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
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 designated to remove access barriers in public buildings and
private residences for persons with physical challenges, including residential and limited use/limited application elevators, vertical platforms, inclined platform lifts and stairway chairlifts.

(2) “Certificate of acceptance” means a certificate issued by the Division of Labor certifying that a newly installed elevator 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 (ASME) A17.1-3, “Safety Code for Elevators” and ASME A18.1, “Safety Code for Platform Lifts and Stairway Chairlifts.”

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

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

(5) “Commissioner” means the Commissioner of the Division of Labor.

(6) “Division” means the Division of Labor.

(7) “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.

(8) “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, platform lifts for loading docks, 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.

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

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

(11) “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.

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

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

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

(15) “Passenger elevator” means an elevator that is designed to carry persons to its contract capacity.
(16) "Private inspector" means a person who has been examined and issued a certificate of competency to inspect elevators within this state.

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

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

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

(1) Meets the specifications as set forth in the American Society of Mechanical Engineers (ASME) Safety Code for Elevators and Escalators A17.1 5.3 “Safety Code for Elevators”;

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

(3) Is operated automatically; and

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

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

(d) An elevator in a residential property shall be inspected by an inspector when the residential property is transferred, and the inspector shall file a report of the inspection with the division.
§21-3C-10a. License requirements for elevator mechanics; contractors license requirements; supervision of elevator apprentices requirements.

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

(b) A person licensed under this article must:

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

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

(c) To obtain a license a person must:

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

(2) Complete a two-year apprenticeship program, registered by the United States Department of Labor, qualifying for an accessibility license. A person holding an accessibility license may only perform work on accessibility equipment; or
(3) Complete a certified apprenticeship program, registered by the United States Department of Labor established at a historic resort hotel, qualifying for a limited technician license. A person holding a limited technician license may only perform work at a historic resort hotel.

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

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

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

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

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

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

(i) Oiling, cleaning, greasing and painting;
(ii) Replacing of combplate teeth;

(iii) Reclamping and fixture maintenance;

(iv) Inspection, cleaning and lubricating of hoistway doors, car tops, bottoms and pits; and

(v) Observing operation of equipment.

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

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

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

(2) Qualifications and supervision requirements for elevator apprentices;

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

(4) Provisions for the granting of emergency licenses in the event of an emergency due to disaster, act of God or work
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(5) Provisions for the granting of temporary licenses in the event that there are no elevator mechanics available to engage in the work of an elevator mechanic as defined by this article;

(6) Continuing education requirements;

(7) Reciprocity provisions;

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

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

(10) Enforcement procedures; and

(11) Any other rules necessary to effectuate the purposes 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 the issuance of certificates of operation exceed $50.

(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.

(e) The commissioner and his or her deputy commissioner or any compliance officer of the division as authorized by the commissioner may consult with engineering authorities and organizations concerned with standard safety codes, rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation and the qualifications which are adequate, reasonable and necessary for the elevator mechanic and 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 3rd day of April, 2010.

Governor
PRESENTED TO THE
GOVERNOR
MAR 31 2019
Time 3:50