

2017 Regular Session

HOUSE BILL NO. 571

BY REPRESENTATIVE BERTHELOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FIRE PROTECT/FIRE MARSHAL: Provides for the revision and creation of regulations relative to boilers

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AN ACT

To amend and reenact R.S. 23:531, 532(A), 534, 535(A), (B), and (C)(introductory paragraph), 536(B), (C)(1)(c) and (2), 537(A)(1) and (2), (B), and (C), 539, 540(B)(5), 541(A)(introductory paragraph), (C), and (E), 542, 543(A) and (C), and 544(A), to enact R.S. 23:531.1, 534.1 through 534.6, 541(F), and 541.1, and to repeal R.S. 23:533 and 541(D), relative to regulations affecting boilers; to provide for definitions; to change the designated title of authority from the "assistant secretary" of the office of state fire marshal to the "fire marshal"; to provide certain licensing of third-party inspection agencies and inspectors; to provide certain authorities of the fire marshal with respect to licensing and inspections; to require inspections for certain boilers; to provide certain conditions and notifications relative to licensure; to provide applicable licensing and renewal fees; to provide for prohibitions and penalties; to repeal law requiring printing and public distribution of certain rules; to repeal with respect to an inspection fee exemption relative to certain potable water boilers; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:531, 532(A), 534, 535(A), (B), and (C)(introductory paragraph), 536(B), (C)(1)(c) and (2), 537(A)(1) and (2), (B), and (C), 539, 540(B)(5), 541(A)(introductory paragraph), (C), and (E), 542, 543(A) and (C), and 544(A) are hereby

1 amended and reenacted and R.S. 23:531.1, 534.1 through 534.6, 541(F), and 541.1 are
2 hereby enacted to read as follows:

3 §531. Definitions

4 As used in this Part, the following terms have the meanings specified in this
5 Section:

6 (1) "ASME" means the American Society of Mechanical Engineers.

7 (2) "ASME Code" means the American Society of Mechanical Engineers
8 (ASME) Boiler and Pressure Vessel Code published by that society, including
9 addenda and code cases, approved by its council and adopted by the office of state
10 fire marshal. This code may also be referred to as the Louisiana Boiler Construction
11 Code.

12 (3) "Authorized inspection agency" means one of the following:

13 (a) The office of state fire marshal which has adopted and administers one
14 or more sections of the ASME Code, one of which is Section I. and which has one
15 or more employees who hold commissions issued by the National Board of Boiler
16 and Pressure Vessel Inspectors.

17 (b) An insurance company which is properly licensed or registered by the
18 Louisiana Department of Insurance to write boiler and pressure vessel insurance in
19 this state, provides inspection service of boilers and pressure vessels insured by the
20 company, and whose inspectors, referred to as "special inspectors" meet the
21 requirements of an "authorized inspector" as defined in this Section.

22 (c) An "authorized third-party inspection agency" as defined in this Section.

23 (4) "Authorized inspector" means an office of state fire marshal deputy or
24 an inspector who holds a current commission as an inspector of boilers and other
25 pressure vessels, issued by the National Board of Boiler and Pressure Vessel
26 Inspectors, who has been issued a license by the office of state fire marshal. The
27 term includes "authorized third-party inspectors" and "special inspectors."

28 (5) "Authorized inspector supervisor" means an inspector, including an
29 office of state fire marshal deputy, who exercises supervision over an "authorized

1 inspector" in a manner to include, but not limited to, the maintenance of the
2 authorized inspector's competency at an acceptable level, the maintenance of the
3 authorized inspector's records and assignments, and the auditing and inspecting of
4 the authorized inspector's daily activities, and has the qualifications as indicated in
5 the ASME Qualifications for Authorized Inspectors (ASME QAI-1) as adopted by
6 the office of state fire marshal.

7 (6) "Authorized third-party inspection agency" means an office of state fire
8 marshal licensed firm providing third-party inspections and design reviews for
9 boilers, and whose inspectors, referred to as "authorized third-party inspectors" meet
10 the requirements of an "authorized inspector" as defined in this Section.

11 (7) "Authorized third-party inspector" means an individual employed by an
12 authorized third-party inspection agency and licensed by the office of state fire
13 marshal.

14 (8) "Boiler" means a vessel in which water is heated, steam is generated,
15 steam is superheated, or any combination thereof, under pressure or vacuum for use
16 external to itself, by the direct application of heat resulting from the combustion of
17 fuel, electrical elements, nuclear fuel, or waste gases.

18 (9) "Boiler inspection" means the inspection of a boiler as defined in this
19 Section.

20 (10) "Certificate of competency" means a certificate issued to a person who
21 has passed an examination prescribed by the office of state fire marshal.

22 (11) "Certificate inspection" means an inspection and the report of which is
23 used by the office of state fire marshal as justification for issuing, withholding, or
24 revoking the inspection certificate. When required, the certificate inspection is an
25 internal inspection as defined in this Section. Otherwise, the certificate inspection
26 is as complete an inspection as possible.

27 (12) "External inspection" means an inspection, if possible, made when a
28 boiler or pressure vessel is in operation.

1 (13) "Firm" means a business entity that is a partnership, corporation, limited
2 liability company, or other business entity. The term does not include a sole
3 proprietorship.

4 (14) "Firm license" means the document authorizing a firm to operate as an
5 authorized inspection agency within the confines of the endorsements held by that
6 firm.

7 (15) "In-service inspection" means an inspection of repairs and alterations
8 to boilers. The term includes a "certificate inspection".

9 (16) "Internal inspection" means a complete examination as possible of the
10 internal and external surface of a boiler or pressure vessel while such boiler or vessel
11 is shut down and manhole plates, hand hole plates, or other inspection opening
12 closures are removed as required by the inspector.

