels, sewers, underground buildings or
3 structures, underground pipelines or ducts, and other
4 construction projects or facilities.

5 (3) The department shall review plans and make
6 inspections, and investigations of boilers, and
7 pressure systems, and the premises appurtenant to each
8 at times and at intervals determined by the director
9 for the purpose of insuring compliance with the
10 purpose and provisions of this chapter. This section
11 shall not apply to single family dwellings or multiple
12 dwelling units of less than six living units.

13 (4) The department shall review plans and make
14 inspections, and investigations of elevators and
15 kindred equipment and the premises appurtenant to each
16 at times and at intervals determined by the director
17 for the purpose of insuring compliance with the
18 purposes and provisions of this chapter. This section
19 shall not apply to single family dwellings.

20 (5) The department shall inspect, at least semi-annually
21 all mechanically or electrically operated devices
22 considered as major rides and used as amusement rides



1 at a carnival, circus, fair, or amusement park for the
2 purpose of protecting the safety of the general
3 public. This section shall not apply to any coin
4 operated ride or mechanically or electrically operated
5 devices considered or known in the amusement trade as
6 kiddie rides.

7 (6) The department may investigate accidents involving
8 boilers, pressure systems, amusement rides, and
9 elevators and kindred equipment inspected under this
10 chapter and may issue orders and recommendations with
11 respect to the elimination and control of the cause
12 factors.

13 (7) The department shall have the right to question and to
14 obtain records and documents of any employer, owner,
15 operator, agent, or employee in investigation,
16 enforcement, and inspection activities covered by this
17 chapter.

18 (8) Any employee of the State acting within the scope of
19 the employee's office, employment, or authority under
20 this chapter shall not be liable in or made a party to
21 any civil action growing out of the administration and
22 enforcement of this chapter.



1 (c) Education and training.

2 (1) The department may disseminate through exhibitions,
3 pictures, lectures, pamphlets, letters, notices, and
4 any other method of publicity, to owners, users,
5 vendors, architects, contractors, employees, and the
6 general public information regarding boilers, pressure
7 systems, amusement rides, and elevators and kindred
8 equipment required to be inspected pursuant to this
9 chapter.

10 (2) Where appropriate, the department may undertake
11 programs in training and consultation with owners,
12 users, property management firms, vendors, architects,
13 contractors, employees, and the general public
14 regarding the safety requirements of this chapter and
15 the rules and regulations.

16 (d) Enforcement.

17 (1) Whenever right of entry to a place to inspect any
18 boiler, pressure system, amusement ride, or elevator
19 and kindred equipment required by this chapter to be
20 inspected is refused to an authorized representative
21 of the director, the department may apply to the
22 circuit court where such place exists for a search



1 warrant providing on its face that the wilful
2 interference with its lawful execution may be punished
3 as a contempt of court.

4 (2) Whenever the department finds that the construction of
5 or the operation of any boiler, pressure system,
6 amusement ride, or elevator and kindred equipment
7 required to be inspected by this chapter is not safe,
8 or that any practice, means, method, operation, or
9 process employed or used is unsafe or is not in
10 conformance with the rules and regulations promulgated
11 pursuant to this chapter, the department shall issue
12 an order to render the construction or operation safe
13 or in conformance with this chapter or rules and
14 regulations and deliver the same to the contractor,
15 owner, or user. Each order shall be in writing and
16 may be delivered by mail or in person. The department
17 may in the order direct that, in the manner and within
18 a time specified such additions, repairs,
19 improvements, or changes be made and such safety
20 devices and safeguards be furnished, provided and used
21 as are reasonably required to insure compliance with
22 the purposes and provisions of this chapter. The



1 owner, or user, or contractor shall obey and observe
2 all orders issued by the department or be subject to
3 appropriate civil penalties.

4 (3) Whenever in the opinion of the department the
5 condition of, or the operation of boilers, pressure
6 systems, amusement rides, or elevators and kindred
7 equipment required to be inspected by this chapter, or
8 any practice, means, method, operation, or process
9 employed or used, is unsafe, or is not properly
10 guarded or is dangerously placed, the use thereof may
11 be prohibited by the department, an order to that
12 effect shall be posted prominently on the equipment,
13 or near the place or condition referred to in the
14 order. The order shall be removed when a
15 determination has been made by an authorized
16 representative of the department that the boilers,
17 pressure systems, amusement rides, or elevators and
18 kindred equipment are safe and the required safeguards
19 or safety devices are provided.

