

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1551

By: Lerblance of the Senate

and

6 Renegar of the House

7
8
9 COMMITTEE SUBSTITUTE

10 [professions and occupations - the Oklahoma Welding
11 Act - the Elevator Safety Act - effective date]

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

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

16 Section 1626. As used in this act:

17 1. "Certificate" means the document issued to an applicant
18 upon successful examination;

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

20 3. "Code" means United States of America National Standard
21 Institute Code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 ~~D.~~ E. It shall be mandatory upon the owner, or a contractor to
24 whom a contract is awarded and upon any welders wherein welders are

1 to perform weldments on any piping enumerated in subsection A, upon
2 any subcontractor under the owner or a contractor, to ensure that
3 all welders performing weldments within this state shall be
4 certified by the Commissioner of Labor before any weldments are
5 fabricated.

6 ~~E.~~ F. Penalties:

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

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

20 3. No person, firm or corporation or agent thereof shall in any
21 manner interfere with the performance of the duties of any inspector
22 or representative of the Commissioner of Labor for the
23 implementation of this act.

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

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

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

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

19 B. Certificates for welders and testing facilities and welding
20 inspectors shall be issued for a period of one (1) year, and shall
21 be renewed by January 1 of each year for testing facility applicants
22 and welding inspectors, and on the last day of the welder
23 applicant's birth month; provided, however, that no welder applicant
24 shall be required to renew his or her license more than once during

1 any twelve-month period. Failure to renew the certificates within
2 one (1) year of expiration shall require recertification.

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

5 Section 1637. All revenues collected under the provisions of
6 this act shall be ~~paid by the Department of Labor to the State~~
7 ~~Treasurer and by him placed to the credit of the General Revenue~~
8 ~~Fund of the state, to be used for governmental functions and to be~~
9 ~~paid out only pursuant to direct appropriation by the Legislature of~~
10 ~~the State of Oklahoma~~ deposited in the Safety Standards Revolving
11 Fund.

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

14 Section 1638. A. Upon the effective date of this act,
15 owner-user inspectors following weldment procedures which conform to
16 the applicable code for qualifying welders and testing weldments by
17 nondestructive or destructive methods shall be exempt from this act.
18 Any inspector who has been certified by the American Welding Society
19 shall be exempt.

20 B. Any weld-test facility, which has been approved and
21 certified under this title by the Oklahoma Department of Labor on or
22 before January 1, 1979, to test and qualify welder operators and
23 which has as its primary function the testing and qualifying of
24 welder operators, shall be approved to continue as authorized and

1 may operate using inspectors who have documentation of a minimum of
2 seven (7) years of the last ten (10) years of experience in the
3 inspection field.

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

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

18 SECTION 8. AMENDATORY Section 2, Chapter 207, O.S.L.
19 2006 (59 O.S. Supp. 2007, Section 3021), is amended to read as
20 follows:

21 Section 3021. A. The Legislature, finding that the protection
22 of public health and safety requires that elevators and similar
23 devices be installed, maintained, and regularly inspected in
24 compliance with recognized safety standards and codes, declares that

1 elevator contractors, elevator mechanics, and elevator inspectors
2 shall be licensed by this state pursuant to the Elevator Safety Act.

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

18 2. The Commissioner of Labor or an authorized representative
19 may issue a written order for the temporary cessation of operation
20 of an elevator if it has been determined after inspection to be
21 hazardous, unsafe, or in violation of any provisions of the Elevator
22 Safety Act or rules promulgated by the Commissioner. Operations
23 shall not resume until such conditions are corrected to the
24 satisfaction of the Commissioner. The Commissioner or an authorized

1 representative may inspect any elevator without notice. The
2 Commissioner or an authorized representative may issue a written
3 order for the temporary cessation of any licensing violations and/or
4 any violations of any rule or order promulgated pursuant to the
5 provisions of the Elevator Safety Act.

