

1 ENGROSSED HOUSE
2 BILL NO. 2736

By: Renegar of the House

and

Corn of the Senate

(professions and occupations - license fees -

effective date -

emergency)

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11

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

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

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

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

23 Section 1634.1 Notwithstanding any other provision of law,
24 weldments subject to the provisions of Section 1624 et seq. of ~~Title~~

1 ~~59 of the Oklahoma Statutes~~ this title and performed on and after
2 the effective date of this act shall meet the standards of the
3 following codes: American Society of Mechanical Engineers (ASME)
4 Section ~~9~~ IX and American Petroleum Institute (API) 1104 and 1107.

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

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

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

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

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

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

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

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

12 SECTION 5. AMENDATORY Section 2, Chapter 207, O.S.L.
13 2006 (59 O.S. Supp. 2007, Section 3021), as amended by Section 16 of
14 Enrolled Senate Bill No. 45 of the 2nd Session of the 51st Oklahoma
15 Legislature, is amended to read as follows:

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

22 B. 1. Effective November 1, 2006, except as otherwise provided
23 for by the Elevator Safety Act or rules promulgated pursuant
24 thereto, no person shall erect, construct, install, wire, alter,

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

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

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

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

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

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

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

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

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

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

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~~ Section 863.1 et seq. of Title 19 of
4 the 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 6. 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 7. 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,
- 24

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 <u>license</u>		\$ 75.00
5	6. Initial and renewal elevator mechanic		
6	License <u>license</u>		\$ 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 <u>Elevator</u> - 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 30 days		\$ 10.00
17	15. <u>14.</u> Labor for chief elevator inspector or		
18	deputy elevator inspector to perform		
19	inspection for issuance of certificate		
20	of operation <u>or for the witnessing of</u>		
21	<u>any periodic test required by the act:</u>		
22	a. any escalator or moving walkway	\$125.00	<u>\$250.00</u>
23	b. elevator, two-four floors	\$75.00	<u>\$125.00</u>
24	c. elevator, five-ten floors	\$100.00	<u>\$225.00</u>

1 d. elevator, eleven floors and over ~~\$125.00~~ \$325.00

2 e. wheelchair lift ~~\$25.00~~ \$50.00

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

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

20 1. Elevator contractor, ~~elevator inspector, elevator mechanic~~
21 licenses and ~~elevator apprentice registration~~ shall be renewed
22 annually prior to the last day of the calendar month in which the
23 license ~~or registration~~ was initially issued. Until June 30, 2008,
24 no elevator inspection license, elevator mechanic license, or

1 elevator apprentice registration shall be issued for longer than one
2 (1) year, and all licenses or registration shall expire on June 30
3 of each year. Such licenses may be renewed upon application and
4 payment of fees within thirty (30) days preceding or following June
5 30 of each year, or the date the license renewal is due. Beginning
6 July 1, 2008, all licenses or registration shall expire on the birth
7 date of the licensee. The Oklahoma Department of Labor shall
8 establish by rule a method for prorating license fees to coincide
9 with the birth date of the licensee;

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

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

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

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

