

HB 4577

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WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4577**

(By Delegates Manypenny, Martin, Butcher, D. Poling,
Canterbury, Stephens and Morgan)



Passed March 13, 2010

In Effect From Passage

E N R O L L E D

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H.B. 4577

(BY DELEGATES MANYPENNY, MARTIN, BUTCHER, D. POLING,
CANTERBURY, STEPHENS AND MORGAN)

[Passed March 13, 2010; in effect from passage.]

AN ACT to amend and reenact §21-3C-1, §21-3C-2a, §21-3C-10a and §21-3C-11 of the Code of West Virginia, 1931, as amended, all relating to elevators; exempting platform lifts from the definition of elevator; prohibiting certain elevators from being installed in certain settings; requiring inspections on certain elevators; creating different classifications of licensure; and providing rule-making authority to the division of labor.

Be it enacted by the Legislature of West Virginia:

That §21-3C-1, §21-3C-2a, §21-3C-10a and §21-3C-11 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) "Accessibility equipment" means lifting devices
- 2 designated to remove access barriers in public buildings and

3 private residences for persons with physical challenges,
4 including residential and limited use/limited application
5 elevators, vertical platforms, inclined platform lifts and
6 stairway chairlifts.

7 (2) "Certificate of acceptance" means a certificate issued
8 by the Division of Labor certifying that a newly installed
9 elevator has been inspected and was found to be installed in
10 compliance with the safety standards set forth in the
11 American Society of Mechanical Engineers Safety Code for
12 Elevators and Escalators (ASME) A17.1-3, "Safety Code for
13 Elevators" and ASME A18.1, "Safety Code for Platform
14 Lifts and Stairway Chairlifts."

15 (3) "Certificate of competency" means a certificate issued
16 by the Division of Labor certifying that an individual is
17 qualified to inspect elevators.

18 (4) "Certificate of operation" means a certificate issued
19 by the Division of Labor certifying that an elevator has been
20 inspected and is safe for operation.

21 (5) "Commissioner" means the Commissioner of the
22 Division of Labor.

23 (6) "Division" means the Division of Labor.

24 (7) "Division inspector" means an employee or contractor
25 of the division who has been examined and issued a
26 certificate of competency and who only inspects elevators in
27 state owned buildings.

28 (8) "Elevator" means all the machinery, construction,
29 apparatus and equipment used in raising and lowering a car,
30 cage or platform vertically between permanent rails or guides
31 and includes all elevators, power dumbwaiters, escalators,

32 gravity elevators and other lifting or lowering apparatus
33 permanently installed between rails or guides, but does not
34 include hand operated dumbwaiters, platform lifts for loading
35 docks, manlifts of the platform type with a platform area not
36 exceeding nine hundred square inches, construction hoists or
37 other similar temporary lifting or lowering apparatus.

38 (9) “Elevator apprentice” means a person who meets the
39 requirements set forth in legislative rule promulgated pursuant
40 to this article.

41 (10) “Elevator mechanic” means a person who possesses
42 an elevator mechanic’s license in accordance with the
43 provisions of this article and who is engaged in the business
44 of erecting, constructing, installing, altering, servicing, repairing
45 or maintaining elevators or related conveyances covered by
46 this article.

47 (11) “Freight elevator” means an elevator used for
48 carrying freight and on which only the operator, by the
49 permission of the employer, is allowed to ride.

50 (12) “Inspector” means both a division inspector and a
51 private inspector.

52 (13) “License” means a license issued to an elevator
53 mechanic pursuant to this article.

54 (14) “ Private residence elevator” means a passenger
55 elevator of which use is limited by size, capacity, rise and
56 speed, and access is limited by its location, by the
57 requirement of a key for its operation or by other restriction.

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

60 (16) "Private inspector" means a person who has been
61 examined and issued a certificate of competency to inspect
62 elevators within this state.

