

House Substitute for SENATE BILL No. 143

By Committee on Commerce, Labor and Economic Development

3-22

1 AN ACT concerning elevators; relating to the elevator safety act;
2 redefining the term elevator; modifying the requirements for licensure,
3 inspection and testing of elevators and adoption of rules and regulations
4 by the state fire marshal; permitting inspections by insurance
5 companies; requiring notification to the state fire marshal of certain
6 elevator accidents; prohibiting the use of elevators following such
7 accidents until approved by the state fire marshal; providing for the use
8 of labels by the state fire marshal to affix to elevators not authorized for
9 use; providing that failure to notify the state fire marshal of an accident;
10 removing an affixed label or operating an elevator in violation of an
11 affixed label constitutes class A nonperson misdemeanors; removing
12 requirements that inspections be conducted by licensed elevator
13 inspectors and providing that licensed elevator mechanics or the
14 employees of licensees may conduct such inspections; amending
15 K.S.A. 2023 Supp. 44-1802, 44-1805, 44-1807, 44-1815, 44-1816 and
16 44-1819 and repealing the existing sections.

17
18 *Be it enacted by the Legislature of the State of Kansas:*

19 New Section 1. (a) No regular routine inspection shall be required
20 when an owner or user of an elevator:

21 (1) Obtains an inspection by an insurance company licensed to do
22 business in the state and that is rated by the AM Best insurance industry
23 rating services agency at a rating of B or better or the equivalent rating by
24 another national insurance industry rating services agency;

25 (2) obtains a policy of insurance from such company for the elevator;

26 (3) files with the state fire marshal a certificate of inspection by such
27 insurance company and a statement that such elevator is insured; and

28 (4) pays an administrative fee to the state fire marshal of not to
29 exceed \$100.

30 (b) This section shall be a part of and supplemental to the elevator
31 safety act.

32 New Sec. 2. (a) An owner of an elevator shall notify the state fire
33 marshal of any accident possibly involving an elevator malfunction
34 resulting in death, personal injury or property damage in excess of \$1,000
35 involving such elevator on or before the close of business on the next
36 business day following the accident. Such elevator involved shall not

1 operate until the state fire marshal has conducted an investigation of the
2 accident and approved the operation of the elevator. The state fire marshal
3 shall investigate the cause of any such elevator accident resulting in death,
4 personal injury or property damage in excess of \$1,000 that may occur in
5 the state, the loss of life, the injuries sustained and such other data as may
6 be of benefit in preventing similar accidents.

7 (b) Any owner of an elevator who fails to notify the state fire marshal
8 of an accident as required by subsection (a) or causes the operation of an
9 elevator after such an accident and prior to the approval of the state fire
10 marshal as prohibited by subsection (a) shall be guilty of a class A
11 nonperson misdemeanor.

12 (c) This section shall not apply to any escalator.

13 (d) This section shall be a part of and supplemental to the elevator
14 safety act.

15 New Sec. 3. (a) The state fire marshal shall adopt a suitable label to
16 be prominently affixed to the doors of any elevator if the state fire marshal
17 determines that continued operation of such elevator would jeopardize
18 public safety. Such label shall provide notice that the elevator is not
19 certified for operation and that it is unlawful for any unauthorized person
20 to operate such elevator or remove such label.

21 (b) Any unauthorized person who operates an elevator that has a label
22 affixed to such elevator as provided by subsection (a) or removes such a
23 label from an elevator shall be guilty of a class A nonperson misdemeanor.

24 (c) This section shall be a part of and supplemental to the elevator
25 safety act.

26 Sec. 4. K.S.A. 2023 Supp. 44-1802 is hereby amended to read as
27 follows: 44-1802. As used in K.S.A. 2023 Supp. 44-1801 through 44-
28 1820, and amendments thereto:

29 (a) "Act" means the elevator safety act.

30 (b) "Board" means the elevator safety advisory board.

