A bill for an act

relating to labor and industry; modifying boiler provisions; amending and imposing civil and criminal penalties; amending Minnesota Statutes 2008, sections 326B.94, as amended; 326B.954; 326B.956; 326B.958; 326B.96; 326B.961, as added if enacted; 326B.964; 326B.966; 326B.97; 326B.98; 326B.986, subdivision 10; 326B.99; 326B.994, subdivision 3; 326B.998; Minnesota Statutes 2009 Supplement, sections 326B.972; 326B.986, subdivision 8; 326B.988; proposing coding for new law in Minnesota Statutes, chapter 326B; repealing Minnesota Statutes 2008, sections 326B.952; 326B.962; 326B.968; 326B.982; 326B.996; Minnesota Statutes 2009 Supplement, section 326B.986, subdivision 2; Minnesota Rules, parts 5225.1400; 5225.3100; 5225.3150; 5225.3200.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 326B.94, as amended by Laws 2009, chapter 78, article 5, section 26, is amended to read:

326B.94 BOATS; MASTERS.

Subdivision 1. **Boat.** "Boat" means any vessel navigating inland waters of the state that is propelled by machinery or sails~~,~~ and is carrying more than six passengers for hire~~, and is 21 feet or more in length~~.

Subd. 2. **Number of passengers.** The department shall designate the number of passengers that each boat may safely carry, and no such boat shall carry a greater number than is allowed by the inspector's certificate.

Subd. 3. **Annual permit.** The commissioner shall issue an annual permit to a boat for the purpose of carrying passengers for hire on the inland waters of the state provided the boat satisfies the inspection requirements of this section. A boat subject to inspection under this chapter shall be registered with the department and shall be inspected before a permit may be issued. No person shall operate a boat or cause a boat to

be operated for the purpose of carrying passengers for hire on the inland waters of the state without a valid annual permit issued under this section. Boats operating with a current inspection certificate issued by the United States Coast Guard are exempt from the inspection requirements of this section.

Subd. 4. **Examinations, licensing.** The commissioner shall develop and administer an examination for all masters of boats carrying passengers for hire on the inland waters of the state ~~as to their qualifications and fitness~~. If found qualified and competent to perform their duties as a master of a boat carrying passengers for hire, they shall be issued a license authorizing them to act as such on the inland waters of the state. All initial master's licenses shall be for two years. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of master's licenses from one year to two years. By June 30, 2011, all renewed master's licenses shall be two-year licenses. Fees for the original issue and renewal of the license authorized under this section shall be pursuant to section 326B.986, subdivision 2.

Subd. 5. **Rules.** (a) The department shall prescribe rules for the inspection of the hulls, machinery, boilers, steam connections, firefighting apparatus, lifesaving appliances, and lifesaving equipment of all power boats navigating the inland waters of the state, which shall conform to the requirements and specifications of the United States Coast Guard in similar cases as provided in Code of Federal Regulations, ~~title~~ titles 33 and 46, and COMDTINST M16672.2D, as applicable to inland waters; these rules shall have the force of law.

(b) ~~The commissioner shall make such rules for inspection and operation of boats subject to inspection under this chapter, the licensing of masters, and the navigation of any such boat as will require its operation without danger to life or property.~~ For purposes of this subdivision, the term "COMDTINST M16672.2D" means United States Department of Homeland Security, United States Coast Guard, Navigation Rules: International-Inland, as forwarded by Commandant Instruction M16672.2D, dated March 25, 1999, with any corrections or revisions.

Subd. 6. **Drugs, alcohol.** No master shall be under the influence of illegal drugs or alcohol when on duty.

Sec. 2. **[326B.95] DEFINITIONS.**

Subdivision 1. **Scope.** The definitions in this section apply to sections 326B.93 to 326B.998.

Subd. 2. **Authorized inspector.** "Authorized inspector" means a national board commissioned inspector who has been examined and found qualified to inspect the

construction and repair of boilers and pressure vessels, and holds a current certificate of competency.

Subd. 3. **Certificate of competency.** "Certificate of competency" means a certificate issued by the department to allow national board commissioned inspectors to perform boiler and pressure vessel inspections within the state.

Subd. 4. **Certificate of inspection.** "Certificate of inspection" means a sticker attached to the boiler or pressure vessel which documents the month and year of the inspection and the employer of the inspector performing the inspection.

Subd. 5. **Certificate of registration.** "Certificate of registration" means a document that has been made available on the department's Web site that lists all registered boilers and pressure vessels at a location, including the last inspection date, the certificate expiration date, and the maximum allowable working pressure for each boiler or pressure vessel.

Subd. 6. **High pressure boiler.** "High pressure boiler" means a boiler operating at a steam or other vapor pressure in excess of 15 psig, or a water or other liquid boiler in which the pressure exceeds 160 psig or the temperature exceeds 250 degrees Fahrenheit.

Subd. 7. **Inspection due date.** "Inspection due date" means the last possible date that the inspection can be completed within the time limits in this chapter.

Subd. 8. **Insurance company boiler inspector.** "Insurance company boiler inspector" means a national board commissioned inspector who holds a current certificate of competency.

Subd. 9. **Low-pressure boiler.** "Low-pressure boiler" means a boiler operating at a steam or other vapor pressure of 15 psig or less, or a water or other liquid boiler in which the pressure does not exceed 160 psig and the temperature does not exceed 250 degrees Fahrenheit.

