

Regular Session, 2014

SENATE BILL NO. 602

BY SENATOR NEVERS

COMMERCIAL REGULATIONS. Provides for the regulation and inspection of elevators and other mechanisms. (8/1/14)

1 AN ACT  
2 To amend and reenact R.S. 40:1576, 1578.1(A)(9) and (10) and (B), and 1578.2 and to enact  
3 R.S. 40:1578.1(A)(11) and (12) and Subpart A-2, Part III of Chapter 7 of Title 40 of  
4 the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1597.1 through  
5 1597.23, relative to elevators and conveyance devices; to provide for the scope of  
6 regulation of the law; to provide for definitions; to provide for the registration of  
7 elevator and conveyance devices; to provide for the issuance of inspector licenses;  
8 to provide for violations, fines, and administrative actions; to require the office of the  
9 state fire marshal to promulgate administrative rules; to require compliance with  
10 certain codes; to require registrations and inspections for conveyances; to provide for  
11 inspections; to provide for enforcement; to create a fund; to provide relative to  
12 liability; to provide relative to the applicability of the law; and to provide for related  
13 matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 40:1576, 1578.1(A)(9) and (10) and (B), and 1578.2 are hereby  
16 amended and reenacted and R.S. 40:1578.1(A)(11) and (12) and Subpart A-2, Part III of  
17 Chapter 7 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.

1 40:1597.1 through 1597.23, are hereby enacted to read as follows:

2 §1576. Service of order

3 Any order for removal or remedying issued pursuant to R.S. 40:1575 **or an**  
4 **order to place a conveyance device, as defined by R.S. 40:1662, out of service**  
5 may be served upon the occupant of the premises to which it is directed by delivering  
6 a copy to the occupant personally or by registered or certified mail, or to any person  
7 in charge of the premises. If no person is found upon the premises, the order may  
8 be served by affixing a copy thereof in a conspicuous place on the door at the  
9 entrance to the premises. Whenever it is necessary to serve an order upon the owner  
10 of the premises, it may be served either by delivering a copy to the person as herein  
11 provided or, if the owner is absent from the jurisdiction of the officer making the  
12 order, by mailing the copy to the owner's last known post office address.

13 \* \* \*

14 §1578.1. Board of review

15 A. A board of review shall be established to evaluate alternatives to fire  
16 prevention or protection laws and regulations **or the Conveyance Devices Safety**  
17 **Act** established by the fire marshal when a request of review is properly submitted.  
18 The board of review shall not have the power to waive fire prevention and protection  
19 requirements **or requirements of the Conveyance Devices Safety Act**, but shall  
20 determine whether the suggested alternative provides equivalent or better protection  
21 within the context of the intent of the law. The board of review shall be composed  
22 of the following membership:

23 \* \* \*

24 **(9) One Qualified Elevator Inspector (QEI) who is licensed pursuant to**  
25 **the Conveyance Devices Safety Act and appointed by the governor;**

26 **(10) One elevator manufacturer selected by the Louisiana State**  
27 **Licensing Board for Contractors; and**

28 ~~(9)~~**(11)** One representative of the fire marshal's office, ex officio and non  
29 voting selected by the fire marshal;

1                   ~~(10)~~(12) The fire marshal, ex officio and non voting.

2                   Those members designated in Paragraphs 1 through 6 shall be appointed by  
3                   the governor for a term of four years. A voting member of the board shall be elected  
4                   by its membership as chairman for a term of one year.

5                   B. ~~Five~~ Six members of the board shall constitute a quorum. No board  
6                   member shall act in any case in which he has a personal pecuniary interest.

7   \*         \*         \*

8                   §1578.2. Appeal to board

9                   If an order of the fire marshal issued pursuant to R.S. 40:1578.6, ~~or~~ R.S.  
10                  40:1615.14, **or a report issued pursuant to R.S. 40:1597.10** is appealed to the  
11                  board of review, except as is provided in R.S. 40:1578.3, the order shall be  
12                  suspended without posting of security until such time as the board renders a final  
13                  decision.

