ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

Health and Safety Code, Chapter 754

Administered by the Texas Department of Licensing and Regulation

(Effective September 1, 2013, except as noted)

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Sec. 754.011. Definitions

In this chapter:

(1) "**Acceptance inspection**" means an inspection performed at the completion of the initial installation or alteration of equipment and in accordance with the applicable ASME Code A17.1.

(2) "**Accident**" means an event involving equipment that results in death or serious bodily injury to a person.

(3) "**Alteration**" means a change in existing equipment. The term does not include testing, maintenance, repair, replacement, or a cosmetic change that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time of alteration.

(4) "**Annual inspection**" means an inspection of equipment performed in a 12-month period in accordance with the applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The term includes an acceptance inspection performed within that period.

(5) **"ASCE"** means the American Society of Civil Engineers.

(6) "**ASCE Code 21**" means the American Society of Civil Engineers Code 21 for people movers operated by cables, as it existed on January 1, 2004, or any subsequent revision of that code adopted after a review by the commission, as required by law.

(7) **"ASME"** means the American Society of Mechanical Engineers.

(8) "**ASME Code A17.1**" means the American Society of Mechanical Engineers Safety Code for Elevators and Escalators (Bi-national standard with CSA B44-2007), ASME A17.1/CSA-B44, as it existed on January 1, 2004, or any subsequent revision of that code adopted after a review by the commission, as required by law.

(9) "**ASME Code A17.3**" means the 2002 American Society of Mechanical Engineers Safety Code for Elevators and Escalators A17.3.

(10) "**ASME Code A18.1**" means the American Society of Mechanical Engineers Safety Code for Platform Lifts and Stairway Chairlifts A18.1, as it existed on January 1, 2004, or any subsequent revision of that code adopted after a review by the commission, as required by law.

(11) "**Board**" means the elevator advisory board.

(12) "**Commission**" means the Texas Commission of Licensing and Regulation.

(13) "**Contractor**" means a person engaged in the installation, alteration, testing, repair, or maintenance of equipment. The term does not include an employee of a contractor or a person engaged in cleaning or any other work performed on equipment that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable.

(14) "**Department**" means the Texas Department of Licensing and Regulation.

(15) "**Equipment**" means an elevator, escalator, chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.

(16) **"Executive director"** means the executive director of the department.

(17) "**Industrial facility**" means a facility to which access is primarily limited to employees or contractors working in that facility.

(18) **"Inspector"** means a person engaged in the inspection and witnessing of the tests specified in the adopted standards of ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, to determine compliance with those standards.

(19) **"Owner"** means a person, company, corporation, authority, commission, board, governmental entity, institution, or other entity that holds title to a building or facility in which equipment regulated by this chapter is located.

(20) "**Qualified historic building or facility**" means a building or facility that is:

(A) listed in or eligible for listing in the National Register of Historic Places; or

(B) designated as a Recorded Texas Historic Landmark or State Archeological Landmark.

(21) "**Related equipment**" means:

(A) automatic equipment that is used to move a person in a manner that is similar to that of an elevator, an escalator, a chairlift, a platform lift, an automated people mover operated by cables, or a moving sidewalk; and

(B) hoistways, pits, and machine rooms for equipment.

(22) "**Serious bodily injury**" means a major impairment to bodily function or serious dysfunction of any bodily organ or part requiring medical attention.

(23) "**Unit of equipment**" means one elevator, escalator, chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.

Sec. 754.0111. Exemptions.

(a) This chapter does not apply to equipment in a private building for a labor union, trade association, private club, or charitable organization that has two or fewer floors.

(b) This chapter does not apply to an elevator located in a single-family dwelling, except as provided by Section 754.0141.

(c) This chapter does not apply to equipment located in a building owned and operated by the federal government.

(d) This chapter does not apply to equipment in an industrial facility, or in a grain silo, radio antenna, bridge tower, underground facility, or dam, to which access is limited primarily to employees of or working in that facility or structure.

Sec. 754.0112. Institution of Higher Education: Employee Duties and Insurance Requirement.

(a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) Notwithstanding any contrary provision of this chapter, this chapter does not prohibit a registered elevator inspector or registered contractor from performing an activity regulated by this chapter or the rules adopted under this chapter if the inspector or contractor is performing the activity as an employee of an institution of higher education.

