

Chapter No. 405
13/HR07/R1643
JAB / CST

HOUSE BILL NO. 817

Originated in House  Clerk

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AN ACT TO CREATE THE MISSISSIPPI CONVEYANCE SAFETY ACT; TO ESTABLISH MINIMUM STANDARDS FOR CONVEYANCE PERSONNEL AND SERVICES; TO PROVIDE FOR THE SCOPE OF THIS ACT; TO DEFINE CERTAIN TERMS USED IN THIS ACT; TO PROVIDE FOR THE LICENSURE OF ELEVATOR CONTRACTORS, ELEVATOR MECHANICS AND ELEVATOR INSPECTORS, AND TO ESTABLISH QUALIFICATIONS THEREFOR; TO PROVIDE FOR BIENNIAL RENEWAL OF LICENSES; TO PROVIDE THAT LICENSES MAY BE SUSPENDED, REVOKED OR SUBJECT TO CIVIL PENALTIES UPON CERTAIN VIOLATIONS; TO REQUIRE REGISTRATION OF EXISTING ELEVATORS, PLATFORM LIFTS, DUMBWAITERS, ESCALATORS, MOVING WALKS AND ANY OTHER CONVEYANCE; TO REQUIRE INSTALLATION AND/OR SERVICE AND MAINTENANCE TO BE PERFORMED IN COMPLIANCE WITH THE STATE FIRE PREVENTION AND BUILDING CODE; TO REQUIRE PERMITS BEFORE A CONVEYANCE IS ERECTED, CONSTRUCTED, INSTALLED OR ALTERED WITHIN BUILDINGS OR STRUCTURES; TO PROVIDE CIVIL PENALTIES FOR VIOLATIONS OF THIS ACT; TO PROVIDE THAT THE PROVISIONS OF THIS ACT ARE NOT RETROACTIVE UNLESS OTHERWISE STATED; TO PROVIDE THAT THE OWNER OF ALL NEW AND EXISTING CONVEYANCES LOCATED IN ANY BUILDING OR STRUCTURE SHALL HAVE THE RESPONSIBILITY OF HAVING THE CONVEYANCE INSPECTED ANNUALLY BY A LICENSED ELEVATOR INSPECTOR; TO EXEMPT FROM THE PROVISIONS OF THIS ACT ANY ELEVATOR IN A PRIVATE RESIDENCE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the Mississippi Conveyance Safety Act.

SECTION 2. The purpose of this act is to provide for the safety of conveyance equipment and personnel, and to promote

public safety awareness. This act establishes the minimum standards for conveyance personnel and services. The use of unsafe or defective lifting devices imposes a substantial probability of serious and preventable injury to employees and the public. The prevention of these injuries and protection of employees and the public from unsafe conditions is in the best interest of the people of this state. Conveyance personnel performing work covered by this act shall, by documented training and/or experience, be familiar with the operation and safety functions of the components and equipment. Training and experience shall include, but not be limited to, recognizing the safety hazards and performing the procedures required under this act.

SECTION 3. This act covers the design, construction, operation, inspection, testing, maintenance, alteration and repair of the following equipment, its associated parts, and its hoistways, except as provided by Section 4 of this act:

(a) Hoisting and lowering mechanisms equipped with a car or platform that moves between two (2) or more landings. This equipment includes, but is not limited to, the following (also see ASME A17.1/CSA B44, ASME A17.7/CSA B44.7, ASME A17.3 and ASME A18.1):

- (i) Elevators;
- (ii) Platform lifts;
- (iii) Stairway chairlifts.

(b) Power-driven stairways and walkways for carrying persons between landings. This equipment includes, but is not limited to, the following (also see ASME A17.1/CSA B44, ASME A17.7/CSA B44.7, and ASME A17.3):

- (i) Escalators;
- (ii) Moving walks.