14   **SUBPART A-1. CONVEYANCE DEVICES**

15                  **§1597.1. Short title**

16                         **This Subpart shall be known and may be cited as the "Conveyance**  
17                  **Devices Safety Act".**

18                  **§1597.2. Purpose; administration and enforcement**

19                         **A. (1) The purpose of this Subpart is to provide for the safety of the**  
20                  **persons utilizing and working with conveyance devices, as well as to promote**  
21                  **public safety awareness by requiring conveyance device inspections by licensed**  
22                  **elevator inspectors.**

23                         **(2) The use of unsafe and defective conveyance devices imposes the**  
24                  **probability of injury to the persons exposed to these unsafe devices. The**  
25                  **prevention of these injuries is in the best interest of the people of this state.**

26                         **B. In fulfilling the purpose of this Subpart, elevators and conveyances**  
27                  **shall be registered and inspected in accordance with this Subpart and rules**  
28                  **adopted by the state fire marshal, all in the interest of protecting persons who**  
29                  **use and work on elevators and conveyance devices.**

1           **§1597.3. Applicability to certain equipment**

2           **A. The provisions of this Subpart shall apply to the following equipment,**  
3           **its associated parts, and its hoistways, except as provided by R.S. 40:1597.4:**

4           **(1) Hoisting and lowering mechanisms equipped with a car or platform,**  
5           **which move between two or more landings. This equipment shall include but is**  
6           **not limited to the following:**

7                   **(a) Elevators.**

8                   **(b) Platform lifts.**

9                   **(c) Stairway chair lifts.**

10           **(2) Power-driven stairways and walkways for carrying persons between**  
11           **landings. This equipment shall include but is not limited to the following:**

12                   **(a) Escalators.**

13                   **(b) Moving walks.**

14           **(3) Hoisting and lowering mechanisms equipped with a car that serve**  
15           **two or more landings and are restricted to the carrying of material by their**  
16           **limited size or limited access to the car. This equipment shall include but is not**  
17           **limited to the following:**

18                   **(a) Dumbwaiters.**

19                   **(b) Material lifts and dumbwaiters with automatic transfer devices.**

20           **B. The provisions of this Subpart shall also apply to automatic guided**  
21           **transit vehicles on guideways with an exclusive right-of-way. This equipment**  
22           **shall include but is not limited to automated people movers.**

23           **C. The equipment listed in this Section is hereinafter collectively**  
24           **referred to in this Subpart as "conveyance device" or "conveyance equipment".**

25           **§1597.4. Exempt equipment**

26           **The provisions of this Subpart shall not apply to the following**  
27           **equipment:**

28                   **(1) Material hoists within the scope of ANSI A10.5.**

29                   **(2) Man lifts within the scope of ASME A90.1.**

1                   **(3) Mobile scaffolds, towers, and platforms within the scope of ANSI**  
2                   **A92.**

3                   **(4) Powered platforms and equipment for exterior and interior**  
4                   **maintenance within the scope of ANSI 120.1.**

5                   **(5) Conveyors and related equipment within the scope of ASME B20.1.**

6                   **(6) Cranes, derricks, hoists, hooks, jacks, and slings within the scope of**  
7                   **ASME B30.**

8                   **(7) Industrial trucks within the scope of ASME B56.**

9                   **(8) Portable equipment, except for portable escalators which are covered**  
10                   **by ASME A17.1/CSA B44 and ASME A17.7/CSA B44.7.**

11                   **(9) Tiering or piling machines used to move materials to and from**  
12                   **storage located and operating entirely within one story.**

13                   **(10) Equipment for feeding or positioning materials at machine tools,**  
14                   **printing presses, and other similar machines.**

15                   **(11) Skip or furnace hoists.**

16                   **(12) Wharf ramps.**

17                   **(13) Railroad car lifts or dumpers.**

18                   **(14) Line jacks, false cars, shafters, moving platforms, and similar**  
19                   **equipment used for installing an elevator by a contractor licensed in this state.**

20                   **(15) Noncode standard installations.**

21                   **(16) Any device listed in R.S. 40:1665.3 which is located in or on a state**  
22                   **owned or leased building.**

23                   **§1597.5. Definitions**

24                   **As used in this Subpart, the terms defined in this Section have the**  
25                   **meanings herein given to them, except where the context expressly indicates**  
26                   **otherwise:**

27                   **(1) "ASCE 21" means the American Society of Civil Engineers**  
28                   **Automated People Mover Standards.**

29                   **(2) "ASME A17.1/CSA B44" means the Safety Code for Elevators and**

1        Escalators, an American National Standard.

2                (3) "ASME A17.3" means the Safety Code for Existing Elevators and  
3        Escalators, an American National Standard.

