

1 ENGROSSED SENATE
2 BILL NO. 1551

By: Lerblance of the Senate

3 and

4 Renegar of the House

5
6
7 [professions and occupations - the Oklahoma Welding

8 Act - the Elevator Safety Act -

9 effective date]

10

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

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

14 Section 1626. As used in this act:

15 1. "Certificate" means the document issued to an applicant
16 upon successful examination;

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

18 3. "Code" means United States of America National Standard
19 Institute Code;

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

22 5. "Qualification" means the successful completion of all
23 parts of the requirements set out by the Oklahoma Department of
24 Labor;

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

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

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

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

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

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

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

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

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

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

4 1. The power piping code, ASME B31.1;

5 2. The fuel gas piping code, ASME B31.2;

6 3. The gas transmission and distribution piping system code,
7 ASME B31.8;

8 4. The process piping code, ASME B31.3; and

9 5. The liquid transportation systems for hydrocarbons, liquid
10 petroleum gas, anhydrous ammonia and alcohols code, ASME 31.4.

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

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

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

20 ~~D.~~ E. It shall be mandatory upon the owner, or a contractor to
21 whom a contract is awarded and upon any welders wherein welders are
22 to perform weldments on any piping enumerated in subsection A, upon
23 any subcontractor under the owner or a contractor, to ensure that
24 all welders performing weldments within this state shall be

1 certified by the Commissioner of Labor before any weldments are
2 fabricated.

3 ~~E.~~ F. Penalties:

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

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

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

21 SECTION 4. 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 and American Welding Society D1.1 and D1.3.

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

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

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

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

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

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

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

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

24

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

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

15 SECTION 8. AMENDATORY Section 2, Chapter 207, O.S.L.
16 2006 (59 O.S. Supp. 2007, Section 3021), is amended to read as
17 follows:

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

24

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

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

1 order for the temporary cessation of any licensing violations and/or
2 any violations of any rule or order promulgated pursuant to the
3 provisions of the Elevator Safety Act.

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

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

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

1 information as the Commissioner of Labor may require. Elevators
2 newly constructed or installed on or after November 1, 2006, shall
3 be registered and inspected before being put into service.

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

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

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

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

19 E. Nothing in the Elevator Safety Act shall be construed as
20 prohibiting municipalities, counties, or other political
21 subdivisions of the state from enacting and enforcing licensure
22 requirements or safety standards exceeding those required by the
23 Elevator Safety Act.

24

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

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

15 SECTION 9. AMENDATORY Section 4, Chapter 207, O.S.L.
16 2006 (59 O.S. Supp. 2007, Section 3023), is amended to read as
17 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

14 and

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

19 SECTION 10. AMENDATORY Section 5, Chapter 207, O.S.L.
20 2006 (59 O.S. Supp. 2007, Section 3024), is amended to read as
21 follows:

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

24 1. The Commissioner shall:

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

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

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

17 B. Fees shall be as follows:

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

1	6.	Initial and renewal elevator mechanic	
2		License	\$ 50.00
3	7.	Annual elevator apprentice registration	\$ 25.00
4	8.	Late renewal - in addition to license fee	\$ 10.00
5	9.	Replacement of lost or mutilated license	\$ 10.00
6	10.	Reinstatement - in addition to license fee	\$100.00
7	11.	Existing elevator - certification of	
8		operation	\$ 25.00
9	12.	New elevator - inspection and certification	\$150.00
10	13.	Elevator temporary certification	\$ 25.00
11	14. 13.	Elevator temporary mechanic license	
12		for <u>thirty (30) days</u>	\$
13		10.00	
14	15. 14.	Labor for chief elevator inspector or	
15		deputy elevator inspector to perform	
16		inspection for issuance of certificate	
17		of operation <u>or for the witnessing of any periodic test</u>	
18		<u>required by the Elevator Safety Act:</u>	
19	a.	any escalator or moving walkway	\$125.00
20		<u>\$250.00</u>	
21	b.	elevator, two- to four floors	\$
22		75.00 <u>\$125.00</u>	
23	c.	elevator, five- <u>to</u> ten floors	
24		\$100.00 <u>\$225.00</u>	

1 ~~license or registration was initially issued~~ Until June 30, 2008, no
2 license shall be issued for longer than one (1) year, and all
3 licenses shall expire on June 30 of each year. Such licenses may be
4 renewed upon application and payment of fees within thirty (30) days
5 preceding or following June 30 of each year, or the date the license
6 renewal is due. Beginning July 1, 2008, all licenses shall expire
7 on the birth date of the licensee. The 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 11. This act shall become effective November 1, 2008.

1 Passed the Senate the 5th day of March, 2008.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2008.

7
8 _____
9 Presiding Officer of the House
10 of Representatives