

1 STATE OF OKLAHOMA

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

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR ENGROSSED

5 SENATE BILL NO. 1551

By: Lerblance of the Senate

and

6 Renegar of the House

7  
8  
9 SUBCOMMITTEE RECOMMENDATION

10 ( Professions and occupations - the Oklahoma Welding  
11 Act - the Elevator Safety Act - codification -  
12 effective date )

13  
14  
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 59 O.S. 2001, Section 1626, is  
17 amended to read as follows:

18 Section 1626. As used in this act:

19 1. "Certificate" means the document issued to an applicant upon  
20 successful examination;

21 2. "Certification" means the testimony of qualifications;

22 3. "Code" means United States of America National Standard  
23 Institute Code;

1 4. "Committee" means the Oklahoma State Labor Department,  
2 Boiler Inspection Department, Chief Boiler Inspector;

3 5. "Qualification" means the successful completion of all parts  
4 of the requirements set out by the Oklahoma Department of Labor;

5 6. "Welding inspector" means a person who has met the  
6 requirements of this act;

7 7. "Weld-testing facility" means a qualified and approved  
8 testing facility approved by the Oklahoma Department of Labor;

9 8. "Weldment" means a welded assembly in which the bulk of the  
10 component parts are prepared and joined by any combination of the  
11 cutting and welding processes covered by Section 1628 of this title;

12 9. "Work" means that portion of the product or weldment that  
13 specifically involves or affects the use of welding; ~~and~~

14 10. "Welder" means a person who has met the requirements of  
15 this act; and

16 11. "Structural steel or sheet metal welding" has the same  
17 meaning as defined in American Welding Society D1.1 and D1.3.

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

20 Section 1629. The Oklahoma State Labor Department shall issue  
21 to each applicant successfully meeting the qualifications  
22 requirements provided in Section ~~5~~ 1628 of this ~~act~~ title a  
23 certificate stating that the applicant has met the certification  
24

1 requirements. The certificate shall be valid for one (1) year  
2 unless revoked pursuant to Section § 1631 of this ~~act~~ title.

3 SECTION 3. AMENDATORY 59 O.S. 2001, Section 1634, as  
4 amended by Section 3, Chapter 101, O.S.L. 2003 (59 O.S. Supp. 2007,  
5 Section 1634), is amended to read as follows:

6 Section 1634. A. The following American Society of Mechanical  
7 Engineers Codes, based upon the latest edition, shall be the piping  
8 codes for this state:

- 9 1. The power piping code, ASME B31.1;
- 10 2. The fuel gas piping code, ASME B31.2;
- 11 3. The gas transmission and distribution piping system code,  
12 ASME B31.8;
- 13 4. The process piping code, ASME B31.3; and
- 14 5. The liquid transportation systems for hydrocarbons, liquid  
15 petroleum gas, anhydrous ammonia and alcohols code, ASME 31.4.

16 B. The American Welding Society D1.1 and D1.3 shall be the  
17 structural steel welding codes for this state.

18 C. The provisions of this act shall apply only to weldments  
19 required by the above codes.

20 ~~E.~~ D. All welders prior to performing weldments within this  
21 state on any piping enumerated in subsection A of this section or  
22 structural steel welding as provided for in subsection B of this  
23 section shall be tested, qualified and certified by the Commissioner  
24 of Labor pursuant to this act.

1       ~~D.~~ E. It shall be mandatory upon the owner, or a contractor to  
2 whom a contract is awarded and upon any welders wherein welders are  
3 to perform weldments on any piping enumerated in subsection A of  
4 this section or structural steel welding in subsection B of this  
5 section, upon any subcontractor under the owner or a contractor, to  
6 ensure that all welders performing weldments within this state shall  
7 be certified by the Commissioner of Labor before any weldments are  
8 fabricated.

9       ~~E.~~ F. Penalties:

10       1. Any welder who violates or omits to comply with any of the  
11 provisions of this section, and any officer, agent or representative  
12 of any owner or any contractor or subcontractor who violates or  
13 omits to comply with any of the provisions of this section shall be  
14 subjected to the penalties provided in this title.

15       2. The Commissioner of Labor is empowered to issue cease and  
16 desist orders against violations of this act until such time as  
17 compliance of the law is met. If an owner, welder, contractor  
18 and/or subcontractor fails to obey the orders issued by the  
19 Commissioner of Labor, the Attorney General shall review the case  
20 and initiate necessary proceedings for contempt of the  
21 Commissioner's order and/or ask for an injunction in the district  
22 court as deemed appropriate to the facts of the case.

23       3. No person, firm or corporation or agent thereof shall in any  
24 manner interfere with the performance of the duties of any inspector

1 or representative of the Commissioner of Labor for the  
2 implementation of this act.

