

By: Carona

S.B. No. 673

A BILL TO BE ENTITLED

AN ACT

relating to the requirements for elevators, escalators, and related equipment; providing penalties.

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

SECTION 1. Section 754.011, Health and Safety Code, is amended to read as follows:

Sec. 754.011. DEFINITIONS. In this chapter [~~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 testing, 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 equipment performed in a 12-month period in accordance with the applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The term includes an acceptance inspection performed

1 within that period.

2 (5) "ASCE" means the American Society of Civil
3 Engineers.

4 (6) "ASCE Code 21" means the American Society of Civil
5 Engineers Code 21 for people movers operated by cables, as it
6 existed on January 1, 2004, or any subsequent revision of that code
7 adopted after a review by the commission, as required by law.

8 (7) "ASME" means the American Society of Mechanical
9 Engineers.

10 (8) ~~[(6)]~~ "ASME Code A17.1" means the American Society
11 of Mechanical Engineers Safety Code for Elevators and Escalators
12 (Bi-national standard with CSA B44-2007), ASME A17.1/CSA-B44, as it
13 existed on January 1, 2004, or any subsequent revision of that code
14 adopted after a review by the commission, as required by law.

15 (9) ~~[(6-a) "Executive director" means the executive~~
16 ~~director of the department.~~

17 ~~[(7)]~~ "ASME Code A17.3" means the 2002 American
18 Society of Mechanical Engineers Safety Code for Elevators and
19 Escalators A17.3.

20 (10) ~~[(8)]~~ "ASME Code A18.1" means the American
21 Society of Mechanical Engineers Safety Code for Platform Lifts and
22 Stairway Chairlifts A18.1, as it existed on January 1, 2004, or any
23 subsequent revision of that code adopted after a review by the
24 commission, as required by law.

25 (11) ~~[(9)]~~ "Board" means the elevator advisory board.

26 (12) ~~[(10)]~~ "Commission" means the Texas Commission
27 of Licensing and Regulation.

1 (13) [~~(12)~~] "Contractor" means a person engaged in the
2 installation, alteration, testing, repair, or maintenance of
3 equipment. The term does not include an employee of a contractor or
4 a person engaged in cleaning or any other work performed on
5 equipment that does not affect the operational safety of the
6 equipment or diminish the safety of the equipment below the level
7 required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1,
8 or ASCE Code 21, as applicable.

9 (14) [~~(13)~~] "Department" means the Texas Department
10 of Licensing and Regulation.

11 (15) [~~(14)~~] "Equipment" means an elevator, escalator,
12 chairlift, platform lift, automated people mover operated by
13 cables, or moving sidewalk, or related equipment.

14 (16) "Executive director" means the executive
15 director of the department.

16 (17) [~~(15)~~] "Industrial facility" means a facility to
17 which access is primarily limited to employees or contractors
18 working in that facility.

19 (18) "Inspector" means a person engaged in the
20 inspection and witnessing of the tests specified in the adopted
21 standards of ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or
22 ASCE Code 21, as applicable, to determine compliance with those
23 standards.

24 (19) "Owner" means a person, company, corporation,
25 authority, commission, board, governmental entity, institution, or
26 other entity that holds title to a building or facility in which
27 equipment regulated by this chapter is located.

1 (20) [~~(16)~~] "Qualified historic building or facility"
2 means a building or facility that is:

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

5 (B) designated as a Recorded Texas Historic
6 Landmark or State Archeological Landmark.

7 (21) [~~(17)~~] "Related equipment" means:

8 (A) automatic equipment that is used to move a
9 person in a manner that is similar to that of an elevator, an
10 escalator, a chairlift, a platform lift, an automated people mover
11 operated by cables, or a moving sidewalk; and

12 (B) hoistways, pits, and machine rooms for
13 equipment.

14 (22) [~~(18)~~] "Serious bodily injury" means a major
15 impairment to bodily function or serious dysfunction of any bodily
16 organ or part requiring medical attention.

17 (23) [~~(19)~~] "Unit of equipment" means one elevator,
18 escalator, chairlift, platform lift, automated people mover
19 operated by cables, or moving sidewalk, or related equipment.

20 SECTION 2. Section 754.0111, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 754.0111. EXEMPTIONS [~~EXEMPTION~~]. (a) This chapter
23 [~~subchapter~~] does not apply to equipment in a private building for a
24 labor union, trade association, private club, or charitable
25 organization that has two or fewer floors.

