

Regular Session, 2014

HOUSE BILL NO. 875

BY REPRESENTATIVE WILLMOTT

COMMERCIAL REGULATIONS: Provides for the regulation and inspection of elevators and other mechanisms

1 AN ACT

2 To amend and reenact R.S. 40:1576, 1578.1(A)(9) and (10) and (B), and 1578.2 and to enact
3 R.S. 40:1578.1(A)(11) and (12) and Subpart A-2, Part III of Chapter 7 of Title 40 of
4 the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1597.1 through
5 1597.23, relative to elevators and conveyance devices; to provide for the scope of
6 regulation of the law; to provide for definitions; to provide for the registration of
7 elevator and conveyance devices; to provide for the issuance of inspector licenses;
8 to provide for violations, fines, and administrative actions; to require the office of the
9 state fire marshal to promulgate administrative rules; to require compliance with
10 certain codes; to require registrations and inspections for conveyances; to provide for
11 inspections; to provide for enforcement; to create a fund; to provide relative to
12 liability; to provide relative to the applicability of the law; and to provide for related
13 matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 40:1576, 1578.1(A)(9) and (10) and (B), and 1578.2 are hereby
16 amended and reenacted and R.S. 40:1578.1(A)(11) and (12) and Subpart A-2, Part III of
17 Chapter 7 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.
18 40:1597.1 through 1597.23, are hereby enacted to read as follows:

19 §1576. Service of order

20 Any order for removal or remedying issued pursuant to R.S. 40:1575 or an
21 order to place a conveyance device, as defined by R.S. 40:1662, out of service may

1 be served upon the occupant of the premises to which it is directed by delivering a
 2 copy to the occupant personally or by registered or certified mail, or to any person
 3 in charge of the premises. If no person is found upon the premises, the order may
 4 be served by affixing a copy thereof in a conspicuous place on the door at the
 5 entrance to the premises. Whenever it is necessary to serve an order upon the owner
 6 of the premises, it may be served either by delivering a copy to the person as herein
 7 provided or, if the owner is absent from the jurisdiction of the officer making the
 8 order, by mailing the copy to the owner's last known post office address.

9 * * *

10 §1578.1. Board of review

11 A. A board of review shall be established to evaluate alternatives to fire
 12 prevention or protection laws and regulations or the Conveyance Devices Safety Act
 13 established by the fire marshal when a request of review is properly submitted. The
 14 board of review shall not have the power to waive fire prevention and protection
 15 requirements or requirements of the Conveyance Devices Safety Act, but shall
 16 determine whether the suggested alternative provides equivalent or better protection
 17 within the context of the intent of the law. The board of review shall be composed
 18 of the following membership:

19 * * *

20 (9) One elevator inspector licensed pursuant to the Conveyance Devices
 21 Safety Act selected by the Qualified Elevator Inspector Training Fund; and

22 (10) One elevator manufacturer selected by the Louisiana State Licensing
 23 Board for Contractors; and

24 ~~(9)~~ (11) One representative of the fire marshal's office, ex officio and non
 25 voting selected by the fire marshal;

26 ~~(10)~~ (12) The fire marshal, ex officio and non voting.

27 Those members designated in Paragraphs 1 through 6 shall be appointed by
 28 the governor for a term of four years. A voting member of the board shall be elected
 29 by its membership as chairman for a term of one year.

1 B. ~~Five~~ Six members of the board shall constitute a quorum. No board
2 member shall act in any case in which he has a personal pecuniary interest.

3 * * *

4 §1578.2. Appeal to board

5 If an order of the fire marshal issued pursuant to R.S. 40:1578.6, ~~or~~ R.S.
6 40:1615.14, or a report issued pursuant to R.S. 40:1597.10 is appealed to the board
7 of review, except as is provided in R.S. 40:1578.3, the order shall be suspended
8 without posting of security until such time as the board renders a final decision.

