

HOUSE BILL No. 2356

By Committee on Commerce, Labor and Economic Development

2-13

1 AN ACT concerning public safety; relating to elevators, escalators,
2 platform lifts, stairway chairlifts, dumbwaiters, moving walks,
3 automated people movers and other conveyances.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. Sections 1 through 30, and amendments thereto, shall be
7 known and may be cited as the elevator safety act.

8 Sec. 2. As used in this act:

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

10 (b) "ANSI" means the American national standards institute.

11 (c) "ASCE 21" means the American society of civil engineers'
12 automated people mover standards in effect on the effective date of this
13 act, or amendments to or revisions thereof, if adopted in rules and
14 regulations of the board as provided in this act.

15 (d) "ASME A17.1" means the American society of mechanical
16 engineers' safety code for elevators and escalators in effect on the effective
17 date of this act, or amendments to or revisions thereof, if adopted in rules
18 and regulations of the board as provided in this act.

19 (e) "ASME A17.3" means the American society of mechanical
20 engineers' safety code for existing elevators and escalators in effect on the
21 effective date of this act, or amendments to or revisions thereof, if adopted
22 in rules and regulations of the board as provided in this act.

23 (f) "ASME A18.1" means the American society of mechanical
24 engineers' safety standards for platform lifts and stairway chairlifts in
25 effect on the effective date of this act, or amendments to or revisions
26 thereof, if adopted in rules and regulations of the board as provided in this
27 act.

28 (g) "ASME QEI" means the American society of mechanical
29 engineers' standards for the qualification of elevator inspectors in effect on
30 the effective date of this act, or amendments to or revisions thereof, if
31 adopted in rules and regulations of the board as provided in this act.

32 (h) "Automated people mover" means an installation defined as an
33 "automated people mover" in the ASCE 21.

34 (i) "Board" means the elevator safety review board.

35 (j) "Certificate of operation" means a document issued by the
36 secretary that indicates that the conveyance has had the required safety

1 inspection and tests and fees have been paid as set by the secretary.

2 (k) "Code" means the standards established by the board by rules and
3 regulations based upon the safety code for elevators, ASME A17.1; the
4 safety code for existing elevators and escalators, ASME A17.3; the safety
5 standards for platform lifts and stairway chairlifts, ASME A18.1; the
6 standards for the qualification of elevator inspectors, ASME QEI-1; and
7 the automated people mover standards, ASCE 21.

8 (l) "Conveyance" or "conveyance equipment" means any elevator,
9 dumbwaiter, escalator, moving sidewalk, platform lifts, stairway chairlifts
10 or automated guided transit vehicles on guideways with an exclusive right-
11 of-way, including, but not limited to, automated people movers.
12 "Conveyance" or "conveyance equipment" includes all associated parts
13 and the hoistway of the conveyance.

14 (m) "Dormant elevator, dumbwaiter or escalator" means an
15 installation placed out of service as specified in the ASME A17.1 and
16 ASME A18.1.

17 (n) "Elevator" means an installation defined as an "elevator" in
18 ASME A17.1.

19 (o) "Elevator apprentice" and "elevator helper" means a person who
20 works under the general direction of a licensed elevator mechanic. General
21 direction of an apprentice or helper undertaking construction,
22 modernization or repair is defined as having a licensed mechanic on the
23 same job site. General direction of an apprentice or helper undertaking
24 maintenance is defined as a licensed mechanic having the ability to
25 physically intervene with an apprentice or helper within a safe and prudent
26 time frame.

27 (p) "Elevator contractor" means any sole proprietor, firm, partnership,
28 corporation or association that possesses an elevator contractor's license in
29 accordance with the provisions of this act, and amendments thereto, and
30 that is engaged in the business of erecting, constructing, installing,
31 altering, servicing, repairing or maintaining conveyances covered by this
32 act.

33 (q) "Elevator contractor's license" means a license which is issued to
34 an elevator contractor who has been authorized by the secretary to possess
35 this type of license. It entitles the holder thereof to engage in the business
36 of erecting, constructing, installing, altering, servicing, testing, repairing or
37 maintaining conveyances covered by this act.

38 (r) "Escalator" means an installation defined as an "escalator" in the
39 ASME A17.1.

40 (s) "Existing installation" means an installation as defined as an
41 "installation, existing" in ASME A17.1.

42 (t) "Elevator mechanic's license" means a license, which is issued to
43 an individual who has proven such individual's qualifications and ability

1 and has been authorized by the secretary to work on conveyance
2 equipment. It entitles the holder to install, construct, alter, service, repair,
3 test, maintain and perform electrical work on conveyances covered by this
4 act.

5 (u) "Inspector's license" means a license which is issued to an ASME
6 QEI certified elevator inspector who has proven such elevator inspector's
7 qualifications and ability and has been authorized by the secretary to
8 possess this type of license. The inspector's license entitles the holder to
9 engage in the business of inspecting conveyances covered by this act.

10 (v) "Licensee" means a licensed elevator contractor, elevator
11 inspector or elevator mechanic.

12 (w) "Limited elevator contractor's license" means a license issued by
13 the secretary authorizing a sole proprietor, firm, partnership, corporation or
14 association which employs individuals to carry on a business of erecting,
15 constructing, installing, altering, servicing, repairing or maintaining
16 platform lifts and stairway chairlifts within any building or structure,
17 including, but not limited to, private residences.

18 (x) "Material alteration" means "alteration" as defined in the code.

19 (y) "Moving walk" means an installation defined as a "moving walk"
20 in the ASME A17.1.

21 (z) "Private residence" means a separate dwelling or a separate
22 apartment or condominium in a multiple dwelling which is occupied by
23 members of a single-family unit.