26 (b) This chapter [~~subchapter~~] does not apply to an elevator
27 located in a single-family dwelling, except as provided by Section

1 754.0141.

2 (c) This chapter does not apply to equipment located in a
3 building owned and operated by the federal government.

4 (d) This chapter does not apply to equipment in an
5 industrial facility, or in a grain silo, radio antenna, bridge
6 tower, underground facility, or dam, to which access is limited
7 primarily to employees of or working in that facility or structure.

8 SECTION 3. Subsections (a) and (d), Section 754.012, Health
9 and Safety Code, are amended to read as follows:

10 (a) The elevator advisory board is composed of nine members
11 appointed by the presiding officer of the commission, with the
12 commission's approval, as follows:

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

15 (2) a representative of equipment constructors;

16 (3) a representative of owners or managers of a
17 building having fewer than six stories and having equipment;

18 (4) a representative of owners or managers of a
19 building having six stories or more and having equipment;

20 (5) a representative of independent equipment
21 maintenance companies;

22 (6) a representative of equipment manufacturers;

23 (7) a licensed or registered engineer or architect;

24 (8) a public member; and

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

26 (d) The board shall meet as determined by the executive
27 director or by the presiding officer of the commission ~~[at least~~

~~twice each calendar year~~].

SECTION 4. Section 754.013, Health and Safety Code, is amended to read as follows:

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

(1) the adoption of appropriate standards for the installation, maintenance, alteration, operation, testing, and inspection of equipment;

(2) the status of equipment used by the public in this state;

(3) sources of information relating to equipment safety;

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

(5) any other matter considered relevant by the commission.

SECTION 5. Section 754.014, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (d), (e), (h), (j), (k), (l), and (m) and adding Subsection (h-1) to read as follows:

(a) The commission by rule shall adopt standards for the installation, maintenance, alteration, operation, testing, and inspection of equipment used by the public in:

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

(2) buildings that contain equipment that is open to the general public, including a hotel, motel, apartment house, boardinghouse, church, office building, shopping center, or other commercial establishment.

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

(c) Standards adopted under ~~[by the]~~ commission rules must require equipment to comply with the installation requirements of the ASME Code A17.1, ASME Code A18.1, or ASCE Code 21 that was in effect and applicable on the date of installation of the equipment.

(d) Standards adopted under ~~[by the]~~ commission rules must require equipment to comply with the installation requirements of the ASME Code A17.3 that contains minimum safety standards for all equipment, regardless of the date of installation.

(e) The executive director may ~~[shall]~~ grant a delay for compliance with the codes and adopted standards ~~[applicable ASME Code A17.1, ASME Code A17.3, or ASME Code A18.1]~~ until a specified time if the executive director determines that the noncompliance does not constitute a significant threat to passenger or worker safety ~~[compliance is not readily achievable, as that phrase is defined in the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations adopted under that Act]~~. The

1 accumulated total time of all delays for a specific noncompliant
 2 condition may not exceed three years, except as determined
 3 ~~[provided] by [Subsection (f) or as allowed in the discretion of]~~
 4 the executive director.

5 (h) The executive director shall grant a waiver of
 6 compliance if the noncompliance resulted from compliance with a
 7 municipal equipment construction code at the time of the original
 8 installation and the noncompliance does not pose imminent and
 9 significant danger.

10 (h-1) The executive director may grant a waiver of
 11 compliance with the firefighter's service provisions of the ASME
 12 Code A17.1 or the ASME Code A17.3 in an elevator that exclusively
 13 serves a vehicle parking garage in a building that:

- 14 (1) is used only for parking;
- 15 (2) is constructed of noncombustible materials; and
- 16 (3) is not greater than 75 feet in height.

17 (j) One application for a waiver or delay may contain all
 18 requests related to a unit of equipment. ~~[A delay may not be~~
 19 ~~granted indefinitely but must be granted for a specified time not to~~
 20 ~~exceed three years.]~~

21 (k) For purposes of determining the applicable standards
 22 and codes under this chapter ~~[section]~~, the date of installation or
 23 alteration of equipment is the date that the owner of the real
 24 property entered into a contract for the installation or alteration
 25 of the equipment. If that date cannot be established, the date of
 26 installation or alteration is the date of issuance of the municipal
 27 building permit under which the equipment was installed or altered

or, if a municipal building permit was not issued, the date that electrical consumption began for the construction of the building in which the equipment was installed.