13 (17) "National Board of Boiler and Pressure Vessel Inspectors" means the
14 national board whose membership is composed of the chief inspectors of
15 jurisdictions who are charged with the enforcement of the provisions of the ASME
16 Code.

17 (18) "New construction inspection" means the activity of monitoring the
18 construction of pressure retaining items.

19 (19) "Special inspector" means an "authorized inspector" regularly employed
20 by an insurance company identified as an "authorized inspection agency".

21 §531.1 Assistant secretary of office Office of state fire marshal, code enforcement
22 and building safety; ~~to make rules~~ rule making authority

23 A. The ~~assistant secretary of the~~ office of state fire marshal, code
24 enforcement and building safety of the Department of Public Safety and Corrections,
25 hereinafter in this ~~Chapter~~ Part referred to as the ~~assistant secretary~~ fire marshal,
26 ~~shall have~~ has the exclusive power to investigate, and to promulgate rules and
27 regulations for the proper construction, installation, repair, use, operation, and safety
28 of boilers in this state and to issue orders for the enforcement of such rules and
29 regulations as well as any provisions of law affecting boilers.

1 * * *

2 §532. Adoption, amendment, or repeal of regulations; effective date

3 A. Before any rule or regulation is adopted, amended, or repealed, a public
4 hearing or opportunity to be heard ~~thereon~~ by the public shall be given, of which ten
5 days' notice shall be given in one or more newspapers of general circulation in the
6 state. Such rules and regulations shall become effective after publication in one or
7 more newspapers of general circulation in the state, or at such later time as the
8 ~~assistant secretary~~ fire marshal may fix, and shall thereafter have the force and effect
9 of law.

10 * * *

11 §534. Duties of ~~assistant secretary~~ fire marshal

12 The ~~assistant secretary~~ fire marshal shall:

13 (1) Employ and compensate, ~~with the approval of the governor, inspectors~~
14 ~~and other assistants and~~ employees as he may deem necessary for the exercise of the
15 powers and the performance of the duties prescribed in this Part.

16 (2) License authorized third-party inspection agencies and inspectors as
17 required by this Part.

18 (2)(3) Have free access for himself or authorized representatives to any
19 premises in the state where a boiler is being constructed, installed, or operated, for
20 the purpose of ascertaining whether such boiler is built, repaired, installed, or
21 operated in accordance with the provisions of this Part.

22 (3)(4) Prosecute all violators of the provisions of this Part.

23 (4)(5) Issue, suspend, or revoke inspection certificates allowing boilers to be
24 operated, as provided in this Part.

25 (5)(6) Draw upon the state treasurer for funds necessary to meet any expense
26 authorized by this Part which, in addition to the salaries of employees, shall include
27 necessary traveling expenses and the expenses incident to the maintenance of any
28 offices required in the state.

1 ~~(6)~~(7) Enforce the laws governing the use of boilers and ~~to~~ enforce the rules
2 and regulations of the ~~assistant secretary~~ fire marshal.

3 ~~(7)~~(8) Keep a complete record of the type, dimensions, age, condition,
4 pressure allowed upon, location, and date of the last inspection, of all boilers to
5 which this Part applies.

6 (9) Formulate and administer such rules as may be determined essentially
7 necessary for enforcement of this Part.

8 (10) Evaluate the qualifications of agencies and inspectors applying for or
9 maintaining a license pursuant to the provisions of this Part.

10 (11) Have authority to conduct examinations to ascertain the qualifications
11 and fitness of applicants for a license pursuant to the provisions of this Part.

12 (12) Issue full or provisional licenses to agencies and inspectors who meet
13 the qualifications established in this Part.

14 (13) Have authority, after notice and opportunity for hearing, to increase or
15 decrease the limits of insurance coverage and authorize acceptance of surplus lines
16 coverage if the state fire marshal determines that due to experience of loss, market
17 conditions, or other good reason, the liability insurance coverage required by this
18 Part is unavailable to applicants for or holders of licenses.

19 (14) Have authority to conduct inspections of agencies with firm licenses,
20 whether in state or out of state, for the purpose of observation and collection of facts
21 and data relating to proper enforcement of this Part.

22 (15) Investigate all written complaints lodged against an individual or firm
23 alleged to have violated provisions of this Part, regardless of whether such individual
24 or firm holds a license as prescribed in this Part, and pursue administrative action in
25 accordance with the Administrative Procedure Act against such individual or firm.

26 §534.1. Authorized inspection agency; license required

27 A. An authorized inspection agency may perform inspections as specified
28 in this Part.

1 B. No authorized inspection agency or authorized inspector shall engage in
2 the inspection of boilers without holding a current and valid license issued by the
3 state fire marshal as provided in this Part.

4 C. No person or authorized inspection agency shall aid, abet, facilitate, or
5 otherwise assist any unlicensed individual or firm in the engagement of boiler
6 inspections, as defined in this Part and office of state fire marshal promulgated rules,
7 when such person or authorized inspection agency knew or should have known the
8 assisted individual or firm was unlicensed.

9 §534.2. Exemptions from licensure; authorized third-party inspection agency
10 application for license; requirements to maintain; inspections; conditions

11 A. Special inspectors, as defined in this Part, are exempt from the provisions
12 of this Section.

13 B.(1) In order to conduct boiler inspections, a firm shall apply for and obtain
14 a license for each operating location doing business in the state and shall apply for
15 and obtain a license endorsement.

16 (2) A firm shall obtain one or both of the following endorsements:

17 (a) New construction inspection.

18 (b) In-service inspection.

19 (3) A "new construction inspection" endorsement requires an authorized
20 third-party inspection agency to be accredited per the ASME QAI-1 and by the
21 National Board of Boiler and Pressure Vessel Inspectors NB-360, "Accreditation of
22 Authorized Inspection Agencies Performing In-service Inspection Activities," as
23 adopted by the office of state fire marshal in conformity with the Administrative
24 Procedure Act.

