

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 85

(Chair, Economic Matters Committee)(By Request -
Departmental - Labor, Licensing and Regulation)

Economic Matters

Education, Health, and Environmental Affairs

Commissioner of Labor and Industry - Boiler and Pressure Vessel Safety Act

This departmental bill specifies that owners of uninsured boilers and pressure vessels must contract for required inspections with either an authorized third-party inspector, the Chief Boiler Inspector, or another State inspector. It specifies the types of inspections reserved for the State’s Chief Boiler Inspector and deputy inspectors, establishes qualifications for special inspectors, and adjusts the fee structure for State inspections to reflect these changes.

Fiscal Summary

State Effect: General fund revenues decrease by \$52,200 for the Department of Labor, Licensing, and Regulation (DLLR) in FY 2011 due to inspections being conducted by inspectors employed by third parties instead of the State; this estimate reflects the bill’s October 1, 2010 effective date. Out-years reflect annualization. No effect on expenditures as the Chief Boiler Inspector’s overall workload remains largely unchanged for the five years covered in this analysis; inspection workloads and expenditures may decrease in future years.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	(\$52,200)	(\$69,600)	(\$69,600)	(\$69,600)	(\$69,600)
Expenditure	0	0	0	0	0
Net Effect	(\$52,200)	(\$69,600)	(\$69,600)	(\$69,600)	(\$69,600)

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

Local Effect: None.

Small Business Effect: DLLR has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The Chief Boiler Inspector, deputy inspectors, special inspectors, or authorized inspection agencies make all inspections of new, repaired, or altered boilers and pressure vessels. Only the Chief Boiler Inspector or deputy inspectors monitor inspections conducted by special inspectors, inspect or investigate accidents and explosions involving boilers and pressure vessels, and respond to and investigate complaints about boilers and pressure vessels; they may choose to inspect antique boilers and pressure vessels or model steam boilers.

The Commissioner of Labor and Industry may continue to commission special inspectors employed by authorized insurers or inspection agencies but not those employed by boiler owners. Special inspectors must be commissioned by the National Board of Boiler and Pressure Vessel Inspectors or have passed a qualifying exam given by the State Board of Boiler Rules. The bill repeals the provision of law allowing the commissioner to issue a special inspector commission to a representative of an employee organization covered by a collective bargaining agreement. The bill also repeals the requirement that the commissioner establish, by regulation, insurance requirements that must be satisfied by an authorized inspection agency before a commission may be issued to an inspector employed by the authorized inspection agency. Insurers that conduct annual certificate inspections of boilers that they insure must either (1) make a copy of their quality assurance program available to the commissioner for inspection at their place of business in the State; or (2) submit evidence of National Board of Boiler Inspectors' accreditation to the commissioner.

The bill repeals current fees charged by the State for certificate inspections of previously inspected units by the Chief Boiler Inspector or deputy inspectors. In cases where the State conducts these inspections in the future, the fee charged by the State to the owner of an uninsured boiler will be the fee for "other inspections," which ranges from \$250 to \$500, depending on the length of the inspection. The State currently charges \$40 for the certificate inspection of an existing boiler and \$10 for the inspection of each additional boiler at the same location.

Current Law: The Chief Boiler Inspector or deputy inspectors make all required annual certificate inspections, except for boilers insured by an authorized insurer or owned by someone who employs a commissioned special inspector. Boilers exempted from the inspection requirement are those that:

- are on a farm and used only for agricultural purposes;
- are in a private residence or apartment house with fewer than six units;

- contain only water under pressure for domestic supply purposes and are located in a private residence or apartment house with fewer than six units; or
- are exhibition or antique boilers that have been inspected and certified in another state and have been brought to the State for a temporary exhibit or show.

Authorized insurers, inspection agencies, and boiler owners may request special inspector commissions for one or more of their full-time employees. An applicant for a special commission must either (1) pass an exam given by the State Board of Boiler Rules; (2) be commissioned in another state that has an exam substantially equivalent to the State exam; or (3) be commissioned by the National Board of Boiler and Pressure Vessel Inspectors and pass the portion of the State exam that differs from the national exam. The application fee for a special inspector commission is \$50, and the fee for the State exam is also \$50. Special inspector commissions expire after two years; commissions are subject to suspension or revocation for incompetence or violating disciplinary standards.

Initial certificate inspections conducted by a State inspector are free. Compliance inspections, certificate inspections of previously inspected units, and inspections of antique or model boilers or pressure vessels range in price from \$10 to \$50. Other inspections cost \$250 for inspections that take up to four hours and \$500 for inspections that take between four and eight hours. After inspection, the Chief Boiler Inspector issues the boiler owner a certificate that notes certain information, including the date of inspection and inspection interval, and the maximum pressure under which the boiler or pressure vessel may be operated. There is no charge for the issuance of a certificate.