**§21-3C-2a. Installation prohibited; exemptions; two-way
communication required; key required.**

1 (a) On and after July 1, 2007, no private residence
2 elevator may be installed in a nonresidential setting.

3 (b) A private residence elevator installed in a
4 nonresidential setting which was in use on July 1, 2007, may
5 continue in use so long as the elevator:

6 (1) Meets the specifications as set forth in the American
7 Society of Mechanical Engineers (ASME) Safety Code for
8 Elevators and Escalators A17.1 5.3 "Safety Code for
9 Elevators";

10 (2) Has a method of two-way communication between
11 the car and each floor served by the elevator;

12 (3) Is operated automatically; and

13 (4) Is inspected annually by an inspector and is issued a
14 certification of operation by the division.

15 (c) New residential elevators shall undergo an acceptance
16 test performed by an inspector, and the inspector shall file a
17 report of the test with the division.

18 (d) An elevator in a residential property shall be
19 inspected by an inspector when the residential property is
20 transferred, and the inspector shall file a report of the
21 inspection with the division.

§21-3C-10a. License requirements for elevator mechanics; contractors license requirements; supervision of elevator apprentices requirements.

1 (a) A person may not engage or offer to engage in the
2 business of erecting, constructing, installing, altering,
3 servicing, repairing or maintaining elevators or related
4 conveyances covered by this article in this state, unless he or
5 she has a license issued by the Commissioner of Labor in
6 accordance with this article.

7 (b) A person licensed under this article must:

8 (1) Have in his or her possession a copy of the license
9 issued pursuant to this article on any job on which he or she
10 is performing elevator mechanic work; and

11 (2) Be, or be employed by, a contractor licensed pursuant
12 to the provisions of article eleven, chapter twenty-one of this
13 code unless the work is performed by a historic resort hotel's
14 regular employees, for which the employees are paid regular
15 wages and not a contract price, on property owned or leased
16 by the historic resort hotel which is not intended for
17 speculative sale or lease;

18 (c) To obtain a license a person must:

19 (1) Complete a four-year apprenticeship program,
20 registered by the United States Department of Labor,
21 qualifying for a commercial license;

22 (2) Complete a two-year apprenticeship program,
23 registered by the United States Department of Labor,
24 qualifying for an accessibility license. A person holding an
25 accessibility license may only perform work on accessibility
26 equipment; or

27 (3) Complete a certified apprenticeship program,
28 registered by the United States Department of Labor
29 established at a historic resort hotel, qualifying for a limited
30 technician license. A person holding a limited technician
31 license may only perform work at a historic resort hotel.

32 (d) For the purposes of section, "historic resort hotel" has
33 the same meaning ascribed to it in section two, article twenty-
34 five, chapter twenty-nine of this code.

35 (e) An elevator apprentice who is enrolled in a four-year
36 apprenticeship program approved by the commissioner, and
37 who is in good standing in the program, may work under the
38 supervision of a licensed elevator mechanic, as follows:

39 (f) An apprentice who has not successfully completed the
40 equivalent of at least one year of the program may work only
41 under the direct supervision of a licensed elevator mechanic
42 who is present on the premises and available to the apprentice
43 at all times.

44 (2) An apprentice who has successfully completed the
45 equivalent of at least one year of the program may:

46 (A) Work under the direct supervision of a licensed
47 elevator mechanic as set forth in subdivision (1) of this
48 subsection; and

49 (B) Perform the tasks set forth in this paragraph, only if
50 delegated by and performed under the general supervision of
51 a licensed elevator mechanic, who must, at a minimum, meet
52 the apprentice on the job at the beginning of each day to
53 delegate the specific tasks, and who remains responsible for
54 the delegated tasks:

55 (i) Oiling, cleaning, greasing and painting;

- 56 (ii) Replacing of combplate teeth;
- 57 (iii) Reclamping and fixture maintenance;
- 58 (iv) Inspection, cleaning and lubricating of hoistway
59 doors, car tops, bottoms and pits; and
- 60 (v) Observing operation of equipment.

