

SUBCOMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1862 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Leslie Osborn _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 PROPOSED SUBCOMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1862

By: Justice of the Senate

and

Osborn of the House

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8
9 PROPOSED SUBCOMMITTEE SUBSTITUTE

10 [Elevator Safety and Inspection Act - defining terms

11 - requiring license -

12 effective date]

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

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3031 of Title 59, unless there
19 is created a duplication in numbering, reads as follows:

20 This act shall be known and may be cited as the "Elevator Safety
21 and Inspection Act".

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 3032 of Title 59, unless there
24 is created a duplication in numbering, reads as follows:

1 The Legislature finds that for the protection of public health
2 and safety elevators and similar devices should be installed,
3 maintained, repaired, and inspected in compliance with recognized
4 safety standards and codes by persons licensed in this state who
5 possess appropriate education, qualifications and experience to
6 ensure elevator safety and code compliance.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3033 of Title 59, unless there
9 is created a duplication in numbering, reads as follows:

10 For purposes of the Elevator Safety and Inspection Act:

- 11 1. "Agency" means the Oklahoma Department of Labor;
- 12 2. "Commissioner" means the Commissioner of Labor or authorized
13 representative;
- 14 3. "Elevator" means any device for lifting or moving people,
15 cargo, or freight within, or adjacent and connected to, a structure
16 or excavation, and includes any escalator, power-driven stairway,
17 moving walkway or stairway chair lift. The term elevator shall not
18 mean:
 - 19 a. an amusement ride or device subject to inspection and
20 regulation under the provisions of Sections 460
21 through 473 of Title 40 of the Oklahoma Statutes,
 - 22 b. mining equipment subject to inspection and regulation
23 by the Department of Mines,

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- 1 c. an aircraft, railroad car, boat, barge, ship, truck,
2 or other self-propelled vehicle or component thereof,
3 d. a boiler grate stoker or other similar firing
4 mechanism subject to inspection under the provisions
5 of the Oklahoma Boiler and Pressure Vessel Safety Act,
6 e. a dumbwaiter, conveyor, chain or bucket hoist,
7 construction hoist or similar devices used for the
8 primary purpose of elevating or lowering materials, or
9 f. an elevator, conveyance, manlift or similar device in
10 grain elevators, grain warehouses, seed processing
11 facilities, feed mills or flour mills which is used by
12 employees, but is not accessible to or used by
13 customers or members of the general public.

14 However, it may include other exceptions identified by the rules
15 promulgated by the Department of Labor;

16 4. "Elevator inspector" means a person who is licensed by the
17 Department of Labor to engage in the inspection of new and
18 preexisting elevators according to recognized safety standards and
19 codes and pursuant to rule, and who reports compliance and
20 noncompliance issues to the Department of Labor for purposes of
21 certificates of operation and temporary certificates of operation,
22 or as otherwise provided by rule. An elevator inspector may be
23 employed by a private insurance company or by a private business
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1 whose primary function is elevator installation, maintenance or
2 repair;

3 5. "Elevator mechanic" means a person licensed by the
4 Department of Labor to install elevators and to perform testing,
5 routine maintenance, and repairs, both electrical and mechanical, on
6 elevators after meeting the qualifications set by the rules
7 promulgated for the Elevator Safety and Inspection Act;

8 6. "Elevator contractor" means a person or business entity that
9 possesses a valid elevator contractor's license issued by the
10 Department of Labor pursuant to the provisions of the Elevator
11 Safety and Inspection Act and is entitled to engage in the business
12 of erecting, constructing, installing, altering, servicing,
13 repairing, or maintaining elevators;

14 7. "Elevator apprentice" means an unlicensed person registered
15 with the Department of Labor who works under the direct supervision
16 of a licensed elevator mechanic, licensed elevator contractor, or
17 licensed elevator inspector;

18 8. "Certificate of operation" means a document issued by the
19 Commissioner of Labor and affixed to an elevator that indicates that
20 the elevator has been inspected and tested and found to be in
21 compliance with all applicable safety standards and codes as
22 determined by the Commissioner of Labor;

23 9. "Temporary certificate of operation" means a document issued
24 by the Commissioner of Labor and affixed to an elevator that permits

1 temporary use of a noncompliant elevator by the general public for
2 not more than thirty (30) days while minor repairs are being
3 completed; and

4 10. "Private residence" means a separate dwelling or a separate
5 apartment in a multiple-unit dwelling that is occupied by members of
6 a single-family unit.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3034 of Title 59, unless there
9 is created a duplication in numbering, reads as follows:

10 A. No person shall erect, construct, install, wire, alter,
11 replace, maintain, remove, repair, or dismantle any elevator unless
12 the person holds a valid elevator mechanic's license pursuant to the
13 Elevator Safety and Inspection Act and is employed by a person or
14 business entity licensed as an elevator contractor pursuant to the
15 Elevator Safety and Inspection Act.

