

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1349 Session of
2009

INTRODUCED BY KILLION, BELFANTI, BEYER, CIVERA, D. COSTA,
GINGRICH, HENNESSEY, HESS, KORTZ, KOTIK, MCILVAINE SMITH,
MELIO, MILNE, MOUL, MURT, MYERS, PAYNE, REICHLEY, SIPTROTH,
SOLOBAY, VULAKOVICH AND YOUNGBLOOD, APRIL 23, 2009

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 23, 2009

AN ACT

1 Providing for licensing of elevator contractors, mechanics and
2 inspectors; and imposing duties on the Department of Labor
3 and Industry.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

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7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 CHAPTER 1

10 PRELIMINARY PROVISIONS

11 Section 101. Short title.

12 This act shall be known and may be cited as the Pennsylvania
13 Elevator Act.

14 Section 102. Purpose.

15 (a) Safety.--The purpose of this act is to provide for the
16 safety of installers, maintainers, operators and users and to
17 promote public safety awareness. The use of unsafe and defective
18 lifting devices imposes a substantial probability of serious and
19 preventable injury to employees and exposes the public to unsafe
20 conditions. The prevention of these injuries and protection of
21 employees and the public from unsafe conditions is in the best
22 interest of the people of this Commonwealth. Elevator personnel
23 performing work covered by this act shall be documented in
24 training or experience or both and be familiar with the
25 operation and safety functions of the components and equipment.
26 Training and experience shall include, but not be limited to,
27 recognizing the safety hazards and performing the procedures to
28 which elevator personnel are assigned in conformance with the
29 requirements of this act. This act shall establish the minimum
30 standards for elevator personnel.

(b) Equivalents.--The provisions of this act are not intended to prevent the use of systems, methods or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability and safety to those required by this act, provided that there is technical documentation to demonstrate the equivalency of the system, method or device as prescribed in the requirements of ASME A17.1, ASME A18.1 or ASCE 21.

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"ASCE." The American Society of Civil Engineers.

"ASME." The American Society of Mechanical Engineers.

"ASME QEI." The standards for the qualifications of elevator inspectors drafted by the American Society of Mechanical Engineers.

"Automated people mover." An installation defined as an automated people mover in ASCE 21.

"Conveyance." Any elevator, dumbwaiter, escalator, moving sidewalk, platform lift, stairway chairlift and automated people mover.

"Department." The Department of Labor and Industry of the Commonwealth.

"Elevator." An installation defined as an elevator in the most recent version of ASME A17.1, A17.3, A17.7 or A18.1.

"Elevator contractor." Any sole proprietor, firm or corporation that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators or related conveyances covered by this

1 act.

2 "Elevator inspector." A person defined in ASME QEI as an
3 inspector.

4 "Elevator mechanic." A person who is engaged in erecting,
5 constructing, installing, altering, servicing, repairing or
6 maintaining elevators or related conveyances covered by this
7 act.

8 "Escalator." An installation defined as an escalator in ASME
9 A17.1.

10 "License." A written license, issued by the Department of
11 Labor and Industry, authorizing a person, sole proprietor, firm
12 or corporation to carry on the business of erecting,
13 constructing, installing, altering, servicing, repairing,
14 maintaining or performing inspections of elevators or related
15 conveyances covered by this act.

16 "Moving walk." An installation defined as a moving walk in
17 ASME A17.1.

18 "Private residence." A separate dwelling or a separate
19 apartment in a multiple-family dwelling which is occupied by
20 members of a single-family unit.

21 "Repair." A repair as defined in the ASCE and the ASME
22 standards. A repair does not require a permit.

