

THE HOUSE OF REPRESENTATIVES
Monday, March 3, 2008

Committee Substitute for
House Bill No. 2736

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2736 - By: RENEGAR of the House and CORN of the Senate.

(Professions and occupations – license fees – effective date – emergency)

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

1 SECTION 1. AMENDATORY 59 O.S. 2001, Section 1629, is amended to read
2 as follows:

3 Section 1629. The Oklahoma State Labor Department shall issue to each applicant
4 successfully meeting the qualifications requirements provided in Section ~~5~~ 1628 of this
5 ~~act~~ title, a certificate stating that the applicant has met the certification requirements.
6 The certificate shall be valid for one (1) year unless revoked pursuant to Section ~~8~~ 1631 of
7 this ~~act~~ title.

8 SECTION 2. AMENDATORY 59 O.S. 2001, Section 1634.1, is amended to read
9 as follows:

10 Section 1634.1 Notwithstanding any other provision of law, weldments subject to
11 the provisions of Section 1624 et seq. of ~~Title 59 of the Oklahoma Statutes~~ this title and
12 performed on and after the effective date of this act shall meet the standards of the

1 following codes: American Society of Mechanical Engineers (ASME) Section 9 IX and
2 American Petroleum Institute (API) 1104 and 1107.

3 SECTION 3. AMENDATORY 59 O.S. 2001, Section 1636, is amended to read
4 as follows:

5 Section 1636. A. The certification fee for each welder shall be ~~Twenty-five Dollars~~
6 ~~(\$25.00)~~ Sixty-five Dollars (\$65.00).

7 B. An additional fee of Ten Dollars (\$10.00) shall be paid if the welder's
8 certification has expired prior to renewal.

9 C. The certification fee for each welding inspector shall be One Hundred Dollars
10 (\$100.00). The certification fee for each testing facility shall be Two Hundred Fifty
11 Dollars (\$250.00).

12 ~~B.~~ D. Certificates for welders and testing facilities and welding inspectors shall be
13 issued for a period of one (1) year, and shall be renewed by January 1 of each year for
14 testing facility applicants and welding inspectors, and on the last day of the welder
15 applicant's birth month; provided, however, that no welder applicant shall be required to
16 renew his license more than once during any twelve-month period. Failure to renew the
17 certificates within one (1) year of expiration shall require recertification.

18 SECTION 4. AMENDATORY 59 O.S. 2001, Section 1637, is amended to read
19 as follows:

20 Section 1637. ~~All~~ A. Except for the revenue listed in subsection B of this section, all
21 revenues collected under the provisions of this act shall be paid by the Department of
22 Labor to the State Treasurer and by him placed to the credit of the General Revenue

1 Fund of the state, to be used for governmental functions and to be paid out only pursuant
2 to direct appropriation by the Legislature of the State of Oklahoma.

3 B. Forty Dollars (\$40.00) of each welder certification fee collected under subsection
4 A of Section 1636 of this title shall be deposited in the Safety Standards Revolving Fund
5 created pursuant to Section 463 of Title 40 of the Oklahoma Statutes.

6 SECTION 5. AMENDATORY Section 2, Chapter 207, O.S.L. 2006 (59 O.S.
7 Supp. 2007, Section 3021), is amended to read as follows:

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

13 B. 1. Effective November 1, 2006, except as otherwise provided for by the Elevator
14 Safety Act or rules promulgated pursuant thereto, no person shall erect, construct,
15 install, wire, alter, replace, maintain, remove, repair, or dismantle any elevator unless
16 the person holds a valid elevator mechanic's license pursuant to the Elevator Safety Act
17 and is employed by a person or business entity licensed as an elevator contractor
18 pursuant to the Elevator Safety Act. Any person violating the provisions of this
19 subsection shall be guilty of a misdemeanor and, upon conviction, subject to a fine of not
20 more than Five Hundred Dollars (\$500.00) for the first offense and up to One Thousand
21 Dollars (\$1,000.00) for each additional offense, or imprisonment in the county jail for not
22 more than ten (10) days, or both such fine and imprisonment. Each day's violation shall

1 constitute a separate offense. Conviction as provided herein shall not preclude any filing
2 of a civil action.

