

1-1 By: Carona S.B. No. 1090  
1-2 (In the Senate - Filed March 10, 2003; March 17, 2003, read  
1-3 first time and referred to Committee on Business and Commerce;  
1-4 March 27, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 1; March 27, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1090 By: Lucio

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to inspection, installation, repair, and maintenance of  
1-11 elevators, escalators, chairlifts, people movers, moving  
1-12 sidewalks, platform lifts, and related equipment; providing an  
1-13 administrative penalty.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter B, Chapter 754, Health and Safety  
1-16 Code, is amended to read as follows:

1-17 SUBCHAPTER B. INSPECTION, ~~[AND]~~ CERTIFICATION, AND REGISTRATION

1-18 Sec. 754.011. DEFINITIONS. In this subchapter:

1-19 (1) "Acceptance inspection" means an inspection  
1-20 performed at the completion of the initial installation or  
1-21 alteration of equipment and in accordance with the applicable ASME  
1-22 Code A17.1.

1-23 (2) "Accident" means an event involving equipment that  
1-24 results in death or serious bodily injury to a person.

1-25 (3) "Alteration" means a change in or modernization of  
1-26 existing equipment. The term does not include maintenance, repair,  
1-27 replacement, or a cosmetic change that does not affect the  
1-28 operational safety of the equipment or diminish the safety of the  
1-29 equipment below the level required by the ASME Code A17.1, ASME Code  
1-30 A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time  
1-31 of alteration.

1-32 (4) "Annual inspection" means an inspection of  
1-33 equipment performed in a 12-month period in accordance with the  
1-34 applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or  
1-35 ASCE Code 21. The term includes an acceptance inspection performed  
1-36 within that period.

1-37 (5) "ASCE Code 21" means the American Society of Civil  
1-38 Engineers Code 21 for people movers operated by cables.

1-39 (6) "ASME Code A17.1" means the American Society of  
1-40 Mechanical Engineers Safety Code for Elevators and Escalators  
1-41 A17.1.

1-42 (7) ~~[(2)]~~ "ASME Code A17.3" means the 2002 American  
1-43 Society of Mechanical Engineers Safety Code for Elevators and  
1-44 Escalators A17.3.

1-45 (8) "ASME Code A18.1" means the American Society of  
1-46 Mechanical Engineers Safety Code for Platform Lifts and Stairway  
1-47 Chairlifts A18.1.

1-48 (9) ~~[(3)]~~ "Board" means the elevator advisory board.

1-49 (10) ~~[(4)]~~ "Commission" means the Texas Commission of  
1-50 Licensing and Regulation.

1-51 (11) ~~[(5)]~~ "Commissioner" means the commissioner of  
1-52 licensing and regulation.

1-53 (12) "Contractor" means a person engaged in the  
1-54 installation, repair, or maintenance of equipment. The term does  
1-55 not include an employee of a contractor or a person engaged in  
1-56 cleaning or any other work performed on equipment that does not  
1-57 affect the operational safety of the equipment or diminish the  
1-58 safety of the equipment below the level required by the ASME Code  
1-59 A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as  
1-60 applicable.

1-61 (13) ~~[(6)]~~ "Department" means the Texas Department of  
1-62 Licensing and Regulation.

