

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 2736

6 By: Renegar

7 COMMITTEE SUBSTITUTE

8 ( Professions and occupations - license fees -  
9 effective date -

10 emergency )

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12  
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

1 Section 1634.1 Notwithstanding any other provision of law,  
2 weldments subject to the provisions of Section 1624 et seq. of Title  
3 ~~59 of the Oklahoma Statutes~~ this title and performed on and after  
4 the effective date of this act shall meet the standards of the  
5 following codes: American Society of Mechanical Engineers (ASME)  
6 Section ~~9~~ IX and American Petroleum Institute (API) 1104 and 1107.

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

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

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

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

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

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

3 Section 1637. ~~All~~ A. Except for the revenue listed in  
4 subsection B of this section, all revenues collected under the  
5 provisions of this act shall be paid by the Department of Labor to  
6 the State Treasurer and by him placed to the credit of the General  
7 Revenue Fund of the state, to be used for governmental functions and  
8 to be paid out only pursuant to direct appropriation by the  
9 Legislature of the State of Oklahoma.

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

14 SECTION 5. AMENDATORY Section 2, Chapter 207, O.S.L.  
15 2006 (59 O.S. Supp. 2007, Section 3021), is amended to read as  
16 follows:

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

23 B. 1. Effective November 1, 2006, except as otherwise provided  
24 for by the Elevator Safety Act or rules promulgated pursuant

1 thereto, no person shall erect, construct, install, wire, alter,  
2 replace, maintain, remove, repair, or dismantle any elevator unless  
3 the person holds a valid elevator mechanic's license pursuant to the  
4 Elevator Safety Act and is employed by a person or business entity  
5 licensed as an elevator contractor pursuant to the Elevator Safety  
6 Act. Any person violating the provisions of this subsection shall  
7 be guilty of a misdemeanor and, upon conviction, subject to a fine  
8 of not more than Five Hundred Dollars (\$500.00) for the first  
9 offense and up to One Thousand Dollars (\$1,000.00) for each  
10 additional offense, or imprisonment in the county jail for not more  
11 than ten (10) days, or both such fine and imprisonment. Each day's  
12 violation shall constitute a separate offense. Conviction as  
13 provided herein shall not preclude any filing of a civil action.

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

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1 any violations of any rule or order promulgated pursuant to the  
2 provisions of the Elevator Safety Act.

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

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

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

1 newly constructed or installed on or after November 1, 2006, shall  
2 be registered and inspected before being put into service.

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

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

8 Such elevators shall be inspected if the authorized representative  
9 of the owner requests such an inspection in writing and agrees to  
10 pay inspection fees established pursuant to the Elevator Safety Act;  
11 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.

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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 6. AMENDATORY Section 4, Chapter 207, O.S.L.  
16 2006 (59 O.S. Supp. 2007, Section 3023), is amended to read as  
17 follows:

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

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

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

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

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

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

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

23 C. Under the provisions of the Elevator Safety Act, the  
24 Commissioner of Labor is responsible to provide rules for the safety

1 of life, limb, and property and therefore has jurisdiction over the  
2 interpretation and application of the inspection requirements as  
3 provided for in the rules. Inspection during construction and  
4 installation shall certify as to the minimum requirements for safety  
5 as defined in the American Society of Mechanical Engineers Code or  
6 other construction standards acceptable to the Commissioner of  
7 Labor. Inspection requirements of operating equipment shall be in  
8 accordance with generally accepted practice and compatible with the  
9 actual service conditions such as:

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

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

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

- 21 1. The chief elevator inspector or deputy elevator inspector  
22 who at the time of inspection possesses a valid elevator inspector's  
23 license issued by the Department of Labor; or

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1           2. An elevator inspector employed by the liability insurance  
2 company of record of the owner of the elevator or device who at the  
3 time of inspection is in possession of a valid elevator inspector's  
4 license issued by the Department of Labor.

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

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

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

11          ~~3.~~ Escalators and moving walkways, annually;

12          ~~4.~~ 3. Wheelchair lifts, triennially;

13          ~~5.~~ 4. Temporary elevators shall be inspected at each erection;

14 and

15          ~~6.~~ 5. Any elevator or other such device subject to the  
16 provisions of the Elevator Safety Act located in a structure whose  
17 occupants are mobility restricted, such as hospitals, nursing homes,  
18 and residential care facilities, shall be inspected annually.