3 SECTION 4. AMENDATORY 59 O.S. 2001, Section 1634.1, is  
4 amended to read as follows:

5 Section 1634.1 Notwithstanding any other provision of law,  
6 weldments subject to the provisions of Section 1624 et seq. of Title  
7 ~~59 of the Oklahoma Statutes~~ this title and performed on and after  
8 the effective date of this act shall meet the standards of the  
9 following codes: American Society of Mechanical Engineers (ASME)  
10 Section ~~9 and IX,~~ American Petroleum Institute (API) 1104 and 1107,  
11 and American Welding Society D1.1 and D1.3.

12 SECTION 5. AMENDATORY 59 O.S. 2001, Section 1636, is  
13 amended to read as follows:

14 Section 1636. A. The certification fee for each welder shall  
15 be ~~Twenty-five Dollars (\$25.00)~~ Sixty-five Dollars (\$65.00). An  
16 additional fee of Ten Dollars (\$10.00) shall be paid if the welder's  
17 certification has expired prior to renewal. The certification fee  
18 for each welding inspector shall be One Hundred Dollars (\$100.00).  
19 The certification fee for each testing facility shall be Two Hundred  
20 Fifty Dollars (\$250.00).

21 B. Certificates for welders and testing facilities and welding  
22 inspectors shall be issued for a period of one (1) year, and shall  
23 be renewed by January 1 of each year for testing facility applicants  
24 and welding inspectors, and on the last day of the welder

1 applicant's birth month; provided, however, that no welder applicant  
2 shall be required to renew his or her license more than once during  
3 any twelve-month period. Failure to renew the certificates within  
4 one (1) year of expiration shall require recertification.

5 SECTION 6. AMENDATORY 59 O.S. 2001, Section 1637, is  
6 amended to read as follows:

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

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

18 SECTION 7. AMENDATORY 59 O.S. 2001, Section 1638, is  
19 amended to read as follows:

20 Section 1638. A. Upon the effective date of this act, owner-  
21 user inspectors following weldment procedures which conform to the  
22 applicable code for qualifying welders and testing weldments by  
23 nondestructive or destructive methods shall be exempt from this act.

24

1 Any inspector who has been certified by the American Welding Society  
2 shall be exempt.

3 B. Any weld-test facility, which has been approved and  
4 certified under this title by the Oklahoma Department of Labor on or  
5 before January 1, 1979, to test and qualify welder operators and  
6 which has as its primary function the testing and qualifying of  
7 welder operators, shall be approved to continue as authorized and  
8 may operate using inspectors who have documentation of a minimum of  
9 seven (7) years of the last ten (10) years of experience in the  
10 inspection field.

11 C. The Commissioner of Labor shall, upon proper application and  
12 the payment of fees within ninety (90) days after the effective date  
13 of this act, and annually thereafter upon payment of the fees  
14 provided herein shall issue certification without examination to  
15 those persons who test and qualify welder operators, upon producing  
16 proof satisfactory to the Commissioner, that they meet the  
17 requirements of this section, and who have otherwise complied with  
18 the provisions of this act.

19 D. For one (1) year from the effective date of this act,  
20 structural steel welders with five (5) or more years of experience,  
21 as verified by the Department of Labor, shall not be required to  
22 pass a welding test, but must otherwise comply with the provisions  
23 of this act and the rules promulgated by the Department of Labor to  
24 implement the Oklahoma Welding Act.

1           SECTION 8.           AMENDATORY           Section 2, Chapter 207, O.S.L.  
2 2006 (59 O.S. Supp. 2007, Section 3021), as amended by Section 16 of  
3 Enrolled Senate Bill No. 45 of the 2nd Session of the 51st Oklahoma  
4 Legislature, is amended to read as follows:

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

11           B. 1. Effective November 1, 2006, except as otherwise provided  
12 for by the Elevator Safety Act or rules promulgated pursuant  
13 thereto, no person shall erect, construct, install, wire, alter,  
14 replace, maintain, remove, repair, or dismantle any elevator unless  
15 the person holds a valid elevator mechanic's license pursuant to the  
16 Elevator Safety Act and is employed by a person or business entity  
17 licensed as an elevator contractor pursuant to the Elevator Safety  
18 Act. Any person violating the provisions of this subsection shall  
19 be guilty of a misdemeanor and, upon conviction, subject to a fine  
20 of not more than Five Hundred Dollars (\$500.00) for the first  
21 offense and up to One Thousand Dollars (\$1,000.00) for each  
22 additional offense, or imprisonment in the county jail for not more  
23 than ten (10) days, or both such fine and imprisonment. Each day's  
24



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

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

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

21 4. Any order issued by the Commissioner or an authorized  
22 representative may be enforced in the district court in an action  
23 for an injunction or writ of mandamus upon the petition of the  
24 district attorney or Attorney General, upon the request of the

1 Commissioner. Provided further, an injunction without bond may be  
2 granted by the district court to the Commissioner, for the purpose  
3 of enforcing the Elevator Safety Act.

