

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

House Bill 148 (Chairman, Economic Matters Committee)

(Departmental – Labor, Licensing, and Regulation)

Economic Matters

Economic and Environmental Affairs

**Boiler and Pressure Vessel Safety - Regulation of Inspectors, Owners, Repair
Companies, and Insurance Companies**

This departmental bill alters three broad areas of the Maryland Boiler and Pressure Vessel Safety Law; the responsibilities of insurance firms; the authority of the Safety Inspection Unit (SIU); and the responsibilities of boiler and pressure vessel (collectively known as boilers) owners, operators, and repair technicians.

The bill is effective June 1, 2001.

Fiscal Summary

State Effect: General fund revenues could increase by \$54,000 and general fund expenditures could increase by \$120,300 in FY 2002. Out-year revenue estimates are based on anticipated higher compliance rates, a two-year licensing cycle, and annual fluctuations in fines levied. Out-year expenditures reflect ongoing operations.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
GF Revenue	\$54,000	\$30,500	\$15,000	\$7,500	\$15,000
GF Expenditure	120,300	122,200	128,600	134,600	141,400
Net Effect	(\$66,300)	(\$91,700)	(\$113,600)	(\$127,100)	(\$126,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The reporting and record keeping provisions are not expected to significantly affect local finances or operations.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Responsibilities of Insurance Firms: The bill requires boiler insurance firms to conduct safety and compliance inspections of every unit they insure. Special inspectors conduct these inspections. The requirements to become a special inspector are not changed, although the Commissioner of Labor and Industry (commissioner) is granted more discretion in awarding the commissions. Special inspectors *may* be commissioned if they meet the requirements.

A special inspectors' commission must be renewed every two years. To have a commission renewed, a special inspector must pay a fee, provide evidence of employment as a boiler inspector, and provide evidence of current training. A commission must be returned to the SIU no later than 30 days after a special inspector's employment ends.

Each insurance firm must develop, submit, and update, in accordance with regulations, a database of its insured portfolio. The database must list when each unit was inspected and when the next inspection is due. Each insurance firm must also develop and make available to the commissioner a quality assurance program.

The Authority of the Safety Inspection Unit: The inspector conducting an accident or explosion investigation may de-commission a boiler or pressure vessel, pending SIU inspected and approved repairs, if the inspector determines that:

- the unit violates any standard, safety code, or regulation; and
- continued operation of the unit poses a substantial probability of death, injury, or damage.

After the boiler is repaired, the SIU shall make a follow-up inspection, for which there is a fee, to determine if the unit is safe. The bill allows an owner to contest the de-commissioning of a unit in circuit court.

The bill sets the fees for the issuance and renewal of special inspector commissions, inspections, and other services. The revenues generated must approximately equal the cost of maintaining the Special Inspector Commission Program.

Owner/Operator/Repair Technician Responsibilities: The bill requires an owner to ensure that all units are operated, inspected, and repaired in accordance with pertinent laws and regulations. The owner/operator must keep a maintenance log and repair records and make them available to the SIU for inspection.

The bill eliminates the 60-day post installation grace period owner/operators have to get a new boiler inspected and requires an owner/operator to inform the chief 30 days *before* installation (the bill allows exceptions for emergencies). The bill also requires an owner/operator to notify the chief of a boiler accident or explosion within 24 hours of the occurrence.

The bill requires that individuals who repair boilers and pressure vessels receive approval from the SIU or a special inspector before doing any repairs that affect the working pressure or safety of a unit or involve fusion welding. The repairs must be in accordance with regulations and the repair professional must provide a report of the work done to the SIU and the unit's owner/operator.

Current Law:

Responsibilities of Insurance Firms: There is no legal requirement that an insurance firm inspect the boilers it insures. Even so, most insurance firms have some kind of boiler inspection program that utilizes special inspectors. The Commissioner of Labor and Industry *must* issue special inspector commissions if:

- the individual is employed by a boiler owner, operator, or insurer;
- the employer pays a fee to be set by the commissioner; and
- the individual has passed the board exam, holds a commission from a state with a substantially equivalent examination, or holds a commission from the National Board of Boiler and Pressure Vessel Inspectors in conjunction with passing the segment that deals with Maryland law.

A special inspector's commission never expires and does not need to be renewed.

Insurance firms are not required to maintain a database; for those that do, the commissioner has no authority to review it.

The Authority of the State Inspection Unit: The SIU may only de-commission a boiler if it violates the safety codes. Even if a inspector thinks a unit may be dangerous, if the unit meets the code requirements it cannot be taken out of service. The SIU must investigate any boiler accident or explosion and then conduct as many follow-up inspections as necessary, free of charge, to determine if the repairs bring the unit into compliance.

All fees for SIU services are set by statute; the commissioner has no discretion in setting the fees.

