

OPINION NO. 72-002

Syllabus:

Amended House Bill No. 702, to become effective on January 12, 1972 (Section 4104.11 (B), Revised Code), will not give the Department of Industrial Relations authority to conduct biennial inspections of low pressure boilers in church buildings or associated "Sunday school" facilities.

To: Joe Shump, Director, Dept. of Industrial Relations, Columbus, Ohio
By: William J. Brown, Attorney General, January 18, 1972

Your request for my opinion reads as follows:

"The Boiler Division of the Department of Industrial Relations currently has the responsibility set forth in Chapter 4104 of the Revised Code to inspect or to certify inspection of low pressure boilers at the time of their installation but not thereafter. Under the provisions of amended House Bill 702 to become effective in January 1972, low pressure boilers will be required to be inspected biennially in the buildings specified in section 4104.11 (3) therein amended.

"Some weeks ago a low pressure boiler exploded in a church in Marietta, Ohio, which killed five persons and injured a number of others. The question has now been raised whether, after House Bill 702 becomes effective, the Department of Industrial Relations will have jurisdiction over low pressure boilers in churches or associated church education buildings.

"I respectfully request an Attorney General's Opinion answering the following question:

"When amended House Bill 702 becomes effective, will the Department of Industrial Relations have jurisdiction for biennial inspection of low pressure boilers in church buildings or associated educational facilities in Ohio?"

Chapter 4104, Revised Code, makes provision for state inspection of various types of boilers. Section 4104.02 (A), Revised Code, provides as follows:

"The board of building standards shall:

"(A) Formulate rules and regulations for the construction, installation, inspection, repair, 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;

" * * * * * "

Responsibility for such inspection rests with the chief of the division of boiler inspection under Section 4104.05, Revised Code. And all boilers, with certain specified exceptions, are required to be inspected and certified upon installation and prior to operation under Section 4104.12, Revised Code, which provides:

"All boilers, except boilers mentioned in section 4104.04 of the Revised Code, shall be inspected when installed and shall not be operated until an appropriate certificate of operation has been issued by the chief of the division of boiler inspection. The certificate of operation required by this section shall not be issued for any boiler which has not been thoroughly inspected during construction and upon completion, by either a general or special inspector, and which does not conform in every detail with the rules and regulations formulated by the board of building standards and unless, upon completion, such boiler is distinctly stamped under such rules by such inspector."

Prior to the recent passage of House Bill No. 702, mentioned in your letter, only high pressure boilers were required to undergo further inspection after installation. Section 4104.11, Revised Code, presently reads as follows:

"All power boilers and high pressure, high temperature water boilers and the appurtenances shall be thoroughly inspected internally and externally and under operating conditions at intervals of not more than one year, unless approved for biennial inspection under section 4104.13 of the Revised Code, and shall not be operated at pressures in excess of the safe working pressure stated in the certificate of operation mentioned in sections 4104.12, 4104.13, and 4104.15 of the Revised Code."

However, Amended House Bill No. 702, which is to become effective on January 12, 1972, changes the existing paragraph of Section 4104.11, supra, to subsection (A), and adds a subsection (B) which provides for a biennial inspection of certain low pressure boilers in the following terms:

"(B) All low pressure boilers and their appurtenances in hospitals, rest homes, nursing homes, convalescent homes, children's homes, day-care centers, penal and correctional buildings, schools, and school assembly halls, as such terms are defined by the rules and regulations of the Ohio board of building standards, and all buildings owned by the state or any political subdivision thereof which are open to or used by the public, shall be thoroughly inspected internally and externally under operating conditions at intervals of not more than two years, and shall not be operated at pressures in excess of the safe working pressure stated in the certificate of operation mentioned in sections 4104.12 and 4104.15 of the Revised Code."

You ask whether a biennial inspection of low pressure boilers in church buildings and associated educational facilities will be required under the new subsection (B) of Section 4104.11, supra. It is clear that the General Assembly intended to include the following within the coverage of the new Act: all state and county buildings which are used generally by the public; hospitals, rest homes, and buildings of similar nature and buildings which are occupied by students for a large part of the week, such as schools and school assembly halls. All such buildings and the activities carried on therein are, of course, subject to considerable regulation by the state. The same is not true of churches and such associated buildings as are used for Sunday schools. I think, therefore, that the coverage of Amended House Bill No. 702, supra, was not intended to extend to low pressure boilers in church buildings and associated buildings used for Sunday schools. The new Act refers to "* * * schools and school assembly halls, as such terms are defined by the rules and regulations of the Ohio board of buildings standards * * *." My conclusion is supported by the fact that Chapter BB-61 of the Ohio Building Code, after defining "schoolroom" and "school assembly hall", specifically states that it does not apply to a "room used primarily for religious instruction in connection with a church program, * * *." BB-61-03 (D) (4).

In specific answer to your question it is my opinion, and you are so advised, that Amended House Bill No. 702, to become effective on January 12, 1972 (Section 4104.11 (B), Revised Code), will not give the Department of Industrial Relations authority to conduct biennial inspections of low pressure boilers in church buildings or associated "Sunday school" facilities.