1-63 (14) "Equipment" means an elevator, escalator,

2-1 chairlift, platform lift, automated people mover operated by  
 2-2 cables, or moving sidewalk, or related equipment.  
 2-3 (15) "Industrial facility" means a facility to which  
 2-4 access is primarily limited to employees of the facility.  
 2-5 (16) ~~[(7)]~~ "Qualified historic building or facility"  
 2-6 means a building or facility that is:  
 2-7 (A) listed in or eligible for listing in the  
 2-8 National Register of Historic Places; or  
 2-9 (B) designated as a Recorded Texas Historic  
 2-10 Landmark or State Archeological Landmark.  
 2-11 (17) ~~[(8)]~~ "Related equipment" means:  
 2-12 (A) automatic equipment that is used to move a  
 2-13 person in a manner that is similar to that of an elevator, an ~~or~~  
 2-14 escalator, a chairlift, a platform lift, an automated people mover  
 2-15 operated by cables, or ~~and includes~~ a moving sidewalk; and  
 2-16 (B) hoistways, pits, and machine rooms for  
 2-17 equipment.  
 2-18 (18) "Serious bodily injury" means a major impairment  
 2-19 to bodily function or serious dysfunction of any bodily organ or  
 2-20 part requiring medical attention.  
 2-21 (19) "Unit of equipment" means one elevator,  
 2-22 escalator, chairlift, platform lift, automated people mover  
 2-23 operated by cables, or moving sidewalk, or related equipment.  
 2-24 Sec. 754.011. EXEMPTION. (a) This subchapter does not  
 2-25 apply to ~~[an elevator, escalator, or related]~~ equipment in a  
 2-26 private building for a labor union, trade association, private  
 2-27 club, or charitable organization that has two or fewer floors.  
 2-28 (b) This subchapter does not apply to an elevator located in  
 2-29 a single-family dwelling, except as provided by Section 754.0141.  
 2-30 Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator  
 2-31 advisory board is composed of 13 ~~[nine]~~ members appointed by the  
 2-32 governor ~~[commissioner]~~ as follows:  
 2-33 (1) a representative of the insurance industry or a  
 2-34 certified elevator inspector;  
 2-35 (2) a representative of ~~[elevator, escalator, and~~  
 2-36 ~~related]~~ equipment constructors;  
 2-37 (3) a representative of owners or managers of a  
 2-38 building ~~[buildings]~~ having fewer than six stories and having ~~[an~~  
 2-39 ~~elevator, an escalator, or related]~~ equipment;  
 2-40 (4) a representative of owners or managers of a  
 2-41 building ~~[buildings]~~ having six stories or more and having ~~[an~~  
 2-42 ~~elevator, an escalator, or related]~~ equipment;  
 2-43 (5) a representative of ~~[independent elevator,~~  
 2-44 ~~escalator, and related]~~ equipment maintenance companies;  
 2-45 (6) a representative of ~~[elevator, escalator, and~~  
 2-46 ~~related]~~ equipment manufacturers;  
 2-47 (7) a licensed or registered engineer or architect  
 2-48 ~~[representative of professional engineers or architects];~~  
 2-49 (8) five ~~[a]~~ public members ~~[member]~~; and  
 2-50 (9) a public member with a physical disability.  
 2-51 (b) Each board member serves ~~[Board members serve]~~ at the  
 2-52 will of the governor and, unless removed by the governor, until the  
 2-53 member's successor is appointed by the governor ~~[commissioner]~~.  
 2-54 (c) The governor ~~[commissioner]~~ shall appoint a presiding  
 2-55 officer of the board.  
 2-56 (d) The board shall meet at least twice each calendar year.  
 2-57 (e) A board member serves without compensation but is  
 2-58 entitled to reimbursement for travel as provided for in the General  
 2-59 Appropriations Act ~~[and other necessary expenses incurred in~~  
 2-60 ~~performing duties under this subchapter]~~.  
 2-61 Sec. 754.013. BOARD DUTIES. To protect public safety and to  
 2-62 identify and correct potential hazards, the board shall advise the  
 2-63 commissioner on:  
 2-64 (1) the adoption of appropriate standards for the  
 2-65 installation, alteration, operation, and inspection of ~~[elevators,~~  
 2-66 ~~escalators, and related]~~ equipment;  
 2-67 (2) the status of ~~[elevators, escalators, and related]~~  
 2-68 equipment used by the public in this state; ~~[and]~~  
 2-69 (3) sources of information relating to equipment

3-1 safety;  
 3-2 (4) public awareness programs related to elevator  
 3-3 safety, including programs for sellers and buyers of single-family  
 3-4 dwelling with elevators, chairlifts, or platform lifts; and  
 3-5 (5) any other matter considered relevant by the  
 3-6 commissioner.

3-7 Sec. 754.014. STANDARDS ADOPTED BY COMMISSIONER. (a) The  
 3-8 commissioner shall adopt standards for the installation,  
 3-9 maintenance, alteration, operation, and inspection of [elevators,  
 3-10 escalators, and related] equipment used by the public in:

3-11 (1) buildings owned or operated by the state, a  
 3-12 state-owned institution or agency, or a political subdivision of  
 3-13 the state; and

3-14 (2) buildings that contain [~~an elevator, an escalator,~~  
 3-15 ~~or related] equipment that is open to the general public, including~~  
 3-16 ~~a hotel, motel, apartment house, boardinghouse, church, office~~  
 3-17 ~~building, shopping center, or other commercial establishment.~~

3-18 (b) Standards adopted by the commissioner may not contain  
 3-19 requirements in addition to the requirements in the ASME Code  
 3-20 A17.1, [~~or~~] ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The  
 3-21 standards must allow alteration of existing equipment if the  
 3-22 alteration does not diminish the safety of the equipment below the  
 3-23 level required by this subchapter at the time of alteration.