24 (aa) "Repair" means "repair" as defined in the following standards:

25 (1) The safety code for elevators, ASME A17.1;

26 (2) the safety code for existing elevators and escalators, ASME
27 A17.3;

28 (3) the safety standards for platform lifts and stairway chairlifts,
29 ASME A18.1;

30 (4) the standard for the qualification of elevator inspectors, ASME
31 QEI-1; or

32 (5) the automated people mover standards, ASCE 21.

33 (bb) "Secretary" means the secretary of labor.

34 (cc) "Temporary dormant elevator, dumbwaiter or escalator" means
35 an installation whose power supply has been disconnected by removing
36 fuses and placing a padlock on the mainline disconnect switch in the "off"
37 position.

38 All other building transportation terms pertaining to conveyances shall
39 have the meaning as defined by the ASME A17.1 or ASME A18.1.

40 Sec. 3. (a) This act governs the design, construction, operation,
41 inspection, testing, maintenance, alteration and repair of the following
42 conveyance equipment:

43 (1) Hoisting and lowering mechanisms equipped with a car or

1 platform, which move between two or more landings. This equipment
2 includes, but is not limited to, the following:

3 (A) Elevators; and

4 (B) platform lifts and stairway chair lifts;

5 (2) power driven stairways and walkways for carrying persons
6 between landings. This equipment includes, but is not limited to, the
7 following:

8 (A) Escalators; and

9 (B) moving walks;

10 (3) hoisting and lowering mechanisms equipped with a car, which
11 serves two or more landings and is restricted to the carrying of material by
12 its limited size or limited access to the car. This equipment includes, but is
13 not limited to, the following:

14 (A) Dumbwaiters; and

15 (B) material lifts and dumbwaiters with automatic transfer devices.

16 (b) This act governs the design, construction, operation, inspection,
17 maintenance, alteration and repair of automated guided transit vehicles on
18 guideways with an exclusive right-of-way. This equipment includes, but is
19 not limited to, automated movers.

20 Sec. 4. The following conveyance equipment is not covered by this
21 act:

22 (a) Material hoists within the scope of ANSI standard A10.5 as in
23 effect on the effective date of this act;

24 (b) manlifts within the scope of ASME A90.1 as in effect on the
25 effective date of this act;

26 (c) mobile scaffolds, towers and platforms within the scope of ANSI
27 A92 as in effect on the effective date of this act;

28 (d) powered platforms and equipment for exterior and interior
29 maintenance within the scope of ANSI 120.1 as in effect on the effective
30 date of this act;

31 (e) conveyors and related equipment within the scope of ASME
32 B20.1 as in effect on the effective date of this act;

33 (f) cranes, derricks, hoists, hooks, jacks and slings within the scope of
34 ASME B30 as in effect on the effective date of this act;

35 (g) industrial trucks within the scope of ASME B56 as in effect on the
36 effective date of this act;

37 (h) portable equipment, except for portable escalators covered by
38 ANSI A17.1;

39 (i) tiering or piling machines used to move materials to and from
40 storage located and operating entirely within one story of a building or
41 other structure;

42 (j) equipment for feeding or positioning materials including, but not
43 limited to, machine tools and printing presses;

- 1 (k) skip or furnace hoists;
- 2 (l) wharf ramps;
- 3 (m) railroad car lifts or dumpers;
- 4 (n) line jacks, false cars, shafters, moving platforms and similar
- 5 equipment used for installing an elevator by an elevator contractor or
- 6 elevator mechanic licensed in this state as provided by this act; or
- 7 (o) conveyances under the control of the United States government.

8 Sec. 5. No city or county shall have the power to make any laws,
9 ordinances or resolutions providing for the construction, installation,
10 operation, inspection, maintenance and repair of conveyances covered by
11 this act after the effective date of this act, within the limits of such city or
12 county, and any such laws, ordinances or resolutions heretofore made or
13 passed shall be void and of no effect, except that a city or county may
14 make such an ordinance or resolution or such ordinance or resolution may
15 continue in effect if such ordinance or resolution regulates more strictly or
16 sets higher standards or safety requirements than required by this act or the
17 rules and regulations enacted by the board pursuant to this act. This act
18 shall not be construed so as to preempt a city or county from adopting or
19 continuing requirements or standards that are more stringent than those of
20 this act or the code.

21 Sec. 6. (a) No individual shall erect, construct, alter, replace,
22 maintain, remove or dismantle any conveyance contained within buildings
23 or other structures in this state unless such individual is licensed with an
24 elevator mechanic's license as provided by this act and such individual is
25 working under the direct supervision of an elevator contractor licensed
26 pursuant to this act. No individual shall wire any conveyance, from the
27 mainline feeder terminals on the controller, unless such individual is
28 licensed with an elevator mechanic's license as provided by this act and
29 such individual is working under the direct supervision of an elevator
30 contractor licensed pursuant to this act. No other license shall be required
31 for the work described in this subsection. An elevator mechanic's license
32 or elevator contractor's license is not required for removing or dismantling
33 conveyances which are destroyed as a result of a complete demolition of a
34 secured building or structure or where the hoistway or wellway is
35 demolished back to the basic support structure whereby no access is
36 permitted therein to endanger the safety and welfare of a person.

37 (b) No individual shall inspect any conveyance within buildings or
38 structures, including, but not limited to, private residences, unless such
39 individual is licensed with an inspector's license as provided by this act.

40 (c) Conveyances and conveyance equipment covered by this act shall
41 conform to the rules and regulations adopted by the board as provided by
42 this act. No person, firm, partnership, corporation, association or other
43 entity shall erect, alter, replace, maintain, remove, dismantle or operate any

1 conveyance in this state or construct any conveyance for use in this state in
2 violation of this act or the rules and regulations adopted hereunder by the
3 board. This act shall not be construed as in any way preventing the use,
4 sale or reinstallation of a conveyance installed in this state prior to the
5 effective date of this act, provided it has been made to conform to the rules
6 and regulations adopted by the board and provided it has not been found
7 upon inspection to be in an unsafe condition or in violation of the code.