Subd. 10. **National board.** "National board" means the National Board of Boiler and Pressure Vessel Inspectors, which is an organization comprised of chief inspectors for the states, cities, and territories of the United States and provinces and territories of Canada.

Subd. 11. **National board commissioned inspector.** "National board commissioned inspector" means an individual who has been examined and found qualified to inspect in-service boilers and pressure vessels by the national board, and who holds a current commission issued by the national board.

Subd. 12. **National Board Inspection Code.** "National Board Inspection Code" or "NBIC" means a three-part technical document that is written and published by the national board detailing the installation, inspection and repair of boilers and pressure vessels.

Subd. 13. **Operation.** "Operation" means the on-site act of manipulating, monitoring, and testing of boilers and their appurtenances by a properly licensed engineer or an apprentice under the direct supervision of the properly licensed engineer.

Subd. 14. **Psig.** "Psig" means pounds per square inch gauge.

Subd. 15. **Remote monitoring.** "Remote monitoring" means the act of viewing or overseeing the boiler or boiler plant operating parameters and conditions from a remote location.

Subd. 16. **Repair.** "Repair" means the work necessary to restore a boiler or pressure vessel to a safe and satisfactory operating condition, as defined in National Board Inspection Code, part 3, section 9.

Subd. 17. **State boiler inspector.** "State boiler inspector" means a national board commissioned boiler inspector who holds a current certificate of competency and a current chief grade A boiler operator's license.

Sec. 3. Minnesota Statutes 2008, section 326B.954, is amended to read:

326B.954 BOILER INSPECTOR LICENSE.

Each boiler inspector employed by the department shall be licensed in this state as a chief grade A engineer, and must hold a national board commission as a boiler inspector within 12 months of being employed as a boiler inspector by the department. An inspector shall not be interested in the manufacture or sale of boilers or steam machinery or in any ~~patented~~ article required or ~~generally~~ used in the construction of engines ~~or~~, boilers, or pressure vessels, or their appurtenances.

Sec. 4. Minnesota Statutes 2008, section 326B.956, is amended to read:

326B.956 ~~STEAM FARM TRACTION ENGINES; SHOW BOILERS AND ENGINES~~ HISTORICAL BOILERS.

Subdivision 1. **Definition.** For the purpose of sections ~~326B.952~~ 326B.93 to 326B.998, the ~~terms "show boiler" and "hobby boiler" are synonymous and mean~~ term "historical boiler" means a boiler that is used only for display and demonstration purposes. The terms "historical boiler," "show boiler," "steam farm traction engine," and "hobby boiler" are synonymous. In recognition of the historical significance of show boilers in maintaining a working reminder of Minnesota's agricultural, transportation, and lumber industries, show boilers and engines are considered to be historical artifacts.

Subd. 2. **Inspection.** ~~When used for display and demonstration purposes, steam farm traction engines, portable and stationary show engines and portable and stationary show boilers~~ (a) Historical boilers shall be inspected every two years ~~according to law~~.

All historical boilers shall be inspected by ultrasonic examination and hydrostatic testing, alternating the type of inspection every two years. Any historical boiler not previously inspected in Minnesota shall be subject to both ultrasonic examination and hydrostatic testing prior to operation unless the historical boiler has a current operating certificate under paragraph (d).

(b) Except as provided in paragraph (d), historical boilers must display a certificate of inspection issued by the department before use.

~~(a) Show boilers or engines not certified in Minnesota shall be inspected thoroughly by a boiler inspector certified to inspect boilers in Minnesota, using inspection standards in paragraph (b), before being certified for use in Minnesota.~~

~~(b)~~ (c) Standards for inspection of ~~show~~ historical boilers shall be those established by the National Board Inspection Code ANSI/NB23 and by the rules adopted by the department and as follows:

(1) the boiler ~~shall~~ may be subjected to ~~the appropriate method~~ other methods of nondestructive examination, at the owner's expense, as deemed necessary by the boiler inspector to determine soundness and safety of the boiler;

(2) ~~the boiler shall be tested by ultrasonic examination for metal thickness (for purposes of calculating the maximum allowable working pressure the thinnest reading shall be used and a safety factor of six shall be used in calculating maximum allowable working pressure on all non-ASME-code hobby and show boilers);~~ if a historical boiler has any longitudinal cracks in riveted longitudinal seams, the vessel shall be sealed and not approved for use in Minnesota. If the historical boiler is jacketed, the jacket must be removed prior to inspection; and

(3) repairs and alterations made to ~~show~~ historical boilers must be made pursuant to ~~section 326B.966.~~ the National Board Inspection Code ANSI/NB34.

~~(c) Further each such object shall successfully complete an inspection of:~~

~~(1) the fusible plug;~~

~~(2) the safety valve, which must be of ASME approved design and set at the maximum allowable working pressure and sealed in an appropriate manner not allowing tampering with the valve setting without destroying the seal; and~~

~~(3) the boiler power piping.~~

~~Any longitudinal cracks found in riveted longitudinal seams requires that the vessel be sealed and not approved for use in Minnesota. If the boiler or show engine is jacketed, the jacket must be removed prior to inspection.~~

(d) If a historical boiler has not been inspected in Minnesota and has a current operating certificate issued by another state or Canadian province, then that historical boiler can be operated in Minnesota without inspection in Minnesota as long as:

(1) the chief boiler inspector has determined that the requirements for certification in the other state or Canadian province are equal to or greater than the requirements for certification in Minnesota;

(2) the historical boiler displays the certificate from the other state or Canadian province; and

(3) the historical boiler is not operated in Minnesota for more than two years without inspection in Minnesota.

