

By: Geren

H.B. No. 656

A BILL TO BE ENTITLED

AN ACT

relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.

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

SECTION 1. Subchapter B, Chapter 754, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. INSPECTION, ~~AND~~ CERTIFICATION, REGISTRATION, AND LICENSING

Sec. 754.011. DEFINITIONS. In this subchapter:

(1) "Acceptance inspection" means an inspection performed at the completion of the initial installation or alteration of equipment and in accordance with the applicable ASME Code A17.1.

(2) "Accident" means an event involving equipment that results in death or serious bodily injury to a person.

(3) "Alteration" means a change in or modernization of existing equipment. The term does not include maintenance, repair, replacement, or a cosmetic change that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time of alteration.

1           (4) "Annual inspection" means an inspection of  
2 equipment performed in a 12-month period in accordance with the  
3 applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or  
4 ASCE Code 21. The term includes an acceptance inspection performed  
5 within that period.

6           (5) "ASCE Code 21" means the American Society of Civil  
7 Engineers Code 21 for people movers operated by cables.

8           (6) "ASME Code A17.1" means the American Society of  
9 Mechanical Engineers Safety Code for Elevators and Escalators  
10 A17.1.

11           (7) [~~(2)~~] "ASME Code A17.3" means the 2002 American  
12 Society of Mechanical Engineers Safety Code for Elevators and  
13 Escalators A17.3.

14           (8) "ASME Code A18.1" means the American Society of  
15 Mechanical Engineers Safety Code for Platform Lifts and Stairway  
16 Chairlifts A18.1.

17           (9) [~~(3)~~] "Board" means the elevator advisory board.

18           (10) [~~(4)~~] "Commission" means the Texas Commission of  
19 Licensing and Regulation.

20           (11) [~~(5)~~] "Commissioner" means the commissioner of  
21 licensing and regulation.

22           (12) "Contractor" means a person, other than an  
23 elevator mechanic licensed under Section 754.0172, engaged in the  
24 installation, repair, or maintenance of equipment. The term does  
25 not include an elevator cab renovator licensed under Section  
26 754.0173 and engaged in activities authorized under that license or  
27 a person engaged in cleaning or any other work performed on

1 equipment that does not affect the operational safety of the  
2 equipment or diminish the safety of the equipment below the level  
3 required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1,  
4 or ASCE Code 21, as applicable.

5 (13) [~~6~~] "Department" means the Texas Department of  
6 Licensing and Regulation.

7 (14) "Equipment" means an elevator, escalator,  
8 chairlift, platform lift, automated people mover operated by  
9 cables, or moving sidewalk, or related equipment.

10 (15) "Industrial facility" means a facility to which  
11 access is primarily limited to employees of the facility.

12 (16) [~~7~~] "Qualified historic building or facility"  
13 means a building or facility that is:

14 (A) listed in or eligible for listing in the  
15 National Register of Historic Places; or

16 (B) designated as a Recorded Texas Historic  
17 Landmark or State Archeological Landmark.

18 (17) [~~8~~] "Related equipment" means:

19 (A) automatic equipment that is used to move a  
20 person in a manner that is similar to that of an elevator, an [~~or~~]  
21 escalator, a chairlift, a platform lift, an automated people mover  
22 operated by cables, or [~~and includes~~] a moving sidewalk; and

23 (B) hoistways, pits, and machine rooms for  
24 equipment.

25 (18) "Serious bodily injury" means a major impairment  
26 to bodily function or serious dysfunction of any bodily organ or  
27 part requiring medical attention.

1           (19) "Unit of equipment" means one elevator,  
2 escalator, chairlift, platform lift, automated people mover  
3 operated by cables, or moving sidewalk, or related equipment.

4           Sec. 754.0111. EXEMPTION. (a) This subchapter does not  
5 apply to [~~an elevator, escalator, or related~~] equipment in a  
6 private building owned by [~~for~~] a labor union, trade association,  
7 private club, or charitable organization that has two or fewer  
8 floors.

9           (b) This subchapter does not apply to an elevator located in  
10 a single-family dwelling, except as provided by Section 754.0141.

11           Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator  
12 advisory board is composed of 13 [~~nine~~] members appointed by the  
13 governor [~~commissioner~~] as follows:

14           (1) a representative of the insurance industry or a  
15 certified elevator inspector;

16           (2) a representative of [~~elevator, escalator, and~~  
17 ~~related~~] equipment constructors;

18           (3) a representative of owners or managers of a  
19 building [~~buildings~~] having fewer than six stories and having [~~an~~  
20 ~~elevator, an escalator, or related~~] equipment;

21           (4) a representative of owners or managers of a  
22 building [~~buildings~~] having six stories or more and having [~~an~~  
23 ~~elevator, an escalator, or related~~] equipment;

24           (5) a representative of [~~independent elevator,~~  
25 ~~escalator, and related~~] equipment maintenance companies;

26           (6) a representative of [~~elevator, escalator, and~~  
27 ~~related~~] equipment manufacturers;

1 (7) a licensed or registered engineer or architect  
2 [~~representative of professional engineers or architects~~];

3 (8) five [~~a~~] public members [~~member~~]; and

4 (9) a public member with a physical disability.

