

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2736

By: Renegar

4  
5  
6 AS INTRODUCED

7 An Act relating to professions and occupations;  
8 amending 59 O.S. 2001, Sections 1629, 1634.1, 1636  
9 and 1637, which relate to the Oklahoma Welding Act,  
10 and Sections 2, 4 and 5, Chapter 207, O.S.L. 2006 (59  
11 O.S. Supp. 2007, Sections 3021, 3023 and 3024), which  
12 relate to the Elevator Safety Act; modifying  
13 references to statutes; increasing license fees for  
14 welders; providing for disposition of revenue to  
15 certain fund; modifying licensure requirement;  
16 requiring inspection of all elevators annually;  
17 increasing fees for certain inspections; modifying  
18 renewal of license; providing an effective date; and  
19 declaring an emergency.

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1 SECTION 2. 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 SECTION 3. AMENDATORY 59 O.S. 2001, Section 1636, is  
10 amended to read as follows:

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

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

3 SECTION 4. 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 5. AMENDATORY Section 2, Chapter 207, O.S.L.  
13 2006 (59 O.S. Supp. 2007, Section 3021), is amended to read as  
14 follows:

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

21 B. 1. Effective November 1, 2006, except as otherwise provided  
22 for by the Elevator Safety Act or rules promulgated pursuant  
23 thereto, no person shall erect, construct, install, wire, alter,  
24 replace, maintain, remove, repair, or dismantle any elevator unless

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

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

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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 requests such an inspection in writing and agrees to  
8 pay inspection fees established pursuant to the Elevator Safety Act;  
9 or

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

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

22 F. Provisions of ~~Sections~~ Section 863.1 et seq. of Title 19 of  
23 the Oklahoma Statutes that are in conflict with provisions of the  
24 Elevator Safety Act shall prevail over provisions of the Elevator

1 Safety Act unless the provisions of Section 863.1 et seq. of Title  
2 19 of the Oklahoma Statutes are less stringent than the provisions  
3 of the Elevator Safety Act.

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

12 SECTION 6. AMENDATORY Section 4, Chapter 207, O.S.L.  
13 2006 (59 O.S. Supp. 2007, Section 3023), is amended to read as  
14 follows:

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

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

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

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

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

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

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

21 C. Under the provisions of the Elevator Safety Act, the  
22 Commissioner of Labor is responsible to provide rules for the safety  
23 of life, limb, and property and therefore has jurisdiction over the  
24 interpretation and application of the inspection requirements as

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

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

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

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

- 19 1. The chief elevator inspector or deputy elevator inspector  
20 who at the time of inspection possesses a valid elevator inspector's  
21 license issued by the Department of Labor; or
- 22 2. An elevator inspector employed by the liability insurance  
23 company of record of the owner of the elevator or device who at the  
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1 time of inspection is in possession of a valid elevator inspector's  
2 license issued by the Department of Labor.

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

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

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

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

10 ~~4.~~ 3. Wheelchair lifts, triennially;

11 ~~5.~~ 4. Temporary elevators shall be inspected at each erection;

12 and

13 ~~6.~~ 5. Any elevator or other such device subject to the  
14 provisions of the Elevator Safety Act located in a structure whose  
15 occupants are mobility restricted, such as hospitals, nursing homes,  
16 and residential care facilities, shall be inspected annually.

17 SECTION 7. AMENDATORY Section 5, Chapter 207, O.S.L.  
18 2006 (59 O.S. Supp. 2007, Section 3024), is amended to read as  
19 follows:

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

22 1. The Commissioner shall:

23 a. adopt or determine standards of elevator safety,

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- b. license elevator contractors, elevator mechanics, and elevator inspectors,
- c. register elevator apprentices,
- d. determine qualifications for examination, establish application processes, and examine applicants for licensure,
- e. establish terms of licensure and renewal procedures,
- f. attempt to achieve reciprocity agreements whereby licenses issued by other jurisdictions may be accepted in this state in lieu of examination,
- g. establish grounds for revocation, suspension, and nonrenewal of licenses and policies for reinstatement of licenses and for imposition of lesser disciplinary measures,
- h. establish continuing education requirements,
- i. provide for the inspection and certification of elevators,
- j. provide for the enforcement of the Elevator Safety Act,
- k. hear appeals pursuant to the Administrative Procedures Act, and
- l. establish a procedure for the reporting and investigation of accidents;

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:

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|--|----------|
| 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 <u>license license</u>                              | \$ 75.00 |

1	6.	Initial and renewal elevator mechanic		
2		<u>License license</u>		\$ 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.	<del>New elevator — inspection and certification</del>		<del>\$150.00</del>
10	<del>13.</del>	Elevator temporary certification		\$ 25.00
11	<del>14.</del> <u>13.</u>	Elevator temporary mechanic license		
12		for 30 days		\$ 10.00
13	<del>15.</del> <u>14.</u>	Labor for chief elevator inspector or		
14		deputy elevator inspector to perform		
15		inspection for issuance of certificate		
16		of operation <u>or for the witnessing of</u>		
17		<u>any periodic test required by the act:</u>		
18	a.	any escalator or moving walkway	<del>\$125.00</del>	<u>\$250.00</u>
19	b.	elevator, two-four floors	<del>\$75.00</del>	<u>\$125.00</u>
20	c.	elevator, five-ten floors	<del>\$100.00</del>	<u>\$225.00</u>
21	d.	elevator, eleven floors and over	<del>\$125.00</del>	<u>\$325.00</u>
22	e.	wheelchair lift	<del>\$25.00</del>	<u>\$50.00</u>

23 C. All revenues received shall be deposited to the Elevator  
24 Safety Revolving Fund. It is the intent of the Legislature that

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

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

16 1. ~~Elevator contractor, elevator inspector, elevator mechanic~~  
17 ~~licenses and elevator apprentice registration shall be renewed~~  
18 ~~annually prior to the last day of the calendar month in which the~~  
19 ~~license or registration was initially issued~~ Until June 30, 2008, no  
20 license shall be issued for longer than one (1) year, and all  
21 licenses shall expire on June 30 of each year. Such licenses may be  
22 renewed upon application and payment of fees within thirty (30) days  
23 preceding or following June 30 of each year, or the date the license  
24 renewal is due. Beginning July 1, 2008, all licenses shall expire

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

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

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

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

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

19 SECTION 9. It being immediately necessary for the preservation  
20 of the public peace, health and safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

23

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