(c) Notwithstanding any contrary provision of this chapter, this chapter does not prohibit a registered elevator inspector or registered contractor performing an activity described by Subsection (b) as an employee of an institution of higher education from providing written evidence of self-insurance coverage to satisfy an insurance requirement under this chapter or rules adopted under this chapter.

Sec. 754.012. Elevator Advisory Board.

(a) The elevator advisory board is composed of nine members appointed by the presiding officer of the commission, with the commission's approval, as follows:

(1) a representative of the insurance industry or a registered elevator inspector;

(2) a representative of equipment constructors;

(3) a representative of owners or managers of a building having fewer than six stories and having equipment;

(4) a representative of owners or managers of a building having six stories or more and having equipment;

(5) a representative of independent equipment maintenance companies;

(6) a representative of equipment manufacturers;

(7) a licensed or registered engineer or architect;

(8) a public member; and

(9) a public member with a physical disability.

(b) Board members serve at the will of the commission.

(c) The presiding officer of the commission, with the commission's approval, shall appoint a presiding officer of the board to serve for two years.

(d) The board shall meet as determined by the executive director or by the presiding officer of the commission.

(e) A board member serves without compensation but is entitled to reimbursement for travel as provided for in the General Appropriations Act.

Sec. 754.013. Board Duties.

To protect public safety and to identify and correct potential hazards, the board shall advise the commission on:

(1) the adoption of appropriate standards for the installation, maintenance, alteration, operation, testing, and inspection of equipment;

(2) the status of equipment used by the public in this state;

(3) sources of information relating to equipment safety;

(4) public awareness programs related to elevator safety, including programs for sellers and buyers of single-family dwellings with elevators, chairlifts, or platform lifts; and

(5) any other matter considered relevant by the commission.

Sec. 754.014. Standards Adopted by Commission.

(a) The commission by rule shall adopt standards for the installation, maintenance, alteration, operation, testing, and inspection of equipment used by the public in:

(1) buildings owned or operated by the state, a state-owned institution or agency, or a political subdivision of the state; and

(2) buildings that contain equipment that is open to the general public, including a hotel, motel, apartment house, boardinghouse, church, office building, shopping center, or other commercial establishment.

(b) Standards adopted under commission rules may not contain requirements in addition to the requirements in the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The standards must allow alteration of existing equipment if the alteration does not diminish the safety of the equipment below the level required by this chapter at the time of alteration.

(c) Standards adopted under commission rules must require equipment to comply with the installation requirements of the ASME Code A17.1, ASME Code A18.1, or ASCE Code 21 that was in effect and applicable on the date of installation of the equipment.

(d) Standards adopted under commission rules must require equipment to comply with the installation requirements of the ASME Code A17.3 that contains minimum safety standards for all equipment, regardless of the date of installation.

(e) The executive director may grant a delay for compliance with the codes and adopted standards until a specified time if the executive director determines that the noncompliance does not constitute a significant threat to passenger or worker safety. The accumulated total time of all delays for a specific noncompliant condition may not exceed three years, except as determined by the executive director.

(g) The executive director may grant a waiver of compliance from an applicable code requirement if the executive director finds that:

(1) the building in which the equipment is located is a qualified historic building or facility or the noncompliance is due to structural components of the building;

(2) noncompliance will not constitute a significant threat to passenger safety; and

(3) noncompliance, with adequate alternative safeguards, will not constitute a significant threat to worker safety.

(h) The executive director shall grant a waiver of compliance if the noncompliance resulted from compliance with a municipal equipment construction code at the time of the original installation and the noncompliance does not pose imminent and significant danger.

(h-1) The executive director may grant a waiver of compliance with the firefighter's service provisions of the ASME Code A17.1 or the ASME Code A17.3 in an elevator that exclusively serves a vehicle parking garage in a building that:

(1) is used only for parking;

(2) is constructed of noncombustible materials; and

(3) is not greater than 75 feet in height.

(j) One application for a waiver or delay may contain all requests related to a unit of equipment.

(k) For purposes of determining the applicable standards and codes under this chapter, the date of installation or alteration of equipment is the date that the owner of the real property entered into a contract for the installation or alteration of the equipment. If that date cannot be established, the date of installation or alteration is the date of issuance of the municipal building permit under which the equipment was installed or altered or, if a municipal building permit was not issued, the date that electrical consumption began for the construction of the building in which the equipment was installed.

