

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, AND REGISTRATION

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.

(4) "Annual inspection" means an inspection of

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

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

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

10 (6-a) "Executive director" means the executive
11 director of the department.

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

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

18 (9) [~~(3)~~] "Board" means the elevator advisory board.

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

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

23 (12) "Contractor" means a person engaged in the
24 installation, repair, or maintenance of equipment. The term does
25 not include an employee of a contractor or a person engaged in
26 cleaning or any other work performed on equipment that does not
27 affect the operational safety of the equipment or diminish the

1 safety of the equipment below the level required by the ASME Code
2 A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as
3 applicable.

4 (13) [~~(6)~~] "Department" means the Texas Department of
5 Licensing and Regulation.

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

9 (15) "Industrial facility" means a facility to which
10 access is primarily limited to employees or contractors working in
11 that 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 for a labor union, trade association, private
7 club, or charitable organization that has two or fewer floors.

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

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

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

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

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

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

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

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

27 (7) a licensed or registered engineer or architect

1 ~~[representative of professional engineers or architects];~~

2 (8) a public member; and

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

4 (b) Board members serve at the will of the commission
5 ~~[commissioner]~~.

6 (c) The presiding officer of the commission ~~[commissioner]~~
7 shall appoint a presiding officer of the board to serve for two
8 years.

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

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

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

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

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

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

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

27 (5) any other matter considered relevant by the

1 commission [~~commissioner~~].

2 Sec. 754.014. STANDARDS ADOPTED BY COMMISSION
3 [~~COMMISSIONER~~]. (a) The commission [~~commissioner~~] shall adopt
4 standards for the installation, maintenance, alteration,
5 operation, and inspection of [~~elevators, escalators, and related~~]
6 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 commission [~~commissioner~~] may
15 not contain requirements in addition to the requirements in the
16 ASME Code A17.1, [~~or~~] ASME Code A17.3, ASME Code A18.1, or ASCE Code
17 21. The standards must allow alteration of existing equipment if
18 the alteration does not diminish the safety of the equipment below
19 the level required by this subchapter at the time of alteration.

20 (c) Standards adopted by the commission [~~commissioner~~] must
21 require [~~elevators, escalators, and related~~] equipment to comply
22 with the installation requirements of the [~~following, whichever is~~
23 ~~the least 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 commission ~~[commissioner]~~ must
5 require ~~[elevators, escalators, and related]~~ equipment to comply
6 with the installation requirements of the ~~[1994]~~ ASME Code A17.3
7 that contains minimum safety standards for all ~~[elevators,~~
8 ~~escalators, and related]~~ equipment, regardless of the date of
9 installation.

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

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

1 (g) The executive director [~~commissioner~~] may grant a
2 waiver of compliance from an applicable code requirement [~~with the~~
3 ~~applicable ASME Code A17.1 or the 1994 ASME Code A17.3~~] if the
4 executive director [~~commissioner~~] finds that:

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

9 (2) noncompliance will not constitute a significant
10 threat to passenger safety; and

11 (3) noncompliance, with adequate alternative
12 safeguards, will not constitute a significant threat to worker
13 safety.

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

23 (1) is used only for parking;

24 (2) is constructed of noncombustible materials; and

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

26 (i) This subchapter does not apply to [~~an elevator, an~~
27 ~~escalator, or related~~] equipment in an industrial facility, or in a

1 grain silo, radio antenna, bridge tower, underground facility, or
2 dam, to which access is limited primarily [~~principally~~] to
3 employees of or working in that facility or structure.

4 (j) [~~The commissioner may charge a reasonable fee as set by~~
5 ~~the commission for an application for waiver or delay.~~] One
6 application for a waiver or delay may contain all requests related
7 to a unit of equipment [~~particular building~~]. A delay may not be
8 granted indefinitely but must be granted for [~~to~~] a specified time
9 not to exceed three years.

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

21 Sec. 754.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY
22 DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or
23 platform lifts installed in a single-family dwelling on or after
24 January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as
25 applicable, and must be inspected by a QEI-1 certified inspector
26 after the installation is complete. The inspector shall provide
27 the dwelling owner a copy of the inspection report.

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

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

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

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

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

23 Sec. 754.015. RULES. (a) The commission [~~commissioner~~] by
24 rule shall provide for:

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

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

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

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

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

10 (6) approval of continuing education programs for
11 registered QEI-1 certified inspectors; and

12 (7) standards of conduct for individuals who are
13 registered under this subchapter.

