

ACT 102

S.B. NO. 3126

A Bill for an Act Relating to the Boiler and Elevator Safety Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 397-3, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

“Exclusive employment” means a qualified boiler inspector who is employed on a full-time or part-time basis to provide inspection services within the scope of their National Board commission exclusively for only one authorized inspection agency or owner-user inspection organization.

“Owner-user inspection organization” means an owner or user of pressure retaining items, whose organization and inspection procedures meet the requirements of the National Board, and is approved by the director.”

SECTION 2. Section 397-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Administration.

- (1) The department shall establish a boiler and elevator inspection branch for the enforcement of the rules adopted under this chapter and other duties as assigned;
- (2) The department shall:
 - (A) Implement and enforce the requirements of this chapter; and
 - (B) Keep adequate and complete records of the type, size, location, identification data, and inspection findings for pressure retaining items, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter;
- (3) The department shall formulate definitions and adopt and enforce standards and rules pursuant to chapter 91 that may be necessary for carrying out this chapter;
- (4) Emergency temporary standards may be adopted without conforming to chapter 91 and without hearings to take immediate effect upon giving public notice of the emergency temporary standards or upon another date that may be specified in the notice. An emergency temporary standard may be adopted~~[-if];~~ provided that the director determines:
 - (A) That the public or individuals are exposed to grave danger from exposure to hazardous conditions or circumstances; and
 - (B) That the emergency temporary standard is necessary to protect the public or individuals from danger.

Emergency temporary standards shall be effective until superseded by a standard adopted under chapter 91, but shall not be effective longer than six months;

- (5) Variances from standards adopted under this chapter may be granted upon application of an owner, user, contractor, or vendor. Application for variances shall correspond to procedures set forth in the rules adopted pursuant to this chapter. The director may issue an order for variance, if the director determines that the proponent of the variance has demonstrated that the conditions, practices, means, methods, operations, or processes used or proposed to be used will provide substantially equivalent safety as that provided by the standards;
- (6) Permits.
 - (A) The department shall issue a permit to operate regarding any pressure retaining item, amusement ride, or elevator and kindred equipment if found to be safe in accordance with rules adopted pursuant to chapter 91 and all required fees have been paid;
 - (B) The department may issue an order immediately revoking or suspending any permit to operate, or an order prohibiting the use or operation of a pressure retaining item, amusement ride, or elevator and kindred equipment when:
 - (i) The department finds the pressure retaining item, amusement ride, or elevator and kindred equipment to be in an unsafe condition;
 - (ii) A user, owner, or contractor ignores a prior department order to correct a condition, defect, or hazard relating to the pressure retaining item, amusement ride, or elevator and kindred equipment, and continues to use or operate

- the pressure retaining item, amusement ride, or elevator and kindred equipment without abating the condition, defect, or hazard identified in the order; or
- (iii) A user, owner, or contractor fails to pay any fee or fine required under this chapter or any rule adopted under this chapter.

The order may be rescinded when the department has determined that the owner, user, or contractor has complied with the order to correct the condition, defect, or hazard identified in the order or has paid all fees or fines imposed by the department;

- (C) The department may reissue a permit to operate to any user, owner, or contractor who demonstrates that the user, owner, or contractor is proceeding in good faith to abate all nonconforming conditions mentioned in department orders and the pressure retaining items, amusement rides, and elevators and kindred equipment are safe to operate; and
- (D) The department shall establish criteria for the periodic reinspection and renewal of the permits to operate, and may provide for the issuance of temporary permits to operate while any noncomplying pressure retaining item, amusement ride, and elevator and kindred equipment are being brought into full compliance with the applicable standards and rules adopted pursuant to this chapter; provided that the period between an initial safety inspection or the inspection used as a basis for the issuance of a permit to operate, and any subsequent inspection of elevators and kindred equipment shall not exceed one year;
- (7) No person shall operate a pressure retaining item, amusement ride, or elevator and kindred equipment that is required to be inspected by this chapter or by any rule adopted pursuant to this chapter, except as necessary to install, repair, or test, unless a permit to operate has been authorized or issued by the department and remains valid; ~~and~~
- (8) The department, upon the application of any owner, user, or other person affected thereby, may grant time that may reasonably be necessary for compliance with any order. Any person affected by an order may for cause petition the department for an extension of time[-]; and
- (9) The director shall appoint a chief boiler and pressure vessel inspector, who shall be a department employee who represents the State as a voting member of the National Board and serves as an American Society of Mechanical Engineers Conference Committee member.

SECTION 3. Section 397-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All safety inspections required under this chapter of pressure retaining items shall be performed by deputy boiler inspectors in the employ of the department who are qualified boiler inspectors ~~[and, when authorized by]; provided that~~ the director[-] may authorize the safety inspections to be performed by [special];

- (1) Special inspectors, who are qualified boiler inspectors in the ~~employ~~ exclusive employment of insurance companies insuring pressure retaining items in this State[-]; or

- (2) Owner-user inspectors, who are qualified boiler inspectors in the exclusive employment of an owner-user inspection organization.”

SECTION 4. Section 397-13, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) No later than [~~ten~~] thirteen years from the date of the establishment of the revolving fund, the director shall reimburse the general fund for the amount of any initial appropriation that was made by the general revenues of the State to the revolving fund.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 17, 2022.)