25 (4) An "in-service inspection" endorsement requires an authorized
26 third-party inspection agency to be accredited by the National Board of Boiler and
27 Pressure Vessel Inspectors NB-369, "Accreditation of Authorized Inspection
28 Agencies Performing In-service Inspection Activities," as adopted by the office of
29 state fire marshal in conformity with the Administrative Procedure Act.

1 C. An applicant for a firm license shall submit all of the following to the
2 state fire marshal:

3 (1) A completed firm application.

4 (2) Documentation that the firm is an entity duly authorized to conduct
5 business within this state. If the firm is physically located in Louisiana,
6 documentation shall be in the form of a local or parish occupational license and if
7 incorporated, documentation shall include proof of registration with the secretary of
8 state. If the firm is physically located outside of the state, documentation shall be in
9 the form of registration with the secretary of state as a foreign corporation including
10 the name of the firm's registered agent of service.

11 (3) An original certificate of insurance documenting that the agency has
12 general liability coverage in a minimum amount of one million dollars.

13 (4) An original certificate of insurance documenting that the agency has a
14 current and valid worker's compensation insurance policy as required by state law.

15 (5) The name of the person who will serve as the designated agent of the
16 firm.

17 (6) Proof of employment of a supervising individual with the proper
18 certification and training at each of its operating locations for each endorsement held.

19 (7) The application fee authorized in this Part.

20 D. As a condition of licensure, each licensed firm shall be open for
21 inspection by the state fire marshal or his designated representative, at any
22 reasonable time, for the purpose of observation and collection of facts and data
23 relating to proper enforcement of this Part. No person acting on behalf of the firm
24 shall refuse to admit the state fire marshal or his designated representative to any
25 operating location. Agencies physically located outside of this state may be charged
26 for the travel expenses of the state fire marshal to conduct such an inspection.

27 E. As a further condition of licensure, the acceptance of a license by a firm
28 shall be deemed as the firm's consent to submit to reasonable requests for
29 documentation by the office of state fire marshal, code enforcement and building

1 safety, or his designated representatives and to cooperate in a lawful investigation
2 by the office of state fire marshal, code enforcement and building safety. Refusal to
3 cooperate with any lawful investigation by the office of state fire marshal, code
4 enforcement and building safety, shall be subject to any penalty as described in this
5 Part, including suspension or revocation of a license.

6 F. Each firm shall clearly display its license in a conspicuous location at its
7 place of business.

8 G. The designated agent of an authorized third-party inspection agency shall
9 notify the state fire marshal within ten days of the following:

10 (1) Any change in the business address of the firm.

11 (2) Any change in ownership of or interest in the firm.

12 (3) Any change in the employment of a person holding an individual license.

13 H. No authorized third-party inspection agency shall contract for the
14 independent services of a person who holds an individual license pursuant to the
15 provisions of this Section.

16 §534.3. Application for an authorized third-party inspector license; requirements to
17 maintain

18 A. To engage in the inspection of boilers, an individual shall apply for and
19 obtain a license and endorsement as prescribed in R.S. 23:534.2. Such license shall
20 authorize its holder to engage in boiler inspections for the endorsements listed. Each
21 individual license holder shall maintain his license on his person while engaging in
22 inspection activity. Each such license holder shall present his license for inspection
23 upon demand of any employee of the office of state fire marshal, fire department, or
24 any law enforcement officer.

25 B. As a condition of licensure, the acceptance of a license by an authorized
26 third-party inspector shall be deemed as consent of such inspector's submission to
27 reasonable requests for documentation by the office of state fire marshal or his
28 designated representatives and to cooperate in a lawful investigation by the office of
29 state fire marshal. Any person refusing to cooperate with any lawful investigation

1 by the office of state fire marshal shall be subject to any penalty as described in this
2 Part, including suspension or revocation of a license.

3 C. Each authorized third-party inspector shall notify the state fire marshal,
4 on a form specified and provided by the state fire marshal, within ten days of the
5 following:

6 (1) Any change in business or home address.

7 (2) Any separation from an employer or change in employer.

8 D. No authorized third-party inspector shall contract his services as an
9 independent contractor or agent to any other authorized third-party inspection agency
10 or with any other licensee holding a license pursuant to the provisions of this Part.

11 E. An authorized third-party inspector shall meet all certification, continuing
12 education, training, and testing requirements as established by any rule or regulation
13 promulgated by the office of state fire marshal in conformity with the Administrative
14 Procedure Act.

15 §534.4. Prohibited acts

16 An authorized third-party inspection agency or inspector shall not do any of
17 the following:

18 (1) Engage in boiler inspections without a valid license.

19 (2) Aid and abet an unlicensed agency or unlicensed person.

20 (3) Submit an application or any other document to the office of state fire
21 marshal when the agency or inspector reasonably should have known the document
22 contained false or misleading information.

23 (4) Engage in false, misleading, or deceptive acts or practices.

24 (5) Fail to maintain a valid license as required by this Part.

25 (6) Fail to maintain a valid insurance policy as required by this Part.

26 (7) Refuse to admit the state fire marshal or his designated representative to
27 an operating location or refuse to cooperate in the purposes of such admittance as
28 required by this Part.

1 (8) Fail to maintain his license on his person and to present it for inspection
2 as required by this Part.

3 (9) Refuse to cooperate with any lawful investigation by the office of state
4 fire marshal.

5 (10) Fail to abide by the administrative rules promulgated pursuant to the
6 provisions of this Part.