14 (b) The commission ~~[commissioner]~~ by rule may not ~~[require~~
15 ~~that]~~:

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

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

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

26 (4) prohibit a QEI-1 certified inspector who is
27 registered with the department from inspecting equipment.

1 (c) The commission by rule may require a reinspection or
2 recertification of equipment if the equipment has been altered and
3 poses a significant threat to passenger or worker safety or if an
4 annual inspection report indicates an existing violation has
5 continued longer than permitted in a delay granted by the executive
6 director.

7 (d) The executive director may charge a reasonable fee as
8 set by the commission for:

9 (1) registering or renewing registration of an
10 inspector;

11 (2) registering or renewing registration of a
12 contractor;

13 (3) applying for a certificate of compliance;

14 (4) filing an inspection report as required by Section
15 754.019(a)(3), 30 days or more after the date the report is due, for
16 each day the report remains not filed after the date the report is
17 due;

18 (5) applying for a waiver or delay; and

19 (6) attending a continuing education program
20 sponsored by the department for registered QEI-1 inspectors
21 [inspection reports or certificates of compliance be placed in
22 locations other than one provided in Section 754.019(4)].

23 Sec. 754.016. INSPECTION REPORTS [~~REPORT~~] AND CERTIFICATES
24 [~~CERTIFICATE~~] OF COMPLIANCE. (a) Inspection reports [~~An~~
25 ~~inspection report~~] and certificates [~~a certificate~~] of compliance
26 required under this subchapter must cover all [~~elevators,~~
27 ~~escalators, and related~~] equipment in a building or structure

1 appurtenant to the building, including a parking facility, that are
2 owned by the same person or persons. ~~[There shall be only one~~
3 ~~inspection report and one certificate of compliance for each~~
4 ~~building.]~~

5 (b) An inspector shall date and sign an inspection report
6 and shall issue the report to the building owner not later than the
7 10th calendar day after the date of inspection. ~~[The inspection~~
8 ~~report shall be on forms designated by the commissioner.]~~

9 (c) The executive director ~~[commissioner]~~ shall date and
10 sign a certificate of compliance and shall issue the certificate to
11 the building owner. The certificate of compliance shall state:

12 (1) that the ~~[elevators, escalators, and related]~~
13 equipment has ~~[have]~~ been inspected by a certified inspector and
14 found by the inspector to be in compliance, except for any delays or
15 waivers granted by the executive director ~~[commissioner]~~ and stated
16 in the certificate;

17 (2) the date of the last inspection and the due date
18 for the next inspection; and

19 (3) contact information at the department to report a
20 violation of this subchapter.

21 (d) The commission by rule shall:

22 (1) specify what information must be contained in a
23 certificate of compliance;

24 (2) describe the procedure by which a certificate of
25 compliance is issued;

26 (3) require that a certificate of compliance related
27 to an elevator be posted in a publicly visible area of the building;

1 and

2 (4) determine what constitutes a "publicly visible
3 area" under Subdivision (3).

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

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

8 (2) attend educational programs approved by the
9 department;

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

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

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

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

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

27 Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may

1 not install, repair, or maintain equipment without registering as a
2 contractor with the department as required by this subchapter.

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

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

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

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

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

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

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

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

26 (f) Installation, repair, alteration, and maintenance
27 standards for contractors must be consistent with ASME Code A17.1,

1 ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

2 Sec. 754.0172. INSPECTION FEE. [~~(a)~~] ~~A person inspecting~~
3 ~~an elevator, an escalator, or related equipment under this~~
4 ~~subchapter may not charge more than \$65 per elevator cab or per~~
5 ~~escalator for each inspection.~~

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

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

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

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

25 (2) obtain an inspection report from the inspector
26 evidencing that all [~~elevators, escalators, and related~~] equipment
27 in a building on the real property was [~~were~~] inspected in

1 accordance with this subchapter and rules adopted under this
2 subchapter;

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

8 (4) display the certificate of compliance:

9 (A) in a publicly visible area of the building,
10 as determined by commission rule under Section 754.016, [~~the~~
11 ~~elevator mechanical room~~] if the certificate relates to an
12 elevator;

13 (B) in the escalator box if the certificate
14 relates to an escalator; or

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

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

21 (b) When an inspection report is filed [~~with the~~
22 ~~commissioner~~], the owner shall submit to the executive director, as
23 applicable [~~commissioner~~]:

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

27 (2) any application for delay or waiver of an

1 applicable standard.

