

SB 756

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THE STATE SENATE
Wednesday, March 1, 2006

Senate Bill No. 756
As Amended

SENATE BILL NO. 756 - By: LEFTWICH, EASON McINTYRE, SHURDEN and WILSON of the Senate and WILT of the House.

[professions and occupations - Elevator Safety Act - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 1000.2, as amended by Section 3, Chapter 318, O.S.L. 2003 (59 O.S. Supp. 2004, Section 1000.2), is amended to read as follows:

Section 1000.2 A. The Construction Industries Board is hereby created to continue until July 1, 2007, in accordance with the provisions of the Oklahoma Sunset Law. Beginning January 1, 2002, the Board shall regulate the plumbing, electrical and mechanical trades, elevator construction and maintenance trades, and building and construction inspectors through the powers and duties set forth in the Construction Industries Board Act and in the respective licensing acts for such trades.

B. 1. The Board shall be composed of ~~eleven (11)~~ thirteen (13) members appointed by the Governor with the advice and consent of the Senate, as follows:

- 1 a. two members shall have at least ten (10) years'
2 experience in the plumbing trade, of which one shall
3 be a plumbing contractor and one shall be a journeyman
4 plumber,
- 5 b. two members shall have at least ten (10) years'
6 experience in the electrical trade, of which one shall
7 be an electrical contractor and one shall be a
8 journeyman electrician,
- 9 c. two members shall have at least ten (10) years'
10 experience in the mechanical trade, of which one shall
11 be a mechanical contractor and one shall be a
12 mechanical journeyman,
- 13 d. two members shall have at least ten (10) years'
14 experience as a building and construction inspector,
- 15 e. one member shall be a licensed professional engineer
16 and shall have at least ten (10) years' experience in
17 the construction industry,
- 18 f. two members shall have at least ten (10) years'
19 experience in the elevator construction and
20 maintenance trade. Of those members initially
21 appointed pursuant to this subparagraph, one shall be
22 appointed for a term to expire on September 1, 2005,
23 and one member shall be appointed for a term to expire

1 on September 1, 2007. Thereafter, the members shall
2 serve a four-year term as provided in paragraph 2 of
3 this section,

4 ~~f.~~ g. one member shall represent a statewide organization
5 of cities and towns, and

6 ~~g.~~ h. one member shall represent the public and shall not
7 practice, have practiced, or be licensed to practice
8 any of the trades regulated by the Board nor be
9 employed by or be related by blood or marriage within
10 the third degree to any person who practices, has
11 practiced, or is licensed to practice any such trades.

12 2. Members shall be appointed for terms of four (4) years;
13 provided, of those members initially appointed to the Board, five
14 members shall be appointed for two-year terms, beginning September
15 1, 2001, and four members shall be appointed for four-year terms,
16 beginning September 1, 2001, as designated by the Governor. Members
17 shall continue in office until a successor is appointed by the
18 Governor. The Governor shall fill all vacancies and unexpired terms
19 in the same manner as the original appointment of the member whose
20 position is to be filled. Such members may be removed by the
21 Governor for cause.

1 SECTION 2. AMENDATORY 59 O.S. 2001, Section 1000.4, as
2 last amended by Section 1, Chapter 163, O.S.L. 2004 (59 O.S. Supp.
3 2004, Section 1000.4), is amended to read as follows:

4 Section 1000.4 A. 1. Beginning September 1, 2001, pursuant to
5 and in compliance with Article I of the Administrative Procedures
6 Act, the Construction Industries Board shall have the power to
7 adopt, amend, repeal, and promulgate rules as may be necessary to
8 regulate the plumbing, electrical and mechanical trades, and
9 building and construction inspectors. Rules authorized under this
10 section shall not become effective prior to January 1, 2002.

11 2. Beginning January 1, 2002, the Board shall have the power to
12 enforce the provisions of the Construction Industries Board Act, The
13 Plumbing License Law of 1955, the Oklahoma Inspectors Act, the
14 Electrical License Act, the Elevator Safety Act, and the Mechanical
15 Licensing Act.

16 3. In addition to rules promulgated by the Construction
17 Industries Board, rules promulgated by the State Board of Health
18 prior to January 1, 2002, shall be the rules of the Construction
19 Industries Board and shall continue in effect until such rules are
20 amended or repealed by rules promulgated by the Construction
21 Industries Board.