4                (4) "ASME A17.7/CSA B44.7" means the Performance-Based Safety  
5        Code for Elevators and Escalators, an American National Standard.

6                (5) "ASME A18.1" means the Safety Standard for Platform Lifts and  
7        Stairway Chairlifts, an American National Standard.

8                (6) "Automated people mover" means an installation as defined as an  
9        "automated people mover" in ASCE 21.

10               (7) "Conveyance" or "conveyance device" means any device listed in  
11        R.S. 40:1665.3.

12               (8) "Elevator" means an installation as defined as an "elevator" in  
13        ASME A17.1/CSA B44.

14               (9) "Elevator contractor" means the company or individual that  
15        installed the elevator.

16               (10) "Elevator inspector" means any person licensed issued pursuant to  
17        this Subpart who engages in the business of inspecting elevators and other  
18        related conveyances regulated by this Subpart.

19               (11) "Elevator inspection firm" means any sole proprietorship,  
20        partnership, limited liability company, or any other entity, licensed pursuant  
21        to this Subpart that engages in the business of inspecting elevators and other  
22        related conveyances regulated by this Subpart.

23               (12) "Escalator" means an installation as defined as an "escalator" in  
24        ASME A17.1/CSA B44.

25               (13) "Existing installation" means an installation as defined as an  
26        "installation, existing" in ASME A17.3/CSA B44.

27               (14) "Fire marshal" or "office of the state fire marshal" means the  
28        Department of Public Safety and Corrections, office of state fire marshal, and  
29        its authorized representatives empowered to enforce this Subpart.

1                   **(15) "ISO" means International Standards Organization.**

2                   **(16) "IEC" means International Electrotechnical Commission, and**  
3                   **"IEC 17024" means the Conformity Assessment Package that provides**  
4                   **guidance on the general principles, performing inspections, audits, and**  
5                   **certification.**

6                   **(17) "Material alteration" means an "alteration" as defined in the**  
7                   **referenced standards.**

8                   **(18) "Moving walk or sidewalk" means an installation as defined as a**  
9                   **"moving walk" in ASME A17.1/CSA B44.**

10                   **(19) "One- or two-family dwelling" means a separate dwelling, a duplex,**  
11                   **or a separate apartment in a multiple dwelling, which is occupied by members**  
12                   **of a single-family unit.**

13                   **(20) "Person" or "persons" means a natural person or natural persons.**

14                   **(21) "Repair" means a "repair" as defined in the referenced standards.**

15                   **§1597.6. Other definitions**

16                   **All other building transportation terms are defined in the latest edition**  
17                   **of ASME A17.1/CSA B44 and ASME A18.1.**

18                   **§1597.7. American Society of Mechanical Engineers; American National**  
19                   **Standards Institute; American Society of Civil Engineers;**  
20                   **applicability to conveyance devices; minimum standards; appeal**

21                   **A. Adequate protection for safety shall be afforded in every conveyance**  
22                   **device to which this Subpart applies. To afford such protection, conveyances**  
23                   **devices shall comply with the latest editions of the American Society of**  
24                   **Mechanical Engineers (ASME) Safety Code for Elevators and Escalators,**  
25                   **ASME A17.1; ASME Performance-Based Safety Code for Elevators and**  
26                   **Escalators A17.7; the ASME Safety Code for Existing Elevators and Escalators,**  
27                   **A17.3; the ASME Safety Standards for Platform Lifts and Stairway Chairlifts,**  
28                   **A18.1; ASME Standard for the Qualification of Elevator Inspectors, QEI-1; and**  
29                   **Automated People Mover Standards, ASCE 21. The fire marshal shall**

1 promulgate rules to adopt the above standards within six months of their  
2 effective date and shall be the authority having jurisdiction to enforce  
3 compliance with such regulations. The effective date for enforcement shall be  
4 one hundred eighty days after adoption and promulgation under the  
5 Administrative Procedure Act.

6 B. A parish or municipality that, prior to April 1, 2015, has adopted and  
7 is enforcing a nationally recognized standards or codes for conveyance devices  
8 may continue to enforce such codes in place of the codes required in Subsection  
9 A of this Section; however, such codes or standards shall contain requirements  
10 that are substantially equal to the fire marshal's code with respect to  
11 conveyance devices.

