

**SENATE BILL No. 135**

By Committee on Federal and State Affairs

2-6

1 AN ACT concerning the boiler safety act; transferring duties from the  
2 secretary of labor to the state fire marshal; amending K.S.A. 44-916,  
3 44-917, 44-918, 44-919, 44-920, 44-921, 44-922, 44-923, 44-924, 44-  
4 925, 44-927 and 44-929 and K.S.A. 2012 Supp. 44-636, 44-914, 44-  
5 915, 44-926 and 44-928 and repealing the existing sections.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) All of the powers, duties and functions of the  
9 secretary of labor under the boiler safety act, K.S.A. 44-913 et seq., and  
10 amendments thereto, are hereby transferred to and conferred and imposed  
11 upon the office of state fire marshal.

12 (b) In accordance with the provisions of appropriation acts, the office  
13 of state fire marshal shall administer the boiler inspection fee fund,  
14 established by K.S.A. 44-926, and amendments thereto.

15 (c) All liabilities of the secretary of labor, including accrued  
16 compensation or salaries of officers and employees who are transferred to  
17 the office of state fire marshal under this section shall be assumed and paid  
18 by the office of state fire marshal.

19 New Sec. 2. (a) The state fire marshal shall be the successor in every  
20 way to the powers, duties and functions of the secretary of labor under the  
21 boiler safety act, K.S.A. 44-913 et seq., and amendments thereto, in which  
22 the same were vested prior to the effective date of this act and that are  
23 transferred pursuant to section 1, and amendments thereto. Every act  
24 performed in the exercise of such transferred powers, duties and functions  
25 by or under the state fire marshal pursuant to section 1, and amendments  
26 thereto, shall be deemed to have the same force and effect as if performed  
27 by the secretary of labor in which such powers, duties and functions were  
28 vested prior to the effective date of this act.

29 (b) Whenever the secretary of labor, or words of like effect, are  
30 referred to or designated by a statute, contract or other document and such  
31 reference is in regard to any of the powers, duties or functions transferred  
32 to the office of state fire marshal pursuant to section 1, and amendments  
33 thereto, such reference or designation shall be deemed to apply to the  
34 office of state fire marshal or the state fire marshal as the context requires.

35 (c) All rules and regulations, orders and directives of the secretary of  
36 labor adopted or issued pursuant to the powers, duties or functions

1 transferred to the office of state fire marshal pursuant to section 1, and  
2 amendments thereto, which are in effect on the effective date of this act  
3 shall continue to be effective and shall be deemed to be rules and  
4 regulations, orders and directives of the state fire marshal until revised,  
5 amended, revoked or nullified pursuant to law.

6 (d) The state fire marshal shall have the legal custody of all records,  
7 memoranda, writings, entries, prints, representations, electronic data or  
8 combinations thereof of any act, transaction, occurrence or event of the  
9 secretary of labor relating to any of the powers, duties or functions  
10 transferred to the office of state fire marshal pursuant to section 1, and  
11 amendments thereto.

12 (e) The state fire marshal shall be the continuation of the secretary of  
13 labor with respect to the powers, duties and functions transferred to the  
14 office of state fire marshal pursuant to section 1, and amendments thereto.

15 (f) (1) All officers and employees who, immediately prior to the  
16 effective date of this act, were engaged in the performance of powers,  
17 duties or functions of the secretary of labor transferred pursuant to section  
18 1, and amendments thereto, or the powers, duties and functions of which  
19 are transferred to the office of state fire marshal, and who, in the opinion  
20 of the state fire marshal, are necessary to perform the powers, duties and  
21 functions of the office of state fire marshal, shall be transferred to, and  
22 shall become officers and employees of the office of state fire marshal.

23 (2) Officers and employees of the department of labor transferred by  
24 this act shall retain all retirement benefits and leave balances and rights  
25 which had accrued or vested prior to the date of transfer, including any  
26 benefits and rights accrued or vested as a result of participating in the  
27 Kansas public employees retirement system or the Kansas police and  
28 firemen's retirement system and such participation shall continue as  
29 provided by law. The service of each such officer and employee so  
30 transferred shall be deemed to have been continuous. All transfers, layoffs  
31 or abolition of classified service positions under the Kansas civil service  
32 act shall be made in accordance with the civil service laws and any rules  
33 and regulations adopted thereunder. Nothing in this act shall affect the  
34 classified status of any transferred person employed by the department of  
35 labor.

36 New Sec. 3. (a) When any conflict arises as to the disposition of any  
37 property, power, duty or function or the unexpended balance of any  
38 appropriation as a result of any abolition or transfer made by or under  
39 section 1, and amendments thereto, such conflict shall be resolved by the  
40 governor, whose decision shall be final.

41 (b) The office of state fire marshal shall succeed to all property,  
42 property rights and records which were used for or pertain to the  
43 performance of powers, duties and functions transferred to the office of

1 state fire marshal pursuant to section 1, and amendments thereto. Any  
2 conflict as to the proper disposition of property, personnel or records  
3 arising under this section or sections 1 or 2, and amendments thereto, shall  
4 be determined by the governor, whose decision shall be final.

