WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993

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ENROLLED

Com. Sub. For
HOUSE BILL No. 2184

(By Delegates Richards and Houck)

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Passed .................. April 10, 1993

In Effect Ninety Days From Passage
AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three-c, relating to guidelines for elevator safety; hiring, certification and suspension of elevator inspectors; registration, annual inspections and certificates of operation required; safety equipment required; promulgation of legislative rules; exemptions; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three-c, to read as follows:

ARTICLE 3C. ELEVATOR SAFETY.

§21-3C-1. Definitions.

1. (1) “Certificate of operation” means a certificate issued by the division of labor certifying that an elevator has been inspected and deemed safe for operation, thus authorizing its operation. The “certificate of operation” shall be conspicuously posted on the elevator at all times.

2. (2) “Division” means the division of labor.
(3) "Elevator" means all the machinery, construction, apparatus and equipment used in raising and lowering a car, cage or platform vertically between permanent rails or guides and includes all elevators, power dumbwaiters, escalators, gravity elevators and other lifting or lowering apparatus permanently installed between rails or guides, but does not include hand operated dumbwaiters, manlifts of the platform type with a platform area not exceeding nine hundred square inches, construction hoists or other similar temporary lifting or lowering apparatus.

(4) "Freight elevator" means an elevator used for carrying freight and on which only the operator, by the permission of the employer, is allowed to ride.

(5) "Inspector" means a person hired by the division, a county or municipality who has successfully completed the required West Virginia state elevator inspector examination and is thereby qualified to conduct safety inspections on elevators.

(6) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity.

§21-3C-2. Inspectors; certificates of competency; application; examination; reexamination.

No person may serve as an elevator inspector unless he or she successfully completes the examination required by this article and holds a certificate of competency for elevator inspections issued by the division.

Application for examination for elevator inspections shall be in writing, accompanied by a fee of ten dollars, upon a form designed and furnished by the division and shall, at a minimum, state the level of education of the applicant, list his or her employers, his or her period of employment and the position held with each. The applicant shall also submit a letter from one or more of his or her previous employers concerning his or her character and experience.

Applications which contain any willfully submitted false or untrue information shall be rejected. After
review of the application by the division, the applicant, if deemed appropriate by the division, shall be tested by means of a written examination as prescribed by the division dealing with the construction, installation, operation, maintenance and repair of elevators and their accessories.

The division shall issue a certificate of competency for elevator inspections to any applicant who successfully completes the examination, as determined by standards set in legislative rules promulgated by the division, as authorized by this article. An applicant who fails to successfully complete an initial examination, may submit an application for a second examination, ninety days or more after the initial examination and upon payment of the ten dollar examination fee. Should an applicant fail to successfully complete the prescribed examination on the second trial, he or she shall not be permitted to submit an application for another examination for a period of one year after the second failure.

Any person hired as an elevator inspector by a county or municipality shall possess a certificate of competency issued by the division.

The division may hire certified inspectors or enter into a contract to hire inspectors who are certified by the division. The division shall hire an inspector supervisor who shall supervise the inspection activities under this article.

§21-3C-3. Suspension or revocation of certificates.

1 A certificate of competency for elevator inspections may be suspended or revoked by the division if the inspector is found to be incompetent or untrustworthy.
2 Any willfully submitted false statement contained in an inspection report shall constitute grounds for suspension of the certificate of competency.

§21-3C-4. Registration of elevators; notification to counties and municipalities.

1 The owner or operator of any elevator shall register with the division every elevator operated by him or her, giving the type, capacity and description, name of
manufacturer, and purpose for which each is used. Such registration shall be made on a form designed and furnished by the division. The division shall forward a list of registered elevators to the county or municipality wherein said elevators are located.

§21-3C-5. Powers and duties of counties and municipalities; annual inspections required.

A county or municipality may hire its own elevator inspector or contract with any person who possesses a West Virginia elevator inspector's certificate of competency issued by the division. The county or municipality shall ensure that every elevator which has been in use for five years or more is inspected annually.

§21-3C-6. Report of inspection; hearing on construction plans and specifications; findings and orders of division.

Every inspector shall forward to the division and to the county or municipality wherein the elevator is located a complete report of each inspection made of any passenger elevator, showing the exact condition of the elevator. The inspector shall leave a copy of the report at the elevator on the day the inspection is completed. The division shall promulgate legislative rules, as authorized by this article, prescribing inspection procedures. The owner or operator of the elevator shall be required to pay the fees for inspections levied pursuant to this article.

If any elevator requires changes or repairs to make it safe to operate, such recommendations shall be contained in the inspection report. A copy of the report as approved by the division shall be submitted to the owner or operator of such elevator. Unless the findings in report are appealed, the owner or operator of the elevator shall make the required changes or repairs before a certificate of operation is issued.

The owner or operator, within twenty days from receipt of the copy of an inspection report may make written application to the division, upon forms to be furnished by the division, for a hearing on the inspection
report as to whether the elevator in question is reasonably safe. The division shall promptly consider such application and proceedings consistent with the provisions of this section.