5 (b) Each board member serves [~~Board members serve~~] at the  
6 will of the governor and, unless removed by the governor, until the  
7 member's successor is appointed by the governor [~~commissioner~~].

8 (c) The governor [~~commissioner~~] shall appoint a presiding  
9 officer of the board.

10 (d) The board shall meet at least twice each calendar year.

11 (e) A board member serves without compensation but is  
12 entitled to reimbursement for travel as provided for in the General  
13 Appropriations Act [~~and other necessary expenses incurred in~~  
14 ~~performing duties under this subchapter~~].

15 Sec. 754.013. BOARD DUTIES. To protect public safety and to  
16 identify and correct potential hazards, the board shall advise the  
17 commissioner on:

18 (1) the adoption of appropriate standards for the  
19 installation, alteration, operation, and inspection of [~~elevators,~~  
20 ~~escalators, and related~~] equipment;

21 (2) the status of [~~elevators, escalators, and related~~]  
22 equipment used by the public in this state; [~~and~~]

23 (3) sources of information relating to equipment  
24 safety;

25 (4) public awareness programs related to elevator  
26 safety, including programs for sellers and buyers of single-family  
27 dwelling with elevators, chairlifts, or platform lifts; and

1           (5) any other matter considered relevant by the  
2 commissioner.

3           Sec. 754.014. STANDARDS ADOPTED BY COMMISSIONER. (a) The  
4 commissioner shall adopt standards for the installation,  
5 maintenance, alteration, operation, and inspection of [~~elevators,~~  
6 ~~escalators, and related~~] equipment used by the public in:

7           (1) buildings owned or operated by the state, a  
8 state-owned institution or agency, or a political subdivision of  
9 the state; and

10           (2) buildings that contain [~~an elevator, an escalator,~~  
11 ~~or related~~] equipment that is open to the general public, including  
12 a hotel, motel, apartment house, boardinghouse, church, office  
13 building, shopping center, or other commercial establishment.

14           (b) Standards adopted by the commissioner may not contain  
15 requirements in addition to the requirements in the ASME Code  
16 A17.1, ~~or~~ ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The  
17 standards must allow alteration of existing equipment if the  
18 alteration does not diminish the safety of the equipment below the  
19 level required by this subchapter at the time of alteration.

20           (c) Standards adopted by the commissioner must require  
21 [~~elevators, escalators, and related~~] equipment to comply with the  
22 installation requirements of the [~~following, whichever is the least~~  
23 ~~restrictive:~~

24           [~~(1) the~~] ASME Code A17.1, ASME Code A18.1, or ASCE  
25 Code 21 that was in effect and applicable on the date of  
26 installation of the [~~elevators, escalators, and related~~]  
27 equipment [~~, or~~

1           ~~[(2) an applicable municipal ordinance governing the~~  
2 ~~installation of elevators, escalators, and related equipment that~~  
3 ~~was in effect on the date of installation].~~

4           (d) Standards adopted by the commissioner must require  
5 ~~[elevators, escalators, and related]~~ equipment to comply with the  
6 installation requirements of the ~~[1994]~~ ASME Code A17.3 that  
7 contains minimum safety standards for all ~~[elevators, escalators,~~  
8 ~~and related]~~ equipment, regardless of the date of installation.

9           (e) The ~~[On written request, the]~~ commissioner shall grant a  
10 delay for compliance with the applicable ASME Code A17.1, ~~[or the~~  
11 ~~1994]~~ ASME Code A17.3, or ASME Code A18.1 until a specified time if  
12 compliance is not readily achievable, as that phrase is defined in  
13 the Americans with Disabilities Act (42 U.S.C. Section 12101 et  
14 seq.), or regulations adopted under that Act. The accumulated  
15 total time of all delays may not exceed three years, except as  
16 provided by Subsection (f) or as allowed in the discretion of the  
17 commissioner.

18           (f) The ~~[On written request, the]~~ commissioner shall grant a  
19 delay until September 1, 2005, for compliance with the requirements  
20 for door restrictors or firefighter's service in the ~~[1994]~~ ASME  
21 Code A17.3 if those requirements were not included in the ASME Code  
22 A17.1 that was in effect on the date of installation ~~[of the~~  
23 ~~elevator, escalator, or related equipment]~~ and the ~~[that]~~ equipment  
24 was not subsequently installed ~~[by an owner of the elevator,~~  
25 ~~escalator, or related equipment].~~

26           (g) The commissioner may grant a waiver of compliance from  
27 an applicable code requirement ~~[with the applicable ASME Code A17.1~~

1 ~~or the 1994 ASME Code A17.3]~~ if the commissioner finds that:

2 (1) the building in which the [~~elevator, escalator, or~~  
3 ~~related~~] equipment is located is a qualified historic building or  
4 facility or the noncompliance is due to structural components of  
5 the building; ~~and~~

6 (2) noncompliance will not constitute a significant  
7 threat to passenger safety; and

8 (3) noncompliance, with adequate alternative  
9 safeguards, will not constitute a significant threat to worker  
10 safety.