12 C. The provisions of this Subpart are not intended to prevent the use of  
13 systems, methods, or devices of equivalent or superior quality, strength, fire  
14 resistance, code effectiveness, durability, and safety, to those required by the  
15 applicable code, provided that the fire marshal determines that there is  
16 technical documentation to demonstrate the equivalency or superiority of the  
17 system, method, or device, as prescribed in the American Society of Mechanical  
18 Engineers and American National Standards Institute (ANSI), Safety Code for  
19 Elevators and Escalators and American Society of Mechanical Engineers Safety  
20 Standards for Platform Lifts and Stairway Chairlifts, American Society of Civil  
21 Engineers, Automated People Mover Standards, applicable to conveyance  
22 devices.

23 §1597.8. State fire marshal; owners; elevator and conveyance device  
24 registration and inspections

25 The fire marshal shall cause the registration and inspection of  
26 conveyance devices in the state, except those exempt pursuant to R.S. 1597.4,  
27 in accordance with this Subpart.

28 §1597.9. Inspectors

29 The inspections conducted pursuant to this Subpart are to be conducted



1 by elevator inspectors licensed pursuant to this Subpart. An elevator contractor  
2 that installs a conveyance device shall be on-site for any inspection by a licensed  
3 elevator inspector.

4 §1597.10. State fire marshal; administrative rules; conveyance device  
5 registration and inspections

6 The state fire marshal shall promulgate rules, pursuant to the  
7 Administrative Procedure Act, which he considers necessary for the  
8 administration and enforcement of this Subpart. At minimum, the rules shall  
9 contain the following:

10 (1) The owner of each conveyance device installed prior to April 1, 2015,  
11 except those in one- or two-family dwellings, shall register the device with his  
12 office by April 1, 2016.

13 (2) An elevator contractor who installs a conveyance device on or after  
14 April 2, 2016, including those installed in one- or two-family dwellings, shall  
15 cause the device to be registered and inspected by a licensed elevator inspector  
16 prior to the device being put into use. The elevator inspector shall be  
17 independent of the elevator contractor that installed the elevator.

18 (3) The owner of each conveyance device, except those in one-and-two  
19 family homes, installed prior to April 1, 2016, shall cause an annual inspection  
20 of the device by a licensed elevator inspector. The first inspection shall occur  
21 prior to April 1, 2017.

22 (4) A process by which licensed elevator inspectors shall report the  
23 findings of each inspection to the fire marshal and to the owner of the  
24 conveyance device and by which a licensed elevator inspector shall indicate to  
25 the public that a conveyance device meet applicable standards during his  
26 inspection. Such process shall include the following, at minimum:

27 (a) If the inspector determines that the conveyance device does not meet  
28 applicable standards, he shall describe these facts in detail and cite the  
29 standards and deficiencies in his report.

1           **(b) The fire marshal shall notify the owner of the conveyance device**  
2           **inspected of remediation required to be made and the time frame in which the**  
3           **remediation shall be made.**

4           **(c) The owner may dispute the findings of any report by requesting a**  
5           **hearing with the board of review, R.S. 40:1578.1.**

6           **(d) The licensed elevator inspector shall place a notice on a conveyance**  
7           **device he inspected indicating his name and the date that the device met**  
8           **applicable standards according to his inspection.**

9           **(5) The standards of the American Society of Mechanical Engineers and**  
10           **American National Standards Institute, Safety Code for Elevators and**  
11           **Escalators and American Society of Mechanical Engineers Safety Standards for**  
12           **Platform Lifts and Stairway Chairlifts, American Society of Civil Engineers,**  
13           **Automated People Mover Standards, applicable to conveyance devices or**  
14           **elevators, that each conveyance device inspected shall meet.**

15           **§1597.11. Inspection of premises; orders for repair or removal of dangerous**  
16           **conditions**

17           **A. Upon review of a report of a licensed elevator inspector, complaint**  
18           **of any person, or upon his own initiative when he thinks necessary, the fire**  
19           **marshal or any of his authorized representatives may inspect any conveyance**  
20           **device within the state except those within the interiors of private and one- or**  
21           **two-family dwellings.**

22           **B. Whenever the inspecting officer from the fire marshal's office finds**  
23           **any such conveyance device, for any cause, is especially dangerous to life or**  
24           **which is so situated as to endanger other property or the occupants thereof, he**  
25           **shall order the elevator out of service. The owner of the elevator shall not**  
26           **permit it to be used until the fire marshal certifies that the hazardous conditions**  
27           **have been eliminated.**