3 2. The Commissioner of Labor or an authorized representative may issue a written
4 order for the temporary cessation of operation of an elevator if it has been determined
5 after inspection to be hazardous, unsafe, or in violation of any provisions of the Elevator
6 Safety Act or rules promulgated by the Commissioner. Operations shall not resume until
7 such conditions are corrected to the satisfaction of the Commissioner. The Commissioner
8 or an authorized representative may inspect any elevator without notice. The
9 Commissioner or an authorized representative may issue a written order for the
10 temporary cessation of any licensing violations and/or any violations of any rule or order
11 promulgated pursuant to the provisions of the Elevator Safety Act.

12 3. Any alleged violator of paragraph 2 of this subsection shall be afforded an
13 opportunity for a fair and swift administrative hearing. The hearing may be conducted
14 by the Commissioner or his/her designated hearing officer in conformity with, and
15 records made thereof as provided by, Sections 308a through 323 of Title 75 of the
16 Oklahoma Statutes.

17 4. Any order issued by the Commissioner or an authorized representative may be
18 enforced in the district court in an action for an injunction or writ of mandamus upon the
19 petition of the district attorney or Attorney General, upon the request of the
20 Commissioner. Provided further, an injunction without bond may be granted by the
21 district court to the Commissioner, for the purpose of enforcing the Elevator Safety Act.

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

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

10 1. In or adjacent to buildings or excavations owned by and/or under the operational
11 control of the government of the United States or located on federal property and/or a
12 sovereign tribal nation. Such elevators shall be inspected if the authorized
13 representative of the owner requests such an inspection in writing and agrees to pay
14 inspection fees established pursuant to the Elevator Safety Act; or

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

20 E. Nothing in the Elevator Safety Act shall be construed as prohibiting
21 municipalities, counties, or other political subdivisions of the state from enacting and

1 enforcing licensure requirements or safety standards exceeding those required by the
2 Elevator Safety Act.

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

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

14 SECTION 6. AMENDATORY Section 4, Chapter 207, O.S.L. 2006 (59 O.S.
15 Supp. 2007, Section 3023), is amended to read as follows:

16 Section 3023. A. There is hereby established an Elevator Inspection Bureau in the
17 Department of Labor under the direction of the chief elevator inspector, who shall be
18 responsible to the Commissioner of Labor or a duly authorized representative for the
19 supervision, inspection, alteration, installation, testing, and maintenance of elevators
20 and other such devices within the definitions of the Elevator Safety Act.

1 The Elevator Inspection Bureau shall be furnished with sufficient personnel, deputy
2 inspectors, and clerical aids to perform the assigned duties within the limits prescribed
3 by the Commissioner of Labor.

4 The chief elevator inspector and deputy inspectors, under the supervision of the
5 Commissioner of Labor, shall:

6 1. Take action necessary for the enforcement of the Elevator Safety Act and these
7 rules;

8 2. Make available upon request copies of the rules promulgated by the agency; and

9 3. Issue, suspend, or revoke for cause certificates, licenses, and registrations as
10 may be issued by the provisions of the Elevator Safety Act, and administer other
11 disciplinary actions as prescribed in rules as promulgated by the Commissioner of Labor.

12 B. The Commissioner of Labor is authorized to adopt and promulgate rules
13 pursuant to the Administrative Procedures Act. Definitions, rules, and regulations so
14 adopted shall be based upon and follow generally accepted national engineering
15 standards, formula, and practices. The Commissioner of Labor may adopt an existing
16 American national standard known as the Safety Code for Elevators and Escalators of
17 the American Society of Mechanical Engineers (“ASME”).

