

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 769

By: Leftwich

AS INTRODUCED

An Act relating to professions and occupations; creating the Elevator Safety Act; providing short title; declaring legislative findings; prohibiting acts related to construction, installation, maintenance and servicing by unlicensed persons after specific date; requiring elevator inspections; stating exceptions to requirements of act; providing for construction of act; defining terms; creating Committee of Elevator Examiners; providing for number of members, qualifications, appointments, deadline for initial appointments, role of designees, length of initial and regular terms, service limits, removal for missing meetings, filling of vacancies, election of officers, frequency of meetings, quorum, and travel reimbursement; assigning administrative responsibilities to State Department of Health; stating powers and duties of Committee; setting fees; stating legislative intent; creating Elevator Safety Revolving Fund; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3001 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3002 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

B. Effective November 1, 2002, no person shall erect, construct, wire, alter, replace, maintain, remove, or dismantle any elevator unless the person holds a valid elevator mechanic's license pursuant to the Elevator Safety Act and is employed by a person or business entity licensed as an elevator contractor pursuant to the Elevator Safety Act. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, subject to a fine of not more than One Hundred Dollars (\$100.00) and imprisonment in the county jail for not more than ten (10) days, or both such fine and imprisonment. Each day's violation shall constitute a separate offense. Conviction as provided herein shall not preclude any filing of civil action.

C. Effective November 1, 2002, except as otherwise provided by the Elevator Safety Act, every elevator in this state shall be inspected not less than once each year by an elevator inspector licensed pursuant to the Elevator Safety Act. Not later than November 1, 2002, the owner or lessee of every elevator already in service or put into service by November 1, 2002, shall register the elevator with the Committee of Elevator Examiners, giving the type, rated load and speed, name of manufacturer, location of the elevator, and purpose for which used, as well as such other information as the Committee of Elevator Examiners may require. Elevators newly constructed or installed on or after November 1, 2002, shall be registered and inspected before being put into service.

D. The provisions of this act shall not apply to elevators:

1. In or adjacent to buildings or excavations owned by the government of the United States or located on federal property; or

2. In a private residence; provided, elevators in private residences shall be inspected if the property owner so requests and

pays inspection fees established pursuant to the Elevator Safety Act. Inspection of an elevator in a private residence pursuant to this paragraph shall not cause any other provision of the Elevator Safety Act to apply to the owner with respect to the private residence.

E. Nothing in the Elevator Safety Act shall be construed as prohibiting municipalities, counties, or other political subdivisions of the state from enacting and enforcing licensure requirements or safety standards exceeding those required by the Elevator Safety Act.

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3003 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Elevator Safety Act:

1. "Board" means the State Board of Health;
2. "Certificate of operation" means a document issued by the Department and affixed to an elevator that indicates that the elevator has been inspected and tested and found to be in compliance with all applicable standards of operation as determined by the Committee of Elevator Examiners;
3. "Certificate of operation - temporary" means a document issued by the Department that permits temporary use of a noncompliant elevator by the general public for not more than thirty (30) days while minor repairs are being completed;
4. "Committee" means the Committee of Elevator Examiners;
5. "Department" means the Oklahoma State Department of Health;

6. a. "Elevator" means any device for lifting or moving people, cargo, or freight within, or adjacent and connected to, a structure or excavation, and includes any escalator, power-driven stairway or stairway chair lift.
- b. The term "elevator" does not mean any:
- (1) amusement ride or device subject to inspection and regulation by the Oklahoma Department of Labor,
  - (2) mining equipment subject to inspection and regulation by the Department of Mines,
  - (3) aircraft, railroad car, boat, barge, ship, truck, or other self-propelled vehicle or component thereof, or
  - (4) device or category of devices determined by the Committee to be sufficiently safe because functioning or designed to function in compliance with an applicable scope of standards of the American National Standards Institute (ANSI), American Society of Civil Engineers (ASCE), or American Society of Mechanical Engineers (ASME), said determination to be made by adoption and promulgation of rules pursuant to the Administrative Procedures Act;

7. "Elevator apprentice" means an unlicensed person who works under the direct supervision of a licensed elevator mechanic;

8. "Licensed elevator contractor" means a person or business entity that possesses a valid elevator contractor's license issued pursuant to the provisions of the Elevator Safety Act and is thus entitled to engage in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators;

9. "Licensed elevator inspector" means a person who possesses a valid elevator inspector's license issued pursuant to the provisions of the Elevator Safety Act and is thus entitled to engage in the business of inspecting elevators;

10. "Licensed elevator mechanic" means a person who possesses a valid elevator mechanic's license in accordance with the provisions of the Elevator Safety Act and is thus, when employed by a licensed elevator contractor, entitled to install, construct, alter, service, repair, perform electrical work on, test, and maintain elevators; and

11. "Private residence" means a separate dwelling or a separate apartment in a multiple dwelling that is occupied by members of a single family unit.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3004 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Committee of Elevator Examiners, which shall consist of nine (9) members, one of whom shall be the Director of the Department of Central Services or the Director's designee, one of whom shall be the Commissioner of Health or the Commissioner's designee, and one of whom shall be the State Fire Marshal or the State Fire Marshal's designee. Designees shall serve at the pleasure of the designating authority and shall be voting members. The Governor shall appoint six members of the Committee, one of whom shall have at least five (5) years' experience as an elevator contractor, one of whom shall have at least five (5) years' experience as an elevator mechanic, one of whom shall have at least five (5) years' experience as an elevator inspector, one of whom shall be a licensed architect, one of whom shall be a registered engineer, and one of whom shall be a lay person. Appointments shall be to three-year terms ending June 30; provided, initial terms shall be staggered so that two appointees serve initial terms of one (1)

year, two serve initial terms of two (2) years, and two serve full terms initially. No appointed member shall serve more than six (6) consecutive years. Positions held by appointed members who are absent from three consecutive meetings shall be vacated. Vacancies shall be filled for the remainder of the term of appointment in the manner of regular appointments.