Subd. 3. **Inspection fees.** The fee for inspecting ~~traction engines, show boilers, and show engines~~ historical boilers shall be the hourly rate pursuant to section 326B.986, subdivision 4.

Subd. 4. **Licenses.** When a historical boiler is in operation at any location that is open to the public, an individual licensed under this subdivision or exempt from licensure under this subdivision must be in attendance at the boiler at all times. A license to operate ~~steam farm traction engines, portable and stationary show engines, and portable and stationary show~~ historical boilers shall be issued to an applicant who:

(1) is 16 years of age or older;

(2) has ~~a licensed second class grade A or higher class engineer or steam traction (hobby) engineer sign~~ provided to the commissioner an affidavit attesting to the applicant's competence in operating ~~these devices~~ historical boilers and attesting that the applicant has demonstrated the ability to perform each task on ~~the~~ a list, developed and approved by the chief boiler inspector, of tasks associated with the operation of ~~the devices;~~ historical boilers. The affidavit shall be signed by a licensed historical boiler engineer or an engineer licensed as second class grade A or higher;

(3) has at least 50 hours of operating experience on the devices, eight hours of which must be operating the boiler under load, and up to 16 hours of which may be satisfied by attendance at a school of instruction in operating the devices;

(4) passes a written test for competence in operating the devices; and

(5) pays the required fee.

A license is valid for the lifetime of the licensee unless revoked for cause. A onetime fee pursuant to section 326B.986, subdivision 5, shall be charged for the license.

Subd. 5. ~~**Exemption.**~~ **Exemptions.** (a) Any licensed steam engineer may operate ~~steam farm traction engines, portable and stationary show engines and portable and stationary show~~ historical boilers, subject to the ~~apparatus~~ equipment and horsepower

~~restrictions~~ limitations set forth in ~~the license~~ section 326B.978, without obtaining a license under subdivision 4.

(b) Any individual who holds a current historical boiler operator license issued by another state or Canadian province may operate historical boilers in Minnesota if the chief boiler inspector has determined that the requirements under which the individual obtained licensure in the other state or Canadian province are equal to or greater than the requirements for an applicant making application in Minnesota for a historical boiler license.

~~Subd. 6. **Licensed operator; presence required.** An operator licensed under this section must be present when a traction engine, portable or stationary show engine, or portable or stationary show boiler is in operation and a member of the public is present.~~

Sec. 5. Minnesota Statutes 2008, section 326B.958, is amended to read:

326B.958 INSPECTION AND REGISTRATION.

Subdivision 1. **Inspection.** (a) Every owner, lessee, or other person having charge of boilers or pressure vessels subject to inspection under sections 326B.956 to 326B.998 shall cause them to be inspected by the department~~. Except as provided in sections 326B.956 and 326B.96, boilers subject to inspection under sections 326B.956 to 326B.998 must be inspected at least annually and pressure vessels inspected at least every two years. The commissioner shall assess a $250 penalty per applicable boiler or pressure vessel for failure to have the inspection required by this section and may seal the boiler or pressure vessel for refusal to allow an inspection as required by this section.~~ unless specifically excepted by section 326B.988 or 326B.99. Inspectors shall subject all boilers to a thorough internal and external examination according to the standards in sections 326B.964 and 326B.966.

(b) Anyone who installs a boiler must ensure that the boiler is inspected by the department after installation is complete and before the boiler is placed in operation. Inspection fees pursuant to section 326B.986, associated with this initial inspection are the responsibility of the installer.

(c) The owner of a boiler must ensure that the boiler is inspected at least annually after the initial inspection, except as provided in sections 326B.956 and 326B.96.

(d) The owner of a pressure vessel not specifically excepted by section 326B.988 must ensure that the pressure vessel is inspected at least every two years.

(e) The fees under section 326B.986 for inspections conducted by the department under paragraphs (c) and (d) shall be the responsibility of the owner of the boiler or pressure vessel.

Subd. 1a. **Certificate of inspection.** After inspecting the boiler or pressure vessel, the boiler inspector shall document the condition of the boiler or pressure vessel. If the boiler or pressure vessel meets the inspection requirements in sections 326B.964 and 326B.966, the inspector shall attach a label or sticker to the boiler or pressure vessel indicating the month and year inspected and the name of the inspection agency. This label is the inspection certificate and shall indicate that the inspected boiler or pressure vessel is found to be safe and suitable for use. The boiler inspector shall directly attach a tag to a newly installed boiler that displays a unique identification number.

Subd. 1b. **Defects in boilers or pressure vessels.** If, upon inspecting a boiler or pressure vessel, the boiler inspector determines that the boiler or pressure vessel does not meet the requirements in sections 326B.964 and 326B.966, the inspector shall notify the owner or operator in writing of any defect in the boiler or pressure vessel. The boiler or pressure vessel shall not be operated until all defects are corrected and the correction is verified by reinspection of the boiler or pressure vessel. If the boiler inspector finds that a boiler is being operated by an unlicensed or improperly licensed person, operation of the boiler shall cease until all operators are properly licensed according to section 326B.978. If circumstances warrant continued operation, the boiler inspector may, at the discretion of the boiler inspector, give approval for continuing operation of the boiler for a specific period of time, not to exceed 30 days.