18 C. Under the provisions of the Elevator Safety Act, the Commissioner of Labor is
19 responsible to provide rules for the safety of life, limb, and property and therefore has
20 jurisdiction over the interpretation and application of the inspection requirements as
21 provided for in the rules. Inspection during construction and installation shall certify as
22 to the minimum requirements for safety as defined in the American Society of

1 Mechanical Engineers Code or other construction standards acceptable to the
2 Commissioner of Labor. Inspection requirements of operating equipment shall be in
3 accordance with generally accepted practice and compatible with the actual service
4 conditions such as:

- 5 1. History of previous experience, previous records of inspection, performance, and
6 maintenance;
- 7 2. Location, with respect to personnel hazard;
- 8 3. Quality of inspection and operating personnel;
- 9 4. Provisions for related safe operating controls; and
- 10 5. Interrelation with other operations outside the scope of the Elevator Safety Act.

11 D. Inspections required by the Elevator Safety Act shall be conducted by inspectors
12 licensed by the Department of Labor.

13 E. Inspections conducted for the issuance of a certificate of operation may be
14 performed by:

- 15 1. The chief elevator inspector or deputy elevator inspector who at the time of
16 inspection possesses a valid elevator inspector's license issued by the Department of
17 Labor; or
- 18 2. An elevator inspector employed by the liability insurance company of record of
19 the owner of the elevator or device who at the time of inspection is in possession of a
20 valid elevator inspector's license issued by the Department of Labor.

1 F. Elevators, escalators, and other such devices within the definitions of the
2 Elevator Safety Act shall receive an inspection for the purpose of obtaining a certificate
3 of operation:

4 1. ~~Two-floor to four-floor~~ All elevator units, ~~not to exceed two (2) years~~ annually;

5 2. ~~Any wire-rope elevator, regardless of floors, annually~~;

6 3. Escalators and moving walkways, annually;

7 4. 3. Wheelchair lifts, triennially;

8 5. 4. Temporary elevators shall be inspected at each erection; and

9 6. 5. Any elevator or other such device subject to the provisions of the Elevator
10 Safety Act located in a structure whose occupants are mobility restricted, such as
11 hospitals, nursing homes, and residential care facilities, shall be inspected annually.

12 SECTION 7. AMENDATORY Section 5, Chapter 207, O.S.L. 2006 (59 O.S.
13 Supp. 2007, Section 3024), is amended to read as follows:

14 Section 3024. A. The Commissioner of Labor shall have the following powers and
15 duties:

16 1. The Commissioner shall:

17 a. adopt or determine standards of elevator safety,

18 b. license elevator contractors, elevator mechanics, and elevator
19 inspectors,

20 c. register elevator apprentices,

21 d. determine qualifications for examination, establish application
22 processes, and examine applicants for licensure,

- 1 e. establish terms of licensure and renewal procedures,
2 f. attempt to achieve reciprocity agreements whereby licenses issued by
3 other jurisdictions may be accepted in this state in lieu of examination,
4 g. establish grounds for revocation, suspension, and nonrenewal of
5 licenses and policies for reinstatement of licenses and for imposition of
6 lesser disciplinary measures,
7 h. establish continuing education requirements,
8 i. provide for the inspection and certification of elevators,
9 j. provide for the enforcement of the Elevator Safety Act,
10 k. hear appeals pursuant to the Administrative Procedures Act, and
11 l. establish a procedure for the reporting and investigation of accidents;

12 2. The Commissioner shall publish informational brochures about license
13 examinations that indicate the scope of the examinations, include suggestions about how
14 to prepare for the examinations, and may include sample questions of the type to be
15 expected, but shall never include test items that will be used in future examinations. In
16 no case shall information about forthcoming examinations, that is not generally
17 available, be given to any school, coaching service, or individual privately; and

18 3. The Commissioner shall have subpoena powers and shall have the right to seek
19 injunctive relief to prevent the operation of elevators lacking a certificate of operation
20 after November 1, 2006, or failing inspection. For any violation of the Elevator Safety
21 Act, the Commissioner may assess an administrative fine of not more than Five Hundred

1 Dollars (\$500.00), which fine may be assessed in addition to any other penalties provided
2 pursuant to the Elevator Safety Act.