7 §534.5. Notice; hearing; revocation of certificate or license

8 The license as provided in this Part may be revoked or suspended after notice
9 and hearing in accordance with the Administrative Procedure Act and upon a finding
10 that the authorized third-party agency or inspector did any of the following:

11 (1) Willfully violated any provision of this Part or any adopted rule,
12 regulation, or order of the state fire marshal.

13 (2) Used deceit or false or misleading information to obtain any certificate
14 or license pursuant to the provisions of this Part.

15 (3) Demonstrated professional incompetence or gross negligence.

16 (4) Assisted any person attempting to evade the provisions of this Part or any
17 related adopted rules or regulations.

18 §534.6. Penalties; licensed persons and firms

19 A.(1) In addition to or in lieu of administrative sanctions as authorized in this
20 Part, the state fire marshal is empowered to issue an order to any licensed person or
21 firm engaged in any activity, conduct, or practice constituting a violation of any
22 provision of this Part, directing such person or firm to cease and desist from such
23 activity, conduct, or practice. The cease and desist order shall be issued in the name
24 of the state of Louisiana under the official seal of the state fire marshal.

25 (2) If the licensed person or firm to whom the state fire marshal directs a
26 cease and desist order does not cease and desist the prohibited activity, conduct, or
27 practice immediately after service of such cease and desist order delivered by
28 certified mail or personal service, the state fire marshal may seek, in any court of

1 competent jurisdiction and proper venue, a writ of injunction enjoining such person
2 or firm from engaging in any activity, conduct, or practice prohibited by this Part.

3 (3) Upon a proper showing by the state fire marshal that a person or firm has
4 engaged in any activity, conduct, or practice prohibited by this Part, the court shall
5 issue a temporary restraining order restraining the person or firm from engaging in
6 unlawful activity, conduct, or practices pending the hearing on a preliminary
7 injunction, and in due course, a permanent injunction shall be issued after a hearing,
8 commanding the cessation of the unlawful activity, conduct, or practices.

9 (4) A temporary restraining order, preliminary injunction, or permanent
10 injunction issued pursuant to the provisions of this Section shall not be subject to
11 being released upon bond.

12 (5) In the suit for an injunction, the state fire marshal may demand of the
13 defendant a penalty of fifty dollars per day for each violation, reasonable attorney
14 fees, and court costs. Judgment for penalties, attorney fees, and court costs may be
15 rendered in the same judgment in which the injunction is made final.

16 B. If the state fire marshal finds that any person or firm has violated any
17 provision of this Part or any promulgated rule, regulation, or issued order, he may
18 impose upon that person or firm a fine in an amount not to exceed five thousand
19 dollars for each violation.

20 C. Procedures for the imposition of fines and appeals of such fines shall be
21 governed by the provisions of the Administrative Procedure Act.

22 §535. Special inspectors

23 A. In addition to the personnel authorized by R.S. 23:534(1), the ~~assistant~~
24 ~~secretary~~ fire marshal may, upon the request of any company authorized to insure
25 against loss from explosion of boilers in this state, appoint the boiler inspectors of
26 the ~~said~~ company as special inspectors, who shall serve at his pleasure, provided that
27 each such inspector holds a certificate of competency as an inspector of boilers from
28 the National Board of Boiler and Pressure Vessel Inspectors. These special
29 inspectors shall receive no salary from nor shall any of their expenses be paid by the

1 state. The continuance of a special inspector's appointment shall be conditioned
2 upon his continuing in the employ of a boiler inspection and duly authorized
3 insurance company ~~duly authorized as aforesaid~~, and upon his maintenance of the
4 standards imposed by this Part. These special inspectors shall inspect all boilers
5 insured by their respective companies, and the owners or users of such insured
6 boilers shall be exempt from the payment of inspection fees required in R.S. 23:541.
7 Each company employing such special inspectors shall, within thirty days following
8 each annual internal inspection made by them, file a report of such inspection with
9 ~~the assistant secretary~~ office of state fire marshal in the manner prescribed by the fire
10 marshal ~~upon appropriate forms as promulgated by the American Society of~~
11 ~~Mechanical Engineers.~~

12 B. In addition to the personnel authorized by R.S. 23:534(1), the ~~assistant~~
13 ~~secretary~~ fire marshal may, upon the request of director of safety and permits for the
14 city of New Orleans, appoint boiler inspectors of the city of New Orleans as special
15 inspectors, who shall serve at his pleasure, provided that each such inspector holds
16 a certificate of competency as an inspector of boilers from the National Board of
17 Boiler and Pressure Vessel Inspectors, or the equivalent if the national board refuses
18 to certify local inspectors due to population limits. These special inspectors shall
19 receive no salary from nor shall any of their expenses be paid by the state. The
20 continuance of a special inspector's appointment shall be conditioned upon his
21 continuing in the employ as a boiler inspector of the city of New Orleans duly
22 authorized as aforesaid, and upon his maintenance of the standards imposed by this
23 Part. These special inspectors shall inspect all boilers in the city of New Orleans,
24 and the owners or users of such boilers shall be exempt from the payment of
25 inspection fees required in R.S. 23:541. The director of safety and permits for the
26 city of New Orleans shall, within thirty days following each annual internal
27 inspection made by such special inspectors, file a report of such inspection with the
28 ~~assistant secretary~~ office of state fire marshal in the manner prescribed by the fire

1 ~~marshal upon appropriate forms as promulgated by the American Society of~~
2 ~~Mechanical Engineers.~~