31 (c) (1) "Elevator" means any device for lifting or moving people,
32 cargo or freight within, or adjacent and connected to, a structure or
33 excavation, including, ~~but not limited to, an escalator, power-driven~~
34 ~~stairway, moving walkway or stairway chair lift.~~

35 (2) The term "elevator" does not mean any:

36 (A) Amusement ride or other device subject to the Kansas
37 amusement ride act, K.S.A. 44-1601 et seq., and amendments thereto;

38 (B) *any power-driven stairway, moving walkway or stairway chair*
39 *lift;*

40 (C) mining equipment;

41 ~~(D)~~ aircraft, railroad car, boat, barge, ship, truck or other self-
42 propelled vehicle or component thereof;

43 ~~(E)~~ a dumbwaiter, conveyor, chain or bucket hoist, construction

1 hoist or similar device used for the primary purpose of elevating or
2 lowering materials;

3 ~~(E)~~(F) boiler grate stoker or other similar firing mechanism subject to
4 the boiler safety act, K.S.A. 44-913 et seq., and amendments thereto; or

5 ~~(F)~~(G) lift, manlift, belt manlift, chain hoists, climb assists, special
6 purpose personnel elevator, automated people mover or similar device in
7 wind turbine towers, grain elevators, grain warehouses, seed processing
8 facilities, grain processing facilities, biofuel processing facilities, feed
9 mills, flour mills or any similar pet food, feed or agricultural commodity
10 processing facilities.

11 (d) "Elevator apprentice" means an individual who works under the
12 supervision or general direction of a licensed elevator mechanic.

13 (e) "Elevator contractor" means a sole proprietorship, firm,
14 partnership, corporation or association that is engaged in the business of
15 erecting, constructing, installing, altering, servicing, repairing or
16 maintaining elevators.

17 ~~(f) "Elevator inspector" means an individual engaged in the business~~
18 ~~of inspecting elevators.~~

19 ~~(g)~~ "Elevator mechanic" means an individual engaged in the business
20 of erecting, constructing, installing, altering, *inspecting*, servicing,
21 repairing or maintaining elevators under the direct supervision of an
22 elevator contractor.

23 ~~(h)~~(g) "Licensee" means an elevator contractor, inspector or mechanic
24 who is licensed pursuant to this act.

25 Sec. 5. K.S.A. 2023 Supp. 44-1805 is hereby amended to read as
26 follows: 44-1805. (a) No individual shall erect, construct, alter, replace,
27 *inspect*, maintain, remove or dismantle any elevator contained within a
28 building or other structure in this state or wire any elevator from the
29 mainline feeder terminals on the controller unless such individual is a
30 licensed elevator mechanic ~~and or~~ such individual is ~~working under the~~
31 ~~direct supervision of a licensed elevator contractor~~ *employed and directed*
32 *by a licensee*. An elevator mechanic's license or elevator contractor's
33 license is not required for removing or dismantling elevators that are
34 destroyed as a result of a complete demolition of a secured building or
35 structure, or where the hoistway or wellway is demolished back to the
36 basic support structure whereby no access is permitted therein to endanger
37 the safety and welfare of a person.

38 (b) No individual shall inspect any elevator within a building or
39 other structure in this state, including, but not limited to, private
40 residences, unless such individual is a licensed elevator ~~inspector~~
41 ~~mechanic or is employed by a licensee~~. *No licensed elevator mechanic or*
42 *employee of a licensee shall inspect work that was performed on an*
43 *elevator by that individual*. This subsection shall not apply to any

1 individual employed as an elevator inspector by a city or county who
2 performs inspections only while engaged in the performance of such
3 individual's duties as an employee of such city or county.

4 (c) No individual, firm, partnership, corporation, association or other
5 entity shall erect, alter, replace, maintain, remove, dismantle or operate any
6 elevator in this state or construct any elevator for use in this state in
7 violation of this act or rules and regulations adopted pursuant thereto.

8 (d) (1) All elevators shall conform to the rules and regulations
9 adopted pursuant to this act. Where any material alteration is made *to an*
10 *elevator*, ~~the such~~ elevator shall conform to applicable requirements of the
11 code. *All other elevators shall conform to the applicable requirements of*
12 *the code in effect on the date such elevator was installed.*

13 (2) Nothing in this act shall be construed so as to prevent the use,
14 sale or reinstallation of an elevator installed in this state prior to the
15 effective date of this act, provided that such elevator has been made to
16 conform to the rules and regulations adopted pursuant to this act and
17 has not been found upon inspection to be in an unsafe condition or in
18 violation of this act or rules and regulations adopted pursuant thereto.