Subd. 2. **Registration.** Every owner, lessee, or other person having charge of ~~boilers~~ a boiler or pressure ~~vessels~~ vessel subject to inspection under sections ~~326B.952~~ 326B.93 to 326B.998, except ~~hobby~~ historical boilers under section 326B.956, shall register ~~said objects~~ the boiler or pressure vessel with the department at the time of the initial inspection described in subdivision 1. The registration shall be renewed annually ~~and is applicable to each object separately. The fee for registration of a boiler or pressure vessel shall be pursuant to section 326B.986, subdivision 9. The department may issue a billing statement for each boiler and pressure vessel on record with the division, and may determine a monthly schedule of billings to be followed for owners, lessees, or other persons having charge of a boiler or pressure vessel subject to inspection under sections 326B.952 to 326B.998.~~ for each boiler or pressure vessel on record with the department.

Subd. 3. **Certificate of registration.** The department shall issue ~~a~~ an electronic certificate of registration that lists the registered boilers and pressure vessels at the location, expiration date of the certificate of registration, last inspection date of each registered boiler and pressure vessel, and maximum allowable working pressure for each registered boiler and pressure vessel. ~~The commissioner may make an electronic~~

~~certificate of registration~~ This certificate shall be available to be printed by the owner, lessee, or other person having charge of the registered boiler or pressure vessel.

Sec. 6. Minnesota Statutes 2008, section 326B.96, is amended to read:

326B.96 ~~INSPECTION.~~ HIGH CAPACITY BOILERS.

Subdivision 1. ~~**Inspection requirements.**~~ **Biennial internal inspection.** ~~All boilers and steam generators must be inspected by the department before they are used and all boilers must be inspected at least once each year thereafter except as provided under subdivision 2 or section 326B.956. Inspectors may subject all boilers to hydrostatic pressure or hammer test, and shall ascertain by a thorough internal and external examination that they are well made and of good and suitable material; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat, are of proper dimensions and free from obstructions; that the flues are circular in form; that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby; and that such boilers and their connections may be safely used without danger to life or property. Inspectors shall ascertain that the safety valves are of suitable dimensions, sufficient in number, and properly arranged, and that the safety valves are so adjusted as to allow no greater pressure in the boilers than the amount prescribed by the inspector's certificate; that there is a sufficient number of gauge cocks, properly inserted, to indicate the amount of water, and suitable gauges that will correctly record the pressure; and that the fusible metals are properly inserted where required so as to fuse by the heat of the furnace whenever the water in the boiler falls below its prescribed limit; and that provisions are made for an ample supply of water to feed the boilers at all times; and that means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts when under pressure.~~ In lieu of the required annual internal inspection of high pressure steam boilers required in section 326B.958, a boiler with a steaming capacity of 50,000 pounds per hour or greater may qualify for biennial internal inspection frequency if the chief boiler inspector has approved a water treatment program for the boiler. The boiler must still be externally inspected at least every 12 months by an inspector holding a current Minnesota certificate of competency. At the time of the external inspection, the inspector must review the water treatment program and test results from the previous year. If the inspector determines substantial deficiencies exist in equipment or in boiler water treatment operating procedures, the boiler must be inspected internally at least once every 12 months until the chief boiler inspector finds that the substantial deficiencies have been corrected.

Subd. 2. ~~**Qualifying boiler.**~~ **Water treatment program.** ~~(a) "Qualifying boiler" means a boiler of 200,000 pounds per hour or more capacity which has an internal continuous water treatment program approved by the department and which the commissioner has determined to be in compliance with paragraph (c).~~ (a) To qualify for the biennial internal inspection described in subdivision 1, the water treatment program must be submitted to the chief boiler inspector to initiate the biennial inspection cycle. The chief boiler inspector shall approve the program if:

(1) a complete internal inspection has been performed on the boiler within 60 days before the submission of the water treatment program to the chief boiler inspector. The inspection results must meet the minimum requirements for internal boiler conditions as established in Section I of the ASME International Boiler and Pressure Vessel Code; and

(2) the program submitted provides limits or ranges established by the boiler manufacturer and the water treatment program representative for:

(i) pH;

(ii) neutralized or unneutralized conductivity;

(iii) oxygen scavenger;

(iv) hydroxyl alkalinity; and

(v) scale inhibitor.

~~(b) A qualifying boiler must be inspected at least once every 24 months internally and externally while not under pressure and at least once every 18 months externally while under pressure. If the inspector considers it necessary to conduct a hydrostatic test to determine the safety of a boiler, the test must be conducted under the direction of the owner, contractor, or user of the equipment under the supervision of an inspector.~~ (b) To continue to qualify for the biennial inspection cycle, the following must occur:

(1) the owner, lessee, or other person having charge of a high capacity boiler must keep accurate records reflecting:

(i) test results for samples of boiler water that must be taken at regular intervals, not to exceed 12-hour operating intervals;

(ii) test results for dissolved oxygen levels in samples of boiler feedwater, which must be taken at least once every 24 hours;

(iii) dates and actual times the boiler is out of service; and

(iv) all reasons why the boiler was taken out of service;

(2) the water treatment program representative must also test the boiler water every 90 days for the items identified in paragraph (a), clause (2), and document the results in the boiler's records, to ensure operators are accurately performing the required tests

and maintaining levels within the limits or ranges established or making corrections to achieve those limits or ranges; and

(3) all tests performed and any corrections identified by the water treatment program representative must be implemented and documented in the records.