B. The Governor shall make initial appointments not later than February 1, 2002, and shall convene the Committee not later than March 1, 2002. At its first meeting, the Committee shall elect from among its membership a Chair and a Vice-chair and may at any time elect such other officers as the members deem appropriate. Officers shall be elected annually to terms ending September 30. No member shall serve as Chair for more than two (2) consecutive terms.

C. The Committee shall meet quarterly and at such other times as the Chair determines necessary. The Committee shall be subject to the Oklahoma Open Meeting Act. The Chair or Vice-chair and four additional members shall constitute a quorum. The Chair or, in the Chair's absence, the Vice-chair, shall only vote in case of a tie.

D. Members who are not state officers or employees shall be entitled to reimbursement for travel expenses pursuant to the State Travel Reimbursement Act.

E. Office space, record-keeping, and such other administrative, investigative, and legal services as are necessary for the Committee to perform its duties, including procurement of codes, execution of contracts for consultation with experts, purchase of tests, test materials, and test expertise, preparation and distribution of publications, and arrangements for and conduct of appeal hearings, shall be provided by the State Department of Health. Records shall be open to access in compliance with the Oklahoma Open Records Act; provided, test bank items for future use, materials relevant to the development of examination questions, test scoring devices or

information, and individual scores shall be confidential, as shall all matters relating to ongoing investigations.

F. The Committee is authorized to adopt and promulgate rules pursuant to the Administrative Procedures Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3005 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Committee of Elevator Examiners shall have the following powers and duties:

1. The Committee shall:
  - a. adopt or determine standards of elevator safety,
  - b. license elevator contractors, elevator mechanics, and elevator inspectors,
  - c. register elevator apprentices,
  - d. determine qualifications for examination, establish application processes, and examine applicants for licensure,
  - e. establish terms of licensure and renewal procedures,
  - f. attempt to achieve reciprocity agreements whereby licenses issued by other jurisdictions may be accepted in this state in lieu of examination,
  - g. establish grounds for revocation, suspension, and nonrenewal of licenses and policies for reinstatement of licenses and for imposition of lesser disciplinary measures,
  - h. establish continuing education requirements,
  - i. provide for the inspection and certification of elevators,
  - j. provide for the enforcement of the Elevator Safety Act, and
  - k. hear appeals pursuant to the Administrative Procedures Act;

2. The Committee shall periodically publish examination pass rates, together with such comparative data and analysis as may be useful for interpretation, and the Committee shall publish informational brochures about license examinations that indicate the scope of the examinations, include suggestions about how to prepare for the examinations, and may include sample questions of the type to be expected but shall never include test items that will be used in future examinations. In no case shall information about forthcoming examinations that is not generally available be given to any school, coaching service, or individual privately;

3. The Committee shall have subpoena powers and shall have the right to seek injunctive relief to prevent the operation of elevators lacking a certificate of operation after November 1, 2002, or failing inspection. For any violation of the Elevator Safety Act, the Committee may assess an administrative fine of not more than One Hundred Dollars (\$100.00), which fine may be assessed in addition to any other penalties provided pursuant to this act; and

4. Fees shall be as follows:

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| Application for examination                     | \$ 10.00 |
| Elevator contractor examination                 | 100.00   |
| Elevator inspector examination                  | 100.00   |
| Elevator mechanic examination                   | 100.00   |
| Initial and renewal elevator contractor license | 100.00   |
| Initial and renewal elevator inspector license  | 75.00    |
| Initial and renewal elevator mechanic license   | 50.00    |
| Annual elevator apprentice registration         | 25.00    |
| Late renewal - in addition to license fee       | 10.00    |
| Reinstatement - in addition to license fee      | 100.00   |
| Elevator inspection and certification           | 15.00    |
| Elevator temporary certification                | 25.00    |

All fees received shall be deposited to the Elevator Safety Revolving Fund. It is the intent of the Legislature that fees



charged pursuant to the Elevator Safety Act be adjusted to provide sufficient income, but not substantially more than sufficient income, to ensure elevator safety as provided by the Elevator Safety Act. Accordingly, the Committee of Elevator Examiners shall make an annual study of the revenues to and expenditures from the Elevator Safety Revolving Fund and shall prepare a report indicating what fee adjustments, if any, the Committee recommends. The report shall be submitted by September 1 each year to the Director of State Finance, the Chair of the Appropriations Committee of the Senate, and the Chair of the Appropriations and Budget Committee of the House of Representatives, and shall be filed with the Commissioner of Health.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3006 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Committee of Elevator Examiners, to be designated the "Elevator Safety Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all fees, fines, and other monies received by the State Department of Health pursuant to the provisions of the Elevator Safety Act. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department with the concurrence of the Committee of Elevator Examiners for the purpose of implementing, administering, or enforcing the provisions of the Elevator Safety Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 7. This act shall become effective November 1, 2001.