

House Substitute for SENATE BILL No. 143

AN ACT concerning elevators; relating to the elevator safety act; redefining the term elevator; modifying the requirements for licensure, inspection and testing of elevators and adoption of rules and regulations by the state fire marshal; permitting inspections by insurance companies; requiring notification to the state fire marshal of certain elevator accidents; prohibiting the use of elevators following such accidents until approved by the state fire marshal; providing for the use of labels by the state fire marshal to affix to elevators not authorized for use; providing that failure to notify the state fire marshal of an accident; removing an affixed label or operating an elevator in violation of an affixed label constitutes class A nonperson misdemeanors; removing requirements that inspections be conducted only by licensed elevator inspectors and providing that licensed elevator mechanics or the employees of licensees may conduct such inspections; establishing educational and testing licensing options for elevator inspectors; amending K.S.A. 2023 Supp. 44-1802, 44-1805, 44-1807, 44-1815, 44-1816 and 44-1819 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) No regular routine inspection shall be required when an owner or user of an elevator:

(1) Obtains an inspection by an insurance company licensed to do business in the state and that is rated by the AM Best insurance industry rating services agency at a rating of B or better or the equivalent rating by another national insurance industry rating services agency;

(2) obtains a policy of insurance from such company for the elevator;

(3) files with the state fire marshal a certificate of inspection by an insurance company inspector and a statement that such elevator is insured; and

(4) pays an administrative fee to the state fire marshal of not to exceed \$100.

(b) This section shall be a part of and supplemental to the elevator safety act.

New Sec. 2. (a) An owner of an elevator shall notify the state fire marshal of any accident possibly involving an elevator malfunction resulting in death, personal injury or property damage in excess of \$1,000 involving such elevator on or before the close of business on the next business day following the accident. Such elevator involved shall not operate until the state fire marshal has conducted an investigation of the accident and approved the operation of the elevator. The state fire marshal shall investigate the cause of any such elevator accident resulting in death, personal injury or property damage in excess of \$1,000 that may occur in the state, the loss of life, the injuries sustained and such other data as may be of benefit in preventing similar accidents.

(b) Any owner of an elevator who fails to notify the state fire marshal of an accident as required by subsection (a) or causes the operation of an elevator after such an accident and prior to the approval of the state fire marshal as prohibited by subsection (a) shall be guilty of a class A nonperson misdemeanor.

(c) This section shall not apply to any escalator.

(d) This section shall be a part of and supplemental to the elevator safety act.

New Sec. 3. (a) The state fire marshal shall adopt a suitable label to be prominently affixed to the doors of any elevator if the state fire marshal determines that continued operation of such elevator would jeopardize public safety. Such label shall provide notice that the elevator is not certified for operation and that it is unlawful for any unauthorized person to operate such elevator or remove such label.

(b) Any unauthorized person who operates an elevator that has a label affixed to such elevator as provided by subsection (a) or removes such a label from an elevator shall be guilty of a class A nonperson misdemeanor.

(c) This section shall be a part of and supplemental to the elevator safety act.

Sec. 4. K.S.A. 2023 Supp. 44-1802 is hereby amended to read as follows: 44-1802. As used in K.S.A. 2023 Supp. 44-1801 through 44-1820, and amendments thereto:

(a) "Act" means the elevator safety act.

(b) "Board" means the elevator safety advisory board.

(c) (1) "Elevator" means any device for lifting or moving people, cargo or freight within, or adjacent and connected to, a structure or excavation, including, ~~but not limited to, an escalator, power-driven stairway, moving walkway or stairway chair lift.~~

(2) The term "elevator" does not mean any:

(A) Amusement ride or other device subject to the Kansas amusement ride act, K.S.A. 44-1601 et seq., and amendments thereto;

(B) *any power-driven stairway, moving walkway or stairway chair lift;*

(C) mining equipment;

~~(D)~~(D) aircraft, railroad car, boat, barge, ship, truck or other self-propelled vehicle or component thereof;

~~(E)~~(E) a dumbwaiter, conveyor, chain or bucket hoist, construction hoist or similar device used for the primary purpose of elevating or lowering materials;

~~(F)~~(F) boiler grate stoker or other similar firing mechanism subject to the boiler safety act, K.S.A. 44-913 et seq., and amendments thereto; or

~~(G)~~(G) lift, manlift, belt manlift, chain hoists, climb assists, special purpose personnel elevator, automated people mover or similar device in wind turbine towers, grain elevators, grain warehouses, seed processing facilities, grain processing facilities, biofuel processing facilities, feed mills, flour mills or any similar pet food, feed or agricultural commodity processing facilities.