3 C. The ~~assistant secretary~~ fire marshal shall have the authority to do all of
4 the following:

5 * * *

6 §536. ~~Annual inspection~~ Inspection of boilers

7 * * *

8 B. Upon the approval of the ~~assistant secretary~~ fire marshal or his designated
9 representative, the interval between internal inspections may be extended for a period
10 not to exceed twenty-four months on stationary boilers provided: (1) continuous
11 water treatment under competent and experienced supervision has been in effect
12 since the last internal inspection for the purpose of controlling and limiting corrosion
13 and deposits, (2) accurate and complete records are available showing that since the
14 last internal inspection samples of boiler water have been taken at regular intervals
15 not greater than twenty-four hours of operation and that the water condition in the
16 boiler is satisfactorily controlled, (3) accurate and complete records are available
17 showing the dates, if any such boiler has been out of service and the reasons therefor
18 since the last internal inspection, and such records shall include the nature of all
19 repairs to the boiler, the reasons why such repairs were necessary and by whom the
20 repairs were made, and (4) the last internal and current external inspection of the
21 boiler indicates the inspection period may be safely extended. When such an
22 extended period between internal inspections has been approved by the ~~assistant~~
23 ~~secretary~~ fire marshal or his designated representative, as outlined in this Section, a
24 new certificate of operation shall be issued for that extended period of operation, and
25 the inspection certificate fees shall be double the annual fees provided by law.

26 C.(1)

27 * * *

1 (c) Potable water boilers having a capacity of one hundred twenty gallons
2 and above and at least two hundred thousand BTUs (British Thermal Units) shall
3 have an external certificate inspection every two years.

4 (2) Inspections shall include the functions of all controls and devices. If at
5 any time a hydrostatic test is deemed necessary to determine the safety of a boiler,
6 the test shall be made at the discretion of the ~~assistant secretary~~ fire marshal or his
7 designated representative.

8 §537. Certificates of inspection; fees; issuance and suspension

9 A.(1) If, upon inspection, a boiler is found to be suitable and to conform to
10 the rules and regulations of the ~~assistant secretary~~ fire marshal, he shall issue to the
11 owner or user ~~thereof~~ an inspection certificate specifying the maximum pressure
12 which the boiler may be allowed to carry.

13 (2) A fee of twenty dollars shall be charged by the ~~assistant secretary~~ fire
14 marshal for the issuance of each inspection certificate, which shall be valid for not
15 more than fourteen months from its date. A fee of forty dollars shall be charged for
16 a certificate issued relative to an extension of internal inspection, and when
17 inspection frequencies may be extended to two years for certain boilers. A fee of
18 two hundred dollars shall be charged by the ~~assistant secretary~~ fire marshal for the
19 issuance of each inspection certificate valid for a time period not to exceed five years
20 as permitted by R.S. 23:536(A).

21 * * *

22 B. The ~~assistant secretary~~ fire marshal or his representative may at any time
23 suspend an inspection certificate when, in his opinion, the boiler for which it was
24 issued cannot continue to be operated without menace to the public safety, or when
25 the boiler does not comply with ~~the~~ adopted rules ~~issued hereunder~~. The suspension
26 of an inspection certificate shall continue in effect until the boiler has been made to
27 conform to the rules and regulations of the ~~assistant secretary~~ fire marshal governing
28 the use of boilers, and until the inspection certificate has been reinstated.

1 C. The boiler inspection certificate fee provided for in this Section is
2 intended to cover the cost of the issuance of the ~~said~~ certificates and the same shall
3 be retained and disbursed by the ~~assistant secretary~~ fire marshal.

4 * * *

5 §539. Installation of boilers

6 A. No boiler shall be installed until after six months from the date upon
7 which the rules and regulations formulated by the ~~assistant secretary~~ fire marshal
8 governing new installations ~~shall have~~ become effective, unless the boiler conforms
9 to such rules and regulations.

10 B. All boilers installed and ready for use, or being used, before the six
11 months ~~shall have~~ elapsed, shall be made to conform to the rules and regulations of
12 the ~~assistant secretary~~ fire marshal governing existing installations, and the ~~formulas~~
13 ~~therein~~ prescribed formulas shall be used in determining the maximum allowable
14 working pressure ~~therefor~~.

15 C. All boilers to be installed after six months from the date upon which the
16 rules and regulations of the ~~assistant secretary~~ fire marshal ~~shall~~ become effective;
17 shall be inspected during construction by ~~an inspector~~ individuals authorized to
18 inspect boilers in this state or, if constructed outside the state, by an inspector
19 holding a certificate from the National Board of Boiler and Pressure Vessel
20 Inspectors, or a certificate of authority from the ~~assistant secretary~~ fire marshal,
21 which may be issued by him to any inspector who holds a certificate of authority to
22 inspect boilers from a state which has adopted boiler rules that require standards of
23 construction and operation substantially equal to those of this state.

24 §540. Exemptions from provisions

25 * * *

26 B. The provisions of this Part are not applicable to any of the following:

27 * * *

28 (5) Steam heating boilers carrying not more than fifteen pounds pressure and
29 used exclusively for noncommercial purposes located in any private home.

1 * * *

2 §541. Fees for inspection

3 A. The owner or user of a boiler required by this Part to be inspected by the
4 ~~assistant secretary~~ fire marshal or his representative shall pay to the ~~assistant~~
5 ~~secretary~~ fire marshal an inspection fee based on the following schedule:

6 * * *

7 C. The fees for inspection provided for in this Section are intended to defray
8 the cost of employment of boiler and pressure vessel inspectors and the same shall
9 be retained and disbursed by the ~~assistant secretary~~ fire marshal for this purpose.

10 * * *

11 E.(1) The manufacturer of a boiler or pressure vessel required by this Part
12 to be inspected shall pay to the ~~assistant secretary~~ fire marshal an inspection fee for
13 the ASME, or National Board of Boiler and Pressure Vessel Inspectors "Shop
14 Reviews for Certificate of Authorization", or both, in ~~the an~~ an amount of one thousand
15 ~~five hundred dollars~~ not to exceed five thousand dollars per location review.

16 (2) The fire marshal may contract with outside parties to perform the
17 functions detailed in this Subsection.