11 (h) The commissioner shall grant a waiver of compliance if  
12 the noncompliance resulted from compliance with a municipal  
13 equipment construction code at the time of the original  
14 installation and the noncompliance does not pose imminent and  
15 significant danger. The commissioner may grant a waiver of  
16 compliance with the firefighter's service provisions of the ASME  
17 Code A17.1 or the [~~1994~~] ASME Code A17.3 in an elevator that  
18 exclusively serves a vehicle parking garage in a building that:

19 (1) is used only for parking;

20 (2) is constructed of noncombustible materials; and

21 (3) is not greater than 75 feet in height.

22 (i) This subchapter does not apply to [~~an elevator, an~~  
23 ~~escalator, or related~~] equipment in an industrial facility, or in a  
24 grain silo, radio antenna, bridge tower, underground facility, or  
25 dam, to which access is limited primarily [~~principally~~] to  
26 employees of or working in that facility or structure.

27 (j) [~~The commissioner may charge a reasonable fee as set by~~



1 ~~the commission for an application for waiver or delay.]~~ One  
2 application for a waiver or delay may contain all requests related  
3 to a unit of equipment ~~[particular building]~~. A delay may not be  
4 granted indefinitely but must be granted for ~~[to]~~ a specified time  
5 not to exceed three years.

6 (k) For purposes of this section, the date of installation  
7 or alteration of equipment is the date that the owner of the real  
8 property entered into a contract for the installation or alteration  
9 of the ~~[purchase of the elevators, escalators, or related]~~  
10 equipment. If that date cannot be established, the date of  
11 installation or alteration is the date of issuance of the municipal  
12 building permit under which the ~~[elevators, escalators, or related]~~  
13 equipment was installed or altered ~~[constructed]~~ or, if a municipal  
14 building permit was not issued, the date that electrical  
15 consumption began for the construction of the building in which the  
16 ~~[elevators, escalators, or related]~~ equipment was installed.

17 Sec. 745.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY  
18 DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or  
19 platform lifts installed in a single-family dwelling on or after  
20 January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as  
21 applicable, and must be inspected by a QEI-1 certified inspector  
22 after the installation is complete. The inspector shall provide  
23 the dwelling owner a copy of the inspection report.

24 (b) The commissioner shall, before January 1, 2004, adopt  
25 rules containing minimum safety standards that must be used by  
26 QEI-1 certified inspectors when inspecting elevators, chairlifts,  
27 and platform lifts installed in single-family dwellings.

1        (c) A municipality may withhold a certificate of occupancy  
2 for a dwelling or for the installation of the elevator or chairlift  
3 until the owner provides a copy of the QEI-1 inspection report to  
4 the municipality.

5        (d) A contractor is not required to report to the department  
6 any information concerning equipment in a single-family dwelling or  
7 the contractor's work on the equipment.

8        (e) On completing installation of equipment in a  
9 single-family dwelling, a contractor shall provide the dwelling  
10 owner with relevant information, in writing, about use, safety, and  
11 maintenance of the equipment, including the advisability of having  
12 the equipment periodically and timely inspected by a QEI-1  
13 certified inspector.

14        (f) An inspection by a QEI-1 certified inspector of  
15 equipment in a single-family dwelling may be performed only at the  
16 request and with the consent of the owner. The owner of a  
17 single-family dwelling is not subject to Section 754.022, 754.023,  
18 or 754.024.

19        Sec. 754.015. RULES. (a) The commissioner by rule shall  
20 provide for:

21            (1) an annual [~~the~~] inspection and certification of  
22 the [~~once each calendar year of elevators, escalators, and related~~]  
23 equipment covered by standards adopted under this subchapter;

24            (2) [~~the~~] enforcement of those standards;

25            (3) registration [~~the certification~~] of qualified  
26 [~~persons as~~] inspectors and contractors [~~for the purposes of this~~  
27 ~~subchapter~~]; [~~and~~]

1           (4) licensure of elevator mechanics and elevator cab  
2 renovators;

3           (5) the form of [the] inspection documents, contractor  
4 reports, [report] and certificates [certificate] of compliance;

5           (6) notification to building owners, architects, and  
6 other building industry professionals regarding the necessity of  
7 annually inspecting equipment;

8           (7) approval of continuing education programs for  
9 registered QEI-1 certified inspectors and licensed elevator  
10 mechanics; and

11           (8) standards of conduct for individuals who are  
12 licensed or registered under this subchapter.

13           (b) The commissioner by rule may not [~~require that~~]:

14           (1) require inspections of equipment to [inspection]  
15 be made more often than every 12 months, except as provided by  
16 Subsection (c) [once per year of elevators, escalators, and related  
17 equipment];

18           (2) require persons to post a bond or furnish  
19 insurance or to have minimum experience or education as a condition  
20 of certification, registration, or licensure; [and]

21           (3) require inspection reports or certificates of  
22 compliance to be placed in locations other than one provided in  
23 Section 754.019(a)(4);

24           (4) require building owners to submit to the  
25 department proposed plans for equipment installation or  
26 alteration;

27           (5) prohibit a QEI-1 certified inspector who is

1 registered with the department from inspecting equipment; or

2 (6) require an inspection report or certificate of  
3 compliance to be placed inside or immediately outside an elevator  
4 cab or escalator or in the lobby or hallways of a building.

