

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 2423

By: Miller and Jones of the  
House

7 and

8 Johnson (Mike),  
9 Crutchfield, Myers and  
10 Adelson of the Senate

11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to fees and regulation; amending 40  
13 O.S. 2001, Section 141.16, as amended by Section 1,  
14 Chapter 554, O.S.L. 2004 (40 O.S. Supp. 2007, Section  
15 141.16), which relates to the Boiler and Pressure  
16 Vessel Safety Act; increasing certain fees; adding  
17 fees; specifying fund in which portions of certain  
18 fees are deposited; creating the Safety Standards  
19 Revolving Fund; providing source of funding; providing  
20 for expenditures; amending 40 O.S. 2001, Section 461,  
21 as amended by Section 1, Chapter 102, O.S.L. 2003 (40  
22 O.S. Supp. 2007, Section 461), which relates to  
23 amusement rides; modifying definition; providing for  
24 assessment of amusement ride operators; providing for  
certification of amusement ride operators; amending  
Section 2, Chapter 207, O.S.L. 2006 (59 O.S. Supp.  
2007, Section 3021), as amended by Section 16 of  
Enrolled Senate Bill No. 45 of the 2nd Session of the  
51st Oklahoma Legislature, which relates to the  
Elevator Safety Act; providing certain exceptions;  
providing for codification; providing an effective  
date; and declaring an emergency.

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

2 SECTION 1. AMENDATORY 40 O.S. 2001, Section 141.16, as  
3 amended by Section 1, Chapter 554, O.S.L. 2004 (40 O.S. Supp. 2007,  
4 Section 141.16), is amended to read as follows:

5 Section 141.16

6 A. 1. a. Annual certificate of operation fee shall be as  
7 follows:

8 (1) with manway state inspector ~~\$50.00~~

9 \$75.00

10 (2) without manway state inspector ~~\$25.00~~

11 \$50.00

12 (3) any size special - or owner/user

13 inspector ~~\$25.00~~

14 \$50.00

15 (4) each public hot water supply heater

16 (biennially) \$5.00

17 (5) each public boiler

18 inspection/certification \$25.00

19 b. Only one certificate of operation fee per year may be  
20 charged; except an additional fee equal to the  
21 certificate of operation fee may be charged for  
22 witnessing a hydrostatic test required after repairs,  
23 provided a fee equal to the total fees identified in  
24 division (1) or (2) of subparagraph a of this

1 paragraph, whichever is appropriate, and subparagraph  
2 f of paragraph 2 of this subsection may be charged  
3 when the pressure-retaining item is not prepared and  
4 ready pursuant to rules promulgated by the  
5 Commissioner of Labor at the time of the inspection.

6 2. Other Fees

- |    |    |  |            |
|----|----|--|------------|
| 7  | a. | hydrostatic test of steam pipeline per day | \$150.00   |
| 8  |    | (for each additional half-day or           |            |
| 9  |    | part thereof)                              | \$75.00    |
| 10 | b. | shop review fees                           | \$1,250.00 |
| 11 | c. | licensing fees                             |            |
| 12 |    | (1) repair, service, install (annually)    | \$50.00    |
| 13 |    | (2) installer technician                   |            |
| 14 |    | (one-time issuance)                        | \$50.00    |
| 15 |    | (3) boiler operator (biennially)           | \$50.00    |
| 16 | d. | certificate of competency fee              | \$15.00    |
| 17 | e. | examination fee                            | \$50.00    |
| 18 | f. | boiler or pressure vessel inspection       |            |
| 19 |    | fee for certificate inspections by         |            |
| 20 |    | state inspectors                           | \$100.00   |
| 21 | g. | authorized inspector services for weld     |            |
| 22 |    | repairs or alterations, per eight-hour     |            |
| 23 |    | day or part thereof                        | \$300.00   |

1           h.    a fee as established by rule may be  
2                    assessed for the issuance of duplicate  
3                    licenses and certificates, not to exceed            \$10.00

4           B.    All institutions owned or operated by the State of Oklahoma  
5 or its agencies or by any county, municipality or school district,  
6 and such institutions or agencies, and all owners or users of  
7 boilers or pressure vessels of historical significance as specified  
8 in subsection D of Section 141.5 of this title are exempt from the  
9 payment of ~~any~~ only those fees provided for in paragraph 2 of  
10 subsection A of this section.