9 SUBPART A-1. CONVEYANCE DEVICES

10 §1597.1. Short title

11 This Subpart shall be known and may be cited as the "Conveyance Devices
12 Safety Act".

13 §1597.2. Purpose; administration and enforcement

14 A. (1) The purpose of this Subpart is to provide for the safety of the persons
15 utilizing and working with conveyance devices, as well as to promote public safety
16 awareness by requiring conveyance device inspections by licensed elevator
17 inspectors.

18 (2) The use of unsafe and defective conveyance devices imposes the
19 probability of injury to the persons exposed to these unsafe devices. The prevention
20 of these injuries is in the best interest of the people of this state.

21 B. In fulfilling the purpose of this Subpart, elevators and conveyances shall
22 be registered and inspected in accordance with this Subpart and rules adopted by the
23 state fire marshal, all in the interest of protecting persons who use and work on
24 elevators and conveyance devices.

25 §1597.3. Applicability to certain equipment

26 A. The provisions of this Subpart shall apply to the following equipment, its
27 associated parts, and its hoistways, except as provided by R.S. 40:1597.4:

1 (1) Hoisting and lowering mechanisms equipped with a car or platform,
2 which move between two or more landings. This equipment shall include but is not
3 limited to the following:

4 (a) Elevators.

5 (b) Platform lifts.

6 (c) Stairway chair lifts.

7 (2) Power-driven stairways and walkways for carrying persons between
8 landings. This equipment shall include but is not limited to the following:

9 (a) Escalators.

10 (b) Moving walks.

11 (3) Hoisting and lowering mechanisms equipped with a car, which serve two
12 or more landings and are restricted to the carrying of material by their limited size
13 or limited access to the car. This equipment shall include but is not limited to the
14 following:

15 (a) Dumbwaiters.

16 (b) Material lifts and dumbwaiters with automatic transfer devices.

17 B. The provisions of this Subpart shall also apply to automatic guided transit
18 vehicles on guideways with an exclusive right-of way. This equipment shall include
19 but is not limited to automated people movers.

20 C. The equipment listed in this Section is hereinafter collectively referred to
21 in this Subpart as "conveyance device" or "conveyance equipment".

22 §1597.4. Exempt equipment

23 The provisions of this Subpart shall not apply to the following equipment:

24 (1) Material hoists within the scope of ANSI A10.5.

25 (2) Man lifts within the scope of ASME A90.1.

26 (3) Mobile scaffolds, towers, and platforms within the scope of ANSI A92.

27 (4) Powered platforms and equipment for exterior and interior maintenance
28 within the scope of ANSI 120.1.

29 (5) Conveyors and related equipment within the scope of ASME B20.1.

1 (6) Cranes, derricks, hoists, hooks, jacks, and slings within the scope of
2 ASME B30.

3 (7) Industrial trucks within the scope of ASME B56.

4 (8) Portable equipment, except for portable escalators which are covered by
5 ASME A17.1/CSA B44 and ASME A17.7/CSA B44.7.

6 (9) Tiering or piling machines used to move materials to and from storage
7 located and operating entirely within one story.

8 (10) Equipment for feeding or positioning materials at machine tools,
9 printing presses, and other similar machines.

10 (11) Skip or furnace hoists.

11 (12) Wharf ramps.

12 (13) Railroad car lifts or dumpers.

13 (14) Line jacks, false cars, shafters, moving platforms, and similar
14 equipment used for installing an elevator by a contractor licensed in this state.

15 (15) Non-code standard installations.

16 (16) Any device listed in R.S. 40:1665.3 which is located in or on a state
17 owned or leased building.

18 §1597.5. Definitions

19 As used in this Subpart, the terms defined in this Section have the meanings
20 herein given to them, except where the context expressly indicates otherwise:

21 (1) "ASCE 21" means the American Society of Civil Engineers Automated
22 People Mover Standards.

23 (2) "ASME A17.1/CSA B44" means the Safety Code for Elevators and
24 Escalators, an American National Standard.

25 (3) "ASME A17.3" means the Safety Code for Existing Elevators and
26 Escalators, an American National Standard.

27 (4) "ASME A17.7/CSA B44.7" means the Performance-Based Safety Code
28 for Elevators and Escalators, an American National Standard.