5 Sec. 4. K.S.A. 2012 Supp. 44-636 is hereby amended to read as  
6 follows: 44-636. (a) The secretary of labor shall have power to enter any  
7 factory or mill, workshop, private works, public works or state agency or  
8 institution, mercantile establishment, laundry or any other place of  
9 business where labor is or is intended to be performed for any purpose,  
10 when the same are open or in operation, for the purpose of gathering facts  
11 and statistics such as are contemplated by this act, and to examine into the  
12 methods of protection from danger to employees and the sanitary  
13 conditions in and around such buildings and places and to keep a record  
14 thereof of such inspection.

15 If it shall be found upon such investigation that the heating, lighting,  
16 ventilation, occupant capacity or sanitary arrangement of any such  
17 establishment or place is such as to be injurious to the health of persons  
18 employed or residing therein, or that the means of egress in case of fire or  
19 other disaster are not sufficient, or that the belting, shafting, gearing,  
20 elevators, drums, saws, cogs or machinery, in any such establishment or  
21 place are so located or are in a condition so as to be dangerous, or are not  
22 sufficiently guarded, or that the vats, pans or any other structures filled  
23 with molten metal, hot liquid or hazardous materials or substances are not  
24 surrounded with proper safeguards for preventing accidents, injury or  
25 illness to those persons in, or near them, or that the construction or  
26 condition of any building or buildings, ~~or any boiler,~~ machinery or other  
27 appurtenances in or about any place as described in this section is such as  
28 to be dangerous or injurious to the persons employed or residing therein,  
29 or that the methods of operation are such as to be unnecessarily dangerous  
30 or injurious to the persons employed or residing therein, or that any other  
31 condition which is within the control of the owner, proprietor, agent,  
32 administrator or lessee of any such building, establishment or place to be  
33 found to be dangerous or injurious to any persons employed therein or to  
34 any other person or persons, the secretary or the authorized agent of the  
35 secretary after making such inspection shall notify in writing the owner,  
36 proprietor, agent, administrator or lessee of such building, establishment,  
37 or place. Such notification may also include an order that requires the  
38 provisions of such safeguards or safety devices or the making of such  
39 alterations or additions or changes in methods of operation or the taking of  
40 any other measures the secretary may deem appropriate and necessary for  
41 the safety and protection of the employees or other persons endangered by  
42 such conditions and the amount of time granted by the secretary for  
43 making any such alterations, additions, changes or taking such other

1 methods as required. Such amount of time shall not exceed 60 days after  
2 service of the notice and the order unless an extension thereof is requested  
3 for good cause shown by the person named in the order, and such  
4 extension is granted by the secretary.

5 (b) The notification required by subsection (a) shall include notice of  
6 the right to a hearing concerning any order included therein. Any such  
7 order shall become final unless within 15 days after service of the notice  
8 and order, the person or persons named therein shall request in writing a  
9 hearing by the secretary. If a request is made for a hearing the date of the  
10 hearing shall not be more than 30 days after such request is made. Orders  
11 under subsection (a), and hearings thereon, shall be subject to the  
12 provisions of the Kansas administrative procedure act.

13 (c) No person, firm or corporation, nor any officer, agent or employee  
14 thereof, shall remove or require to be removed, or made ineffective any  
15 practical safeguard around or safety attachment to any machinery, vats,  
16 pan, or other apparatus or device mentioned in this section while the same  
17 is in use, except for the purpose of immediately making repairs thereto,  
18 and all safeguards or safety attachments so removed shall be promptly  
19 replaced before the dangerous machine, apparatus or device is returned to  
20 normal use or operation. Except as otherwise provided, no person shall  
21 require or permit the operation of, or operate, the dangerous machine,  
22 apparatus or device without the required safeguards or safety attachments.

23 (d) If the secretary of labor determines that conditions or products in  
24 any place of employment are such that a danger exists which could  
25 reasonably be expected to cause death or serious physical harm  
26 immediately, or before such danger can be eliminated through the  
27 enforcement provisions otherwise provided by law, the secretary may, in  
28 accordance with the provisions of K.S.A. 77-536, and amendments  
29 thereto, order the immediate taking of any steps necessary to avoid, correct  
30 or remove such imminent danger and prohibit the employment or presence  
31 of any individual in locations or under conditions where such imminent  
32 danger exists, except individuals whose presence is necessary to avoid,  
33 correct or remove such imminent danger or to prevent any avoidable loss  
34 of production facilities or product.

35 (e) Upon issuance of the order authorized by subsection (d) of this  
36 section and upon the request of any party who is adversely affected  
37 thereby, the secretary shall fix a place and time for a hearing to be held on  
38 such order in accordance with the provisions of the Kansas administrative  
39 procedure act.

40 (f) No person shall discharge or in any manner discriminate against  
41 any employee because such employee has filed a complaint with, or  
42 furnished information to, the secretary of labor concerning conditions or  
43 situations alleged to be unsafe or hazardous or otherwise covered by the

1 provisions of this act.