5 (c) The commissioner by rule may require a reinspection or  
6 recertification of equipment if the equipment has been altered and  
7 poses a significant threat to passenger or worker safety or if an  
8 annual inspection report indicates an existing violation has  
9 continued longer than permitted in a delay granted by the  
10 commissioner.

11 (d) The commissioner by rule may charge a fee for:

12 (1) registering or renewing registration of an  
13 inspector, not to exceed \$200;

14 (2) registering or renewing registration of a  
15 contractor, not to exceed \$300;

16 (3) applying for a certificate of compliance, not to  
17 exceed \$15 for each unit of equipment;

18 (4) filing an inspection report as required by Section  
19 754.019(a)(3), 30 days or more after the date the report is due, not  
20 to exceed \$3 for each day the report remains not filed after the  
21 date the report is due;

22 (5) applying for a waiver or delay, not to exceed \$100  
23 for each violation;

24 (6) applying for a license or license renewal, not to  
25 exceed \$125;

26 (7) applying for a 30-day temporary or emergency  
27 license or license renewal, not to exceed \$125;

1           (8) reinstating an expired license in accordance with  
2 this subchapter, not to exceed \$250;

3           (9) applying for approval of a continuing education  
4 program for licensed elevator mechanics or registered QEI-1  
5 inspectors, other than a program sponsored by the department, not  
6 to exceed \$200;

7           (10) attending a continuing education program  
8 sponsored by the department for licensed elevator mechanics or  
9 registered QEI-1 inspectors, not to exceed \$75; and

10           (11) applying for approval or certification of a  
11 long-term education program, not to exceed \$500 [754.019(4)].

12           Sec. 754.016. INSPECTION       DOCUMENTS       ~~[REPORT]~~       AND  
13 CERTIFICATE OF COMPLIANCE. (a) An inspection report and a  
14 certificate of compliance required under this subchapter must cover  
15 each unit of ~~[all elevators, escalators, and related]~~ equipment ~~[in~~  
16 ~~a building or structure appurtenant to the building, including a~~  
17 ~~parking facility, that are owned by the same person or persons]~~.  
18 There shall be separate ~~[only one]~~ inspection reports ~~[report]~~ and  
19 certificates ~~[one certificate]~~ of compliance for each unit of  
20 equipment ~~[building]~~.

21           (b) An inspector shall date and sign an inspection report  
22 and shall issue the report to the building owner not later than the  
23 10th calendar day after the date of inspection. ~~[The inspection~~  
24 ~~report shall be on forms designated by the commissioner.]~~

25           (c) The commissioner shall ~~[date and sign a certificate of~~  
26 ~~compliance and shall]~~ issue a [the] certificate of compliance to  
27 the building owner if an application is submitted by the building

1 owner with applicable fees and the application reflects that:

2 (1) the~~]. The certificate of compliance shall state~~  
3 ~~that the elevators, escalators, and related]~~ equipment has ~~[have]~~  
4 been inspected by a certified inspector;

5 (2) the inspection report shows the equipment is ~~[and~~  
6 ~~found by the inspector to be]~~ in compliance with the requirements of  
7 this chapter; and

8 (3) to the extent the report shows any noncompliance  
9 that does not pose an imminent and significant danger, the building  
10 owner:

11 (A) acknowledges the noncompliance will be  
12 remedied within a reasonable period, not later than six months  
13 following the date of the inspection report; or

14 (B) has been granted a waiver or delay for  
15 compliance by the commissioner~~[, except for any delays or waivers~~  
16 ~~granted by the commissioner and stated in the certificate].~~

17 Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to  
18 inspect equipment, an individual must:

19 (1) be registered ~~[An inspector must register]~~ with  
20 the department;

21 (2) attend educational programs approved by the  
22 department;

23 (3) [and] be certified as a QEI-1 ~~[an ASME-QEI-1]~~  
24 inspector by an organization accredited by the American Society of  
25 Mechanical Engineers; and

26 (4) pay all applicable fees. ~~[Any certification~~  
27 ~~charges or fees shall be paid by the inspector.]~~

1           (b) ~~[The commissioner may not by rule prohibit an ASME-QEI-1~~  
2 ~~certified inspector who is registered with the department from~~  
3 ~~inspecting under this subchapter an elevator, an escalator, or~~  
4 ~~related equipment.]~~ A person assisting a certified inspector and  
5 working under the direct, on-site supervision of the inspector is  
6 not required to be ~~[ASME-QEI-1]~~ certified.

7           (c) A registration expires on the first anniversary of the  
8 date of issuance.

9           (d) A certified inspector may not be required to attend more  
10 than seven hours of continuing education during each licensing  
11 period. ~~[The commissioner may charge a \$15 fee to certified~~  
12 ~~inspectors for registering with the department.]~~

13           Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may  
14 not install, repair, or maintain equipment without registering as a  
15 contractor with the department as required by this subchapter.