1 (5) "ASME A18.1" means the Safety Standard for Platform Lifts and
2 Stairway Chairlifts, an American National Standard.

3 (6) "Automated people mover" means an installation as defined as an
4 "automated people mover" in ASCE 21.

5 (7) "Conveyance" or "conveyance device" means any device listed in R.S.
6 40:1665.3.

7 (8) "Elevator" means an installation as defined as an "elevator" in ASME
8 A17.1/CSA B44.

9 (9) "Elevator contractor" means the company or individual that installed the
10 elevator.

11 (10) "Elevator inspector" means any person licensed issued pursuant to this
12 Subpart who engages in the business of inspecting elevators and other related
13 conveyances regulated by this Subpart.

14 (11) "Elevator inspection firm" means any sole proprietorship, partnership,
15 limited liability company, or any other entity, licensed pursuant to this Subpart that
16 engages in the business of inspecting elevators and other related conveyances
17 regulated by this Subpart.

18 (12) "Escalator" means an installation as defined as an "escalator" in ASME
19 A17.1/CSA B44.

20 (13) "Existing installation" means an installation as defined as an
21 "installation, existing" in ASME A17.3/CSA B44.

22 (14) "Fire marshal" or "office of the state fire marshal" means the
23 Department of Public Safety and Corrections, office of state fire marshal, and its
24 authorized representatives empowered to enforce this Subpart.

25 (15) "Material alteration" means an "alteration" as defined in the referenced
26 standards.

27 (16) "Moving walk or sidewalk" means an installation as defined as a
28 "moving walk" in ASME A17.1/CSA B44.

1 (17) "One- or two-family dwelling" means a separate dwelling, a duplex, or
2 a separate apartment in a multiple dwelling, which is occupied by members of a
3 single-family unit.

4 (18) "Person" or "persons" means a natural person or natural persons.

5 (19) "Repair" means a "repair" as defined in the referenced standards.

6 §1597.6. Other definitions

7 All other building transportation terms are defined in the latest edition of
8 ASME A17.1/CSA B44 and ASME A18.1.

9 §1597.7. American Society of Mechanical Engineers; American National Standards
10 Institute; American Society of Civil Engineers; applicability to conveyance
11 devices; minimum standards; appeal

12 A. Adequate protection for safety shall be afforded in every conveyance
13 device to which this Subpart applies. To afford such protection, conveyances
14 devices shall comply with the rules and regulations to be promulgated by the fire
15 marshal in conformity with the Administrative Procedure Act which shall establish
16 as minimum standards for existing and newly installed conveyances devices pursuant
17 to the provisions of the American Society of Mechanical Engineers and American
18 National Standards Institute, Safety Code for Elevators and Escalators and American
19 Society of Mechanical Engineers Safety Standards for Platform Lifts and Stairway
20 Chairlifts, American Society of Civil Engineers, Automated People Mover
21 Standards, applicable to conveyance devices or elevators as all are annually or
22 periodically amended, and the fire marshal shall be the authority having jurisdiction
23 to enforce compliance with such regulations. The effective date for enforcement
24 shall be one hundred eighty days after adoption and promulgation under the
25 Administrative Procedure Act.

26 B. A parish or municipality which, prior to April 1, 2015, has adopted and
27 is enforcing a nationally recognized standards or codes for conveyance devices may
28 continue to enforce such codes in place of the codes required in Subsection A of this

1 Section; however, such codes or standards shall contain requirements that are
2 substantially equal to the fire marshal's code with respect to conveyance devices.

3 C. The provisions of this Subpart are not intended to prevent the use of
4 systems, methods, or devices of equivalent or superior quality, strength, fire
5 resistance, code effectiveness, durability, and safety, to those required by the
6 applicable code, provided that the fire marshal determines that there is technical
7 documentation to demonstrate the equivalency or superiority of the system, method,
8 or device, as prescribed in the American Society of Mechanical Engineers and
9 American National Standards Institute, Safety Code for Elevators and Escalators and
10 American Society of Mechanical Engineers Safety Standards for Platform Lifts and
11 Stairway Chairlifts, American Society of Civil Engineers, Automated People Mover
12 Standards, applicable to conveyance devices.