(d) "Elevator apprentice" means an individual who works under the supervision or general direction of a licensed elevator mechanic.

(e) "Elevator contractor" means a sole proprietorship, firm, partnership, corporation or association that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators.

(f) "Elevator inspector" means an individual engaged in the business of inspecting elevators.

(g) "Elevator mechanic" means an individual engaged in the business of erecting, constructing, installing, altering, *inspecting*, servicing, repairing or maintaining elevators under the direct supervision of an elevator contractor.

(h) "Licensee" means an elevator contractor, inspector or mechanic who is licensed pursuant to this act.

Sec. 5. K.S.A. 2023 Supp. 44-1805 is hereby amended to read as follows: 44-1805. (a) No individual shall erect, construct, alter, replace, *inspect*, maintain, remove or dismantle any elevator contained within a building or other structure in this state or wire any elevator from the mainline feeder terminals on the controller unless such individual is a licensed elevator mechanic ~~and~~ *or* such individual is ~~working under the direct supervision of a licensed elevator contractor employed and directed by a licensee.~~ An elevator mechanic's license or elevator contractor's license is not required for removing or dismantling elevators that are destroyed as a result of a complete demolition of a secured building or structure, or where the hoistway or wellway is demolished back to the basic support structure whereby no access is permitted therein to endanger the safety and welfare of a person.

(b) No individual shall inspect any elevator within a building or other structure in this state, including, but not limited to, private residences, unless such individual is a licensed elevator inspector *or*

mechanic or is employed by a licensee. No licensed elevator mechanic or employee of such a licensee shall inspect work that was performed on an elevator by that individual. This subsection shall not apply to any individual employed as an elevator inspector by a city or county who performs inspections only while engaged in the performance of such individual's duties as an employee of such city or county.

(c) No individual, firm, partnership, corporation, association or other entity shall erect, alter, replace, maintain, remove, dismantle or operate any elevator in this state or construct any elevator for use in this state in violation of this act or rules and regulations adopted pursuant thereto.

(d) (1) All elevators shall conform to the rules and regulations adopted pursuant to this act. Where any material alteration is made *to an elevator; ~~the~~ or an elevator is installed or reinstalled*, such elevator shall conform to applicable requirements of the code. *All other elevators shall conform to the applicable requirements of the code in effect on the date such elevator was installed.*

(2) Nothing in this act shall be construed so as to prevent the use, sale or reinstallation of an elevator installed in this state prior to ~~the effective date of this act~~ *July 1, 2024*, provided that such elevator has been made to conform to the rules and regulations adopted pursuant to this act *as provided by paragraph (1)* and has not been found upon inspection to be in an unsafe condition or in violation of this act or rules and regulations adopted pursuant thereto *as provided by paragraph (1)*.

(3) *For purposes of this subsection, "material alteration" means alterations to an elevator that constitute a change to more than 49% of such elevator.*

Sec. 6. K.S.A. 2023 Supp. 44-1807 is hereby amended to read as follows: 44-1807. (a) (1) Any individual, firm, partnership, corporation, association or other entity wishing to engage in the business of installing, altering, *inspecting*, servicing, replacing or maintaining elevators shall make application for an elevator contractor's license in such form and manner as prescribed by the state fire marshal and shall pay the required initial application fee, which shall not exceed \$500. An applicant shall demonstrate that such applicant employs ~~a licensed one or more elevator mechanic or mechanics~~ to perform the work described in K.S.A. 2023 Supp. 44-1805, and amendments thereto, and shall provide proof of compliance with the insurance requirements set forth in K.S.A. 2023 Supp. 44-1808, and amendments thereto.

