

SENATE BILL 1728

By Gardenhire

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 121, relative to elevators.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-121-101, is amended by adding the following new subdivisions thereto:

() "Conveyance" means any elevator, dumbwaiter, escalator, moving sidewalk, platform lifts, stairway chairlifts, and automated people movers;

() "Elevator contractor" means any sole proprietor, firm, or corporation that possesses an elevator contractor's license in accordance with this chapter and that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or related conveyance covered by this chapter;

() "Elevator contractor license" means a license that is issued to an elevator contractor who has been authorized by the commissioner to possess this type of license. It shall entitle the holder thereof to engage in the business of erecting, constructing, installing, altering, servicing, testing, repairing, or maintaining elevators or related conveyance covered by this chapter;

() "Elevator helper" or "elevator apprentice" means a person who may or may not be licensed who works under the general direction of a licensed elevator mechanic;

() "Elevator mechanic" means any person who possesses an elevator mechanic license in accordance with this chapter and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or related conveyance covered by this chapter;

() "Elevator mechanic license," means a license that is issued to a person who has proven such person's qualifications and ability and has been authorized by the commissioner to work on conveyance equipment. The license shall entitle the licensee to install, construct, alter, service, repair, test, maintain, and perform electrical work on elevators or related conveyance covered by this chapter;

() "License" means a written license, duly issued by the commissioner, authorizing a person, sole proprietor, firm, or corporation to carry on the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining of elevators or related conveyance covered by this chapter;

() "Licensee" means the elevator mechanic or elevator contractor;

() "Operation permit" means a document issued by the commissioner that indicates that the conveyance has had the required safety inspection and tests and fees have been paid as set forth in this chapter;

() "Private residence" means a separate dwelling or a separate apartment in a multiple dwelling, which is occupied by members of a single-family unit;

() "Temporary operation permit" means a document issued by the commissioner that permits the temporary use of a noncompliant conveyance for no more than thirty (30) days while minor repairs are being completed;

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 121, is amended by adding the following as a new section thereto:

68-121-113.

(a) The purpose of this chapter is to provide for the safety of installers, maintainers, operators, and users and to promote public safety awareness. The use of unsafe and defective lifting devices imposes a substantial probability of serious and preventable injury and exposure to unsafe conditions to employees and the public. The prevention of these injuries and protection of employees and the public from unsafe conditions is in the best interest of the people of this state. Elevator personnel

performing work covered by this chapter shall by training, by experience, or both, be familiar with the operation and safety functions of elevator components and equipment. The training and experience of elevator personnel shall include recognizing safety hazards and performing procedures in conformance with the requirements of safety codes.

(b) Except as provided by subsection (d), this chapter covers the design, construction, operation, testing, maintenance, alteration, and repair of the following equipment, associated parts, and hoist ways:

(1) Hoisting and lowering mechanisms equipped with a car or platform that move between two (2) or more landings. Such equipment includes, but is not limited to:

- (A) Elevators; and
- (B) Platform lifts and stairway chair lifts;

(2) Power driven stairways and walkways for carrying persons between landings. Such equipment includes, but is not limited to:

- (A) Escalators; and
- (B) Moving walks; and

(3) Hoisting and lowering mechanisms equipped with a car that serves two (2) or more landings and is restricted to the carrying of material by its limited size or limited access to the car. This equipment includes, but is not limited to, dumbwaiters.

(c) This chapter covers the design, construction, operation, maintenance, alteration, and repair of automatic guided transit vehicles on guide ways with an exclusive right-of-way. Such equipment includes, but is not limited to, an automated people mover.

(d) Equipment not covered by this chapter includes:

(1) Material hoists;

(2) Mobile scaffolds, towers, and platforms;

(3) Powered platforms and equipment for exterior and interior maintenance;

(4) Conveyors and related equipment;

(5) Cranes, derricks, hoists, hooks, jacks, and slings;

(6) Industrial trucks;

(7) Portable equipment;

(8) Tiering or piling machines used to move materials to and from storage located and operating entirely within one (1) story;

(9) Equipment for feeding or positioning materials at machine tools, printing presses, and similar equipment;

(10) Skip or furnace hoists;

(11) Wharf ramps;

(12) Railroad car lifts or dumpers; and

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

(e) No person shall erect, construct, alter, replace, maintain, remove, or dismantle any conveyance unless such person has an elevator mechanic license and is working under the direct supervision of a sole proprietor, firm, or corporation that is an elevator contractor. No person shall wire any conveyance from the mainline feeder terminals on the controller unless such person has an elevator mechanic license and is working under the direct supervision of an elevator contractor. No other license shall be required. An elevator contractor shall not be required for the removal or dismantling of

conveyances that are destroyed as a result of a complete demolition of a secured building or structure or where the hoistway or wellway is demolished back to the basic support structure so that no access is permitted to endanger the safety and welfare of a person.

