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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



# ENROLLED

*Com. Sub. For*  
HOUSE BILL No. *2184*

(By Delegates *Richard and Honour*)



Passed *April 10,* 1993

In Effect *Ninety Days From* Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2184**  
(By DELEGATES RICHARDS AND HOUVOURAS)

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[Passed April 10, 1993; in effect ninety days from passage.]

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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
- 2     by the division of labor certifying that an elevator has
- 3     been inspected and deemed safe for operation, thus
- 4     authorizing its operation. The "certificate of operation"
- 5     shall be conspicuously posted on the elevator at all times.
  
- 6     (2) "Division" means the division of labor.

7 (3) "Elevator" means all the machinery, construction,  
8 apparatus and equipment used in raising and lowering  
9 a car, cage or platform vertically between permanent  
10 rails or guides and includes all elevators, power  
11 dumbwaiters, escalators, gravity elevators and other  
12 lifting or lowering apparatus permanently installed  
13 between rails or guides, but does not include hand  
14 operated dumbwaiters, manlifts of the platform type  
15 with a platform area not exceeding nine hundred square  
16 inches, construction hoists or other similar temporary  
17 lifting or lowering apparatus.

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

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

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

**§21-3C-2. Inspectors; certificates of competency; applica-  
tion; examination; reexamination.**

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

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

15 Applications which contain any willfully submitted  
16 false or untrue information shall be rejected. After

17 review of the application by the division, the applicant,  
18 if deemed appropriate by the division, shall be tested by  
19 means of a written examination as prescribed by the  
20 division dealing with the construction, installation,  
21 operation, maintenance and repair of elevators and their  
22 accessories.

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

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

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

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

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

**§21-3C-4. Registration of elevators; notification to coun-  
ties and municipalities.**

1 The owner or operator of any elevator shall register  
2 with the division every elevator operated by him or her,  
3 giving the type, capacity and description, name of

4 manufacturer, and purpose for which each is used. Such  
5 registration shall be made on a form designed and  
6 furnished by the division. The division shall forward a  
7 list of registered elevators to the county or municipality  
8 wherein said elevators are located.

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

1 A county or municipality may hire its own elevator  
2 inspector or contract with any person who possesses a  
3 West Virginia elevator inspector's certificate of compet-  
4 ency issued by the division. The county or municipality  
5 shall ensure that every elevator which has been in use  
6 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.**

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

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

20 The owner or operator, within twenty days from  
21 receipt of the copy of an inspection report may make  
22 written application to the division, upon forms to be  
23 furnished by the division, for a hearing on the inspection

24 report as to whether the elevator in question is reason-  
25 ably safe. The division shall promptly consider such  
26 application and proceedings consistent with the provi-  
27 sions of this section.

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

**§21-3C-7. Safety equipment.**

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

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

1 A certificate of operation for any elevator shall not be  
2 issued until the elevator has been inspected for safety  
3 and the inspection report thereof filed with the division:  
4 *Provided*, That only elevators which have been in use for  
5 five years or more shall be required to be inspected. The  
6 certificate of operation shall list the date of inspection  
7 and shall expire one year after the date of inspection.  
8 An expired certificate of operation shall be renewed in  
9 the manner that the prior certificate was obtained.

**§21-3C-9. Permits for removal or repairs.**

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

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

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

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

1 If during an inspection the division or the inspector  
2 finds that a passenger elevator or a part thereof cannot  
3 be operated safely, the division or the inspector shall  
4 contact the owner or operator in writing stating the  
5 deficiencies and recommend changes or alterations and  
6 shall post a notice upon such elevator prohibiting  
7 further use of the elevator. The notice shall be in effect  
8 until the changes or alterations set forth in the notice  
9 have been made. The notice shall contain a statement  
10 that operators or passengers are subject to injury by its  
11 continued use, a description of the alteration or other  
12 change necessary to be made in order to secure its safe  
13 operation, date of such notice, and the name and  
14 signature of the inspector issuing the notice.

15 If any inspector finds a passenger elevator to be so  
16 unsafe that it represents imminent danger of death or  
17 physical injury, that unit shall be sealed out of service  
18 and a hazard notice as prescribed by the division posted  
19 thereon. The division shall be notified immediately as to  
20 the location and condition of the unit.

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

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

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

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

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

17 (c) All fees collected pursuant to the provisions of this  
18 article shall be deposited in an appropriated special  
19 revenue account hereby created in the state treasury  
20 known as the "Elevator Safety Fund" and expended for



21 the implementation and enforcement of this article:  
22 *Provided*, That amounts collected which are found from  
23 time to time to exceed funds needed for the purposes set  
24 forth in this article may be transferred to other accounts  
25 or funds and redesignated for other purposes by  
26 appropriation of the Legislature.

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

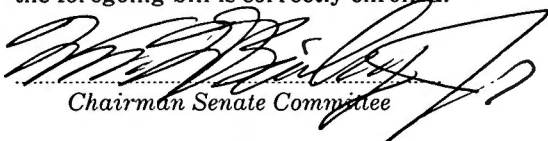
**§21-3C-12. Penalties.**

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

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

1 The provisions of this article shall not be applicable  
2 to elevators or similar devices used by mining or  
3 industrial operations, or to elevators located within any  
4 single family residential dwelling.

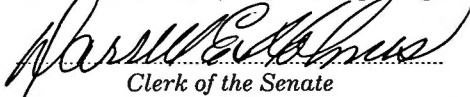
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

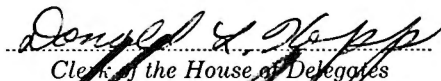
  
Chairman Senate Committee

  
Chairman House Committee

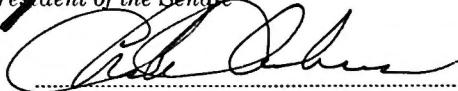
Originating in the House.

Takes effect ninety days from passage.

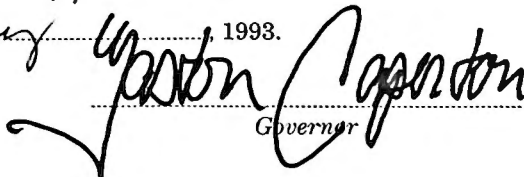
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved..... this the 11<sup>th</sup>.....  
day of May..... 1993.

  
Governor

PRESENTED TO THE

GOVERNANCE

Date 4/20/93

Time 3:27 pm