2 (g) Any person who willfully violates any provision of this section or  
3 any lawful order issued pursuant to this section shall be guilty of a  
4 misdemeanor and shall be subject to a fine of not less than \$25 nor more  
5 than \$100. Each day that such violation exists shall constitute a separate  
6 offense.

7 (h) An action brought pursuant to this section shall not constitute a  
8 bar to enforcement of the provisions of this section by injunction or other  
9 appropriate remedy, and upon request of the secretary of labor, the attorney  
10 general shall have the power to institute and maintain in the name of the  
11 state any and all appropriate enforcement procedures.

12 Sec. 5. K.S.A. 2012 Supp. 44-914 is hereby amended to read as  
13 follows: 44-914. As used in this act, unless the context otherwise requires:

14 (a) "Boiler" means a closed vessel in which water or other liquid is  
15 heated, steam or vapor is generated or steam is superheated, or in which  
16 any combination of these functions is accomplished, under pressure or  
17 vacuum, for use internal or external to itself, by the direct application of  
18 energy from the combustion of fuels or of electric or solar power. The term  
19 boiler shall also include fired units for heating or vaporizing liquids other  
20 than water where these units are separate from processing systems and are  
21 complete within themselves.

22 (b) "Certificate inspection" means an inspection, the report of which  
23 is used by the chief inspector to determine whether or not an inspection  
24 certificate shall be issued as provided by K.S.A. 44-924, and amendments  
25 thereto.

26 (c) "Heating boiler" means a steam or vapor boiler operating at  
27 pressures not exceeding 15 pounds per square inch gauge or a hot water  
28 heating boiler operating at pressures not exceeding 160 pounds per square  
29 inch gauge or temperatures not exceeding 250° Fahrenheit.

30 (d) "High pressure, high temperature water boiler" means a water  
31 boiler operating at pressures exceeding 160 pounds per square inch gauge  
32 or temperatures exceeding 250° Fahrenheit.

33 (e) "Power boiler" means a boiler in which steam or other vapor is  
34 generated at a pressure of more than 15 pounds per square inch gauge.

35 ~~(f) "Secretary" means the secretary of labor.~~

36 ~~(g)~~ (f) "Pressure vessel" means a vessel or container used for the  
37 containment of pressure either internal or external in which the pressure is  
38 obtained from an external source of vapor, liquid or gas.

39 ~~(h)~~ (g) "Hot water supply boiler" means a vessel heating water for  
40 external uses, by gas, oil, electricity or solar energy that does not exceed  
41 160 psi, or 210° Fahrenheit.

42 ~~(i)~~ (h) "Inspection fee" means any inspection fees collected pursuant  
43 to subsection (a) of K.S.A. 44-926, and amendments thereto, and shall not

1 include any certificate fees collected pursuant to subsection (b) of K.S.A.  
2 44-926, and amendments thereto, and any travel or hotel expense.

3 Sec. 6. K.S.A. 2012 Supp. 44-915 is hereby amended to read as  
4 follows: 44-915. (a) The provisions of this act shall not apply to:

5 (1) Boilers and pressure vessels under the control of the United States  
6 government or federal law;

7 (2) antique, scale model or other steam boilers which are used  
8 exclusively for exhibition purposes and which are inspected by  
9 associations that have established an approved inspection procedure and  
10 whose inspectors are registered as special inspectors with the ~~boiler safety~~  
11 ~~unit of the state of Kansas, department of labor~~ *state fire marshal*;

12 (3) fire engine boilers brought into the state for temporary use in  
13 times of emergency;

14 (4) boilers and pressure vessels located on producing oil and gas  
15 leases or storage areas, and outside the limits of any municipality, used  
16 solely for oil and gas production purposes;

17 (5) hot water supply boilers which are directly fired with oil, gas,  
18 electricity or solar energy and which are equipped with pressure and  
19 temperature safety relief valves approved by the American society of  
20 mechanical engineers or the national board of boiler and pressure vessel  
21 inspectors, if none of the following limitations is exceeded:

22 (A) Heat input of 200,000 BTUH;

23 (B) water temperature of 210° Fahrenheit; and

24 (C) nominal water capacity of 85 gallons or 120 gallons for an  
25 electrical utility generating plant; ~~and~~

26 (6) pressure vessels constructed and installed prior to January 1,  
27 1999; *and*

28 (7) *pressure vessels used to store or transport anhydrous ammonia.*

29 (b) The provisions of subsections (b) and (c) of K.S.A. 44-923, and  
30 amendments thereto, and the provisions of K.S.A. 44-924, 44-925 and 44-  
31 926, and amendments thereto, shall not apply to:

32 (1) Boilers and pressure vessels located on farms and used solely for  
33 agriculture or horticultural purposes;

34 (2) heating boilers and pressure vessels which are located in private  
35 residences or in apartment houses of less than five family units;

36 (3) boilers and pressure vessels operated and regularly inspected by  
37 railway companies operating in interstate commerce;

