

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 53rd Legislature (2012)

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

By: Justice of the Senate

and

Osborn of the House

7  
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10                                   COMMITTEE SUBSTITUTE

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

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

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

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

1 elevator contractors, elevator mechanics, and elevator inspectors  
2 shall be licensed by this state pursuant to the Elevator Safety Act.

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

18 2. Whenever an emergency exists in this state due to disaster,  
19 act of God or work stoppage, and the number of persons in the state  
20 holding licenses issued by the Commissioner of Labor is insufficient  
21 to cope with the emergency, licensed elevator contractors shall  
22 respond as necessary to assure the safety of the public. Any person  
23 certified by a licensed elevator contractor to have an acceptable  
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1 combination of documented experience and education to perform  
2 elevator work without direct and immediate supervision shall apply  
3 for an emergency elevator mechanic license from the Department of  
4 Labor within five (5) business days after commencing work requiring  
5 a license. The Commissioner shall issue emergency elevator mechanic  
6 licenses. The licensed elevator contractor shall furnish proof of  
7 competency as the Commissioner may require. Each such license shall  
8 state that it is valid for a period of ~~forty-five (45)~~ ten (10) days  
9 from the date thereof and for such particular elevators or  
10 geographical areas as the Commissioner may designate and otherwise  
11 shall entitle the licensee to the rights and privileges of an  
12 elevator mechanic license issued pursuant to the Elevator Safety  
13 Act. The Commissioner shall renew an emergency elevator mechanic  
14 license for no more than one additional ten-day period upon proper  
15 application during the existence of an emergency. No fee shall be  
16 charged for any emergency elevator mechanic license or renewal  
17 thereof.

18 3. A licensed elevator contractor shall notify the Commissioner  
19 of Labor when there are no licensed personnel available to perform  
20 elevator work. The licensed elevator contractor may request that  
21 the Commissioner issue temporary elevator mechanic licenses to  
22 persons certified by the licensed elevator contractor to have an  
23 acceptable combination of documented experience and education to

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1 perform elevator work without direct and immediate supervision. Any  
2 person certified by a licensed elevator contractor to have any  
3 combination of documented experience and education to perform  
4 elevator work without direct and immediate supervision shall  
5 immediately apply for a temporary elevator mechanic license from the  
6 Commissioner and shall pay such fee as the Commissioner shall  
7 determine. Each such license shall state that it is valid for a  
8 period not to exceed ~~forty-five (45)~~ ten (10) days and while  
9 employed by the licensed elevator contractor that certified the  
10 individual as qualified. The Commissioner shall renew such licenses  
11 upon proper application and payment of any required fees as long as  
12 the shortage of license holders shall continue.

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

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1 any violations of any rule or order promulgated pursuant to the  
2 provisions of the Elevator Safety Act.

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

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

16 C. Effective November 1, 2006, except as otherwise provided by  
17 the Elevator Safety Act, every elevator in this state shall be  
18 subject to the provisions as required by this act. Within six (6)  
19 months of November 1, 2006, the owner or lessee of every elevator  
20 already in service or put into service by November 1, 2006, shall  
21 register the elevator with the Department of Labor, giving the type,  
22 rated load and speed, name of manufacturer, location of the  
23 elevator, and purpose for which used, as well as such other

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1 information as the Commissioner of Labor may require. Elevators  
2 newly constructed or installed on or after November 1, 2006, shall  
3 be registered and inspected before being put into service.

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

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

9 Such elevators shall be inspected if the authorized representative  
10 of the owner ~~request~~ requests such ~~an~~ inspection in writing and  
11 agrees to pay inspection fees established pursuant to the Elevator  
12 Safety Act;

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

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

4 E. Nothing in the Elevator Safety Act shall be construed as  
5 prohibiting municipalities, or counties, ~~or other political~~  
6 ~~subdivisions of the state~~ from enacting and enforcing licensure  
7 requirements or safety standards exceeding those required by the  
8 Elevator Safety Act; provided, that an elevator that has been issued  
9 a certificate of operation by either the Department of Labor, a  
10 county or a municipality shall be deemed sufficient under the  
11 requirements of the county or municipality.