If it appears from the evidence that the elevator will be reasonably safe to operate without such changes or repairs as shown in such report or by making only a part or all thereof, the division shall make its finding and order accordingly. If such finding and order requires changes or repairs to be made in the elevator, the division shall issue a certificate of operation when such order has been executed or issue its approval of the plans or specifications. If the finding and order of the division has been affirmed or modified by appeal, on the grounds of reasonable safety considered by the division, the division shall, upon compliance with such order, issue such certificate of operation but, if such finding and order of the division has been vacated such certificate of operation shall be issued forthwith. No elevator may be operated after being inspected without having the certificate of operation conspicuously posted thereon, except pending a hearing on the issuance thereof.

§21-3C-7. Safety equipment.

Every passenger elevator, whether or not such elevator has been in use for five years or longer, shall be equipped, maintained and operated in a safe manner in accordance with legislative rules promulgated by the division as authorized by this article.

§21-3C-8. Certificate of operation; renewal.

A certificate of operation for any elevator shall not be issued until the elevator has been inspected for safety and the inspection report thereof filed with the division: Provided, That only elevators which have been in use for five years or more shall be required to be inspected. The certificate of operation shall list the date of inspection and shall expire one year after the date of inspection. An expired certificate of operation shall be renewed in the manner that the prior certificate was obtained.
§21-3C-9. Permits for removal or repairs.

Before any existing elevator is removed to a different location, an application of specifications shall be submitted to the division listing such information concerning the installation and operation of the elevator as the division may require on forms designed and furnished by the division. Copies of the complete installation plans shall be submitted with the application.

In all cases where any changes or repairs proposed by the owner or operator which alter the elevator's construction or classification, grade or rated lifting capacity, except when made pursuant to a report of an inspector, the owner or operator of the elevator shall submit to the division an application containing such information as deemed appropriate by the division.

Upon approval of such application and installation plans, the division shall issue a permit for the installation or repair of such elevator. No elevator being removed and re-installed or repaired may be operated until its completion, in accordance with the approved plans and specifications: Provided, That the division may grant a temporary permit to such elevator, authorizing its operation.

§21-3C-10. Enforcement; notice of defective machinery.

If during an inspection the division or the inspector finds that a passenger elevator or a part thereof cannot be operated safely, the division or the inspector shall contact the owner or operator in writing stating the deficiencies and recommend changes or alterations and shall post a notice upon such elevator prohibiting further use of the elevator. The notice shall be in effect until the changes or alterations set forth in the notice have been made. The notice shall contain a statement that operators or passengers are subject to injury by its continued use, a description of the alteration or other change necessary to be made in order to secure its safe operation, date of such notice, and the name and signature of the inspector issuing the notice.
If any inspector finds a passenger elevator to be so unsafe that it represents imminent danger of death or physical injury, that unit shall be sealed out of service and a hazard notice as prescribed by the division posted thereon. The division shall be notified immediately as to the location and condition of the unit.

Any passenger elevator, once sealed, may not be operated except for the purpose of making repairs and in such a manner as prescribed by the division, until all defects are corrected and the unit has been inspected and deemed safe by the division. The division shall promulgate legislative rules, as authorized by this article, to develop procedures for sealing and barricading an elevator once it has been declared inoperable.

No seal, notice or barricade placed on or around an elevator in accordance with the provisions of this article may be removed, obstructed or in any way altered without the written consent of the division.

§21-3C-11. Disposition of fees; Legislative rules.

(a) The division shall propose for promulgation, legislative rules pursuant to article three, chapter twenty-nine-a of this code in order to implement the provisions of this article.

(b) The rules proposed for promulgation pursuant to subsection (a) of this section shall establish the amount of any fee authorized pursuant to the provisions of this article: Provided, That in no event may the fees established for inspection exceed one hundred dollars for any one inspection: Provided, however, That in buildings with more than one elevator, the fee shall not exceed one hundred dollars for the first elevator inspected and twenty-five dollars for each additional elevator: Provided, further, That in no event may the fees established for the issuance of permits exceed twenty-five dollars.

(c) All fees collected pursuant to the provisions of this article shall be deposited in an appropriated special revenue account hereby created in the state treasury known as the “Elevator Safety Fund” and expended for
the implementation and enforcement of this article:

Provided, That amounts collected which are found from
time to time to exceed funds needed for the purposes set
forth in this article may be transferred to other accounts
or funds and redesignated for other purposes by
appropriation of the Legislature.

(d) The division may enter into agreements with
counties and municipalities whereby such counties and
municipalities be permitted to retain the inspection fees
collected to support the enforcement activities at the
local level.

§21-3C-12. Penalties.

Any person who violates any provision of this article
or any directive or order issued pursuant thereto is
guilty of a misdemeanor and, upon conviction thereof,
shall be fined not less than fifty dollars nor more than
one thousand dollars per day. Each day the violation
continues constitutes a separate offense.

§21-3C-13. Mining and industrial elevators and general
public elevators exempt.

The provisions of this article shall not be applicable
to elevators or similar devices used by mining or
industrial operations, or to elevators located within any
single family residential dwelling.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 11th day of March, 1993.

Governor
PRESENTED TO THE

GOVERNOR

Date 4/8/193
Time 3:07 pm