

Chapter 49

(Senate Bill 232)

AN ACT concerning

Elevator Safety Review Board – Licensing

FOR the purpose of requiring the Elevator Safety Review Board to provide a certification of licensure on request of any person and on payment of a fee set by the Board; providing for certain information to be contained in the certification of licensure; requiring the Board to reinstate an expired license of a person if the person applies for reinstatement within a certain period of time, meets certain requirements, and pays a certain fee; authorizing the Board to reinstate an expired license that is not renewed within a certain period of time if certain conditions are satisfied; authorizing the Board under certain circumstances to deny an application for or renewal of a license, to reprimand a licensee, or to suspend or revoke a license, if the applicant or licensee is convicted of certain crimes; altering the circumstances under which the Board may impose a certain penalty; increasing the amount of a certain penalty the Board may impose for certain violations; requiring the Board under certain circumstances to consider certain criteria in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee; and generally relating to the Elevator Safety Review Board.

BY adding to

Article – Public Safety
Section 12–822.1, 12–833.1, and 12–837
Annotated Code of Maryland
(2003 Volume and 2011 Supplement)

BY repealing

Article – Public Safety
Section 12–837
Annotated Code of Maryland
(2003 Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Safety

12–822.1.

(A) ON REQUEST OF ANY PERSON AND PAYMENT OF A FEE SET BY THE BOARD, THE BOARD SHALL CERTIFY THE LICENSING STATUS OF ANY PERSON WHO IS THE SUBJECT OF THE REQUEST.

(B) EACH CERTIFICATION UNDER THIS SECTION:

(1) SHALL INCLUDE A STATEMENT OF THE LICENSING STATUS OF THE PERSON WHO IS THE SUBJECT OF THE REQUEST; AND

(2) MAY INCLUDE:

(I) INFORMATION ABOUT THE EXAMINATION RESULTS AND OTHER QUALIFICATIONS OF THAT PERSON;

(II) INFORMATION ABOUT THE DATES OF ISSUANCE AND RENEWAL OF THE LICENSE OF THAT PERSON;

(III) INFORMATION ABOUT ANY DISCIPLINARY ACTION TAKEN AGAINST THAT PERSON; AND

(IV) IF AUTHORIZED BY THAT PERSON, INFORMATION ABOUT ANY COMPLAINT AGAINST THAT PERSON.

(C) THE BOARD SHALL COLLECT A FEE SET BY THE BOARD FOR EACH CERTIFICATION UNDER THIS SECTION.

12-833.1.

(A) THE BOARD SHALL REINSTATE THE LICENSE OF A PERSON THAT, FOR ANY REASON, HAS FAILED TO RENEW THE LICENSE IF THE PERSON:

(1) APPLIES TO THE BOARD FOR REINSTATEMENT WITHIN ~~1-YEAR~~ 2 YEARS AFTER THE LICENSE EXPIRES;

(2) MEETS THE RENEWAL REQUIREMENTS OF § 12-833 OF THIS SUBTITLE; AND

(3) PAYS TO THE BOARD A REINSTATEMENT FEE IN AN AMOUNT, NOT EXCEEDING \$100, SET BY THE BOARD.

(B) (1) IF A PERSON HAS FAILED TO RENEW A LICENSE UNDER § 12-833 OF THIS SUBTITLE FOR ANY REASON AND THEN APPLIES TO THE BOARD FOR REINSTATEMENT MORE THAN ~~1-YEAR~~ 2 YEARS AFTER THE LICENSE HAS EXPIRED, THE BOARD:

(I) MAY REQUIRE THE PERSON TO REAPPLY FOR A LICENSE IN THE SAME MANNER AS AN APPLICANT APPLIES FOR AN ORIGINAL LICENSE UNDER THIS SUBTITLE; OR

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, MAY REINSTATE THE LICENSE.

(2) THE BOARD MAY REINSTATE A LICENSE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION ONLY IF THE PERSON:

(I) MEETS THE RENEWAL REQUIREMENTS OF § 12-833 OF THIS SUBTITLE;

(II) IF REQUIRED BY THE BOARD, STATES REASONS WHY REINSTATEMENT SHOULD BE GRANTED; AND

(III) PAYS TO THE BOARD A REINSTATEMENT FEE IN AN AMOUNT, NOT EXCEEDING \$100, SET BY THE BOARD.

