

### **Licenses—State Boiler Inspector—Qualifications.**

A person must have held a first-class stationary engineer's license of the state of Montana for at least five years immediately preceding his appointment before he can qualify as a boiler inspector under the provisions of section 2713, R. C. M. 1921.

October 25, 1927.

George P. Porter, Esq.,  
State Auditor and Commissioner of Insurance,  
Helena, Montana.

My dear Mr. Porter:

You have requested my opinion on the following question:

“Must the stationary engineer hold a license for the five years immediately preceding his appointment as boiler inspector in order to enable him to qualify for that position under the provisions of section 2713 R. C. M. 1921?”

Section 2713, *supra*, provides as follows:

“No person is eligible to hold the office of inspector of boilers and steam-engines who has not had at least ten years of actual experience in the operation of steam-engines, steam-boilers, and steam machinery, and who has not held for at least five years immediately preceding his appointment a first-class stationary engineer's license of the state of Montana, or who is directly or indirectly interested in the manufacture or sale of boilers or steam machinery, or any patented article required to be sold relating thereto.”

This section as originally enacted did not require that a boiler inspector should hold an engineer's license, but only required actual experience and was evidently amended by the legislature so as to assure the public that only qualified engineers should be appointed as boiler inspectors. The words “immediately preceding his appointment” were no doubt inserted for the same purpose, as it is a well-known fact that due to the rapid advancement made in this country in the perfection of engines that a person who was perfectly qualified as an engineer ten years ago might have changed his occupation and because of not keeping himself familiar with the many changes and improvements be entirely disqualified as an engineer at this time.

In construing the statute the intent of the legislature is to be pursued, if possible (section 10520 R. C. M. 1921), and the judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted, or to omit what has been inserted (section 10519 R. C. M. 1921). The terms of the above section are unambiguous and the intent of the legislature is clearly expressed therein.

It is therefore my opinion that a person must have held a first-class stationary engineer's license of the state of Montana for at least five years immediately preceding his appointment before he can qualify as a boiler inspector under the provisions of the statute in question.

Very truly yours,

L. A. FOOT,  
Attorney General.