28           **C. An order to place an elevator out of service shall be served pursuant**  
29           **to R.S. 40:1576.**

1                    **D. An appeal of an order to place an elevator out of service shall be**  
2 **taken pursuant to R.S. 40:1577.**

3                    **§1597.12. Implementation**

4                    **The fire marshal shall implement the Conveyance Devices Safety Act**  
5 **under this Subpart upon the appropriation of funds through any source of**  
6 **funding made available for this purpose.**

7                    **§1597.13. License required**

8                    **No person shall conduct an inspection as required by this Subpart for**  
9 **any conveyance on or within a building or structure located within the**  
10 **jurisdiction of this state, including but not limited to conveyances in or on one-**  
11 **or two-family dwellings, unless the person possesses an elevator inspection**  
12 **license issued by the fire marshal as provided in this Subpart.**

13                    **§1597.14. Elevator inspector license; requirements**

14                    **A. In order to engage in elevator inspections required by this Subpart,**  
15 **a person shall apply for and obtain an elevator inspector license from the fire**  
16 **marshal.**

17                    **B. The fire marshal shall, by rule adopted in accordance with the**  
18 **Administrative Procedure Act, establish qualifications for the licensing of**  
19 **persons as elevator inspectors, which shall include the following, at minimum:**

20                    **(1) Requiring that inspectors and inspection supervisors shall be**  
21 **certified in accordance with the latest edition of the ASME QEI-1 standard.**  
22 **The organization which certifies the inspectors shall be accredited by an**  
23 **independent, internationally or nationally recognized organization that**  
24 **accredits personnel certification bodies to ANSI/ISO/IEC 17024.**

25                    **(2) Obtaining the required insurance.**

26                    **(3) Designating an agent for service.**

27                    **C. Each individual license holder shall have proof of his license with him**  
28 **while engaging in elevator inspections and present such license upon demand**  
29 **by employee of the office of the state fire marshal.**

1            **D. As a further condition of licensure, the acceptance of a license by a**  
2            **person shall be deemed as consent to submit to the reasonable requests for**  
3            **documentation by the state fire marshal and to cooperate in a lawful**  
4            **investigation by the fire marshal. Refusal to cooperate with any lawful**  
5            **investigation by the fire marshal shall be subject to any penalty as outlined in**  
6            **this Subpart, or administrative rules adopted pursuant to this Subpart,**  
7            **including suspension or revocation of the license.**

8            **E. Each person licensed pursuant to this Section shall notify the fire**  
9            **marshal within fifteen days of a change in the business address of the licensee.**

10           **F. All licenses issued pursuant to this Section are valid for one year, and**  
11           **shall be renewed annually to remain valid.**

12           **§1597.15. Application for an elevator inspection firm license; requirements to**  
13           **maintain**

14           **A. In order to engage in elevator inspections required by this Subpart,**  
15           **a firm shall apply for and obtain a license for each operating location doing**  
16           **business in the state.**

17           **B. The fire marshal shall, by rule adopted in accordance with the**  
18           **Administrative Procedure Act, establish qualifications for the licensing of firms**  
19           **as elevator inspection firms, which shall include the following, at minimum:**

20           **(1) A completed firm application.**

21           **(2) Documentation that the firm is an entity duly authorized to conduct**  
22           **business within this state. If the firm is physically located in Louisiana,**  
23           **documentation shall be in the form of a local or parish occupational license and**  
24           **if incorporated, registration with the secretary of state. If the firm is physically**  
25           **located outside of the state, documentation shall be in the form of registration**  
26           **with the secretary of state as a foreign corporation including the name of the**  
27           **firm's registered agent of service.**

28           **(3) An original certificate of insurance documenting that the firm has**  
29           **a minimum of one million dollars bodily insurance and five-hundred thousand**

1           dollars property damage insurance.

2                   (4) A current and valid workers' compensation insurance policy which  
3           meets at least the statutory minimum required by state law.

4                   (5) The name of the person who will serve as the designated agent of the  
5           company.

6                   (6) Proof of employment of an elevator inspector licensed pursuant to  
7           this Subpart.

8                   C. Each firm as a condition of licensure shall be open for inspection by  
9           the fire marshal at any reasonable time for the purpose of observation and  
10          collection of facts and data relating to proper enforcement of this Subpart. No  
11          person acting on behalf of the firm shall refuse to admit the fire marshal to an  
12          operating location. Firms physically located outside of Louisiana may be  
13          charged for the travel expenses of the fire marshal to conduct such an  
14          inspection.