(2) Any individual wishing to engage in installing, altering, *inspecting*, repairing or servicing of elevators shall make application for an elevator mechanic's license in such form and manner as prescribed by the state fire marshal and shall pay the required initial application fee, which shall not exceed \$150.

(3) *In the alternative to an application pursuant to paragraph (2)*, any individual wishing to engage in the business of inspecting elevators shall make application for an elevator inspector's license in such form and manner as prescribed by the state fire marshal and shall pay the required initial application fee, which shall not exceed \$250. An applicant shall provide proof of compliance with the insurance requirements set forth in K.S.A. 2023 Supp. 44-1808, and amendments thereto.

(b) No license shall be issued to any applicant that has not demonstrated the requisite qualifications and abilities required by this act and rules and regulations adopted pursuant thereto. Upon the state fire marshal's approval of an application as having met the requirements for licensure, the state fire marshal shall issue a license. Such license shall be valid for a period of two years and shall be

renewable biennially upon submission of a renewal application and payment of the required renewal application fee, which shall not exceed the initial application fee.

(c) An elevator mechanic license shall be issued, upon application, to an applicant that:

(1) Holds a certificate of completion from the national association of elevator contractors certified elevator technician certification program, national elevator industry education apprenticeship program or other equivalent nationally approved apprenticeship program;

(2) *holds a certificate of completion of an elevator technician program provided through a postsecondary educational institution or other similar program, or passes an equivalency examination prepared by the state fire marshal;*

(3) holds a valid license from a state having standards substantially equal to those of this act and the rules and regulations adopted pursuant thereto; or

(4) those persons who can demonstrate within the first year following enactment that such person has worked as an elevator mechanic without supervision for at least ~~8,000~~ 4,000 hours within six years prior to the date of application.

(d) *An elevator inspector license shall be issued, upon application, to an applicant that:*

(1) *Holds a certification as an elevator inspector from the American national standards institute; or*

(2) *holds a certificate of completion of an elevator inspector program provided through a postsecondary educational institution or similar program or passes an equivalency examination prepared by the state fire marshal.*

(e) An elevator contractor's license may be issued, upon application, to an applicant that holds a valid license from a state having standards substantially equal to those of this act and rules and regulations adopted pursuant thereto.

~~(e)~~(f) An elevator apprentice is not required to hold a license.

~~(f)~~(g) Any city or county that has adopted requirements and standards that meet or exceed the requirements and standards of this act and any rules and regulations adopted pursuant thereto may issue an elevator contractor's license or elevator mechanic's license in accordance with such requirements and standards. Any such license shall specify that it is issued by such city or county. No such license shall be issued in lieu of any license issued by the state fire marshal or authorize the licensee to perform work as an elevator contractor or elevator mechanic outside the jurisdiction of the issuing city or county.

Sec. 7. K.S.A. 2023 Supp. 44-1815 is hereby amended to read as follows: 44-1815. (a) It shall be the responsibility of the owner of any new or existing elevator or the owner's agent to have such elevator inspected ~~annually~~ by a licensed elevator inspector, *licensed elevator mechanic or an employee of a licensee or an insurance company inspector as provided in section 1, and amendments thereto. Such inspection shall occur for all elevators once within three years of the effective date of this act and every year thereafter for elevators located within a county with a population of 100,000 or more, every two years thereafter for elevators located within a county with a population of 50,000 or more and every three years thereafter for elevators located in all other counties.* Upon such inspection, ~~the licensed elevator inspector licensee or the employee of such licensee or the insurance company inspector~~ shall provide the owner of the elevator or the owner's agent, the owner or lessee of the property where such elevator is located and the state fire marshal with a written inspection report describing any and all code violations. The owner of the elevator or the

owner's agent shall have 30 days from the date of the inspection report to be in full compliance by correcting such violations. The state fire marshal may grant additional 30-day extensions of time if the state fire marshal determines good cause has been shown and the safety of the public will not be endangered.