22 4. Any order made or action taken prior to January 1, 2002, by
23 the State Board of Health, the State Department of Health, or the

1 State Commissioner of Health pursuant to the provisions of, or rules
2 promulgated pursuant to, The Plumbing License Law of 1955, the
3 Oklahoma Inspectors Act, the Electrical License Act, the Elevator
4 Safety Act or the Mechanical Licensing Act shall be considered valid
5 and in effect unless rescinded by the Construction Industries Board.

6 B. The Board shall have the following powers:

7 1. Exercise all incidental powers and duties which are
8 necessary to effectuate the provisions of The Plumbing License Law
9 of 1955, the Oklahoma Inspectors Act, the Electrical License Act,
10 the Elevator Safety Act and the Mechanical Licensing Act;

11 2. Serve as a code variance and appeals board for the trades
12 and industries it regulates which do not have statutory code
13 variance and appeals boards;

14 3. Order or subpoena the attendance of witnesses, the
15 inspection of records and premises, and the production of relevant
16 books and papers for the investigation of matters that may come
17 before the Board;

18 4. Initiate disciplinary proceedings, request prosecution of
19 and initiate injunctive proceedings against any person who violates
20 any of the provisions of the Plumbing License Law of 1955, the
21 Oklahoma Inspectors Act, the Electrical License Act, the Elevator
22 Safety Act and the Mechanical Licensing Act;

1 5. Maintain an administrative staff including, but not limited
2 to, a Construction Industries Administrator whose appointment shall
3 be made as provided in Section 1000.6 of this title;

4 6. Establish and levy administrative fines against any person
5 or entity denying the Board or its representatives access to a job
6 site for purposes of enforcing any of the provisions of the Plumbing
7 License Law of 1955, the Oklahoma Inspectors Act, the Electrical
8 License Act, the Elevator Safety Act and the Mechanical Licensing
9 Act; and

10 7. Direct such other expenditures as may be necessary in the
11 performance of its duties including, but not limited to,
12 expenditures for office space, equipment, furnishings and contracts
13 for legal services. All expenditures shall be made pursuant to the
14 Oklahoma Central Purchasing Act.

15 C. After July 1, 2004, the Board shall account for all receipts
16 and expenditures of the monies of the Board, including annually
17 preparing and publishing a statement of receipts and expenditures of
18 the Board for each fiscal year. The Board's annual statement of
19 receipts and expenditures shall be audited by the State Auditor and
20 Inspector or an independent accounting firm, and the audit report
21 shall be certified to the Governor of this state to be true and
22 correct, under oath, by the chair and vice-chair of the Board.

1 D. Effective January 1, 2002, all powers, duties,
2 responsibilities, employees, records, and equipment of the State
3 Board of Health, the State Department of Health, and the State
4 Commissioner of Health relating exclusively to the regulation of the
5 plumbing, electrical and mechanical trades, elevator construction
6 and maintenance trades and building and construction inspectors
7 shall be placed under the authority of the Construction Industries
8 Board. To the extent practicable, this shall include all computer
9 hardware and software used in regulating industries listed in this
10 section. Until July 1, 2004, the State Department of Health shall
11 provide all necessary administrative support, including, but not
12 limited to, office space, equipment, furnishings, and legal staff
13 support for the Board and may manage the Board's funds, subject to
14 Board approval. The Construction Industries Board may contract for
15 additional legal and administrative services as necessary, pursuant
16 to the Oklahoma Central Purchasing Act. Employees shall be under
17 the direction of the Construction Industries Administrator and the
18 Construction Industries Board.

19 E. The Construction Industries Board and the State Board of
20 Health may enter into an agreement for the transfer of personnel
21 into the unclassified service under the direction of the
22 Construction Industries Board effective January 1, 2002. No
23 employee shall be transferred into the unclassified service under

1 the direction of the Construction Industries Board except on the
2 freely given written consent of the employee. All classified
3 employees under the Merit System of Personnel Administration who are
4 not transferred into the unclassified service as provided shall
5 retain the status in the class occupied by the employee on July 1,
6 2001, as allocated by the Office of Personnel Management. The
7 salary of such an employee shall not be reduced as a result of such
8 position allocation. Employees who are transferred as provided
9 shall not be required to accept a lesser grade or salary than that
10 in effect on July 1, 2001. All employees shall retain leave, sick
11 and annual time earned, and any retirement and longevity benefits
12 which have accrued during their tenure in the classified service.
13 The transfer of personnel shall be coordinated with the Office of
14 Personnel Management.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3020 of Title 59, unless there
17 is created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "Elevator Safety
19 Act".