(c) Hoisting and lowering mechanisms equipped with a car that serves two (2) or more landings and is restricted to the carrying of material by its limited size or limited access to the car. This equipment includes, but is not limited to, the following (also see ASME A17.1/CSA B44, ASME A17.7/CSA B44.7, and ASME A17.3):

- (i) Dumbwaiters;
- (ii) Material lifts and dumbwaiters with automatic transfer devices.

SECTION 4. (1) Equipment not covered by this act includes, but is not limited to, the following:

- (a) Material hoists within the scope of ANSI A10.5;
- (b) Man lifts within the scope of ASME A90.1;
- (c) Mobile scaffolds, towers and platforms within the scope of ANSI A92;
- (d) Powered platforms and equipment for exterior and interior maintenance within the scope of ANSI A120.1;
- (e) Conveyors and related equipment within the scope of ASME B20.1;

(f) Cranes, derricks, hoists, hooks, jacks and slings within the scope of ASME B30;

(g) Industrial trucks within the scope of ASME B56;

(h) Portable equipment, except for portable escalators that are covered by ASME A17.1/CSA B44 and ASME A17.7/CSA B44.7;

(i) Tiering or piling machines used to move materials to and from storage located and operating entirely within one (1) story;

(j) Equipment for feeding or positioning materials at machine tools, printing presses, or similar equipment;

(k) Kip or furnace hoists;

(l) Wharf ramps;

(m) Railroad car lifts or dumpers;

(n) Line jacks, false cars, shafters, moving platforms and similar equipment used for installing an elevator by an elevator contractor licensed in this state.

(2) The provisions of this act shall not apply to any conveyance that is located in a private residence.

SECTION 5. For purposes of this act, the following terms are defined as follows, unless the context clearly indicates otherwise:

(a) "Administrator" means the person or persons designated by the Commissioner of Insurance.

(b) "ANSI" means the American National Standards Institute.

- (c) "ASCE" means the American Society of Civil Engineers.
- (d) "ASCE 21" means the American Society of Civil Engineers Automated People Mover Standards.
- (e) "ASME" means the American Society of Mechanical Engineers.
- (f) "ASME A17.1/CSA B44" means the Safety Code for Elevators and Escalators, an American National Standard.
- (g) "ASME A17.3" means the Safety Code for Existing Elevators and Escalators, an American National Standard.
- (h) "ASME A17.7/CSA B44.7" means the Performance-Based Safety Code for Elevators and Escalators, an American National Standard.
- (i) "ASME A18.1" means the Safety Standard for Platform Lifts and Stairway Chairlifts, an American National Standard.
- (j) "Automated people mover" means an installation defined as an "automated people mover" in ASCE 21.
- (k) "Certificate of Operation" means a document that indicates that the conveyance has had the safety inspection and tests required by this act.
- (l) "Commissioner" means Commissioner of Insurance.
- (m) "Conveyance" means any elevator, dumbwaiter, escalator, moving sidewalk, platform lift, stairway chairlift or automated people mover.

(n) "Elevator" means an installation defined as an "elevator" in ASME A17.1/CSA B44.

(o) "Elevator contractor" means any sole proprietor, firm, corporation or other business entity engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators and other conveyances.

(p) "Elevator helper or apprentice" means a person who works under the general direction of a licensed elevator mechanic.

(q) "Elevator inspector" means any person who specializes in the design, testing and maintenance inspection of elevators and other conveyances.

(r) "Elevator mechanic" means any person who is engaged in erecting, constructing, installing, altering, servicing, repairing, testing or maintaining elevators or other conveyances. For the purposes of this chapter, a certified elevator technician is considered an elevator mechanic.

(s) "Escalator" means an installation as defined as an "escalator" in ASME A17.1/CSA B44.

(t) "Existing installation" means an installation defined as an "installation, existing" in ASME A17.1/CSA B44.

(u) "License" means a written license issued under this act.

(v) "Licensee" means the elevator mechanic, elevator contractor or elevator inspector who possesses a license issued under this act.