8 Sec. 7. (a) There is hereby established the elevator safety review
9 board. The adoption, oversight and amendment of rules and regulations in
10 this state pertaining to the safety, operation, installation, erection,
11 construction, alteration, replacement, servicing, repair, maintenance,
12 removal, dismantling or demolition of conveyances covered by this act,
13 and rules and regulations setting guidelines and standards for the
14 allowance of waivers of such rules or regulations by the secretary, are
15 hereby vested in the elevator safety review board. The elevator safety
16 review board shall consist of nine members, one of whom shall be the
17 secretary of labor or such secretary's designee and one of whom shall be
18 the secretary of administration or such secretary's designee. The governor
19 shall appoint the remaining seven members of the board as follows:

20 (1) One representative from a major elevator manufacturing company
21 or its authorized representative;

22 (2) one representative from an elevator servicing company;

23 (3) one representative of the architectural design or elevator
24 consulting profession;

25 (4) one representative of the general public;

26 (5) one representative of a city or county in this state;

27 (6) one representative of a building owner or building manager; and

28 (7) one representative of labor involved in the installation,
29 maintenance and repair of elevators.

30 (b) The term of office of each member of the board appointed by the
31 governor under (a)(1) through (7) shall expire on June 30 of the third year
32 following the year of appointment. Upon the expiration of a term of office
33 of a member of the board appointed by the governor, the governor shall
34 appoint a qualified successor. Each member of the board appointed by the
35 governor shall serve until a successor is appointed and qualified.
36 Whenever a vacancy occurs among the membership of the board
37 appointed by the governor for any reason other than the expiration of a
38 member's term of office, the governor shall appoint a qualified successor
39 to fill the unexpired term. The members of the board shall serve without
40 compensation.. The governor shall appoint one of the members to serve as
41 chairperson. The chairperson shall be the deciding vote in the event of a tie
42 vote.

43 (c) The board shall meet regularly once in each month at a time and

1 place to be fixed by it and at such times as it is deemed necessary for the
2 consideration of code, rules and regulations, and for the transaction of such
3 other business as properly may come before it. Special meetings may be
4 called as provided in the rules and regulations adopted by the board. Any
5 appointed board member absent from three consecutive meetings shall be
6 dismissed.

7 (d) The members of the committee who are not state officers or
8 employees and who are attending meetings of such committee, or
9 attending a subcommittee meeting thereof authorized by such committee,
10 shall be paid amounts provided in K.S.A. 75-3223(e), and amendments
11 thereto. Amounts paid under this subsection shall be from appropriations
12 to the Kansas department of labor upon warrants of the director of
13 accounts and reports issued pursuant to vouchers approved by the
14 secretary of labor or a person designated by the secretary.

15 Sec. 8. (a) The board shall be authorized to consult with private or
16 public engineering authorities and organizations concerned with standard
17 safety codes or rules and regulations governing the operation,
18 maintenance, servicing, construction, alteration, installation or inspection
19 of conveyances or the qualifications which are adequate, reasonable and
20 necessary for an elevator mechanic, elevator contractor or elevator
21 inspector.

22 (b) The board shall be authorized to recommend legislation to the
23 legislature.

24 (c) The board shall adopt rules and regulations, consistent with the
25 provisions of this act, for the operation, maintenance, servicing,
26 construction, alteration, installation and inspection of equipment or
27 conveyances regulated by this act, standards to be applied by the secretary
28 in granting waivers from such rules and regulations and the licensing
29 requirements or qualifications for elevator mechanics, elevator contractors
30 or elevator inspectors. Rules and regulations adopted by the board shall be
31 based upon and follow generally accepted nationwide engineering or
32 safety standards. Such rules and regulations shall include the incorporation
33 by reference of the following standards or national codes as such standards
34 or national codes are in effect on the effective date of this act:

35 (1) The safety code for elevators and escalators, ASME A17.1;

36 (2) the safety code for existing elevators and escalators, ASME
37 A17.3;

38 (3) the safety standards for platform lifts and stairway chairlifts,
39 ASME A18.1;

40 (4) the standard for the qualification of elevator inspectors, ASME
41 QEI-1; and

42 (5) the standard for automated people movers, ASCE 21.

43 (d) The board may, by rules and regulations, adopt or incorporate by

1 reference updated or revised editions or versions of such standards or
2 portions of such revised editions or versions of such standards, if within
3 six months of the effective date of such updated or revised editions or
4 versions of such standards, the board submits such proposed rules and
5 regulations to the secretary of administration, as provided by K.S.A. 77-
6 420, and amendments thereto.

7 Sec. 9. (a) The secretary shall have the authority to grant or deny
8 requests for exceptions and variances from the requirements of rules and
9 regulations adopted by the board or from municipal or county ordinances
10 in cases where the secretary finds such exception or variance would not
11 jeopardize the public safety and welfare and that the request meets the
12 applicable standards adopted by the board for granting such an exception
13 or variance. The secretary shall adopt rules and regulations governing the
14 process, procedure and fees for review of such requests for exceptions and
15 variances.

16 (b) The secretary shall establish fee schedules for licenses, permits,
17 certificates, inspections and variance requests except as otherwise
18 provided herein. The fees shall reasonably reflect the secretary's actual
19 costs and expenses to operate and to conduct its duties as described in this
20 act.

21 Sec. 10. There is hereby created the elevator safety fee fund. The
22 secretary shall remit all moneys received by it from fees, charges or
23 penalties to the state treasurer in accordance with the provisions of K.S.A.
24 75-4215, and amendments thereto. Upon receipt of each such remittance,
25 the state treasurer shall deposit the entire amount in the state treasury to
26 the credit of the elevator safety fee fund. All expenditures from the
27 elevator safety fee fund shall be made in accordance with appropriation
28 acts upon warrants of the director of accounts and reports issued pursuant
29 to vouchers approved by the secretary or by a person or persons designated
30 by the secretary.