3-24 (c) Standards adopted by the commissioner must require  
 3-25 [~~elevators, escalators, and related] equipment to comply with the~~  
 3-26 ~~installation requirements of the [following, whichever is the least~~  
 3-27 ~~restrictive:~~

3-28 [~~(1) the] ASME Code A17.1, ASME Code A18.1, or ASCE~~  
 3-29 Code 21 that was in effect and applicable on the date of  
 3-30 installation of the [elevators, escalators, and related]  
 3-31 equipment[; or

3-32 [~~(2) an applicable municipal ordinance governing the~~  
 3-33 ~~installation of elevators, escalators, and related equipment that~~  
 3-34 ~~was in effect on the date of installation].~~

3-35 (d) Standards adopted by the commissioner must require  
 3-36 [~~elevators, escalators, and related] equipment to comply with the~~  
 3-37 ~~installation requirements of the [1994] ASME Code A17.3 that~~  
 3-38 ~~contains minimum safety standards for all [elevators, escalators,~~  
 3-39 ~~and related] equipment, regardless of the date of installation.~~

3-40 (e) The [On written request, the] commissioner shall grant a  
 3-41 delay for compliance with the applicable ASME Code A17.1, [or the  
 3-42 1994] ASME Code A17.3, or ASME Code A18.1 until a specified time if  
 3-43 compliance is not readily achievable, as that phrase is defined in  
 3-44 the Americans with Disabilities Act (42 U.S.C. Section 12101 et  
 3-45 seq.), or regulations adopted under that Act. The accumulated  
 3-46 total time of all delays may not exceed three years, except as  
 3-47 provided by Subsection (f) or as allowed in the discretion of the  
 3-48 commissioner.

3-49 (f) The [On written request, the] commissioner shall grant a  
 3-50 delay until September 1, 2005, for compliance with the requirements  
 3-51 for door restrictors or firefighter's service in the [1994] ASME  
 3-52 Code A17.3 if those requirements were not included in the ASME Code  
 3-53 A17.1 that was in effect on the date of installation [of the  
 3-54 elevator, escalator, or related equipment] and the [that] equipment  
 3-55 was not subsequently installed [by an owner of the elevator,  
 3-56 escalator, or related equipment].

3-57 (g) The commissioner may grant a waiver of compliance from  
 3-58 an applicable code requirement [with the applicable ASME Code A17.1  
 3-59 or the 1994 ASME Code A17.3] if the commissioner finds that:

3-60 (1) the building in which the [~~elevator, escalator, or~~  
 3-61 ~~related] equipment is located is a qualified historic building or~~  
 3-62 ~~facility or the noncompliance is due to structural components of~~  
 3-63 ~~the building; [and]~~

3-64 (2) noncompliance will not constitute a significant  
 3-65 threat to passenger safety; and

3-66 (3) noncompliance, with adequate alternative  
 3-67 safeguards, will not constitute a significant threat to worker  
 3-68 safety.

3-69 (h) The commissioner shall grant a waiver of compliance if

4-1 the noncompliance resulted from compliance with a municipal  
 4-2 equipment construction code at the time of the original  
 4-3 installation and the noncompliance does not pose imminent and  
 4-4 significant danger. The commissioner may grant a waiver of  
 4-5 compliance with the firefighter's service provisions of the ASME  
 4-6 Code A17.1 or the [1994] ASME Code A17.3 in an elevator that  
 4-7 exclusively serves a vehicle parking garage in a building that:

- 4-8 (1) is used only for parking;
- 4-9 (2) is constructed of noncombustible materials; and
- 4-10 (3) is not greater than 75 feet in height.

4-11 (i) This subchapter does not apply to [~~an elevator, an~~  
 4-12 ~~escalator, or related~~] equipment in an industrial facility, or in a  
 4-13 grain silo, radio antenna, bridge tower, underground facility, or  
 4-14 dam, to which access is limited primarily [~~principally~~] to  
 4-15 employees of or working in that facility or structure.

4-16 (j) [~~The commissioner may charge a reasonable fee as set by~~  
 4-17 ~~the commission for an application for waiver or delay.~~] One  
 4-18 application for a waiver or delay may contain all requests related  
 4-19 to a unit of equipment [~~particular building~~]. A delay may not be  
 4-20 granted indefinitely but must be granted for [~~to~~] a specified time  
 4-21 not to exceed three years.

4-22 (k) For purposes of this section, the date of installation  
 4-23 or alteration of equipment is the date that the owner of the real  
 4-24 property entered into a contract for the installation or alteration  
 4-25 of the [~~purchase of the elevators, escalators, or related~~]  
 4-26 equipment. If that date cannot be established, the date of  
 4-27 installation or alteration is the date of issuance of the municipal  
 4-28 building permit under which the [~~elevators, escalators, or related~~]  
 4-29 equipment was installed or altered [~~constructed~~] or, if a municipal  
 4-30 building permit was not issued, the date that electrical  
 4-31 consumption began for the construction of the building in which the  
 4-32 [~~elevators, escalators, or related~~] equipment was installed.