(w) "Limited Elevator Contractor" means any sole proprietor, firm or company who employs individuals to carry on a business of erecting, constructing, installing, altering, servicing, repairing, or maintaining platform lifts and stairway chairlifts within any building or structure.

(x) "Limited Elevator Mechanic" means any person who is engaged in erecting, constructing, installing, altering, servicing, repairing or maintaining platform lifts and stairway chairlifts.

(y) "Moving walk" or "moving sidewalk" means an installation defined as a "moving walk" in ASME A17.1/CSA B44.

SECTION 6. (1) Only a person who is working under the direct supervision of a licensed elevator contractor and who possesses an elevator mechanic license is authorized to erect, construct, alter, replace, maintain, test, remove, dismantle or wire from the mainline feeder terminals on the controller of any conveyance contained within buildings or structures in this state. Supervision by a licensed elevator contractor is not required for removing or dismantling conveyances 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 to endanger the safety and welfare of a person.

(2) Only a person who possesses an elevator inspector license is authorized to inspect conveyances identified in this act.

SECTION 7. (1) The Commissioner of Insurance shall promulgate regulations for the equipment, fees and licenses regulated by this act. The regulations shall consider the latest Safety Code for Elevators and Escalators, ASME A17.1/CSA B44; the Safety Code for Existing Elevators and Escalators, ASME A17.3; the Performance-Based Safety Code for Elevators and Escalators, ASME A17.7/CSA B44.7, the Safety Standards for Platform Lifts and Stairway Chairlifts, ASME A18.1; and Standard for the Qualification of Elevator Inspectors, ASME QEI-1.

(2) The licensing authority shall consult with engineering authorities and organizations that are concerned with standard safety codes, the rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation, and inspection of conveyances and the qualifications that are adequate, reasonable and necessary for licensing as an elevator mechanic, contractor and inspector.

(3) Exceptions and variances from the literal requirements of applicable standards and regulations may be granted in cases where an exception or variance would not jeopardize the public safety and welfare.

SECTION 8. (1) The Commissioner of Insurance shall develop and implement an application process and fee schedule for licenses

designated in this act. The fee schedule adopted by the commissioner must be similar to those fees charged for similar services by the surrounding states.

(2) (a) Applicants for a mechanic license must demonstrate one (1) of the following qualifications and abilities:

(i) An acceptable combination of documented experience and education credits of, within the last five (5) years, not less than four (4) years work experience in the elevator industry, whether in construction, maintenance or service and repair, or any combination thereof, as verified by current and previous employers, and satisfactory completion of a written examination approved by the administrator on the most recent applicable codes and standards;

(ii) Certificates of completion of an apprenticeship program for elevator mechanics having standards substantially equal to those of this act, and registered with the Bureau of Apprenticeship and Training or the United States Department of Labor.

(b) A license shall be issued to an applicant who holds a valid license from a state having standards substantially equal to those of this act without examination and upon verification of qualification by the administrator.

(c) Any person who furnishes the licensing authority with acceptable proof that the person has worked as an elevator constructor, maintenance or repair mechanic, upon making

application for a license, shall be entitled to receive an elevator mechanic license without examination if the person has worked without direct and immediate supervision for a licensed elevator contractor for not less than four (4) years immediately before July 1, 2013. To be eligible to be licensed without examination under this paragraph, the person must make an application for licensure on or before July 1, 2014. A license is not required for an elevator helper or apprentice; however, a licensed mechanic is limited to directly supervise only three (3) helpers or apprentices.

(3) Applicants for an inspector license must meet the standards as set forth by the Commissioner of Insurance.

(4) (a) Applicants for an elevator contractor license must demonstrate that they have in their employ licensed elevator mechanic(s).

(b) An elevator contractor license may be issued to an applicant who holds an equivalent valid license from a state having standards substantially equal to those of this act.

(5) (a) Applicants for a limited elevator contractor license must demonstrate that they have in their employ licensed elevator mechanic(s).

(b) A limited elevator contractor license may be issued to an applicant who holds an equivalent valid license from a state having standards substantially equal to those of this act.