19 (3) *For purposes of this subsection, "material alteration" means*
20 *alterations to an elevator that constitute a change to more than 49% of*
21 *such elevator.*

22 Sec. 6. K.S.A. 2023 Supp. 44-1807 is hereby amended to read as
23 follows: 44-1807. (a) (1) Any individual, firm, partnership, corporation,
24 association or other entity wishing to engage in the business of installing,
25 altering, *inspecting*, servicing, replacing or maintaining elevators shall
26 make application for an elevator contractor's license in such form and
27 manner as prescribed by the state fire marshal and shall pay the required
28 initial application fee, which shall not exceed \$500. An applicant shall
29 demonstrate that such applicant employs ~~a licensed~~ *one or more* elevator
30 ~~mechanic or~~ mechanics to perform the work described in K.S.A. 2023
31 Supp. 44-1805, and amendments thereto, and shall provide proof of
32 compliance with the insurance requirements set forth in K.S.A. 2023 Supp.
33 44-1808, and amendments thereto.

34 (2) Any individual wishing to engage in installing, altering,
35 *inspecting*, repairing or servicing of elevators shall make application for an
36 elevator mechanic's license in such form and manner as prescribed by the
37 state fire marshal and shall pay the required initial application fee, which
38 shall not exceed \$150.

39 ~~(3) Any individual wishing to engage in the business of inspecting~~
40 ~~elevators shall make application for an elevator inspector's license in such~~
41 ~~form and manner as prescribed by the state fire marshal and shall pay the~~
42 ~~required initial application fee, which shall not exceed \$250. An applicant~~
43 ~~shall provide proof of compliance with the insurance requirements set~~

1 ~~forth in K.S.A. 2023 Supp. 44-1808, and amendments thereto.~~

2 (b) No license shall be issued to any applicant that has not
3 demonstrated the requisite qualifications and abilities required by this act
4 and rules and regulations adopted pursuant thereto. Upon the state fire
5 marshal's approval of an application as having met the requirements for
6 licensure, the state fire marshal shall issue a license. Such license shall be
7 valid for a period of two years and shall be renewable biennially upon
8 submission of a renewal application and payment of the required renewal
9 application fee, which shall not exceed the initial application fee.

10 (c) An elevator mechanic license shall be issued, upon application, to
11 an applicant that:

12 (1) Holds a certificate of completion from the national association of
13 elevator contractors certified elevator technician certification program,
14 national elevator industry education apprenticeship program or other
15 equivalent nationally approved apprenticeship program;

16 (2) *holds a certificate of completion of an elevator technician*
17 *program provided through a postsecondary educational institution or*
18 *other similar program, or passes an equivalency examination prepared by*
19 *the state fire marshal;*

20 (3) holds a valid license from a state having standards substantially
21 equal to those of this act and the rules and regulations adopted pursuant
22 thereto; or

23 (4) those persons who can demonstrate within the first year following
24 enactment that such person has worked as an elevator mechanic without
25 supervision for at least ~~8,000~~ 4,000 hours within six years prior to the date
26 of application.

27 (d) An elevator contractor's license may be issued, upon application,
28 to an applicant that holds a valid license from a state having standards
29 substantially equal to those of this act and rules and regulations adopted
30 pursuant thereto.

31 (e) An elevator apprentice is not required to hold a license.

32 (f) Any city or county that has adopted requirements and standards
33 that meet or exceed the requirements and standards of this act and any
34 rules and regulations adopted pursuant thereto may issue an elevator
35 contractor's license or elevator mechanic's license in accordance with such
36 requirements and standards. Any such license shall specify that it is issued
37 by such city or county. No such license shall be issued in lieu of any
38 license issued by the state fire marshal or authorize the licensee to perform
39 work as an elevator contractor or elevator mechanic outside the
40 jurisdiction of the issuing city or county.

41 Sec. 7. K.S.A. 2023 Supp. 44-1815 is hereby amended to read as
42 follows: 44-1815. (a) It shall be the responsibility of the owner of any new
43 or existing elevator or the owner's agent to have such elevator inspected

1 ~~annually~~ by a licensed elevator ~~inspector~~ *mechanic or an employee of a*
2 *licensee or an insurance company inspector as provided in section 1, and*
3 *amendments thereto. Such inspection shall occur for all elevators once*
4 *within three years of the effective date of this act and every year thereafter*
5 *for elevators located within a county with a population of 100,000 or*
6 *more, every two years thereafter for elevators located within a county with*
7 *a population of 50,000 or more and every three years thereafter for*
8 *elevators located in all other counties. Upon such inspection, the licensed*
9 ~~elevator inspector~~ *licensee or the employee of such licensee or the*
10 *insurance company inspector shall provide the owner of the elevator or the*
11 *owner's agent, the owner or lessee of the property where such elevator is*
12 *located and the state fire marshal with a written inspection report*
13 *describing any and all code violations. The owner of the elevator or the*
14 *owner's agent shall have 30 days from the date of the inspection report to*
15 *be in full compliance by correcting such violations. The state fire marshal*
16 *may grant additional 30-day extensions of time if the state fire marshal*
17 *determines good cause has been shown and the safety of the public will*
18 *not be endangered.*