2 (c) ~~[An inspection must be made not later than 18 months~~
3 ~~after the previous calendar year's inspection. This subsection~~
4 ~~does not affect the requirement that elevators, escalators, or~~
5 ~~related equipment be inspected at least once each calendar year.~~

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

9 (1) the date of personal delivery;

10 (2) the date of postmark ~~[mailing]~~ by United States
11 mail if properly addressed to the executive director; or

12 (3) the date of deposit with a commercial courier
13 service, if properly addressed to the executive director
14 [commissioner].

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

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

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

27 (e) An owner shall report to the department each accident

1 involving equipment not later than 72 hours following the accident.

2 Sec. 754.020. CHIEF ELEVATOR INSPECTOR [~~DEPOSIT OF FEES~~].

3 The executive director may appoint a chief elevator inspector to
4 administer the equipment inspection and registration program. The
5 chief elevator inspector:

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

9 (2) must possess a QEI-1 certification or obtain the
10 certification within six months after becoming chief inspector
11 [~~Fees collected under this subchapter shall be deposited to the~~
12 ~~credit of an account in the general revenue fund that may be used by~~
13 ~~the commissioner only to administer and enforce this subchapter and~~
14 ~~to reimburse expenses of board members provided by this~~
15 ~~subchapter].~~

16 Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS
17 [~~, PERSONNEL~~]. The executive director shall [~~commissioner may~~]:

18 (1) compile a list of [~~ASME QEI-1~~] certified
19 inspectors and contractors who are registered with the department
20 [~~to perform an inspection under this subchapter]; 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 [~~LICENSE~~]
4 PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good
5 cause for the executive director [~~commissioner~~] to believe that [~~an~~
6 ~~elevator, an escalator, or related~~] equipment on real property
7 poses an imminent and significant danger [~~is dangerous~~] or that an
8 accident involving [~~an elevator, an escalator, or related~~]
9 equipment occurred on the property and serious bodily injury or
10 property damage resulted, the executive director [~~the~~
11 ~~commissioner~~] may enter the property during regular business hours
12 after notice to the owner, operator, or person in charge of the
13 property to inspect the [~~elevator, escalator, or related~~] equipment
14 or investigate the danger or accident at no cost to the owner.

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

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

26 (2) falsifying a [~~any inspection~~] report submitted to
27 the executive director [~~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 registration and appeals from those proceedings are governed
5 by Chapter 2001, Government Code.

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

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

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

19 (h) The executive director 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 executive director shall set the time and
24 place for a hearing to affirm, modify, or set aside the emergency
25 order not later than the 10th day after the date the order was
26 issued.

27 (j) An emergency order may direct a building owner or

1 manager to disconnect power to or lock out equipment if:

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

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

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

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

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

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

26 (2) the building owner, before the reconnection of
27 power or unlocking of equipment, reimburses the department for all

1 expenses incurred relating to the disconnection of power or
2 lockout.

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

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

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

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

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

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

25 SECTION 2. Not later than December 1, 2003, the Texas
26 Commission of Licensing and Regulation shall adopt the rules
27 required by Section 754.016 and Subsection (a), Section 754.019,

1 Health and Safety Code, as amended by this Act.

2 SECTION 3. The changes in law made by this Act apply only to
3 an inspection report or certificate of compliance issued on or
4 after the effective date of this Act. An inspection report or
5 certificate issued before the effective date of this Act is covered
6 by the law in effect when the report or certificate was issued and
7 is valid until the renewal date of that report or certificate under
8 the terms of the former law, and the former law is continued in
9 effect for that purpose. On renewal, an inspection report or
10 certificate is subject to Chapter 754, Health and Safety Code, as
11 amended by this Act.

12 SECTION 4. (a) This Act takes effect September 1, 2003,
13 except that:

14 (1) a contractor is not required to be registered
15 under Section 754.0171, Health and Safety Code, as amended by this
16 Act, before January 1, 2004; and

17 (2) an escalator constructed before September 1,
18 2003, is not required to comply with step/skirt index requirements
19 imposed under the 2002 American Society of Mechanical Engineers
20 Safety Code for Elevators and Escalators A17.3 before September 1,
21 2009.

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1090 passed the Senate on April 9, 2003, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1090 passed the House on May 16, 2003, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor