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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

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H. B. 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

4 with the safety standards set forth in the American Society of
5 Mechanical Engineers Safety Code for Elevators and Escalators
6 (ASME) A17.1-3, "Safety Code for Elevators" and ASME
7 A18.1, "Safety Code for Platform Lifts and Stairway Chair-
8 lifts".

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

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

15 (4) "Division" means the division of labor.

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

20 (6) "Elevator" means all the machinery, construction,
21 apparatus and equipment used in raising and lowering a car,
22 cage or platform vertically between permanent rails or guides
23 and includes all elevators, power dumbwaiters, escalators,
24 gravity elevators and other lifting or lowering apparatus
25 permanently installed between rails or guides, but does not
26 include hand operated dumbwaiters, manlifts of the platform
27 type with a platform area not exceeding nine hundred square
28 inches, construction hoists or other similar temporary lifting or
29 lowering apparatus.

30 (7) "Freight elevator" means an elevator used for carrying
31 freight and on which only the operator, by the permission of the
32 employer, is allowed to ride.

33 (8) "Inspector" means both a division inspector and a
34 private inspector.

35 (9) "Passenger elevator" means an elevator that is designed
36 to carry persons to its contract capacity.

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

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

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

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

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

16 (d) The division shall administer an examination to a
17 qualified applicant testing the applicant's knowledge of the
18 construction, installation, operation, maintenance and repair of
19 elevators and accessories.

20 (e) The division shall issue a certificate of competency for
21 elevator inspections to an applicant who successfully completes
22 the examination and who complies with the requirements of this
23 article and legislative rules promulgated by the division.

24 (f) An applicant who fails to successfully complete a
25 initial examination may submit an application for a second
26 examination ninety days or more after the initial examination.
27 The second application must be accompanied by the ten dollar
28 examination fee. Should an applicant fail to successfully
29 complete the prescribed examination on the second trial, he or
30 she is not permitted to submit an application for another
31 examination for a period of one year after the second failure.

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

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

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

1 A certificate of competency for elevator inspectors may be
2 suspended or revoked by the division if the inspector is found
3 to be incompetent or untrustworthy or for the falsification of
4 any matter or statement contained on the application or in a
5 report of any inspection. Any willfully submitted false state-
6 ment contained in an inspection report shall constitute grounds
7 for suspension of the certificate of competency.

§21-3C-4. Registration of elevators; notification to counties and municipalities.

1 The owner or operator of an elevator shall register each
2 elevator with the division, giving the type, capacity and
3 description, name of manufacturer, and purpose for which each
4 is used. The registration shall be made on a form designed and
5 furnished by the division. The division shall forward a list of
6 registered elevators to the county or municipality wherein the
7 elevators are located.

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

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

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

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

14 (2) A certificate of acceptance shall only be issued if the
15 elevator was installed in compliance with the safety standards
16 set forth in the American Society of Mechanical Engineers
17 Safety Code for Elevators and Escalators (ASME) A17.1-3,
18 "Safety Code for Elevators" and ASME A18.1, "Safety Code
19 for Platform Lifts and Stairway Chairlifts".

20 (3) The acceptance inspection shall be subject to the same
21 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
2 in accordance with article three, chapter twenty-nine-a of this
3 code, prescribing inspection procedures and reporting require-
4 ments.

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

8 (c)(1) The inspection report shall list all changes or repairs
9 required to be made for the safe operation of the elevator. A
10 copy of the report as approved by the division shall be submit-
11 ted to the owner or operator of the elevator. Unless the findings
12 in the report are appealed, the owner or operator of the elevator
13 shall make the required changes or repairs before a certificate
14 of operation is issued.

15 (2) The owner or operator, within twenty days from receipt
16 of the copy of an inspection report, may make written applica-
17 tion to the division, upon forms to be furnished by the division,
18 for a hearing on the inspection report including the issue of
19 whether the elevator in question is reasonably safe. The division
20 shall promptly consider the submitted application.

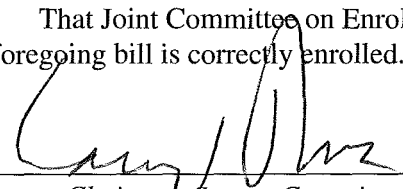
21 (3) If it appears from the evidence that the elevator will be
22 reasonably safe to operate without the recommended changes
23 or repairs set forth in the report or by making only a part of the
24 recommended changes or repairs, the division shall make its
25 finding and order accordingly. If the finding and order require
26 changes or repairs to be made to the elevator, the division may
27 not issue a certificate of operation until the elevator owner has
28 complied with the order or the division issues its approval of
29 the change or repair plans or specifications. If the finding and

30 order of the division has been affirmed or modified by appeal,
31 on the grounds of reasonable safety considered by the division,
32 the division shall, upon the owner or operator's compliance
33 with the order, issue the certificate of operation, but if the
34 finding and order of the division has been vacated, the certifi-
35 cate of operation shall be issued immediately.

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

40 (d) No elevator may be operated after being inspected
41 without having the certificate of operation conspicuously posted
42 except during the period a hearing on the issuance of the
43 certificate of operation is pending.

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



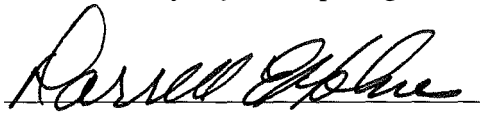
Chairman Senate Committee



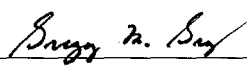
Chairman House Committee

Originating in the House.

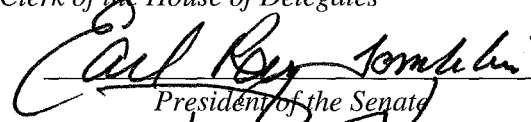
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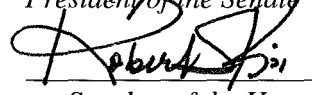
Clerk of the Senate



Clerk of the House of Delegates



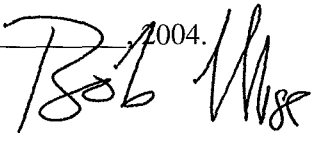
President of the Senate



Speaker of the House of Delegates

The within is approved this the 5th

day of April 2004.



Governor

PRESENTED TO THE
GOVERNOR
DATE 3.31.04
TIME 10:30 AM