

THE STATE SENATE  
Monday, February 25, 2008

Committee Substitute for  
Senate Bill No. 1551

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1551 - By: LERBLANCE of the Senate and RENEGAR of the House.

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

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

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

Section 1626. As used in this act:

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

2. "Certification" means the testimony of qualifications;

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

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

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

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

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

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

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

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

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

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

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

20           SECTION 3.           AMENDATORY           59 O.S. 2001, Section 1634, as  
21 amended by Section 3, Chapter 101, O.S.L. 2003 (59 O.S. Supp. 2007,  
22 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

1 all welders performing weldments within this state shall be  
2 certified by the Commissioner of Labor before any weldments are  
3 fabricated.

4 ~~E.~~ F. Penalties:

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

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

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

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

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

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

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

17           B. Certificates for welders and testing facilities and welding  
18 inspectors shall be issued for a period of one (1) year, and shall  
19 be renewed by January 1 of each year for testing facility applicants  
20 and welding inspectors, and on the last day of the welder  
21 applicant's birth month; provided, however, that no welder applicant  
22 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

1 welder operators, shall be approved to continue as authorized and  
2 may operate using inspectors who have documentation of a minimum of  
3 seven (7) years of the last ten (10) years of experience in the  
4 inspection field.

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

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

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

22 Section 3021. A. The Legislature, finding that the protection  
23 of public health and safety requires that elevators and similar

1 devices be installed, maintained, and regularly inspected in  
2 compliance with recognized safety standards and codes, declares that  
3 elevator contractors, elevator mechanics, and elevator inspectors  
4 shall be licensed by this state pursuant to the Elevator Safety Act.

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

20 2. The Commissioner of Labor or an authorized representative  
21 may issue a written order for the temporary cessation of operation  
22 of an elevator if it has been determined after inspection to be  
23 hazardous, unsafe, or in violation of any provisions of the Elevator

1 Safety Act or rules promulgated by the Commissioner. Operations  
2 shall not resume until such conditions are corrected to the  
3 satisfaction of the Commissioner. The Commissioner or an authorized  
4 representative may inspect any elevator without notice. The  
5 Commissioner or an authorized representative may issue a written  
6 order for the temporary cessation of any licensing violations and/or  
7 any violations of any rule or order promulgated pursuant to the  
8 provisions of the Elevator Safety Act.

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

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

22 C. Effective November 1, 2006, except as otherwise provided by  
23 the Elevator Safety Act, every elevator in this state shall be

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

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

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

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

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

1 Safety Act to apply to the owner with respect to the private  
2 residence.

3 E. Nothing in the Elevator Safety Act shall be construed as  
4 prohibiting municipalities, counties, or other political  
5 subdivisions of the state from enacting and enforcing licensure  
6 requirements or safety standards exceeding those required by the  
7 Elevator Safety Act.

8 F. Provisions of Sections 863.1 et seq. of Title 19 of the  
9 Oklahoma Statutes that are in conflict with provisions of the  
10 Elevator Safety Act shall prevail over provisions of the Elevator  
11 Safety Act unless the provisions of Section 863.1 et seq. of Title  
12 19 of the Oklahoma Statutes are less stringent than the provisions  
13 of the Elevator Safety Act.

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

1 SECTION 9. AMENDATORY Section 4, Chapter 207, O.S.L.  
2 2006 (59 O.S. Supp. 2007, Section 3023), is amended to read as  
3 follows:

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

11 The Elevator Inspection Bureau shall be furnished with  
12 sufficient personnel, deputy inspectors, and clerical aids to  
13 perform the assigned duties within the limits prescribed by the  
14 Commissioner of Labor.

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

- 17 1. Take action necessary for the enforcement of the Elevator  
18 Safety Act and these rules;
- 19 2. Make available upon request copies of the rules promulgated  
20 by the agency; and
- 21 3. Issue, suspend, or revoke for cause certificates, licenses,  
22 and registrations as may be issued by the provisions of the Elevator

1 Safety Act, and administer other disciplinary actions as prescribed  
2 in rules as promulgated by the Commissioner of Labor.

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

11 C. Under the provisions of the Elevator Safety Act, the  
12 Commissioner of Labor is responsible to provide rules for the safety  
13 of life, limb, and property and therefore has jurisdiction over the  
14 interpretation and application of the inspection requirements as  
15 provided for in the rules. Inspection during construction and  
16 installation shall certify as to the minimum requirements for safety  
17 as defined in the American Society of Mechanical Engineers Code or  
18 other construction standards acceptable to the Commissioner of  
19 Labor. Inspection requirements of operating equipment shall be in  
20 accordance with generally accepted practice and compatible with the  
21 actual service conditions such as:

22 1. History of previous experience, previous records of  
23 inspection, performance, and maintenance;

- 1        2. Location, with respect to personnel hazard;
- 2        3. Quality of inspection and operating personnel;
- 3        4. Provisions for related safe operating controls; and
- 4        5. Interrelation with other operations outside the scope of the
- 5 Elevator Safety Act.

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

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

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

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

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

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

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

23       ~~3-~~ Escalators and moving walkways, annually;



- 1           f.    attempt to achieve reciprocity agreements whereby  
2                    licenses issued by other jurisdictions may be accepted  
3                    in this state in lieu of examination,  
4           g.    establish grounds for revocation, suspension, and  
5                    nonrenewal of licenses and policies for reinstatement  
6                    of licenses and for imposition of lesser disciplinary  
7                    measures,  
8           h.    establish continuing education requirements,  
9           i.    provide for the inspection and certification of  
10                   elevators,  
11           j.    provide for the enforcement of the Elevator Safety  
12                   Act,  
13           k.    hear appeals pursuant to the Administrative Procedures  
14                   Act, and  
15           l.    establish a procedure for the reporting and  
16                   investigation of accidents;

17           2.    The Commissioner shall publish informational brochures about  
18           license examinations that indicate the scope of the examinations,  
19           include suggestions about how to prepare for the examinations, and  
20           may include sample questions of the type to be expected, but shall  
21           never include test items that will be used in future examinations.  
22           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	
16	contractor 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

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

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

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

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

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

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

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

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

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

22       COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-20-08 - DO  
23       PASS, As Amended.