

No. 346

LICENSES—BOILERS, low pressure—ENGINEERS

Held: 1. Low-pressure license is required for low pressure boilers in public buildings irrespective of fact that steam pressure may be below fifteen pounds, and
2. Safety devices may not be used to take place of licensed engineers.

January 23, 1942.

Mr. John D. Stafford
County Attorney
Cascade County
Great Falls, Montana
Attention: Mr. R. J. Nelson, Deputy

Dear Mr. Stafford:

You ask whether (1) a low-pressure license is required where low pressure cast iron sectional steel boilers carrying not to exceed fifteen pounds of steam pressure are used in public buildings, and (2) safety devices may be used on steam boilers to take the place of a licensed engineer.

Section 2720 of the Revised Codes of Montana, 1935, provides, inter alia:

"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."

While Section 2726, Revised Codes of Montana, 1935, exempts from the operation of the act low-pressure cast iron sectional boilers, carrying not to exceed fifteen pounds of steam pressure, Section 2720, Revised Codes of Montana, 1935, deals specially with those who must secure licenses and is controlling under well-recognized rules of statutory construction.

I am of the opinion, therefore, the first portion of your question should be answered in the affirmative. Inquiry by this office to the department of our state government concerned discloses its past administrative prac-

tice has conformed to the view I have taken. This practice adds weight to the conclusion reached.

Guillot v. State Highway Commission, 102 Mont. 149, 56 Pac. (2nd) 1072.

The second question may be disposed of by quoting the following portion of Section 2728, Revised Codes of Montana, 1935:

"It is unlawful for any person in this state to operate a stationary boiler or steam-engine . . . without a license granted under the provisions of this charter" (chapter ?).

The section, as amended by Chapter 30, Laws of 1939, read "article" rather than "charter."

There is no provision of law authorizing the use of safety appliances in lieu of licensed engineers.

It is my opinion, therefore, your second question must be answered in the negative.

Sincerely yours,

JOHN W. BONNER
Attorney General