15                  D. As a further condition of licensure, the acceptance of a license by a  
16          firm shall be deemed as consent to submit to the reasonable requests for  
17          documentation by the fire marshal and to cooperate in a lawful investigation by  
18          the fire marshal. Refusal to cooperate with any lawful investigation by the fire  
19          marshal shall be subject to any penalty as outlined in this Subpart, or  
20          administrative rules adopted pursuant to this Subpart, including suspension or  
21          revocation of license.

22                  E. Each firm shall clearly display its license in a conspicuous location at  
23          its place of business.

24                  F. The designated agent of an elevator inspection firm shall notify the  
25          fire marshal within ten days of the following:

26                   (1) Any change in the business address of the firm.

27                   (2) Any change in ownership of or interest in the firm.

28                   (3) Any change in the employment of a person holding an individual  
29          license.

1           G. No elevator inspection firm shall cause an elevator inspection to  
2           occur unless the inspection is conducted by an elevator inspector licensed  
3           pursuant to this Subpart.

4           §1597.16. Powers and duties of state fire marshal; licensure

5           The state fire marshal shall:

6           (1) Evaluate the qualifications of firms or persons applying for or  
7           maintaining a license pursuant to this Subpart.

8           (2) Have authority to conduct examinations to ascertain the  
9           qualifications and fitness of applicants for a license pursuant to this Subpart.

10          (3) Issue full or provisional licenses to firms and persons that meet the  
11          qualifications established by this Subpart.

12          (4) Evaluate the qualifications of firms seeking licensure.

13          (5) Have authority, after notice and opportunity for hearing, to increase  
14          or decrease the limits of insurance coverage and authorize acceptance of surplus  
15          lines coverage if the state fire marshal determines that due to loss experience,  
16          market conditions, or other good reason, the liability insurance coverage  
17          required by this Subpart is unavailable to applicants for or holders of licenses.

18          (6) Have authority to conduct inspections of licensed firms, whether in  
19          state or out of state, for the purpose of observation and collection of facts and  
20          data relating to proper enforcement of this Subpart.

21          (7) Investigate all written complaints lodged against firms or individuals  
22          who are alleged to have violated this Subpart and pursue administrative action  
23          against the firms or individuals.

24          §1597.17. Prohibited acts

25          No person or firm shall do any of the following:

26          (1) Engage in conveyance device inspections without a valid license.

27          (2) Aid and abet an unlicensed individual, employee, or firm in a  
28          conveyance device inspection or inspections.

29          (3) Inspect a conveyance device contrary to applicable codes, standards,

1 or manufacturer's specifications without specific written authorization from the  
2 office of the state fire marshal.

3 (4) Submit an application or any other document to the office of the  
4 state fire marshal when the person reasonably should have known that the  
5 document contained false or misleading information.

6 (5) Engage in false, misleading, or deceptive acts or practices.

7 (6) Fail to maintain a valid license as required by this Subpart.

8 (7) Fail to maintain a valid insurance policy as required by this Subpart.

9 (8) Refuse to admit the state fire marshal or his designated  
10 representative to an operating location or refuse to cooperate in the purposes  
11 of such admittance as required by this Subpart.

12 (9) Fail to maintain his license on his person and to present it for  
13 inspection as required by this Subpart.

14 (10) Refuse to cooperate with any lawful investigation by the office of the  
15 state fire marshal.

16 (11) Fail to abide by the administrative rules promulgated pursuant to  
17 this Subpart.

18 §1597.18. Notice, hearing, and revocation of certificate or license

19 The license as provided for in this Subpart may be revoked or suspended  
20 after notice and hearing in accordance with the Administrative Procedure Act  
21 and upon a finding that a person or firm:

22 (1) Willfully violated any provision of this Subpart or any rule,  
23 regulation, or order adopted hereunder.

24 (2) Used deceit or false or misleading information in obtaining any  
25 certificate or license pursuant to this Subpart.

26 (3) Has been professionally incompetent or grossly negligent.

27 (4) Has assisted any person attempting to evade the provisions of this  
28 Subpart, or any rules or regulations adopted hereunder.