20 (4) When in the opinion of the department the operation of
21 boilers, pressure systems, amusement rides, or
22 elevators and kindred equipment, required to be



1 inspected by this chapter or any practice, means,
2 method, operation or process employed or used
3 constitutes an imminent hazard to the life or safety
4 of any person, or to property, the department may
5 apply to the circuit court of the circuit in which
6 such boilers, pressure systems, amusement rides, or
7 elevators and kindred equipment are situated or such
8 practice, means, method, operation or process is
9 employed for an injunction restraining the use or
10 operation until the use or operation is made safe.
11 The application to the circuit court accompanied by an
12 affidavit showing that the use or operation exists in
13 violation of a standard, rule, regulation, variance,
14 or order of the department and constitutes an imminent
15 hazard to the life or safety of any person or to
16 property and accompanied by a copy of the standard,
17 rule, regulation, variance, or applicable order, shall
18 warrant, in the discretion of the court, the immediate
19 granting of a temporary restraining order. No bond
20 shall be required from the department as a
21 prerequisite to the granting of a restraining order.



1 (5) The director and the director's authorized
2 representative shall have the same powers respecting
3 the administering of oaths, compelling the attendance
4 of witnesses, the production of documentary evidence,
5 and examining or causing to be examined witnesses as
6 are possessed by the court and may take depositions
7 and certify to official acts. The circuit court of
8 any circuit upon application by the director shall
9 have the power to enforce by proper proceedings the
10 attendance and testimony of any witness so
11 subpoenaed. Subpoena and witness fees and mileage in
12 such cases shall be the same as in criminal cases in
13 the circuit courts. Necessary expenses of, or in
14 connection with, such hearings or investigations shall
15 be payable from the funds appropriated for expenses of
16 administration of the department. No person shall be
17 excused from attending or testifying or producing
18 materials, books, papers, correspondences, memoranda,
19 and other records before the director or in obedience
20 to subpoena on the grounds that the testimony or
21 evidence, documentary or otherwise, required of the
22 person may tend to incriminate the person or subject



1 the person to a penalty or forfeiture; but no
2 individual shall be prosecuted or subjected to any
3 penalty or forfeiture for or on account of any
4 transaction, matter, or thing concerning which the
5 individual is compelled, after having claimed the
6 individual's privilege against self-incrimination, to
7 testify or produce evidence, documentary, or
8 otherwise, except that such individuals so testifying
9 shall not be exempt from prosecution and punishment
10 for perjury committed in so testifying.

11 (6) Where a condition or practice involving any boiler,
12 pressure system, amusement ride, or elevator and
13 kindred equipment required to be inspected by this
14 chapter could reasonably be expected to cause death or
15 serious physical harm, the department shall have the
16 right, independent of any other enforcement powers
17 under this chapter, to:

18 (A) Immediately take steps to obtain abatement by
19 informing the owners, users, contractors, and all
20 persons in [harms] harm's way of such hazard by
21 meeting, posted notice, or otherwise;



1 (B) Take steps to immediately obtain abatement
2 through direct control or elimination of the
3 hazard if after reasonable search, the user,
4 owner, or contractor or their representative is
5 not available;

6 (C) Take steps to obtain immediate abatement when the
7 nature and imminency of the danger or hazard does
8 not permit a search for the owner, user, or
9 contractor; and

10 (D) Where appropriate, initiate necessary legal
11 proceedings to require abatement by the owner,
12 user or contractor.

13 (7) The department may prosecute, defend, and maintain
14 actions in the name of the department for the
15 enforcement of the provisions of this chapter,
16 including the enforcement of any order issued by it,
17 the appeal of any administrative or court decision,
18 and other actions necessary to enforce this chapter."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Boiler and Elevator Safety; Renewal Inspections; Housekeeping Amendments

Description:

Permits the department to set re-inspection frequencies for renewal permits based on factors relevant to the safe operation of the equipment; clarifies that in addition to asking questions relating to an investigation, enforcement and inspection activities, that the department may also obtain relevant records; housekeeping amendments for spelling and clarification. (HB1130, HD1)