(f)

(1) Any person wishing to engage in installing, altering, repairing, or servicing elevators, dumbwaiters, escalators, or moving sidewalks shall apply for a license on a form provided by the commissioner.

(2) No elevator mechanic license shall be granted to an applicant who has not demonstrated the necessary qualifications and abilities. An applicant for licensure as an elevator mechanic shall:

(A) Provide verification of the applicant's eligibility to work in the United States; and

(B) Demonstrate one (1) of the following:

(i) An acceptable combination of documented experience and education credits. The experience required shall be not less than three (3) years' work experience in the elevator industry in construction, maintenance, service, or repair or any combination thereof, as verified by current and previous employers licensed to do business in this state. Education credits shall include the passing of a written examination administered by the commissioner on the most recently adopted codes and standards;

(ii) Acceptable proof that the applicant has worked as an elevator constructor, maintenance, or repair person. Any applicant who furnishes the commissioner with acceptable proof of

employment shall be entitled to receive a license without an examination. The applicant shall have worked without direct and immediate supervision for an elevator contractor licensed to do business in this state. The employment shall not have been more than three (3) years prior to the effective date of this act. A person must apply for a license within one (1) year of the effective date of this act;

(iii) A certificate of completion and acceptable proof of having successfully passed the mechanic examination of a nationally recognized training program for the elevator industry;

(iv) A certificate of completion of an apprenticeship program for elevator mechanics having standards substantially equal to those of this state, and registration with the bureau of apprenticeship and training, United States department of labor, or the Tennessee apprenticeship council; or

(v) A valid license from a state having standards substantially equal to those of this state. A license shall be issued to an applicant under this subdivision (f)(2)(B)(v) upon application. An applicant pursuant to this subdivision (f)(2)(B)(v) shall not have to pass an examination.

(3)

(A) No elevator contractor license shall be granted to any sole proprietor, firm, or corporation that has not demonstrated the requisite qualifications and abilities.

(B) An elevator contractor shall:

(i) Employ licensed elevator mechanics to perform the work described in subsection (e); and

(ii) Provide proof of compliance with the insurance requirements set forth in subsection (k).

(C) A license may be issued to a sole proprietor, firm, or corporation holding a valid license from a state having standards substantially equal to those of this state.

(g)

(1) Licenses shall be renewable biennially. The fee for renewal of such licenses shall be set by the commissioner.

(2) Whenever the commissioner declares an emergency exists due to disaster, an act of God, or work stoppage, and the number of persons holding licenses granted by the commissioner is insufficient to cope with the emergency, elevator contractors shall respond as necessary to ensure the safety of the public. The commissioner may issue emergency elevator mechanic licenses. Any person certified as a licensed elevator contractor and approved by the commissioner as having an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision may seek an emergency elevator mechanic license within five (5) business days after commencing work requiring a license. The elevator contractor shall furnish such proof of competency as the commissioner may require. Each emergency elevator mechanic license shall be valid for forty-five (45) days from the date of its issuance and for such particular elevators or geographical areas as the commissioner may designate. Such license shall entitle the licensee to the rights

and privileges of an elevator mechanic license. The commissioner may renew an emergency elevator mechanic license during the existence of an emergency.

(3) An elevator contractor shall notify the commissioner when no licensed personnel are available to perform elevator work. The elevator contractor may request the commissioner to issue temporary elevator mechanic licenses to persons certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Each such temporary license shall recite that it is valid for the term specified in subdivision (g)(1). A temporary license shall be renewable as long as the shortage of license holders continues.

(4) The renewal of all licenses granted under this section shall be subject to the submission of a certificate of completion of continuing education requirements. A certificate of continuing education shall certify that not less than eight (8) hours of instruction was completed within one (1) year preceding renewal of the license.