(6) (a) Except when otherwise expressly provided, licenses issued under this act shall be valid for two (2) years.

(b) The renewal of all licenses granted under the provisions of this section may be conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education of licensees. The courses shall be subject to approval by the licensing authority administrator and shall consist of not less than eight (8) hours of instruction that shall be attended and completed within one (1) year immediately preceding such license renewal.

(c) The commissioner, upon written request, may grant exception to or extend the time in which a licensee must comply with the continuing educational requirements of this section for reasons of poor health, military service or other reasonable or just causes.

SECTION 9. (1) A license issued pursuant to this act may be suspended, revoked or subject to civil penalty by the administrator upon verification that any one or more of the following reasons exist:

(a) Any false statement as to a material matter in the application.

(b) Fraud, misrepresentation or bribery in securing a license.

(c) Failure to notify the licensing authority and the owner or lessee of an elevator or other conveyance in any condition that is not in compliance with this act.

(2) No license shall be suspended, revoked, denied or subject to civil penalty until after a hearing before the administrator upon notice and hearing to the licensee or applicant of at least twenty (20) days at the last known address appearing on the license or application, served personally or by registered mail. The administrator may suspend or revoke the license, deny the application, levy a civil penalty, or dismiss the proceeding.

(3) Any person, sole proprietor, firm, or corporation whose license is revoked, suspended or subject to civil penalty, or whose license application is denied, may appeal from such determination to the Commissioner of Insurance, which shall within thirty (30) days thereafter, hold a hearing, of which at least fifteen (15) days' written notice shall be given to all interested parties. The commissioner shall, within thirty (30) days after such hearing, issue a decision.

(4) Any person, sole proprietor, firm or corporation whose license is revoked suspended or subject to civil penalty, or whose license application is denied, may appeal from such determination to the Chancery Court of the First Judicial District of Hinds County, Mississippi, within twenty (20) days of the final ruling.

SECTION 10. (1) On or before December 31, 2014, the owner or lessee of every conveyance not exempted under this act shall

register with the Commissioner of Insurance each conveyance owned or operated by the owner or lessee, giving the type, rated load and speed, name of manufacturer, its location, the purpose for which it is used, and such additional information as may be required.

(2) Conveyances placed in service on or after July 1, 2013, shall be registered at the time they are completed and placed in service.

SECTION 11. A licensee shall inspect, test, install, service and maintain conveyances in compliance with the provisions and standards of the State Fire Prevention and Building Code.

SECTION 12. (1) A permit must be obtained before a conveyance covered by this act shall be erected, constructed, installed or altered within buildings or structures in this state. Where any material alteration is made, the device shall conform to applicable requirements as determined by the commissioner. A permit may be issued only to a licensed elevator contractor, and a copy of the permit shall be kept at the construction site at all times while the work is in progress.

(2) Each application for a permit shall be accompanied by copies of specifications and accurately scaled and fully dimensioned plans showing the location of the installation in relation to the plans and elevation of the building; the location of the machinery room/machinery space and the equipment to be installed, relocated or altered; all structural supporting members

thereof, including foundations; and shall specify all materials to be employed and all loads to be supported or conveyed. The plans and specifications shall be sufficiently complete to illustrate all details of construction and design.

(3) Permits may be revoked for the following reasons:

(a) Where any false statement or misrepresentation as to the material facts was made in the application, plans, or specifications on which the permit was based.

(b) Where the permit was issued in error and should not have been issued in accordance with the code.

(c) Where the work detailed under the permit is not being performed in accordance with the provisions of the application, plans or specifications or with the code or conditions of the permit.

(d) Where the elevator contractor to whom the permit was issued fails or refuses to comply with a stop work order.

(4) (a) A permit expires if the work authorized by a permit is not commenced within six (6) months after the date of issuance.

(b) For good cause, an extension of the permit may be granted.

(5) A permit is not required for a repair.