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

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

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

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

23 2. In an existing owner-occupied private residence; provided,  
24 such elevators shall be inspected if the property owner so requests

1 and pays inspection fees established pursuant to the Elevator Safety  
2 Act. Inspection of an elevator in a private residence pursuant to  
3 this paragraph shall not cause any other provision of the Elevator  
4 Safety Act to apply to the owner with respect to the private  
5 residence-; or

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

11 E. Nothing in the Elevator Safety Act shall be construed as  
12 prohibiting municipalities, counties, or other political  
13 subdivisions of the state from enacting and enforcing licensure  
14 requirements or safety standards exceeding those required by the  
15 Elevator Safety Act.

16 F. Provisions of Sections 863.1 et seq. of Title 19 of the  
17 Oklahoma Statutes that are in conflict with provisions of the  
18 Elevator Safety Act shall prevail over provisions of the Elevator  
19 Safety Act unless the provisions of Section 863.1 et seq. of Title  
20 19 of the Oklahoma Statutes are less stringent than the provisions  
21 of the Elevator Safety Act.

22 G. No person, firm, or corporation shall interfere with,  
23 obstruct, or hinder by force or otherwise the Commissioner of Labor  
24 or an authorized representative while in the performance of their

1 duties, or refuse to properly answer questions asked by such  
2 officers pertaining to the laws over which he or she has supervision  
3 under the provisions of the Elevator Safety Act, or refuse them  
4 admittance to any place where an elevator is located which is  
5 affected by the act.

6 SECTION 9. AMENDATORY Section 4, Chapter 207, O.S.L.  
7 2006 (59 O.S. Supp. 2007, Section 3023), is amended to read as  
8 follows:

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

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

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

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

24

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

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

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

15           C. Under the provisions of the Elevator Safety Act, the  
16 Commissioner of Labor is responsible to provide rules for the safety  
17 of life, limb, and property and therefore has jurisdiction over the  
18 interpretation and application of the inspection requirements as  
19 provided for in the rules. Inspection during construction and  
20 installation shall certify as to the minimum requirements for safety  
21 as defined in the American Society of Mechanical Engineers Code or  
22 other construction standards acceptable to the Commissioner of  
23 Labor. Inspection requirements of operating equipment shall be in  
24

1 accordance with generally accepted practice and compatible with the  
2 actual service conditions such as:

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

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

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

14 1. The chief elevator inspector or deputy elevator inspector  
15 who at the time of inspection possesses a valid elevator inspector's  
16 license issued by the Department of Labor; or

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

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

24

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

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

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

5 ~~4.~~ 3. Wheelchair lifts, triennially;

6 ~~5.~~ 4. Temporary elevators shall be inspected at each erection;

7 and

8 ~~6.~~ 5. Any elevator or other such device subject to the  
9 provisions of the Elevator Safety Act located in a structure whose  
10 occupants are mobility restricted, such as hospitals, nursing homes,  
11 and residential care facilities, shall be inspected annually.

12 SECTION 10. AMENDATORY Section 5, Chapter 207, O.S.L.  
13 2006 (59 O.S. Supp. 2007, Section 3024), is amended to read as  
14 follows:

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

17 1. The Commissioner shall:

18 a. adopt or determine standards of elevator safety,

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

21 c. register elevator apprentices,

22 d. determine qualifications for examination, establish  
23 application processes, and examine applicants for  
24 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;

2. The Commissioner shall publish informational brochures about license examinations that indicate the scope of the examinations, include suggestions about how to prepare for the examinations, and may include sample questions of the type to be expected, but shall never include test items that will be used in future examinations. In no case shall information about forthcoming examinations, that is



1 not generally available, be given to any school, coaching service,  
2 or individual privately; and

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

11 B. Fees shall be as follows:

- |    |  |          |
|----|--|----------|
| 12 | 1. Elevator contractor examination             | \$100.00 |
| 13 | 2. Elevator inspector examination              | \$100.00 |
| 14 | 3. Elevator mechanic examination               | \$100.00 |
| 15 | 4. Initial and renewal elevator contractor     |          |
| 16 | license  | \$100.00 |
| 17 | 5. Initial and renewal elevator inspector      |          |
| 18 | License  | \$75.00  |
| 19 | 6. Initial and renewal elevator mechanic       |          |
| 20 | License  | \$50.00  |
| 21 | 7. Annual elevator apprentice registration     | \$25.00  |
| 22 | 8. Late renewal - in addition to license fee   | \$10.00  |
| 23 | 9. Replacement of lost or mutilated license    | \$10.00  |
| 24 | 10. Reinstatement - in addition to license fee | \$100.00 |

