



Senate Fiscal Agency  
P.O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bill 5164 (Substitute H-3 as passed by the House)

Sponsor: Representative Jim Lilly

House Committee: Regulatory Reform  
Judiciary

Senate Committee: Regulatory Reform

Date Completed: 3-9-20

### **CONTENT**

**The bill would amend Article 9 (Boiler Inspectors, Installers, Repairers, and Operations and Stationary Engineers) of the Skilled Trades Regulation Act to do the following:**

- **Allow the Department of Licensing and Regulatory Affairs (LARA) to amend all or any part of an existing published codification or national standards and any amendments and interpretations of the codification or standards.**
- **Require a hot water heating boiler or hot water supply boiler to receive a certificate inspection every three years, instead of every two years.**
- **Allow the Board of Boiler Rules to permit longer periods of up to 36 months between certificate inspections on a case-by-case basis.**
- **Revise the time-periods during which inspection certificates are valid.**
- **Prohibit a person from operating under pressure a boiler that was subject to the inspection requirements provided in Article 9 without a valid inspection certificate.**
- **Prohibit a person from causing a boiler that was subject to the inspection requirements provided in Article 9 to be operated at a pressure that exceeded the maximum operating pressure specified on the boiler's inspection certificate.**
- **Specify that the requirement to obtain a license or permit under Article 9 to repair or replace a boiler with a similar unit would not apply to a public utility or industrial plant that repaired and maintained its own boilers if certain criteria were met.**

The bill would take effect 90 days after it was enacted.

### **Adopting/Amending Existing Publications**

Currently, LARA, in consultation with the Board of Boiler Rules, must promulgate rules for the safe construction, installation, inspection, alteration, servicing, operation, and repair of boilers in Michigan.

The Department by rule may adopt an existing published codification or national standards and any amendments and interpretations of the codification or standards. The bill also would allow LARA to amend all or any part of an existing published codification or national standards and any amendments and interpretations of the codification or standards.

## Inspections

A boiler used or proposed for use in Michigan must be thoroughly inspected as to its construction, installation, and condition. All of the following apply for the purposes of the inspection requirement:

- A power boiler, process boiler, or high pressure high temperature water boiler must receive a certificate inspection annually and must be externally inspected annually, while under pressure, within six months from the date of the certificate inspection.
- The chief inspector, a deputy inspector, or a special inspector must perform the inspection of a boiler.
- If a hydrostatic test is considered necessary by the inspector, the owner or use of the boiler must perform that test.
- A boiler, other than a cast iron sectional boiler, that is to be installed in Michigan must be inspected during construction, as required by the applicable rules of the Board, by an inspector who is licensed to inspect boilers in Michigan (unless the boiler was constructed out-of-State, in which case other inspection regulations apply).

In addition, the following apply for the purposes of the inspection requirement:

- A low pressure steam or vapor heating boiler, hot water heating boiler, or hot water supply boiler must receive a certificate inspection biennially.
- A grace period of two months beyond the dates described in the above provisions regarding certificate inspections may elapse between those certificate inspections and the Board may permit longer periods between certificate inspections.

The bill would modify these provisions to the following:

- A low pressure steam or vapor heating boiler would have to receive a certificate inspection every two years, and a hot water heating boiler or hot water supply boiler would have to receive a certificate inspection every three years.
- A grace period of two months beyond the dates described in the above provisions regarding certificate inspections could elapse between those certificate inspections.

The bill also specifies that, on a case-by-case basis, as provided in the rules promulgated by LARA, the Board could permit longer periods of up to 36 months between certificate inspections.

## Inspection Certificate Validity

Under the Act, within 30 days following a boiler certificate inspection, the chief inspector, a deputy inspector, or the person that employs a special inspector who performed the inspection must file a report of the inspection with the chief inspector, on a form approved by the Board. If a report indicates that a boiler complies with the Board's rules, the owner or user of the boiler must pay a fee, in an amount established by LARA, directly to LARA, which must issue to that owner or user an inspection certificate that states the date of inspection and specifies the maximum pressure under which the owner or user may operate the boiler.

An inspection certificate is valid for not more than 12 months for a power boiler, except that certificate is valid during a two-month grace period, as described above. The bill also would specify that a certificate could be valid during an extension approved by the Board as described above. The two-month grace period only would apply to a 12-month certificate and would not apply to extensions approved by the Board beyond the 12-month certificate.

Under the Act, an inspection certificate is valid for not more than 24 months for a low pressure steam or vapor heating boiler, hot water heating boiler, or hot water supply boiler, except that the certificate is valid during a grace period. Under the bill, a hot water heating boiler or hot water supply boiler inspection certificate would be valid for not more than 36 months, instead of 24 months.

#### Boiler Operation; Penalty

Under the bill, a person could not operate under pressure a boiler that was subject to the inspection requirements provided in Article 9 without a valid inspection certificate. A person could not cause a boiler that was subject to the inspection requirements provided in Article 9 to be operated at a pressure that exceeded 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 not more than \$500, or imprisonment for not more than 60 days, or both. Each day a boiler was operated in violation of these provisions would be a separate offense.