4-33 Sec. 754.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY  
 4-34 DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or  
 4-35 platform lifts installed in a single-family dwelling on or after  
 4-36 January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as  
 4-37 applicable, and must be inspected by a QEI-1 certified inspector  
 4-38 after the installation is complete. The inspector shall provide  
 4-39 the dwelling owner a copy of the inspection report.

4-40 (b) The commissioner shall, before January 1, 2004, adopt  
 4-41 rules containing minimum safety standards that must be used by  
 4-42 QEI-1 certified inspectors when inspecting elevators, chairlifts,  
 4-43 and platform lifts installed in single-family dwellings.

4-44 (c) A municipality may withhold a certificate of occupancy  
 4-45 for a dwelling or for the installation of the elevator or chairlift  
 4-46 until the owner provides a copy of the QEI-1 inspection report to  
 4-47 the municipality.

4-48 (d) A contractor is not required to report to the department  
 4-49 any information concerning equipment in a single-family dwelling or  
 4-50 the contractor's work on the equipment.

4-51 (e) On completing installation of equipment in a  
 4-52 single-family dwelling, a contractor shall provide the dwelling  
 4-53 owner with relevant information, in writing, about use, safety, and  
 4-54 maintenance of the equipment, including the advisability of having  
 4-55 the equipment periodically and timely inspected by a QEI-1  
 4-56 certified inspector.

4-57 (f) An inspection by a QEI-1 certified inspector of  
 4-58 equipment in a single-family dwelling may be performed only at the  
 4-59 request and with the consent of the owner. The owner of a  
 4-60 single-family dwelling is not subject to Section 754.022, 754.023,  
 4-61 or 754.024.

4-62 Sec. 754.015. RULES. (a) The commissioner by rule shall  
 4-63 provide for:

4-64 (1) an annual [~~the~~] inspection and certification of  
 4-65 the [~~once each calendar year of elevators, escalators, and related~~]  
 4-66 equipment covered by standards adopted under this subchapter;

4-67 (2) [~~the~~] enforcement of those standards;

4-68 (3) registration [~~the certification~~] of qualified  
 4-69 [~~persons as~~] inspectors and contractors [~~for the purposes of this~~]

5-1 ~~subchapter~~]; ~~and~~

5-2 (4) the form of ~~the~~ inspection documents, contractor  
5-3 reports, ~~report~~ and certificates ~~certificate~~ of compliance;

5-4 (5) notification to building owners, architects, and  
5-5 other building industry professionals regarding the necessity of  
5-6 annually inspecting equipment;

5-7 (6) approval of continuing education programs for  
5-8 registered QEI-1 certified inspectors; and

5-9 (7) standards of conduct for individuals who are  
5-10 registered under this subchapter.

5-11 (b) The commissioner by rule may not ~~require that~~:

5-12 (1) require inspections of equipment to ~~inspection~~  
5-13 be made more often than every 12 months, except as provided by  
5-14 Subsection (c) ~~once per year of elevators, escalators, and related~~  
5-15 equipment];

5-16 (2) require persons to post a bond or furnish  
5-17 insurance or to have minimum experience or education as a condition  
5-18 of certification or registration; ~~and~~

5-19 (3) require inspection reports or certificates of  
5-20 compliance to be placed in locations other than one provided in  
5-21 Section 754.019(a)(4);

5-22 (4) require building owners to submit to the  
5-23 department proposed plans for equipment installation or  
5-24 alteration;

5-25 (5) prohibit a QEI-1 certified inspector who is  
5-26 registered with the department from inspecting equipment; or

5-27 (6) require an inspection report or certificate of  
5-28 compliance to be placed inside or immediately outside an elevator  
5-29 cab or escalator or in the lobby or hallways of a building.

5-30 (c) The commissioner by rule may require a reinspection or  
5-31 recertification of equipment if the equipment has been altered and  
5-32 poses a significant threat to passenger or worker safety or if an  
5-33 annual inspection report indicates an existing violation has  
5-34 continued longer than permitted in a delay granted by the  
5-35 commissioner.

