

ENROLLED SENATE
BILL NO. 756

By: Leftwich, Eason McIntyre,
Shurden and Wilson of the
Senate

and

Wilt of the House

An Act relating to professions and occupations; establishing a position of chief elevator inspector under the Department of Labor; stating duties and responsibilities; providing for the adoption of certain rules; stating minimum inspection requirements; providing for certain persons to conduct inspections; specifying devices that are required to be inspected for certain certificate; 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 Elevator Inspection Bureau; stating powers and duties of the Commissioner of Labor; setting fees; providing for renewal of licenses and certificates; creating Elevator Safety Revolving Fund; repealing Sections 1, 2 and 3, Chapter 191, O.S.L. 2002 (59 O.S. Supp. 2005, Sections 3009, 3010 and 3011), which relate to elevators and reports of injuries, definitions and authority to collect and maintain certain reports; 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 3020 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 3021 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, elevator mechanics, and elevator inspectors shall be licensed by this state pursuant to the Elevator Safety Act.

B. 1. Effective November 1, 2006, no person shall erect, construct, install, wire, alter, replace, maintain, remove, repair, 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 Five Hundred Dollars (\$500.00) for the first offense and up to One Thousand Dollars (\$1,000.00) for each additional offense, or 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 a civil action.

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

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

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

C. Effective November 1, 2006, except as otherwise provided by the Elevator Safety Act, every elevator in this state shall be subject to the provisions as required by this act. Within six (6) months of November 1, 2006, the owner or lessee of every elevator already in service or put into service by November 1, 2006, shall register the elevator with the Department of Labor, 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 Commissioner of Labor may require. Elevators newly constructed or installed on or after November 1, 2006, shall be registered and inspected before being put into service.

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

1. In or adjacent to buildings or excavations owned by and/or under the operational control of the government of the United States or located on federal property and/or a sovereign tribal nation. Such elevators shall be inspected if the authorized representative of the owner request such an inspection in writing and agrees to pay inspection fees established pursuant to the Elevator Safety Act; or

2. In an existing owner-occupied private residence; provided, such elevators 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.

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3022 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Elevator Safety Act:

1. "Agency" means the Oklahoma Department of Labor;
2. "Certificate of operation" means a document issued by the Commissioner 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 Department of Labor;

3. "Certificate of operation - temporary" means a document issued by the Commissioner 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. "Commissioner" means the Commissioner of Labor or his/her authorized representative;

5. "Chief elevator inspector" means the chief elevator inspector appointed under the Elevator Safety Act;

6. "Deputy inspector" means an inspector appointed by the chief elevator inspector subject to the approval of the Commissioner under the provisions of the Elevator Safety Act;

7. 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, moving walkway or stairway chair lift.
- b. The term "elevator" does not mean any:
- (1) amusement ride or device subject to inspection and regulation under the provisions of Section 460 et seq. of Title 40 of the Oklahoma Statutes,
 - (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,
 - (4) any boiler grate stoker or other similar firing mechanism subject to inspection under the provisions of the Oklahoma Boiler and Pressure Vessel Safety Act, or
 - (5) a dumbwaiter, conveyor, chain or bucket hoist, construction hoist or similar devices used for the primary purpose of elevating or lowering materials. This list is not exhaustive;

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

9. "Licensed elevator contractor" means a person or business entity that possesses a valid elevator contractor's license issued by the Department of Labor 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;

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

11. "Licensed elevator mechanic" means a person who possesses a valid elevator mechanic's license issued by the Department of labor 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

12. "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 3023 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

B. The Commissioner of Labor is authorized to adopt and promulgate rules pursuant to the Administrative Procedures Act. Definitions, rules, and regulations so adopted shall be based upon and follow generally accepted national engineering standards, formula, and practices. The Commissioner of Labor may adopt an existing American national standard known as the Safety Code for

Elevators and Escalators of the American Society of Mechanical Engineers ("ASME").

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

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

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

E. Inspections conducted for the issuance of a certificate of operation may be performed by:

1. The chief elevator inspector or deputy elevator inspector who at the time of inspection possesses a valid elevator inspector's license issued by the Department of Labor; or
2. An elevator inspector employed by the liability insurance company of record of the owner of the elevator or device who at the time of inspection is in possession of a valid elevator inspector's license issued by the Department of Labor.

F. Elevators, escalators, and other such devices within the definitions of the Elevator Safety Act shall receive an inspection for the purpose of obtaining a certificate of operation:

1. Two-floor to four-floor elevator units, not to exceed two (2) years;
2. Any wire-rope elevator, regardless of floors, annually;
3. Escalators and moving walkways, annually;
4. Wheelchair lifts, triennially;
5. Temporary elevators shall be inspected at each erection; and

6. Any elevator or other such device subject to the provisions of the Elevator Safety Act located in a structure whose occupants are mobility restricted, such as hospitals, nursing homes, and residential care facilities, shall be inspected annually.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3024 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner of Labor shall have the following powers and duties:

1. The Commissioner 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,
- k. hear appeals pursuant to the Administrative Procedures Act, and
- l. establish a procedure for the reporting and investigation of accidents;

2. The Commissioner 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; and

3. The Commissioner 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, 2006, or failing inspection. For any violation of the Elevator Safety Act, the Commissioner may assess an administrative fine of not more than Five Hundred Dollars (\$500.00), which fine may be assessed in addition to any other penalties provided pursuant to the Elevator Safety Act.

B. Fees shall be as follows:

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

of operation:

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

C. All revenues 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 Commissioner of Labor 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, shall be recommended. 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 Department of Labor.

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

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

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

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

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

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3025 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 Department of Labor, 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 Department of Labor 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 Commissioner of Labor 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. REPEALER Sections 1, 2 and 3, Chapter 191, O.S.L. 2002 (59 O.S. Supp. 2005, Sections 3009, 3010 and 3011), are hereby repealed.

SECTION 8. This act shall become effective November 1, 2006.

Passed the Senate the 17th day of May, 2006.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2006.

Presiding Officer of the House
of Representatives