16 B. Whenever a state of emergency is declared in this state and
17 the number of persons in the state holding licenses issued by the
18 Commissioner of Labor is insufficient to cope with the emergency,
19 the Commissioner of Labor may issue temporary permits to qualified
20 persons to assure the safety of the public and repair of elevators.
21 The Commissioner may require proof of qualification and competency
22 as established by rule and based upon the circumstances of the
23 emergency. Each temporary permit shall be valid for a period of
24 forty-five (45) days from the date of issuance, and may be

1 restricted to particular elevators or geographical areas as the
2 Commissioner may designate. A temporary permit shall entitle the
3 person to act as an elevator mechanic pursuant to the Elevator
4 Safety and Inspection Act. The Commissioner may extend a temporary
5 permit after the initial period has expired when appropriate for the
6 emergency. No fee shall be charged for any emergency elevator
7 mechanic permit or renewal thereof.

8 C. All licenses shall be valid for one (1) year and may be
9 prorated as necessary to set a renewal date in conjunction with the
10 applicant's birth month or a fixed date determined by the
11 Commissioner of Labor as the date set for all renewals. Any license
12 in good standing shall be renewable upon expiration. Any license
13 having been expired for a period of not less than thirty (30) days
14 nor more than three hundred sixty-five (365) days shall be subject
15 to a reinstatement fee as provided for in the Elevator Safety and
16 Inspection Act. Any license that has been expired for a period of
17 one (1) year or longer from the last day of the month in which
18 renewal was required shall be considered void and the licensee shall
19 be subject to all requirements for new issuance. Late fees and
20 reinstatement fees shall be imposed as provided by rule. The fees
21 for licenses and their renewals shall be as provided in Section 7 of
22 this act.

23 D. All persons contracting to perform work on elevators shall
24 be required to have their license number printed, or otherwise

1 included, on the face of all invoices, estimates and billing
2 statements.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3035 of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Department of Labor shall develop a registry of
7 elevators and devices inspected in this state that are subject to
8 the Elevator Safety and Inspection Act. Every owner or lessee of
9 the property where an elevator is located shall be required to
10 register the elevators located on their premises on a form
11 promulgated by the Department of Labor. All newly constructed
12 elevators shall be registered and inspected before being placed into
13 service. The Department of Labor shall be responsible for the
14 proper registration of elevators in this state.

15 B. Elevators, escalators, and other such devices within the
16 authority of the Elevator Safety and Inspection Act shall receive an
17 inspection for the purpose of obtaining a certificate of operation
18 annually. The inspection report shall be provided to the Department
19 of Labor within ten (10) days of the expiration of the current
20 certificate of operation.

21 C. Inspection during construction and installation shall
22 certify as to the minimum requirements for safety as defined in the
23 American Society of Mechanical Engineers Code or other applicable
24 construction standards recognized or adopted by the Commissioner of

1 Labor for purposes of the Elevator Safety and Inspection Act.

2 Inspection requirements for operating equipment shall be in
3 accordance with generally accepted practice and compatible with the
4 actual service conditions such as:

5 1. History of previous experience, previous records of
6 inspection, performance, and maintenance;

7 2. Location, with respect to personnel hazard;

8 3. Quality of inspection and operating personnel;

9 4. Provisions for related safe operating controls; and

10 5. Interrelation with other operations outside the scope of the
11 Elevator Safety and Inspection Act.

12 D. Any owner or user who believes that under his or her
13 particular circumstances the rules, regulations, and standards
14 promulgated or adopted by the Commissioner are unnecessary or impose
15 an undue burden may request a variance from the applicable rule,
16 regulation, or standard. The variance request shall be in writing,
17 shall specify how safety equivalence is to be maintained in
18 accordance with the provisions of this act, and shall be accompanied
19 by the variance application fee and the most recent inspection
20 report for the elevator. The Commissioner may grant the variance,
21 provided that the safety of the general public is not adversely
22 affected. When there is reason to believe, or upon receipt of a
23 complaint, that a variance does not provide the safety equivalence
24 to the provisions of this act, the Commissioner, after notice to the

1 owner or user, may continue, suspend, revoke, or modify the
2 conditions specified in any variance.