13 §1597.8. State fire marshal; owners; elevator and conveyance device registration
14 and inspections

15 The fire marshal shall cause the registration and inspection of conveyance
16 devices in the state, except those exempt pursuant to R.S. 1597.4, in accordance
17 with this Subpart.

18 §1597.9. Inspectors

19 The inspections conducted pursuant to this Subpart are to be conducted by
20 elevator inspectors licensed pursuant to this Subpart. An elevator contractor that
21 installs a conveyance device shall be on-site for any inspection by a licensed elevator
22 inspector.

23 §1597.10. State fire marshal; administrative rules; conveyance device registration
24 and inspections

25 The state fire marshal shall promulgate rules, pursuant to the Administrative
26 Procedure Act, which he considers necessary for the administration and enforcement
27 of this Subpart. At minimum, the rules shall contain the following:

1 (1) The owner of each conveyance device installed prior to April 1, 2015,
2 except those in one-or-two family dwellings, shall register the device with his office
3 by April 1, 2016.

4 (2) An elevator contractor who installs a conveyance device on or after April
5 2, 2016, including those installed in one-or-two family dwellings, shall cause the
6 device to be registered and inspected by a licensed elevator inspector prior to the
7 device being put into use. The elevator inspector shall be independent of the elevator
8 contractor that installed the elevator.

9 (3) The owner of each conveyance device, except those in one-and-two
10 family homes, installed prior to April 1, 2016, shall cause an annual inspection of the
11 device by a licensed elevator inspector. The first inspection shall occur prior to April
12 1, 2017.

13 (4) A process by which licensed elevator inspectors shall report the findings
14 of each inspection to the fire marshal and to the owner of the conveyance device and
15 by which a licensed elevator inspector shall indicate to the public that a conveyance
16 device meet applicable standards during his inspection. Such process shall include
17 the following, at minimum:

18 (a) If the inspector determines that the conveyance device does not meet
19 applicable standards, he shall describe these facts in detail and cite the standards and
20 deficiencies in his report.

21 (b) The fire marshal shall notify the owner of the conveyance device
22 inspected of remediation required to be made and the time frame in which the
23 remediation shall be made.

24 (c) The owner shall dispute the findings of any report by requesting a hearing
25 with the board of review, R.S. 40:1578.1.

26 (d) The licensed elevator inspector shall place a notice on a conveyance
27 device he inspected indication his name and the date that the device meet applicable
28 standards according to his inspection.

1 (5) The standards of the American Society of Mechanical Engineers and
2 American National Standards Institute, Safety Code for Elevators and Escalators and
3 American Society of Mechanical Engineers Safety Standards for Platform Lifts and
4 Stairway Chairlifts, American Society of Civil Engineers, Automated People Mover
5 Standards, applicable to conveyance devices or elevators, that each conveyance
6 device inspected shall meet.

7 §1597.11. Inspection of premises; orders for repair or removal of dangerous
8 conditions

9 A. Upon review of a report of a licensed elevator inspector, complaint of any
10 person, or upon his own initiative when he thinks necessary, the fire marshal or any
11 of his authorized representatives may inspect any conveyance device within the state
12 except those within the interiors of private and one- or two-family dwellings.

13 B. Whenever the inspecting officer from the fire marshal's office finds any
14 such conveyance device, for any cause, is especially dangerous to life or which is so
15 situated as to endanger other property or the occupants thereof, he shall order the
16 elevator out of service. The owner of the elevator shall not permit it to be used until
17 the fire marshal certifies that the hazardous conditions have been eliminated.

18 C. An order to place an elevator out of service shall be served pursuant to
19 R.S. 40:1576.

20 D. An appeal of an order to place an elevator out of service shall be taken
21 pursuant to R.S. 40:1577.

22 §1597.12. Fees

23 The fire marshal shall establish by rule, adopted and promulgated in
24 accordance with the Administrative Procedure Act, reasonable fees in order to
25 implement the provisions of this Subpart, including the initial fee for a elevator
26 inspector license, the renewal fee for an elevator inspector license, the initial fee for
27 an elevator inspection firm license, the renewal fee for an elevator inspection firm
28 license, the fee for an initial inspection, and the fee for subsequent inspections.

