

AN ACT

To amend sections 121.084, 3713.01, 3713.04, 3713.10, 3713.99, 4104.01, 4104.02, 4104.04, 4104.06 to 4104.10, 4104.101, 4104.14, 4104.15, 4104.17, 4104.18, 4104.21, 4104.99, 4105.01, 4105.10, 4105.16, and 4105.17, to enact new sections 3713.02, 3713.03, 3713.05, 3713.06, 3713.07, 3713.08, and 3713.09 and sections 4104.05 and 4104.19, and to repeal sections 3713.02, 3713.03, 3713.05, 3713.051, 3713.06, 3713.07, 3713.08, 3713.09, 3713.11, 4739.01, 4739.02, 4739.03, 4739.04, 4739.05, 4739.06, 4739.07, 4739.08, 4739.09, 4739.10, 4739.11, 4739.12, 4739.13, 4739.14, 4739.15, 4739.16, and 4739.99 of the Revised Code to modify the laws administered and enforced by the Division of Industrial Compliance governing elevators, boilers, bedding, and stuffed toys.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 121.084, 3713.01, 3713.04, 3713.10, 3713.99, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 4104.09, 4104.10, 4104.101, 4104.14, 4104.15, 4104.17, 4104.18, 4104.21, 4104.99, 4105.01, 4105.10, 4105.16, and 4105.17 be amended and new sections 3713.02, 3713.03, 3713.05, 3713.06, 3713.07, 3713.08, and 3713.09 and sections 4104.05 and 4104.19 of the Revised Code be enacted to read as follows:

Sec. 121.084. (A) All moneys collected under sections 1333.96, ~~3713.02, 3713.06, 3713.07, 3713.09~~, 3783.05, 3791.07, 4104.07, 4104.18, 4104.42, 4104.44, 4104.45, 4105.17, 4105.20, 4169.03, 4171.04, ~~4739.14~~, and 5104.051 of the Revised Code, and any other moneys collected by the division of industrial compliance shall be paid into the state treasury to the credit of the industrial compliance operating fund, which is hereby created. The department of commerce shall use the moneys in the fund for paying

the operating expenses of the division and the administrative assessment described in division (B) of this section.

(B) The director of commerce, with the approval of the director of budget and management, shall prescribe procedures for assessing the industrial compliance operating fund a proportionate share of the administrative costs of the department of commerce. The assessment shall be made in accordance with those procedures and be paid from the industrial compliance operating fund to the division of administration fund created in section 121.08 of the Revised Code.

Sec. 3713.01. As used in sections 3713.01 to ~~3713.11, inclusive,~~ 3713.10 of the Revised Code:

(A) "Person" has the same meaning as used in division (C) of section 1.59 of the Revised Code and also means ~~an individual, group of individuals, partnership, corporation~~ any limited company, limited liability partnership, joint stock company, or other association.

(B) "Bedding" means any upholstered furniture ~~filled with material~~, any mattress, upholstered spring, comforter, bolster, pad, cushion, pillow, mattress protector, quilt, and any other upholstered article, to be used for sleeping, resting, or reclining purposes, and any glider, hammock, or other substantially similar article ~~which~~ that is wholly or partly upholstered.

~~(C) "Material" means any article, substance, or portions thereof used in the manufacture, repair, or renovation of bedding or stuffed toys.~~

~~(D) "New material" means any material which has not been used in the manufacture of another article, or used for any other purpose, and includes by products of machines at mills using only new raw material.~~

~~(E) "Secondhand material" means any material which is not "new."~~

~~(F) "Shredded clippings" means any material which has been spun into yarn, knit or woven in fabric and subsequently cut up, torn up, broken up, ground up or otherwise defabricated and shall be so designated on a bedding or upholstered furniture label only as "shredded clippings."~~

~~(G) "Secondhand articles of bedding" means any article, or material, or portion thereof of bedding which has been put to bodily prior use by, on, or about any person or animal and is sold or offered for sale "as is has been made in any manner whatsoever."~~

~~(H)(D) "Remade, repaired, or renovated articles of bedding not for sale" means any article of bedding that is remade, repaired, or renovated for and is returned to the owner for ~~his~~ the owner's own use.~~

~~(H)(E) "Sale," "sell," or "sold" shall, in the corresponding tense, mean sell, offer to sell, or deliver or consign in sale, or possess with intent to sell, or deliver in sale.~~

~~(J)~~(F) "Upholstered furniture" means any article of furniture wholly or partly stuffed or filled with material and ~~which~~ that is used or intended for use for sitting, resting, or reclining purposes.

~~(K)~~(G) "Stuffed toy" means any article intended for use ~~by children~~, as a plaything, ~~which~~ or for an educational or recreational purpose that is wholly or partially stuffed with material.

~~(L)~~ "Plaything" ~~means any manufactured item for the educational or recreational use of children, or the equivalent thereof.~~

(H) "Tag" or "label" means any material prescribed by the superintendent of industrial compliance to be attached to an article that contains information required under this chapter.

Sec. 3713.02. (A) Except as provided in section 3713.05 of the Revised Code, no person shall import, manufacture, renovate, wholesale, or reupholster stuffed toys or articles of bedding in this state without first registering to do so with the superintendent of industrial compliance in accordance with section 3713.05 of the Revised Code.

(B) No person shall manufacture, offer for sale, sell, deliver, or possess for the purpose of manufacturing, selling, or delivering, an article of bedding or a stuffed toy that is not labeled in accordance with section 3713.08 of the Revised Code.

(C) No person shall manufacture, offer for sale, sell, deliver, or possess for the purpose of manufacturing, selling, or delivering, an article of bedding or a stuffed toy that is falsely labeled.

(D) No person shall sell or offer for sale any secondhand article of bedding or any secondhand stuffed toy that has not been sanitized in accordance with section 3713.08 of the Revised Code.