29 §1597.19. Penalties

1           A.(1) In addition to or in lieu of administrative sanctions provided in  
2           this Subpart, the state fire marshal is empowered to issue an order to any  
3           person or firm engaged in any activity, conduct, or practice constituting a  
4           violation of any provision of this Subpart, directing such person or firm to cease  
5           and desist from such activity, conduct, or practice. Such order shall be issued  
6           in the name of the state of Louisiana under the official seal of the state fire  
7           marshal.

8           (2) If the person or firm to whom the state fire marshal directs a cease  
9           and desist order does not cease and desist the prohibited activity, conduct, or  
10           practice immediately after service of such cease and desist order by certified  
11           mail or personal service, the state fire marshal may seek, in any court of  
12           competent jurisdiction and proper venue, a writ of injunction enjoining such  
13           person or firm from engaging in any activity, conduct, or practice prohibited  
14           by this Subpart.

15           (3) Upon a proper showing by the state fire marshal that such person or  
16           firm has engaged in any activity, conduct, or practice prohibited by this  
17           Subpart, the court shall issue a temporary restraining order restraining the  
18           person or firm from engaging in unlawful activity, conduct, or practices  
19           pending the hearing on a preliminary injunction, and in due course a  
20           permanent injunction shall be issued after a hearing, commanding the cessation  
21           of the unlawful activity, conduct, or practices.

22           (4) A temporary restraining order, preliminary injunction, or  
23           permanent injunction issued under this Subpart shall not be subject to being  
24           released upon bond.

25           (5) In the suit for an injunction, the state fire marshal may demand of  
26           the defendant a penalty of fifty dollars per day for each violation, reasonable  
27           attorney fees, and court costs. Judgment for penalty, attorney fees, and court  
28           costs may be rendered in the same judgment in which the injunction is made  
29           absolute.



1           **B. If the state fire marshal finds that any person or firm has violated any**  
2           **provision of this Subpart or any regulation, rule, or order issued hereunder, he**  
3           **may impose upon that person or firm a fine in an amount not to exceed five**  
4           **thousand dollars for each violation. The state fire marshal shall establish and**  
5           **promulgate a fine schedule pursuant to the Administrative Procedure Act.**

6           **C. Procedures for the imposition of fines and appeals of such fines shall**  
7           **be governed by the Administrative Procedure Act.**

8           **§1597.20. Conveyance Devices Safety Fund**

9           **A. There is hereby created, as a special fund in the state treasury, the**  
10           **Conveyance Devices Safety Fund. The source of monies for the fund shall be all**  
11           **monies collected pursuant to this Subpart, and grants, gifts, and donations and**  
12           **any other monies received by the state to fulfill the purpose of this Subpart**  
13           **which are appropriated to the fund.**

14           **B. After compliance with the requirements of Article VII, Section 9(B)**  
15           **of the Constitution of Louisiana, relative to the Bond Security and Redemption**  
16           **Fund, an amount equal to that deposited into the state treasury from the**  
17           **foregoing sources shall be deposited in and credited to the fund. The monies in**  
18           **the fund shall be invested by the treasurer in the same manner as the state**  
19           **general fund, and interest earnings shall be deposited into the fund. All**  
20           **unexpended and unencumbered monies remaining in the fund at the end of each**  
21           **fiscal year shall remain in the fund.**

22           **C. Monies in the fund shall be subject to annual appropriation by the**  
23           **legislature for the exclusive use of the Department of Public Safety and**  
24           **Corrections, office of the state fire marshal, in implementing the provisions of**  
25           **this Subpart. The monies in the fund shall be allocated and disbursed by the**  
26           **deputy secretary of Department of Public Safety and Corrections, public safety**  
27           **services, for the exclusive use by the office of the state fire marshal in**  
28           **implementing this Subpart.**

29           **§1597.21. Liability**

1                   **A. This Subpart shall not be construed to relieve or lessen the**  
2                   **responsibility or liability of any person, firm, or corporation owning, operating,**  
3                   **controlling, maintaining, erecting, constructing, installing, altering, inspecting,**  
4                   **testing, or repairing any conveyance device or other related mechanisms**  
5                   **regulated by this Subpart for damages to persons or property caused by any**  
6                   **defect in devices.**

7                   **B. In addition, the state shall not assume any such liability or**  
8                   **responsibility or any liability to any person or firm for any reason whatsoever**  
9                   **by the adoption of this Subpart or any acts or omissions arising hereunder.**