31 Sec. 11. (a) (1) *Elevator contractor*. Any sole proprietor, firm,
32 partnership, corporation or association wishing to engage in the business
33 of the installation, alteration, service, replacement or maintenance of
34 conveyances covered under this act shall make application for an elevator
35 contractor license with the secretary on a form provided by the secretary.

36 (2) *Elevator mechanic*. Any individual wishing to engage in the
37 installing, altering, repairing or servicing of conveyances covered under
38 this act shall make application for an elevator mechanic license on a form
39 provided by the secretary.

40 (3) *Inspector*. Any individual, wishing to engage in the business of
41 inspections of conveyances covered under this act shall, upon proof of
42 ASME QEI certification, make application for a license with the secretary
43 on a form to be provided by the secretary.

1 (b) Applications submitted pursuant to subsection (a) shall contain
2 the following information:

3 (1) If an individual or sole proprietor, the name, residence and
4 business address of the applicant;

5 (2) if a partnership, the name, residence and business address of each
6 partner;

7 (3) if a domestic corporation, the name and business address of the
8 corporation and the name and residence address of the principal officer of
9 such corporation; if a foreign corporation, the name and address of its
10 designated agent located within this state who shall be authorized to accept
11 service of process and official notices;

12 (4) the number of years the applicant has engaged in the business of
13 installing, inspecting or maintaining or servicing specified conveyances;

14 (5) the approximate number of individuals, if any, to be employed by
15 an elevator contractor applicant, and if applicable, satisfactory evidence
16 that the employees are or will be covered by worker's compensation
17 insurance;

18 (6) satisfactory evidence that the applicant is or will be covered by
19 general liability, personal injury and property damage insurance;

20 (7) criminal record of convictions, if any, as verified by the Kansas
21 bureau of investigation. The applicant shall bear the cost of obtaining such
22 verified criminal record; and

23 (8) such other information as may be required by the boards' rules
24 and regulations and as may be required by the secretary in rules and
25 regulations adopted by the secretary.

26 (c) Any changes to information required by this subsection shall be
27 promptly reported to the secretary by an applicant.

28 (d) *Qualifications for an elevator mechanic's license.* (1) No license
29 shall be granted to any person who has not demonstrated the requisite
30 qualifications and abilities required by this act and the code to the
31 satisfaction of the secretary. Applicants for an elevator mechanic's license
32 must demonstrate an acceptable combination of documented experience
33 and education as follows:

34 (A) Not less than three years' work experience in the elevator
35 industry, in construction, maintenance or service or repair, or any
36 combination thereof, as verified by current and previous employers
37 licensed to do business in this state, which employers need not be elevator
38 contractors licensed pursuant to this act; and

39 (B) satisfactory completion of a written examination developed and
40 administered by the secretary.

41 (2) Any individual who furnishes the secretary with acceptable proof
42 that they have worked as an elevator constructor, maintenance or repair
43 person as described in this paragraph, upon making application for a

1 license and paying the applicable license fee shall be entitled to receive a
2 license without an examination. They shall have performed the duties of a
3 licensed elevator mechanic for an elevator contractor that has received a
4 license pursuant to this act, without requiring direct and immediate
5 supervision by another, for a period not less than three years immediately
6 preceding the effective date of this act. The individual must make
7 application within one year of the effective date of this act.

8 (3) Except as otherwise provided in paragraph (4), all applicants shall
9 provide proof of:

10 (A) A certificate showing successful completion of the mechanic's
11 examination of a nationally recognized training program for the elevator
12 industry, such as the national elevator industry educational program or its
13 equivalent; or

14 (B) a certificate of completion of a four-year apprenticeship program
15 for elevator mechanics, having standards substantially equal to those of
16 this act and the code and registered with the bureau of apprenticeship and
17 training, United States department of labor or a state apprenticeship
18 council.

19 (4) The examination, experience or education requirements of this
20 section may be waived for an applicant holding a valid license from a state
21 having licensing standards determined by the board to be substantially
22 equal to or greater than those of this act and the code.

23 (e) *Qualification for an elevator inspector's license.* No inspector's
24 license shall be granted to any individual, unless the individual
25 demonstrates to the satisfaction of the secretary that they meet the
26 qualifications required by the code for elevator inspectors.

27 (f) *Qualifications for an elevator contractor's license.* (1) No license
28 shall be granted to any sole proprietor, firm, partnership, corporation or
29 association that has not demonstrated the requisite qualifications and
30 abilities required by this act and the code to the satisfaction of the
31 secretary. Applicants for an elevator contractor's license must demonstrate
32 that they have in their employ a licensed elevator mechanic or mechanics
33 that perform work described in section 6, and amendments thereto, and
34 must have proof of compliance with the insurance requirements set forth in
35 sections 11 and 12, and amendments thereto.

36 (2) A license may be issued to a sole proprietor, firm, partnership,
37 association or corporation holding a valid license from a state having
38 standards substantially equal to those of this act and the code, upon
39 application.

40 (g) An elevator apprentice or elevator helper is not required to be
41 licensed.

42 Sec. 12. (a) Elevator contractors shall submit proof to the secretary of
43 a current insurance policy issued by an insurance company authorized to

1 do business in this state, providing general liability coverage of at least
2 \$1,000,000 for injury or death of any number of persons in any one
3 occurrence, with coverage of at least \$500,000 for property damage in any
4 one occurrence and proof of workers compensation insurance coverage as
5 required by Kansas law.

6 (b) Elevator inspectors, not employed by an agency, county or
7 municipality, shall submit to the director of licenses proof of a current
8 insurance policy, issued by an insurance company authorized to do
9 business in this state, providing general liability coverage of at least
10 \$1,000,000 for injury or death of any number of persons in any one
11 occurrence, with coverage of at least \$500,000 for property damage in any
12 one occurrence and proof of statutory workers compensation insurance
13 coverage.