16           (b) A contractor shall submit an application for  
17 registration and pay appropriate fees to the department. The  
18 registration application form may require information concerning  
19 the background, experience, or identity of the applicant.

20           (c) A registration expires on the first anniversary of the  
21 date of issuance.

22           (d) A person registering as a contractor under this  
23 subchapter shall submit to the department an initial report, not  
24 later than the 60th day following the application date, containing:

25           (1) the street address of each building or location at  
26 which the person performed installation, repair, alteration, or  
27 maintenance of equipment for the previous two years; and

1           (2) the name and mailing address of the building  
2 owner.

3           (e) After the initial report required by Subsection (d), a  
4 contractor registered as required by this subchapter shall submit  
5 to the department a quarterly report containing:

6           (1) the street address of each building or location at  
7 which the contractor performed installation, repair, alteration,  
8 or maintenance of equipment not reported in the contractor's  
9 initial report to the department under Subsection (d); and

10           (2) the name and mailing address of the building  
11 owner.

12           (f) Installation, repair, alteration, and maintenance  
13 standards for contractors must be consistent with ASME Code A17.1,  
14 ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

15           Sec. 754.0172. ELEVATOR MECHANIC LICENSE. (a) Except as  
16 provided by this section, an individual may not install, repair,  
17 wire, test, or maintain equipment without obtaining an elevator  
18 mechanic license or an emergency or temporary elevator mechanic  
19 license.

20           (b) An individual who is directly supervised by a licensed  
21 elevator mechanic on-site in a building or building complex is not  
22 required to be licensed under Subsection (a). The commissioner may  
23 adopt rules listing the work activities an unlicensed individual  
24 may perform on equipment without being under the direct supervision  
25 of a licensed elevator mechanic.

26           (c) The commissioner shall adopt rules providing for the  
27 issuance of a 30-day emergency license and a 30-day temporary



1 license. The commissioner may waive any license examination  
2 requirement for an applicant with a valid license from another  
3 state that has a reciprocity agreement with this state. An  
4 individual who applies for a temporary or emergency license or a  
5 license by reciprocity shall pay an application fee not to exceed  
6 \$125 to the department.

7 (d) An applicant for an elevator mechanic license under  
8 Subsection (a) must be at least 18 years old. The application must  
9 be in a form prescribed by the commissioner and must be verified and  
10 accompanied by:

11 (1) a statement of the applicant's practical  
12 experience, as described by Subsection (f);

13 (2) the examination fee; and

14 (3) information about any felony conviction or  
15 deferred adjudication history of the applicant.

16 (e) Except as provided by this subsection, the commissioner  
17 shall issue an elevator mechanic license to an applicant who  
18 possesses the required qualifications, passes the appropriate  
19 examination, and pays the applicable license fee. An applicant who  
20 fails an examination is eligible for reexamination on compliance  
21 with Subsection (d).

22 (f) The practical experience must be in the area of  
23 installation and repair of equipment.

24 (g) Unless the license has been suspended or revoked, the  
25 commissioner shall annually renew an elevator mechanic license on  
26 receipt of the applicable fee, the application for renewal, and  
27 proof of completion of continuing education requirements. The

1 commissioner shall adopt rules providing for reinstatement of a  
2 license on payment of the applicable fee if application for renewal  
3 is made not later than the 30th day after the date the license  
4 expires.

5 (h) The department may recognize and certify continuing  
6 education programs and long-term training programs for elevator  
7 mechanics. A program provider shall pay the applicable fee to the  
8 department when applying for department approval of a program.

9 (i) The examination must primarily be on the subjects  
10 described by Subsection (f). Not later than the 30th day after the  
11 date an examination is administered, the commissioner shall notify  
12 each examinee of the results of the examination. If an examination  
13 is graded or reviewed by a national testing service, the  
14 commissioner shall notify examinees of the results of the  
15 examination not later than the 14th day after the date the  
16 commissioner receives the results from the testing service. If the  
17 notice of an examination result is delayed for longer than 90 days  
18 after the examination date, the commissioner shall notify the  
19 examinee of the reason for the delay before the 90th day.

20 (j) The commissioner shall prepare and administer  
21 examinations and continuing education programs for licenses or  
22 certify other persons to perform those functions. An elevator  
23 mechanic licensed under this subchapter must attend seven hours of  
24 required continuing education during each licensing period.

25 Sec. 754.0173. ELEVATOR CAB RENOVATOR LICENSE. (a) Except  
26 as provided by this section, an individual may not enter an elevator  
27 hoistway to make an evaluation in connection with renovation of an

1 elevator cab or to renovate the interior of the cab without  
2 obtaining an elevator cab renovator license.

3 (b) A licensed elevator mechanic or an individual who is  
4 directly supervised by a person holding an elevator cab renovator  
5 license is not required to be licensed under Subsection (a).