(E) The possession of any article of bedding or stuffed toy in the course of business by a person required to obtain registration under this chapter, or by that person's agent or servant shall be prima-facie evidence of the person's intent to sell the article of bedding or stuffed toy.

Sec. 3713.03. The superintendent of industrial compliance in the department of commerce shall administer and enforce this chapter.

Sec. 3713.04. ~~The director of commerce~~ (A) In accordance with Chapter 119. of the Revised Code, the superintendent of industrial compliance shall:

~~(A)~~(1) Adopt rules pertaining to the definition, name, and description of materials necessary to carry out this chapter;

~~(B)~~ Make recommendations to the director of administrative services relative to the qualifications and duties of the inspectors provided for in this chapter;

~~(C)~~(2) Determine the testing standards, fees, and charges to be paid for

making any test or analysis required pursuant to section 3713.08 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the superintendent may adopt rules regarding the following:

(1) Establishing an initial application fee or an annual registration renewal fee not more than fifty per cent higher than the fees set forth in section 4713.05 of the Revised Code;

(2) Establishing standards, on a reciprocal basis, for the acceptance of labels and laboratory analyses from other states where the labeling requirements and laboratory analysis standards are substantially equal to the requirements of this state, provided the other state extends similar reciprocity to labels and laboratory analysis conducted under this chapter;

(3) Any other rules necessary to administer and carry out this chapter.

(C) The superintendent may do any of the following:

(1) Issue administrative orders, conduct hearings, and take all actions necessary under the authority of Chapter 119. of the Revised Code for the administration of this chapter. The authority granted under this division shall include the authority to suspend, revoke, or deny registration under this chapter.

(2) Establish and maintain facilities within the department of commerce to make tests and analysis of materials used in the manufacture of bedding and stuffed toys. The superintendent also may designate established laboratories in various sections of the state that are qualified to make these tests. If the superintendent exercises this authority, the superintendent shall adopt rules to determine the fees and charges to be paid for making the tests or analyses authorized under this section.

(3) Exercise such other powers and duties as are necessary to carry out the purpose and intent of this chapter.

~~If there is practical difficulty or undue hardship in carrying out this chapter or any rule adopted by the director, the director may make a variation of such rule if the spirit of such rule is being observed.~~

~~The director may subsequently approve, amend, modify, or rescind the rule governing the condition requiring the variation.~~

Sec. 3713.05. (A) Applications to register to import, manufacture, renovate, wholesale, make, or reupholster stuffed toys or bedding in this state shall be made in writing on forms provided by the superintendent of industrial compliance. The application shall be accompanied by a registration fee of fifty dollars per person unless the applicant engages only in renovation, in which case the registration fee shall be thirty-five dollars.

(B) Upon receipt of the application and the appropriate fee, the

superintendent shall register the applicant and assign a registration number to the registrant.

(C) Notwithstanding section 3713.02 of the Revised Code and division (A) of this section, the following are exempt from registration:

(1) An organization described in section 501(c)(3) of the "Internal Revenue Code of 1986," and exempt from income tax under section 501(a) of that code and that is operated exclusively to provide recreation or social services;

(2) A person who is not regularly engaged in the business of manufacturing, making, wholesaling, or importing stuffed toys but who manufactures or makes stuffed toys as a leisure pursuit and who sells one hundred or fewer stuffed toys within one calendar year;

(3) A person who is not regularly engaged in the business of manufacturing, making, wholesaling, or importing quilts, comforters, pillows, or cushions, but who manufactures or makes these items as a leisure pursuit and who sells five or fewer quilts, ten or fewer comforters, or twenty or fewer pillows or cushions within one calendar year.

(D) Notwithstanding division (C)(2) or (3) of this section, a person exempt under that division must attach a label to each stuffed toy that contains all of the following information:

(1) The person's name and address;

(2) A statement that the person is not registered by the state of Ohio;

(3) A statement that the contents of the product have not been inspected.

Sec. 3713.06. (A) Any person required to register under division (A) of section 3713.02 of the Revised Code who imports bedding or stuffed toys into this state for retail sale or use in this state and any person required to register under division (A) of section 3713.02 of the Revised Code who manufactures bedding or stuffed toys in this state for retail sale or use in this state shall submit a report to the superintendent of industrial compliance, in a form and manner prescribed by the superintendent. The form shall be submitted once every six months and shall show the total number of items of bedding or stuffed toys imported into this state or manufactured in this state. Each report shall be accompanied by a fee of four cents for each item of bedding or stuffed toy imported into this state or manufactured in this state.

(B) Every importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, and every mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, and auction house shall retain records, designated by the superintendent in rule, for the time period established in rule.

(C) Every importer, manufacturer, or wholesaler of stuffed toys or

articles of bedding, and every mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, and auction house shall make sufficient investigation of its records to ensure that the information reported to the superintendent under division (A) of this section is accurate.

Sec. 3713.07. (A) Registration obtained under this chapter expires annually on the last day of the month in the month that the registration was obtained. The superintendent of industrial compliance shall renew the registration in accordance with Chapter 4745. of the Revised Code.

(B) Failure on the part of any registrant to renew registration prior to its expiration, when notified as required in this section, shall not deprive the person of the right to renewal within the ninety days that follow expiration, but the fee to be paid for renewal after its expiration shall be one hundred dollars plus the standard registration fee for the registrant.

(C) If a registrant fails to renew registration within ninety days of the date that it expired, the former registrant shall comply with the registration requirements under section 3713.05 of the Revised Code to obtain valid registration.

Sec. 3713.08. (A) All persons required to register under division (A) of section 3713.02 of the Revised Code manufacturing, making, or wholesaling bedding or stuffed toys, or both, that are sold or offered for sale shall have the material content of their products tested and analyzed at an established laboratory designated by the superintendent of industrial compliance before the bedding or stuffed toys are sold or offered for sale.