11           C.    1.    The Except for the revenue listed in paragraph 2 of this  
12 subsection, the Commissioner shall account for and transfer all  
13 ~~fees, except for the fees listed in subparagraphs b, g, and h of~~  
14 ~~paragraph 2 of subsection A of this section,~~ so received to the  
15 State Treasury to the credit of the General Revenue Fund, together  
16 with a detailed report of same.

17                   2.    ~~Shop review fees, authorized inspector services fees and~~  
18 ~~duplicate license and certificate fees shall be deposited to the~~  
19 ~~Department of Labor Revolving Fund created pursuant to Section~~  
20 ~~141.19 of this title.~~

21                   3.    ~~The shop review fees, authorized inspector services fees and~~  
22 ~~duplicate license and certificate fees shall be used for conducting~~  
23 ~~shop reviews, authorized inspector services and for administrative~~  
24 ~~costs~~ The Commissioner shall account for and deposit all fee revenue

1 received and listed in this paragraph to the Safety Standards

2 Revolving Fund created pursuant to subsection E of this section:

3 a. Twenty-five Dollars (\$25.00) of each certificate of  
4 operation fee collected under divisions (1), (2) and  
5 (3) of subparagraph a of paragraph 1 of subsection A  
6 of this section,

7 b. all fees listed in divisions (4) and (5) of  
8 subparagraph a of paragraph 1 of subsection A of this  
9 section, and

10 c. all fees listed in subparagraphs b, g and h of  
11 paragraph 2 of subsection A of this section.

12 D. All fees shall be paid directly to the Department of Labor.

13 E. There is hereby created in the State Treasury a revolving  
14 fund for the Department of Labor to be designated the "Safety  
15 Standards Revolving Fund". The fund shall be a continuing fund, not  
16 subject to fiscal year limitations, and shall consist of monies  
17 collected by the Department and specifically designated for deposit  
18 pursuant to the Boiler and Pressure Vessel Safety Act. Expenditures  
19 from said fund shall be made upon warrants issued by the State  
20 Treasurer against claims filed as prescribed by law with the  
21 Director of State Finance for approval and payment.

22 SECTION 2. AMENDATORY 40 O.S. 2001, Section 461, as  
23 amended by Section 1, Chapter 102, O.S.L. 2003 (40 O.S. Supp. 2007,  
24 Section 461), is amended to read as follows:

1 Section 461. As used in Sections ~~±~~ 460 through ~~±~~ 469 of this  
2 ~~act~~ title:

3 1. "Amusement ride" means a device or combination of devices or  
4 elements that carry, convey, or direct a person or persons over or  
5 through a fixed or restricted course or within a defined area for  
6 the primary purpose of amusement or entertainment. Amusement ride  
7 includes any amusement park device that uses treated water as the  
8 means of transportation, including the structure and water quality  
9 of the device. Amusement ride does not include the operation of  
10 articles of husbandry incidental to any agricultural operation or  
11 the operation of amusement devices of a permanent nature which are  
12 subject to building regulations issued by cities or counties and  
13 existing applicable safety orders;

14 2. "Operator" or "owner" means a person who owns or controls or  
15 has the duty to control the operation of an amusement ride and  
16 includes the state and every state agency, and each county, city and  
17 all private or public corporations and political subdivisions;

18 3. "Certificate of inspection" means a certificate issued by  
19 the Commissioner of Labor which indicates that an inspection of the  
20 ride has been performed pursuant to rules and regulations adopted by  
21 the Department of Labor; and

22 4. "Permanent amusement park ride" means an amusement ride  
23 which is stationary or cannot be easily moved and which is located  
24

1 on the same premises on which it is operated for no less than ninety  
2 (90) days.

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 471 of Title 40, unless there is  
5 created a duplication in numbering, reads as follows:

6 The Oklahoma Department of Labor shall assess the training of  
7 amusement ride operators working in the State of Oklahoma. The  
8 Department shall promulgate rules necessary for certification of  
9 such operators by June 1, 2009.

10 SECTION 4. AMENDATORY Section 2, Chapter 207, O.S.L.  
11 2006 (59 O.S. Supp. 2007, Section 3021), as amended by Section 16 of  
12 Enrolled Senate Bill No. 45 of the 2nd Session of the 51st Oklahoma  
13 Legislature, is amended to read as follows:

14 Section 3021. A. The Legislature, finding that the protection  
15 of public health and safety requires that elevators and similar  
16 devices be installed, maintained, and regularly inspected in  
17 compliance with recognized safety standards and codes, declares that  
18 elevator contractors, elevator mechanics, and elevator inspectors  
19 shall be licensed by this state pursuant to the Elevator Safety Act.