3 B. Fees shall be as follows:

4	1. Elevator contractor examination	\$100.00
5	2. Elevator inspector examination	\$100.00
6	3. Elevator mechanic examination	\$100.00
7	4. Initial and renewal elevator	
8	contractor license	\$100.00
9	5. Initial and renewal elevator inspector	
10	<u>License license</u>	\$ 75.00
11	6. Initial and renewal elevator mechanic	
12	<u>License license</u>	\$ 50.00
13	7. Annual elevator apprentice registration	\$ 25.00
14	8. Late renewal - in addition to license fee	\$ 10.00
15	9. Replacement of lost or mutilated license	\$ 10.00
16	10. Reinstatement - in addition to license fee	\$100.00
17	11. Existing elevator <u>Elevator</u> - certification of	
18	operation	\$ 25.00
19	12. New elevator - inspection and certification	\$150.00
20	13. Elevator temporary certification	\$ 25.00
21	14. <u>13.</u> Elevator temporary mechanic license	
22	for 30 days	\$ 10.00

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 ~~15.~~ 14. Labor for chief elevator inspector or
2 deputy elevator inspector to perform
3 inspection for issuance of certificate
4 of operation or for the witnessing of
5 any periodic test required by the act:

6	a.	any escalator or moving walkway	\$125.00 <u>\$250.00</u>
7	b.	elevator, two-four floors	\$75.00 <u>\$125.00</u>
8	c.	elevator, five-ten floors	\$100.00 <u>\$225.00</u>
9	d.	elevator, eleven floors and over	\$125.00 <u>\$325.00</u>
10	e.	wheelchair lift	\$25.00 <u>\$50.00</u>

11 C. All revenues received shall be deposited to the Elevator Safety Revolving Fund.

12 It is the intent of the Legislature that fees charged pursuant to the Elevator Safety Act
13 be adjusted to provide sufficient income, but not substantially more than sufficient
14 income, to ensure elevator safety as provided by the Elevator Safety Act. Accordingly,
15 the Commissioner of Labor shall make an annual study of the revenues to and
16 expenditures from the Elevator Safety Revolving Fund and shall prepare a report
17 indicating what fee adjustments, if any, shall be recommended. The report shall be
18 submitted by September 1 each year to the Director of State Finance, the Chair of the
19 Appropriations Committee of the Senate, and the Chair of the Appropriations and
20 Budget Committee of the House of Representatives, and shall be filed with the
21 Department of Labor.

1 D. Licenses and certifications issued in accordance with the provisions of the
2 Elevator Safety Act shall be renewed according to the following schedule:

3 1. Elevator contractor, ~~elevator inspector, elevator mechanic licenses and elevator~~
4 ~~apprentice registration~~ shall be renewed annually prior to the last day of the calendar
5 month in which the license ~~or registration~~ was initially issued. Until June 30, 2008, no
6 elevator inspection license, elevator mechanic license, or elevator apprentice registration
7 shall be issued for longer than one (1) year, and all licenses or registration shall expire on
8 June 30 of each year. Such licenses may be renewed upon application and payment of
9 fees within thirty (30) days preceding or following June 30 of each year, or the date the
10 license renewal is due. Beginning July 1, 2008, all licenses or registration shall expire on
11 the birth date of the licensee. The Oklahoma Department of Labor shall establish by
12 rule a method for prorating license fees to coincide with the birth date of the licensee;

13 2. Any such license, registration or certificate required by the Elevator Safety Act
14 not renewed by the last day of the calendar month in which renewal is required shall be
15 subject to a late fee as provided by this act;

16 3. Any elevator contractor, elevator inspector, elevator mechanic license or
17 apprentice registration having been expired for a period of not less than thirty (30) days
18 nor more than three hundred sixty-five (365) days shall be subject to a reinstatement fee
19 as provided for in the Elevator Safety Act; and

20 4. Any elevator contractor, elevator inspector, elevator mechanic license or
21 apprentice registration being expired for a period of one (1) year or longer from the last

1 day of the month in which renewal was required shall be considered void and the licensee
2 shall be subject to all requirements for new issuance.

3 SECTION 8. This act shall become effective July 1, 2008.

4 SECTION 9. It being immediately necessary for the preservation of the public
5 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
6 this act shall take effect and be in full force from and after its passage and approval.

7 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
8 FINANCIAL SERVICES, dated 02-28-08 - DO PASS, As Amended and Coauthored.