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

1 (a) The division shall propose rules for legislative
2 approval in accordance with the provisions of article three,
3 chapter twenty-nine-a of this code, for the implementation
4 and enforcement of the provisions of this article, which shall
5 provide:

6 (1) Standards, qualifications and procedures for
7 submitting applications, taking examinations, and issuing and
8 renewing licenses, certificates of competency and certificates
9 of operation of the three licensure classifications set forth in
10 section ten-a of this article;

11 (2) Qualifications and supervision requirements for
12 elevator apprentices;

13 (3) Provisions for the granting of licenses without
14 examination, to applicants who present satisfactory evidence
15 of having the expertise required to perform work as defined
16 in this article and who apply for licensure on or before July
17 1, 2010: *Provided*, That if a license issued under the
18 authority of this subsection subsequently lapses, the applicant
19 may, at the discretion of the commissioner, be subject to all
20 licensure requirements, including the examination;

21 (4) Provisions for the granting of emergency licenses in
22 the event of an emergency due to disaster, act of God or work

23 stoppage when the number of persons in the state holding
24 licenses issued pursuant to this article is insufficient to cope
25 with the emergency;

26 (5) Provisions for the granting of temporary licenses in
27 the event that there are no elevator mechanics available to
28 engage in the work of an elevator mechanic as defined by this
29 article;

30 (6) Continuing education requirements;

31 (7) Reciprocity provisions;

32 (8) Procedures for investigating complaints and revoking
33 or suspending licenses, certificates of competency and
34 certificates of operation, including appeal procedures;

35 (9) Fees for testing, issuance and renewal of licenses,
36 certificates of competency and certificates of operation, and
37 other costs necessary to administer the provisions of this
38 article;

39 (10) Enforcement procedures; and

40 (11) Any other rules necessary to effectuate the purposes
41 of this article.

42 (b) The rules proposed for promulgation pursuant to
43 subsection (a) of this section shall establish the amount of
44 any fee authorized pursuant to the provisions of this article:
45 *Provided*, That in no event may the fees established for the
46 issuance of certificates of operation exceed \$50.

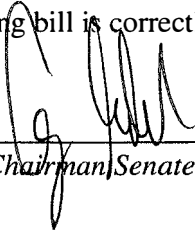
47 (c) All fees collected pursuant to the provisions of this
48 article shall be deposited in an appropriated special revenue
49 account hereby created in the State Treasury known as the

50 “Elevator Safety Fund” and expended for the implementation
51 and enforcement of this article: *Provided*, That amounts
52 collected which are found from time to time to exceed funds
53 needed for the purposes set forth in this article may be
54 transferred to other accounts or funds and redesignated for
55 other purposes by appropriation of the Legislature.

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

60 (e) The commissioner and his or her deputy
61 commissioner or any compliance officer of the division as
62 authorized by the commissioner may consult with
63 engineering authorities and organizations concerned with
64 standard safety codes, rules and regulations governing the
65 operation, maintenance, servicing, construction, alteration,
66 installation and the qualifications which are adequate,
67 reasonable and necessary for the elevator mechanic and
68 inspector.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.




Chairman Senate Committee



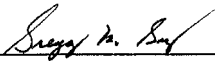
Chairman House Committee

Originating in the House.

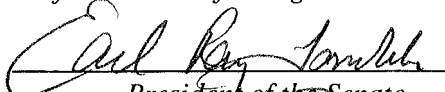
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates

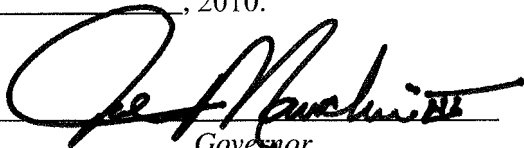


President of the Senate



Speaker of the House of Delegates

The within is approved this the 2nd
day of April, 2010.



Governor

PRESENTED TO THE
GOVERNOR

MAR 8 1 2010

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