(B) Every stuffed toy or item of bedding sold or offered for sale shall have a label affixed to it that reports the contents of the stuffed toy or bedding material in conformity with requirements established by the superintendent, a registration number, and any other identifying information as required by the superintendent.

(C) The seller of any secondhand articles of bedding or stuffed toys shall sanitize all items in accordance with rules established by the superintendent prior to the sale of or the offering for sale of any secondhand articles.

(D) This section does not apply to any of the following:

(1) Persons who meet the qualifications of division (C)(2) or (3) of section 3713.05 of the Revised Code;

(2) The sale of furniture more than fifty years old;

(3) The sale of furniture from the home of the owner directly to the purchaser.

Sec. 3713.09. (A) The superintendent of industrial compliance may appoint inspectors and periodically inspect and investigate any

establishment where bedding or stuffed toys are manufactured, made, remade, renovated, repaired, sanitized, sold, or offered for sale, or where previously used material is processed for use in the manufacture of bedding or stuffed toys.

(1) Each inspector shall make a written report to the superintendent of each examination and inspection complete with the inspector's findings and recommendations. Inspectors may place "off sale" any article of bedding or stuffed toy offered for sale, or found in the possession of any person with the intent to sell, in violation of section 3713.02 of the Revised Code. Inspectors shall perform other duties related to inspection and examination as prescribed by the superintendent.

(2) When articles are placed "off sale" under division (A)(1) of this section, they shall be tagged, and the tag shall not be removed except by an authorized representative of the division of industrial compliance after the violator demonstrates to the satisfaction of the superintendent proof of compliance with the requirements of section 3713.08 of the Revised Code.

(B)(1) When an inspector has cause to believe that any bedding or stuffed toy is not tagged or labeled in accordance with section 3713.08 of the Revised Code, the inspector may open any seam of the bedding or stuffed toy in question to examine the material used or contained within it and take a reasonable amount of the material for testing and analysis and, if necessary, examine any and all purchase records in order to determine the contents or the kind of material used in the bedding or stuffed toy in question. An inspector may seize and hold evidence of any article of bedding, stuffed toy, or material manufactured, made, possessed, renovated, remade, or repaired, sold, or offered for sale contrary to this chapter.

(2) Immediately after seizing articles believed to be in violation of this chapter, the inspector immediately shall report the seizure to the superintendent. The superintendent shall hold a hearing in accordance with Chapter 119. of the Revised Code or make a ruling in the matter. If the superintendent finds that the article of bedding, stuffed toy, or material is not in violation of this chapter, the superintendent shall order the item or items returned to the owner. If the superintendent finds a violation of this chapter, the superintendent may do either of the following:

(a) Return the articles to the owner for proper treatment, tagging or labeling, or other action as ordered by the superintendent, subject to the requirement that the articles be reinspected at cost to the owner, prior to being sold or offered for sale;

(b) Report the violation to the appropriate prosecuting attorney or city law director.

(C) The superintendent, at reasonable times and upon reasonable notice, may examine or cause to be examined the records of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house to determine compliance with this chapter. The superintendent may enter into contracts, pursuant to procedures prescribed by the superintendent, with persons to examine these records to determine compliance with this chapter. These persons may collect and remit to the superintendent any amounts due under this chapter.

(D) Records audited pursuant to division (C) of this section are confidential and shall not be disclosed except as required by section 149.43 of the Revised Code, or as the superintendent finds necessary for the proper administration of this chapter.

(E) In the case of any investigation or examination, or both, that requires investigation or examination outside of this state of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, or of any mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house, the superintendent may require the investigated or examined person to pay the actual expense of the investigation or examination. The superintendent shall provide an itemized statement of actual expenses to the investigated or examined person.

(F) Whenever the superintendent has reason to believe, from the superintendent's own information, upon complaint, or otherwise, that any person has engaged in, is engaging in, or is about to engage in any practice prohibited by this chapter, or when the superintendent has reason to believe that it is necessary for public health and safety, the superintendent may do any of the following:

(1) Investigate violations of this chapter, and for that purpose, may subpoena witnesses in connection with the investigation. The superintendent may make application to the appropriate court of common pleas for an order enjoining the violation of this chapter, and upon a showing by the superintendent that any registrant or person acting in a manner that requires registration has violated or is about to violate this chapter, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

(2) Compel by subpoena the attendance of witnesses to testify in relation to any matter over which the superintendent has jurisdiction and that is the subject of inquiry and investigation by the superintendent, and require the production of any book, paper, or document pertaining to the matter. In case any person fails to file any statement or report, obey any subpoena,

give testimony, or produce any books, records, or papers as required by a subpoena, the court of common pleas of any county in the state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt.

(3) Suspend or revoke the registration of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house;

(4) Submit evidence of the violation or violations to any city prosecutor, city director of law, or prosecuting attorney with authority to prosecute. If the city prosecutor, city director of law, or prosecuting attorney with authority to prosecute fails to prosecute, the superintendent shall submit the evidence to the attorney general who may proceed with the prosecution.

Sec. 3713.10. Sections 3713.01 to 3713.11, inclusive, of the Revised Code All money collected under this chapter shall be governed by and be in accordance with sections 119.01 to 119.13, inclusive, deposited into the state treasury to the credit of the industrial compliance operating fund created under section 121.084 of the Revised Code.

Sec. 3713.99. (A) Whoever violates division (A), (B), or (D) of section 3713.09 3713.02 of the Revised Code shall be fined not less than twenty five nor more than five hundred dollars or imprisoned not more than six months, or both is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates division (C) of section 3713.02 of the Revised Code is guilty of a misdemeanor of the third degree.

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and section 4104.99 of the Revised Code:

(A) "Board of building standards" or "board" means the board established by section 3781.07 of the Revised Code.