1 §1597.13. License required

2 No person shall conduct an inspection as required by this Subpart for any
3 conveyance on or within a building or structure located within the jurisdiction of this
4 state, including but not limited to conveyances in or on one- or two- family
5 dwelling, unless the person possesses an elevator inspection license issued by the
6 fire marshal as provided in this Subpart.

7 §1597.14. Elevator inspector license; requirements

8 A. In order to engage in elevator inspections required by this Subpart, a
9 person shall apply for and obtain an elevator inspector license from the fire marshal.

10 B. The fire marshal shall, by rule adopted in accordance with the
11 Administrative Procedure Act, establish qualifications for the licensing of persons
12 as elevator inspectors, which shall include the following, at minimum:

13 (1) Certification of the applicant by an organization recognized by the fire
14 marshal as a QEI or equivalent accreditation program.

15 (2) Required insurance

16 (3) Designated agent for service.

17 (4) The application fee.

18 C. Each individual license holder shall have proof of his license with him
19 while engaging in elevator inspections and present such license upon demand by
20 employee of the office of the state fire marshal.

21 D. As a further condition of licensure, the acceptance of a license by a
22 person shall be deemed as consent to submit to the reasonable requests for
23 documentation by the state fire marshal and to cooperate in a lawful investigation by
24 the fire marshal. Refusal to cooperate with any lawful investigation by the fire
25 marshal shall be subject to any penalty as outlined in this Subpart, or administrative
26 rules adopted pursuant to this Subpart, including suspension or revocation of the
27 license.

28 E. Each person licensed pursuant to this Section shall notify the fire marshal
29 within fifteen days of a change in the business address of the licensee.

1 F. All licenses issued pursuant to this Section are valid for one year, and
2 shall be renewed annually to remain valid.

3 §1597.15. Application for an elevator inspection firm license; requirements to
4 maintain

5 A. In order to engage in elevator inspections required by this Subpart, a firm
6 shall apply for and obtain a license for each operating location doing business in the
7 state.

8 B. The fire marshal shall, by rule adopted in accordance with the
9 Administrative Procedure Act, establish qualifications for the licensing of firms as
10 elevator inspection firms, which shall include the following, at minimum:

11 (1) A completed firm application.

12 (2) Documentation that the firm is an entity duly authorized to conduct
13 business within this state. If the firm is physically located in Louisiana,
14 documentation shall be in the form of a local or parish occupational license and if
15 incorporated, registration with the secretary of state. If the firm is physically located
16 outside of the state, documentation shall be in the form of registration with the
17 secretary of state as a foreign corporation including the name of the firm's registered
18 agent of service.

19 (3) An original certificate of insurance documenting that the firm has a
20 minimum of one million bodily insurance and five-hundred thousand property
21 damage insurance.

22 (4) A current and valid workers' compensation insurance policy which meets
23 at least the statutory minimum required by state law.

24 (5) The name of the person who will serve as the designated agent of the
25 company.

26 (6) Proof of employment of an elevator inspector licensed pursuant to this
27 Subpart.

28 (7) The application fee authorized by this Subpart.

1 C. Each firm as a condition of licensure shall be open for inspection by the
2 fire marshal at any reasonable time for the purpose of observation and collection of
3 facts and data relating to proper enforcement of this Subpart. No person acting on
4 behalf of the firm shall refuse to admit the fire marshal to an operating location.
5 Firms physically located outside of Louisiana may be charged for the travel expenses
6 of the fire marshal to conduct such an inspection.

7 D. As a further condition of licensure, the acceptance of a license by a firm
8 shall be deemed as consent to submit to the reasonable requests for documentation
9 by the fire marshal and to cooperate in a lawful investigation by the fire marshal.
10 Refusal to cooperate with any lawful investigation by the fire marshal shall be
11 subject to any penalty as outlined in this Subpart, or administrative rules adopted
12 pursuant to this Subpart, including suspension or revocation of license.

