WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

ENROLLED

House Bill No. 4582
(By Mr. Speaker, Mr. Kiss, and Delegate Kuhn)

Passed March 13, 2004
In Effect Ninety Days from Passage
AN ACT to amend and reenact §21-3C-1, §21-3C-2, §21-3C-3, §21-3C-4, §21-3C-5 and §21-3C-6 of the code of West Virginia, 1931, as amended, all relating to elevator safety; adding and modifying definitions; adding grounds for revocation or suspension of certificate of competency; limiting division inspectors to inspections of state owned elevators; and making technical and stylistic changes.

Be it enacted by the Legislature of West Virginia:

That §21-3C-1, §21-3C-2, §21-3C-3, §21-3C-4, §21-3C-5 and §21-3C-6 of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 3C. ELEVATOR SAFETY.

§21-3C-1. Definitions.

1 (1) “Certificate of acceptance” means a certificate issued by
2 the division of labor certifying that a newly installed elevator
3 has been inspected and was found to be installed in compliance
with the safety standards set forth in the American Society of
Mechanical Engineers Safety Code for Elevators and Escalators
A18.1, “Safety Code for Platform Lifts and Stairway Chair-
lifts”.

(2) “Certificate of competency” means a certificate issued
by the division of labor certifying that an individual is qualified
to inspect elevators.

(3) “Certificate of operation” means a certificate issued by
the division of labor certifying that an elevator has been
inspected and is safe for operation.

(4) “Division” means the division of labor.

(5) “Division inspector” means an employee or contractor
of the division who has been examined and issued a certificate
of competency and who only inspects elevators in state owned
buildings.

(6) “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.

(7) “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.
(8) “Inspector” means both a division inspector and a private inspector.

(9) “Passenger elevator” means an elevator that is designed to carry persons to its contract capacity.

(10) “Private inspector” means a person who has been examined and issued a certificate of competency to inspect elevators within this state.

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

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

(b) The application for examination for elevator inspector shall be in writing, accompanied by a fee of ten dollars, upon a form furnished by the division. The applicant shall state his or her social security number, level of education, previous employers, the period of employment, the position held with each employer, and other information required by the division. The applicant shall also submit a letter from one of his or her previous employers concerning his or her character and experience.

(c) Applications which contain any willfully submitted false or untrue information shall be rejected.

(d) The division shall administer an examination to a qualified applicant testing the applicant’s knowledge of the construction, installation, operation, maintenance and repair of elevators and accessories.
(e) The division shall issue a certificate of competency for elevator inspections to an applicant who successfully completes the examination and who complies with the requirements of this article and legislative rules promulgated by the division.

(f) 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. The second application must be accompanied by the ten dollar examination fee. Should an applicant fail to successfully complete the prescribed examination on the second trial, he or she is not permitted to submit an application for another examination for a period of one year after the second failure.

(g) Any person hired as a private inspector by a county or municipality shall possess a certificate of competency issued by the division.

(h) The division may hire division inspectors or enter into a contract for the services of a division inspector so long as the inspector has been certified competent by the division. The division may hire an inspector supervisor who shall supervise the inspection activities under this article.

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

A certificate of competency for elevator inspectors may be suspended or revoked by the division if the inspector is found to be incompetent or untrustworthy or for the falsification of any matter or statement contained on the application or in a report of any inspection. 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.
The owner or operator of an elevator shall register each elevator with the division, giving the type, capacity and description, name of manufacturer, and purpose for which each is used. The 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 the elevators are located.

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

(a) A county or municipality may hire a private inspector or contract with any person who possesses a West Virginia elevator inspector’s certificate of competency issued by the division.

(b) The county or municipality shall ensure that every elevator which has been in use for five years or more is inspected annually. A private inspector shall inspect all elevators except elevators in state owned buildings. A division inspector shall inspect elevators in state owned buildings.

(c) (1) The county or municipality shall ensure that each newly installed elevator within its jurisdiction is inspected and issued a certificate of acceptance by the division prior to being placed in service.


(3) The acceptance inspection shall be subject to the same procedures and requirements as any other elevator inspection.
§21-3C-6. **Report of inspection; hearing on construction plans and specifications; findings and orders of division.**

1. (a) The division shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code, prescribing inspection procedures and reporting requirements.

2. (b) Each inspector shall submit a complete report of each inspection made of an elevator to the division and to the county or municipality in which the elevator is located.

3. (c)(1) The inspection report shall list all changes or repairs required to be made for the safe operation of the elevator. A copy of the report as approved by the division shall be submitted to the owner or operator of the elevator. Unless the findings in the report are appealed, the owner or operator of the elevator shall make the required changes or repairs before a certificate of operation is issued.

4. (2) 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 including the issue of whether the elevator in question is reasonably safe. The division shall promptly consider the submitted application.

5. (3) If it appears from the evidence that the elevator will be reasonably safe to operate without the recommended changes or repairs set forth in the report or by making only a part of the recommended changes or repairs, the division shall make its finding and order accordingly. If the finding and order require changes or repairs to be made to the elevator, the division may not issue a certificate of operation until the elevator owner has complied with the order or the division issues its approval of the change or repair 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 the owner or operator's compliance with the order, issue the certificate of operation, but if the finding and order of the division has been vacated, the certificate of operation shall be issued immediately.

(4) An elevator owner adversely affected by a finding and order of the division, is entitled to judicial review of the finding and order in accordance with the provisions of section four, article five, chapter twenty-nine-a of this code.

(d) No elevator may be operated after being inspected without having the certificate of operation conspicuously posted except during the period a hearing on the issuance of the certificate of operation is pending.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In 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 5th day of April, 2004.

Governor