10                   **§1597.22. State law, code, or regulation**  
11                   **Whenever a provision in this Subpart is found to be inconsistent with**  
12                   **any other provision of applicable state law, code, or regulation, the other**  
13                   **applicable state law shall prevail. This Subpart, unless specifically stated**  
14                   **otherwise, is not intended to establish more stringent or more restrictive**  
15                   **standards than those standards set forth in the applicable state law.**

16                   **§1597.23. Permits issued by political subdivisions**  
17                   **Nothing in this Subpart shall prohibit political subdivisions from**  
18                   **requiring local permits for the erection, construction, installation, inspection,**  
19                   **or alteration of conveyance devices.**

20   \*           \*           \*

21                   Section 3. The provisions of this Act shall not be implemented, applied, or enforced  
22                   until the final adoption and promulgation of all necessary rules and regulations are  
23                   promulgated by the office of the state fire marshal. The office of the state fire marshal shall,  
24                   upon the effective date of this Act, immediately commence the process of promulgating such  
25                   rules and regulations.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

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DIGEST

Nevers (SB 602)

Proposed law requires certain elevators and conveyance devices to be registered with the office of the state fire marshal and inspected by licensed elevator inspectors.

Proposed law lists the conveyance devices that will be subject to the registration and inspection requirements of the Conveyance Devices Safety Act.

Proposed law lists the conveyance devices that will be exempt from the registration and inspection requirements of the Conveyance Devices Safety Act.

Proposed law provides guidelines for which standards existing and newly installed conveyance devices must meet.

Proposed law requires the office of the state fire marshal to promulgate rules providing for the following:

- (1) Registration by the owner of each conveyance device installed prior to April 1, 2015, except those in one- or two-family dwellings. Provides that the owner of the conveyance device shall register the device with the state fire marshal's office by April 1, 2016.
- (2) Registration by an elevator contractor who installs a conveyance device on or after April 2, 2016, including those installed in one- or two-family dwellings. Provides that the elevator contractor shall cause the device to be registered and inspected by a licensed elevator inspector prior to the device being put into use. Provides that the elevator inspector shall be independent of the elevator contractor that installed the elevator.
- (3) That the owner of each conveyance device, except those in one- and two-family homes, installed prior to April 1, 2016, shall cause an annual inspection of the device by a licensed elevator inspector. Provides that the first inspection shall occur prior to April 1, 2017.
- (4) A process by which licensed elevator inspectors shall report the findings of each inspection to the fire marshal and to the owner of the conveyance device and by which a licensed elevator inspector shall indicate to the public that a conveyance device meet applicable standards during his inspection. Provides that such process shall include the following, at a minimum:
  - (a) If the inspector determines that the conveyance device does not meet applicable standards, he shall describe these facts in detail and cite the standards and deficiencies in his report.
  - (b) The fire marshal shall notify the owner of the conveyance device inspected of remediation required to be made and the time frame in which the remediation shall be made.
  - (c) The owner shall dispute the findings of any report by requesting a hearing with the board of review, R.S. 40:1578.1.
  - (d) The licensed elevator inspector shall place a notice on a conveyance device he inspected indicating his name and the date that the device met applicable

standards according to his inspection.

- (5) Application of those standards of the American Society of Mechanical Engineers and American National Standards Institute, Safety Code for Elevators and Escalators and American Society of Mechanical Engineers Safety Standards for Platform Lifts and Stairway Chairlifts, American Society of Civil Engineers, and Automated People Mover Standards which are applicable to conveyance devices or elevators, to each conveyance device inspected.
- (6) Implementation of the Conveyance Devices Safety Act under proposed law upon the appropriation of funds through any source of funding made available for this purpose.
- (7) Establishing qualifications for the licensing of firms as elevator inspection firms.
- (8) Establishing qualifications for the licensing of persons as elevator inspectors.

Proposed law authorizes the office of the state fire marshal to put a conveyance device, except those in one- or two-family dwellings, out of service if it poses a threat to the public.

Proposed law provides for the licensing of elevator inspector and elevator inspector firms and requires all inspections of conveyance devices required pursuant to proposed law be conducted by licensed elevator inspectors.

Proposed law provides for fines and penalties for violations of proposed law.

Effective August 1, 2014.

(Amends R.S. 40:1576, 1578.1(A)(9) and (10) and (B), and 1578.2; adds R.S. 40:1578.1(A)(11) and (12) and 1597.1-1597.23)