13 E. Each firm shall clearly display its license in a conspicuous location at its
14 place of business.

15 F. The designated agent of an elevator inspection firm shall notify the fire
16 marshal within ten days of the following:

17 (1) Any change in the business address of the firm.

18 (2) Any change in ownership of or interest in the firm.

19 (3) Any change in the employment of a person holding an individual license.

20 G. No elevator inspection firm shall cause an elevator inspection to occur
21 unless the inspection is conducted by an elevator inspector licensed pursuant to this
22 Subpart.

23 §1597.16. Powers and duties of state fire marshal; licensure

24 The state fire marshal shall:

25 (1) Evaluate the qualifications of firms or persons applying for or
26 maintaining a license pursuant to this Subpart.

27 (2) Have authority to conduct examinations to ascertain the qualifications
28 and fitness of applicants for a license pursuant to this Subpart.

1 (3) Issue full or provisional licenses to firms and persons that meet the
2 qualifications established by this Subpart.

3 (4) Evaluate the qualifications of firms and seeking licensure.

4 (5) Have authority, after notice and opportunity for hearing, to increase or
5 decrease the limits of insurance coverage and authorize acceptance of surplus lines
6 coverage if the state fire marshal determines that due to loss experience, market
7 conditions, or other good reason, the liability insurance coverage required by this
8 Subpart is unavailable to applicants for or holders of licenses.

9 (6) Have authority to conduct inspections of licensed firms, whether in state
10 or out of state, for the purpose of observation and collection of facts and data relating
11 to proper enforcement of this Subpart.

12 (7) Investigate all written complaints lodged against firms or individuals who
13 are alleged to have violated this Subpart and pursue administrative action against the
14 firms or individuals.

15 §1597.17. Prohibited acts

16 No person or firm shall do any of the following:

17 (1) Engage in conveyance device inspections without a valid license.

18 (2) Aid and abet an unlicensed individual, employee, or firm in a conveyance
19 device inspection or inspections.

20 (3) Inspect a conveyance device contrary to applicable codes, standards, or
21 manufacturer's specifications without specific written authorization from the office
22 of the state fire marshal.

23 (4) Submit an application or any other document to the office of the state fire
24 marshal when the person reasonably should have known that the document contained
25 false or misleading information.

26 (5) Engage in false, misleading, or deceptive acts or practices.

27 (6) Fail to maintain a valid license as required by this Subpart.

28 (7) Fail to maintain a valid insurance policy as required by this Subpart.

1 (8) Refuse to admit the state fire marshal or his designated representative to
2 an operating location or refuse to cooperate in the purposes of such admittance as
3 required by this Subpart.

4 (9) Fail to maintain his license on his person and to present it for inspection
5 as required by this Subpart.

6 (10) Fail to return a conveyance device to the factory default setting.

7 (11) Refuse to cooperate with any lawful investigation by the office of the
8 state fire marshal.

9 (12) Fail to abide by the administrative rules promulgated pursuant to this
10 Subpart.

11 §1597.18. Notice, hearing, and revocation of certificate or license

12 The license as provided for in this Subpart may be revoked or suspended after
13 notice and hearing in accordance with the Administrative Procedure Act and upon
14 a finding that a person or firm:

15 (1) Willfully violated any provision of this Subpart or any rule, regulation,
16 or order adopted hereunder.

17 (2) Used deceit or false or misleading information in obtaining any
18 certificate or license pursuant to this Subpart.

19 (3) Has been professionally incompetent or grossly negligent.

20 (4) Has assisted any person attempting to evade the provisions of this
21 Subpart, or any rules or regulations adopted hereunder.

22 §1597.19. Penalties

23 A.(1) In addition to or in lieu of administrative sanctions provided in this
24 Subpart, the state fire marshal is empowered to issue an order to any person or firm
25 engaged in any activity, conduct, or practice constituting a violation of any provision
26 of this Subpart, directing such person or firm to cease and desist from such activity,
27 conduct, or practice. Such order shall be issued in the name of the state of Louisiana
28 under the official seal of the state fire marshal.