23 CHAPTER 3

24 LICENSING

25 Section 301. License required.

26 (a) Elevator mechanic license.--No person shall erect,
27 construct, alter, replace, maintain, remove or dismantle any
28 conveyance contained within buildings or structures in this
29 Commonwealth unless an elevator mechanic license has been issued
30 to the person as described in this act, and the person is

1 working under the direct supervision of a sole proprietor, firm
2 or corporation that is an elevator contractor pursuant to this
3 act. No person shall wire any conveyance, from the mainline
4 feeder terminals on the controller, in this Commonwealth unless
5 an elevator mechanic license has been issued to the person as
6 described in this act and the person is working under the direct
7 supervision of a sole proprietor, firm or corporation that is an
8 elevator contractor pursuant to this act. No other license shall
9 be required for work described under this subsection. A licensed
10 elevator contractor is not required to remove or dismantle
11 conveyances which are destroyed as a result of a complete
12 demolition of a secured building or structure or where the
13 hoistway or wellway is demolished back to the basic support
14 structure whereby no access is permitted.

15 (b) Inspector license.--No person shall inspect any
16 conveyance within buildings or structures, including, but not
17 limited to, private residences, unless an inspector license has
18 been issued as provided in this act.

19 (c) Contractor license.--No person shall engage in the
20 business of erecting, constructing, installing, altering,
21 servicing, testing, repairing or maintaining elevators or
22 related conveyances covered by this act, unless a contractor
23 license has been issued as provided in this act.

24 Section 302. Issuance and renewal of licenses; fees.

25 (a) Issuance and renewal.--Upon approval of an application
26 by the department, the department may issue a license which
27 shall be renewable biennially. The fee for such license for any
28 renewal thereafter shall be set by the department.

29 (b) Emergencies.--Whenever an emergency exists in this
30 Commonwealth due to a disaster, an act of God or work stoppage

1 and the number of persons in this Commonwealth holding licenses
2 granted by the department is insufficient to cope with the
3 emergency, elevator contractors shall respond as necessary to
4 assure the safety of the public. Any person certified by a
5 licensed elevator contractor to have an acceptable combination
6 of documented experience and education to perform elevator work
7 without direct and immediate supervision shall seek an emergency
8 elevator mechanic license from the department within five
9 business days after commencing work requiring a license. The
10 department shall issue emergency elevator mechanic licenses. The
11 elevator contractor shall furnish proof of competency as the
12 department may require. Each license is valid for a period of 45
13 days from the date of issuance and for such particular elevators
14 or geographical areas as the department may designate and
15 otherwise shall entitle the licensee to the rights and
16 privileges of an elevator mechanic license issued under this
17 act. The department shall renew an emergency elevator mechanic
18 license during the existence of an emergency. No fee shall be
19 charged for any emergency elevator mechanic license or renewal
20 thereof.

21 (c) Labor shortage.--An elevator contractor shall notify the
22 department when there are no licensed personnel available to
23 perform elevator work. The elevator contractor may request that
24 the department issue temporary elevator mechanic licenses to
25 persons certified by the licensed elevator contractor to have an
26 acceptable combination of documented experience and education to
27 perform elevator work without direct and immediate supervision.
28 Any person certified by an elevator contractor to have an
29 acceptable combination of documented experience and education to
30 perform elevator work without direct and immediate supervision

1 shall immediately seek a temporary elevator mechanic license
2 from the department and shall pay such fee as the department
3 shall determine. Each such license is valid for the period
4 specified in subsection (a) from the date of issuance and while
5 employed by the licensed elevator contractor that certified the
6 individual as qualified. It shall be renewable as long as the
7 shortage of license holders shall continue.

8 (d) Continuing education.--The renewal of all licenses
9 granted under this section shall be conditioned upon the
10 submission of a certificate of completion of a course designed
11 to ensure the continuing education of licensees on new and
12 existing provisions of the regulations set forth by the
13 department. Such course shall consist of not less than eight
14 hours of instruction that shall be attended and completed within
15 one year immediately preceding any such license renewal.

16 (e) Instruction.--The courses shall be taught by instructors
17 through continuing education providers that may include, but
18 shall not be limited to, association seminars and labor training
19 programs. The department shall approve the continuing education
20 providers. All instructors shall be approved by the department
21 and be exempt from the requirements of subsection (d) with
22 regard to their application for license renewal, provided that
23 such applicant was qualified as an instructor at any time during
24 the one year immediately preceding the scheduled date for such
25 renewal.