6 (c) The commissioner may waive any license examination  
7 requirement for an applicant with a valid license comparable to an  
8 elevator mechanic license or elevator cab renovator license from  
9 another state that has a reciprocity agreement with this state.

10 (d) An applicant for an elevator cab renovator license under  
11 Subsection (a) must be at least 18 years old. The application must  
12 be in a form prescribed by the commissioner and must be verified and  
13 accompanied by:

14 (1) a statement of the applicant's practical  
15 experience, as described by Subsection (f);

16 (2) the examination fee; and

17 (3) information about any felony conviction or  
18 deferred adjudication history of the applicant.

19 (e) Except as provided by this subsection, the commissioner  
20 shall issue an elevator cab renovator license to an applicant who  
21 possesses the required qualifications, passes the appropriate  
22 examination, and pays the applicable license fee. An applicant who  
23 fails an examination is eligible for reexamination on compliance  
24 with Subsection (d).

25 (f) The practical experience must be in the safety aspects  
26 of lighting, glass, mirrors, fire retardant materials, weight  
27 factors, cab finish-out installation, and performance of any aspect

1 of elevator cab renovation that involves stopping or securing an  
2 elevator or entering the hoistway of an elevator for cab renovation  
3 purposes.

4 (g) Unless the license has been suspended or revoked, the  
5 commissioner shall annually renew an elevator cab renovator license  
6 on receipt of the applicable fee and the application for renewal.  
7 The commissioner shall adopt rules providing for reinstatement of a  
8 license on payment of the applicable fee if application for renewal  
9 is made not later than the 30th day after the date the license  
10 expires.

11 (h) The examination must primarily be on the subjects  
12 described by Subsection (f). Not later than the 30th day after the  
13 date an examination is administered, the commissioner shall notify  
14 each examinee of the results of the examination. If an examination  
15 is graded or reviewed by a national testing service, the  
16 commissioner shall notify examinees of the results of the  
17 examination not later than the 14th day after the date the  
18 commissioner receives the results from the testing service. If the  
19 notice of an examination result is delayed for longer than 90 days  
20 after the examination date, the commissioner shall notify the  
21 examinee of the reason for the delay before the 90th day and shall  
22 issue a temporary license, which shall be valid until the  
23 examination result is received.

24 (i) The commissioner shall prepare and administer  
25 examinations for licenses or certify other persons to perform those  
26 functions.

27 Sec. 754.0174. INSPECTION FEE. [~~(a) A person inspecting an~~

1 ~~elevator, an escalator, or related equipment under this subchapter~~  
2 ~~may not charge more than \$65 per elevator cab or per escalator for~~  
3 ~~each inspection.~~

4 ~~[(b)]~~ The amount charged for an inspection or the  
5 performance of an inspection of equipment under this subchapter may  
6 not be contingent on the existence of a maintenance contract  
7 between the person performing the inspection and any other person.

8 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section  
9 754.014(h), if ~~[If]~~ a municipality operates a program for the  
10 installation, maintenance, alteration, inspection, or ~~[and]~~  
11 certification of ~~[elevators, escalators, and related]~~ equipment,  
12 this subchapter shall not apply to the ~~[elevators, escalators, and~~  
13 ~~related]~~ equipment in that municipality, provided that the  
14 standards of installation, maintenance, alteration, inspection,  
15 and certification are at least equivalent to ~~[no less stringent~~  
16 ~~than]~~ those contained in this subchapter.

17 Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The  
18 owner of real property on which ~~[an elevator, an escalator, or~~  
19 ~~related]~~ equipment covered by this subchapter is located shall:

20 (1) have the ~~[elevator, escalator, or related]~~  
21 equipment inspected annually by a ~~[an ASME-QEI-1]~~ certified  
22 inspector ~~[in accordance with the commissioner's rules];~~

23 (2) obtain an inspection report from the inspector  
24 evidencing that all ~~[elevators, escalators, and related]~~ equipment  
25 in a building on the real property was ~~[were]~~ inspected in  
26 accordance with this subchapter and rules adopted under this  
27 subchapter;

1           (3) file with the department the [~~commissioner a copy~~  
2 ~~of each~~] inspection report for each unit of equipment, and all  
3 applicable fees, [~~and a \$20 filing fee for each report, plus \$5 for~~  
4 ~~each elevator, escalator, or related equipment~~] not later than the  
5 60th day after the date on which an inspection is made under this  
6 subchapter;

7           (4) display the certificate of compliance or a copy of  
8 the certificate:

9                   (A) in each [~~the~~] elevator mechanical room if the  
10 certificate relates to an elevator;

11                   (B) in each [~~the~~] escalator box if the  
12 certificate relates to an escalator; or

13                   (C) in a place designated by rule if related to  
14 equipment other than an elevator or escalator [~~the commissioner if~~  
15 ~~the certificate relates to related equipment~~]; and

16           (5) display the inspection report at the locations  
17 designated in Subdivision (4) until a certificate of compliance is  
18 issued [~~by the commissioner~~].