12 F. Provisions of Section 863.1 et seq. of Title 19 of the  
13 Oklahoma Statutes that are in conflict with provisions of the  
14 Elevator Safety Act shall prevail over provisions of the Elevator  
15 Safety Act unless the provisions of Section 863.1 et seq. of Title  
16 19 of the Oklahoma Statutes are less stringent than the provisions  
17 of the Elevator Safety Act.

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

1 admittance to any place where an elevator is located which is  
2 affected by the act.

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

5 Section 3023. A. There is hereby established an Elevator  
6 Inspection Bureau in the Department of Labor under the direction of  
7 the chief elevator inspector, who shall be responsible to the  
8 Commissioner of Labor or a duly authorized representative for the  
9 supervision, inspection, alteration, installation, testing, and  
10 maintenance of elevators and other such devices within the  
11 definitions of the Elevator Safety Act.

12 The Elevator Inspection Bureau shall be furnished with  
13 sufficient personnel, deputy inspectors, and clerical aids to  
14 perform the assigned duties within the limits prescribed by the  
15 Commissioner of Labor.

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

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

20 2. Make available upon request copies of the rules promulgated  
21 by the agency; and

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

3 B. The Commissioner of Labor is authorized to adopt and  
4 promulgate rules pursuant to the Administrative Procedures Act.  
5 Definitions, rules, and regulations so adopted shall be based upon  
6 and follow generally accepted national engineering standards,  
7 formula, and practices. The Commissioner of Labor may adopt an  
8 existing American national standard known as the Safety Code for  
9 Elevators and Escalators of the American Society of Mechanical  
10 Engineers ("ASME").

11 C. Under the provisions of the Elevator Safety Act, the  
12 Commissioner of Labor is responsible to provide rules for the safety  
13 of life, limb, and property and therefore has jurisdiction over the  
14 interpretation and application of the inspection requirements as  
15 provided for in the rules. Inspection during construction and  
16 installation shall certify as to the minimum requirements for safety  
17 as defined in the American Society of Mechanical Engineers Code or  
18 other construction standards acceptable to the Commissioner of  
19 Labor. Inspection requirements of operating equipment shall be in  
20 accordance with generally accepted practice and compatible with the  
21 actual service conditions such as:

22 1. History of previous experience, previous records of  
23 inspection, performance, and maintenance;

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- 1        2. Location, with respect to personnel hazard;
- 2        3. Quality of inspection and operating personnel;
- 3        4. Provisions for related safe operating controls; and
- 4        5. Interrelation with other operations outside the scope of the
- 5 Elevator Safety Act.

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

8        E. Inspections conducted for the issuance of ~~a~~ any certificate  
9 of operation issued by the Commissioner of Labor pursuant to the  
10 Elevator Safety Act may be performed by:

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

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

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

22        F. Elevator Inspectors, not employed by the Department of  
23 Labor, shall submit to the Commissioner of Labor, an insurance

1 policy or certified copy thereof, issued by an insurance company  
2 authorized to do business in this state to provide general liability  
3 coverage of a least One Million Dollars (\$1,000,000.00) for injury  
4 or death of any number of persons in any one occurrence, with the  
5 coverage of at least Five Hundred Thousand Dollars (\$500,000.00) for  
6 property damage in any one occurrence and proof of workers'  
7 compensation coverage. Elevator inspectors not employed by the  
8 Department of Labor shall also provide such proof as the  
9 Commissioner may require that the inspector is in compliance with  
10 Sections 1702 through 1706 of Title 68 of the Oklahoma Statutes.