(B) "Superintendent" means the ~~office of~~ superintendent of the division of industrial compliance created by section 121.04 of the Revised Code.

(C) "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. "Boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

(D) "Power boiler" means a boiler in which steam or other vapor (to be used externally to itself) is generated at a pressure of more than fifteen psig.

(E) "High pressure, high temperature water boiler" means a water

heating boiler operating at pressures exceeding one hundred sixty psig or temperatures exceeding two hundred fifty degrees Fahrenheit.

(F) "Low pressure boiler" means a steam boiler operating at pressures not exceeding fifteen psig, or a hot water heating boiler operating at pressures not exceeding one hundred sixty psig or temperatures not exceeding two hundred fifty degrees Fahrenheit.

(G) "Unfired pressure vessel" means a ~~vessel in which~~ container for the containment of pressure, either internal or external. This pressure is ~~is~~ may be obtained from an external source or by the application of heat from ~~an~~ a direct or indirect source or any combination thereof.

(H) "Process boiler" means a boiler to which all of the following apply:

(1) The steam in the boiler is either generated or superheated, or both, under pressure or vacuum for use external to itself.

(2) The source of heat for the boiler is in part or in whole from a process other than the boiler itself.

(3) The boiler is part of a continuous processing unit, such as used in chemical manufacture or petroleum refining, other than a steam-generated process unit.

(I) "Stationary steam engine" means an engine or turbine in which the mechanical force arising from the elasticity and expansion action of steam or from its property of rapid condensation or from a combination of the two is made available as a motive power.

Sec. 4104.02. The board of building standards shall:

(A) Formulate rules for the construction, installation, inspection, repair, conservation of energy, and operation of boilers and the construction, inspection, and repair of unfired pressure vessels and for ascertaining the safe working pressures to be carried on such boilers and unfired pressure vessels and the qualification of inspectors of boilers and unfired pressure vessels;

(B) Prescribe tests, if it is considered necessary, to ascertain the qualities of materials used in the construction of boilers and unfired pressure vessels;

(C) Adopt rules regulating the construction and sizes of safety valves for boilers and unfired pressure vessels of different sizes and pressures, for the construction, use, and location of fusible plugs, appliances for indicating the pressure of steam and level of water in the boiler or unfired pressure vessels, and such other appliances as the board considers necessary to safety in operating boilers;

~~(D) Make a standard form of certificate of operation for boilers;~~

~~(E)~~ Establish reasonable fees for the performance of reviews, surveys, or audits of manufacturer's facilities by the division of industrial compliance

for certification by the American society of mechanical engineers and the national board of boiler and pressure vessel inspectors;

(E) The definitions and rules adopted by the board for the construction, installation, inspection, repair, conservation of energy, and operation of boilers and the construction, inspection, and repair of unfired pressure vessels and for ascertaining the safe working pressures to be used on such boilers and unfired pressure vessels shall be based upon and follow generally accepted engineering standards, formulae, and practices established and pertaining to boilers and unfired pressure vessel construction, operation, and safety, and the board may, for this purpose, adopt existing published standards as well as amendments thereto subsequently published by the same authority.

When a person desires to manufacture a special type of boiler or unfired pressure vessel, the design of which is not covered by the rules of the board, ~~he~~ the person shall submit drawings and specifications of such boiler or unfired pressure vessel to the board for investigation, after which the board may permit its installation.

The provisions of sections 119.03 and 119.11 of the Revised Code in particular, and the applicable provisions of Chapter 119. of the Revised Code in general, shall govern the proceedings of the board of building standards in adopting, amending, or rescinding rules pursuant to this section.

Sec. 4104.04. (A) Sections 4104.01 to 4104.20, and section 4104.99 of the Revised Code do not apply to the following boilers and unfired pressure vessels:

- (1) Boilers ~~and~~, unfired pressure vessels, and stationary steam engines under federal control or subject to inspection under federal laws;
- (2) Air tanks located on vehicles operating under the rules of other state authorities and used for carrying passengers, or freight;
- (3) Air tanks installed on the right of way of railroads and used directly in the operation of trains;
- (4) Unfired pressure vessels which are under the regulation and control of the state fire marshal under Chapter 3737. of the Revised Code.

(B) The following boilers and unfired pressure vessels are exempt from the requirements of sections 4104.10, 4104.101, 4104.11, 4104.12, and 4104.13 of the Revised Code, but shall be equipped with such appliances, to insure safety of operation, as are prescribed by the board:

- (1) Portable boilers or unfired pressure vessels when located on farms and used solely for agricultural purposes;
- (2) Steam or vapor boilers carrying a pressure of not more than fifteen psig, which are located in private residences or in apartment houses of less

than six family units;

(3) Hot water boilers operated at pressures not exceeding one hundred sixty psig, or temperatures not exceeding two hundred fifty degrees ~~Fahrenheit~~ fahrenheit, which are located in private residences or in apartment houses of less than six family units;

(4) Unfired pressure vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping system, when located in private residences or in apartment houses of less than six family units;

(5) Portable boilers used in pumping, heating, steaming, and drilling, in the open field, for water, gas, and oil;

(6) Portable boilers used in the construction of and repair to public roads, railroads, and bridges;

(7) Historical steam boilers of riveted construction, preserved, restored, or maintained for hobby or demonstration use.

Sec. 4104.05. (A) No person shall operate a low pressure boiler at more than thirty horsepower, unless one of the following applies to that person:

(1) The person is licensed as a steam engineer, high pressure boiler operator, or low pressure boiler operator in accordance with section 4104.19 of the Revised Code.

(2) The person is working under the direct supervision of a steam engineer, high pressure boiler operator, or low pressure boiler operator.