5-36 (d) The commissioner by rule may charge a fee for:

5-37 (1) registering or renewing registration of an  
5-38 inspector, not to exceed \$200;

5-39 (2) registering or renewing registration of a  
5-40 contractor, not to exceed \$300;

5-41 (3) applying for a certificate of compliance, not to  
5-42 exceed \$15 for each unit of equipment;

5-43 (4) filing an inspection report as required by Section  
5-44 754.019(a)(3), 30 days or more after the date the report is due, not  
5-45 to exceed \$3 for each day the report remains not filed after the  
5-46 date the report is due;

5-47 (5) applying for a waiver or delay, not to exceed \$100  
5-48 for each violation; and

5-49 (6) attending a continuing education program  
5-50 sponsored by the department for registered QEI-1 inspectors, not to  
5-51 exceed \$75 ~~754.019(4)~~.

5-52 Sec. 754.016. INSPECTION DOCUMENTS ~~REPORT~~ AND  
5-53 CERTIFICATE OF COMPLIANCE. (a) An inspection report and a  
5-54 certificate of compliance required under this subchapter must cover  
5-55 each unit of ~~all elevators, escalators, and related~~ equipment ~~in~~  
5-56 a building or structure appurtenant to the building, including a  
5-57 parking facility, that are owned by the same person or persons].  
5-58 There shall be separate ~~only one~~ inspection reports ~~report~~ and  
5-59 certificates ~~one certificate~~ of compliance for each unit of  
5-60 equipment ~~building~~.

5-61 (b) An inspector shall date and sign an inspection report  
5-62 and shall issue the report to the building owner not later than the  
5-63 10th calendar day after the date of inspection. ~~The inspection~~  
5-64 report shall be on forms designated by the commissioner.

5-65 (c) The commissioner shall ~~date and sign a certificate of~~  
5-66 compliance and shall] issue a ~~the~~ certificate of compliance to  
5-67 the building owner if an application is submitted by the building  
5-68 owner with applicable fees and the application reflects that:

5-69 (1) the ~~The certificate of compliance shall state~~

6-1 ~~that the elevators, escalators, and related~~ equipment has ~~have~~  
6-2 been inspected by a certified inspector;

6-3 (2) the inspection report shows the equipment is ~~and~~  
6-4 found by the inspector to be in compliance with the requirements of  
6-5 this chapter; and

6-6 (3) to the extent the report shows any noncompliance  
6-7 that does not pose an imminent and significant danger, the building  
6-8 owner:

6-9 (A) acknowledges the noncompliance will be  
6-10 remedied within a reasonable period, not later than six months  
6-11 following the date of the inspection report; or

6-12 (B) has been granted a waiver or delay for  
6-13 compliance ~~[, except for any delays or waivers granted]~~ by the  
6-14 commissioner ~~[and stated in the certificate].~~

6-15 Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to  
6-16 inspect equipment, an individual must:

6-17 (1) be registered ~~[An inspector must register]~~ with  
6-18 the department;

6-19 (2) attend educational programs approved by the  
6-20 department;

6-21 (3) [and] be certified as a QEI-1 ~~[an ASME-QEI-1]~~  
6-22 inspector by an organization accredited by the American Society of  
6-23 Mechanical Engineers; and

6-24 (4) pay all applicable fees. ~~[Any certification~~  
6-25 charges or fees shall be paid by the inspector.]

6-26 (b) [The commissioner may not by rule prohibit an ASME-QEI-1  
6-27 certified inspector who is registered with the department from  
6-28 inspecting under this subchapter an elevator, an escalator, or  
6-29 related equipment.] A person assisting a certified inspector and  
6-30 working under the direct, on-site supervision of the inspector is  
6-31 not required to be [ASME-QEI-1] certified.

6-32 (c) A registration expires on the first anniversary of the  
6-33 date of issuance.

6-34 (d) A certified inspector may not be required to attend more  
6-35 than seven hours of continuing education during each licensing  
6-36 period. ~~[The commissioner may charge a \$15 fee to certified~~  
6-37 inspectors for registering with the department.]

6-38 Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may  
6-39 not install, repair, or maintain equipment without registering as a  
6-40 contractor with the department as required by this subchapter.

6-41 (b) A contractor shall submit an application for  
6-42 registration and pay appropriate fees to the department. The  
6-43 registration application form may require information concerning  
6-44 the background, experience, or identity of the applicant.

6-45 (c) A registration expires on the first anniversary of the  
6-46 date of issuance.

6-47 (d) A person registering as a contractor under this  
6-48 subchapter shall submit to the department an initial report, not  
6-49 later than the 60th day following the application date, containing:

6-50 (1) the street address of each building or location at  
6-51 which the person performed installation, repair, alteration, or  
6-52 maintenance of equipment for the previous two years; and

6-53 (2) the name and mailing address of the building  
6-54 owner.