38 (4) any boiler and pressure vessels in any establishment in which  
39 petroleum products are refined or processed in which all boiler and  
40 pressure equipment is inspected and rated either by an inspection service  
41 regularly maintained within such establishment or provided by a  
42 manufacturer, designer or insurer of such equipment, in accordance with  
43 the applicable provisions of any published code or codes of rules or

1 recommended practices nationally recognized in the industry of which  
2 such establishment is a part as providing suitable standards for the  
3 inspection, repair and rating of pressure equipment of the type used in such  
4 establishment;

5 (5) pressure vessels used for transportation and storage of compressed  
6 gases when constructed in compliance with specifications of the United  
7 States department of transportation and when charged with gas marked,  
8 maintained and periodically requalified for use, as required by appropriate  
9 regulations of the United States department of transportation;

10 (6) pressure vessels located on vehicles operating under the rules and  
11 regulations of other state authorities and used to transport passengers or  
12 freight;

13 (7) pressure vessels installed on the right-of-way of railroads and  
14 used in the operation of trains;

15 (8) pressure vessels having an internal or external operating pressure  
16 not exceeding 15 psig with no limit on size;

17 (9) pressure vessels having an inside diameter, width, height or cross  
18 section diagonal not exceeding six inches, with no limitation on length of  
19 the vessel or pressure;

20 (10) pressure vessels for containing water or other nonflammable  
21 liquids under pressure, including those containing air, the compression of  
22 which serves only as a cushion, when neither of the following limitations  
23 is exceeded:

24 (A) A design pressure of 300 psig; or

25 (B) a design temperature of 210° Fahrenheit;

26 (11) pressure vessels which may be classified as pressure containers  
27 which are an integral part of components of rotating or reciprocating  
28 mechanical devices such as pumps, turbines, generators, engines and  
29 hydraulic or pneumatic cylinders, where the primary design considerations  
30 and stresses are derived from the functional requirements of the device;

31 (12) pressure vessels that do not exceed: (A) 15 cubic feet and 250  
32 psi pressure; or (B) 1½ cubic feet in volume and 600 psi pressure; and

33 (13) pressure vessels installed and constructed before January 1,  
34 1999.

35 Sec. 7. K.S.A. 44-916 is hereby amended to read as follows: 44-916.

36 (a) The ~~secretary~~ *state fire marshal* shall adopt rules and regulations,  
37 consistent with the provisions of this act, for the safe construction,  
38 installation, inspection, maintenance and repair of boilers in this state. The  
39 ~~secretary~~ *state fire marshal* shall adopt rules and regulations, consistent  
40 with the provisions of this act, for the safe construction and installation of  
41 pressure vessels in this state.

42 (b) *Rules and regulations adopted hereunder may include reporting,*  
43 *monitoring and recordkeeping requirements for owners and users of*

1 *boilers and pressure vessels subject to this act.*

2 ~~(b)~~ (c) Rules and regulations adopted hereunder for construction of  
3 new boilers and pressure vessels shall be based upon and at all times  
4 follow generally accepted nationwide engineering standards, formulae and  
5 practices established and pertaining to boiler construction and safety. Such  
6 rules and regulations may incorporate by reference specific editions, or  
7 portions thereof, of the boiler and pressure vessel code of the American  
8 society of mechanical engineers or other approved codes of construction.

9 ~~(e)~~ (d) Rules and regulations adopted hereunder for the construction,  
10 installation, inspection, maintenance and repair of boilers and pressure  
11 vessels shall be based upon and at all times follow generally accepted  
12 nationwide engineering standards. Such rules and regulations may  
13 incorporate by reference specific editions, or portions thereof, of the  
14 inspection code of the national board of boiler and pressure vessel  
15 inspectors and may require the use of such board's "R" stamp for repairs.

16 ~~(d)~~ (e) The chief inspector or deputy inspectors may perform  
17 inspections of boilers and pressure vessels and issue, upon completion, a  
18 special certification showing that such inspection was done in accordance  
19 with nationwide engineering standards as adopted by rules and regulations.

20 Sec. 8. K.S.A. 44-917 is hereby amended to read as follows: 44-917.

21 (a) All new boilers and pressure vessels shall conform to the rules and  
22 regulations ~~issued~~ *adopted* pursuant to this ~~statute~~ *act* which govern new  
23 construction and installation. If a new boiler or pressure vessel is of special  
24 design or construction and the design is consistent with the spirit and  
25 safety objectives of this act and rules and regulations, an interested party  
26 may request a variance from the ~~secretary~~ *state fire marshal* to build and  
27 operate a nonconforming boiler or pressure vessel.

28 (b) The maximum allowable working pressure of a boiler or pressure  
29 vessel carrying the American society of mechanical engineers or other  
30 approved code symbol shall be determined by the applicable sections of  
31 the code under which it was constructed and stamped.

32 (c) The maximum allowable working pressure of a boiler or pressure  
33 vessel which does not carry the American society of mechanical engineers  
34 code symbol shall be computed in accordance with the rules and  
35 regulations adopted by the ~~secretary~~ *state fire marshal*.