(1) Standards adopted under ~~[by the]~~ commission rules may include and be guided by revised versions of ASME Code A17.1, ASME Code A18.1, and ASCE Code 21, as appropriate.

(m) The executive director may on application of a person and in accordance with procedures adopted under ~~[by the]~~ commission rules, grant a variance to allow the installation of new technology if the new component, system, subsystem, function, or device is equivalent or superior to the standards adopted under ~~[by the]~~ commission rules.

SECTION 6. Subsections (a), (b), (c), (e), and (f), Section 754.0141, Health and Safety Code, are amended to read as follows:

(a) Elevators, chairlifts, or platform lifts installed in a single-family dwelling on or after January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as applicable, and must be inspected by a registered elevator ~~[OEI-1 certified]~~ inspector after the installation is complete. The inspector shall provide the dwelling owner a copy of the inspection report.

(b) The commission shall~~[, before January 1, 2004,]~~ adopt rules containing minimum safety standards that must be used by registered elevator ~~[OEI-1 certified]~~ inspectors when inspecting elevators, chairlifts, and platform lifts installed in single-family dwellings.

(c) A municipality may withhold a certificate of occupancy for a dwelling or for the installation of the elevator or chairlift

1 until the owner provides a copy of the [~~QEI-1~~] inspection report to
2 the municipality.

3 (e) On completing installation of equipment in a
4 single-family dwelling, a contractor shall provide the dwelling
5 owner with relevant information, in writing, about use, safety, and
6 maintenance of the equipment, including the advisability of having
7 the equipment periodically and timely inspected by a registered
8 elevator [~~QEI-1-certified~~] inspector.

9 (f) An inspection by a registered elevator [~~QEI-1~~
10 ~~certified~~] inspector of equipment in a single-family dwelling may
11 be performed only at the request and with the consent of the owner.
12 The owner of a single-family dwelling is not subject to Section
13 754.0231, 754.0232, 754.0233, 754.0234, or 754.0235 [~~754.022,~~
14 ~~754.023, or 754.024~~].

15 SECTION 7. Section 754.015, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 754.015. RULES. (a) The commission by rule shall
18 provide for:

19 (1) an annual inspection and certification of the
20 equipment covered by standards adopted under this chapter
21 [~~subchapter~~];

22 (2) enforcement of those standards;

23 (3) registration, including certification, of
24 elevator [~~qualified~~] inspectors [~~and contractors~~];

25 (4) registration of contractors;

26 (5) the procedures by which a certificate of
27 compliance is issued and displayed [~~the form of inspection~~]

~~documents, contractor reports, and certificates of compliance];~~

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

(7) ~~[(6)]~~ approval of continuing education programs for registered elevator ~~[QEI-1-certified]~~ inspectors;

(8) ~~[(7)]~~ standards of conduct for individuals who are registered under this chapter ~~[subchapter]~~;

(9) ~~[(8)]~~ general liability insurance as a condition of contractor registration with coverage of not less than:

(A) \$1 million for each single occurrence of bodily injury or death; and

(B) \$500,000 for each single occurrence of property damage;

(10) ~~[(9)]~~ the submission and review of plans for the installation or alteration of equipment; ~~[and]~~

(11) ~~[(10)]~~ continuing education requirements for renewal of contractor registration;

(12) maintenance control programs, maintenance, repair, and parts manuals, and product-specific inspection, testing, and maintenance procedures;

(13) the method and manner of reporting accidents and reportable conditions to the department; and

(14) an owner's designation of an agent for purposes of this chapter.

(b) The commission by rule may not:

(1) require inspections of equipment to be made more

often than every 12 months, except as provided by Subsection (c); or

(2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration, except as otherwise provided by this chapter~~[, or~~

~~[(3) prohibit a QEI-1 certified inspector who is registered with the department from inspecting equipment].~~

(c) The commission by rule may require a reinspection or recertification of equipment if:

(1) the equipment has been altered;

(2) the equipment ~~[and]~~ poses a significant threat to passenger or worker safety; or

(3) ~~[if]~~ an annual inspection report indicates an existing violation has continued longer than permitted in a delay granted by the executive director.

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

(1) registering or renewing registration of an elevator inspector;

(2) registering or renewing registration of a contractor;

(3) applying for a certificate of compliance;

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

(5) submitting for review plans for the installation

or alteration of equipment;

(6) reviewing and approving continuing education providers and courses for renewal of elevator inspector and contractor registrations ~~[registration]~~;

(7) applying for a waiver, new technology variance, or delay; and

(8) attending a continuing education program sponsored by the department for registered elevator ~~[OEI-1]~~ inspectors.