19           (b) When an inspection report is filed [~~with the~~  
20 ~~commissioner~~], the owner shall submit to the department, as  
21 applicable [~~commissioner~~]:

22                   (1) verification that any deficiencies in the  
23 inspector's report have been remedied or that a bona fide contract  
24 to remedy the deficiencies has been entered into; or

25                   (2) any application for delay or waiver of an  
26 applicable standard.

27           (c) [~~An inspection must be made not later than 18 months~~

1 ~~after the previous calendar year's inspection. This subsection~~  
2 ~~does not affect the requirement that elevators, escalators, or~~  
3 ~~related equipment be inspected at least once each calendar year.~~

4 ~~[(d)]~~ For the purpose of determining timely filing under  
5 Subsection (a)(3) and Section 754.016(b), an inspection report and  
6 filing fees ~~[fee]~~ are considered filed on the earlier of:

7 (1) the date of personal delivery;

8 (2) the date of postmark ~~[mailing]~~ by United States  
9 mail if properly addressed to the department; or

10 (3) the date of deposit with a commercial courier  
11 service, if properly addressed to the department ~~[commissioner].~~

12 (d) ~~[(e) If the inspection report and fee required by~~  
13 ~~Subsection (a)(3) are not timely filed, the commissioner may charge~~  
14 ~~the owner of the real property on which the elevator, escalator, or~~  
15 ~~related equipment is located an additional \$100 fee for late~~  
16 ~~filing.~~

17 ~~[(f) The commissioner may not require that an inspection~~  
18 ~~report or certificate of compliance be placed inside or immediately~~  
19 ~~outside an elevator cab or escalator or in the lobby or hallways of~~  
20 ~~a building.~~

21 ~~[(g)]~~ A fee may not be charged or collected for a  
22 certificate of compliance for an institution of higher education as  
23 defined in Section 61.003, Education Code.

24 (e) An owner shall report to the department each accident  
25 involving equipment not later than 72 hours following the accident.

26 Sec. 754.020. CHIEF ELEVATOR INSPECTOR ~~[DEPOSIT OF FEES].~~  
27 The commissioner may appoint a chief elevator inspector to

1 administer the equipment inspection and registration program. The  
2 chief elevator inspector:

3 (1) may not have a financial or commercial interest in  
4 the manufacture, maintenance, repair, inspection, installation, or  
5 sale of equipment; and

6 (2) must possess a QEI-1 certification or obtain the  
7 certification within six months after becoming chief inspector.

8 [~~Fees collected under this subchapter shall be deposited to the~~  
9 ~~credit of an account in the general revenue fund that may be used by~~  
10 ~~the commissioner only to administer and enforce this subchapter and~~  
11 ~~to reimburse expenses of board members provided by this~~  
12 ~~subchapter.~~]

13 Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS  
14 AND LICENSED ELEVATOR MECHANICS AND ELEVATOR CAB RENOVATORS [~~+~~  
15 ~~PERSONNEL~~]. The commissioner shall [~~may~~]:

16 (1) compile a list of [~~ASME-QEI-1~~] certified  
17 inspectors and contractors who are registered with the department  
18 and elevator mechanics and elevator cab renovators who are licensed  
19 by the department [~~to perform an inspection under this subchapter~~];  
20 and

21 (2) employ personnel who are [~~as~~] necessary to enforce  
22 this subchapter.

23 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department  
24 [~~commissioner~~] learns of a situation of noncompliance under Section  
25 754.019, the department [~~commissioner~~] shall send notice by  
26 certified mail of the noncompliance and the actions required to  
27 remedy the noncompliance to the record owner of the real property on



1 which the equipment that is the subject of the noncompliance is  
2 located.

3       Sec. 754.023. INVESTIGATION; REGISTRATION AND LICENSE  
4 PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good  
5 cause [~~for the commissioner~~] to believe that [~~an elevator, an~~  
6 ~~escalator, or related~~] equipment on real property poses an imminent  
7 and significant danger [~~is dangerous~~] or that an accident involving  
8 [~~an elevator, an escalator, or related~~] equipment occurred on the  
9 property and serious bodily injury or property damage resulted, a  
10 department employee [~~the commissioner~~] may enter the property  
11 during regular business hours after notice to the owner, operator,  
12 or person in charge of the property to inspect the [~~elevator,~~  
13 ~~escalator, or related~~] equipment or investigate the danger or  
14 accident at no cost to the owner.

15       (b) The department employee [~~commissioner~~] may enter real  
16 property during regular business hours after notice to the owner,  
17 operator, or person in charge of the property to verify, at no cost  
18 to the owner, whether an inspection report or certificate of  
19 compliance has been displayed as required under Section 754.019(a).

20       (c) The commissioner may deny, suspend, or revoke a license  
21 or [~~the~~] registration under this subchapter and may assess an  
22 administrative penalty [~~of any ASME-QEI-1 certified inspector~~]  
23 for:

24           (1) obtaining a license or registration [~~with the~~  
25 ~~commissioner~~] by fraud or false representation;

26           (2) falsifying a [~~any inspection~~] report [~~submitted to~~  
27 ~~the commissioner~~]; or

1           (3) violating this subchapter or a rule adopted under  
2 this subchapter.