Background: According to DLLR, there are about 54,200 boilers in the Maryland and each year about 1,500 new boilers are installed in the State. Insurance company inspections represent about 82% of all boiler and pressure vessel inspections in the State. The Chief Boiler Inspector and deputy inspectors can conduct about 6,500 annual inspections. Even with the sizable number of inspections carried out by insurers, the inspection program has a current backlog of about 5,100 inspections; a backlog in the thousands has existed for more than 10 years due to staffing shortages. Operating expenses for the Office of the Chief Boiler Inspector are paid from the Workers' Compensation Fund; fees paid under the inspection program accrue to the general fund.

DLLR advises that over the past year it reduced the inspection backlog by about 5,000. This reduction occurred largely because the Division of Labor and Industry – through improvements in available data – was able to determine that many boilers included in the backlog were no longer operational. Additionally, the division initiated a campaign to encourage (by threatening with fines) insurance companies to bring the units for which they are responsible into compliance. Although the backlog was reduced significantly, DLLR advises that the reduction trend is unlikely to continue because the majority of the

units remaining in the backlog are existing uninsured boilers that must be inspected by the division. The division must inspect new boilers and recertify most uninsured boilers every two years. Given this workload, DLLR does not have the capacity to reduce the backlog of uninsured boilers requiring inspection. To the extent that DLLR does not fulfill its inspection requirements in a given year, the backlog increases.

In order to mitigate related expenses, all but four states charge a certificate fee to owners of boilers or pressure vessels; Maryland is one of the four states that does not. According to DLLR, certificate fees in nearby states range between \$35 and \$185 depending on the type of unit.

Only one company that owns a boiler currently employs its own commissioned special inspector. All other uninsured owners rely on the State or private inspection agencies to conduct their inspections.

State Revenues: Annual general fund fee revenue declines from annual certificate inspections that are likely conducted by third parties instead of the State. According to DLLR, the State forgoes approximately 3,550 revenue-generating inspections in fiscal 2011 due to the bill; these inspections occur at approximately 1,160 inspection sites with an average of three units per site. The current fee is \$40 for the first boiler and \$10 for each additional boiler at a site. Therefore, Legislative Services estimates that general fund revenues in fiscal 2011 decline by about \$52,200 due to forgone inspection fee revenue, which reflects the bill's October 1, 2010 effective date. Out-years reflect annualization.

The bill allows owners of uninsured boilers to use third-party or State inspectors. According to DLLR, third-party inspectors will charge lower inspection fees than the State due to the bill's fee restructuring. Under the bill, certificate inspections – other than initial certificate inspections – are considered “other inspections,” which require State inspectors to charge between \$250 and \$500 for these inspections. DLLR advises that third-party inspectors typically charge between \$80 and \$250 to conduct recertifying boiler inspections. Therefore, Legislative Services assumes that most owners of uninsured units will choose to have their boilers or pressure vessels inspected by a third party as they will charge a lower price for the service.

State Expenditures: Legislative Services projects that special fund expenditures from the Workers' Compensation Fund and staffing levels for boiler inspections remain unchanged for the five years reflected in this fiscal and policy note but may decrease at some point in the future. The purpose of the bill is to reduce and eventually retire the backlog of uninspected boilers by shifting the responsibility for annual inspections from the Chief Boiler Inspector to owners of uninsured boilers. The Chief Boiler Inspector remains responsible for initial inspections (roughly 1,500 a year), repair inspections,

investigating boiler accidents, and monitoring the work of special inspectors. Therefore, the current workload for the Chief Boiler Inspector and deputy inspectors is not expected to diminish to a significant extent. Rather, the bill's effect will be seen primarily in the reduction of the backlog. Once the backlog is eliminated, staffing levels may be reduced, or resources may be shifted to enhance monitoring of inspections conducted by special inspectors.

Small Business Effect: Small businesses that own uninsured boilers likely will arrange for annual inspections by an authorized inspection agency rather than by the State; fees for that service are not expected to be significantly higher than the fees currently paid to the State. As stated above, Legislative Services expects most owners of insured boilers to contract for inspection services with third parties as the bill results in State inspections becoming significantly more expensive.

Additional Information

Prior Introductions: SB 561 of 2009, a similar bill, passed the Senate but received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

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

Fiscal Note History: First Reader - January 20, 2010
mpc/mcr Revised - House Third Reader - March 30, 2010
Revised - Enrolled Bill - May 27, 2010

Analysis by: Michael T. Vorgetts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Commissioner of Labor and Industry – Boiler and Pressure Vessel Safety Act

BILL NUMBER: HB 85

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.