~~(c) The owner of a qualifying boiler must keep accurate records showing the date and actual time the boiler is out of service, the reason or reasons therefor, and the chemical physical laboratory analysis of samples of the boiler water taken at regular intervals of not more than 48 hours of operation which adequately show the condition of the water, and any elements or characteristics of the water capable of producing corrosion or other deterioration of the boiler or its parts.~~ (c) The chief boiler inspector will revoke approval of the water treatment program and the requirements of section 326B.958 apply if:

(1) at the time of the scheduled annual external inspection required in subdivision 1, the inspector determines the boiler does not comply with the requirements in paragraph (b); or

(2) at the time of the next scheduled internal inspection, the inspector determines the boiler does not meet the minimum requirements for internal boiler conditions established in Section I of the ASME International Boiler and Pressure Vessel Code.

~~(d) If an inspector determines there are substantial deficiencies in equipment or in boiler water treatment operating procedures, inspections of a qualifying boiler may be required once every 12 months until the commissioner finds that the substantial deficiencies have been corrected.~~ (d) Notwithstanding section 326B.93, subdivision 2, the decision of the chief boiler inspector to deny approval under paragraph (a) or to revoke approval under paragraph (c) shall be final and shall not be reviewed by any court or agency. If approval of the water treatment program is revoked under paragraph (c), the chief boiler inspector shall not approve a water treatment program for that boiler under paragraph (a) until at least three years after the revocation.

Sec. 7. Minnesota Statutes 2008, section 326B.961, as added by 2009 H.F. No. 927, section 20, if enacted, is amended to read:

[326B.961] TRIENNIAL AUDITS AND TEAM LEADER CERTIFICATIONS.

Subdivision 1. **Triennial audits; assignment; qualifications.** The chief boiler inspector shall assign a qualified ASME designee or team leader to perform triennial audits on ASME Code and national board stamp holders at the request of the stamp holder. The department shall maintain qualifications for ASME designees and national board team leaders in accordance with ASME and national board requirements.

Subd. 2. **Fees.** The department's fee for performing ASME and national board triennial audits shall be the hourly rate pursuant to section 326B.986, subdivision 4.

Sec. 8. Minnesota Statutes 2008, section 326B.964, is amended to read:

326B.964 STANDARDS OF INSPECTION.

The engineering standards of boilers and pressure vessels for use in this state shall be ~~that~~ those established by Minnesota Rules, chapter 5225, and by the current edition of and ~~amendments~~ addenda to the ASME Code ~~or~~, the National Board Inspection Code, and the National Fire Protection Association's standard NFPA 85 (Boiler and Combustion Systems Hazards Code), as ~~applicable, for~~ they apply to the construction, operation and care of, in-service inspection and testing, and controls and safety devices~~, and by the rules adopted by the department~~.

Sec. 9. Minnesota Statutes 2008, section 326B.966, is amended to read:

326B.966 INSPECTION PROCEDURES AND STANDARDS OF REPAIRS.

The ~~rules~~ inspection procedures and requirements for the repair of boilers and pressure vessels for use in this state shall be those established by the most current edition of and addenda to the National Board ~~of Boiler and Pressure Vessel Inspectors inspection code~~ Inspection Code and the rules adopted by the department.

Sec. 10. Minnesota Statutes 2008, section 326B.97, is amended to read:

326B.97 INSPECTION OF BOILERS AND PRESSURE VESSELS.

The owner ~~or manager~~, lessee, or other person having control of a boiler or pressure vessel shall allow inspectors full access ~~thereto.~~ to the boiler or pressure vessel. Every engineer operating a boiler shall assist the inspector ~~in~~ during the examination, and ~~point out~~ indicate to the inspector any known defects in the boilers, pressure vessels, steam engines, ~~or~~ and turbines ~~in the engineer's charge~~.

Sec. 11. Minnesota Statutes 2009 Supplement, section 326B.972, is amended to read:

326B.972 LICENSE REQUIREMENT.

(a) To operate a boiler, steam engine, or steam turbine an individual must have received a license for the grade covering that boiler, steam engine, or steam turbine. Except for licenses described in section 326B.956 and except for provisional licenses described in paragraphs (d) to (g):

(1) all initial licenses shall be for two years;

(2) the commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of licenses from one year to two years; and

(3) by June 30, 2011, all licenses shall be two-year licenses.

(b) For purposes of sections ~~326B.952~~ 326B.93 to 326B.998, "operation" means the act of manipulating and monitoring boilers or appurtenances for their intended purpose and to ensure safety, except that operation does not include remote monitoring of an automatic boiler~~, either through on premises inspection of the boiler or by remote electronic surveillance, provided that no operations are~~. When a boiler is monitored from a remote location, the only function that may be performed remotely upon the boiler ~~other than~~ is an emergency shut down in alarm situations.

(c) No individual under the influence of illegal drugs or alcohol may operate a boiler, steam engine, or steam turbine or monitor an automatic boiler.