(B) No person shall operate a power boiler at more than thirty horsepower unless one of the following applies to that person:

(1) The person is licensed as a steam engineer or high pressure boiler operator in accordance with section 4104.19 of the Revised Code.

(2) The person is working under the direct supervision of a steam engineer or high pressure boiler operator.

(C) No person shall operate a stationary steam engine at more than thirty horsepower unless one of the following applies to that person:

(1) The person is licensed as a steam engineer in accordance with section 4104.19 of the Revised Code.

(2) The person is working under the direct supervision of a steam engineer.

(D) For purposes of this section, a horsepower means twelve square feet of boiler heating surface.

Sec. 4104.06. (A) The inspection of boilers and their appurtenances and unfired pressure vessels shall be made by the inspectors mentioned in sections 4104.07 to 4104.20 of the Revised Code, ~~under the supervision of the~~ The superintendent of ~~the division of~~ industrial compliance, ~~and he~~ shall

administer and enforce such sections and rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.

(B) The superintendent shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for conducting hearings in accordance with Chapter 119. of the Revised Code related to these actions, and for the inspection of boilers and their appurtenances, and unfired pressure vessels.

(C) Notwithstanding division (B) of this section, the superintendent shall not adopt rules relating to construction, maintenance, or repair of boilers and their appurtenances, or repair of unfired pressure vessels.

(D) The superintendent and each general inspector may enter any premises and any building or room at all reasonable hours to perform an examination or inspection.

Sec. 4104.07. (A) An application for examination as an inspector of boilers and unfired pressure vessels shall be in writing, accompanied by a fee of fifty dollars, upon a blank to be furnished by the superintendent of ~~the division of~~ industrial compliance. Any moneys collected under this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

(B) The superintendent shall determine if an applicant meets all the requirements for examination in accordance with rules adopted by the board of building standards under section 4104.02 of the Revised Code. An application shall be rejected which contains any willful falsification, or untruthful statements.

(C) An applicant shall be examined by the superintendent, by a written examination, prescribed by the board, dealing with the construction, installation, operation, maintenance, and repair of boilers and unfired pressure vessels and their appurtenances, and the applicant shall be accepted or rejected on the merits of ~~his~~ the applicant's application and examination.

~~A rejected applicant is entitled, after the expiration of ninety days and upon payment of an examination fee of fifty dollars, to another examination.~~

(D) Upon a favorable report by the superintendent of the result of an examination, the superintendent shall immediately issue to the successful applicant a certificate of competency to that effect.

Sec. 4104.08. (A) The director of commerce may appoint from the holders of certificates of competency provided for in section 4104.07 of the Revised Code, general inspectors of boilers and unfired pressure vessels.

(B) Any company authorized to insure boilers and unfired pressure vessels against explosion in this state may designate from holders of

certificates of competency issued by the superintendent of ~~the division of~~ industrial compliance, or holders of certificates of competency or commissions issued by other states or nations whose examinations for certificates or commissions have been approved by the board of building standards, persons to inspect and stamp boilers and unfired pressure vessels covered by the company's policies, and the superintendent shall issue to such persons commissions authorizing them to act as special inspectors. Special inspectors shall be compensated by the company designating them. ~~The board~~

(C) The director of commerce shall establish an annual fee to be charged by the superintendent for each certificate of competency or commission the superintendent issues.

~~Any state or municipal corporation may designate from holders of certificates of competency, issued by the superintendent, persons to inspect and stamp boilers and unfired pressure vessels during construction under such rules as may be adopted by the board, provided the boiler or unfired pressure vessel conforms in every detail with the rules.~~

(D) The superintendent shall issue to each of such appointees general or special inspector a commission to the effect that the holder thereof is authorized to inspect boilers and unfired pressure vessels ~~for the~~ in this state.

(E) No person shall be authorized to act for the state, either as a general inspector or a special inspector, who is directly or indirectly interested in the manufacture or sale of boilers or unfired pressure vessels.

Sec. 4104.09. The certificate of competency issued under section 4104.07 of the Revised Code or the commission provided for in section 4104.08 of the Revised Code may be revoked by the superintendent of ~~the division of~~ industrial compliance for the incompetence or untrustworthiness of the holder thereof, or for willful falsification of any matter or statement contained in ~~his~~ the holder's application or in a report of any inspection. ~~A person whose commission is revoked may appeal in accordance with section 119.12 Chapter 119~~ of the Revised Code. If a certificate or commission is lost or destroyed, a new certificate or commission shall be issued in its place without another examination.

~~All certificates of competency or commissions issued prior to October 15, 1965, are valid unless revoked.~~

Sec. 4104.10. All unfired pressure vessels, except unfired pressure vessels exempt under section 4104.04 of the Revised Code, shall be thoroughly inspected during fabrication and upon completion ~~by either a general or special inspector,~~ and shall not be operated until a copy of the manufacturers' data report, properly executed and signed by the inspector is

filed in the office of the superintendent of ~~the division of~~ industrial compliance. All unfired pressure vessels shall conform in every detail with applicable rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.

Sec. 4104.101. (A) ~~Every contractor~~ No person shall ~~be registered with the division of industrial compliance before installing~~ install or ~~making~~ make major repairs or modifications to any boiler without first registering to do so with the division of industrial compliance.

(B) ~~Every contractor~~ No person shall ~~obtain a permit from the division prior to making an~~ make any installation or major repair or modification of any boiler without first obtaining a permit to do so from the division. The permit application form shall provide the name and address of the owner, location of the boiler, and type of repair or modification that will be made. The application permit fee shall be fifty dollars.

(C) The superintendent of ~~the division of~~ industrial compliance shall require annual registration of all contractors who install, make major repairs to, or modify any boiler. The board of building standards shall establish a reasonable fee to cover the cost of processing registrations.