36 (d) This act shall not be construed as in any way preventing the use,  
37 sale or reinstallation of a boiler or pressure vessel previously installed in  
38 this state, provided it has been made to conform to the rules and  
39 regulations governing existing installations and provided it has not been  
40 found upon inspection to be in an unsafe condition. If a previously  
41 installed boiler or pressure vessel is of special design or construction and  
42 the design is consistent with the spirit and safety objectives of this act and  
43 rules and regulations, an interested party may request a variance from the

1 ~~secretary~~ *state fire marshal* to use, sell, or reinstall a nonconforming boiler  
2 or pressure vessel.

3 (e) This act shall not be construed to require a pressure vessel  
4 inspection of those pressure vessels moved to a different location by the  
5 same owner.

6 Sec. 9. K.S.A. 44-918 is hereby amended to read as follows: 44-918.

7 (a) The ~~secretary~~ *state fire marshal* shall appoint a chief inspector who  
8 shall be a citizen of this state, or, if not available, a citizen of another state,  
9 and who shall have at the time of appointment not less than 10 years  
10 experience in the construction, installation, inspection, operation,  
11 maintenance or repair of high pressure boilers and pressure vessels as a  
12 mechanical engineer, steam operating engineer, boiler maker or boiler  
13 inspector, and who shall hold a commission issued by the national board of  
14 boiler and pressure vessel inspectors. The chief inspector shall be in the  
15 unclassified civil service and shall receive such compensation as  
16 prescribed by the ~~secretary~~ *state fire marshal*, subject to the approval of  
17 the governor.

18 (b) The chief inspector shall serve under the direction of the ~~secretary~~  
19 ~~and is~~ *state fire marshal*. *The state fire marshal, chief inspector and other*  
20 *duly authorized representatives of the state fire marshal are* hereby  
21 charged, directed and empowered:

22 (1) To take action necessary for the enforcement of this act and of the  
23 rules and regulations adopted hereunder;

24 (2) to maintain a complete record of all boilers and pressure vessels to  
25 which this act applies, which record shall include the name and address of  
26 each owner or user and the type, dimensions, maximum allowable working  
27 pressure, age and last recorded inspection of each such boiler or pressure  
28 vessel;

29 (3) to publish and make available copies of rules and regulations  
30 adopted hereunder to any person requesting them;

31 (4) to issue, or to suspend or revoke for cause, inspection certificates  
32 as provided in K.S.A. 44-924, and amendments thereto; and

33 (5) to cause the prosecution of all violators of the provisions of this  
34 act or of the rules and regulations adopted hereunder.

35 Sec. 10. K.S.A. 44-919 is hereby amended to read as follows: 44-919.

36 The ~~secretary~~ *state fire marshal* shall employ one or more deputy  
37 inspectors who shall be responsible to the chief inspector. Each deputy  
38 inspector shall have at the time of appointment not less than three years  
39 experience in the construction, installation, inspection, operation,  
40 maintenance or repair of high pressure boilers and pressure vessels as a  
41 mechanical engineer, steam operating engineer, boilermaker or boiler  
42 inspector. Deputy inspectors shall be in the unclassified civil service and  
43 shall receive such compensation as prescribed by the ~~secretary~~ *state fire*

1 *marshal*, subject to the approval of the governor.

2 Sec. 11. K.S.A. 44-920 is hereby amended to read as follows: 44-920.

3 (a) In addition to the deputy inspectors authorized by K.S.A. 44-919, and  
4 amendments thereto, the ~~secretary~~ *state fire marshal*, upon the request of  
5 any company licensed to insure and insuring boilers and pressure vessels  
6 in this state shall issue to any inspectors of such insurance company  
7 certificates of competency as special inspectors, provided that each such  
8 inspector shall hold a commission issued by the national board of boiler  
9 and pressure vessel inspectors.

10 (b) Special inspectors shall receive no salary from, nor shall any of  
11 their expenses be paid by, the state, and the continuance of their  
12 certificates of competency shall be conditioned upon their continuing in  
13 the employ of the boiler insurance company duly authorized as aforesaid  
14 and upon their maintenance of the standards imposed by this act and by  
15 rules and regulations adopted hereunder.

16 (c) Special inspectors shall inspect all boilers insured by their  
17 respective companies and, when so inspected, the owners and users of  
18 such boilers shall be exempt from the payment to the state of the  
19 inspection fees provided for in subsection (a) of K.S.A. 44-926, and  
20 amendments thereto.

21 (d) The ~~secretary~~ *state fire marshal* shall fix, by rules and regulations,  
22 certification requirements for inspectors of antique, scale models or other  
23 steam boilers used exclusively for exhibition purposes.