1	11. Existing elevator - certification of	
2	operation	\$25.00
3	12. <del>New elevator — inspection and certification</del>	<del>\$150.00</del>
4	<del>13.</del> Elevator temporary certification	\$25.00
5	<del>14.</del> <u>13.</u> Elevator temporary mechanic license for	
6	<u>thirty (30) days</u>	\$10.00
7	<del>15.</del> <u>14.</u> Labor for chief elevator inspector or	
8	deputy elevator inspector to perform	
9	inspection for issuance of certificate of	
10	operation <u>or for the witnessing of any</u>	
11	<u>periodic test required by the Elevator</u>	
12	<u>Safety Act:</u>	
13	a. any escalator or moving walkway	<del>\$125.00</del>
14		<u>\$250.00</u>
15	b. elevator, <del>two-four</del> <u>two to four</u> floors	<del>\$75.00</del>
16		<u>\$125.00</u>
17	c. elevator, <del>five-ten</del> <u>five to ten</u> floors	<del>\$100.00</del>
18		<u>\$225.00</u>
19	d. elevator, eleven floors and over	<del>\$125.00</del>
20		<u>\$325.00</u>
21	e. wheelchair lift	<del>\$25.00</del>
22		<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, no  
20 license shall be issued for longer than one (1) year, and all  
21 licenses shall expire on June 30 of each year. Such licenses may be  
22 renewed upon application and payment of fees within thirty (30) days  
23 preceding or following June 30 of each year, or the date the license  
24 renewal is due. Beginning July 1, 2008, all licenses shall expire

1 on the birth date of the licensee. The Department of Labor shall  
2 establish by rule a method for prorating license fees to coincide  
3 with the birth date of the licensee;

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

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

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

18 SECTION 11. AMENDATORY 40 O.S. 2001, Section 141.16, as  
19 amended by Section 1, Chapter 554, O.S.L. 2004 (40 O.S. Supp. 2007,  
20 Section 141.16), is amended to read as follows:

21 Section 141.16

22 A. 1. a. Annual certificate of operation fee shall be as  
23 follows:

24 (1) with manway state inspector \$50.00

1		<u>\$75.00</u>
2	(2) without manway state inspector	<del>\$25.00</del>
3		<u>\$50.00</u>
4	(3) any size special - or owner/user	
5	inspector	<del>\$25.00</del>
6		<u>\$50.00</u>
7	<u>(4) each hot water supply heater</u>	
8	<u>(biennially)</u>	<u>\$10.00</u>
9	b. Only one certificate of operation fee per year may be	
10	charged; except an additional fee equal to the	
11	certificate of operation fee may be charged for	
12	witnessing a hydrostatic test required after repairs,	
13	provided a fee equal to the total fees identified in	
14	division (1) or (2) of subparagraph a of this	
15	paragraph, whichever is appropriate, and subparagraph	
16	f of paragraph 2 of this subsection may be charged	
17	when the pressure-retaining item is not prepared and	
18	ready pursuant to rules promulgated by the	
19	Commissioner of Labor at the time of the inspection.	
20	2. Other Fees	
21	a. hydrostatic test of steam pipeline per day	\$150.00
22	(for each additional half-day or	
23	part thereof)	\$75.00
24	b. shop review fees	<del>\$1,250.00</del>

1		<u>\$1,750.00</u>
2	c. licensing fees	
3	(1) repair, service, install (annually)	<del>\$50.00</del>
4		<u>\$100.00</u>
5	(2) installer technician	
6	<del>(one time issuance)</del>	
7	<u>(biennially)</u>	<del>\$50.00</del>
8		<u>\$100.00</u>
9	(3) boiler operator (biennially)	<del>\$50.00</del>
10		<u>\$100.00</u>
11	d. certificate of competency fee	<del>\$15.00</del>
12		<u>\$25.00</u>
13	e. examination fee	\$50.00
14	f. boiler or pressure vessel inspection	
15	fee for certificate inspections by	
16	state inspectors	\$100.00
17	g. authorized inspector services for weld	
18	repairs or alterations, per eight-hour	
19	day or part thereof	\$300.00
20	h. a fee as established by rule may be	
21	assessed for the issuance of duplicate	
22	licenses and certificates, not to exceed	\$10.00
23	B. All institutions owned or operated by the State of Oklahoma	
24	or its agencies or by any county, municipality or school district,	

1 and such institutions or agencies, and all owners or users of  
2 boilers or pressure vessels of historical significance as specified  
3 in subsection D of Section 141.5 of this title are exempt from the  
4 payment of any only those fees provided for in paragraph 2 of  
5 subsection A of this section.