6-55 (e) After the initial report required by Subsection (d), a  
6-56 contractor registered as required by this subchapter shall submit  
6-57 to the department a quarterly report containing:

6-58 (1) the street address of each building or location at  
6-59 which the contractor performed installation, repair, alteration,  
6-60 or maintenance of equipment not reported in the contractor's  
6-61 initial report to the department under Subsection (d); and

6-62 (2) the name and mailing address of the building  
6-63 owner.

6-64 (f) Installation, repair, alteration, and maintenance  
6-65 standards for contractors must be consistent with ASME Code A17.1,  
6-66 ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

6-67 Sec. 754.0172. INSPECTION FEE. [(a) A person inspecting  
6-68 an elevator, an escalator, or related equipment under this  
6-69 subchapter may not charge more than \$65 per elevator cab or per

7-1 ~~escalator for each inspection.~~

7-2 ~~[(b)]~~ The amount charged for an inspection or the  
7-3 performance of an inspection of equipment under this subchapter may  
7-4 not be contingent on the existence of a maintenance contract  
7-5 between the person performing the inspection and any other person.

7-6 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section  
7-7 754.014(h), if ~~[(f)]~~ a municipality operates a program for the  
7-8 installation, maintenance, alteration, inspection, or ~~[and]~~  
7-9 certification of ~~[elevators, escalators, and related]~~ equipment,  
7-10 this subchapter shall not apply to the ~~[elevators, escalators, and~~  
7-11 ~~related]~~ equipment in that municipality, provided that the  
7-12 standards of installation, maintenance, alteration, inspection,  
7-13 and certification are at least equivalent to ~~[no less stringent~~  
7-14 ~~than]~~ those contained in this subchapter.

7-15 Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The  
7-16 owner of real property on which ~~[an elevator, an escalator, or~~  
7-17 ~~related]~~ equipment covered by this subchapter is located shall:

7-18 (1) have the ~~[elevator, escalator, or related]~~  
7-19 equipment inspected annually by a ~~[an ASME-QEI-1]~~ certified  
7-20 inspector ~~[in accordance with the commissioner's rules];~~

7-21 (2) obtain an inspection report from the inspector  
7-22 evidencing that all ~~[elevators, escalators, and related]~~ equipment  
7-23 in a building on the real property was ~~[were]~~ inspected in  
7-24 accordance with this subchapter and rules adopted under this  
7-25 subchapter;

7-26 (3) file with the department the ~~[commissioner a copy~~  
7-27 ~~of each]~~ inspection report for each unit of equipment, and all  
7-28 applicable fees, ~~[and a \$20 filing fee for each report, plus \$5 for~~  
7-29 ~~each elevator, escalator, or related equipment]~~ not later than the  
7-30 60th day after the date on which an inspection is made under this  
7-31 subchapter;

7-32 (4) display the certificate of compliance or a copy of  
7-33 the certificate:

7-34 (A) in each ~~[the]~~ elevator mechanical room if the  
7-35 certificate relates to an elevator;

7-36 (B) in each ~~[the]~~ escalator box if the  
7-37 certificate relates to an escalator; or

7-38 (C) in a place designated by rule if related to  
7-39 equipment other than an elevator or escalator ~~[the commissioner if~~  
7-40 ~~the certificate relates to related equipment];~~ and

7-41 (5) display the inspection report at the locations  
7-42 designated in Subdivision (4) until a certificate of compliance is  
7-43 issued ~~[by the commissioner].~~

7-44 (b) When an inspection report is filed ~~[with the~~  
7-45 ~~commissioner],~~ the owner shall submit to the department, as  
7-46 applicable ~~[commissioner]:~~

7-47 (1) verification that any deficiencies in the  
7-48 inspector's report have been remedied or that a bona fide contract  
7-49 to remedy the deficiencies has been entered into; or

7-50 (2) any application for delay or waiver of an  
7-51 applicable standard.

7-52 (c) ~~[An inspection must be made not later than 18 months~~  
7-53 ~~after the previous calendar year's inspection. This subsection~~  
7-54 ~~does not affect the requirement that elevators, escalators, or~~  
7-55 ~~related equipment be inspected at least once each calendar year.~~

7-56 ~~[(d)]~~ For the purpose of determining timely filing under  
7-57 Subsection (a)(3) and Section 754.016(b), an inspection report and  
7-58 filing fees ~~[fee]~~ are considered filed on the earlier of:

7-59 (1) the date of personal delivery;

7-60 (2) the date of postmark ~~[mailing]~~ by United States  
7-61 mail if properly addressed to the department; or

7-62 (3) the date of deposit with a commercial courier  
7-63 service, if properly addressed to the department ~~[commissioner].~~

7-64 (d) ~~[(c)]~~ If the inspection report and fee required by  
7-65 Subsection (a)(3) are not timely filed, the commissioner may charge  
7-66 the owner of the real property on which the elevator, escalator, or  
7-67 related equipment is located an additional \$100 fee for late  
7-68 filing.