Sec. 4104.14. The owner or user of a boiler required by sections 4104.01 to 4104.20, ~~inclusive,~~ of the Revised Code; to be inspected shall, after due notice, prepare the boiler for internal and external inspection at the appointed time, by drawing the water from the boiler and removing the manhole and handhole plates and thoroughly cleaning the boiler and its setting. ~~The inspector shall give such owner or user at least fourteen days' notice to prepare the boiler for such inspection, but need not give notice for inspection under operating conditions.~~ The inspector, when making inspections under operating conditions, shall observe the pressure carried and the general condition of each boiler, and ascertain if the safety valve and the appliances for indicating the pressure and level of water in the boiler are in proper working order. No person shall remove or tamper with any safety appliances prescribed by the board of building standards, and no person shall in any manner load the safety valve to a greater pressure than that allowed by the certificate of operation. If in the judgment of the inspector it is advisable to apply a hydrostatic pressure test to the boiler, the owner or user shall prepare the boiler for such test, and apply the test which shall be witnessed by the inspector.

Sec. 4104.15. (A) All certificates of inspection for boilers, issued prior to October 15, 1965, are valid and effective for the period set forth in such certificates unless sooner withdrawn by the superintendent of ~~the division of~~ industrial compliance. The owner or user of any such boiler shall obtain an

appropriate certificate of operation for such boiler ~~on or before the expiration date of such certificate of inspection~~, and shall not operate such boiler, or permit it to be operated ~~after such expiration date~~ unless a certificate of operation has been obtained in accordance with section 4104.17 of the Revised Code.

(B) If, upon making the internal and external inspection required under sections 4104.11, 4104.12, and 4104.13 of the Revised Code, the inspector finds the boiler to be in safe working order, with the fittings necessary to safety, and properly set up, upon ~~his~~ the inspector's report to the superintendent, the superintendent shall issue to the owner or user thereof, or renew, upon application and upon compliance with sections 4104.17 and 4104.18 of the Revised Code, a certificate of operation which shall state the maximum pressure at which the boiler may be operated, as ascertained by the rules of the board of building standards. Such certificates shall also state the name of the owner or user, the location, size, and number of each boiler, and the date of issuance, and shall be so placed as to be easily read in the engine room or boiler room of the plant where the boiler is located, except that the certificate of operation for a portable boiler shall be kept on the premises and shall be accessible at all times.

(C) If an inspector at any inspection finds that the boiler or unfired pressure vessel is not in safe working condition, or is not provided with the fittings necessary to safety, or if the fittings are improperly arranged, ~~he~~ the inspector shall immediately notify the owner or user and person in charge of the boiler and shall report the same to the superintendent who ~~shall withdraw or withhold such~~ may revoke, suspend, or deny the certificate of operation and not renew the same until the boiler or unfired pressure vessel and its fittings are put in condition to insure safety of operation, and the owner or user shall not operate the boiler or unfired pressure vessel, or permit it to be operated until such certificate has been granted or restored.

(D) If the superintendent or a general boiler inspector finds that an unfired pressure vessel or boiler or a part thereof poses an explosion hazard that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons, the superintendent or the general boiler inspector shall seal the unfired pressure vessel or boiler and order, in writing, the operator or owner of the unfired pressure vessel or boiler to immediately cease the unfired pressure vessel's or boiler's operation. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied, or for a period of seventy-two hours from the time of issuance, whichever occurs first. During the seventy-two-hour period, the superintendent may request that the prosecuting attorney or city attorney of

Franklin county or of the county in which the unfired pressure vessel or boiler is located obtain an injunction restraining the operator or owner of the unfired pressure vessel or boiler from continuing its operation after the seventy-two-hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(E) Each boiler which has been inspected shall be assigned a number by the superintendent, which number shall be ~~stamped on the boiler except that in the event the boiler is of cast iron construction such number may be~~ stamped on a nonferrous metal tag affixed to the boiler or its fittings by seal or otherwise. No person except an inspector shall deface or remove any such number or tag.

(F) If the owner or user of any unfired pressure vessel or boiler disagrees with the inspector as to the necessity for shutting down a an unfired pressure vessel or boiler or for making repairs or alterations in it, or taking any other measures for safety that are requested by an inspector, the owner or user may appeal from the decision of the inspector to the superintendent, who may, after such other inspection by a general inspector or special inspector as the superintendent deems necessary, decide the issue.

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, nor an inspection or report by any inspector, shall relieve the owner or user of a ~~steam~~ an unfired pressure vessel or boiler of the duty of using due care ~~himself~~ in the inspection, operation, and repair of the unfired pressure vessel or boiler or of any liability for damages for ~~his~~ failure to inspect, repair, or operate the unfired pressure vessel or boiler safely.

Sec. 4104.17. Certificates of operation issued for boilers subject to inspection under Chapter 4104. of the Revised Code shall be issued and renewed in accordance with and at dates prescribed by rules and regulations adopted by the ~~board of building standards~~ superintendent of industrial compliance.

Sec. 4104.18. (A) The owner or user of a boiler required under section 4104.12 of the Revised Code to be inspected upon installation, and the owner or user of a boiler for which a certificate of inspection has been issued which is replaced with an appropriate certificate of operation, shall pay to the superintendent of ~~the division of~~ industrial compliance a fee in the amount of thirty dollars for boilers subject to annual inspections under section 4104.11 of the Revised Code, sixty dollars for boilers subject to biennial inspection under section 4104.13 of the Revised Code, ninety dollars for boilers subject to triennial inspection under section 4104.11 of the Revised Code, or one hundred fifty dollars for boilers subject to quinquennial inspection under section 4104.13 of the Revised Code ~~before~~

~~any certificate of operation is issued.~~

A renewal fee in the amount of thirty dollars shall be paid to the treasurer of state before the renewal of any certificate of operation is renewed.

