

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1862

By: Justice of the Senate

and

Osborn of the House

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7
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9 COMMITTEE SUBSTITUTE

10 An Act relating to professions and occupations;
11 amending 59 O.S. 2011, Sections 3021, 3023 and 3024,
12 which relate to the Elevator Safety Act; modifying
13 licensing requirements; modifying exception;
14 modifying inspections; modifying powers and duties of
15 the Commissioner of Labor; and providing an effective
16 date.

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

18 SECTION 1. AMENDATORY 59 O.S. 2011, Section 3021, is
19 amended to read as follows:

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

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

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

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

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

1 immediately apply for a temporary elevator mechanic license from the
2 Commissioner and shall pay such fee as the Commissioner shall
3 determine. Each such license shall state that it is valid for a
4 period not to exceed ~~forty-five (45)~~ ten (10) days and while
5 employed by the licensed elevator contractor that certified the
6 individual as qualified. The Commissioner shall renew such licenses
7 upon proper application and payment of any required fees as long as
8 the shortage of license holders shall continue.

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

21 5. Any alleged violator of paragraph 2 of this subsection shall
22 be afforded an opportunity for a fair and swift administrative
23 hearing. The hearing may be conducted by the Commissioner or
24 his/her designated hearing officer in conformity with, and records

1 made thereof as provided by, Sections 308a through 323 of Title 75
2 of the Oklahoma Statutes.

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

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

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

23 1. In or adjacent to buildings or excavations owned by and/or
24 under the operational control of the government of the United States

1 or located on federal property and/or a sovereign tribal nation.
2 Such elevators shall be inspected if the authorized representative
3 of the owner ~~request~~ requests such ~~an~~ inspection in writing and
4 agrees to pay inspection fees established pursuant to the Elevator
5 Safety Act;

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

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

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

1 a certificate of operation by either the Department of Labor, a
2 county or a municipality shall be deemed sufficient under the
3 requirements of the county or municipality.

4 F. Provisions of Section 863.1 et seq. of Title 19 of the
5 Oklahoma Statutes that are in conflict with provisions of the
6 Elevator Safety Act shall prevail over provisions of the Elevator
7 Safety Act unless the provisions of Section 863.1 et seq. of Title
8 19 of the Oklahoma Statutes are less stringent than the provisions
9 of the Elevator Safety Act.

10 G. 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 their
13 duties, or refuse to properly answer questions asked by such
14 officers pertaining to the laws over which he or she has supervision
15 under the provisions of the Elevator Safety Act, or refuse them
16 admittance to any place where an elevator is located which is
17 affected by the act.

18 SECTION 2. AMENDATORY 59 O.S. 2011, Section 3023, is
19 amended to read as follows:

20 Section 3023. A. There is hereby established an Elevator
21 Inspection Bureau in the Department of Labor under the direction of
22 the chief elevator inspector, who shall be responsible to the
23 Commissioner of Labor or a duly authorized representative for the
24 supervision, inspection, alteration, installation, testing, and

1 maintenance of elevators and other such devices within the
2 definitions of the Elevator Safety Act.

3 The Elevator Inspection Bureau shall be furnished with
4 sufficient personnel, deputy inspectors, and clerical aids to
5 perform the assigned duties within the limits prescribed by the
6 Commissioner of Labor.

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

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

11 2. Make available upon request copies of the rules promulgated
12 by the agency; and

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

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

1 C. Under the provisions of the Elevator Safety Act, the
2 Commissioner of Labor is responsible to provide rules for the safety
3 of life, limb, and property and therefore has jurisdiction over the
4 interpretation and application of the inspection requirements as
5 provided for in the rules. Inspection during construction and
6 installation shall certify as to the minimum requirements for safety
7 as defined in the American Society of Mechanical Engineers Code or
8 other construction standards acceptable to the Commissioner of
9 Labor. Inspection requirements of operating equipment shall be in
10 accordance with generally accepted practice and compatible with the
11 actual service conditions such as:

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

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

21 E. Inspections conducted for the issuance of a any certificate
22 of operation issued by the Commissioner of Labor pursuant to the
23 Elevator Safety Act may be performed by:

24

1 1. The chief elevator inspector, or deputy elevator inspector
2 ~~or licensed third party inspector who at the time of inspection~~
3 ~~possesses a valid elevator inspector's license issued by the~~
4 ~~Department of Labor; or~~

5 2. An elevator inspector employed by the liability insurance
6 company of record of the owner of the elevator or device who at the
7 time of inspection is in possession of a valid elevator inspector's
8 license issued by the Department of Labor; or

9 3. A licensed third-party inspector who at the time of
10 inspection possesses a valid elevator inspector's license issued by
11 the Department of Labor.