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3021 of Title 59, unless there
22 is created a duplication in numbering, reads as follows:

1 A. The Legislature, finding that the protection of public
2 health and safety requires that elevators and similar devices be
3 installed, maintained, and regularly inspected in compliance with
4 recognized safety standards and codes, declares that elevator
5 contractors, mechanics, and inspectors shall be licensed by this
6 state pursuant to the Elevator Safety Act.

7 B. Effective November 1, 2006, no person shall erect,
8 construct, wire, alter, replace, maintain, remove, or dismantle any
9 elevator unless the person holds a valid elevator mechanic's license
10 pursuant to the Elevator Safety Act and is employed by a person or
11 business entity licensed as an elevator contractor pursuant to the
12 Elevator Safety Act. Any person violating the provisions of this
13 subsection shall be guilty of a misdemeanor and, upon conviction,
14 subject to a fine of not more than One Hundred Dollars (\$100.00) and
15 imprisonment in the county jail for not more than ten (10) days, or
16 both such fine and imprisonment. Each day's violation shall
17 constitute a separate offense. Conviction as provided herein shall
18 not preclude any filing of a civil action.

19 C. Effective November 1, 2006, except as otherwise provided by
20 the Elevator Safety Act, every elevator in this state shall be
21 inspected not less than once each year by an elevator inspector
22 licensed pursuant to the Elevator Safety Act. Not later than
23 November 1, 2006, the owner or lessee of every elevator already in

1 service or put into service by November 1, 2006, shall register the
2 elevator with the Committee on Elevator Safety, giving the type,
3 rated load and speed, name of manufacturer, location of the
4 elevator, and purpose for which used, as well as such other
5 information as the Committee on Elevator Safety may require.
6 Elevators newly constructed or installed on or after November 1,
7 2006, shall be registered and inspected before being put into
8 service.

9 D. The provisions of this act shall not apply to elevators:

10 1. In or adjacent to buildings or excavations owned by the
11 government of the United States or located on federal property; or

12 2. In an existing owner occupied private residence; provided,
13 such elevators shall be inspected if the property owner so requests
14 and pays inspection fees established pursuant to the Elevator Safety
15 Act. Inspection of an elevator in a private residence pursuant to
16 this paragraph shall not cause any other provision of the Elevator
17 Safety Act to apply to the owner with respect to the private
18 residence.

19 E. Nothing in the Elevator Safety Act shall be construed as
20 prohibiting municipalities, counties, or other political
21 subdivisions of the state from enacting and enforcing licensure
22 requirements or safety standards exceeding those required by the
23 Elevator Safety Act.

1 F. Provisions of Sections 863.1 et seq. of Title 19 of the
2 Oklahoma Statutes that are in conflict with provisions of the
3 Elevator Safety Act shall prevail over provisions of the Elevator
4 Safety Act unless the provisions of Section 863.1 et seq. of Title
5 19 of the Oklahoma Statutes are less stringent than the provisions
6 of the Elevator Safety Act.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3022 of Title 59, unless there
9 is created a duplication in numbering, reads as follows:

10 As used in the Elevator Safety Act:

- 11 1. "Board" means the Construction Industries Board;
- 12 2. "Certificate of operation" means a document issued by the
13 Board and affixed to an elevator that indicates that the elevator
14 has been inspected and tested and found to be in compliance with all
15 applicable standards of operation as determined by the Committee on
16 Elevator Safety;
- 17 3. "Certificate of operation - temporary" means a document
18 issued by the Board that permits temporary use of a noncompliant
19 elevator by the general public for not more than thirty (30) days
20 while minor repairs are being completed;
- 21 4. "Committee" means the Committee on Elevator Safety;
- 22 5. a. "Elevator" means any device for lifting or moving
23 people, cargo, or freight within, or adjacent and

1 connected to, a structure or excavation, and includes
2 any escalator, power-driven stairway or stairway chair
3 lift.