(d) The commissioner may issue a provisional license to allow an employee of a high pressure boiler plant to operate boilers greater than 500 horsepower at only that boiler plant if:

(1) the boiler plant has a designated chief engineer in accordance with Minnesota Rules, part 5225.0410;

(2) the boiler plant employee holds a valid license as a second-class engineer, Grade A or B;

(3) the chief engineer in charge of the boiler plant submits an application to the commissioner on a form prescribed by the commissioner ~~to elicit information on whether the requirements of this paragraph have been met~~;

(4) the chief engineer in charge of the boiler plant and an authorized representative of the owner of the boiler plant both sign the application for the provisional license;

(5) the owner of the boiler plant has a documented training program with examination for boilers and equipment at the boiler plant to train and test the boiler plant employee; and

(6) if the application were to be granted, the total number of provisional licenses for employees of the boiler plant would not exceed the total number of properly licensed first-class engineers and chief engineers responsible for the safe operation of the boilers at the boiler plant.

(e) A public utility, cooperative electric association, generation and transmission cooperative electric association, municipal power agency, or municipal electric utility that employs licensed boiler operators who are subject to an existing labor contract may use a provisional licensee as an operator only if using the provisional licensee does not violate the labor contract.

(f) ~~Each provisional license expires 36 months after the date of issuance unless revoked less than 36 months after the date of issuance.~~ A provisional license is valid for 36 months from the date of issue, unless revoked before the expiration date. A provisional license may not be renewed.

(g) The commissioner may issue no more than two provisional licenses to any individual within a four-year period.

Sec. 12. Minnesota Statutes 2008, section 326B.98, is amended to read:

326B.98 VERIFICATION OF CERTIFICATE.

In making an inspection of boilers~~, machinery, or vessels,~~ and pressure vessels, inspectors may act jointly or separately. In all cases inspectors shall verify the certificate of ~~inspection.~~ registration to ensure that all registered boilers and pressure vessels, other than historical boilers are inspected. Any boilers and pressure vessels that are no longer in service shall be removed from the certificate of registration according to rules adopted by the department.

Sec. 13. Minnesota Statutes 2009 Supplement, section 326B.986, subdivision 8, is amended to read:

Subd. 8. **Certificate of competency.** The fee for issuance of the original ~~state of Minnesota~~ certificate of competency ~~for inspectors~~ is $85 for inspectors who did not pay the national board examination fee specified in subdivision 6, or $35 for inspectors who paid ~~the~~ that examination fee. Each applicant for a certificate of competency must complete an interview with the chief boiler inspector before issuance of the certificate of competency. All initial certificates of competency shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in which the application is made. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of certificates of competency from one calendar year to two calendar years. By June 30, 2011, all renewed certificates of competency shall be valid for two calendar years. The fee for renewal of the state of Minnesota certificate of competency is $35 for one year or $70 for two years, and is due the day after the certificate expires.

Sec. 14. Minnesota Statutes 2008, section 326B.986, subdivision 10, is amended to read:

Subd. 10. **Late fee.** The commissioner ~~may~~ shall assess a late fee of ~~up to~~ $100 for each invoice issued under subdivision 1, 3, or 4 that is not paid in full by the due date stated on the invoice.

Sec. 15. Minnesota Statutes 2009 Supplement, section 326B.988, is amended to read:

326B.988 EXCEPTIONS.

(a) The provisions of sections ~~326B.952~~ 326B.93 to 326B.998, shall not apply to:

(1) boilers and pressure vessels in buildings occupied solely for residence purposes with accommodations for not more than five families;

(2) railroad locomotives operated by railroad companies for transportation purposes;

(3) air tanks installed on the right-of-way of railroads and used directly in the operation of trains;

(4) boilers and pressure vessels under the direct jurisdiction of the United States;

(5) unfired pressure vessels having an internal or external working pressure not exceeding 15 p.s.i.g. with no limit on size;

(6) pressure vessels used for storage of compressed air not exceeding five cubic feet in volume and equipped with an ASME code stamped safety valve set at a maximum of 100 p.s.i.g.;

(7) pressure vessels having an inside diameter not exceeding six inches;

(8) every vessel that contains water under pressure, including those containing air that serves only as a cushion, whose design pressure does not exceed 300 p.s.i.g. and whose design temperature does not exceed 210 degrees Fahrenheit;

(9) boiler or pressure vessels located on farms used solely for agricultural or horticultural purposes; for purposes of this section, boilers used for mint oil extraction are considered used for agricultural or horticultural purposes, provided that the owner or lessee complies with the inspection requirements contained in section 326B.958;

(10) tanks or cylinders used for storage or transfer of liquefied petroleum gases;

(11) unfired pressure vessels in petroleum refineries;

(12) an air tank or pressure vessel which is an integral part of a passenger motor bus, truck, or trailer;

(13) hot water heating and other hot liquid boilers not exceeding a heat input of 750,000 BTU per hour;

(14) hot water supply boilers (water heaters) not exceeding a heat input of 500,000 BTU per hour, a water temperature of 210 degrees Fahrenheit, a nominal water capacity of 120 gallons, or a pressure of 160 p.s.i.g.;

(15) a laundry and dry cleaning press not exceeding five cubic feet of steam volume;

(16) pressure vessels operated full of water or other liquid not materially more hazardous than water, if the vessel's contents' temperature does not exceed ~~140~~ 210 degrees Fahrenheit or a pressure of 200 p.s.i.g.;

(17) steam powered turbines at papermaking facilities which are powered by steam generated by steam facilities at a remote location; ~~and~~

(18) manually fired boilers for model locomotive, boat, tractor, stationary engine, or antique motor vehicles constructed or maintained only as a hobby for exhibition, educational or historical purposes and not for commercial use, if the boilers have an inside diameter of 12 inches or less, or a grate area of two square feet or less, and are equipped with an ASME stamped safety valve of adequate size, a water level indicator, and a pressure gauge~~.~~;

