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# A BILL FOR AN ACT

RELATING TO THE BOILER AND ELEVATOR SAFETY LAW.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 397-3, Hawaii Revised Statutes, is  
2 amended by adding two new definitions to be appropriately  
3 inserted and to read as follows:

4           "Exclusive employment" means a qualified boiler inspector  
5 who is employed on a full-time or part-time basis to provide  
6 inspection services within the scope of their National Board  
7 commission exclusively for only one authorized inspection agency  
8 or owner-user inspection organization.

9           "Owner-user inspection organization" means an owner or user  
10 of pressure retaining items, whose organization and inspection  
11 procedures meet the requirements of the National Board, and is  
12 approved by the director."

13           SECTION 2. Section 397-4, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15           "(a) Administration.

16           (1) The department shall establish a boiler and elevator  
17 inspection branch for the enforcement of the rules



- 1           adopted under this chapter and other duties as  
2           assigned;
- 3           (2) The department shall:
- 4           (A) Implement and enforce the requirements of this  
5           chapter; and
- 6           (B) Keep adequate and complete records of the type,  
7           size, location, identification data, and  
8           inspection findings for pressure retaining items,  
9           amusement rides, and elevators and kindred  
10          equipment required to be inspected pursuant to  
11          this chapter;
- 12          (3) The department shall formulate definitions and adopt  
13          and enforce standards and rules pursuant to chapter 91  
14          that may be necessary for carrying out this chapter;
- 15          (4) Emergency temporary standards may be adopted without  
16          conforming to chapter 91 and without hearings to take  
17          immediate effect upon giving public notice of the  
18          emergency temporary standards or upon another date  
19          that may be specified in the notice. An emergency  
20          temporary standard may be adopted~~[, if]~~; provided that  
21          the director determines:



1 (A) That the public or individuals are exposed to  
2 grave danger from exposure to hazardous  
3 conditions or circumstances; and

4 (B) That the emergency temporary standard is  
5 necessary to protect the public or individuals  
6 from danger.

7 Emergency temporary standards shall be effective until  
8 superseded by a standard adopted under chapter 91, but  
9 shall not be effective longer than six months;

10 (5) Variances from standards adopted under this chapter  
11 may be granted upon application of an owner, user,  
12 contractor, or vendor. Application for variances  
13 shall correspond to procedures set forth in the rules  
14 adopted pursuant to this chapter. The director may  
15 issue an order for variance, if the director  
16 determines that the proponent of the variance has  
17 demonstrated that the conditions, practices, means,  
18 methods, operations, or processes used or proposed to  
19 be used will provide substantially equivalent safety  
20 as that provided by the standards;

21 (6) Permits.



- 1           (A) The department shall issue a permit to operate  
2           regarding any pressure retaining item, amusement  
3           ride, or elevator and kindred equipment if found  
4           to be safe in accordance with rules adopted  
5           pursuant to chapter 91 and all required fees have  
6           been paid;
- 7           (B) The department may issue an order immediately  
8           revoking or suspending any permit to operate, or  
9           an order prohibiting the use or operation of a  
10          pressure retaining item, amusement ride, or  
11          elevator and kindred equipment when:
- 12           (i) The department finds the pressure retaining  
13           item, amusement ride, or elevator and  
14           kindred equipment to be in an unsafe  
15           condition;
- 16           (ii) A user, owner, or contractor ignores a prior  
17           department order to correct a condition,  
18           defect, or hazard relating to the pressure  
19           retaining item, amusement ride, or elevator  
20           and kindred equipment, and continues to use  
21           or operate the pressure retaining item,



1 amusement ride, or elevator and kindred  
2 equipment without abating the condition,  
3 defect, or hazard identified in the order;  
4 or

5 (iii) A user, owner, or contractor fails to pay  
6 any fee or fine required under this chapter  
7 or any rule adopted under this chapter.

8 The order may be rescinded when the department has  
9 determined that the owner, user, or contractor has  
10 complied with the order to correct the condition,  
11 defect, or hazard identified in the order or has paid  
12 all fees or fines imposed by the department;

13 (C) The department may reissue a permit to operate to  
14 any user, owner, or contractor who demonstrates  
15 that the user, owner, or contractor is proceeding  
16 in good faith to abate all nonconforming  
17 conditions mentioned in department orders and the  
18 pressure retaining items, amusement rides, and  
19 elevators and kindred equipment are safe to  
20 operate; and



1 (D) The department shall establish criteria for the  
2 periodic reinspection and renewal of the permits  
3 to operate, and may provide for the issuance of  
4 temporary permits to operate while any  
5 noncomplying pressure retaining item, amusement  
6 ride, and elevator and kindred equipment are  
7 being brought into full compliance with the  
8 applicable standards and rules adopted pursuant  
9 to this chapter; provided that the period between  
10 an initial safety inspection or the inspection  
11 used as a basis for the issuance of a permit to  
12 operate, and any subsequent inspection of  
13 elevators and kindred equipment shall not exceed  
14 one year;

15 (7) No person shall operate a pressure retaining item,  
16 amusement ride, or elevator and kindred equipment that  
17 is required to be inspected by this chapter or by any  
18 rule adopted pursuant to this chapter, except as  
19 necessary to install, repair, or test, unless a permit  
20 to operate has been authorized or issued by the  
21 department and remains valid; [~~and~~]



1 (8) The department, upon the application of any owner,  
2 user, or other person affected thereby, may grant time  
3 that may reasonably be necessary for compliance with  
4 any order. Any person affected by an order may for  
5 cause petition the department for an extension of  
6 time [-]; and

7 (9) The director shall appoint a chief boiler and pressure  
8 vessel inspector, who shall be a department employee  
9 who represents the State as a voting member of the  
10 National Board and serves as an American Society of  
11 Mechanical Engineers Conference Committee member."

12 SECTION 3. Section 397-6, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) All safety inspections required under this chapter of  
15 pressure retaining items shall be performed by deputy boiler  
16 inspectors in the employ of the department who are qualified  
17 boiler inspectors [~~and, when authorized by~~]; provided that the  
18 director[-] may authorize the safety inspections to be performed  
19 by [special]:

20 (1) Special inspectors, who are qualified boiler  
21 inspectors in the [~~employ~~] exclusive employment of



1 insurance companies insuring pressure retaining items  
2 in this State~~[ ]~~; or

3 (2) Owner-user inspectors, who are qualified boiler  
4 inspectors in the exclusive employment of an  
5 owner-user inspection organization."

6 SECTION 4. Section 397-13, Hawaii Revised Statutes, is  
7 amended by amending subsection (d) to read as follows:

8 "(d) No later than ~~[ten]~~ thirteen years from the date of  
9 the establishment of the revolving fund, the director shall  
10 reimburse the general fund for the amount of any initial  
11 appropriation that was made by the general revenues of the State  
12 to the revolving fund."

13 SECTION 5. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

Director of Labor and Industrial Relations; Boiler and Elevator Safety Law; Owner-User Inspection Organizations

**Description:**

Requires the Director of Labor and Industrial Relations to appoint a Chief Boiler and Pressure Vessel Inspector. Allows the Director to authorize qualified boiler inspectors who are in the exclusive employment of an owner-user inspection organization to perform safety inspections of pressure retaining items. Extends the time by which the Director is required to reimburse the general fund for the initial appropriation made to the Boiler and Elevator Revolving Fund from ten to thirteen years from the date that the fund was established. (CD1)

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