4 b. The term "elevator" does not mean any:

5 (1) amusement ride or device subject to inspection
6 and regulation by the Oklahoma Department of
7 Labor,

8 (2) mining equipment subject to inspection and
9 regulation by the Department of Mines,

10 (3) aircraft, railroad car, boat, barge, ship, truck,
11 or other self-propelled vehicle or component
12 thereof;

13 6. "Elevator apprentice" means an unlicensed person who works
14 under the direct supervision of a licensed elevator mechanic;

15 7. "Licensed elevator contractor" means a person or business
16 entity that possesses a valid elevator contractor's license issued
17 pursuant to the provisions of the Elevator Safety Act and is thus
18 entitled to engage in the business of erecting, constructing,
19 installing, altering, servicing, repairing, or maintaining
20 elevators;

21 8. "Licensed elevator inspector" means a person who possesses a
22 valid elevator inspector's license issued pursuant to the provisions

1 of the Elevator Safety Act and is thus entitled to engage in the
2 business of inspecting elevators;

3 9. "Licensed elevator mechanic" means a person who possesses a
4 valid elevator mechanic's license in accordance with the provisions
5 of the Elevator Safety Act and is thus, when employed by a licensed
6 elevator contractor, entitled to install, construct, alter, service,
7 repair, perform electrical work on, test, and maintain elevators;
8 and

9 10. "Private residence" means a separate dwelling or a separate
10 apartment in a multiple dwelling that is occupied by members of a
11 single family unit.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3023 of Title 59, unless there
14 is created a duplication in numbering, reads as follows:

15 A. There is hereby created the Committee on Elevator Safety,
16 which shall consist of nine (9) members, one of whom shall be the
17 Director of the Department of Central Services or the Director's
18 designee, one of whom shall be the Administrator of the Construction
19 Industries Board or the Administrator's designee, and one of whom
20 shall be the State Fire Marshal or the State Fire Marshal's
21 designee. Designees shall serve at the pleasure of the designating
22 authority and shall be voting members. The Governor shall appoint
23 six members of the Committee, one of whom shall have at least five

1 (5) years' experience as an elevator contractor, one of whom shall
2 have at least five (5) years' experience as an elevator mechanic,
3 one of whom shall own property which includes a regulated elevator
4 device, one of whom shall be a licensed architect, one of whom shall
5 be a registered engineer, and one of whom shall be a lay person.
6 Appointments shall be to three-year terms ending June 30; provided,
7 initial terms shall be staggered so that two appointees serve
8 initial terms of one (1) year, two serve initial terms of two (2)
9 years, and two serve full terms initially. No appointed member
10 shall serve more than six (6) consecutive years. Positions held by
11 appointed members who are absent from three consecutive meetings
12 shall be vacated. Vacancies shall be filled for the remainder of
13 the term of appointment in the manner of regular appointments.

14 B. The Governor shall make initial appointments not later than
15 February 1, 2006, and shall convene the Committee not later than
16 March 1, 2006. At its first meeting, the Committee shall elect from
17 among its membership a chair and a vice chair and may at any time
18 elect such other officers as the members deem appropriate. Officers
19 shall be elected annually to terms ending September 30. No member
20 shall serve as chair for more than two (2) consecutive terms.

21 C. The Committee shall meet quarterly and at such other times
22 as the chair determines necessary. The Committee shall be subject
23 to the Oklahoma Open Meeting Act. The chair or vice chair and four

1 additional members shall constitute a quorum. The chair or, in the
2 chair's absence, the vice chair, shall only vote in case of a tie.

3 D. Members who are not state officers or employees shall be
4 entitled to reimbursement for travel expenses pursuant to the State
5 Travel Reimbursement Act.

6 E. Office space, record-keeping, and such other administrative,
7 investigative, and legal services as are necessary for the Committee
8 to perform its duties, including procurement of codes, execution of
9 contracts for consultation with experts, purchase of tests, test
10 materials, and test expertise, preparation and distribution of
11 publications, and arrangements for and conduct of appeal hearings,
12 shall be provided by the Construction Industries Board. Records
13 shall be open to access in compliance with the Oklahoma Open Records
14 Act; provided, test bank items for future use, materials relevant to
15 the development of examination questions, test scoring devices or
16 information, and individual scores shall be confidential, as shall
17 all matters relating to ongoing investigations.