12 F. Elevator Inspectors, not employed by the Department of
13 Labor, shall submit to the Commissioner of Labor, an insurance
14 policy or certified copy thereof, issued by an insurance company
15 authorized to do business in this state to provide general liability
16 coverage of a least One Million Dollars (\$1,000,000.00) for injury
17 or death of any number of persons in any one occurrence, with the
18 coverage of at least Five Hundred Thousand Dollars (\$500,000.00) for
19 property damage in any one occurrence and proof of workers'
20 compensation coverage. Elevator inspectors not employed by the
21 Department of Labor shall also provide such proof as the
22 Commissioner may require that the inspector is in compliance with
23 Sections 1702 through 1706 of Title 68 of the Oklahoma Statutes.
24

1 G. ~~Elevators~~ For the purpose of obtaining a certificate of
2 operation: elevators, escalators, and other such devices within the
3 definitions of the Elevator Safety Act shall receive an inspection
4 ~~for the purpose of obtaining a certificate of operation:~~

5 1. ~~Two-floor to four-floor elevator units, not to exceed two~~
6 ~~(2) years;~~

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

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

9 4. ~~Wheelchair lifts, triennially;~~

10 5. ~~Temporary elevators shall be inspected at each erection and~~
11 ~~every ninety (90) days or as the code requires; and~~

12 6. ~~Any elevator or other such device subject to the provisions~~
13 ~~of the Elevator Safety Act located in a structure whose occupants~~
14 ~~are mobility restricted, such as hospitals, nursing homes, and~~
15 ~~residential care facilities, shall be inspected annually as provided~~
16 ~~by the recommended schedule of the code or as per rules adopted by~~
17 ~~the Department of Labor, whichever requires more frequent~~
18 ~~inspections.~~

19 SECTION 3. AMENDATORY 59 O.S. 2011, Section 3024, is
20 amended to read as follows:

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

23 1. The Commissioner shall:

24 a. adopt or determine standards of elevator safety,

- 1 b. license elevator contractors, elevator mechanics, and
2 elevator inspectors,
3 c. register elevator apprentices,
4 d. determine qualifications for examination, establish
5 application processes, and examine applicants for
6 licensure,
7 e. establish terms of licensure and renewal procedures,
8 f. attempt to achieve reciprocity agreements whereby
9 licenses issued by other jurisdictions may be accepted
10 in this state in lieu of examination,
11 g. establish grounds for revocation, suspension, and
12 nonrenewal of licenses and policies for reinstatement
13 of licenses and for imposition of lesser disciplinary
14 measures,
15 h. establish continuing education requirements,
16 i. provide for the inspection and certification of
17 elevators, including a procedure for issuing a
18 certificate of operation when inspections are
19 performed by a licensed elevator inspector not
20 employed by the Department of Labor,
21 j. provide for the enforcement of the Elevator Safety
22 Act,
23 k. hear appeals pursuant to the Administrative Procedures
24 Act,

- 1 1. establish a procedure for the reporting and
2 investigation of accidents, and
3 m. establish a procedure to allow variances from the
4 literal requirement of the code;

5 2. The Commissioner shall publish informational brochures about
6 license examinations that indicate the scope of the examinations,
7 include suggestions about how to prepare for the examinations, and
8 may include sample questions of the type to be expected, but shall
9 never include test items that will be used in future examinations.
10 In no case shall information about forthcoming examinations, that is
11 not generally available, be given to any school, coaching service,
12 or individual privately; and

13 3. The Commissioner shall have subpoena powers and shall have
14 the right to seek injunctive relief to prevent the operation of
15 elevators lacking a certificate of operation after November 1, 2006,
16 or failing inspection. For any violation of the Elevator Safety
17 Act, the Commissioner may assess an administrative fine of not more
18 than Five Hundred Dollars (\$500.00), which fine may be assessed in
19 addition to any other penalties provided pursuant to the Elevator
20 Safety Act.

21 B. Fees shall be as follows:

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|--|----------|
| 22 1. Elevator contractor examination | \$100.00 |
| 23 2. Elevator inspector examination | \$100.00 |
| 24 3. Elevator mechanic examination | \$100.00 |

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|----|--|----------|
| 1 | 4. Initial and renewal elevator | |
| 2 | contractor license | \$100.00 |
| 3 | 5. Initial and renewal elevator | |
| 4 | inspector License | \$ 75.00 |
| 5 | 6. Initial and renewal elevator | |
| 6 | mechanic License | \$ 50.00 |
| 7 | 7. Annual elevator apprentice | |
| 8 | registration | \$ 25.00 |
| 9 | 8. Late renewal - in addition to | |
| 10 | license fee | \$ 10.00 |
| 11 | 9. Replacement of lost or mutilated | |
| 12 | license | \$ 10.00 |
| 13 | 10. Reinstatement - in addition to | |
| 14 | license fee | \$100.00 |
| 15 | 11. Existing elevator - certification | |
| 16 | of operation | \$ 25.00 |
| 17 | 12. New elevator - inspection and | |
| 18 | certification | \$150.00 |
| 19 | 13. Elevator temporary certification | \$ 25.00 |
| 20 | 14. Elevator temporary mechanic | |
| 21 | license for 30 days | \$ 10.00 |
| 22 | 15. Labor for chief elevator inspector | |
| 23 | or deputy elevator inspector to | |
| 24 | | |

1 perform inspection for issuance of
2 certificate of operation:

- | | | |
|---|-------------------------------------|----------|
| 3 | a. any escalator or moving walkway | \$125.00 |
| 4 | b. elevator, two-four floors | \$ 75.00 |
| 5 | c. elevator, five-ten floors | \$100.00 |
| 6 | d. elevator, eleven floors and over | \$125.00 |
| 7 | e. wheelchair lift | \$ 25.00 |

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

22 D. Licenses and certifications issued in accordance with the
23 provisions of the Elevator Safety Act shall be renewed according to
24 the following schedule:

1 1. Elevator contractor, elevator inspector, elevator mechanic
2 licenses and elevator apprentice registration shall be renewed
3 annually prior to the last day of the calendar month in which the
4 license or registration was initially issued;

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

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

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

19 SECTION 4. This act shall become effective November 1, 2012.

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