

EHB 2530

THE STATE SENATE
Wednesday, March 31, 2010

ENGROSSED

House Bill No. 2530

As Amended

ENGROSSED HOUSE BILL NO. 2530 - By: Schwartz of the House and Justice, Leftwich and Johnson (Mike) of the Senate.

An Act relating to professions and occupations; amending 59 O.S. 2001, Section 3021, as last amended by Section 15, Chapter 2, O.S.L. 2009 (59 O.S. Supp. 2009, Section 3021), which relates to the Elevator Safety Act; modifying exemptions; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 3021, as last amended by Section 15, Chapter 2, O.S.L. 2009 (59 O.S. Supp. 2009, Section 3021), is amended to read as follows:

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

B. 1. Effective November 1, 2006, except as otherwise provided for by the Elevator Safety Act or rules promulgated pursuant thereto, no person shall erect, construct, install, wire, alter, 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. Whenever an emergency exists in this state due to disaster,
13 act of God or work stoppage, and the number of persons in the state
14 holding licenses issued by the Commissioner of Labor is insufficient
15 to cope with the emergency, licensed elevator contractors shall
16 respond as necessary to assure the safety of the public. Any person
17 certified by a licensed elevator contractor to have an acceptable
18 combination of documented experience and education to perform
19 elevator work without direct and immediate supervision shall apply
20 for an emergency elevator mechanic license from the Department of
21 Labor within five (5) business days after commencing work requiring
22 a license. The Commissioner shall issue emergency elevator mechanic
23 licenses. The licensed elevator contractor shall furnish proof of

1 competency as the Commissioner may require. Each such license shall
2 state that it is valid for a period of forty-five (45) days from the
3 date thereof and for such particular elevators or geographical areas
4 as the Commissioner may designate and otherwise shall entitle the
5 licensee to the rights and privileges of an elevator mechanic
6 license issued pursuant to the Elevator Safety Act. The
7 Commissioner shall renew an emergency elevator mechanic license upon
8 proper application during the existence of an emergency. No fee
9 shall be charged for any emergency elevator mechanic license or
10 renewal thereof.

11 3. A licensed elevator contractor shall notify the Commissioner
12 of Labor when there are no licensed personnel available to perform
13 elevator work. The licensed elevator contractor may request that
14 the Commissioner issue temporary elevator mechanic licenses to
15 persons certified by the licensed elevator contractor to have an
16 acceptable combination of documented experience and education to
17 perform elevator work without direct and immediate supervision. Any
18 person certified by a licensed elevator contractor to have any
19 combination of documented experience and education to perform
20 elevator work without direct and immediate supervision shall
21 immediately apply for a temporary elevator mechanic license from the
22 Commissioner and shall pay such fee as the Commissioner shall
23 determine. Each such license shall state that it is valid for a

1 period not to exceed forty-five (45) days and while employed by the
2 licensed elevator contractor that certified the individual as
3 qualified. The Commissioner shall renew such licenses upon proper
4 application and payment of any required fees as long as the shortage
5 of license holders shall continue.

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

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

1 6. Any order issued by the Commissioner or an authorized
2 representative may be enforced in the district court in an action
3 for an injunction or writ of mandamus upon the petition of the
4 district attorney or Attorney General, upon the request of the
5 Commissioner. Provided further, an injunction without bond may be
6 granted by the district court to the Commissioner, for the purpose
7 of enforcing the Elevator Safety Act.

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

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

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

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

4 2. In an existing owner-occupied private residence or an
5 existing building of not more than two floors owned by a municipal
6 public trust that is used solely for independent living apartments
7 for persons sixty-two (62) years of age or older; provided, such
8 elevators shall be inspected if the property owner so requests and
9 pays inspection fees established pursuant to the Elevator Safety
10 Act. Inspection of an elevator ~~in a private residence~~ pursuant to
11 this paragraph shall not cause any other provision of the Elevator
12 Safety Act to apply to the owner with respect to the private
13 residence or building; or

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

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.

1 F. Provisions of Section 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 2. This act shall become effective November 1, 2010.

16 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 3-29-10 -
17 DO PASS, As Amended.