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

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

19 C. Effective November 1, 2006, except as otherwise provided by
20 the Elevator Safety Act, every elevator in this state shall be
21 subject to the provisions as required by this act. Within six (6)
22 months of November 1, 2006, the owner or lessee of every elevator
23 already in service or put into service by November 1, 2006, shall
24 register the elevator with the Department of Labor, giving the type,

1 rated load and speed, name of manufacturer, location of the
2 elevator, and purpose for which used, as well as such other
3 information as the Commissioner of Labor may require. Elevators
4 newly constructed or installed on or after November 1, 2006, shall
5 be registered and inspected before being put into service.

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

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

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

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

21 E. Nothing in the Elevator Safety Act shall be construed as
22 prohibiting municipalities, counties, or other political
23 subdivisions of the state from enacting and enforcing licensure
24

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

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

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

17 SECTION 9. AMENDATORY Section 4, Chapter 207, O.S.L.
18 2006 (59 O.S. Supp. 2007, Section 3023), is amended to read as
19 follows:

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

1 maintenance of elevators and other such devices within the
2 definitions of the Elevator Safety Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 ~~4.~~ 3. Wheelchair lifts, triennially;

16 ~~5.~~ 4. Temporary elevators shall be inspected at each erection;

17 and

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

22 SECTION 10. AMENDATORY Section 5, Chapter 207, O.S.L.
23 2006 (59 O.S. Supp. 2007, Section 3024), is amended to read as
24 follows:

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

3 1. The Commissioner shall:

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

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

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

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

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

21 B. Fees shall be as follows:

- | | |
|---------------------------------------|----------|
| 22 1. Elevator contractor examination | \$100.00 |
| 23 2. Elevator inspector examination | \$100.00 |
| 24 3. Elevator mechanic examination | \$100.00 |

1	4.	Initial and renewal elevator	
2		contractor license	\$100.00
3	5.	Initial and renewal elevator inspector	
4		License	\$ 75.00
5	6.	Initial and renewal elevator mechanic	
6		License	\$ 50.00
7	7.	Annual elevator apprentice registration	\$ 25.00
8	8.	Late renewal - in addition to license fee	\$ 10.00
9	9.	Replacement of lost or mutilated license	\$ 10.00
10	10.	Reinstatement - in addition to license fee	\$100.00
11	11.	Existing elevator - certification of	
12		operation	\$ 25.00
13	12.	New elevator inspection and certification	\$150.00
14	13.	Elevator temporary certification	\$ 25.00
15	14. <u>13.</u>	Elevator temporary mechanic license	
16		for <u>thirty (30) days</u>	\$
17		10.00	
18	15. <u>14.</u>	Labor for chief elevator inspector or	
19		deputy elevator inspector to perform	
20		inspection for issuance of certificate	
21		of operation <u>or for the witnessing of any periodic test</u>	
22		<u>required by the Elevator Safety Act:</u>	
23	a.	any escalator or moving walkway	\$125.00
24		<u>\$250.00</u>	

- 1 b. elevator, two- to four floors \$
2 ~~75.00~~ \$125.00
- 3 c. elevator, five- to ten floors
4 ~~\$100.00~~ \$225.00
- 5 d. elevator, eleven floors and over ~~\$125.00~~
6 \$325.00
- 7 e. wheelchair lift ~~\$ 25.00~~
8 \$50.00

9 C. All revenues received shall be deposited to the Elevator
10 Safety Revolving Fund. It is the intent of the Legislature that
11 fees charged pursuant to the Elevator Safety Act be adjusted to
12 provide sufficient income, but not substantially more than
13 sufficient income, to ensure elevator safety as provided by the
14 Elevator Safety Act. Accordingly, the Commissioner of Labor shall
15 make an annual study of the revenues to and expenditures from the
16 Elevator Safety Revolving Fund and shall prepare a report indicating
17 what fee adjustments, if any, shall be recommended. The report
18 shall be submitted by September 1 each year to the Director of State
19 Finance, the Chair of the Appropriations Committee of the Senate,
20 and the Chair of the Appropriations and Budget Committee of the
21 House of Representatives, and shall be filed with the Department of
22 Labor.
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1 D. Licenses and certifications issued in accordance with the
2 provisions of the Elevator Safety Act shall be renewed according to
3 the following schedule:

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

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

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

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

6 SECTION 11. This act shall become effective November 1, 2008.

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