3 E. Inspections required by the Elevator Safety and Inspection
4 Act shall be conducted only by inspectors licensed by the Department
5 of Labor.

6 F. The Elevator Safety and Inspection Act shall not apply to
7 elevators that are:

8 1. In or adjacent to buildings or excavations owned by or under
9 the operational control of the government of the United States or
10 located on federal property or a sovereign tribal nation;

11 2. In an existing owner-occupied private residence or an
12 existing building of not more than two floors owned by a municipal
13 public trust that is used solely for independent living apartments
14 for persons sixty-two (62) years of age or older;

15 3. Located in or adjacent to a building or structure within a
16 manufacturing, utility or industrial facility; or

17 4. Located in a building or structure used primarily as a house
18 of worship by any entity which holds 501(c)(3) status with the
19 United States Internal Revenue Service.

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

1 elevator that has been issued a certificate of operation by either
2 the Department of Labor or the municipality, county, or political
3 subdivision shall be deemed sufficient under the requirements of
4 both the Elevator Safety and Inspection Act and the requirements of
5 the municipality, county, or other political subdivision.

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3036 of Title 59, unless there
8 is created a duplication in numbering, reads as follows:

9 A. There is hereby established an Elevator Safety and
10 Inspection Division in the Department of Labor which shall have
11 responsibilities for implementing and enforcing the provisions of
12 the Elevator Safety and Inspection Act under the direction of the
13 Commissioner of Labor. All personnel assigned to the Division shall
14 be under the authority of the Commissioner of Labor.

15 B. The Commissioner of Labor shall promulgate rules, forms and
16 procedures to implement the provisions of the Elevator Safety and
17 Inspection Act and may take any actions deemed necessary for the
18 enforcement of the Elevator Safety and Inspection Act and the rules
19 promulgated pursuant thereto, including but not limited to issuing,
20 suspending, or revoking for cause certificates of operation,
21 licenses, and elevator registrations, and administer disciplinary
22 actions as prescribed by statute or rule.

23 C. Definitions, rules, and regulations adopted for purposes of
24 the Elevator Safety and Inspection Act shall be based upon and

1 follow generally accepted national engineering standards, formula,
2 and practices. The Commissioner of Labor may adopt an existing
3 American national standard known as the Safety Code for Elevators
4 and Escalators of the American Society of Mechanical Engineers
5 ("ASME").

6 D. Under the provisions of the Elevator Safety and Inspection
7 Act, the Commissioner of Labor is responsible for providing rules
8 for the protection and safety of life, limb, and property and
9 therefore has jurisdiction over the interpretation and application
10 of the inspection requirements.

11 E. The Commissioner of Labor shall have, in addition to other
12 powers and duties incidental to the office, all authority granted or
13 implied by the Elevator Safety and Inspection Act and such other
14 authority allowed by law and necessary to implement and enforce the
15 responsibilities assigned to the agency pursuant to the Elevator
16 Safety and Inspection Act. The Department of Labor shall promulgate
17 rules, forms, and procedures under the Elevator Safety and
18 Inspection Act.

19 F. The Commissioner of Labor shall have subpoena powers and
20 shall have the right to seek injunctive relief to prevent the
21 operation of elevators lacking a certificate of operation and for
22 enjoining violations or compelling compliance with the Elevator
23 Safety and Inspection Act.

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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3037 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Fees shall be as follows:

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|----|--|----------|
| 5 | 1. Elevator contractor examination | \$100.00 |
| 6 | 2. Elevator inspector examination | \$100.00 |
| 7 | 3. Elevator mechanic examination | \$100.00 |
| 8 | 4. Initial and renewal elevator contractor license | \$100.00 |
| 9 | 5. Initial and renewal elevator inspector license | \$ 75.00 |
| 10 | 6. Initial and renewal elevator mechanic license | \$ 50.00 |
| 11 | 7. Annual elevator apprentice registration | \$ 25.00 |
| 12 | 8. Late renewal - in addition to license fee | \$ 10.00 |
| 13 | 9. Replacement of lost or mutilated license | \$ 10.00 |
| 14 | 10. Reinstatement - in addition to license fee | \$100.00 |
| 15 | 11. Existing elevator - certification of operation | \$ 25.00 |
| 16 | 12. New elevator - certification of operation | \$100.00 |
| 17 | 13. Temporary certificate of operation | \$ 25.00 |
| 18 | 14. Application for variance | \$ 25.00 |

19 B. All revenues received shall be deposited to the Department
20 of Labor Revolving Fund. It is the intent of the Legislature that
21 fees charged pursuant to the Elevator Safety and Inspection Act be
22 adjusted to provide sufficient income, but not substantially more
23 than sufficient income, to ensure elevator safety as provided by the
24 Elevator Safety and Inspection Act. Accordingly, the Commissioner

1 of Labor shall make an annual study of the revenues to and
2 expenditures from the Department of Labor Revolving Fund related to
3 elevator safety and shall prepare a report indicating what fee
4 adjustments, if any, shall be recommended. The report shall be
5 submitted by September 1 each year to the Director of the Office of
6 State Finance, the Chair of the Appropriations Committee of the
7 Senate, and the Chair of the Appropriations and Budget Committee of
8 the House of Representatives, and shall be filed with the Department
9 of Labor.