26 (f) Temporary disability.--A licensee who is unable to
27 complete the continuing education course required under this
28 section prior to the expiration of his license due to a
29 temporary disability may apply for a waiver from the department.
30 The waiver shall be on a form provided by the department, which

1 shall be signed under the penalty of perjury and accompanied by
2 a certified statement from a competent physician attesting to
3 the disability. Upon the termination of the temporary
4 disability, the licensee shall submit to the department a
5 certified statement from the same physician, if practicable,
6 attesting to the termination of the temporary disability. Upon
7 this termination, a waiver sticker which is valid for 90 days
8 shall be issued to the licensee and affixed to his license.

9 (g) Attendance records for continuing education courses.--
10 Approved training providers shall keep uniform records, for a
11 period of ten years, of attendance of licensees following a
12 format approved by the department, and such records shall be
13 available for inspection by the department at its request.
14 Approved training providers shall be responsible for the
15 security of all attendance records and certificates of
16 completion, provided, however, that falsifying or knowingly
17 allowing another to falsify such attendance records or
18 certificates of completion shall constitute grounds for
19 suspension or revocation of the approval required under this
20 subsection.

21 Section 303. Application for elevator contractor, mechanic or
22 inspector license.

23 (a) Elevator contractor.--Any sole proprietor, firm or
24 corporation wishing to engage in the business of elevator,
25 dumbwaiter, escalator or moving sidewalks installation,
26 alteration, service, replacement or maintenance within this
27 Commonwealth shall make application for a license with the
28 department on a form provided by the department.

29 (b) Elevator mechanic.--Any person wishing to engage in
30 elevator, dumbwaiter, escalator or moving sidewalk installation,

1 alteration, service, replacement or maintenance within this
2 Commonwealth shall make application for a license with the
3 department on a form provided by the department.

4 (c) Inspector.--Upon proof of ASME QEI certification, any
5 person wishing to engage in the business of elevator,
6 dumbwaiter, escalator, moving sidewalk, platform or stairway
7 chairlift inspection within this Commonwealth shall make
8 application for a license with the department on a form to be
9 provided by the department.

10 (d) Contents of application.--The applications shall contain
11 information for the following provisions:

12 (1) If the applicant is a person or sole proprietor, the
13 name, residence and business address of the applicant.

14 (2) If the applicant is a partnership, the name,
15 residence and business address of each partner.

16 (3) If the applicant is a domestic corporation, the name
17 and business address of the corporation and the name and
18 residence address of the principal officer of the
19 corporation. If the applicant is a corporation other than a
20 domestic corporation, the corporation shall include the name
21 and address of its local agent who is to accept service of
22 process and official notices.

23 (4) The number of years the applicant has engaged in the
24 business of installing, inspecting, maintaining or servicing
25 elevators or platform lifts.

26 (5) The approximate number of persons, if any, to be
27 employed by the elevator contractor applicant and, if
28 applicable, satisfactory evidence that the employees are or
29 will be covered by workers' compensation insurance.

30 (6) Satisfactory evidence that the applicant is or will

1 be covered by general liability, personal injury and property
2 damage insurance.

3 (7) Criminal record of convictions, if any, as verified
4 by the Commissioner of the Pennsylvania State Police or other
5 relevant law enforcement agency.

6 (8) Such other information as the department may
7 require.

8 Section 304. Qualifications.

9 (a) Elevator mechanics.--A mechanic license may not be
10 granted to any person who has failed to demonstrate the
11 qualifications and abilities set forth in this section.
12 Applicants for a mechanic license must demonstrate an acceptable
13 combination of documented experience and education credits,
14 including:

15 (1) Not less than three years' work experience in the
16 elevator industry, construction, maintenance, service or
17 repair, or any combination thereof, as verified by current
18 and previous employers licensed to do business in this
19 Commonwealth.

20 (2) Satisfactory completion of a written examination
21 administered by the department on the most recent referenced
22 codes and standards.

