

An Act

ENROLLED SENATE
BILL NO. 1529

By: Rader of the Senate

and

Newton of the House

An Act relating to the Elevator Safety Act; amending 59 O.S. 2011, Section 3021, which relates to license; modifying language; removing certain penalties; amending 59 O.S. 2011, Section 3023, as amended by Section 9, Chapter 93, O.S.L. 2016 (59 O.S. Supp. 2017, Section 3023), which relates to elevator inspections; requiring new nonresidential elevators be inspected by the Commissioner or designee; amending Section 4, Chapter 93, O.S.L. 2016 (59 O.S. Supp. 2017, Section 3023.2), which relates to private residences; providing for third party inspections; authorizing voluntary review; amending Section 8, Chapter 93, O.S.L. 2016 (59 O.S. Supp. 2017, Section 3023.6), which relates to annual inspections; authorizing reasonable time for compliance; updating statutory references; and providing an effective date.

SUBJECT: Elevator Safety Act

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

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

Section 3021. 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, except~~ Except as otherwise provided for by the Elevator Safety Act or rules promulgated pursuant thereto, 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. Whenever an emergency exists in this state due to disaster, act of God or work stoppage, and the number of persons in the state holding licenses issued by the Commissioner of Labor is insufficient to cope with the emergency, licensed elevator contractors shall respond as necessary to assure the safety of the public. Any person certified by a licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall apply for an emergency elevator mechanic license from the Department of Labor within five (5) business days after commencing work requiring a license. The Commissioner shall issue emergency elevator mechanic licenses. The licensed elevator contractor shall furnish proof of competency as the Commissioner may require. Each such license shall state that it is valid for a period of forty-five (45) days from the date thereof and for such particular elevators or geographical areas as the Commissioner may designate and otherwise shall entitle the licensee to the rights and privileges of an elevator mechanic license issued pursuant to the Elevator Safety Act. The Commissioner shall renew an emergency elevator mechanic license upon proper application during the existence of an emergency. No fee shall be charged for any emergency elevator mechanic license or renewal thereof.

3. A licensed elevator contractor shall notify the Commissioner of Labor when there are no licensed personnel available to perform elevator work. The licensed elevator contractor may request that the Commissioner issue temporary elevator mechanic licenses to persons certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Any person certified by a licensed elevator contractor to have any combination of documented experience and education to perform elevator work without direct and immediate supervision shall immediately apply for a temporary elevator mechanic license from the Commissioner and shall pay such fee as the Commissioner shall determine. Each such license shall state that it is valid for a period not to exceed ~~forty-five (45)~~ thirty (30) days and while employed by the licensed elevator contractor that certified the individual as qualified. The Commissioner shall renew such licenses upon proper application and payment of any required fees as long as the shortage of license holders shall continue.

4. 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.

5. 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.

6. 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~~ 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~~ the Elevator Safety Act. ~~Within six (6) months of November 1, 2006, the~~ 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;

2. In an existing owner-occupied private residence or an existing building of not more than two floors owned by a municipal public trust that is used solely for independent living apartments for persons sixty-two (62) years of age or older; 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 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 or building; or

3. Located in or adjacent to a building or structure within a manufacturing, utility or industrial facility. Such elevators shall be inspected if the authorized representative of the facility

requests such an inspection in writing and agrees to pay inspection fees established pursuant to the Elevator Safety Act.

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 Section 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~~ Elevator Safety Act.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 3023, as amended by Section 9, Chapter 93, O.S.L. 2016 (59 O.S. Supp. 2017, Section 3023), is amended to read as follows:

Section 3023. 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 for new nonresidential installations shall be performed by the Commissioner or his or her designee.

F. Periodic inspections shall be performed by:

1. A licensed third party inspector who at the time of inspection possesses a valid elevator inspector's license issued by the Department of Labor;

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; or

3. An elevator inspector employed by the Department of Labor.

G. Elevator Inspectors, not employed by the Department of Labor, shall submit to the Commissioner of Labor, an insurance policy or certified copy thereof, issued by an insurance company authorized to do business in this state to provide general liability coverage of a least One Million Dollars (\$1,000,000.00) for injury or death of any number of persons in any one occurrence, with the coverage of at least Five Hundred Thousand Dollars (\$500,000.00) for property damage in any one occurrence and proof of workers' compensation coverage.

H. 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 every ninety (90) days or as the code requires; 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 3. AMENDATORY Section 4, Chapter 93, O.S.L. 2016 (59 O.S. Supp. 2017, Section 3023.2), is amended to read as follows:

Section 3023.2. A. The certificate of operation fee for newly installed elevators, platform lifts, and stairway chairlifts for private residences shall be subsequent to an inspection by a third party inspector or by the Commissioner or his or her designee.

B. ~~The~~ A third party inspector or the Commissioner, or his or her designee, shall inspect, in accordance with the requirements set forth in this chapter, all newly installed elevators, platform lifts, and stairway chairlifts for private residences. For newly installed residential elevators and other residential elevators, the inspector shall note on the inspection report compliance with the applicable codes governing protection of hoist way openings, commonly known as the 3x5 rule.

C. An owner, operator or installer of a new residential elevator may voluntarily request the Department of Labor to conduct a review of a planned new installation for compliance with the provisions of the Elevator Safety Act and Department regulations. The review shall be performed in accordance with Department regulations regarding installation permits. The Department may charge a fee for the review as established by rule. The review shall not subject the owner, operator or installer to any additional responsibilities under the Elevator Safety Act, which are not otherwise required prior to the voluntary review.

SECTION 4. AMENDATORY Section 8, Chapter 93, O.S.L. 2016 (59 O.S. Supp. 2017, Section 3023.6), is amended to read as follows:

Section 3023.6. A. Initial inspections shall be conducted by the Commissioner or his or her designee. It shall be the responsibility of the owners of all new and existing conveyances located in any building or structure to have the conveyances inspected annually (ASME A17.1, category one) by a licensed elevator inspector. Subsequent to inspection, the licensed elevator inspector shall supply the property owner or lessee and the Commissioner with a written inspection report describing any and all violations. Property owners shall have thirty (30) days from the date of the published inspection report, or a reasonable period of time as determined by the Commissioner beyond the 30-day period, to be in full compliance with correcting the violations.

B. It shall be the responsibility of the owners of conveyances to have a licensed elevator inspector, as described in this chapter, ensure that the required tests are performed at intervals in compliance with ASME A17.1, ASME A18.1 and ASCE 21.

C. All tests shall be performed by a licensed elevator mechanic.

SECTION 5. This act shall become effective November 1, 2018.

Passed the Senate the 6th day of March, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the 10th day of April, 2018.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____