(B) The fee for complete inspection during construction by a general inspector on boilers and unfired pressure vessels manufactured within the state shall be thirty-five dollars per hour. Boiler and unfired pressure vessel manufacturers other than those located in the state may secure inspection by a general inspector on work during construction, upon application to the superintendent, and upon payment of a fee of thirty-five dollars per hour, plus the necessary traveling and hotel expenses incurred by the inspector.

(C) The application fee for applicants for steam engineer, high pressure boiler operator, or low pressure boiler operator licenses is fifty dollars. The fee for each original or renewal steam engineer, high pressure boiler operator, or low pressure boiler operator license is thirty-five dollars.

(D) The director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees provided in divisions (A) ~~and~~, (B), ~~and~~ (C) of this section, provided that such fees do not exceed the amounts established in this section by more than fifty per cent. Any moneys collected under this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

~~(D)~~(E) Any person who fails to pay an invoiced renewal fee or an invoiced inspection fee required for any inspection conducted by the division of industrial compliance pursuant to this chapter within forty-five days ~~after the inspection is conducted~~ of the invoice date shall pay a late payment fee equal to twenty-five per cent of the ~~inspection~~ invoiced fee.

~~(E)~~(F) In addition to the fees assessed in divisions (A) and (B) of this section, the board of building standards shall assess the owner or user a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under division (A) of this section and for each inspection conducted under division (B) of this section. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

Sec. 4104.19. (A) Any person seeking a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator shall file a written application with the superintendent on a form prescribed by the superintendent with the appropriate application fee as set forth in section

4104.18 of the Revised Code. The application shall contain information satisfactory to the superintendent to demonstrate that the applicant meets the requirements of division (B) of this section. The application shall be filed with the superintendent not more than sixty days and not less than thirty days before the license examination is offered.

(B) To qualify to take the examination required to obtain a steam engineer, high pressure boiler operator, or low pressure boiler operator license, a person shall meet both of the following requirements:

(1) Be at least eighteen years of age;

(2) Have one year of experience in the operation of steam engines, high pressure boilers, or low pressure boilers as applicable to the type of license being sought, or a combination of experience and education for the type of license sought as determined to be acceptable by the superintendent.

(C) No applicant shall qualify to take an examination or to renew a license if the applicant has violated this chapter or if the applicant has obtained or renewed a license issued under this chapter by fraud, misrepresentation, or deception.

(D) The superintendent shall issue a license to each applicant who receives a passing score on the examination, as determined by the superintendent, for the license for which the applicant applied.

(E) The superintendent shall select and contract with one or more persons to do all of the following relative to the examinations for a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section;

(3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent;

(4) Design the examination for each type of license to determine an applicant's competence to operate the equipment for which the applicant is seeking licensure.

(F) Each license issued under this chapter expires one year after the date of issue. Each person holding a valid, unexpired license may renew the license, without reexamination, by applying to the superintendent not more than ninety days before the expiration of the license, and submitting with the application the renewal fee established in section 4104.18 of the Revised Code. Upon receipt of the renewal information and fee, the superintendent shall issue the licensee a certificate of renewal.

(G) The superintendent, in accordance with Chapter 119. of the Revised Code, may suspend or revoke any license, or may refuse to issue a license under this chapter upon finding that a licensee or an applicant for a license has violated or is violating the requirements of this chapter.

Sec. 4104.21. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the ~~chief of the division of boiler inspection~~ superintendent of industrial compliance shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate or license issued pursuant to this chapter.

Sec. 4104.99. (A) Whoever violates division (A) or (B) of section 4104.101 or section 4104.20 of the Revised Code shall be fined not less than twenty nor more than five hundred dollars is guilty of a misdemeanor of the third degree.

(B) Whoever violates section ~~4104.101~~ 4104.05 of the Revised Code ~~shall be fined not more than five hundred dollars~~ is guilty of a minor misdemeanor.

~~(C) Whoever violates section 4104.46 of the Revised Code shall be fined not less than fifty nor more than one thousand dollars for a first offense; for each subsequent offense such person shall be fined not less than one hundred nor more than five thousand dollars.~~

Sec. 4105.01. As used in this chapter:

(A) "Elevator" means a hoisting and lowering apparatus equipped with a car, cage, or platform which moves on or between permanent rails or guides and serves two or more fixed landings in a building or structure to which section 3781.06 of the Revised Code applies. "Elevator" includes dumb-waiters other than hand-powered dumb-waiters, escalators, manlifts, moving walks, of the endless belt type, other lifting or lowering apparatus permanently installed on or between rails or guides, and all equipment, machinery, and construction related to any elevator; but does not include construction hoists and other similar temporary lifting or lowering apparatuses, ski lifts, traveling, portable amusement rides or devices that are not affixed to a permanent foundation, or nonportable amusement rides or devices that are affixed to a permanent foundation.

(B) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity.

(C) "Freight elevator" means an elevator normally used for carrying freight and on which only the operator and employees in the pursuit of their duties, by the permission of the employer, are allowed to ride.

(D) "Gravity elevator" means an elevator utilizing gravity to move.

(E) "General inspector" means a state inspector examined and hired to inspect elevators and lifting apparatus for that state.

(F) "Special inspector" means an inspector examined and commissioned by the superintendent of the division of industrial compliance to inspect elevators and lifting apparatus in the state.

(G) "Inspector" means either a general or special inspector.

Sec. 4105.10. (A) Every passenger elevator, escalator, moving walk, and freight elevator, including gravity elevators, shall be inspected ~~once~~ twice every ~~six~~ twelve months. ~~Power~~

(B) ~~Power~~ dumb-waiters, hoists, and other lifting or lowering apparatus, not designed to carry persons, permanently installed, either on or between rails or guides, shall be inspected at least once every twelve months.

(C) The board of building standards may designate by rule, classifications of passenger elevators with a capacity of seven hundred fifty pounds or less that shall be inspected once every twelve months.