24 Sec. 12. K.S.A. 44-921 is hereby amended to read as follows: 44-921.  
25 The ~~chief inspector~~ *state fire marshal* may suspend or revoke a special  
26 inspector's certificate of competency for cause, after due investigation, if  
27 the ~~chief inspector~~ *state fire marshal* finds incompetence,  
28 untrustworthiness, falsification of any matter or statement contained in a  
29 special inspector's application or report, or a failure by the special  
30 inspector to report findings of any inspection made by such inspector to  
31 the chief inspector. Such a suspension or revocation of certificate shall be  
32 effective as soon as notice of the suspension or termination has been  
33 delivered to the special inspector or the inspector's employer.

34 Sec. 13. K.S.A. 44-922 is hereby amended to read as follows: 44-922.  
35 If a certificate of competency is lost or destroyed, a new certificate of  
36 competency shall be issued in its place without another examination. The  
37 ~~secretary~~ *state fire marshal* may charge a fee for a replacement certificate.

38 Sec. 14. K.S.A. 44-923 is hereby amended to read as follows: 44-923.

39 (a) The ~~secretary~~ *state fire marshal*, the chief inspector or any deputy  
40 inspector shall have free access, during reasonable hours, to any premises  
41 in the state where boilers and pressure vessels are being operated, repaired,  
42 installed or constructed for use in this state, for the purpose of ascertaining  
43 whether boilers or pressure vessels have been constructed and installed in

1 accordance with the provisions of this act and the rules and regulations  
2 adopted hereunder.

3 (b) Each boiler used or proposed to be used within this state, except  
4 for boilers exempt under K.S.A. 44-915, and amendments thereto, shall be  
5 thoroughly inspected as to construction, installation and condition as  
6 follows:

7 (1) Power boilers and high pressure, high temperature water boilers  
8 shall receive an annual certificate inspection which shall be an internal  
9 inspection, where construction permits, or as complete an inspection as  
10 possible, where construction does not permit internal inspection. Such  
11 boilers shall also be externally inspected while under pressure.

12 (2) Steam heating boilers shall receive an annual certificate  
13 inspection, with an internal inspection every three (3) years where  
14 construction permits.

15 (3) All other boilers subject to this section shall receive an annual  
16 certificate inspection, with an internal inspection at the discretion of the  
17 inspector. An electrical generating utility may apply for, and receive a  
18 variance granting such utility up to an additional year between inspections.

19 (4) A grace period of two months beyond the periods specified in  
20 ~~subdivisions~~ *paragraphs* (1), (2) and (3) of this subsection may elapse  
21 between certificate inspections.

22 (5) The ~~secretary~~ *state fire marshal* may provide, by rules and  
23 regulations, for longer periods between certificate inspections.

24 (c) The inspections herein required shall be made by the chief  
25 inspector, by a deputy inspector or by a special inspector provided for in  
26 this act.

27 (d) If, at the discretion of the inspector, a pressure test shall be  
28 deemed necessary, it shall be made by the owner or user of the boiler.

29 (e) All pressure vessels installed after January 1, 1999, and boilers,  
30 other than cast iron sectional boilers, shall be inspected during  
31 construction as required by the applicable rules and regulations by an  
32 inspector authorized to inspect boilers and pressure vessels in this state, or,  
33 if constructed outside of the state, by an inspector holding a commission  
34 issued by the national board of boiler and pressure vessel inspectors. All  
35 pressure vessels installed after January 1, 1999, and boilers, regardless of  
36 code of construction, shall be registered with the national board of boiler  
37 and pressure vessel inspectors.

38 (f) Hot water supply boilers shall receive an external certificate  
39 inspection every three years.

40 (g) Low pressure hot water supply boilers with a heat input over  
41 400,000 BTUH shall receive an annual external certificate inspection.

42 (h) Hot water supply boilers over 200,000 BTUH or 120 gallon  
43 capacity shall be stamped and registered with the national board of boiler

1 and pressure vessels inspectors.

2 Sec. 15. K.S.A. 44-924 is hereby amended to read as follows: 44-924.

3 (a) All inspections made by any inspector shall be reported to the office of  
4 the ~~chief inspector~~ *state fire marshal* within 30 days following each  
5 certificate inspection upon the appropriate form as approved by the  
6 ~~secretary~~ *state fire marshal*. The filing of reports of external inspections,  
7 other than certificate inspections, shall be required whenever such  
8 inspections disclose that the boiler or pressure vessel is in an unsafe  
9 condition.

10 (b) If a report filed pursuant to subsection (a) of this section shows  
11 that a boiler or pressure vessel is found to comply with the rules and  
12 regulations adopted hereunder, the owner or user thereof shall pay directly  
13 to the ~~chief inspector~~ *office of the state fire marshal* the certificate fee  
14 prescribed by subsection (b) of K.S.A. 44-926, and amendments thereto,  
15 and the ~~chief inspector~~ *state fire marshal* or the ~~chief inspector's~~ *state fire*  
16 *marshal's* duly authorized representative shall issue to such owner or user  
17 an inspection certificate bearing the date of inspection and specifying the  
18 maximum pressure under which the boiler or pressure vessel may be  
19 operated. Such boiler inspection certificate shall be valid for not more than  
20 14 months from its date unless covered by a variance. In the case of those  
21 boilers covered by subsection (b) of K.S.A. 44-923, and amendments  
22 thereto, for which the ~~secretary~~ *state fire marshal* has established or  
23 extended the operating period between required inspections pursuant to the  
24 provisions of ~~subdivision (5) of~~ subsection (b) (5) of K.S.A. 44-923, and  
25 amendments thereto, the certificate shall be valid for a period of not more  
26 than two months beyond the period set by the ~~secretary~~ *state fire marshal*.  
27 Certificates shall be maintained on site and available upon request *of the*  
28 *state fire marshal, chief inspector or any deputy inspector*.