7-69 ~~[(f)]~~ The commissioner may not require that an inspection

8-1 ~~report or certificate of compliance be placed inside or immediately~~  
 8-2 ~~outside an elevator cab or escalator or in the lobby or hallways of~~  
 8-3 ~~a building.~~

8-4 [~~g~~] A fee may not be charged or collected for a  
 8-5 certificate of compliance for an institution of higher education as  
 8-6 defined in Section 61.003, Education Code.

8-7 (e) An owner shall report to the department each accident  
 8-8 involving equipment not later than 72 hours following the accident.

8-9 Sec. 754.020. CHIEF ELEVATOR INSPECTOR [DEPOSIT OF FEES].  
 8-10 The commissioner may appoint a chief elevator inspector to  
 8-11 administer the equipment inspection and registration program. The  
 8-12 chief elevator inspector:

8-13 (1) may not have a financial or commercial interest in  
 8-14 the manufacture, maintenance, repair, inspection, installation, or  
 8-15 sale of equipment; and

8-16 (2) must possess a QEI-1 certification or obtain the  
 8-17 certification within six months after becoming chief inspector  
 8-18 [Fees collected under this subchapter shall be deposited to the  
 8-19 credit of an account in the general revenue fund that may be used by  
 8-20 the commissioner only to administer and enforce this subchapter and  
 8-21 to reimburse expenses of board members provided by this  
 8-22 subchapter].

8-23 Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS  
 8-24 [~~PERSONNEL~~]. The commissioner shall [~~may~~]:

8-25 (1) compile a list of [~~ASME-QEI-1~~] certified  
 8-26 inspectors and contractors who are registered with the department  
 8-27 [~~to perform an inspection under this subchapter~~]; and

8-28 (2) employ personnel who are [~~as~~] necessary to enforce  
 8-29 this subchapter.

8-30 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department  
 8-31 [~~commissioner~~] learns of a situation of noncompliance under Section  
 8-32 754.019, the department [~~commissioner~~] shall send notice by  
 8-33 certified mail of the noncompliance and the actions required to  
 8-34 remedy the noncompliance to the record owner of the real property on  
 8-35 which the equipment that is the subject of the noncompliance is  
 8-36 located.

8-37 Sec. 754.023. INVESTIGATION; REGISTRATION [LICENSE]  
 8-38 PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good  
 8-39 cause [~~for the commissioner~~] to believe that [~~an elevator, an~~  
 8-40 ~~escalator, or related~~] equipment on real property poses an imminent  
 8-41 and significant danger [~~is dangerous~~] or that an accident involving  
 8-42 [~~an elevator, an escalator, or related~~] equipment occurred on the  
 8-43 property and serious bodily injury or property damage resulted, a  
 8-44 department employee [~~the commissioner~~] may enter the property  
 8-45 during regular business hours after notice to the owner, operator,  
 8-46 or person in charge of the property to inspect the [~~elevator,~~  
 8-47 ~~escalator, or related~~] equipment or investigate the danger or  
 8-48 accident at no cost to the owner.

8-49 (b) The department employee [~~commissioner~~] may enter real  
 8-50 property during regular business hours after notice to the owner,  
 8-51 operator, or person in charge of the property to verify, at no cost  
 8-52 to the owner, whether an inspection report or certificate of  
 8-53 compliance has been displayed as required under Section 754.019(a).

8-54 (c) The commissioner may deny, suspend, or revoke a [~~the~~]  
 8-55 registration under this subchapter and may assess an administrative  
 8-56 penalty [~~of any ASME-QEI-1 certified inspector~~] for:

8-57 (1) obtaining registration [~~with the commissioner~~] by  
 8-58 fraud or false representation;

8-59 (2) falsifying a [~~any inspection~~] report [~~submitted to~~  
 8-60 ~~the commissioner~~]; or

8-61 (3) violating this subchapter or a rule adopted under  
 8-62 this subchapter.

8-63 (d) Proceedings for the denial, suspension, or revocation  
 8-64 of a registration and appeals from those proceedings are governed  
 8-65 by Chapter 2001, Government Code (the Administrative Procedure  
 8-66 Act).

8-67 (e) The commissioner is entitled to appropriate injunctive  
 8-68 relief to prevent a violation or threatened violation of this  
 8-69 subchapter or a rule adopted under this subchapter.