(b) It shall be the responsibility of the owner of any elevator or the owner's agent to have a licensed elevator contractor, *licensed elevator mechanic or an employee of such a licensee* conduct ~~all required~~ any tests ~~at the intervals required by~~ *in accordance with* this act and rules and regulations adopted pursuant thereto. ~~All tests shall be performed by a licensed elevator mechanic when such tests are necessary based on the findings and conclusions in a written inspection report, except that load tests shall be performed on all elevators every six years, including, if the elevator maintenance agreement does not include any provision for load testing, elevators otherwise exempt from the requirements of this section pursuant to subsection (c)(2). Such load tests may be performed by a licensed elevator mechanic, licensed elevator contractor, employee of such a licensee or an insurance company inspector. The first load test required pursuant to this section shall be as follows:~~

(1) *For elevators installed on and after July 1, 2024, within six years of the date of installation; and*

(2) *for elevators installed prior to July 1, 2024, within six years of July 1, 2024.*

(c) This section shall not apply to:

(1) Any elevator located in a city or county that has adopted requirements or standards that meet or exceed the requirements or standards of this act and any rules and regulations adopted pursuant thereto; or

(2) *except for the performance of load tests as required by subsection (b), any elevator that is subject to an elevator maintenance agreement between the owner or the owner's agent of such elevator and a licensee.*

Sec. 8. K.S.A. 2023 Supp. 44-1816 is hereby amended to read as follows: 44-1816. (a) For any elevator installed prior to July 1, ~~2022~~ 2024, the owner of the elevator or the owner's agent shall apply for a certificate of operation on or before July 1, ~~2023~~ 2025. Such application shall be in such form and manner as prescribed by the state fire marshal and shall include a copy of the most recent inspection report required pursuant to K.S.A. 2023 Supp. 44-1815, and amendments thereto, *a copy of the elevator maintenance agreement if the elevator is exempt from the inspection requirement pursuant to K.S.A. 2023 Supp. 44-1815(d)(2), and amendments thereto, or a copy of the certification provided by an insurance company documenting an inspection by an insurance company inspector as provided by section 1, and amendments thereto,* and payment of the required application fee, ~~which~~ that shall not exceed \$100.

(b) For any elevator installed on or after July 1, ~~2022~~ 2024, and prior to January 1, ~~2023~~ 2025, the owner of such elevator or the owner's agent shall apply for a certificate of operation within six months after such elevator is placed into operation. Such application shall be in such form and manner as prescribed by the state fire marshal and shall include a certification by the licensed elevator contractor that such installation was performed in compliance with the applicable provisions of this act and rules and regulations adopted pursuant thereto and payment of the required application fee, which shall not exceed \$100.

(c) On and after January 1, ~~2023~~ 2025, before a newly installed elevator may be placed into operation, the licensed elevator contractor

that performed the new installation shall apply for a certificate of operation. Such application shall be in such form and manner as prescribed by the state fire marshal and shall include a certification by the licensed elevator contractor that such installation was performed in compliance with the applicable provisions of this act and rules and regulations adopted pursuant thereto and payment of the required application fee, which shall not exceed \$100.

(d) The state fire marshal shall grant applications and renewal applications for certificates of operation if the state fire marshal finds the applicant has demonstrated to the state fire marshal's satisfaction that all applicable provisions of this act and rules and regulations adopted pursuant thereto have been met, the elevator will be operated in accordance with the rules and regulations adopted pursuant to this act and operation of the elevator will not present a danger to the public.

