

ACT 142

H.B. NO. 1624

A Bill for an Act Relating to Boiler and Elevator Safety Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 397, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§397- Boiler and elevator safety revolving fund.** There is established a revolving fund for use by the department in providing inspection services for boilers, pressure systems, or elevators and kindred equipment. Moneys in the fund may be expended for materials, salaries, equipment, training, and other costs related to providing inspection services. Moneys derived from the inspection services provided under section 397-5 and from other sources shall be deposited in the fund. The balance of moneys in the fund shall not exceed \$1,200,000; provided that moneys in excess of \$1,200,000 shall be deposited into the state general fund.”

SECTION 2. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**“§36-27 Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school and intersession fund under section 302A-1310;
- (2) School cafeteria special funds of the community colleges and the department of education;

- (3) Special funds of the student housing, summer session, college of continuing education and community service, campus center, Kau‘iokahaloa Iki faculty housing development, and bookstores of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital special fund under section 206X-10.5 and the convention center operations special fund under section 206X-10.6;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Domestic violence prevention special fund under section 321-1.3;
- (11) Spouse and child abuse special account under section 346-7.5;
- (12) Spouse and child abuse special account under section 601-3.6;
- (13) Funds of the employees’ retirement system created by section 88-109;
- (14) Unemployment compensation fund established under section 383-121;
- (15) Hawaii hurricane relief fund established under chapter 431P;
- (16) The University of Hawaii tuition and fees special fund; [and]
- (17) Division of community hospitals’ special funds; and
- (18) Boiler and elevator safety revolving fund established under section 397-;

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 3. Section 397-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Administration.

- (1) The department [of labor and industrial relations] shall establish a boiler and elevator inspection bureau for the enforcement of the rules [and regulations promulgated by the authority of] adopted under this chapter and such other duties as assigned.
- (2) The department shall:
  - (A) Implement and enforce the requirements of this chapter.
  - (B) Keep adequate and complete records of the type, size, location, identification data, and inspection findings for boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter.
- (3) The department shall formulate definitions and adopt and enforce standards[,] and rules [and regulations] pursuant to chapter 91 as may be necessary for carrying out [the purposes and provisions of] this chapter. Definitions[,] and rules [and regulations] adopted in accordance with chapter 91 under the authority of chapter 396, prior to the adoption of this chapter that pertain to boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be

inspected pursuant to this chapter, shall be continued in force under the authority of this chapter.

- (4) Emergency temporary standards may be promulgated without conforming to chapter 91 and without hearings to take immediate effect upon publication of a notice of such emergency temporary standards in a newspaper of general circulation in the State or upon such other date as may be specified in the notice. An emergency temporary standard may be adopted, if the director determines:
  - (A) That the public or individuals are exposed to grave danger from exposure to hazardous conditions or circumstances; and
  - (B) That such emergency standard is necessary to protect the public or individuals from such danger.

Emergency temporary standards shall be effective until superseded by a standard [promulgated in accordance with the procedures set forth in] adopted under chapter 91, but in any case shall be effective no longer than six months.

- (5) Variances from standards [promulgated] adopted under this chapter may be granted upon application of an owner, user, contractor, or vendor. Application for variances must correspond to procedures set forth in the rules [and regulations] adopted pursuant to this chapter. The director may issue an order for variance, if the director determines that the proponent of the variance has demonstrated that the conditions, practices, means, methods, operations, or processes used or proposed to be used will provide substantially equivalent safety as that provided by the standards.

- (6) Permits.

- (A) The department shall not issue a “permit to operate” regarding any boiler, pressure system, or elevator and kindred equipment [unless they are found to be safe by a qualified inspector.] if found to be safe in accordance with rules adopted pursuant to chapter 91.
- (B) The department may immediately revoke any “permit to operate” any boiler, pressure system, or elevator and kindred equipment found to be in an unsafe condition or where a user, owner, or contractor ignores prior department orders to correct specific defects or hazards and continues to use or operate the above mentioned apparatus without abating the hazards or defects.
- (C) The department shall reissue a “permit to operate” to any user, owner, or contractor who demonstrates that the user, owner, or contractor is proceeding in good faith to abate all nonconforming conditions mentioned in department orders and the boilers, pressure systems, and elevators and kindred equipment are safe to operate.
- (D) The department shall establish criteria for the periodic reinspection and renewal of the permits to operate, and may provide for the issuance of temporary permits to operate while any noncomplying boiler, pressure system, and elevator and kindred equipment are being brought into full compliance with the applicable standards and [regulations promulgated] rules adopted pursuant to this chapter[.]; provided that effective July 1, 2000, the period between an initial safety inspection of a boiler, pressure system, or elevator and kindred equipment, or the inspection used as the basis for the issuance of a permit to operate,

and any subsequent inspection, shall not exceed seven months nor be less than five months.

- (7) Certificates of inspection shall be issued for amusement rides after each inspection, if the rides are found to be safe for use.
- (8) No boiler, pressure system, amusement ride,<sup>1</sup> or elevator and kindred equipment which are required to be inspected by this chapter or by any rule [or regulation promulgated] adopted pursuant to this chapter shall be operated, except as necessary to install, repair, or test, unless a permit to operate or certificate of inspection has been authorized or issued by this department and remains valid.
- (9) The department may, upon the application of any owner or user or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order. Any person affected by an order may for cause petition the department for an extension of time.”

SECTION 4. Section 397-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All fees received by the department pursuant to this section shall be paid into the [general fund of the State.] boiler and elevator safety revolving fund established under section 397- .”

SECTION 5. The number of inspectors under chapter 397, Hawaii Revised Statutes, shall be maintained by the department of labor and industrial relations at the same level as of the effective date of this Act until repeal of this Act.

SECTION 6. There is appropriated out of the boiler and elevator safety revolving fund the sum of \$158,000, or so much thereof as may be necessary for fiscal year 1998-1999, to fund the current nine elevator inspector positions.

SECTION 7. The sum appropriated by this Act shall be expended by the department of labor and industrial relations for the purposes<sup>2</sup> boiler and elevator safety revolving fund.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 9. This Act shall take effect upon its approval and shall be repealed on July 31, 2003, except that section 3 of this Act shall not be repealed; provided that sections 36-27 and 397-5(b), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the approval of this Act.

(Approved July 2, 1998.)

#### Notes

1. Comma should be underscored.

2. So in original.

3. Edited pursuant to HRS §23G-16.5.