10 SECTION 8. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3038 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Any person violating the provisions of the Elevator Safety
14 and Inspection Act by acting without a valid license or endorsement
15 shall be guilty of a misdemeanor, punishable upon conviction by a
16 fine not exceeding Five Hundred Dollars (\$500.00) for the first
17 offense. Any second or subsequent conviction shall be punishable by
18 a fine not exceeding One Thousand Dollars (\$1,000.00), or by
19 imprisonment in the county jail for a term of not more than ten (10)
20 days, or by both such fine and imprisonment. Each day a violation
21 occurs and each act in violation of the Elevator Safety and
22 Inspection Act shall constitute a separate offense. Conviction for
23 a criminal offense as provided herein shall not preclude any filing
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1 of a civil action or taking action against any license which may be
2 held by the violator.

3 B. Any licensee who violates any rule promulgated for a
4 licensee shall be subject to disciplinary action as specified by
5 rule or law. Administrative fines for violations pursuant to this
6 subsection shall not exceed Five Hundred Dollars (\$500.00) per
7 violation which shall be in addition to any other penalty allowed by
8 law.

9 C. Any elevator operating without a valid certificate of
10 operation more than ten (10) days and up to thirty (30) days after
11 the expiration of the certificate of operation may be assessed an
12 administrative fine of up to Five Hundred Dollars (\$500.00). Any
13 elevator operating without a valid certificate of operation more
14 than thirty (30) days and up to sixty (60) days after the expiration
15 of the certificate of operation may be assessed an additional
16 administrative fine of up to One Thousand Dollars (\$1,000.00). Any
17 elevator operating without a valid certificate of operation more
18 than sixty (60) days after the expiration of the certificate of
19 operation may be assessed an additional administrative fine of
20 Thirty Dollars (\$30.00) per day until the elevator owner is ordered
21 by the Commissioner of Labor to disable and discontinue use of the
22 elevator.

23 D. Any elevator or device in this state subject to the Elevator
24 Safety and Inspection Act and the rules promulgated pursuant

1 thereto, except an elevator in a private residence, may be inspected
2 without notice. The Commissioner of Labor or an authorized
3 representative may issue a written order for the temporary cessation
4 of operation of an elevator or device if it has been determined
5 after inspection to be hazardous, unsafe, or otherwise in violation
6 of any provisions of the Elevator Safety and Inspection Act or rules
7 promulgated pursuant thereto. Operations and access to the elevator
8 shall not resume until such conditions are corrected to the
9 satisfaction of the Commissioner.

10 E. No person, firm, or corporation shall interfere with,
11 obstruct, or hinder by force or otherwise the Commissioner of Labor
12 or an authorized representative while in the performance of his or
13 her duties. No person shall refuse to properly answer questions
14 asked by such officers pertaining to any duty imposed pursuant to
15 the provisions of the Elevator Safety and Inspection Act, nor shall
16 any person refuse them admittance to any place where an elevator is
17 located and subject to the provisions of the Elevator Safety and
18 Inspection Act. A person violating the provisions of this
19 subsection shall be deemed to have violated the Elevator Safety and
20 Inspection Act, and after notice, hearing and determination whether
21 a violation occurred, the violator shall be subject to imposition of
22 an administrative fine in an amount not exceeding Five Hundred
23 Dollars (\$500.00).

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1 F. Any alleged violator of the Elevator Safety and Inspection
2 Act shall be afforded an opportunity for a fair and swift
3 administrative hearing. The hearing may be conducted by the
4 Commissioner or designated hearing officer in conformity with, and
5 records made thereof as provided by, Sections 308a through 323 of
6 Title 75 of the Oklahoma Statutes.

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

14 SECTION 9. REPEALER 59 O.S. 2011, Sections 3020, 3021,
15 3022, 3023 and 3024 are hereby repealed.

16 SECTION 10. This act shall become effective November 1, 2012.

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18 53-2-10161 LRB 03/30/12

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