

BOILER INSPECTION AND OPERATION

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House Bill 5164 (H-3) as reported from committee

Sponsor: Rep. Jim Lilly

1st Committee: Regulatory Reform

2nd Committee: Judiciary

Complete to 2-11-20

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 89 of 2020)

SUMMARY:

House Bill 5164 would amend Article 9 (Boiler Inspectors, Installers, Repairers, and Operators and Stationary Engineers) of the Skilled Trades Regulation Act to allow a longer interval between certificate inspections for certain boilers, to codify current administrative rules regarding the operation of boilers, to codify current rules regarding utilities and industrial plants that inspect and repair their own boilers, and to make related changes.

The act currently requires the Department of Licensing and Regulatory Affairs (LARA) to promulgate rules for the safe construction, inspection, alteration, servicing, operation, and repair of boilers in Michigan and allows it, in doing so, to adopt an existing published codification or national standards, including amendments and interpretations of the codification or standards. The bill would further allow LARA, in making rules, to “adopt or amend all or any part of” the existing codification or national standards.

The bill would require that a hot water heating boiler or hot water supply boiler used or proposed for use in Michigan have a certificate inspection every three years. [The act now prescribes a two-year interval; Rule 57 of the Michigan Boiler Rules,¹ R 408.4057 of the Michigan Administrative Code, provides for inspections every three years.]

The bill would remove a provision generally allowing the Board of Boiler Rules to allow longer periods between certificate inspections. Instead, under the bill, the board could allow, on a case-by-case basis, as provided in rules promulgated by LARA, a longer period of up to 36 months between certificate inspections for a power boiler, process boiler, or high pressure boiler (otherwise requiring annual inspection); a low pressure steam or vapor heating boiler (otherwise requiring biennial inspection); or a hot water heating boiler or hot water supply boiler (otherwise requiring inspection as described above).

Under the act, an inspection certificate for a power boiler is valid for up to 12 months and during a two-month grace period. The bill would add that the certificate is also valid during any extension approved by the board as described above and that the two-month grace period applies only to a 12-month certificate and not to extensions approved by the board beyond the 12-month certificate. An inspection certificate for a hot water heating boiler or hot water supply boiler would be valid under the bill for 36 months (increased from the act’s current 24 months) and during any grace period. [Regarding the 36-month extension

¹ Michigan Boiler Rules: https://dtmb.state.mi.us/ORRDocs/AdminCode/1685_2017-009LR_AdminCode.pdf

and applicability of the grace period, see Rule 58 of the Michigan Boiler Rules, R 408.4058 of the Michigan Administrative Code.]

The bill would prohibit a person from operating under pressure a boiler that was subject to the inspection requirements of the act without a valid inspection certificate. A person also could not cause a boiler to be operated at a pressure exceeding the maximum operating pressure specified on the boiler's inspection certificate. A person who violated these provisions would be guilty of a misdemeanor punishable by a fine of up to \$500 or imprisonment for up to 60 days, or both. These penalties would be in addition to any penalties or remedies under Article 6 (Penalties and Remedies) of the act, and each day a boiler was operated in violation of the above provisions would be a separate offense. [These provisions replicate Rule 153 of the Michigan Boiler Rules, R 408.4153 of the Michigan Administrative Code. The penalty in the bill is described by the rule as "the penalty prescribed in section 24 of the act." It is the penalty prescribed by section 24 of the Boiler Act of 1965 at the time that act was repealed by 2016 PA 407, as part of the statutory consolidation and enactment of the Skilled Trades Regulation Act.²]

Finally, section 947 of the act currently exempts a public utility or industrial plant that repairs and maintains its own boilers "in accordance with accepted procedures and practices" from requiring a license or permit to repair, or replace with a similar unit, one of its boilers. Rule 34 of the Michigan Boiler Rules, R 408.4034 of the Michigan Administrative Code, prescribes those procedures and practices. The bill would add the substance of that rule to section 947, replacing the general reference to "accepted procedures and practices" and rewording the rule's language to comport with current legislative drafting practices.

The bill would take effect 90 days after being enacted.

MCL 339.5907 et seq. and proposed MCL 339.5946

FISCAL IMPACT:

House Bill 5164 would have an indeterminate fiscal impact on the state and on local units of government. Information is not available on the number of persons that might be convicted under its provisions. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affect court caseloads and related administrative costs. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

The bill would not have an appreciable fiscal impact on LARA.

² See <http://legislature.mi.gov/doc.aspx?2016-SB-0963>

POSITIONS:

Consumers Energy testified in support of an earlier version of the bill and indicated support for the H-3 substitute on 2-4-20.

The following entities indicated support for the bill:

Department of Licensing and Regulatory Affairs (LARA) (2-4-20)

DTE Energy (1-28-20)

Michigan Plumbing and Mechanical Contractors Association (12-3-19)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.