29 (c) Whenever a boiler becomes uninsured or there is a change of  
30 insurers, the owner or new insurer must notify the ~~chief boiler inspector~~  
31 *office of the state fire marshal* within 30 days.

32 (d) ~~The chief inspector or deputy inspector may shut down or suspend~~  
33 ~~the operation of a boiler or pressure vessel in accordance with the Kansas~~  
34 ~~administrative procedure act if the chief inspector or deputy inspector~~  
35 ~~finds that the boiler or pressure vessel cannot be operated without an~~  
36 ~~immediate danger to the public health, safety or welfare or does not~~  
37 ~~comply with the rules and regulations adopted hereunder. The suspension~~  
38 ~~or shutdown of the boiler or pressure vessel shall continue in effect until~~  
39 ~~the owner or operator demonstrates that the danger has been abated and~~  
40 ~~the applicable rules and regulations have been complied with. The chief~~  
41 ~~inspector or deputy inspector shall reinspect the boiler or pressure vessel to~~  
42 ~~ensure it is safe and that applicable rules and regulations have been~~  
43 ~~complied with, before issuing a permit to restart or resume operations. The~~

1 *state fire marshal, chief inspector and any deputy inspector are authorized*  
2 *to order the revocation or suspension of any certificate issued pursuant to*  
3 *this act, and order any owner, operator or resident agent of an owner to*  
4 *cease and desist operation of any boiler or pressure vessel subject to this*  
5 *act for failure to comply with any of the provisions of this act or any rules*  
6 *and regulations promulgated under the authority of this act. The state fire*  
7 *marshal, chief inspector and any deputy inspector are further authorized*  
8 *to order any owner, operator or resident agent of an owner to cease and*  
9 *desist operation of any boiler or pressure vessel subject to this act if the*  
10 *state fire marshal, chief inspector or deputy inspector finds that such*  
11 *boiler or pressure vessel does not have a certificate as required by this act,*  
12 *or finds that such boiler or pressure vessel cannot be operated without an*  
13 *immediate danger to the public health, safety or welfare.*

14 *(e) An order revoking or suspending a certificate or any cease and*  
15 *desist order shall continue in effect until the owner or operator*  
16 *demonstrates that any danger has been abated and the applicable rules*  
17 *and regulations have been complied with. The state fire marshal, chief*  
18 *inspector or any deputy inspector shall reinspect the boiler or pressure*  
19 *vessel to ensure that it is safe to operate and that all applicable rules and*  
20 *regulations have been complied with before issuing or reinstating a*  
21 *certificate to operate the boiler or pressure vessel.*

22 Sec. 16. K.S.A. 44-925 is hereby amended to read as follows: 44-925.  
23 (a) It shall be unlawful for any person, firm, partnership, corporation or  
24 other entity to operate in this state a pressure vessel installed after January  
25 1, 1999, or a boiler without a valid inspection certificate, ~~and~~. The  
26 operation of a pressure vessel installed after January 1, 1999, or a boiler  
27 without such inspection certificate or at a pressure exceeding that specified  
28 in such inspection certificate shall constitute a class ~~E~~ *A* ~~C~~ misdemeanor.  
29 Each day of such unlawful operation shall be deemed a separate offense.

30 (b) If an inspection certificate is lost or destroyed, a new certificate  
31 shall be issued in its place without another inspection. The ~~secretary~~ *state*  
32 *fire marshal* may charge a fee for a replacement certificate.

33 (c) It shall be unlawful for any person, firm, partnership, corporation  
34 or other entity to install or operate any boiler or pressure vessel in this  
35 state or to construct any boiler or pressure vessel for use in this state in  
36 violation of this act or the rules and regulations adopted hereunder, and  
37 any such unlawful installation, operation or construction shall constitute a  
38 class ~~E~~ *A* ~~C~~ misdemeanor. Each day of unlawful installation, operation or  
39 construction shall be deemed a separate offense.

40 (d) *In addition to any other penalty provided by law, the state fire*  
41 *marshal, upon finding that any person has violated any of the provisions*  
42 *of this act or any rule or regulation promulgated under the authority of*  
43 *this act, is authorized to impose a civil penalty not to exceed \$1,000 per*

1 violation for each day of such unlawful operation, which shall constitute  
2 an actual and substantial economic deterrent to the violation for which the  
3 penalty is assessed. No civil penalty shall be imposed pursuant to this  
4 subsection except upon the written order of the state fire marshal to the  
5 person who committed the violation. Such order shall state the violation,  
6 the penalty to be imposed and the right of the person to request a hearing  
7 as provided in K.S.A. 44-928, and amendments thereto.