18 F. The fee schedule provided in this Section shall not apply to authorized
19 third-party inspections.

20 §541.1. Licensing fees; transactional fees

21 A. The state fire marshal may assess and collect fees as provided in this Part.

22 License endorsements are separated as follows into the two distinct categories:

23 (1) New construction inspection.

24 (2) In-service inspection.

25 B. The licensing fees for a firm are as follows:

26 (1) New construction inspection

27 (a) Initial Fee: \$250.00

28 (b) Renewal Fee: \$50.00

29 (2) In-service inspection

1 (a) Initial Fee: \$250.00

2 (b) Renewal Fee: \$50.00

3 C. The licensing fees for an individual are as follows:

4 (1) New construction

5 (a) Initial Fee: \$100.00

6 (b) Renewal Fee: \$50.00

7 (2) In-service inspection

8 (a) Initial Fee: \$100.00

9 (b) Renewal Fee: \$50.00

10 D. All licenses are valid for one year from the date of issuance, unless a
11 multi-year license is created, and shall be renewed by the license holder within thirty
12 days prior to its expiration date. The state fire marshal may create a prorated fee
13 system to allow employee license renewal dates to coincide with the firm license
14 renewal date.

15 E. Any license not renewed within the thirty days prior to its expiration date
16 is past due for renewal and subject to late fees. The license holder shall pay a late
17 fee penalty of twenty-five dollars for a license renewed within the first forty-five
18 days past the license expiration date. The license holder shall pay a late fee penalty
19 of fifty dollars for a license renewed between forty-six and sixty days past the license
20 expiration date.

21 F. The state fire marshal shall suspend a license if the license is not renewed
22 within sixty days past its expiration date or if the license holder has not maintained
23 the license. The cost to reinstate a suspended license is the cost of the respective
24 licensed holder's initial fee plus twenty dollars.

25 G. The cost for a duplicate or replacement firm or individual license is
26 twenty dollars, regardless of how many endorsements are carried.

27 H. The cost to transfer an individual license from one firm to another is
28 twenty dollars.

1 I. The fees established in this Section are not refundable, except when certain
2 conditions apply as the state fire marshal may establish.

3 J. Authorized third-party inspection agencies and authorized third-party
4 inspectors shall electronically submit inspection reports and all other office of state
5 fire marshal required documents to the systems identified by the office of state fire
6 marshal for a transaction fee in an amount not to exceed fifty dollars.

7 K. The fees for inspection provided in this Section are intended to defray the
8 cost of employment of boiler and pressure vessel inspectors and the same shall be
9 retained and disbursed by the fire marshal for this purpose.

10 §542. Fidelity bonds of employees

11 The ~~assistant secretary~~ fire marshal may in his discretion require any
12 employee to furnish a bond conditioned upon the faithful performance of his duties
13 and upon a true account of moneys handled by him. The cost of these bonds shall
14 be paid by the ~~assistant secretary~~ fire marshal as a necessary administrative expense.

15 §543. Installation, moving, or reinstallation of power boilers, steam heating, or hot
16 water boilers; licensing; examination; fees

17 A. Every person, firm, or corporation engaged in the installation, moving,
18 or reinstallation of power boilers, steam heating, or hot water heating boilers in this
19 state shall be licensed by the ~~assistant secretary~~ fire marshal to perform such work.
20 Each such person, firm, or corporation shall be required to have a single license and
21 shall not be required to license individual employees.

22 * * *

23 C. Every person, firm, or corporation engaged in the installation of power
24 boilers, steam heating, or hot water heating boilers shall, before a license is issued
25 by the ~~assistant secretary~~ fire marshal, pass a written examination administered by
26 the chief boiler inspector. Each such person, firm, or corporation shall be required
27 to have a single license and shall not be required to license individual employees.

28 * * *

1 §544. Application for installation, moving, or reinstallation of a boiler, except in
2 New Orleans; fee

3 A. When any boiler in this state, the city of New Orleans excepted, is to be
4 installed, moved, or reinstalled, the installer must be licensed by the ~~assistant~~
5 ~~secretary~~ fire marshal to perform such work and shall submit an application to the
6 chief boiler inspector. The application shall list the location of the boiler, the date
7 installation is to be completed, the trade name of the boiler, the type of boiler, and
8 the manufacturer's and National Board's identifying number.

9 * * *

10 Section 2. R.S. 23:533 and 541(D) are hereby repealed in their entirety.

11 Section 3. This Act shall become effective August 1, 2018.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 571 Original

2017 Regular Session

Berthelot

Abstract: Makes revisions and creates new provisions relative to licensing, inspections, and fees applicable to the state fire marshal's regulation of certain individuals, firms, and water boilers.

Present law provides that the "assistant secretary" of the office of state fire marshal, code enforcement and building safety of the Dept. of Public Safety and Corrections, has the exclusive power to investigate and promulgate rules and regulations for the proper construction, installation, repair, use, operation, and safety of boilers in the state of La., and issue orders for the enforcement of such rules, regulations, and provisions affecting boilers.

Present law (R.S. 40:1596.2) provides that the "assistant secretary" of the Dept. of Public Safety in charge of the office of state fire protection is commonly known as the "state fire marshal".

Proposed law changes all references in present law from the "assistant secretary" to the "fire marshal" or "office of state fire marshal".

Proposed law provides for certain definitions.

Present law provides certain duties of the fire marshal with respect to the administration of present law. Proposed law retains present law and adds the following duties:

- (1) Licensing of authorized third-party inspection agencies and inspectors.
- (2) Formulation and administration of such rules as may be determined essentially necessary.