9-1 (f) [~~e~~] The commissioner may bring suit in a district  
9-2 court in Travis County or in the county in which the violation or  
9-3 threatened violation occurs. If requested, the attorney general  
9-4 shall represent the department and its personnel [~~commissioner~~] in  
9-5 the suit.

9-6 (g) The commissioner may issue an emergency order as  
9-7 necessary to enforce this subchapter if the commissioner determines  
9-8 that an emergency exists requiring immediate action to protect the  
9-9 public health and safety.

9-10 (h) The commissioner may issue an emergency order with  
9-11 simultaneous notice and without hearing or with the notice and  
9-12 opportunity for hearing practicable under the circumstances.

9-13 (i) If an emergency order is issued under this section  
9-14 without a hearing, the commissioner shall set the time and place for  
9-15 a hearing to affirm, modify, or set aside the emergency order not  
9-16 later than the 10th day after the date the order was issued.

9-17 (j) An emergency order may direct a building owner or  
9-18 manager to disconnect power to or lock out equipment if:

9-19 (1) the department determines imminent and  
9-20 significant danger to passenger safety exists if action is not  
9-21 taken immediately and reasonable effort has been made for voluntary  
9-22 compliance by notification to the building owner or manager of the  
9-23 danger before the issuance of an emergency order; or

9-24 (2) an annual inspection has not been performed in  
9-25 more than two years and:

9-26 (A) the department gives the building owner or  
9-27 manager, or the agent of the building owner or manager, 60 days'  
9-28 written notice by certified mail directing the equipment to be  
9-29 inspected according to this subchapter; and

9-30 (B) after the expiration of the notice period  
9-31 under Paragraph (A), the department gives the building owner or  
9-32 manager, or the agent of the building owner or manager, written  
9-33 notice by certified mail stating that an order to disconnect power  
9-34 or lock out equipment will be made after the seventh day after the  
9-35 date notice is delivered.

9-36 (k) If an emergency order to disconnect power or lock out  
9-37 equipment is issued, the building owner or manager may have the  
9-38 power reconnected or the equipment unlocked only if:

9-39 (1) a registered inspector or contractor or a  
9-40 department representative has filed a written form with the  
9-41 department verifying the imminent and significant danger has been  
9-42 removed by repair, replacement, or other means; and

9-43 (2) the building owner, before the reconnection of  
9-44 power or unlocking of equipment, reimburses the department for all  
9-45 expenses incurred relating to the disconnection of power or  
9-46 lockout.

9-47 (l) The commissioner or the commissioner's designee may  
9-48 allow delayed payment if the building owner or manager commits in  
9-49 writing to pay the department for the expenses required by  
9-50 Subsection (k) not later than the 10th day after the date power is  
9-51 reconnected or equipment is unlocked.

9-52 (m) If an emergency order to disconnect power or lock out  
9-53 equipment is issued and the building owner later notifies the  
9-54 department that the imminent and significant danger no longer  
9-55 exists, the commissioner or the commissioner's designee shall,  
9-56 after the requirements of Subsection (k) are satisfied, promptly  
9-57 issue written permission to reconnect power or unlock the equipment  
9-58 and notify the owner.

9-59 Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an  
9-60 offense if the person receives notice of noncompliance under  
9-61 Section 754.022 and the person has not remedied the noncompliance  
9-62 or entered into a bona fide contract to remedy the noncompliance  
9-63 before the 61st day after the date on which the notice is received.

9-64 (b) An offense under this section is a Class C misdemeanor.

9-65 (c) Each day of an offense under Subsection (a) constitutes  
9-66 a separate offense.

9-67 Sec. 754.025. APPLICATION OF CERTAIN LAW. Chapter 53,  
9-68 Occupations Code, applies to a registration under this subchapter.

9-69 SECTION 2. (a) This Act takes effect September 1, 2003,

10-1 except that:

10-2 (1) a contractor is not required to be registered  
10-3 under Section 754.0171, Health and Safety Code, as amended by this  
10-4 Act, before January 1, 2004; and

10-5 (2) an escalator constructed before September 1, 2003,  
10-6 is not required to comply with step/skirt index requirements  
10-7 imposed under the 2002 American Society of Mechanical Engineers  
10-8 Safety Code for Elevators and Escalators A17.3 before September 1,  
10-9 2009.

10-10 (b) A member of the elevator advisory board serving on the  
10-11 effective date of this Act continues to serve until removed by the  
10-12 governor or until the member's successor is appointed by the  
10-13 governor.

10-14 \* \* \* \* \*