14 (c) Proof of such policies shall be delivered to the secretary before or
15 at the time of the issuance of a license. In the event of any material
16 alteration of or cancellation of any policy, at least 10 days' notice shall be
17 given to the secretary.

18 Sec. 13. Upon the secretary's approval of an application as having
19 met the requirements of this act and the applicable rules and regulations
20 adopted by the board and the secretary, the secretary shall issue a license.
21 Such license shall be valid for a period of two years and be renewable
22 biennially. A fee schedule for license renewals shall be set by the secretary.

23 Sec. 14. (a) Whenever the secretary determines an emergency exists
24 in the state due to disaster, an act of God or work stoppage and the number
25 of persons in the state holding elevator mechanic's licenses granted by the
26 secretary is determined by the secretary to be insufficient to cope with the
27 emergency, elevator contractors shall respond as necessary to assure the
28 safety of the public as directed by the secretary. Any individual certified by
29 a licensed elevator contractor to have an acceptable combination of
30 documented experience and education to perform elevator work without
31 the direct and immediate supervision of another shall seek an emergency
32 elevator mechanic's license from the secretary within five business days
33 after commencing work requiring such license. The secretary shall issue
34 emergency elevator mechanic's licenses if the secretary finds that the
35 requirements for emergency elevator mechanic's licenses, as adopted in
36 rules and regulations by the secretary, have been met. The elevator
37 contractor or applicant shall furnish such proof of competency as the
38 secretary may require. Each such license shall recite that it is valid for a
39 period of 60 days from the date issued by the secretary and for such
40 particular elevators or geographical areas as the secretary may designate
41 and otherwise shall entitle the licensee to the rights and privileges of an
42 elevator mechanic's license issued pursuant to this act. The secretary may
43 renew an emergency elevator mechanic's license for additional 60-day

1 periods during the existence of an emergency. No fee shall be charged for
2 any emergency elevator mechanic's license or renewal. The secretary shall
3 adopt rules and regulations governing the determination of an emergency
4 by the secretary and as otherwise necessary to implement this subsection.

5 (b) An elevator contractor shall notify the secretary when there are no
6 licensed personnel available to perform work requiring an elevator
7 mechanic's license. The elevator contractor may request that the secretary
8 issue temporary elevator mechanic's licenses to persons certified by the
9 licensed elevator contractor to have an acceptable combination of
10 documented experience and education to perform such work without the
11 direct and immediate supervision of another. Any individual certified by an
12 elevator contractor to have an acceptable combination of documented
13 experience and education to perform such work without the direct and
14 immediate supervision of another shall immediately seek a temporary
15 elevator mechanic's license from the secretary and shall pay such fee as the
16 secretary shall determine. The secretary may issue the applicant a
17 temporary elevator mechanic's license if the secretary finds that the
18 requirements for temporary elevator mechanic's licenses, as adopted by
19 rules and regulations of the secretary, have been met. Each such license or
20 renewal of such license shall recite that it is valid for a period of 60 days
21 from the date of issuance and while the licensee is employed by the
22 licensed elevator contractor that certified the individual as qualified. Upon
23 application to the secretary, such license may be renewed by the secretary
24 for additional 60-day periods as long as the shortage of license holders
25 shall continue, as determined by the secretary. The applicant shall pay such
26 fee as the secretary shall determine. The secretary shall adopt rules and
27 regulations governing the secretary's determination of whether a shortage
28 of elevator mechanic's license holders exists and as otherwise necessary to
29 implement this subsection.

30 Sec. 15. (a) Except as provided in this subsection, the renewal of all
31 licenses granted under the provisions of this section shall be conditioned
32 upon the submission to the secretary of a certificate of completion of a
33 course designed to ensure the continuing education of licensees on new
34 and existing provisions of the regulations of the board. Such course shall
35 consist of not less than eight hours of instruction that shall be attended and
36 completed within the 12 months immediately preceding any such license
37 renewal application. The secretary may waive this requirement for
38 renewals of emergency elevator mechanic's licenses in the secretary's
39 discretion if the secretary finds the applicant has not been reasonably able
40 to attend such a course due to circumstances arising as a result of the
41 emergency.

42 (b) The continuing education courses shall be taught by instructors
43 through continuing education providers that may include, but shall not be

1 limited to, association seminars and labor training programs. The secretary
2 shall approve the continuing education providers. All instructors shall have
3 been licensed pursuant to this act, be approved by the secretary and subject
4 to annual renewals of their qualifications to instruct, pursuant to rules and
5 regulations to be adopted by the secretary. Instructors shall be exempt
6 from the provisions of this section with regard to employment, education
7 or examination requirements for an application for a license renewal under
8 this section, provided that such instructor provides documentation
9 acceptable to the secretary at the time an application for license renewal
10 would be otherwise required by this section showing that such instructor
11 was qualified as an instructor for any time period during the one-year
12 period immediately preceding the scheduled date for such instructor's
13 license renewal.

14 (c) A licensee who is unable to complete the continuing education
15 course required under this section prior to the expiration of their license
16 due to a temporary disability may apply for a waiver from the secretary.
17 The application for waiver shall be on a form provided by the secretary
18 which shall be signed under penalty of perjury and accompanied by a
19 certified statement from a competent physician attesting to such
20 temporary disability. Upon the secretary's approval, a waiver valid for 90
21 days shall be issued to such licensee and shall be affixed to the license.
22 Such waiver may be renewed in the same manner as the original waiver
23 application. Upon the termination of such temporary disability, such
24 licensee shall submit to the board a certified statement from the same
25 physician, or another physician if the same physician is not reasonably
26 available, attesting to the termination of such temporary disability.