Sec. 4105.16. Before any new installation of an elevator of permanent nature ~~shall be~~ is erected or before any existing elevator is removed to and installed in a different location, an application of specifications in duplicate shall be submitted to the division of industrial compliance giving such information concerning the construction, installation, and operation of said elevator as the division may require on forms to be furnished by the division, together with complete construction plans in duplicate. In all cases where any changes or repairs are made which alter its construction of classification, grade or rated lifting capacity, except when made pursuant to a report of an inspector, an application of specifications in duplicate shall be submitted to the division, containing such information, or approval, except in those municipal corporations which maintain their own elevator inspection departments, in which event such specifications shall be submitted to the elevator department of the municipal corporation for its approval, and if approved, a permit for the erection or repair of such elevator shall be issued by the municipal corporation. Upon approval of such application and construction plans, the superintendent of ~~the division of~~ industrial compliance shall issue a permit for the erection or repair of such elevator. No new elevator shall be operated until completion in accordance with the approved plans and specifications, unless a temporary permit is granted by the division.

The final inspection, before operation, of a permanent, new or repaired elevator ~~shall be classed as a special inspection. Such final inspection shall be made by a general inspector, but the superintendent may designate or a special inspector of a municipal corporation to make such final inspection of~~

any permanent elevator located in his municipal corporation designated by the superintendent.

Sec. 4105.17. (A) The fee for ~~any~~ each inspection, or attempted inspection that, due to no fault of a general inspector or the division of industrial compliance, is not successfully completed, by a general inspector before the operation of a permanent new elevator prior to the issuance of a certificate of operation, before operation of an elevator being put back into service after a repair, or as a result of the operation of section 4105.08 of the Revised Code and is an elevator required to be inspected under this chapter is ~~thirty twenty~~ dollars plus five ten dollars for each floor where the elevator stops. The superintendent ~~of the division~~ of industrial compliance may assess a an additional fee of one hundred twenty-five dollars plus five dollars for each floor where an elevator stops for the reinspection of an elevator when a previous attempt to inspect that elevator has been unsuccessful through no fault of a general inspector or the division of industrial compliance. ~~The~~

(B) The fee for each inspection, or attempted inspection, that due to no fault of the general inspector or the division of industrial compliance, is not successfully completed by a general inspector before operation of a permanent new escalator or moving walk prior to the issuance of a certificate of operation, before operation of an escalator or moving walk being put back in service after a repair, or as a result of the operation of section 4105.08 of the Revised Code is three hundred dollars. The superintendent of the division of industrial compliance may assess an additional fee of one hundred fifty dollars for the reinspection of an escalator or moving walk when a previous attempt to inspect that escalator or moving walk has been unsuccessful through no fault of the general inspector or the division of industrial compliance.

(C) The fee for issuing or renewing a certificate of operation under section 4105.15 of the Revised Code for an elevator that is inspected every six months in accordance with division (A) of section 4105.10 of the Revised Code is ~~thirty five~~ one hundred five dollars plus ten dollars for each floor where the elevator stops, except where the elevator has been inspected by a special inspector in accordance with section 4105.07 of the Revised Code.

(D) The fee for issuing or renewing a certificate of operation under section 4105.05 of the Revised Code for an elevator that is inspected every twelve months in accordance with division (A) of section 4105.10 of the Revised Code is fifty-five dollars plus ten dollars for each floor where the elevator stops, except where the elevator has been inspected by a special

inspector in accordance with 4105.07 of the Revised Code.

(E) The fee for issuing or renewing a certificate of operation under section 4105.15 of the Revised Code for an escalator or moving walk is three hundred dollars, except where the escalator or moving walk has been inspected by a special inspector in accordance section 4105.07 of the Revised Code.

~~(B)~~(F) All other fees to be charged for any examination given or other service performed by the division of industrial compliance pursuant to this chapter shall be prescribed by the ~~board of building standards established by section 3781.07 of the Revised Code~~ director of commerce. The fees shall be reasonably related to the costs of such examination or other service.

~~(C)~~(G) The ~~board of building standards~~ director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees provided in ~~division~~ divisions (A) and (B) of this section, provided that the fees do not exceed the amounts established in ~~division~~ divisions (A) and (B) of this section by more than fifty per cent. Any moneys collected under this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

~~(D)~~(H) Any person who fails to pay an inspection fee required for any inspection conducted by the division pursuant to this chapter within forty-five days after the inspection is conducted shall pay a late payment fee equal to twenty-five per cent of the inspection fee.

~~(E)~~(I) In addition to the ~~fee~~ fees assessed in ~~division~~ divisions (A), (B), (C), and (D) of this section, the board of building standards shall assess a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under division (A) of this section and for each permit issued under section 4105.16 of the Revised Code. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent ~~of the division~~ of industrial compliance shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

(J) For purposes of this section:

(1) "Escalator" means a power driven, inclined, continuous stairway used for raising or lowering passengers.

(2) "Moving walk" means a passenger carrying device on which passengers stand or walk, with a passenger carrying surface that is uninterrupted and remains parallel to its direction of motion.

SECTION 2. That existing sections 121.084, 3713.01, 3713.04, 3713.10, 3713.99, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 4104.09, 4104.10, 4104.101, 4104.14, 4104.15, 4104.17, 4104.18, 4104.21, 4104.99, 4105.01, 4105.10, 4105.16, and 4105.17 and sections 3713.02, 3713.03, 3713.05, 3713.051, 3713.06, 3713.07, 3713.08, 3713.09, 3713.11, 4739.01, 4739.02, 4739.03, 4739.04, 4739.05, 4739.06, 4739.07, 4739.08, 4739.09, 4739.10, 4739.11, 4739.12, 4739.13, 4739.14, 4739.15, 4739.16, and 4739.99 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____