- (3) Evaluation of the qualifications of agencies and inspectors applying for or maintaining a license.
- (4) Conduction of examinations to ascertain the qualifications and fitness of applicants for licensure.
- (5) Issuance of full or provisional licenses to agencies and inspectors who meet certain qualifications.
- (6) Authority, after notice and opportunity for hearing, to increase or decrease the limits of insurance coverage and to accept surplus lines coverage, if determined that due to experience of loss, market conditions, or other good reason, the liability insurance coverage required in proposed law (R.S. 534.2(C)) is unavailable to applicants for or holders of licenses.
- (7) Authority to conduct inspections of licensed agencies, whether in state or out-of-state, for the purpose of observation and collection of facts and data.
- (8) Investigate written complaints lodged against individuals or firms for violations of present law and proposed law and pursue administrative action in accordance with the Administrative Procedure Act (APA).

Proposed law authorizes inspection agencies with firm licenses to perform certain boiler inspections. Prohibits an authorized third-party inspection agency or authorized third-party inspector from engaging in boiler inspections unless the agency or inspector holds a current and valid license. Prohibits a person or agency from aiding, abetting, facilitating, or otherwise assisting any unlicensed person or agency in the engagement of boiler inspections.

Proposed law provides for certain licensure and requirements of an authorized third-party inspection agency. A "special inspector" is exempt from proposed law.

To conduct boiler inspections, proposed law requires an agency to apply for and obtain a firm license for each operating location doing business in the state of La. and to apply for and obtain a license endorsement.

Proposed law provides that a "new construction inspection" endorsement requires an authorized third-party inspection agency to be accredited per the ASME QAI-1 and by the National Board of Boiler and Pressure Vessel Inspectors NB-360, "Accreditation of Authorized Inspection Agencies Performing In-service Inspection Activities".

Proposed law provides that an "in-service inspection" endorsement requires an authorized third-party inspection agency to be accredited by the National Board of Boiler and Pressure Vessel Inspectors NB-369, "Accreditation of Authorized Inspection Agencies Performing In-service Inspection Activities".

Proposed law requires an applicant for a firm license to submit certain information, including a complete firm application, documentation of registration with the secy. of state, an original certificate of insurance documenting the applicant's general liability coverage in a minimum amount of \$1,000,000, a current and valid worker's compensation policy, the name of the designated registered agent, proof of employment of a supervising individual with certain credentials, and the application fee.

As a condition of licensure, proposed law requires each licensed firm to be open for inspection by the fire marshal or his designated representative at any reasonable time for the observation and collection of facts and data relating to proper enforcement of present law and proposed law.

Proposed law prohibits a person acting on behalf of a firm to refuse the admittance of the fire marshal or his designated representative to any operating location for inspection. Further

provides that agency firms physically located outside of this state may be charged for travel expenses of the fire marshal to conduct such an inspection.

Proposed law provides that a firm's acceptance of a license is deemed as the firm's consent to submit to reasonable requests and to cooperate in a lawful investigation by the fire marshal or his designated representative. A firm's refusal to cooperate with any lawful investigation subjects the firm to any penalty as outlined in present law and proposed law.

Proposed law requires a firm to clearly display its license in a conspicuous location at its place of business.

Proposed law requires the designated agent of an authorized third-party inspection agency to notify the fire marshal within 10 days of the following: (1) Any change in the business address of the firm, (2) Any change in ownership of or interest in the firm, and (3) Any change in the employment of a person holding an individual license.

Proposed law prohibits an authorized third-party inspection agency from contracting the independent services of an individual license holder.

Proposed law requires an individual to apply for and obtain a license and certain endorsements to engage in boiler inspection. Requires an individual license holder to maintain his license on his person while engaging in inspection activity. Further requires each license holder to present his license for inspection upon demand of any employee of the fire marshal, fire department, or a law enforcement officer.

Proposed law provides that a authorized third-party inspector's acceptance of a license is deemed as his consent to submit to reasonable requests and to cooperate in a lawful investigation by the fire marshal or his designated representative. Provides that any person refusing to cooperate with any lawful investigation of the fire marshal is subject to any penalty as outlined in present law and proposed law.

Proposed law requires each licensed authorized third-party inspector to notify the fire marshal on a form specified and provided by the fire marshal within 10 days of the following: (1) Any change in business or home address and (2) Any separation from an employer or change in employer.

Proposed law prohibits a licensed authorized third-party inspector from contracting his services as an independent contractor or agent with any authorized third-party inspection agency or with any other licensee holding a license as provided in present law and proposed law.

Proposed law requires an authorized third-party inspector to meet all certification, continuing education, training, and testing requirements as established by any rule promulgated by the office of state fire marshal in conformity with the APA.

Proposed law provides that an authorized third-party inspection agency or inspector is prohibited from the following acts:

- (1) Engaging in boiler inspections without a valid license.
- (2) Aiding and abetting an unlicensed agency or unlicensed person.
- (3) Submitting an application or any other document to the fire marshal when the person reasonably should have known the document contained false or misleading information.
- (4) Engaging in false, misleading, or deceptive acts or practices.
- (5) Failing to maintain a valid license.

- (6) Failing to maintain a valid insurance policy.
- (7) Refusing to admit the fire marshal or his designated representative to an operating location or refusal to cooperate for the purposes of such admittance.
- (8) Failing to maintain his license on his person and present it for inspection as required.
- (9) Refusing to cooperate with any lawful investigation by the state fire marshal.
- (10) Failing to abide by adopted administrative rules.

Proposed law provides that a license may be revoked or suspended after notice and hearing in accordance with the APA and upon a finding that the authorized third-party agency or inspector did any of the following:

- (1) Willfully violated any provision of present law or proposed law or any adopted rule, regulation, or order of the fire marshal.
- (2) Used deceit or false or misleading information to obtain any certificate or license.
- (3) Demonstrated professional incompetence or gross negligence.
- (4) Assisted any person attempting to evade applicable law or any related adopted rules or regulations.