[12-837.

(a) Subject to the hearing provisions of § 12-838 of this subtitle, the Board may deny a license to an applicant, refuse to renew a license, reprimand a licensee, suspend or revoke a license, or impose a civil penalty not exceeding \$1,000 if the Board finds that the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license;

(2) fails to notify the Board or the owner or lessee of an elevator or related mechanism of any condition not in compliance with Part II of this subtitle;

(3) violates this subtitle;

(4) transfers the authority granted by a license to another person;

(5) installs, repairs, or maintains an elevator or assists in the installation, repair, or maintenance of an elevator in a negligent or careless manner;
or

(6) willfully or deliberately disregards and violates a building code, electrical code, or construction law of the State or a county or municipal corporation of the State.

(b) In determining the appropriate penalty to be imposed under subsection (a) of this section, the Board shall consider:

- (1) the gravity of the violation;
- (2) the good faith of the violator;
- (3) the number and gravity of previous violations by the same violator;
- (4) the harm caused to the complainant, the public, and the elevator mechanic profession;
- (5) the assets of the violator; and
- (6) any other factors that the Board considers relevant.]

12-837.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 12-838 OF THIS SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN SERVING, MAY DENY A LICENSE TO AN APPLICANT, REFUSE TO RENEW A LICENSE, REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE A LICENSE, IF THE APPLICANT OR LICENSEE:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE;

(2) FAILS TO NOTIFY THE BOARD OR THE OWNER OR LESSEE OF AN ELEVATOR OR RELATED MECHANISM OF ANY CONDITION NOT IN COMPLIANCE WITH PART II OF THIS SUBTITLE;

(3) UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS CONVICTED OF:

(I) A FELONY; OR

(II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATIONS OF THE APPLICANT OR LICENSEE TO PERFORM SERVICES AS AN ELEVATOR CONTRACTOR, ELEVATOR MECHANIC, ELEVATOR RENOVATOR CONTRACTOR, OR ELEVATOR RENOVATOR MECHANIC;

(4) TRANSFERS THE AUTHORITY GRANTED BY A LICENSE TO ANOTHER PERSON;

(5) INSTALLS, REPAIRS, OR MAINTAINS AN ELEVATOR OR ASSISTS IN THE INSTALLATION, REPAIR, OR MAINTENANCE OF AN ELEVATOR IN A NEGLIGENT OR CARELESS MANNER;

(6) WILLFULLY OR DELIBERATELY DISREGARDS AND VIOLATES A BUILDING CODE, ELECTRICAL CODE, OR CONSTRUCTION LAW OF THE STATE OR A COUNTY OR MUNICIPAL CORPORATION OF THE STATE; OR

(7) VIOLATES ANY PROVISION OF THIS SUBTITLE.

(B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

(I) THE SERIOUSNESS OF THE VIOLATION;

(II) THE HARM CAUSED BY THE VIOLATION;

(III) THE GOOD FAITH OF THE LICENSEE;

(IV) THE ASSETS OF THE LICENSEE; AND

(V) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

(3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

(C) THE BOARD SHALL CONSIDER THE FOLLOWING FACTS IN THE GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE REPRIMAND OF A LICENSEE WHEN AN APPLICANT OR LICENSEE IS CONVICTED OF A FELONY OR MISDEMEANOR DESCRIBED IN SUBSECTION (A)(3) OF THIS SECTION:

(1) THE NATURE OF THE CRIME;

(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE LICENSE;

(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATIONS OF THE APPLICANT OR

LICENSEE TO PERFORM SERVICES AS AN ELEVATOR CONTRACTOR, ELEVATOR MECHANIC, ELEVATOR RENOVATOR CONTRACTOR, OR ELEVATOR RENOVATOR MECHANIC;

(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE BEFORE AND AFTER THE CONVICTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, April 10, 2012.