23 (b) Exceptions.--Any person shall be granted an elevator
24 mechanic license without satisfying the requirements of
25 subsection (a) by:

26 (1) furnishing the department with acceptable proof that
27 he has worked as an elevator constructor, maintenance or
28 repair person. Upon making application for a license and
29 paying the license fee, the person is entitled to receive a
30 license without an examination. The person shall have worked

1 without direct and immediate supervision for an elevator
2 contractor licensed to do business in this Commonwealth. This
3 employment shall not be less than three years immediately
4 prior to the effective date of this section. A person seeking
5 a license under the exception outlined in this paragraph must
6 make application within one year of the effective date of
7 this section;

8 (2) obtaining a certificate of completion and
9 successfully passing the mechanic examination of a nationally
10 recognized training program for the elevator industry such as
11 the National Elevator Industry Educational Program or its
12 equivalent;

13 (3) obtaining a certificate of completion of an
14 apprenticeship for elevator mechanic program, having
15 standards substantially equal to those of this chapter and
16 registered with the Bureau of Apprenticeship and Training of
17 the United States Department of Labor or the Pennsylvania
18 State Apprenticeship Council; or

19 (4) furnishing the department with acceptable proof of
20 holding a valid license from a state having standards
21 substantially equal to those of this act.

22 (c) Elevator inspectors.--No inspector license shall be
23 granted to any person unless he demonstrates to the satisfaction
24 of the department or officer designated by the department that
25 the person meets the current ASME QEI-1.

26 (d) Elevator contractor.--An authorized applicant for an
27 elevator contractor license must have in its employ no fewer
28 than one licensed elevator mechanic who performs the work
29 described in section 301(a).

30 (e) Reciprocity.--A license may be issued to a sole

1 proprietor, firm or corporation holding a valid license from a
2 state having standards substantially equal to those of this
3 chapter, upon application.

4 Section 305. Hearing on charges and decision.

5 (a) Notice.--No license shall be suspended or revoked until
6 after a hearing before the department upon notice, served
7 personally or by registered mail, to the licensee of at least
8 ten days at the last known address appearing on the license. The
9 notice shall state the date, hour and place of the hearing and
10 set forth a statement of facts constituting the grounds for the
11 charges against the licensee.

12 (b) Decision.--The department shall suspend or revoke the
13 license or dismiss the proceeding.

14 Section 306. Appeals.

15 Any person, sole proprietor, firm or corporation whose
16 license is revoked or suspended may appeal from such
17 determination to the department. The department shall hold a
18 hearing within 30 days and provide 15 days' written notice to
19 all interested parties. Within 30 days after the hearing, the
20 department shall issue a decision.

21 Section 307. Practice without license prohibited.

22 (a) Offense defined.--It shall be unlawful for an individual
23 to hold himself out to the public as an elevator contractor,
24 elevator inspector or elevator mechanic or to practice or offer
25 to practice as an elevator contractor, elevator inspector or
26 elevator mechanic unless the individual holds a valid, current
27 license issued by the department.

28 (b) Penalty.--A person who violates this section commits a
29 misdemeanor of the third degree and shall, upon conviction, for
30 a first offense, be sentenced to a fine not to exceed \$1,000, or

1 to imprisonment for not more than six months, or both. A second
2 offense shall be subject to a fine not to exceed \$2,000, or
3 imprisonment for a term of six months to one year, or both.

4 CHAPTER 11

5 MISCELLANEOUS PROVISIONS

6 Section 1101. Regulations.

7 The department shall promulgate regulations necessary to the
8 implementation of this act.

9 Section 1102. Construction.

10 Whenever a provision in this act is found to be inconsistent
11 with any provision of applicable laws, codes or regulations of
12 this Commonwealth, the provisions of this act shall prevail.
13 Unless specifically stated otherwise, this act is not intended
14 to establish more stringent or more restrictive standards than
15 standards set forth in the applicable State law.

16 Section 1103. Effective date.

17 This act shall take effect as follows:

18 (1) Section 301 shall take effect upon the effective
19 date of regulations promulgated by the department under
20 section 1101, or in three years after the date of enactment,
21 whichever is earlier.

22 (2) The remainder of this act shall take effect
23 immediately.