Proposed law authorizes the fire marshal, in addition to or in lieu of administrative sanctions, to issue an order to an individual or firm to cease and desist from engagement in an activity, conduct, or practice which constitutes a violation of present law and proposed law.

Proposed law authorizes the fire marshal to seek, through court proceeding, a writ of injunction enjoining such individual or firm from the prohibited activity.

Proposed law requires a court, upon a proper showing by the fire marshal that such individual or firm engaged in any prohibited activity, conduct, or practice, to issue a temporary restraining order restraining the individual or firm from engaging in the prohibited activity, pending the hearing on a preliminary injunction. Provides for a permanent injunction after a hearing, commanding the cessation of the unlawful activity.

Proposed law provides that an issued temporary restraining order, preliminary injunction, or permanent injunction is not subject to being released upon bond. In the suit for an injunction, the fire marshal may demand the defendant to pay a penalty of \$50 per day for each violation in addition to reasonable attorney fees and court costs.

Proposed law provides if the fire marshal finds that any individual or firm has violated any provision of present law or proposed law or any promulgated rule or issued order, he may impose a fine in an amount not to exceed \$5,000 for each violation. Procedures for imposition of fines and appeals of such fines are governed by the provisions of the APA.

Present law provides certain requirements with respect to special inspectors. Proposed law retains present law.

Present law requires special inspectors to file certain inspection reports on forms prescribed by the American Society of Mechanical Engineers. Proposed law changes present law to require the inspection reports to be filed with the office of state fire marshal in the manner prescribed by the fire marshal, but otherwise retains present law.

Present law requires all potable water boilers to have an external certificate inspection every 2 years. Proposed law changes present law to require potable water boilers for such

inspections to have a capacity of 120 gallons and above and at least 200,000 BTUs (British Thermal Units).

Present law exempts steam heating boilers carrying not more than 15 pounds pressure from the provisions of present law. Proposed law provides that the exemption applies when such steam heating boilers are located in a private home and used exclusively for noncommercial purposes.

Present law provides for the inspection of certain boilers. Requires the manufacturer of a boiler or pressure vessel to pay an inspection fee of \$1,500 for the ASME or for a certain national Certificate of Authorization. Proposed law changes the fee in present law from \$1,500 to an amount not to exceed \$5,000.

Proposed law authorizes the fire marshal to contract with outside parties to perform the inspection functions described in present law.

Proposed law provides that the fee schedule in present law (R.S. 23:541) does not apply to authorized third-party inspections.

Proposed law provides a licensing fee schedule for firms and individuals. Further provides 2 categories of required endorsements: (1) New construction inspection and (2) In-service inspection.

Proposed law provides an initial fee of \$250.00 and a renewal fee of \$50.00 for a firm applying to obtain a "New construction inspection" endorsement.

Proposed law provides an initial fee of \$250.00 and a renewal fee of \$50.00 for a firm applying to obtain an "In-service inspection" endorsement.

Proposed law provides an initial fee of \$100.00 and a renewal fee of \$50.00 for an individual applying to obtain a "New construction inspection" endorsement.

Proposed law provides an initial fee of \$100.00 and a renewal fee of \$50.00 for an individual applying to obtain an "In-service inspection" endorsement.

Proposed law provides that all licenses are valid for 1 year from the date of issuance, unless a multi-year license is created. Requires a license holder to renew a license within the 30 days prior to the license expiration date.

Proposed law authorizes the fire marshal to create a prorated fee system to allow employee license renewal dates to coincide with the firm license renewal date.

Proposed law provides that any license not renewed within the 30 days prior to its expiration date is past due for renewal and subject to late fees. Requires the license holder to pay a late fee penalty of \$25.00 for a license renewed within the first 45 days past the license expiration date. Requires the license holder to pay a late fee penalty of \$50.00 for a license renewed between 46 and 60 days past the license expiration date.

Proposed law provides for the fire marshal's suspension of a license, if the license is not renewed within the first 60 days past its expiration date, or if the license holder has not maintained the license. Provides for the reinstatement costs of a respective suspended license to be the initial licensing fee plus \$20.00.

Proposed law provides that the cost for a duplicate or replacement individual or firm license is \$20.00, regardless of how many endorsements are carried. Provides a \$20.00 cost to be paid by one who transfers an individual license from one firm to another.

Licensing fees in proposed law are non-refundable, except when certain conditions apply as the fire marshal may establish.

Proposed law requires authorized third-party inspection agencies and authorized third-party inspectors to electronically submit inspection reports and all other office of state fire marshal required documents to the systems identified by the fire marshal. Provides a transaction fee in an amount not to exceed \$50.00.

Proposed law provides that licensing fees are intended to defray the cost of employment of boiler and pressure vessel inspectors and such fees are retained and disbursed by the fire marshal for this purpose.

Proposed law retains provisions of present law with respect to the installation of boilers, exemptions of certain boilers, fees for inspection, required bonds of certain employees, and the application for installation, moving, or reinstallation of boilers, except proposed law changes all present law references of "assistant secretary" to "fire marshal".

Proposed law repeals a provision of present law (R.S. 23:533) requiring printing and public distribution of certain rules.

Proposed law repeals a provision of present law (R.S. 23:541(D)) which exempts potable water boilers of 50 gallon capacity or less from certain requirements relative to inspection fees.

Effective Aug. 1, 2018.

(Amends R.S. 23:531, 532(A), 534, 535(A), (B), and (C)(intro. para), 536(B), (C)(1)(c) and (2), 537(A)(1) and (2), (B), and (C), 539, 540(B)(5), 541(A)(intro. para), (C), and (E), 542, 543(A) and (C), and 544(A); Adds R.S. 23:531.1, 534.1-534.6, 541(F), and 541.1; Repeals R.S. 23:533 and 541(D))