(6) The commissioner may by rules and regulations establish a fee schedule for the permits and certifications issued under this section. The fee schedule must be similar to fees charged for the same services in surrounding states.

SECTION 13. (1) All new conveyance installations shall be performed by a licensed elevator contractor who must certify compliance with this act upon completion of the work. Before any conveyance is used, the property owner or lessee must obtain a certificate of operation. It is the responsibility of the licensed elevator contractor to complete and submit first-time registration(s) for new installations.

(2) A certificate of operation is renewable annually, except that certificates issued for platform and stairway chairlifts for private residences shall be valid for a period of three (3) years. A certificate of operation must be clearly displayed on or in each conveyance or in the machine room/machinery space for use for the benefit of code enforcement staff.

SECTION 14. (1) It shall be the responsibility of the owner of all new and existing conveyances located in any building or structure to have the conveyance inspected annually (ASME A17.1/CSA B44, category one) by a licensed elevator inspector who shall supply the property owner or lessee and the licensing authority with a written inspection report that describes any and all code violation. Property owners shall have thirty (30) days from the date of the published inspection report to be in full compliance with correcting the violations.

(2) (a) It shall be the responsibility of the owner of all conveyances to hire an elevator contractor or a limited elevator contractor to supervise the required tests at intervals in

compliance with the ASME A17.1/CSA B44 Appendix N, ASME A18.1 and ASCE 21.

(b) All tests shall be performed by a licensed elevator mechanic.

SECTION 15. Any owner or lessee who shall violate any of the provisions of this act, upon conviction thereof, shall be fined in an amount not to exceed One Thousand Five Hundred Dollars (\$1,500.00).

SECTION 16. The provisions of this act are not retroactive unless otherwise stated and equipment shall be required to comply with the applicable code at the date of its installation or within the period determined by the Commissioner of Insurance. If, upon the inspection of any device covered by this act, the equipment is found in dangerous condition or there is an immediate hazard to those riding or using such equipment, the administrator shall notify the owner of the condition and any corrective action taken, or required by the administrator, and shall order such alterations or additions as may be deemed necessary to eliminate the dangerous condition. Further, upon a finding of a danger to the public, the administrator may order the immediate cessation of the use of such device.

SECTION 17. This act shall not be construed to relieve or lessen the responsibility or liability of any person, firm, or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, inspecting, testing, or

repairing any elevator or other related mechanism covered by this chapter for damages to person or property caused by any defect therein, nor does the state assume any such liability or responsibility therefor or any liability to any person for whatsoever reason by the enactment of this act or any acts or omissions arising hereunder.

SECTION 18. There is created a special fund to be designated as the "Mississippi Elevator and Conveyance Fund." The fund shall consist of monies appropriated by the act of the Legislature and monies collected by the Commissioner of Insurance for licenses, fees and penalties levied pursuant to this chapter. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund. The Commissioner of Insurance may contract with a third party to assist the commissioner with carrying out the purposes of this chapter. The Commissioner of Insurance may use the monies in this fund to defray the costs of administration of this chapter, including, but not limited to, using the monies in this fund to pay a third party a reasonable fee for its services.

SECTION 19. The Commissioner of Insurance shall have authority to promulgate rules and regulations for licensing and enforcement for all provisions in this act.

SECTION 20. This act shall take effect and be in force from
and after July 1, 2013.

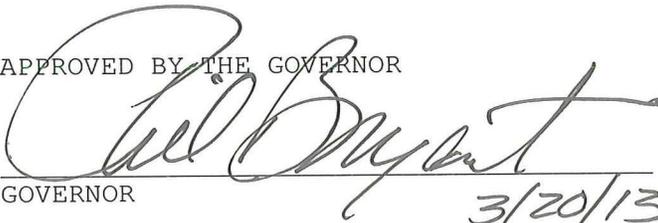
PASSED BY THE HOUSE OF REPRESENTATIVES
February 7, 2013


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 8, 2013


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

3/20/13
3:00pm