3           (d) Proceedings for the denial, suspension, or revocation  
4 of a license or registration and appeals from those proceedings are  
5 governed by Chapter 2001, Government Code (the Administrative  
6 Procedure Act).

7           (e) The commissioner is entitled to appropriate injunctive  
8 relief to prevent a violation or threatened violation of this  
9 subchapter or a rule adopted under this subchapter.

10          (f) [~~(e)~~] The commissioner may bring suit in a district  
11 court in Travis County or in the county in which the violation or  
12 threatened violation occurs. If requested, the attorney general  
13 shall represent the department and its personnel [~~commissioner~~] in  
14 the suit.

15          (g) The commissioner may issue an emergency order as  
16 necessary to enforce this subchapter if the commissioner determines  
17 that an emergency exists requiring immediate action to protect the  
18 public health and safety.

19          (h) The commissioner may issue an emergency order with  
20 simultaneous notice and without hearing or with the notice and  
21 opportunity for hearing practicable under the circumstances.

22          (i) If an emergency order is issued under this section  
23 without a hearing, the commissioner shall set the time and place for  
24 a hearing to affirm, modify, or set aside the emergency order not  
25 later than the 10th day after the date the order was issued.

26          (j) An emergency order may direct a building owner or  
27 manager to disconnect power to or lock out equipment if:

1           (1) the department determines imminent and  
2 significant danger to passenger safety exists if action is not  
3 taken immediately and reasonable effort has been made for voluntary  
4 compliance by notification to the building owner or manager of the  
5 danger before the issuance of an emergency order; or

6           (2) an annual inspection has not been performed in  
7 more than two years and:

8           (A) the department gives the building owner or  
9 manager, or the agent of the building owner or manager, 60 days'  
10 written notice by certified mail directing the equipment to be  
11 inspected according to this subchapter; and

12           (B) after the expiration of the notice period  
13 under Paragraph (A), the department gives the building owner or  
14 manager, or the agent of the building owner or manager, written  
15 notice by certified mail stating that an order to disconnect power  
16 or lock out equipment will be made after the seventh day after the  
17 date notice is delivered.

18           (k) If an emergency order to disconnect power or lock out  
19 equipment is issued, the building owner or manager may have the  
20 power reconnected or the equipment unlocked only if:

21           (1) a registered inspector or contractor or a  
22 department representative has filed a written form with the  
23 department verifying the imminent and significant danger has been  
24 removed by repair, replacement, or other means; and

25           (2) the building owner, before the reconnection of  
26 power or unlocking of equipment, reimburses the department for all  
27 expenses incurred relating to the disconnection of power or

1 lockout.

2 (l) The commissioner or the commissioner's designee may  
3 allow delayed payment if the building owner or manager commits in  
4 writing to pay the department for the expenses required by  
5 Subsection (k) not later than the 10th day after the date power is  
6 reconnected or equipment is unlocked.

7 (m) If an emergency order to disconnect power or lock out  
8 equipment is issued and the building owner later notifies the  
9 department that the imminent and significant danger no longer  
10 exists, the commissioner or the commissioner's designee shall,  
11 after the requirements of Subsection (k) are satisfied, promptly  
12 issue written permission to reconnect power or unlock the equipment  
13 and notify the owner.

14 Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an  
15 offense if the person receives notice of noncompliance under  
16 Section 754.022 and the person has not remedied the noncompliance  
17 or entered into a bona fide contract to remedy the noncompliance  
18 before the 61st day after the date on which the notice is received.

19 (b) An offense under this section is a Class C misdemeanor.

20 (c) Each day of an offense under Subsection (a) constitutes  
21 a separate offense.

22 Sec. 754.025. APPLICATION OF CERTAIN LAW. Chapter 53,  
23 Occupations Code, applies to a license or registration under this  
24 subchapter.

25 SECTION 2. (a) This Act takes effect September 1, 2003,  
26 except that:

27 (1) a contractor is not required to be registered

1 under Section 754.0171, Health and Safety Code, as amended by this  
2 Act, before January 1, 2004;

3 (2) an individual is not required to be licensed under  
4 Section 754.0172, Health and Safety Code, as added by this Act,  
5 before January 1, 2004; and

6 (3) an escalator constructed before September 1, 2003,  
7 is not required to comply with step/skirt index requirements  
8 imposed under the 2002 American Society of Mechanical Engineers  
9 Safety Code for Elevators and Escalators A17.3 before September 1,  
10 2009.

11 (b) An applicant for an elevator mechanic license under  
12 Section 754.0172, Health and Safety Code, as added by this Act, or  
13 an elevator cab renovator license under Section 754.0173, Health  
14 and Safety Code, as added by this Act, who has 36 months of  
15 practical experience at the time of application and who applies for  
16 the license not later than December 31, 2003, is not required to  
17 take the required examination. The practical experience must be in  
18 the areas described by Section 754.0172 or Section 754.0173, as  
19 applicable.

20 (c) A member of the elevator advisory board serving on the  
21 effective date of this Act continues to serve until removed by the  
22 governor or until the member's successor is appointed by the  
23 governor.