(5) Continuing education courses may include association seminars and labor training programs. The commissioner shall approve continuing education providers and instructors. Instructors are exempt from the requirements of subdivision (g)(4); provided, that such applicant was qualified as an instructor one (1) year immediately preceding the scheduled date of renewal of licensure.

(6) A licensee who is unable to complete the continuing education requirements prior to the expiration of their license due to a temporary disability may apply to the commissioner for a waiver. A waiver shall be on a form provided by the commissioner. A waiver shall be signed by the licensee and accompanied by a certified statement from a competent physician attesting to such temporary

disability. Upon the termination of the temporary disability, such licensee shall submit to the commissioner a certified statement from the same physician, if practicable, attesting to the termination of such temporary disability.

(7) Approved training providers shall keep for ten (10) years uniform records of attendance of licensees. Records of attendance shall follow a format approved by the commissioner and such records shall be available for inspection by the commissioner at the commissioner's request. Approved training providers shall be responsible for the security of all attendance records and certificates of completion. Falsifying or knowingly allowing another to falsify attendance records or certificates of completion shall constitute grounds for suspension or revocation of approval.

(h) The commissioner shall have the power to suspend or revoke a license or to impose civil penalties. The licensee shall be entitled to a hearing before the commissioner. Notice to the licensee shall be provided at least ten (10) days prior to the hearing at the last known address appearing on the license. Notice shall be served personally or by registered mail. The notice shall state the date, hour, and place of hearing and set forth a statement of facts constituting the grounds for the charges against the licensee. At the hearing the commissioner or the commissioner's designee may confirm the suspension or revocation of the license or the commissioner or the commissioner's designee may reinstate the license and dismiss the proceeding.

(i) It shall be the responsibility of individuals, firms, or corporations licensed pursuant to this chapter to ensure that installation or service and maintenance of elevators and devices are performed in compliance with state fire and building codes.

(j) No conveyance covered by this chapter shall be erected, constructed, installed, or altered unless a permit has been obtained from the commissioner before

work is commenced. Where any alteration is made, the device shall conform to applicable requirements for the alteration. No permit required under this subsection (j) shall be issued except to a sole proprietor, firm, or corporation holding a current elevator contractor's license. A copy of the permit shall be kept at the construction site at all times while the work is in progress.

(k)

(1) Elevator contractors shall submit to the commissioner an insurance policy or certified copy thereof, issued by an insurance company authorized to do business in this state, to provide general liability coverage of at least one million dollars (\$1,000,000) for injury or death of any number of persons in any one (1) occurrence, with the coverage of at least five hundred thousand dollars (\$500,000) for property damage in any one (1) occurrence and necessary workers compensation insurance coverage.

(2) Notice shall be given to the commissioner within ten (10) days in the event of any alteration or cancellation of any policy.

(l) This chapter shall not be construed to relieve or lessen the responsibility or liability of any person, firm, or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, testing, or repairing any elevator or other related mechanisms covered by this chapter for damages to person or property caused by any defect therein.

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

(n) The commissioner is authorized to charge a fee to each applicant for the issuance or renewal of a license or permit.

SECTION 3. Tennessee Code Annotated, Section 68-121-101, is further amended by deleting subdivision (8) in its entirety and by substituting instead the following:

(8) "Dormant elevator, dumbwaiter, or escalator" means an elevator, dumbwaiter, or escalator whose cables have been removed, whose car and counterweight rest at the bottom of the shaftway, and whose shaftway doors are permanently boarded up or barricaded on the inside and whose main power feed lines have been disconnected;

SECTION 4. The commissioner shall promulgate rules to impose a safety fee on elevator inspections and elevator installations, which shall be used to fund this act. Such rules shall be promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 5. Any business in this state conducting its own elevator maintenance prior to the final effective date of this act shall be exempt from the provisions of this act if:

- (1) The business owns and maintains its elevators;
- (2) The elevators of the business are primarily used by employees of the business and are not openly accessible for use by the general public;
- (3) The business is primarily engaged in an industrial operation; and
- (4) The business has submitted maintenance and training documentation to the commissioner of labor and workforce development for review.

SECTION 6. For the purpose of promulgating rules, this act shall take effect July 1, 2014, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2015, the public welfare requiring it.