20 B. 1. Effective November 1, 2006, except as otherwise provided  
21 for by the Elevator Safety Act or rules promulgated pursuant  
22 thereto, no person shall erect, construct, install, wire, alter,  
23 replace, maintain, remove, repair, or dismantle any elevator unless  
24 the person holds a valid elevator mechanic's license pursuant to the

1 Elevator Safety Act and is employed by a person or business entity  
2 licensed as an elevator contractor pursuant to the Elevator Safety  
3 Act. Any person violating the provisions of this subsection shall  
4 be guilty of a misdemeanor and, upon conviction, subject to a fine  
5 of not more than Five Hundred Dollars (\$500.00) for the first  
6 offense and up to One Thousand Dollars (\$1,000.00) for each  
7 additional offense, or imprisonment in the county jail for not more  
8 than ten (10) days, or both such fine and imprisonment. Each day's  
9 violation shall constitute a separate offense. Conviction as  
10 provided herein shall not preclude any filing of a civil action.

11 2. The Commissioner of Labor or an authorized representative  
12 may issue a written order for the temporary cessation of operation  
13 of an elevator if it has been determined after inspection to be  
14 hazardous, unsafe, or in violation of any provisions of the Elevator  
15 Safety Act or rules promulgated by the Commissioner. Operations  
16 shall not resume until such conditions are corrected to the  
17 satisfaction of the Commissioner. The Commissioner or an authorized  
18 representative may inspect any elevator without notice. The  
19 Commissioner or an authorized representative may issue a written  
20 order for the temporary cessation of any licensing violations and/or  
21 any violations of any rule or order promulgated pursuant to the  
22 provisions of the Elevator Safety Act.

23 3. Any alleged violator of paragraph 2 of this subsection shall  
24 be afforded an opportunity for a fair and swift administrative

1 hearing. The hearing may be conducted by the Commissioner or  
2 his/her designated hearing officer in conformity with, and records  
3 made thereof as provided by, Sections 308a through 323 of Title 75  
4 of the Oklahoma Statutes.

5 4. Any order issued by the Commissioner or an authorized  
6 representative may be enforced in the district court in an action  
7 for an injunction or writ of mandamus upon the petition of the  
8 district attorney or Attorney General, upon the request of the  
9 Commissioner. Provided further, an injunction without bond may be  
10 granted by the district court to the Commissioner, for the purpose  
11 of enforcing the Elevator Safety Act.

12 C. Effective November 1, 2006, except as otherwise provided by  
13 the Elevator Safety Act, every elevator in this state shall be  
14 subject to the provisions as required by this act. Within six (6)  
15 months of November 1, 2006, the owner or lessee of every elevator  
16 already in service or put into service by November 1, 2006, shall  
17 register the elevator with the Department of Labor, giving the type,  
18 rated load and speed, name of manufacturer, location of the  
19 elevator, and purpose for which used, as well as such other  
20 information as the Commissioner of Labor may require. Elevators  
21 newly constructed or installed on or after November 1, 2006, shall  
22 be registered and inspected before being put into service.

23 D. The provisions of the Elevator Safety Act shall not apply to  
24 elevators that are:

1 1. In or adjacent to buildings or excavations owned by and/or  
2 under the operational control of the government of the United States  
3 or located on federal property and/or a sovereign tribal nation.

4 Such elevators shall be inspected if the authorized representative  
5 of the owner request such an inspection in writing and agrees to pay  
6 inspection fees established pursuant to the Elevator Safety Act; ~~or~~

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

14 3. Located in or adjacent to a building or structure within a  
15 manufacturing, utility or industrial facility. Such elevators shall  
16 be inspected if the authorized representative of the facility  
17 requests such an inspection in writing and agrees to pay inspection  
18 fees established pursuant to the Elevator Safety Act.

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.

24

1 F. Provisions of ~~Sections~~ Section 863.1 et seq. of Title 19 of  
2 the 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 G. No person, firm, or corporation shall interfere with,  
8 obstruct, or hinder by force or otherwise the Commissioner of Labor  
9 or an authorized representative while in the performance of their  
10 duties, or refuse to properly answer questions asked by such  
11 officers pertaining to the laws over which he or she has supervision  
12 under the provisions of the Elevator Safety Act, or refuse them  
13 admittance to any place where an elevator is located which is  
14 affected by the act.

15 SECTION 5. This act shall become effective July 1, 2008.

16 SECTION 6. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

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