(19) any pressure vessel used as an integral part of an electrical circuit breaker;

(20) pressure vessels used for the storage of refrigerant if they are built to ASME code specifications, registered with the national board, and equipped with an ASME code stamped pressure relieving device set no higher than the maximum allowable working pressure of the vessel. This does not include pressure vessels used in ammonia refrigeration systems;

(21) pressure vessels used for the storage of oxygen, nitrogen, helium, carbon dioxide, argon, or other medical gas, provided the vessel is constructed to ASME or Minnesota Department of Transportation specifications and equipped with an ASME code stamped pressure relieving device;

(22) pressure vessels used for the storage of compressed air for self-contained breathing apparatuses; and

(23) hot water heating boilers vented directly to the atmosphere.

(b) An engineer's license is not required for hot water supply boilers.

(c) An engineer's license is not required for boilers, steam cookers, steam kettles, steam sterilizers or other steam generators not exceeding 100,000 BTU per hour input, 25 kilowatt, ~~2-1/2 horsepower~~ and a pressure of 15 p.s.i.g.

(d) Electric boilers not exceeding a maximum working pressure of 50 p.s.i.g., maximum of 30 kilowatt input or three horsepower rating shall be inspected as pressure vessels and shall not require an engineer license to operate.

Sec. 16. Minnesota Statutes 2008, section 326B.99, is amended to read:

326B.99 REPORT OF INSURER; EXEMPTION FROM INSPECTION.

Subdivision 1. ~~**Report**~~ **Inspection required.** Any insurance company insuring boilers and pressure vessels in this state shall ~~file a report showing the most recent date~~

~~of inspection, the name of the individual making the inspection, the condition of the boiler or pressure vessel as disclosed by the inspection, whether the boiler was operated by a properly licensed engineer, whether a policy of insurance has been issued by the company with reference to the boiler or pressure vessel, and other information as directed by the commissioner.~~ inspect each insured boiler or pressure vessel. Within 21 days after the inspection, the insurance company shall file ~~the~~ an inspection report with the commissioner. ~~The insurer shall provide a copy of the report to the person owning or operating the inspected boiler or pressure vessel.~~ The inspection report shall be on the applicable national board form. The inspection report must indicate who is the properly licensed engineer in charge of the boiler or pressure vessel, including the engineer's license grade, class, and telephone number. Such report shall be made annually for boilers and biennially for pressure vessels, and must be submitted in the format required by the department.

Subd. 2. **Exemption.** Every boiler or pressure vessel as to which any insurance company authorized to do business in this state has issued a policy of insurance, after the inspection thereof, is exempt from inspection by the department made under sections ~~326B.952~~ 326B.93 to 326B.998, ~~while the same continues to be insured and provided it continues to be inspected in accordance with the inspection schedule set forth in sections 326B.958 and 326B.96, and the person owning or operating the same has an unexpired certificate of registration.~~ except the initial inspection by the department under section 326B.96, subdivision 1, as long as:

(1) the boiler or pressure vessel continues to be insured;

(2) the boiler or pressure vessel continues to be inspected in accordance with the inspection schedule in sections 326B.958 and 326B.96; and

(3) the person owning or operating the boiler or pressure vessel has an unexpired certificate of registration.

Subd. 3. **Notice of insurance coverage.** The insurer shall notify the commissioner in writing of its policy to insure and inspect boilers and pressure vessels at a location within 30 days of ~~receipt of notification from the insured that a boiler or pressure vessel is present at an insured location. The insurer must also provide a duplicate of the notification to the insured.~~ the date coverage is provided.

Subd. 4. **Notice of discontinued coverage.** The insurer shall notify the commissioner in writing, within 30 days of the effective date, of the discontinuation of insurance coverage of the boilers and pressure vessels at a location ~~and the cause or reason for the discontinuation if the insurer has received notice from the insured that a boiler or~~

~~pressure vessel is present at an insured location, as provided under subdivision 3~~. This notice shall show the effective date when the discontinued policy takes effect.

Subd. 5. **Penalties.** The commissioner shall assess upon the insurer a $50 penalty, per applicable boiler and pressure vessel, for failing to submit an inspection report or notify the commissioner of insurance coverage or discontinuation of insurance coverage as set forth in this section. The commissioner shall assess upon the insurer a penalty of $100, per applicable boiler and pressure vessel, for failing to conduct the required in-service inspection within ~~120~~ 60 days after the inspection was due ~~in accordance with section 326B.958.~~, or within 60 days of the date of coverage for boilers or pressure vessels that are overdue for inspection. The penalties in this subdivision may only be assessed for notice, reports, and inspections required during the period that the insurance coverage was in effect ~~and for which the insurer has received notice from the insured that a boiler or pressure vessel is present at an insured location, as provided under subdivision 5~~.

Sec. 17. Minnesota Statutes 2008, section 326B.994, subdivision 3, is amended to read:

Subd. 3. **Sale violation.** No manufacturer, ~~jobber,~~ dealer, or other person shall sell or offer for sale a boiler or pressure vessel that does not meet the minimum construction requirements of the ASME boiler and pressure vessel code and the rules of the department.

Sec. 18. Minnesota Statutes 2008, section 326B.998, is amended to read:

326B.998 PENALTY FOR ~~UNLAWFUL OPERATION.~~ OPERATORS.