19           SECTION 7.           AMENDATORY           Section 5, Chapter 207, O.S.L.  
20 2006 (59 O.S. Supp. 2007, Section 3024), is amended to read as  
21 follows:

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

24           1. The Commissioner shall:

- a. adopt or determine standards of elevator safety,
- b. license elevator contractors, elevator mechanics, and elevator inspectors,
- c. register elevator apprentices,
- d. determine qualifications for examination, establish application processes, and examine applicants for licensure,
- e. establish terms of licensure and renewal procedures,
- f. attempt to achieve reciprocity agreements whereby licenses issued by other jurisdictions may be accepted in this state in lieu of examination,
- g. establish grounds for revocation, suspension, and nonrenewal of licenses and policies for reinstatement of licenses and for imposition of lesser disciplinary measures,
- h. establish continuing education requirements,
- i. provide for the inspection and certification of elevators,
- j. provide for the enforcement of the Elevator Safety Act,
- k. hear appeals pursuant to the Administrative Procedures Act, and
- l. establish a procedure for the reporting and investigation of accidents;

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

9           3. The Commissioner shall have subpoena powers and shall have  
10 the right to seek injunctive relief to prevent the operation of  
11 elevators lacking a certificate of operation after November 1, 2006,  
12 or failing inspection. For any violation of the Elevator Safety  
13 Act, the Commissioner may assess an administrative fine of not more  
14 than Five Hundred Dollars (\$500.00), which fine may be assessed in  
15 addition to any other penalties provided pursuant to the Elevator  
16 Safety Act.

17           B. Fees shall be as follows:

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|--|----------|
| 18           1. Elevator contractor examination        | \$100.00 |
| 19           2. Elevator inspector examination         | \$100.00 |
| 20           3. Elevator mechanic examination          | \$100.00 |
| 21           4. Initial and renewal elevator           |          |
| 22                contractor license                   | \$100.00 |
| 23           5. Initial and renewal elevator inspector |          |
| 24 <del>license</del> <u>license</u>                   | \$ 75.00 |

1	6. Initial and renewal elevator mechanic		
2	License <u>license</u>		\$ 50.00
3	7. Annual elevator apprentice registration		\$ 25.00
4	8. Late renewal - in addition to license fee		\$ 10.00
5	9. Replacement of lost or mutilated license		\$ 10.00
6	10. Reinstatement - in addition to license fee		\$100.00
7	11. <del>Existing elevator</del> <u>Elevator</u> - certification of		
8	operation		\$ 25.00
9	12. <del>New elevator - inspection and certification</del>		<del>\$150.00</del>
10	<del>13.</del> Elevator temporary certification		\$ 25.00
11	<del>14.</del> <u>13.</u> Elevator temporary mechanic license		
12	for 30 days		\$ 10.00
13	<del>15.</del> <u>14.</u> Labor for chief elevator inspector or		
14	deputy elevator inspector to perform		
15	inspection for issuance of certificate		
16	of operation <u>or for the witnessing of</u>		
17	<u>any periodic test required by the act:</u>		
18	a. any escalator or moving walkway	<del>\$125.00</del>	<u>\$250.00</u>
19	b. elevator, two-four floors	<del>\$75.00</del>	<u>\$125.00</u>
20	c. elevator, five-ten floors	<del>\$100.00</del>	<u>\$225.00</u>
21	d. elevator, eleven floors and over	<del>\$125.00</del>	<u>\$325.00</u>
22	e. wheelchair lift	<del>\$25.00</del>	<u>\$50.00</u>

23 C. All revenues received shall be deposited to the Elevator  
24 Safety Revolving Fund. It is the intent of the Legislature that

1 fees charged pursuant to the Elevator Safety Act be adjusted to  
2 provide sufficient income, but not substantially more than  
3 sufficient income, to ensure elevator safety as provided by the  
4 Elevator Safety Act. Accordingly, the Commissioner of Labor shall  
5 make an annual study of the revenues to and expenditures from the  
6 Elevator Safety Revolving Fund and shall prepare a report indicating  
7 what fee adjustments, if any, shall be recommended. The report  
8 shall be submitted by September 1 each year to the Director of State  
9 Finance, the Chair of the Appropriations Committee of the Senate,  
10 and the Chair of the Appropriations and Budget Committee of the  
11 House of Representatives, and shall be filed with the Department of  
12 Labor.

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

16 1. Elevator contractor, ~~elevator inspector, elevator mechanic~~  
17 licenses and ~~elevator apprentice registration~~ shall be renewed  
18 annually prior to the last day of the calendar month in which the  
19 license ~~or registration~~ was initially issued. Until June 30, 2008,  
20 no elevator inspection license, elevator mechanic license, or  
21 elevator apprentice registration shall be issued for longer than one  
22 (1) year, and all licenses or registration shall expire on June 30  
23 of each year. Such licenses may be renewed upon application and  
24 payment of fees within thirty (30) days preceding or following June

1 30 of each year, or the date the license renewal is due. Beginning  
2 July 1, 2008, all licenses or registration shall expire on the birth  
3 date of the licensee. The Oklahoma Department of Labor shall  
4 establish by rule a method for prorating license fees to coincide  
5 with the birth date of the licensee;

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

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

15 4. Any elevator contractor, elevator inspector, elevator  
16 mechanic license or apprentice registration being expired for a  
17 period of one (1) year or longer from the last day of the month in  
18 which renewal was required shall be considered void and the licensee  
19 shall be subject to all requirements for new issuance.

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

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

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