27 (d) Approved continuing education providers shall keep uniform
28 records, for a period of 10 years, of the attendance of licensees following
29 a format approved by the secretary. Such records shall be available for
30 inspection by the secretary at the secretary's request. Approved continuing
31 education providers shall be responsible for the security of all attendance
32 records and certificates of completion. Falsifying or knowingly allowing
33 another to falsify such attendance records or certificates of completion
34 shall constitute grounds for suspension or revocation by the secretary of
35 the approval required under this section to be a continuing education
36 provider.

37 Sec. 16. (a) A license issued pursuant to this act by the secretary may
38 be suspended or revoked, and the licensee subjected, in addition to any
39 other penalties provided by law, to a civil penalty by the secretary upon a
40 finding by the secretary that any one or more of the following has been
41 committed by the licensee:

42 (1) Any willfully false statement or willful omission as to a material
43 matter made in the process of securing a license or renewal of a license. A

1 material matter is a fact relevant to a question or line of inquiry in the
2 applicable application form or in additional inquiry of the applicant by the
3 secretary that if made known to the secretary could constitute a basis for a
4 denial of the application under this act or the rules and regulations adopted
5 by the board or by the secretary.

6 (2) Fraud, misrepresentation or bribery in securing a license.

7 (3) Failure to notify the secretary and the owner or lessee of a
8 conveyance or related mechanisms of any condition of the conveyance or
9 operation of the conveyance not in compliance with this act or not in
10 compliance with the rules and regulations adopted by the board that was
11 known to the licensee or reasonably should have been known by the
12 licensee.

13 (4) Violation of any provision of this act or the code.

14 (b) A license issued pursuant to this act by the secretary may be
15 suspended or revoked upon a finding by the secretary:

16 (1) That the licensee has entered a plea of guilty, nolo contendere, or
17 been convicted of a felony;

18 (2) that the licensee has failed to maintain any requirement, or has
19 failed to notify the secretary of any material alteration or change relating
20 to any requirement, that is necessary to obtain or renew a license under
21 this act or under the rules or regulations of the board or the rules and
22 regulations of the secretary that is in nature a continuing requirement,
23 including, but not limited to, insurance requirements or a designated agent
24 for service of process;

25 (3) that facts and circumstances exist, whether or not in violation of
26 provisions of this act or the rules and regulations of the board or the
27 secretary, that require suspension or revocation of the license to protect the
28 safety of the public, including, but not limited to, facts and circumstances
29 going to the competence, ability or fitness of the licensee to safely conduct
30 the work or activities permitted by the license in a manner that does not
31 risk the safety or well-being of co-workers, employees or the public; or

32 (4) in the case of an inspector's license, that the inspector has
33 performed duties incompetently, has demonstrated untrustworthiness, has
34 falsified any matter or statement contained in any application or report, or
35 has failed to report findings of any inspection made by such inspector to
36 the secretary as required by this act. Such a suspension or revocation of
37 certificate shall be effective as soon as notice of the suspension or
38 termination has been delivered to the inspector or the inspector's employer.

39 (c) The secretary shall adopt rules and regulations to implement the
40 provisions of this section.

41 Sec. 17. (a) Except as otherwise provided in this act, no license shall
42 be suspended or revoked, or a licensee subjected to civil penalty by the
43 secretary, until after a hearing before the secretary upon notice to the

1 licensee of at least 10 days at the last known address appearing on the
2 license, served personally or by registered mail, except that the secretary
3 may issue emergency orders, including, but not limited to, immediate
4 suspensions or revocations of a license, as provided by the Kansas
5 administrative procedure act, K.S.A. 77-536, and amendments thereto. The
6 notice shall state the date, hour and place of hearing and set forth a
7 statement of facts constituting the grounds for the action or civil penalty
8 against the licensee.

9 Sec. 18. In addition to any other penalty provided by law, the
10 secretary, upon finding that any owner, lessee or operator of a conveyance,
11 or owner or lessee of a building or structure in which a conveyance is
12 located, has violated, knowingly permitted a violation, or negligently
13 failed to detect, report or correct a violation of any of the provisions of this
14 act or any rule or regulation promulgated under the authority of this act
15 with regard to the construction, installation, maintenance, inspection
16 requirements or operation of a conveyance, is authorized to impose a civil
17 penalty not to exceed \$1,000 per violation for each day of such unlawful
18 operation or violation, which shall constitute an actual and substantial
19 economic deterrent to the violation for which the penalty is assessed. No
20 civil penalty shall be imposed pursuant to this subsection, except upon the
21 written order of the secretary to the person who committed the violation.
22 Such order shall state the violation, the penalty to be imposed and the right
23 of the person to request a hearing as provided in section 19, and
24 amendments thereto.

25 Sec. 19. (a) An individual, sole proprietor, firm, partnership,
26 association or corporation aggrieved by an order issued by the secretary
27 pursuant to the provisions of this act, may request a hearing thereon within
28 15 days from the date of the service of such order by filing such request in
29 writing with the secretary. Such hearing shall be conducted in accordance
30 with the provisions of the Kansas administrative procedure act. The filing
31 of a request for a hearing shall not abate or operate as a stay of the effect
32 of an emergency order or an order to cease and desist or a stop work order
33 unless otherwise stated in such order.

34 (b) Except as otherwise provided, all administrative proceedings by
35 the secretary under this act shall be conducted in accordance with the
36 provisions of the Kansas administrative procedure act.

37 (c) Judicial review and civil enforcement of agency actions under this
38 act shall be in accordance with the Kansas judicial review act.

39 Sec. 20. Within six months after the date of the appointment of the
40 board, the owner or lessee of every existing conveyance shall register with
41 the secretary each conveyance owned or leased and operated by them,
42 giving the type, rated load and speed, name of manufacturer, its location
43 and the purpose for which it is used and such additional information as the

1 secretary may require in rules and regulations adopted by the secretary.
2 Conveyances upon which construction has begun subsequent to the
3 effective date of this act shall be registered at the time they are completed
4 and placed in service.