(e) The commission by rule may require inspection reports, other documents, and fees to be filed in a manner prescribed by the department, including electronically.

SECTION 8. Section 754.016, Health and Safety Code, is amended to read as follows:

Sec. 754.016. INSPECTION REPORTS AND CERTIFICATES OF COMPLIANCE. (a) Inspection reports and certificates of compliance required under this chapter ~~[subchapter]~~ must cover all equipment in a building or structure appurtenant to the building, including a parking facility, that are owned by the same person or persons.

(b) A registered elevator ~~[An]~~ inspector shall issue ~~[date and sign]~~ an inspection report ~~[and shall issue the report]~~ to the ~~[building]~~ owner not later than the fifth ~~[10th]~~ calendar day after the date of inspection in accordance with the procedures established by commission rule.

(c) The executive director shall issue ~~[date and sign]~~ a certificate of compliance ~~[and shall issue the certificate]~~ to the

1 ~~[building] owner. [The certificate of compliance shall state:~~

2 ~~[(1) that the equipment has been inspected by a~~
3 ~~certified inspector and found by the inspector to be in compliance,~~
4 ~~except for any delays or waivers granted by the executive director~~
5 ~~and stated in the certificate,~~

6 ~~[(2) the date of the last inspection and the due date~~
7 ~~for the next inspection; and~~

8 ~~[(3) contact information at the department to report a~~
9 ~~violation of this subchapter.]~~

10 (d) The commission by rule shall:

11 (1) ~~[specify what information must be contained in a~~
12 ~~certificate of compliance,~~

13 ~~[(2) describe the procedure by which a certificate of~~
14 ~~compliance is issued,~~

15 ~~[(3)]~~ require that a certificate of compliance for any
16 equipment ~~[related to an elevator]~~ be posted in a publicly visible
17 area of the building; and

18 (2) ~~[(4)]~~ determine what constitutes a "publicly
19 visible area" under Subdivision (1) ~~[(3)]~~.

20 (e) The department shall prescribe the format and the
21 required information contained in the inspection reports, the
22 certificates of compliance, and other documents.

23 SECTION 9. The heading to Section 754.017, Health and
24 Safety Code, is amended to read as follows:

25 Sec. 754.017. REGISTERED ELEVATOR ~~[CERTIFIED]~~ INSPECTORS.

26 SECTION 10. Subsections (a), (b), and (d), Section 754.017,
27 Health and Safety Code, are amended to read as follows:

(a) In order to inspect equipment, an individual must:

(1) be registered with the department;

(2) attend educational programs approved by the department;

(3) be certified as an ~~[a QEI-1]~~ inspector in accordance with the rules adopted by the commission ~~[by an organization accredited by the American Society of Mechanical Engineers]; [and]~~

(4) comply with the continuing education requirements established by commission rule for registration renewal; and

(5) pay all applicable fees.

(b) A person assisting a registered elevator ~~[certified]~~ inspector and working under the direct, on-site supervision of the inspector is not required to be registered ~~[certified]~~.

(d) A registered elevator ~~[certified]~~ inspector may not inspect equipment if the inspector or the inspector's employer has a financial or personal conflict of interest or the appearance of impropriety related to the inspection of that equipment ~~[may not be required to attend more than seven hours of continuing education during each licensing period]~~.

SECTION 11. Subsections (a) and (f), Section 754.0171, Health and Safety Code, are amended to read as follows:

(a) A person may not install, repair, alter, test, or maintain equipment without registering as a contractor with the department as required by this chapter ~~[subchapter]~~.

(f) Installation, repair, alteration, testing, and maintenance standards for contractors must be consistent with ASME

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

SECTION 12. Section 754.0172, Health and Safety Code, is amended to read as follows:

Sec. 754.0172. INSPECTION FEE. The amount charged for an inspection or the performance of an inspection of equipment under this chapter [~~subchapter~~] may not be contingent on the existence of a maintenance contract between the person performing the inspection and any other person.

SECTION 13. The heading to Section 754.0174, Health and Safety Code, is amended to read as follows:

Sec. 754.0174. CONTINUING EDUCATION FOR RENEWAL OF ELEVATOR INSPECTOR AND CONTRACTOR REGISTRATIONS.