18 F. The Committee is authorized to adopt and promulgate rules
19 pursuant to the Administrative Procedures Act.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3024 of Title 59, unless there
22 is created a duplication in numbering, reads as follows:

1 The Committee on Elevator Safety shall have the following powers
2 and duties:

3 1. The Committee shall:

- 4 a. adopt or determine standards of elevator safety,
- 5 b. license elevator contractors, elevator mechanics, and
6 elevator inspectors,
- 7 c. register elevator apprentices,
- 8 d. determine qualifications for examination, establish
9 application processes, and examine applicants for
10 licensure,
- 11 e. establish terms of licensure and renewal procedures,
- 12 f. attempt to achieve reciprocity agreements whereby
13 licenses issued by other jurisdictions may be accepted
14 in this state in lieu of examination,
- 15 g. establish grounds for revocation, suspension, and
16 nonrenewal of licenses and policies for reinstatement
17 of licenses and for imposition of lesser disciplinary
18 measures,
- 19 h. establish continuing education requirements,
- 20 i. provide for the inspection and certification of
21 elevators,
- 22 j. provide for the enforcement of the Elevator Safety
23 Act,

1 k. hear appeals pursuant to the Administrative Procedures
2 Act, and

3 1. establish a procedure for the reporting of accidents;

4 2. The Committee shall periodically publish examination pass
5 rates, together with such comparative data and analysis as may be
6 useful for interpretation, and the Committee shall publish
7 informational brochures about license examinations that indicate the
8 scope of the examinations, include suggestions about how to prepare
9 for the examinations, and may include sample questions of the type
10 to be expected but shall never include test items that will be used
11 in future examinations. In no case shall information about
12 forthcoming examinations that is not generally available be given to
13 any school, coaching service, or individual privately;

14 3. The Committee shall have subpoena powers and shall have the
15 right to seek injunctive relief to prevent the operation of
16 elevators lacking a certificate of operation after November 1, 2006,
17 or failing inspection. For any violation of the Elevator Safety
18 Act, the Committee may assess an administrative fine of not more
19 than One Hundred Dollars (\$100.00), which fine may be assessed in
20 addition to any other penalties provided pursuant to this act; and

21 4. Fees shall be as follows:

22 Elevator contractor examination	\$100.00
23 Elevator inspector examination	\$100.00

1	Elevator mechanic examination	\$100.00
2	Initial and renewal elevator contractor license	\$100.00
3	Initial and renewal elevator inspector license	\$75.00
4	Initial and renewal elevator mechanic license	\$50.00
5	Annual elevator apprentice registration	\$25.00
6	Late renewal - in addition to license fee	\$10.00
7	Replacement of lost or mutilated license	\$10.00
8	Reinstatement - in addition to license fee	\$100.00
9	Existing elevator - inspection and certification	\$15.00
10	New elevator - inspection and certification	
11	six-tenths (6/10) of one percent (1%) of the total cost of	
12	construction of the elevator	
13	Elevator temporary certification	\$25.00
14	Elevator temporary mechanic	\$10.00 for 30 days

15 All fees received shall be deposited to the Elevator Safety
16 Revolving Fund. It is the intent of the Legislature that fees
17 charged pursuant to the Elevator Safety Act be adjusted to provide
18 sufficient income, but not substantially more than sufficient
19 income, to ensure elevator safety as provided by the Elevator Safety
20 Act. Accordingly, the Committee on Elevator Safety shall make an
21 annual study of the revenues to and expenditures from the Elevator
22 Safety Revolving Fund and shall prepare a report indicating what fee
23 adjustments, if any, the Committee recommends. The report shall be

1 submitted by September 1 each year to the Director of State Finance,
2 the Chair of the Appropriations Committee of the Senate, and the
3 Chair of the Appropriations and Budget Committee of the House of
4 Representatives, and shall be filed with the Construction Industries
5 Board.

6 SECTION 8. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3025 of Title 59, unless there
8 is created a duplication in numbering, reads as follows:

9 There is hereby created in the State Treasury a revolving fund
10 for the Committee on Elevator Safety, to be designated the "Elevator
11 Safety Revolving Fund". The fund shall be a continuing fund, not
12 subject to fiscal year limitations, and shall consist of all fees,
13 fines, and other monies received by the State Department of Health
14 pursuant to the provisions of the Elevator Safety Act. All monies
15 accruing to the credit of the fund are hereby appropriated and may
16 be budgeted and expended by the Department with the concurrence of
17 the Committee on Elevator Safety for the purpose of implementing,
18 administering, or enforcing the provisions of the Elevator Safety
19 Act. Expenditures from the fund shall be made upon warrants issued
20 by the State Treasurer against claims filed as prescribed by law
21 with the Director of State Finance for approval and payment.

1 SECTION 9. REPEALER Sections 1, 2 and 3, Chapter 191,
2 O.S.L. 2002 (59 O.S. Supp. 2004, Sections 3009, 3010 and 3011), are
3 hereby repealed.

4 SECTION 10. This act shall become effective November 1, 2006.

5 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 2-27-06
6 - DO PASS, As Amended and Coauthored.