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

12 2. ~~Shop review fees, authorized inspector services fees and~~  
13 ~~duplicate license and certificate fees shall be deposited to the~~  
14 ~~Department of Labor Revolving Fund created pursuant to Section~~  
15 ~~141.19 of this title.~~

16 3. ~~The shop review fees, authorized inspector services fees and~~  
17 ~~duplicate license and certificate fees shall be used for conducting~~  
18 ~~shop reviews, authorized inspector services and for administrative~~  
19 ~~costs~~ The Commissioner shall account for and deposit all fee revenue  
20 received and listed in this paragraph to the Safety Standards  
21 Revolving Fund created pursuant to Section 463 of this title:

22 a. Twenty-five Dollars (\$25.00) of each certificate of  
23 operation fee collected under divisions 1, 2 and 3 of  
24

1 subparagraph a of paragraph 1 of subsection A of this  
2 section,

3 b. all fees listed in division 4 of subparagraph a of  
4 paragraph 1 of subsection A of this section,

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

7 d. Fifty Dollars (\$50.00) of each licensing fee collected  
8 under subparagraph c of paragraph 2 of subsection A of  
9 this section, and

10 e. Ten Dollars (\$10.00) of each certificate of competency  
11 fee collected under subparagraph d of paragraph 2 of  
12 subsection A of this section.

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

14 SECTION 12. AMENDATORY 40 O.S. 2001, Section 197.6, is  
15 amended to read as follows:

16 Section 197.6 On and after August 1, 1965, every employer,  
17 subject to this act, shall post a notice or notices of the pertinent  
18 provisions of this act in such form as may be prescribed and  
19 furnished by the Commissioner. Said notice shall be not less than  
20 ~~eleven (11)~~ eight and one-half (8.5) inches by ~~seventeen (17)~~ eleven  
21 (11) inches in size and shall be displayed in such a manner so as to  
22 be accessible to all employees in each establishment under the  
23 control of the employer. The Commissioner, or ~~his~~ duly authorized  
24 representative, may, for the purpose of determining whether such



1 notice has been properly posted, enter, during business hours, upon  
2 the premises of any employer subject to this act.

3 SECTION 13. AMENDATORY 40 O.S. 2001, Section 403, is  
4 amended to read as follows:

5 Section 403. A. Each employer shall furnish to each of his or  
6 her employees employment and a place of employment which are free  
7 from recognized hazards that are causing or are likely to cause  
8 death or serious physical harm to his or her employees, commensurate  
9 with the Occupational Safety and Health Act of 1970.

10 B. No person shall discharge, discriminate or take adverse  
11 personnel action against any employee because such employee has  
12 filed any complaint, or instituted or caused to be instituted any  
13 proceeding under or related to this act, or has testified or is  
14 about to testify in any such proceeding, or because of the exercise  
15 by such employee on behalf of himself or herself or others of any  
16 right affected by this act.

17 C. Within forty-eight (48) hours after the occurrence of an  
18 employment accident which is fatal to one or more employees or which  
19 results in hospitalization of ~~five~~ three or more employees, the  
20 employer of any employees so injured or killed shall report the  
21 accident in writing to the Oklahoma City office of the Oklahoma  
22 Department of Labor, in a manner prescribed by the Department. The  
23 Commissioner of Labor may require such additional reports as he or

24

1 she deems necessary, including the official death certificate from  
2 the Oklahoma State Department of Health.

3 D. No rule or standard promulgated under this act shall, or  
4 shall be deemed to, establish legal standards of conduct or legal  
5 duties, the violation of which standards or duties would constitute  
6 negligence or gross negligence in any civil proceeding.

7 E. Every employer having twenty-five ~~(25)~~ or more full- or  
8 part-time employees shall:

9 1. Designate an employee who shall coordinate all safety  
10 programs of the employer;

11 2. Provide safety classes to each type or class of employee no  
12 less than quarterly, except that public schools shall only be  
13 required to provide safety classes or instruction to their employees  
14 during the school year. Provided further, public school employees  
15 who are certified personnel and are in compliance with federal OSHA  
16 occupational safety and health standards shall be exempt from such  
17 safety classes or instruction and shall not be included in the  
18 computation of the number of employees set forth in this subsection  
19 ~~E of this section~~ for determining the requirement of such safety  
20 classes or instruction; and

21 3. Cooperate with the Department of Labor including allowing  
22 any announced inspection of the premises for the purpose of  
23 determining compliance with this subsection.

24

1 The provisions of this subsection shall not apply to any  
2 hospital which is subject to the rules of the U.S. Department of  
3 Health and Human Services, Health Care Financing Administration  
4 (HCFA), as set forth in 42 CFR, Parts 405, 412, 416, 417, 440, 441,  
5 456, 482 and 489; Medicare and Medicaid Programs; Conditions of  
6 Participation for Hospitals, Final Regulations.

7 SECTION 14. AMENDATORY 40 O.S. 2001, Section 414, is  
8 amended to read as follows:

9 Section 414. A. The Commissioner shall not assert enforcement  
10 jurisdiction pursuant to Section 401 et seq. of this title over any  
11 occupational safety or health issue with respect to which a federal  
12 standard has been issued pursuant to Section (6) of Public Law  
13 91-596, also known as the Williams-Steiger Occupational Safety and  
14 Health Act of 1970.

15 B. The Commissioner shall provide competent occupational safety  
16 and health consultation, education and training for private and  
17 public employers in coordination with the Oklahoma Department of  
18 Career and Technology Education and other available community  
19 resources.

