

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1786

By: Leftwich

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 amending Section 2, Chapter 207, O.S.L. 2006, as last
9 amended by Section 15, Chapter 2, O.S.L. 2009 (59
10 O.S. Supp. 2009, Section 3021), which relates to
11 elevators; exempting certain property from the
12 Elevator Safety Act; making certain property exempt
13 from certain ordinances and rules; providing an
14 effective date; and declaring an emergency.

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

16 SECTION 1. AMENDATORY Section 2, Chapter 207, O.S.L.
17 2006, as last amended by Section 15, Chapter 2, O.S.L. 2009 (59 O.S.
18 Supp. 2009, Section 3021), is amended to read as follows:

19 Section 3021. A. The Legislature, finding that the protection
20 of public health and safety requires that elevators and similar
21 devices be installed, maintained, and regularly inspected in
22 compliance with recognized safety standards and codes, declares that
23 elevator contractors, elevator mechanics, and elevator inspectors
24 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

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

14 2. Whenever an emergency exists in this state due to disaster,
15 act of God or work stoppage, and the number of persons in the state
16 holding licenses issued by the Commissioner of Labor is insufficient
17 to cope with the emergency, licensed elevator contractors shall
18 respond as necessary to assure the safety of the public. Any person
19 certified by a licensed elevator contractor to have an acceptable
20 combination of documented experience and education to perform
21 elevator work without direct and immediate supervision shall apply
22 for an emergency elevator mechanic license from the Department of
23 Labor within five (5) business days after commencing work requiring
24 a license. The Commissioner shall issue emergency elevator mechanic

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

12 3. A licensed elevator contractor shall notify the Commissioner
13 of Labor when there are no licensed personnel available to perform
14 elevator work. The licensed elevator contractor may request that
15 the Commissioner issue temporary elevator mechanic licenses to
16 persons certified by the licensed elevator contractor to have an
17 acceptable combination of documented experience and education to
18 perform elevator work without direct and immediate supervision. Any
19 person certified by a licensed elevator contractor to have any
20 combination of documented experience and education to perform
21 elevator work without direct and immediate supervision shall
22 immediately apply for a temporary elevator mechanic license from the
23 Commissioner and shall pay such fee as the Commissioner shall
24 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.

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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.
24 Such elevators shall be inspected if the authorized representative

1 of the owner ~~request~~ requests such an inspection in writing and
2 agrees to pay inspection fees established pursuant to the Elevator
3 Safety Act;

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

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

16 4. Residential lifts located in or adjacent to an existing
17 building that is established and occupied as an independent
18 residential living facility and owned by and/or under the
19 operational control of a not-for-profit organization or public trust
20 prior to November 1, 2006. Such elevators shall be inspected if the
21 authorized representative of the facility requests such an
22 inspection in writing and agrees to pay inspection fees established
23 pursuant to the Elevator Safety Act. Inspection of an elevator in
24 such residential facility pursuant to this paragraph shall not cause

1 any other provision of the Elevator Safety Act to apply to the
2 facility, owner, organization or public trust.

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; provided, the exemptions provided in subsection
8 D of this section shall continue to be exempt under all ordinances
9 and rules enacted by any political subdivision of this state.

10 F. Provisions of Section 863.1 et seq. of Title 19 of the
11 Oklahoma Statutes that are in conflict with provisions of the
12 Elevator Safety Act shall prevail over provisions of the Elevator
13 Safety Act unless the provisions of Section 863.1 et seq. of Title
14 19 of the Oklahoma Statutes are less stringent than the provisions
15 of the Elevator Safety Act.

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

24 SECTION 2. This act shall become effective July 1, 2010.

1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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