SECTION 14. Section 754.0174, Health and Safety Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) Each registered elevator inspector must complete continuing education requirements set by commission rule before the inspector may renew the inspector's registration.

(b) A provider of continuing education under this section must:

- (1) register with the department; and
- (2) comply with rules adopted by the commission relating to continuing education for a registered elevator inspector or designated responsible party, as applicable.

SECTION 15. Section 754.018, Health and Safety Code, is amended to read as follows:

Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section

1 754.014(h), if a municipality operates a program for the
2 installation, maintenance, alteration, inspection, testing, or
3 certification of equipment, this chapter [~~subchapter~~] shall not
4 apply to the equipment in that municipality, provided that the
5 standards of installation, maintenance, alteration, inspection,
6 testing, and certification are at least equivalent to those
7 contained in this chapter [~~subchapter~~].

8 SECTION 16. The heading to Section 754.019, Health and
9 Safety Code, is amended to read as follows:

10 Sec. 754.019. DUTIES OF [~~REAL PROPERTY~~] OWNERS.

11 SECTION 17. Subsections (a), (b), and (e), Section 754.019,
12 Health and Safety Code, are amended to read as follows:

13 (a) The owner [~~of real property on which equipment covered~~
14 ~~by this subchapter is located~~] shall:

15 (1) have the equipment inspected annually by a
16 registered elevator [~~certified~~] inspector;

17 (2) obtain an inspection report from the inspector
18 evidencing that all equipment in a building on the real property was
19 inspected in accordance with this chapter [~~subchapter~~] and rules
20 adopted under this chapter [~~subchapter~~];

21 (3) file with the executive director each inspection
22 report, and all applicable fees, not later than the 15th calendar
23 [~~60th~~] day after the date on which an inspection is made under this
24 chapter [~~subchapter~~];

25 (4) display the certificate of compliance for the
26 equipment in a publicly visible area as defined by commission
27 rule [+]

1 ~~[(A) in a publicly visible area of the building,~~
2 ~~as determined by commission rule under Section 754.016, if the~~
3 ~~certificate relates to an elevator,~~

4 ~~[(B) in the escalator box if the certificate~~
5 ~~relates to an escalator, or~~

6 ~~[(C) in a place designated by the executive~~
7 ~~director if the certificate relates to equipment other than an~~
8 ~~elevator or escalator]; and~~

9 (5) maintain the equipment in compliance with the
10 standards and codes adopted under commission rules ~~[display the~~
11 ~~inspection report at the locations designated in Subdivision (4)~~
12 ~~until a certificate of compliance is issued].~~

13 (b) When an inspection report is filed, the owner shall
14 submit to the executive director, as applicable:

15 (1) verification that any deficiencies in the
16 registered elevator inspector's report have been remedied or that a
17 bona fide contract to remedy the deficiencies has been entered
18 into; or

19 (2) any application for delay or waiver of an
20 applicable standard.

21 (e) An owner shall report to the department each accident
22 involving equipment not later than 24 ~~[72]~~ hours following the
23 accident.

24 SECTION 18. Section 754.020, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 754.020. CHIEF ELEVATOR INSPECTOR. The executive
27 director may appoint a chief elevator inspector to administer the

1 equipment inspection and registration program. The chief elevator
2 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 the [a-QEI-1] certification or obtain
7 the certification required under Section 754.017 within six months
8 after becoming chief elevator inspector.

9 SECTION 19. Section 754.021, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 754.021. LIST OF REGISTERED ELEVATOR INSPECTORS AND
12 CONTRACTORS; PERSONNEL. The executive director shall:

13 (1) compile a list of elevator [~~certified~~] inspectors
14 and contractors who are registered with the department; and

15 (2) employ personnel who are necessary to enforce this
16 chapter [~~subchapter~~].

17 SECTION 20. Chapter 754, Health and Safety Code, is amended
18 by adding Sections 754.0231, 754.0232, 754.0233, 754.0234, and
19 754.0235 to read as follows:

20 Sec. 754.0231. INSPECTIONS AND INVESTIGATIONS.

21 (a) Except as provided by Subsection (b), the department may
22 conduct an inspection or investigation of equipment regulated under
23 this chapter in accordance with Chapter 51, Occupations Code. The
24 department shall be granted access to any location in the building
25 that is inaccessible to the public in order to conduct a full
26 inspection or investigation of the equipment.