#### Public Utility or Industrial Plant Boilers

Currently, the Act specifies that Article 9 may not be construed to require a license or permit to repair a boiler located in a public utility or industrial plant that repairs and maintains its own boilers in accordance with accepted procedures and practices or to require a license to replace a boiler located in a public utility or industrial plant. The bill would revise this provision.

Under the bill, the requirement to obtain a license or permit under Article 9 to repair or replace a boiler with a similar unit would not apply to a public utility or industrial plant that repaired and maintained its own boilers in accordance with all of the following:

- The boiler, the boiler's external piping, and any nonboiler external piping was owned and operated by a utility or plant.
- The utility or plant had in effect a quality program that included and was governed by a quality manual.
- The utility or plant kept a maintenance record, subject to audit by State inspectors, for each boiler, which would have to contain an adequate description of each abnormal event concerning the boiler, and any modification, repair, hydro test, internal or external inspection, or off-normal operation of the boiler.
- The utility or plant contracted with an approved third-party inspector and insurance company for repair work performed on a boiler or a boiler's external piping.
- All welding, heat treatment, nondestructive examination, and testing procedures were qualified in accordance with the applicable code of the American Society of Mechanical Engineers, as determined by LARA.
- The utility or plant consistently maintained documentation between audits of nonboiler external piping repairs or replacements.
- The utility or plant notified the Boiler Division of LARA before a boiler was replaced.
- The utility or plant prepared and filed with the Boiler Division an appropriate record of a welded repair form, signed by an inspector who was licensed to inspect boilers in Michigan, not more than 180 days after the completion of a welded repair.
- The quality program, at a minimum, addressed the necessary subjects relative to the scope of work to be performed, including repair or replacement of boilers, boiler external piping, and nonboiler external piping.
- All welders working on boilers or piping under the quality program were employees of the utility or plant.

- Third-party employees or contractors did not work under the quality program established by the utility or plant as it related to the installation or repair of boilers.

The content of the quality manual required above would have to include all of the following:

- A title page that listed the name and complete address of the utility or plant.
- A table of contents page listing the contents of the manual by subject.
- A scope of work statement that clearly indicated the scope of work governed by the quality program.
- A statement of authority reflecting a corporate resolution or policy that recognized the obligation of the utility or plant to comply with the Act at all times and included the name of the individual who was responsible for and had authority over the scope of work governed by the quality program.
- Provisions for making, and issuing revisions to, the quality manual to ensure that the quality program was current with accepted practices and procedures as they are practiced within the utility or plant.
- The method used by the utility or plant to ensure that only acceptable materials, including acceptable welding materials, were ordered, verified, and identified in storage.
- The method used by the utility or plant for documenting repairs in sufficient detail, including documentation of the prior acceptance by an inspector who was licensed to inspect boilers in Michigan of the method to be used for a repair of a boiler or a boiler's external piping, and the individual responsible for notifying the inspector of the repair work to be performed on a boiler or a boiler's external piping and for keeping the inspector apprised of the work's progress.
- A description of the controls used by the utility or plant to ensure that only qualified welding procedures, and only welders qualified to use those procedures, were used for repairs.
- A description of the controls used by the utility or plant for nondestructive examination and heat treatment procedures.
- Identification of the methods of examination and testing required by the utility or plant upon the completion of a repair.
- The name of the individual responsible for acceptance of a completed repair.
- Provisions allowing for inspector access to areas where repair work was being performed.
- The name of the individual responsible for preparing, signing, and presenting forms commonly known as record of welded forms to inspectors and sending those forms to the Boiler Division of LARA.
- A system for the correction of nonconformities.
- A sample form for each form referenced in the quality manual.

A public utility or industrial plant would not be exempt from the requirement to obtain a license or permit to repair or replace a boiler unless the Board approved that exemption. Upon approval, LARA would have to grant the utility or plant an exemption from the licensing and permit requirements of Article 9 for repairs to boilers and boiler piping or the installation of a boiler replacement.

Failure of a public utility or industrial plant to comply with any of the provisions of the bill as applicable to that utility or plant would be just cause for revocation of the exemption status granted under the bill.

To ensure continued compliance with Article 9 and the Board's requirements, the Chief of the Boiler Division of LARA would have to cause an audit of the exemption status granted under the bill to be conducted not less than once every three years.

## **FISCAL IMPACT**

The bill would not have a significant fiscal impact on State or local government. As the Department already operates according to the rules that the bill would codify, the Department does not expect to see increased costs or revenue associated with its provisions. The bill would permit longer periods between certificate inspections, which could result in fewer individuals being penalized for improper certification. As a result, revenue from fines and penalties could decrease, resulting in less revenue for local libraries under the bill's misdemeanor provisions. However, the magnitude of this impact likely would be minimal.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.