5 Sec. 21. It shall be the responsibility of individuals, firms,
6 partnerships, associations or corporations licensed as described in this act
7 to ensure that installation, service and maintenance of conveyances are
8 performed in compliance with the provisions contained in the state safety
9 and fire prevention act, K.S.A. 31-132 et seq., and amendments thereto.

10 Sec. 22. (a) No conveyance covered by this act shall be erected,
11 constructed, installed or altered within a building or structure unless a
12 permit obtained from the secretary before the work is commenced is valid
13 and in force and any stop work order issued by the secretary is not in
14 effect. Where any material alteration is made, the conveyance shall
15 conform to applicable requirements of the code. No permit required
16 hereunder shall be issued except to a sole proprietor, firm, corporation,
17 partnership or other association holding a valid elevator contractor's
18 license duly issued pursuant to this act. A copy of such permit shall be kept
19 at the construction site at all times while the work is in progress.

20 (b) A permit fee shall be as set by the secretary pursuant to rules and
21 regulations to be adopted by the secretary. Permit fees collected are non-
22 refundable.

23 (c) Permit requirements are as follows:

24 (1) Each application for a permit shall be accompanied by copies of
25 specifications and accurately scaled and fully dimensioned plans showing
26 the location of the installation in relation to the plans and elevation of the
27 building; the location of the machinery room and the equipment to be
28 installed, relocated or altered; and all structural supporting members,
29 including foundations, and shall specify all materials to be employed and
30 all loads to be supported or conveyed. Such plans and specifications shall
31 be sufficiently complete to illustrate all details of construction and design.

32 (2) The applicable fee shall accompany each permit application.

33 (d) Permits may be revoked by the secretary for the following
34 reasons:

35 (1) Where any false statement or misrepresentation exists as to the
36 material facts in the application, plans or specifications on which the
37 permit was based;

38 (2) where the permit was issued in error and should not have been
39 issued in accordance with the act;

40 (3) where the work detailed under the permit is not being performed
41 in accordance with the provisions of the application, plans or
42 specifications, or the code or conditions of the permit; or

43 (4) where the elevator contractor to whom the permit was issued fails

1 or refuses to comply with a stop work order issued by the secretary.

2 (e) Permits shall expire:

3 (1) If the work authorized by such permit is not commenced within
4 six months after the date of issuance, or within a shorter period of time as
5 the secretary or the secretary's duly authorized designee, in the secretary or
6 designee's discretion, may specify at the time the permit is issued.

7 (2) If after the work has been commenced the work is suspended or
8 abandoned for a period of 60 days, or such shorter period of time as the
9 secretary, in the secretary's discretion, may specify at the time the permit is
10 issued. For good cause, the secretary or the secretary's designee may allow
11 an extension of the foregoing period at the secretary or designee's
12 discretion.

13 Sec. 23. (a) All new conveyance installations shall be performed by
14 an elevator contractor licensed as provided by this act. Subsequent to
15 installation, and prior to the new conveyance being used, such licensed
16 elevator contractor must certify compliance with the applicable sections of
17 the code to the secretary and complete and submit to the secretary the first
18 time request for a certificate of operation.

19 (b) Prior to any conveyance being used, the property owner or lessee
20 must obtain a certificate of operation from the secretary. The property
21 owner or lessee must submit a request for a certificate of operation to the
22 secretary for conveyances installed prior to the effective date of this act
23 within six months after the date of appointment of the board.

24 (c) The certificate of operation fee for all new and existing platform
25 lifts and stairway chairlifts for private residences and any renewal
26 certificate fees shall be waived. The director of public works for the
27 county or city in which the residence exists, or such director's designee,
28 shall inspect in accordance with the code, before a transfer of ownership,
29 all newly installed platform lifts and stairway chairlifts for private
30 residences subsequent to an inspection by an elevator inspector. If the
31 residence exists in a county or city with no department of public works,
32 the secretary or secretary's designee shall inspect in accordance with the
33 code, before a transfer of ownership, all newly installed platform lifts and
34 stairway chairlifts for a private residence, subsequent to an inspection by
35 an elevator inspector. The secretary shall provide the owner of the private
36 residence where the conveyance is located with relevant information about
37 conveyance safety requirements, including, but not limited to, having the
38 owner contact the secretary in order to ensure that the conveyance is
39 periodically and timely inspected and made safe before the permit for the
40 conveyance expires. The penalty provisions of this act shall not apply to
41 private residence owners.

42 (d) A certificate of operation shall be renewable annually and shall
43 not be valid after the expiration of one year from the date of issuance,

1 except for certificates issued for platform lifts and stairway chairlifts for
2 private residences, which shall be valid for a period of three years and may
3 be renewed for subsequent three-year periods. Certificates of operation
4 must be clearly displayed on or in each conveyance or in the machine
5 room for such conveyance.

6 (e) The secretary shall grant applications and renewal applications for
7 certificates of operation if the secretary finds the applicant has
8 demonstrated to the secretary's satisfaction that all applicable rules and
9 regulations of the board have been met, the conveyance will be operated
10 pursuant to the rules and regulations of the board, and operation of the
11 conveyance will not present a danger to the public. The secretary shall
12 establish a fee schedule for initial and renewal applications for certificates
13 of operation.

14 Sec. 24. (a) Any person may make a request for an investigation into
15 an alleged violation of this act or the installation, servicing, maintenance
16 or operation of a conveyance that appears to place the public or persons
17 using such conveyance in danger by giving notice to the secretary of such
18 violation or danger. Such notice shall be in writing, setting forth in
19 reasonable particularity the grounds for the notice and be signed by the
20 person making the request. The secretary shall advise the person making
21 the request for an investigation that upon request, such person's name shall
22 not appear on any copy of such notice or any record published, released or
23 made available to the public or the investigatee, except if ordered by a
24 court, and such person's name shall not constitute a public record under the
25 Kansas open records act.