1 (2) If the person or firm to whom the state fire marshal directs a cease and
2 desist order does not cease and desist the prohibited activity, conduct, or practice
3 immediately after service of such cease and desist order by certified mail or personal
4 service, the state fire marshal may seek, in any court of competent jurisdiction and
5 proper venue, a writ of injunction enjoining such person or firm from engaging in
6 any activity, conduct, or practice prohibited by this Subpart.

7 (3) Upon a proper showing by the state fire marshal that such person or firm
8 has engaged in any activity, conduct, or practice prohibited by this Subpart, the court
9 shall issue a temporary restraining order restraining the person or firm from engaging
10 in unlawful activity, conduct, or practices pending the hearing on a preliminary
11 injunction, and in due course a permanent injunction shall be issued after a hearing,
12 commanding the cessation of the unlawful activity, conduct, or practices.

13 (4) A temporary restraining order, preliminary injunction, or permanent
14 injunction issued under this Subpart shall not be subject to being released upon bond.

15 (5) In the suit for an injunction, the state fire marshal may demand of the
16 defendant a penalty of fifty dollars per day for each violation, reasonable attorney
17 fees, and court costs. Judgment for penalty, attorney fees, and court costs may be
18 rendered in the same judgment in which the injunction is made absolute.

19 B. If the state fire marshal finds that any person or firm has violated any
20 provision of this Subpart or any regulation, rule, or order issued hereunder, he may
21 impose upon that person or firm a fine in an amount not to exceed five thousand
22 dollars for each violation. The state fire marshal shall establish and promulgate a
23 fine schedule pursuant to the Administrative Procedure Act.

24 C. Procedures for the imposition of fines and appeals of such fines shall be
25 governed by the Administrative Procedure Act.

26 §1597.20. Conveyance Devices Safety Fund

27 A. There is hereby created, as a special fund in the state treasury, the
28 Conveyance Devices Safety Fund. The source of monies for the fund shall be all
29 monies collected pursuant to this Subpart, and grants, gifts, and donations and any

1 other monies received by the state to fulfill the purpose of this Subpart which are
2 appropriated to the fund.

3 B. After compliance with the requirements of Article VII, Section 9(B) of
4 the Constitution of Louisiana, relative to the Bond Security and Redemption Fund,
5 an amount equal to that deposited into the state treasury from the foregoing sources
6 shall be deposited in and credited to the fund. The monies in the fund shall be
7 invested by the treasurer in the same manner as the state general fund, and interest
8 earnings shall be deposited into the fund. All unexpended and unencumbered
9 monies remaining in the fund at the end of each fiscal year shall remain in the fund.

10 C. Monies in the fund shall be subject to annual appropriation by the
11 legislature for the exclusive use of the Department of Public Safety and Corrections,
12 office of the state fire marshal, in implementing the provisions of this Subpart. The
13 monies in the fund shall be allocated and disbursed by the deputy secretary of
14 Department of Public Safety and Corrections, public safety services, for the
15 exclusive use by the office of the state fire marshal in implementing this Subpart.

16 §1597.21. Liability

17 A. This Subpart shall not be construed to relieve or lessen the responsibility
18 or liability of any person, firm, or corporation owning, operating, controlling,
19 maintaining, erecting, constructing, installing, altering, inspecting, testing, or
20 repairing any conveyance device or other related mechanisms regulated by this
21 Subpart for damages to persons or property caused by any defect in devices.

22 B. In addition, the state shall not assume any such liability or responsibility
23 or any liability to any person or firm for any reason whatsoever by the adoption of
24 this Subpart or any acts or omissions arising hereunder.

25 §1597.22. State law, code, or regulation

26 Whenever a provision in this Subpart is found to be inconsistent with any
27 other provision of applicable state law, code, or regulation, the other applicable state
28 law shall prevail. This Subpart, unless specifically stated otherwise, is not intended

1 to establish more stringent or more restrictive standards than those standards set forth
2 in the applicable state law.