8 (e) All moneys received from civil penalties imposed pursuant to  
9 subsection (d) shall be remitted to the state treasurer in accordance with  
10 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
11 of each such remittance, the state treasurer shall deposit the entire amount  
12 in the state treasury to the credit of the boiler inspection fee general fund.

13 Sec. 17. K.S.A. 2012 Supp. 44-926 is hereby amended to read as  
14 follows: 44-926. (a) The owner or user of a boiler or pressure vessel  
15 required by this act to be inspected by the chief inspector or a deputy  
16 inspector shall pay directly to the ~~chief inspector~~ office of the state fire  
17 marshal, upon completion of inspection, inspection fees fixed by the  
18 ~~secretary~~ state fire marshal in accordance with this ~~subsection~~ (a) section.  
19 The ~~secretary~~ state fire marshal shall fix annually, by rules and  
20 regulations, a schedule of fees for inspections of pressure vessels installed  
21 after January 1, 1999, and boilers by state inspectors and may fix different  
22 fees for inspection of boilers and pressure vessels in the various categories.  
23 Such fees shall not exceed \$500 per day for each boiler or pressure vessel  
24 inspected.

25 (b) The owner or user of a boiler or pressure vessel for which an  
26 inspection certificate is to be issued pursuant to subsection (b) of K.S.A.  
27 44-924, and amendments thereto, shall pay directly to the ~~chief inspector~~  
28 office of the state fire marshal, before issuance of such certificate, a  
29 certificate fee fixed by the ~~secretary~~ state fire marshal by rules and  
30 regulations of not to exceed \$35.

31 (c) There is hereby created in the state treasury the boiler inspection  
32 fee fund. ~~The chief inspector shall pay daily to the secretary all moneys~~  
33 ~~received from the fees established hereunder, and the secretary~~ The state  
34 fire marshal shall remit all such moneys received from the fees established  
35 hereunder to the state treasurer in accordance with the provisions of  
36 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
37 remittance, the state treasurer shall deposit the entire amount in the state  
38 treasury. Ten percent of such inspection fees shall be credited to the state  
39 general fund and the balance including all of the certificate fees shall be  
40 credited to the boiler inspection fee fund. All expenditures from the boiler  
41 inspection fee fund shall be made in accordance with appropriation acts  
42 upon warrants of the director of accounts and reports issued pursuant to  
43 vouchers approved by the ~~secretary of labor~~ state fire marshal, or by a

1 person or persons designated by the ~~secretary~~ *state fire marshal*.

2 Sec. 18. K.S.A. 44-927 is hereby amended to read as follows: 44-927.  
3 The chief inspector and each deputy inspector shall be required to furnish  
4 bond under the provisions of article 41 of chapter 75 of the Kansas  
5 Statutes Annotated, *and amendments thereto*.

6 Sec. 19. K.S.A. 2012 Supp. 44-928 is hereby amended to read as  
7 follows: 44-928. (a) Any person aggrieved by ~~any act or determination of~~  
8 ~~the secretary or of the chief inspector, performed or made pursuant to the~~  
9 ~~provisions of this act, or rules and regulations adopted hereunder~~ *an order*  
10 *issued pursuant to the provisions of this act*, may request a hearing thereon  
11 *within 15 days from the date of the service of such order by filing such*  
12 *request in writing with the office of the state fire marshal*. Such hearing  
13 shall be conducted ~~by the secretary or the secretary's designee~~ in  
14 accordance with the provisions of the Kansas administrative procedure act.  
15 *The filing of a request for a hearing shall not abate or operate as a stay of*  
16 *the effect of an order to cease and desist unless otherwise stated in such*  
17 *order*.

18 (b) ~~Any action of the secretary pursuant to this act is subject to~~  
19 ~~review~~ *Judicial review and civil enforcement of agency actions under this*  
20 *act shall be* in accordance with the Kansas judicial review act.

21 Sec. 20. K.S.A. 44-929 is hereby amended to read as follows: 44-929.  
22 No city, county or other political subdivision of this state shall have the  
23 power to make any laws, ordinances or resolutions providing for the  
24 construction, installation, inspection, maintenance and repair of boilers *or*  
25 *any pressure vessels installed after January 1, 1999*, within the limits of  
26 such city, county or political subdivision, and any such laws, ordinances or  
27 resolutions heretofore made or passed shall be void and of no effect.

28 Sec. 21. K.S.A. 44-916, 44-917, 44-918, 44-919, 44-920, 44-921, 44-  
29 922, 44-923, 44-924, 44-925, 44-927 and 44-929 and K.S.A. 2012 Supp.  
30 44-636, 44-914, 44-915, 44-926 and 44-928 are hereby repealed.

31 Sec. 22. This act shall take effect and be in force from and after its  
32 publication in the statute book.