Owner/Operator/Repair Technician Responsibilities: Owners/operators are not required to maintain any repair or maintenance records, nor are the owner/operators or repair professionals required to inform the SIU of any alterations made to a unit. An owner/operator has up to 30 days after a new unit is installed to inform the SIU and up to 60 days after installation to have a new unit inspected. An owner/operator is also not required to report a boiler accident or explosion to the SIU

Background: Boilers and pressure vessels found in commercial establishments, office buildings, and apartments with more than six units are subject to an inspection either by the SIU or an insurance inspector (special inspector). In August 2000 there were 38,600 insured boilers and 16,700 uninsured boilers in Maryland. DLLR estimates that about 20%, or 11,200 units, are owned by small businesses.

The Boiler and Pressure Vessel Safety Inspection Unit (known as the Safety Inspection Unit or SIU) is the entity charged with State boiler and pressure vessel safety. The chief boiler inspector heads the SIU and oversees 11 deputy State inspectors who are responsible for conducting inspections of uninsured boilers and pressure vessels as well as the insurance industry's past due inspections.

Most boilers in Maryland are not inspected by the SIU. The National Board of Boiler Rules has a nationwide agreement with the boiler insurance industry regarding inspection duties. The arrangement calls for each insurance firm to inspect the boilers it insures and the individual state inspection units to inspect the uninsured boilers. However, this is a nonbinding "gentleman's agreement" and the national board does not impose penalties on insurance firms that do not honor this arrangement.

There are approximately 150 active special inspectors employed by the approximately 15 boiler insurance firms in Maryland; these inspectors do the majority of inspections in the State. Past due inspections have been a chronic problem in the State. In its April 2000 audit report of the Division of Labor and Industry, the Office of Legislative Audits noted that every audit since 1977 has found a significant number of past due inspections. The 1990 sunset review report noted that there were 5,000 past due inspections as of March 1990. The 2000 preliminary sunset review report notes that as of June 2000, 6,700 boilers in Maryland were more than 60 days past due for an inspection and another 11,500 (1,500 for the State and 10,000 for the industry) were in the 60-day grace period and would soon be in violation.

In conjunction with this growing backlog of overdue inspections is the fact that the number of boiler and pressure vessel inspections conducted each year has steadily

declined. In 1994 the SIU and special inspectors combined to conduct 40,000 inspections; in 2000 there were 13,800 inspections.

According to the preliminary sunset report conducted during the summer of 2000, “[T]here are different reasons why the SIU and the insurance industry have backlogs; the SIU, with its regular docket plus the backlogs, is overwhelmed given the size of its staff. Meanwhile, the regulations allow the industry to be more flexible and firms have adjusted their inspection schedules to reflect the trends that show that boilers are safer and less likely to cause injury or damage.”

State Revenues: **Exhibit 1** sets forth the fee schedule. Based on current statistics, it is estimated that in fiscal 2002, 150 to 200 individuals will take an exam and be commissioned as a special inspector, 1,000 reports will not be electronically filed, and 500 units will require a re-inspection. These estimates, combined with a few other minor fees, equate to a \$54,000 increase in general fund revenues. Out-year estimates reflect a decrease in the number of re-inspections, a two-year licensing cycle, and typical year-to-year fluctuations in other fees.

Exhibit 1
Provisional Fee Schedule

<u>Item</u>	<u>Fee</u>
Competency Exam	\$50
Special Inspector Commission Renewal	\$50
Special Inspector’s Commission	\$50
Follow-up Inspection	\$50
Special Inspection:	\$250
Half day	\$500
Full day	
Report Filing Fees (non-electronic filings only)	\$5

Owner/operators are also subject to a civil penalty fine of up to \$1,000 if a decommissioned unit is continued in service. DLLR estimates that any revenue generated as a result of this provision will be minimal.

State Expenditures: General fund expenditures could increase by an estimated \$120,300 in fiscal 2002, which accounts for the bill’s June 1, 2001 effective date. This estimate reflects the cost of hiring an assistant chief boiler inspector and an additional deputy inspector to review insurance company reports, monitor insurance companies’ quality assurance programs, and assist in meeting the new deadlines for inspections and accident reports. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and equipment.

Salaries and Fringe Benefits	\$79,100
Supplies	13,200
Operating Expenses	22,000
Equipment	<u>6,000</u>
Total FY 2002 State Expenditures	\$120,300

Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Local Fiscal Effect: Those local jurisdictions that own boilers may be affected since this bill requires boiler and pressure vessel owners to play a more active role in maintaining, repairing, inspecting, and/or altering their units. Such increased oversight requirements may increase local expenditures. The magnitude of any increase cannot be estimated accurately but is expected to be minimal. Local revenues would not be affected.

Additional Information

Prior Introductions: A substantially similar bill, HB 1316, was introduced in the 1998 session. It received an unfavorable report from the House Economic Matters Committee.

Cross File: SB 61 (Chairman, Economic and Environmental Affairs Committee) – Economic and Environmental Affairs.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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