26 (b) Upon receipt of such notification, the secretary shall cause to be
27 made an investigation as soon as practicable, and to the extent determined
28 appropriate by the secretary, to determine if such violation or danger exists
29 and may make such orders as the secretary deems necessary to avoid
30 danger to the public during such investigation. If the secretary determines
31 that there are no reasonable grounds to believe that a violation or danger
32 exists, the secretary shall notify the owner or lessee of the conveyance and
33 the person making the request in writing of such determination. If the
34 secretary determines that a violation or danger exists, the secretary shall
35 revoke the certificate of operation for such conveyance, make such orders
36 as the secretary deems necessary to address the violation or danger or take
37 such other actions as provided by this act to address the violation or
38 danger.

39 Sec. 25. This act shall not be construed to relieve or lessen the
40 responsibility or liability of any person, firm or corporation owning,
41 operating, controlling, maintaining, erecting, constructing, installing,
42 altering, inspecting, testing or repairing any elevator or other related
43 mechanisms covered by this act for damages to a person or property

1 caused by any defect therein, nor does the state assume any such liability
2 or responsibility or any liability to any person for whatever reason by the
3 adoption of this act or any acts or omissions arising hereunder.

4 Sec. 26. (a) Any owner or lessee of a conveyance who willfully
5 violates any provision of this act, upon conviction, shall be guilty of a
6 class C misdemeanor and be fined an amount not to exceed \$1,500 or be
7 imprisoned for a period not exceeding 30 days, or both.

8 (b) It shall be unlawful for any person, firm, partnership, corporation
9 or other entity to install or operate any conveyance in this state or to
10 construct any conveyance for use in this state in violation of this act or the
11 rules and regulations of the board adopted pursuant to this act, and any
12 such unlawful installation, operation or construction shall constitute a class
13 C misdemeanor. Each day of unlawful installation, operation or
14 construction shall be deemed a separate offense.

15 Sec. 27. The provisions of this act are not retroactive unless otherwise
16 stated and conveyances and conveyance equipment shall be required to
17 comply with the applicable code at the date of its installation or within six
18 months of the appointment of the board as provided in sections 20 and 23,
19 and amendments thereto, or an additional period determined by the
20 secretary for compliance upon a finding that good cause has been shown
21 and no harm to the public shall result from the delay. If upon the
22 inspection of any conveyance covered by this act, the conveyance is found
23 to be in a dangerous condition or there is an immediate hazard to those
24 riding or using such equipment or if the design or the method of operation
25 in combination with the conveyance equipment used is considered
26 inherently dangerous in the opinion of the secretary, the secretary shall
27 notify the owner or lessee of such condition and shall order such
28 alterations or additions as may be deemed necessary to eliminate the
29 dangerous condition and may issue such other orders as provided by this
30 act.

31 Sec. 28. (a) Except for private residence owners, it shall be the
32 responsibility of the owner of any new or existing conveyance located in
33 any building or structure to have the conveyance inspected annually by a
34 licensed elevator inspector. Subsequent to such inspection, the licensed
35 elevator inspector shall supply the conveyance owner and operator, the
36 property owner or lessee, and the secretary with a written inspection report
37 describing any and all code violations. It shall be the responsibility of the
38 secretary to enforce compliance. The owner of the conveyance shall have
39 30 days from the date of the published inspection report to be in full
40 compliance by correcting such violations. The secretary may grant
41 additional 30-day extensions of time if the secretary determines good
42 cause has been shown and the safety of the public will not be endangered.

43 (b) It shall be the responsibility of the owner of any conveyance to

1 have an elevator contractor conduct all required tests at the intervals
2 required in compliance with the code.

3 (c) All tests shall be performed by a licensed elevator mechanic.

4 Sec. 29. The secretary or secretary's designee or a licensed elevator
5 inspector shall have free access, during reasonable hours, to any premises
6 in the state where conveyances are being operated, repaired, installed or
7 constructed for use in this state, except private residences not used for
8 business purposes, for the purpose of ascertaining whether such
9 conveyances have been constructed and installed or are being maintained
10 and operated in accordance with the provisions of this act or the rules and
11 regulations adopted by the board or whether there exists a danger to the
12 safety of the public from such conveyances.

13 Sec. 30. (a) If upon the inspection of any conveyance covered by this
14 act, the conveyance is found to be in a dangerous condition or there is an
15 immediate hazard to those riding or using such equipment or if the design
16 or the method of operation in combination with the conveyance equipment
17 used is considered inherently dangerous in the opinion of the secretary, the
18 secretary shall notify the owner or lessee of such condition and shall order
19 such alterations or additions as may be deemed necessary to eliminate the
20 dangerous condition and may issue such other orders as provided by this
21 act.

22 (b) The secretary is authorized to order the revocation or suspension
23 of any certificate or permit issued pursuant to this act, and order any
24 owner, operator or resident agent of an owner to cease and desist operation
25 of any conveyance subject to this act for failure to comply with any of the
26 provisions of this act or any rules and regulations promulgated under the
27 authority of this act. The secretary is further authorized to order any
28 owner, operator or resident agent of an owner to cease and desist operation
29 of any conveyance subject to this act if the secretary finds that such
30 conveyance does not have a certificate of operation as required by this act,
31 or finds that such conveyance cannot be operated without danger to the
32 public health, safety or welfare.

33 (c) An order revoking or suspending a certificate of operation or
34 permit or any cease and desist order shall continue in effect until the owner
35 or operator of the conveyance demonstrates that any danger has been
36 abated and this act and the applicable rules and regulations have been
37 complied with. The secretary shall cause the conveyance to be re-inspected
38 to ensure that it is safe to operate and that all applicable rules and
39 regulations have been complied with before issuing or reinstating a
40 certificate to operate the conveyance.

41 Sec. 31. This act shall take effect and be in force from and after
42 January 1, 2017, and its publication in the statute book.