20 C. Such consultation shall be provided on a priority basis to  
21 those private employers ~~which, based on their certification, have~~  
22 ~~occupational injury and illness rates exceeding the national average~~  
23 ~~incidence rate for private employers of similar character in~~  
24 accordance with Title 29 of the U.S. Code of Federal Regulations,

1 Part 1908, Consultation Agreements, the current U.S. DOL, OSHA  
2 Consultation Policies and Procedures Manual (CPPM), and in  
3 compliance with Section (6) of Public Law 91-596, also known as the  
4 Williams-Steiger Occupational Safety and Health Act of 1970 (29  
5 U.S.C.A., Section 655), and the Consultation and Cooperative  
6 Agreements pursuant to Section 21(d) of 29 U.S.C., Section 656.

7 D. No such consultation shall be provided except upon written  
8 request by the private employer.

9 E. Except when a condition of "imminent danger" exists, no  
10 reports, communication, or other information regarding safety and  
11 health hazards discovered by the Commissioner, pursuant to the  
12 administration of Section 401 et seq. of this title, or ~~his~~ the  
13 representative of the Commissioner in the workplaces of private  
14 employers, shall be reported to any enforcement authority whatsoever  
15 without the prior approval of the employer.

16 F. The Commissioner may, in providing services to private  
17 employers upon request, refer private employers for participation in  
18 other safety and health consultation, education and training  
19 programs including but not limited to the programs authorized by  
20 Section ~~7(C)~~ 21(d) of Public Law 91-596.

21 G. The Commissioner may, upon request, refer qualifying private  
22 employers to programs operated by the U.S. Department of Labor for  
23 recognition or for exemption from inspection by the U.S. Department  
24 of Labor Occupational Safety and Health Administration.

1 H. The Commissioner shall certify successful participation in  
2 the occupational safety and health consultation, education and  
3 training program pursuant to the provisions of Section 924.2 of  
4 Title 36 of the Oklahoma Statutes.

5 I. The Commissioner may promulgate such rules and regulations  
6 as may be necessary to implement the provisions of this section.

7 J. As used in this section:

8 1. "Private employer" means a person engaged in a business  
9 affecting commerce who has employees, but does not include the  
10 United States or any state or political subdivision of a state; and

11 2. "Imminent danger" means any conditions or practices in any  
12 place of employment which are such that a danger exists which could  
13 reasonably be expected to cause death, or serious physical harm  
14 immediately.

15 SECTION 15. AMENDATORY 40 O.S. 2001, Section 452, is  
16 amended to read as follows:

17 Section 452. A. No contractor shall abate any friable material  
18 containing asbestos without having first obtained a license to do so  
19 from the Commissioner of Labor. The Commissioner shall issue an  
20 asbestos abatement license to a qualified contractor upon proper  
21 application, as determined by the Commissioner. The annual fee for  
22 such license shall be Five Hundred Dollars (\$500.00). A  
23 nonrefundable initial application fee of One Thousand Dollars  
24 (\$1,000.00) shall be charged. The Commissioner may deny a license

1 to applicants whose past abatement performance for abatement of  
2 friable asbestos does not comply with federal and other states'  
3 requirements. A minimum waiting period of one hundred twenty (120)  
4 days will be required before issuance of a license to permit the  
5 Commissioner to perform a work performance investigation of the  
6 applicant.

7 The annual fee for examining and certifying workers employed by  
8 a contractor for asbestos abatement shall be ~~Twenty five Dollars~~  
9 ~~(\$25.00)~~ Fifty Dollars (\$50.00). Uncertified workers shall not be  
10 used on any asbestos abatement projects.

11 The Commissioner of Labor shall charge a fee of Fifty Dollars  
12 (\$50.00) for a duplicate of any license issued pursuant to the  
13 Oklahoma Asbestos Control Act.

14 B. The state and political subdivisions thereof, counties and  
15 political subdivisions thereof and municipalities and political  
16 subdivisions thereof, and their supervisors and employees, shall be  
17 exempt from any certification fees required by this section when  
18 such entities act as a contractor. Any contractor not performing  
19 abatement work which falls under the jurisdiction of the  
20 Commissioner during the period of the issued license shall be  
21 considered a new applicant for purposes of licensing and training.

22 C. A fee of Six Hundred Dollars (\$600.00) shall be paid by  
23 contractors to the Department of Labor, to be deposited in the  
24 General Revenue Fund, for each separate containment area of any

1 asbestos abatement project. There shall be a minimum of three  
2 inspections of each containment area. For projects which are not a  
3 part of a definite containment area, or are performed with multiple  
4 glovebags or miniature containments, a fee of Two Hundred Dollars  
5 (\$200.00), plus Five Dollars (\$5.00) per such glovebag or miniature  
6 containment, shall be made.