19 (b) It shall be the responsibility of the owner of any elevator or the
20 owner's agent to have a licensed elevator contractor *or an employee of a*
21 *licensee conduct all required any tests at the intervals required by in*
22 *accordance with this act and rules and regulations adopted pursuant*
23 *thereto. All tests shall be performed by a licensed elevator mechanic when*
24 *such tests are necessary based on the findings and conclusions in a written*
25 *inspection report. No load test shall be required unless such test is*
26 *necessary due to a life and safety issue contained in a written inspection*
27 *report.*

28 (c) *The fee for any inspection conducted pursuant to this section shall*
29 *not exceed \$500.*

30 (d) This section shall not apply to:

31 (1) Any elevator located in a city or county that has adopted
32 requirements or standards that meet or exceed the requirements or
33 standards of this act and any rules and regulations adopted pursuant
34 thereto; or

35 (2) *any elevator that is subject to an elevator maintenance agreement*
36 *between the owner or the owner's agent of such elevator and a licensee.*

37 Sec. 8. K.S.A. 2023 Supp. 44-1816 is hereby amended to read as
38 follows: 44-1816. (a) For any elevator installed prior to July 1, ~~2022~~ 2024,
39 the owner of the elevator or the owner's agent shall apply for a certificate
40 of operation on or before July 1, ~~2023~~ 2025. Such application shall be in
41 such form and manner as prescribed by the state fire marshal and shall
42 include a copy of the most recent inspection report required pursuant to
43 K.S.A. 2023 Supp. 44-1815, and amendments thereto, *a copy of the*

1 *elevator maintenance agreement if the elevator is exempt from the*
2 *inspection requirement pursuant to K.S.A. 2023 Supp. 44-1815(d)(2), and*
3 *amendments thereto, or a copy of the certification provided by an*
4 *insurance company documenting an inspection by the insurance company*
5 *as provided by section 1, and amendments thereto, and payment of the*
6 *required application fee, which that shall not exceed \$100.*

7 (b) For any elevator installed on or after July 1, ~~2022~~ 2024, and prior
8 to January 1, ~~2023~~ 2025, the owner of such elevator or the owner's agent
9 shall apply for a certificate of operation within six months after such
10 elevator is placed into operation. Such application shall be in such form
11 and manner as prescribed by the state fire marshal and shall include a
12 certification by the licensed elevator contractor that such installation was
13 performed in compliance with the applicable provisions of this act and
14 rules and regulations adopted pursuant thereto and payment of the required
15 application fee, which shall not exceed \$100.

16 (c) On and after January 1, ~~2023~~ 2025, before a newly installed
17 elevator may be placed into operation, the licensed elevator contractor that
18 performed the new installation shall apply for a certificate of operation.
19 Such application shall be in such form and manner as prescribed by the
20 state fire marshal and shall include a certification by the licensed elevator
21 contractor that such installation was performed in compliance with the
22 applicable provisions of this act and rules and regulations adopted
23 pursuant thereto and payment of the required application fee, which shall
24 not exceed \$100.

25 (d) The state fire marshal shall grant applications and renewal
26 applications for certificates of operation if the state fire marshal finds the
27 applicant has demonstrated to the state fire marshal's satisfaction that all
28 applicable provisions of this act and rules and regulations adopted
29 pursuant thereto have been met, the elevator will be operated in
30 accordance with the rules and regulations adopted pursuant to this act and
31 operation of the elevator will not present a danger to the public.