11 G. Elevators For the purpose of obtaining a certificate of  
12 operation: elevators, escalators, and other such devices within the  
13 definitions of the Elevator Safety Act shall receive an inspection  
14 ~~for the purpose of obtaining a certificate of operation:~~

15 1. ~~Two floor to four floor elevator units, not to exceed two~~  
16 ~~(2) years;~~

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

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

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

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

22 6. ~~Any elevator or other such device subject to the provisions~~  
23 ~~of the Elevator Safety Act located in a structure whose occupants~~

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1 ~~are mobility restricted, such as hospitals, nursing homes, and~~  
2 ~~residential care facilities, shall be inspected annually as provided~~  
3 ~~by the recommended schedule of the code or as per rules adopted by~~  
4 ~~the Department of Labor, whichever requires more frequent~~  
5 inspections.

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

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

- 10 1. The Commissioner shall:
- 11 a. adopt or determine standards of elevator safety,
  - 12 b. license elevator contractors, elevator mechanics, and
  - 13 elevator inspectors,
  - 14 c. register elevator apprentices,
  - 15 d. determine qualifications for examination, establish
  - 16 application processes, and examine applicants for
  - 17 licensure,
  - 18 e. establish terms of licensure and renewal procedures,
  - 19 f. attempt to achieve reciprocity agreements whereby
  - 20 licenses issued by other jurisdictions may be accepted
  - 21 in this state in lieu of examination,
  - 22 g. establish grounds for revocation, suspension, and
  - 23 nonrenewal of licenses and policies for reinstatement

1 of licenses and for imposition of lesser disciplinary  
2 measures,

3 h. establish continuing education requirements,

4 i. provide for the inspection and certification of  
5 elevators, including a procedure for issuing a  
6 certificate of operation when inspections are  
7 performed by a licensed elevator inspector not  
8 employed by the Department of Labor,

9 j. provide for the enforcement of the Elevator Safety  
10 Act,

11 k. hear appeals pursuant to the Administrative Procedures  
12 Act,

13 l. establish a procedure for the reporting and  
14 investigation of accidents, and

15 m. establish a procedure to allow variances from the  
16 literal requirement of the code;

17 2. The Commissioner shall publish informational brochures about  
18 license examinations that indicate the scope of the examinations,  
19 include suggestions about how to prepare for the examinations, and  
20 may include sample questions of the type to be expected, but shall  
21 never include test items that will be used in future examinations.  
22 In no case shall information about forthcoming examinations, that is  
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1 not generally available, be given to any school, coaching service,  
2 or individual privately; and

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

11 B. Fees shall be as follows:

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|---------------------------------------|----------|
| 12 1. Elevator contractor examination | \$100.00 |
| 13 2. Elevator inspector examination  | \$100.00 |
| 14 3. Elevator mechanic examination   | \$100.00 |
| 15 4. Initial and renewal elevator    |          |
| 16 contractor license                 | \$100.00 |
| 17 5. Initial and renewal elevator    |          |
| 18 inspector License                  | \$ 75.00 |
| 19 6. Initial and renewal elevator    |          |
| 20 mechanic License                   | \$ 50.00 |
| 21 7. Annual elevator apprentice      |          |
| 22 registration                       | \$ 25.00 |

1	8. Late renewal - in addition to	
2	license fee	\$ 10.00
3	9. Replacement of lost or mutilated	
4	license	\$ 10.00
5	10. Reinstatement - in addition to	
6	license fee	\$100.00
7	11. Existing elevator - certification	
8	of operation	\$ 25.00
9	12. New elevator - inspection and	
10	certification	\$150.00
11	13. Elevator temporary certification	\$ 25.00
12	14. Elevator temporary mechanic	
13	license for 30 days	\$ 10.00
14	15. Labor for chief elevator inspector	
15	or deputy elevator inspector to	
16	perform inspection for issuance of	
17	certificate of operation:	
18	a. any escalator or moving walkway	\$125.00
19	b. elevator, two-four floors	\$ 75.00
20	c. elevator, five-ten floors	\$100.00
21	d. elevator, eleven floors and over	\$125.00
22	e. wheelchair lift	\$ 25.00

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

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

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

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

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

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

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

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15 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
16 04/12/2012 - DO PASS, As Amended.

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