7 Asbestos abatement projects performed on properties owned by the  
8 state or any political subdivision thereof shall be exempt from this  
9 fee.

10 D. Any asbestos abatement contractor transporting asbestos-  
11 containing material shall be required to provide to the Commissioner  
12 a Certificate of Insurance by a carrier licensed to do business in  
13 the State of Oklahoma demonstrating a minimum of One Million Dollars  
14 (\$1,000,000.00) of environmental impairment insurance.

15 E. No state agency or political subdivision thereof, county or  
16 political subdivision thereof, or municipalities or political  
17 subdivisions thereof shall solicit or receive any estimate or bid  
18 for abatement of asbestos from any person or party who is not a  
19 licensed asbestos abatement contractor.

20 F. 1. Except for the revenue listed in paragraph 2 of this  
21 subsection, the Commissioner shall account for and transfer all fees  
22 so received to the State Treasury to the credit of the General  
23 Revenue Fund, together with a detailed report of same.

24

1        2. The Commissioner shall account for and deposit all fee  
2 revenue received and listed in this paragraph to the Oklahoma  
3 Asbestos Control Revolving Fund created pursuant to subsection G of  
4 this section:

5            a. Twenty-five Dollars (\$25.00) of each annual fee for  
6 examining and certifying workers employed by a  
7 contractor for asbestos abatement collected under  
8 subsection A of this section, and

9            b. all license duplication fees collected under this  
10 section.

11        G. There is hereby created in the State Treasury a revolving  
12 fund for the Department of Labor to be designated the "Oklahoma  
13 Asbestos Control Revolving Fund". The fund shall be a continuing  
14 fund, not subject to fiscal year limitations, and shall consist of  
15 all monies collected by the Department and specifically designated  
16 for deposit by the provisions of the Oklahoma Asbestos Control Act.  
17 Expenditures from said fund shall be made upon warrants issued by  
18 the State Treasurer against claims filed as prescribed by law with  
19 the Director of State Finance for approval and payment.

20        SECTION 16.        AMENDATORY        40 O.S. 2001, Section 461, as  
21 amended by Section 1, Chapter 102, O.S.L. 2003 (40 O.S. Supp. 2007,  
22 Section 461), is amended to read as follows:

23        Section 461. As used in Sections ~~1~~ 460 through ~~10~~ 469 of this  
24 ~~act~~ title:



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

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

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

20           4. "Permanent amusement park ride" means an amusement ride  
21 which is stationary or cannot be easily moved and which is located  
22 on the same premises on which it is operated for no less than ninety  
23 (90) days.

24

1 SECTION 17. AMENDATORY 40 O.S. 2001, Section 463, is  
2 amended to read as follows:

3 Section 463. A. No fees shall be charged to public agencies.  
4 The fees provided for in this subsection shall not apply to  
5 amusement parks owned and operated by nonprofit corporations.

6 1. The annual ride registration fee shall be: ~~\$25.00~~  
7 \$50.00

8 2. The inspection fee shall be:

9 a. Kiddie Rides ~~\$25.00~~

10 \$50.00

11 b. Major Rides ~~\$50.00~~

12 \$100.00

13 c. Inflatable Ride ~~\$25.00~~

14 d. Water Park Ride ~~\$100.00~~

15 e. Water Quality ~~\$200.00~~

16 f. Return Trip Fee ~~\$100.00~~

17 g. Other Rides per hour ~~\$100.00~~

18 \$125.00

19 3. The annual waiver fee shall be:

20 a. Non-complex ~~\$250.00~~

21 b. All other ~~\$1,000.00~~

22 B. The Commissioner of Labor shall not issue an original  
23 certificate of inspection for an amusement ride until he receives  
24 certification in writing that such amusement rides meet the

1 requirements established by the Commissioner of Labor for amusement  
2 rides. The Commissioner of Labor shall designate by rule and  
3 regulation pursuant to Section 460 of this title the qualifications  
4 of the inspectors making the inspections required by this section.

5 C. Any permanent amusement park ride owner or operator shall  
6 file a copy of a certificate of insurance with the Commissioner of  
7 Labor on or before February 1 of each year. Such certificate of  
8 insurance shall be in such form as to reflect the safety inspection  
9 requirements for obtaining such insurance and the date of the last  
10 inspection. The amount of the premium and the amount of coverage  
11 shall not be required to be disclosed in the certificate.

12 The Commissioner may accept such certificate and insurance  
13 inspection as evidence sufficient to issue a certificate of  
14 inspection for the permanent amusement park ride.

15 D. The Governing Board of the State Fair of Oklahoma, the Tulsa  
16 State Fair, and the Muskogee State Fair shall file a copy of a  
17 certificate of insurance with the Commissioner of Labor before the  
18 rides are put into operation at each location for the use of the  
19 public. Such certificate shall be in such form as to reflect the  
20 safety inspection requirements for obtaining such insurance and the  
21 date of the inspection.