27 (b) If there is good cause for the executive director to

believe that equipment on the property poses an imminent and significant danger or that an accident involving equipment occurred on the property, the executive director or the executive director's designee may at any time enter the property to inspect the equipment or investigate the danger or accident. The executive director or the executive director's designee must be granted access to any location in the building that is inaccessible to the public in order to conduct a full inspection or investigation.

Sec. 754.0232. REGISTRATION PROCEEDINGS. (a) The commission or executive director may deny, suspend, or revoke a registration under this chapter and may assess an administrative penalty for:

(1) obtaining registration by fraud or false representation;

(2) falsifying a report submitted to the executive director; or

(3) violating this chapter or a rule adopted under this chapter.

(b) Proceedings for the denial, suspension, or revocation of a registration and appeals from these proceedings are governed by Chapter 2001, Government Code.

Sec. 754.0233. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The attorney general or the executive director may institute an action for injunctive relief to prevent or restrain a violation or threatened violation of this chapter or a rule adopted under this chapter.

(b) The attorney general or the executive director may

1 institute an action to collect a civil penalty from a person that
2 appears to be violating or threatening to violate this chapter or a
3 rule adopted under this chapter. A civil penalty assessed under
4 this subsection may not exceed \$5,000 per day for each violation.

5 (c) An action filed under this section must be filed in a
6 district court in Travis County.

7 (d) The attorney general and the department may recover
8 reasonable expenses incurred in obtaining injunctive relief or
9 civil penalties under this section, including court costs,
10 reasonable attorney's fees, investigative costs, witness fees, and
11 deposition expenses.

12 Sec. 754.0234. EMERGENCY ORDERS. (a) The executive
13 director may issue an emergency order as necessary to enforce this
14 chapter if the executive director determines that an emergency
15 exists requiring immediate action to protect the public health and
16 safety.

17 (b) The executive director shall issue an emergency order in
18 accordance with Chapter 51, Occupations Code.

19 Sec. 754.0235. ORDERS TO DISCONNECT POWER TO OR LOCK OUT
20 EQUIPMENT. (a) An emergency order issued in accordance with
21 Section 754.0234 may also direct an owner to disconnect power to or
22 lock out equipment if:

23 (1) the department determines imminent and
24 significant danger to passenger or worker safety exists if action
25 is not taken immediately; or

26 (2) an annual inspection has not been performed in
27 more than two years.

1 (b) If an emergency order to disconnect power or lock out
2 equipment is issued, the owner may have the power reconnected or the
3 equipment unlocked only if a registered elevator inspector or
4 contractor or a department representative verifies in writing to
5 the department that the imminent and significant danger has been
6 removed by repair, replacement, or other means.

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

14 SECTION 21. Section 754.025, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 754.025. APPLICATION OF CERTAIN LAW. [~~(a) Chapter~~
17 ~~53, Occupations Code, applies to a registration under this~~
18 ~~subchapter.~~

19 [~~(b)~~] Sections 51.401 and 51.404, Occupations Code, do not
20 apply to this chapter, except those sections do apply to Sections
21 754.017 and 754.0171 [~~subchapter~~].

22 SECTION 22. The following provisions of the Health and
23 Safety Code are repealed:

- 24 (1) Subchapter A, Chapter 754;
- 25 (2) the heading to Subchapter B, Chapter 754;
- 26 (3) Subsection (i), Section 754.014;
- 27 (4) Subsections (d) and (e), Section 754.0171; and

1 (5) Sections 754.022, 754.023, and 754.024.

2 SECTION 23. (a) The Texas Commission of Licensing and
3 Regulation shall adopt rules implementing Chapter 754, Health and
4 Safety Code, as amended by this Act, not later than January 1, 2014.

5 (b) Subsection (b), Section 754.016 and Subdivision (3),
6 Subsection (a), Section 754.019, Health and Safety Code, as amended
7 by this Act, apply only to an inspection initiated on or after
8 January 1, 2014.

9 (c) The repeal by this Act of Subchapter A, Chapter 754,
10 Health and Safety Code, and Section 754.024, Health and Safety
11 Code, does not apply to an offense committed under Section 754.003
12 or 754.024, Health and Safety Code, before the effective date of the
13 repeal. An offense committed before the effective date of the
14 repeal is governed by Section 754.003 or 754.024, Health and Safety
15 Code, as it existed on the date the offense was committed, and the
16 former law is continued in effect for that purpose. For purposes of
17 this section, an offense was committed before the effective date of
18 the repeal if any element of the offense occurred before that date.

19 SECTION 24. This Act takes effect September 1, 2013.