

Boiler Inspector — Inspections by — Whether Steam-Driven Automobiles Subject to Inspection—Duty of Drivers of Steam-Driven Automobiles to Procure Engineer's License.

The laws applicable to inspection of steam-engines held not to apply to steam-driven automobiles.

Operators and drivers of steam-driven automobiles are not required to obtain steam engineer's license.

Jerome G. Locke, Esq.,
Chairman Industrial Accident Board,
Helena, Montana.

My dear Mr. Locke:

You have inquired whether steam-driven motor vehicles are subject to the statutory provisions requiring persons operating steam-engines and machinery to procure licenses, and also the provisions requiring inspection of steam-boilers.

Section 2714 of the Revised Codes of 1921 requires the inspector of boilers to inspect all steam-boilers and steam-generators before the same are used, or in case of new ones, within ninety days after they are put in use. Section 2719 requires that no person shall be granted a license "to operate steam-boilers or steam machinery" unless such person has been examined by the inspector. The same section makes it a misdemeanor to operate any steam-boiler or steam-engine without first obtaining such license, and imposes a penalty of not less than \$50 fine or imprisonment in the county jail. Section 2720 reads as follows:

"Engineers entrusted with the care and management of steam machinery as specified in the preceeding section, must be divided into four classes, namely, first-class engineers, second-class engineers, third-class engineers, and low-pressure engineers. No license shall be granted to any person to perform the duties of a first-class engineer who has not taken and subscribed an oath that he has had at least three years' experience in the operation of steam-boilers and steam machinery, or whose knowledge and experience is not such as to justify the belief that he is competent to take charge of all classes of steam-boilers and steam machinery. No license must be granted to any person to act as a second-

class engineer who has not taken and subscribed an oath that he has had at least two years' experience in the operation of steam-boilers and steam-engines, and is, on examination, found competent to take charge of all classes of steam-boilers and steam machinery not exceeding one hundred horsepower. No license must be granted to any person to act as a third-class engineer who has not served at least one year under a competent engineer, and is found, upon examination, to be sufficiently acquainted with the duties of an engineer to be entrusted with the care of steam-boilers, and of steam machinery not exceeding twenty horsepower. All firemen who have charge of steam-boilers, as to the regulation of feed-water and fuel, where the boilers are so situated as not at all times to be under the eye of the engineer in charge, are required to pass a third-class engineer's examination and procure the same kind of license. All firemen who operate boilers where over thirty pounds pressure per square inch is allowed must hold at least a third-class license. All persons who operate heating boilers or plants, in public buildings where the steam pressure allowed on such boilers is thirty pounds per square inch or less, must procure from an inspector a low-pressure license. Applicants for this grade of license must have at least six months' previous experience in the care and management of low-pressure boilers, and must be found competent, on examination to hold such grade of license. Such license shall not entitle the holder thereof to operate steam-boilers or steam machinery where the boiler pressure allowed is over thirty pounds to the square inch. Engineers holding third-class or higher class of license may operate boilers in heating plants where thirty pounds pressure or less, per square inch is allowed, without obtaining a low-pressure license. All applicants for license as stationary engineers or firemen must be at least eighteen years of age. None of the licenses in this section above named shall entitle the holder thereof to operate a traction-engine, but all persons who are entrusted with the care and management of traction-engines, or boilers on wheels, are required to pass an examination as to their competency to operate such class of machinery and to procure a license to be known as a traction license. Such traction license shall not entitle the holder thereof to operate any other class of steam machinery specified in the preceding section. No license shall be granted to any person to act as a traction engineer who has not had at least six months' experience as firemen on traction-engines and who is not found, upon examination, to be sufficiently acquainted with the duties of a traction engineer to be entrusted with the care of traction-engines. Applicants for traction license must be at least eighteen years of age."

Section 2723 requires fees of from \$3 to \$7.50 for examination of applicants for license. Section 2726 exempts boilers for heating purposes in private residences and classifies dinkey-engines with traction-engines. It also requires owners and users of any "traction-engine or boiler on wheels" to notify the inspector of the location of such boiler on or before the first day of June of each year. The section concludes as follows:

"All other steam-boilers and steam-engines, save as herein exempted, come under the provisions of this article and persons operating same are required to hold the proper grade of license."

Section 2728 reads in part as follows:

"It is unlawful for any person in this state to operate a stationary boiler or steam-engine, or any boiler or steam-engine other than railroad locomotives or other engines and boilers exempted by the provisions of Section 2726 of this code, without a license granted under the provisions of this chapter."

It is obvious from the foregoing that the Legislature was dealing with steam-boilers, engines and machinery as generally used in connection with power-producing, manufacturing, farming and other general purposes, and not with steam-driven automobiles. The requirements of experience and training set forth in the above statute before license can be granted are adapted to the operation of ordinary steam-boilers and engines, and have little relation to the qualifications for operating a steam-driven motor vehicle. While the language above quoted is broad enough to include any and all steam-boilers no matter where found, it is apparent from the language of the statute as a whole that it was not the intention of the Legislature to deal with automobiles.

In *State ex rel. Urbach v. Justus, Sheriff*, 102 N. W. 452, which was a habeas corpus proceeding to release Urbach from imprisonment as a result of conviction of violation of a law similar to ours, in that he had operated without license a steam heating plant in a small apartment house, the court used the following language:

"The act was designed for the better protection of life and property by providing for the inspection of steam vessels and steam boilers used to generate power for the operation of machinery, and requiring that all persons having charge of the operation of the same, and masters and pilots of steamboats on inland waters of the state, be competent and qualified for the service. Section 10, c. 253, p. 410, Laws 1889, provides that no person shall be intrusted with the operation of any 'steam boiler or steam machinery' who has not been examined by an inspector, and found competent and fit to perform the duties of an engineer, and who has not received from such inspector a written license to so act. It further provides that any person who shall operate a steam boiler or steam

machinery of any kind without first obtaining a license shall be guilty of a misdemeanor. This language is somewhat broad, prohibiting, as it does, any person not duly licensed from operating any steam boiler or 'steam machinery of any kind.' Still, when taken in connection with the whole act, we are satisfied it was not intended to cover a case like that at bar."

Similarly while the steam-engine and steam-generating plant of a steam-driven automobile is a steam-engine and a boiler in one sense, it is my opinion that it was not intended to be included in the operation of the above statutes and that it is not a steam-engine, boiler, or steam machinery within the meaning of the statute.

In support of this view it should be noted that steam-driven motor vehicles are included with other motor vehicles in the requirements that the same be registered and licensed, and that persons driving same as a trade or occupation must have chauffeurs' licenses.

Section 3 of Chapter 207 of the Laws of 1919, amending Section 12 of Chapter 75 of the Laws of 1917, reads in part as follows:

"As used in this act the term 'motor vehicle,' shall include all vehicles propelled by any power other than muscular power, except road rollers, traction engines and railroad cars and motor cars running upon stationary rails or tracks."

The presumption is that the Legislature, in enacting this clause, was aware of the requirements of the law that traction-engines were included in the boiler inspection and steam engineers' license law, both having been enacted at the same legislative session, and definitely placed steam-driven motor vehicles in a separate classification from traction-engines. To require a separate examination and licensing by the boiler inspector and a licensing of persons operating the same as steam engineers would be to bring such motor vehicles within the operation of two branches of the law never intended by the Legislature, and would result in double licensing and double charges therefor.

It is, therefore, my opinion that steam-driven automobiles are not subject to the requirements of inspection of steam-boilers by the boiler inspector, and that operators and drivers thereof are not required to obtain steam engineers' licenses.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.