22 The Commissioner may accept such insurance inspection as  
23 evidence sufficient to issue a certificate of inspection for the  
24 rides.

1 E. 1. Except for the revenue listed in paragraph 2 of this  
2 subsection, the Commissioner shall account for and transfer all fees  
3 so received to the State Treasury to the credit of the General  
4 Revenue Fund, together with a detailed report of same.

5 2. The Commissioner shall account for and deposit all fee  
6 revenue received and listed in this paragraph to the Safety  
7 Standards Revolving Fund created pursuant to subsection F of this  
8 section:

9 a. fifty percent (50%) of each registration fee collected  
10 under paragraph 1 of subsection A of this section,

11 b. fifty percent (50%) of each inspection fee collected  
12 under subparagraphs a and b of paragraph 2 of  
13 subsection A of this section,

14 c. all inspection fees collected under subparagraphs c,  
15 d, e and f of paragraph 2 of subsection A of this  
16 section,

17 d. Twenty-five Dollars (\$25.00) of each inspection fee  
18 collected under subparagraph g of paragraph 2 of  
19 subsection A of this section, and

20 e. all waiver fees collected under paragraph 3 of  
21 subsection A of this section.

22 F. There is hereby created in the State Treasury a revolving  
23 fund for the Department of Labor to be designated the "Safety  
24 Standards Revolving Fund". The fund shall be a continuing fund, not

1 subject to fiscal year limitations, and shall consist of monies  
2 collected by the Department and specifically designated for deposit  
3 pursuant to the Amusement Ride Safety Act, the Oklahoma Welding Act  
4 and the Oklahoma Boiler and Pressure Vessel Safety Act.  
5 Expenditures from said fund shall be made upon warrants issued by  
6 the State Treasurer against claims filed as prescribed by law with  
7 the Director of State Finance for approval and payment.

8 SECTION 18. AMENDATORY 40 O.S. 2001, Section 469, is  
9 amended to read as follows:

10 Section 469. A. Any violation of the provisions of this act  
11 shall be a misdemeanor. Conviction thereof shall be punished by a  
12 fine not exceeding One Thousand Dollars (\$1,000.00) or not more than  
13 one (1) year in the county jail, or both such fine and imprisonment.  
14 Each day of violation shall constitute a separate offense.

15 B. The Commissioner shall have subpoena powers and shall have  
16 the right to seek injunctive relief to prevent the operation of any  
17 amusement ride covered by this act for lacking a current certificate  
18 of operation. For any violation of the Amusement Ride Safety Act  
19 the Commissioner may assess an administrative fine of not more than  
20 Two Thousand Five Hundred Dollars (\$2,500.00), which fine may be  
21 assessed in addition to any other penalties provided pursuant to  
22 this act.

23 C. Any denial of issuance of a certificate of operation, or any  
24 order issued by the Commissioner, or any Red Tag notification or

1 assessment of an administrative fine may be appealed to the  
2 Amusement Ride Board of Appeals created by Section 19 of this act  
3 and the appropriate party(ies) shall be afforded the opportunity for  
4 a hearing pursuant to the provisions of the Administrative  
5 Procedures Act, if a written request is received by the Department  
6 of Labor within thirty (30) days of the denial letter or  
7 notification or assessment of any fine.

8 SECTION 19. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 470 of Title 40, unless there is  
10 created a duplication in numbering, reads as follows:

11 A. There is hereby created the Amusement Ride Board of Appeals,  
12 which shall consist of five (5) members appointed by the  
13 Commissioner of Labor. Two members shall be experienced in the  
14 amusement ride industry, two members shall be appointed from an  
15 Oklahoma fair authority, and one member shall be appointed at large.

16 B. The initial terms of office of the members appointed to the  
17 Amusement Ride Board of Appeals shall expire as follows:

- 18 1. The term of office of one of the members shall expire July  
19 1, 2009;
- 20 2. The term of office of one of the members shall expire July  
21 1, 2010;
- 22 3. The term of office of one of the members shall expire July 1,  
23 2011; and

24

1 4. The term of office of two of the members shall expire July  
2 1, 2012.

3 Thereafter, the terms of office of the members of the Amusement  
4 Ride Board of Appeals shall be four (4) years.

5 C. The Commissioner of Labor may remove any member of the Board  
6 for incompetence, neglect of duty, or malfeasance in office upon  
7 first giving the member a copy of the charges and an opportunity to  
8 be heard. A vacancy on the Board shall be filled for the unexpired  
9 term by appointment made by the Commissioner of Labor.

10 SECTION 20. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 471 of Title 40, unless there is  
12 created a duplication in numbering, reads as follows:

13 The Oklahoma Department of Labor shall assess the training of  
14 amusement ride operators working in the State of Oklahoma. The  
15 Department shall promulgate rules necessary for certification of  
16 such operators by June 1, 2009.

17 SECTION 21. This act shall become effective November 1, 2008.

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