32 (e) (1) A certificate of operation shall be valid ~~for one year~~ from the
33 date of issuance ~~and or renewal until the date that is 30 days after the date~~
34 ~~of the inspection occurring within three years of the effective date of this~~
35 ~~act as provided by K.S.A. 44-1815(a), and amendments thereto. Upon~~
36 ~~receiving a renewal application for a certificate of operation that will~~
37 ~~expire as provided by this subsection, the state fire marshal shall extend~~
38 ~~the valid date of the certificate of operation until such time as the state fire~~
39 ~~marshal has made a determination on the renewal application. If the~~
40 ~~renewal application is granted, the certificate of operation for such~~
41 ~~elevator shall be valid until the date that is 30 days from the date of the~~
42 ~~subsequent inspection of such elevator as required by K.S.A. 44-1815(a),~~
43 ~~and amendments thereto. Certificates of operation newly issued after three~~

1 years from the effective date of this act shall be valid until the date that is
2 30 days from the date of inspection performed as required by K.S.A. 44-
3 1815(a), and amendments thereto. Certificates of operation may be
4 renewed upon application submitted to the state fire marshal and payment
5 of the required renewal fee, which shall not exceed the initial application
6 fee. An application for a renewal certificate shall be accompanied by ~~an a~~
7 ~~copy of the most recent inspection report for an inspection performed~~
8 ~~within the immediately preceding 12 months.~~

9 (2) A certificate of operation for an elevator not subject to inspection
10 requirements pursuant to K.S.A. 44-1815(d)(2), and amendments thereto,
11 shall be valid from the date of issuance or renewal until the date that is
12 three years from the effective date of this act. Thereafter all certificates of
13 operation for such elevators shall be subject to renewal at the same time
14 as if such elevator was subject to inspections pursuant to K.S.A. 44-
15 1815(a), and amendments thereto. Any such application for issuance or a
16 renewal application shall be accompanied by a copy of the elevator
17 maintenance agreement.

18 (f) Certificates of operation shall be clearly displayed on or in each
19 elevator or in the machine room for such elevator. Each certificate of
20 operation shall state that the elevator has been inspected, tested and found
21 to be in compliance with all applicable standards of operation, *that such*
22 *elevator is subject to an elevator maintenance agreement and is in*
23 *compliance with all applicable standards of operation or that such*
24 *elevator has been inspected by an insurance company as provided by*
25 *section 1, and amendments thereto.*

26 (g) This section shall not apply to any elevator located in a city or
27 county that has adopted requirements and standards that meet or exceed
28 the requirements and standards of this act and any rules and regulations
29 adopted pursuant thereto.

30 Sec. 9. K.S.A. 2023 Supp. 44-1819 is hereby amended to read as
31 follows: 44-1819. (a) On or before January 1, ~~2023~~ 2025, the state fire
32 marshal shall adopt rules and regulations necessary to implement and
33 enforce the provisions of this act. Rules and regulations adopted by the
34 state fire marshal shall be based on and follow generally accepted national
35 engineering standards, formula and practices ~~that shall at a minimum and~~
36 ~~may~~ include adoption of current American national standards known as the
37 American society of mechanical engineers (ASME) safety code for
38 elevators and escalators and the safety standards for wind turbine tower
39 elevators, *except that no rules and regulations shall require an elevator to*
40 *be in compliance with current American national standards except as*
41 *provided in K.S.A. 2023 Supp. 44-1805(d), and amendments thereto.*

42 (b) Such rules and regulations shall include rules and regulations:

43 (1) For the operation, maintenance, servicing, construction, alteration

1 and installation of elevators;

2 (2) requirements and qualifications for the licensure of elevator
3 contractors, mechanics and inspectors, including initial and renewal
4 application requirements, examination requirements and continuing
5 education requirements;

6 (3) requirements and qualifications for the issuance of emergency and
7 temporary licenses;

8 (4) requirements for issuance of permits and certificates of operation,
9 including initial and renewal application requirements;

10 (5) requirements for registration of elevators; and

11 (6) standards for granting exceptions and variances from rules and
12 regulations adopted pursuant to this act and municipal ordinances.

13 ~~(b)~~(c) The state fire marshal shall establish a schedule for fees for
14 licenses, permits, certificates of operation, inspections and variance
15 requests. The fees shall reasonably reflect the state fire marshal's actual
16 costs and expenses to operate and to conduct those duties and obligations
17 as described in this act.

18 ~~(e)~~(d) The state fire marshal shall have the authority to grant or deny
19 requests for exceptions and variances from the requirements of rules and
20 regulations adopted pursuant to this act or from municipal ordinances in
21 cases where the state fire marshal finds such exception or variance would
22 not jeopardize the public safety and welfare and that the request meets the
23 applicable standards adopted by the state fire marshal for granting such an
24 exception or variance.

25 Sec. 10. K.S.A. 2023 Supp. 44-1802, 44-1805, 44-1807, 44-1815, 44-
26 1816 and 44-1819 are hereby repealed.

27 Sec. 11. This act shall take effect and be in force from and after its
28 publication in the statute book.