(a) ~~Every person who shall apply, or cause to be applied, to a boiler or pressure vessel a higher pressure than is allowed by law, or by the inspector, officer, or person authorized to limit the same; and every owner and lessee of a boiler or pressure vessel having knowledge of such application, or of circumstances which would cause such an application, shall be guilty of a gross misdemeanor.~~ No person shall operate or cause to be operated a boiler or pressure vessel at a higher pressure than is indicated on the original manufacturer's data plate attached to the boiler or pressure vessel.

(b) ~~Every captain~~ No master or other person having charge of the machinery of a boat used for the conveyance of passengers in the waters of this state ~~and every~~, or engineer or other person having charge of a boiler, steam engine, or other apparatus for generating or employing steam, ~~who shall willfully, or from ignorance or gross neglect,~~ shall create, or allow to be created any condition whereby human life is endangered~~, and every~~. Every owner and lessee of a boat, boiler, steam engine, or other apparatus for generating or supplying steam who has knowledge of ~~such~~ a condition whereby human life is endangered, or of circumstances which would cause such a condition, ~~shall be guilty~~

~~of a gross misdemeanor.~~ shall take prompt action to correct the condition or circumstances and eliminate the danger to human life.

(c) Any person who violates paragraph (a) or (b) is guilty of a gross misdemeanor.

Sec. 19. **REPEALER.**

(a) Minnesota Statutes 2008, sections 326B.952; 326B.962; 326B.968; 326B.982; and 326B.996, and Minnesota Statutes 2009 Supplement, section 326B.986, subdivision 2, are repealed.

(b) Minnesota Rules, parts 5225.1400; 5225.3100; 5225.3150; and 5225.3200, are repealed.

326B.952 BOILER INSPECTOR; INSPECTIONS; EXAMINATIONS; LICENSES.

Subdivision 1. **All boilers inspected.** The commissioner shall inspect all boilers and pressure vessels in use not expressly excepted from such inspection by law. Upon inspection the commissioner shall issue a certificate of inspection therefor or a certificate condemning the boiler or pressure vessel and shall seal it. Forms for these licenses and certificates shall be prepared and furnished by the commissioner. The commissioner shall examine all applicants for engineer's licenses. The commissioner shall issue such license to an applicant as the examination shall show the applicant is entitled to receive.

Subd. 2. **Inspector's examination.** For the purpose of examining applicants for a National Board of Boiler and Pressure Vessel Inspectors commission, the commissioner shall fix and determine a time and place for the examinations, and give notice to all applicants of the time and place. The commissioner shall grant and sign such license certificates as applicants are entitled to receive upon examination. Applicants may be examined and issued certificates of competency as inspectors of boilers and pressure vessels.

326B.962 TESTS.

In subjecting both high- and low-pressure boilers and pressure vessels to the hydrostatic test, and to determine the safe allowable working pressure, the inspector shall use the latest approved formula of the ASME Code or National Board Inspection Code, as applicable.

326B.968 EXAMINATION FINDING BOILER UNSAFE.

If an inspector examines a boiler or pressure vessel and determines that the boiler or pressure vessel is unsafe, the inspector shall notify the owner or operator of any defect in that boiler or pressure vessel. Such boiler or pressure vessel shall not thereafter be used until the defect is corrected. Boilers found to be operated by unlicensed or improperly licensed persons shall not be used until the operators are properly licensed. If circumstances warrant continued operation, approval may be given for continuing operation for a specific period of time, not to exceed 30 days, at the discretion of the boiler inspector.

326B.982 CERTIFICATE DELIVERY; PAYMENT OF INSPECTION FEES.

Subdivision 1. **Inspection certificate.** After examination and tests of the boiler or pressure vessel being inspected, the boiler inspector shall document the condition of the boiler or pressure vessel as required by the commissioner. The inspector shall issue an inspection certificate, as prescribed by the commissioner, to the owner or operator for the inspected boilers and pressure vessels found to be safe and suitable for use. The inspector shall immediately notify the owner or operator of any deficiencies found on the boilers and pressure vessels during the inspection on a form prescribed by the commissioner.

Subd. 2. **Failure to pay fee.** If the owner or lessee of any boiler or pressure vessel, which boiler or pressure vessel has been duly inspected, refuses to pay the required fee within 30 days from the date of the invoice, the department may seal the boiler or pressure vessel until the fee is paid.

326B.986 FEES FOR INSPECTION.

Subd. 2. **Fee amounts; master's.** The license and application fee for an initial master's license is $70, or $40 if the applicant possesses a valid, unlimited, current United States Coast Guard master's license. The renewal fee for a master's license is $20 for one year or $40 for two years. If the renewal fee is paid later than 30 days after expiration, then a late fee of $15 will be added to the renewal fee.

326B.996 VIOLATIONS BY THOSE RESPONSIBLE FOR OPERATION.

Subdivision 1. **Inspection violation.** No person shall cause to be operated or shall operate any boiler or boat without having the same inspected at least once each year, or pressure vessel, steam farm traction engine, portable or stationary show engine, or portable or stationary show boiler without having it inspected biennially, or without having the proper engineer or master license.

Subd. 2. **Failure to repair.** After any boiler or pressure vessel has been examined and found to be unsafe and after the owner or operator of the boiler or pressure vessel has been notified of any defect in it, no person shall operate the boiler or pressure vessel or cause it to be operated unless and until the defect has been corrected.