(e) (1) A certificate of operation shall be valid ~~for one year~~ from the date of issuance ~~and~~ or renewal until the date that is 30 days after the date of the inspection occurring within three years of the effective date of this act as provided by K.S.A. 44-1815(a), and amendments thereto. Upon receiving a renewal application for a certificate of operation that will expire as provided by this subsection, the state fire marshal shall extend the valid date of the certificate of operation until such time as the state fire marshal has made a determination on the renewal application. If the renewal application is granted, the certificate of operation for such elevator shall be valid until the date that is 30 days from the date of the subsequent inspection of such elevator as required by K.S.A. 44-1815(a), and amendments thereto. Certificates of operation newly issued after three years from the effective date of this act shall be valid until the date that is 30 days from the date of inspection performed as required by K.S.A. 44-1815(a), and amendments thereto. Certificates of operation may be renewed upon application submitted to the state fire marshal and payment of the required renewal fee, which shall not exceed the initial application fee. An application for a renewal certificate shall be accompanied by ~~an~~ a copy of the most recent inspection report ~~for an inspection performed within the immediately preceding 12 months,~~ the date of installation of the elevator and a certification that a load test has been performed on such elevator when required by K.S.A. 44-1815, and amendments thereto, the results of the load test and the date such test was performed.

(2) A certificate of operation for an elevator not subject to inspection requirements pursuant to K.S.A. 44-1815(d)(2), and amendments thereto, shall be valid from the date of issuance or renewal until the date that is three years from the effective date of this act. Thereafter all certificates of operation for such elevators shall be subject to renewal at the same time as if such elevator was subject to inspections pursuant to K.S.A. 44-1815(a), and amendments thereto. Any such application for issuance or a renewal application shall be accompanied by a copy of the elevator maintenance agreement. If the elevator maintenance agreement does not include any provision for load testing, any such application for renewal shall, in addition, be accompanied by a certification that a load test has been performed on such elevator when required by K.S.A. 44-1815, and amendments thereto, the results of the load test and the date such test was performed.

(f) Certificates of operation shall be clearly displayed on or in each elevator or in the machine room for such elevator. Each certificate of operation shall state that the elevator has been inspected, tested and found to be in compliance with all applicable standards of operation, that such elevator is subject to an elevator maintenance agreement and

is in compliance with all applicable standards of operation or that such elevator has been inspected by an insurance company inspector as provided by section 1, and amendments thereto.

(g) This section shall not apply to any elevator located in a city or county that has adopted requirements and standards that meet or exceed the requirements and standards of this act and any rules and regulations adopted pursuant thereto.

Sec. 9. K.S.A. 2023 Supp. 44-1819 is hereby amended to read as follows: 44-1819. (a) On or before January 1, ~~2023~~ 2025, the state fire marshal shall adopt rules and regulations necessary to implement and enforce the provisions of this act. Rules and regulations adopted by the state fire marshal shall be based on and follow generally accepted national engineering standards, formula and practices ~~that shall at a minimum~~ and may include adoption of current American national standards known as the American society of mechanical engineers (ASME) safety code for elevators and escalators and the safety standards for wind turbine tower elevators, *except that no rules and regulations shall require an elevator installed before July 1, 2024, to be in compliance with current American national standards as provided in K.S.A. 2023 Supp. 44-1805(d), and amendments thereto.*

(b) Such rules and regulations shall include rules and regulations:

(1) For the operation, maintenance, servicing, construction, alteration and installation of elevators;

(2) requirements and qualifications for the licensure of elevator contractors, mechanics and inspectors, including initial and renewal application requirements, examination requirements and continuing education requirements;

(3) requirements and qualifications for the issuance of emergency and temporary licenses;

(4) requirements for issuance of permits and certificates of operation, including initial and renewal application requirements;

(5) requirements for registration of elevators; and

(6) standards for granting exceptions and variances from rules and regulations adopted pursuant to this act and municipal ordinances.

~~(b)(c)~~ (c) The state fire marshal shall establish a schedule for fees for licenses, permits, certificates of operation, inspections and variance requests. The fees shall reasonably reflect the state fire marshal's actual costs and expenses to operate and to conduct those duties and obligations as described in this act.

~~(e)(d)~~ (d) The state fire marshal shall have the authority to grant or deny requests for exceptions and variances from the requirements of rules and regulations adopted pursuant to this act or from municipal ordinances in cases where the state fire marshal finds such exception or variance would not jeopardize the public safety and welfare and that the request meets the applicable standards adopted by the state fire marshal for granting such an exception or variance.

Sec. 10. K.S.A. 2023 Supp. 44-1802, 44-1805, 44-1807, 44-1815, 44-1816 and 44-1819 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.