3 §1597.23. Permits issued by political subdivisions

4 Nothing in this Subpart shall prohibit political subdivisions from requiring
5 local permits for the erection, construction, installation, inspection, or alteration of
6 conveyance devices.

7 * * *

8 Section 3. The provisions of this Act shall not be implemented, applied, or enforced
9 until the final adoption and promulgation of all necessary rules and regulations are
10 promulgated by the office of the state fire marshal. The office of the state fire marshal shall,
11 upon the effective date of this Act, immediately commence the process of promulgating such
12 rules and regulations.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Willmott

HB No. 875

Abstract: Creates the Conveyance Devices Safety Act.

Proposed law requires certain elevators and conveyance devices to be registered with the office of the state fire marshal and inspected by licensed elevator inspectors.

Proposed law lists the conveyance devices that will be subject to the registration and inspection requirements the Conveyance Devices Safety Act.

Proposed law lists the conveyance devices that will be exempt from the registration and inspection requirements the Conveyance Devices Safety Act.

Proposed law provides guidelines for which standards existing and newly installed conveyance devices must meet.

Proposed law requires the office of the state fire marshal to promulgate rules providing for the following:

- (1) The owner of each conveyance device installed prior to April 1, 2015, except those in one-or-two family dwellings, shall register the device with his office by April 1, 2016.
- (2) An elevator contractor who installs a conveyance device on or after April 2, 2016, including those installed in one-or-two family dwellings, shall cause the device to be registered and inspected by a licensed elevator inspector prior to the device being

- put into use. The elevator inspector shall be independent of the elevator contractor that installed the elevator.
- (3) The owner of each conveyance device, except those in one-and-two family homes, installed prior to April 1, 2016, shall cause an annual inspection of the device by a licensed elevator inspector. The first inspection shall occur prior to April 1, 2017.
 - (4) A process by which licensed elevator inspectors shall report the findings of each inspection to the fire marshal and to the owner of the conveyance device and by which a licensed elevator inspector shall indicate to the public that a conveyance device meet applicable standards during his inspection. Such process shall include the following, at a minimum:
 - (a) If the inspector determines that the conveyance device does not meet applicable standards, he shall describe these facts in detail and cite the standards and deficiencies in his report.
 - (b) The fire marshal shall notify the owner of the conveyance device inspected of remediation required to be made and the time frame in which the remediation shall be made.
 - (d) The owner shall dispute the findings of any report by requesting a hearing with the board of review, R.S. 40:1578.1.
 - (e) The licensed elevator inspector shall place a notice on a conveyance device he inspected indication his name and the date that the device meet applicable standards according to his inspection.
 - (5) The standards of the American Society of Mechanical Engineers and American National Standards Institute, Safety Code for Elevators and Escalators and American Society of Mechanical Engineers Safety Standards for Platform Lifts and Stairway Chairlifts, American Society of Civil Engineers, Automated People Mover Standards, applicable to conveyance devices or elevators, that each conveyance device inspected shall meet.
 - (6) Reasonable fees in order to implement the provisions of this Subpart, including the initial fee for a elevator inspector license, the renewal fee for an elevator inspector license, the initial fee for an elevator inspection firm license, the renewal fee for an elevator inspection firm license, the fee for an initial inspection, and the fee for subsequent inspections.
 - (7) Establish qualifications for the licensing of firms as elevator inspection firms
 - (8) Establish qualifications for the licensing of persons as elevator inspectors

Proposed law authorizes the office of the state fire marshal to put an conveyance device, except those in one-or-two family dwellings, out of service if it poses a threat to the public.

Proposed law provides for the licensing of elevator inspector and elevator inspector firms and requires all inspections of conveyances devices required pursuant to proposed law be conducted by licensed elevator inspectors.

Proposed law provides for fines and penalties for violations of proposed law.

(Amends R.S. 40:1576, 1578.1(A)(9) and (10) and (B), and 1578.2; Adds R.S. 40:1578.1(A)(11) and (12) and 1597.1-1597.23)