(l) Standards adopted under commission rules may include and be guided by revised versions of ASME Code A17.1, ASME Code A18.1, and ASCE Code 21, as appropriate.

(m) The executive director may on application of a person and in accordance with procedures adopted under commission rules, grant a variance to allow the installation of new technology if the new component, system, subsystem, function, or device is equivalent or superior to the standards adopted under commission rules.

Sec. 754.0141. Standards for Equipment in Single-Family Dwellings; Required Information.

(a) Elevators, chairlifts, or platform lifts installed in a single-family dwelling on or after January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as applicable, and must be inspected by a registered elevator inspector after the installation is complete. The inspector shall provide the dwelling owner a copy of the inspection report.

(b) The commission shall adopt rules containing minimum safety standards that must be used by registered elevator inspectors when inspecting elevators, chairlifts, and platform lifts installed in single-family dwellings.

(c) A municipality may withhold a certificate of occupancy for a dwelling or for the installation of the elevator or chairlift until the owner provides a copy of the inspection report to the municipality.

(d) A contractor is not required to report to the department any information, concerning equipment in a single-family dwelling or the contractor's work on the equipment.

(e) On completing installation of equipment in a single-family dwelling, a contractor shall provide the dwelling owner with relevant information, in writing, about use, safety, and maintenance of the equipment, including the advisability of having the equipment periodically and timely inspected by a registered elevator inspector.

(f) An inspection by a registered elevator inspector of equipment in a single-family dwelling may be performed only at the request and with the consent of the owner. The owner of a single-family dwelling is not subject to Section 754.0231, 754.0232, 754.0233, 754.0234, or 754.0235.

Sec. 754.015. Rules.

(a) The commission by rule shall provide for:

(1) an annual inspection and certification of the equipment covered by standards adopted under this chapter;

(2) enforcement of those standards;

(3) registration, including certification, of elevator inspectors;

(4) registration of contractors;

(5) the procedures by which a certificate of compliance is issued and displayed;

(6) notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment;

(7) approval of continuing education programs for registered elevator inspectors;

(8) standards of conduct for individuals who are registered under this chapter;

(9) general liability insurance written by an insurer authorized to engage in the business of insurance in this state or an eligible surplus lines insurer, as defined by Section 981.002, Insurance Code, as a condition of contractor registration with coverage of not less than:

(A) $1 million for each single occurrence of bodily injury or death; and

(B) $500,000 for each single occurrence of property damage;

(10) the submission and review of plans for the installation or alteration of equipment;

(11) continuing education requirements for renewal of contractor registration;

(12) maintenance control programs, maintenance, repair, and parts manuals, and product-specific inspection, testing, and maintenance procedures;

(13) the method and manner of reporting accidents and reportable conditions to the department; and

(14) an owner's designation of an agent for purposes of this chapter.

(b) The commission by rule may not:

(1) require inspections of equipment to be made more often than every 12 months, except as provided by Subsection (c); or

(2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration, except as otherwise provided by this chapter.

(c) The commission by rule may require a reinspection or recertification of equipment if:

(1) the equipment has been altered;

(2) the equipment poses a significant threat to passenger or worker safety; or

(3) an annual inspection report indicates an existing violation has continued longer than permitted in a delay granted by the executive director.

(d) The executive director may charge a reasonable fee as set by the commission for:

(1) registering or renewing registration of an elevator inspector;

(2) registering or renewing registration of a contractor;

(3) applying for a certificate of compliance;

(4) filing an inspection report as required by Section 754.019(a)(3), 30 days or more after the date the report is due, for each day the report remains not filed after the date the report is due;

(5) submitting for review plans for the installation or alteration of equipment;

(6) reviewing and approving continuing education providers and courses for renewal of elevator inspector and contractor registrations;

(7) applying for a waiver, new technology variance, or delay; and

(8) attending a continuing education program sponsored by the department for registered elevator inspectors.

(e) The commission by rule may require inspection reports, other documents, and fees to be filed in a manner prescribed by the department, including electronically.

Sec. 754.016. Inspection Reports and Certificates of Compliance.

(a) Inspection reports and certificates of compliance required under this chapter must cover all equipment in a building or structure appurtenant to the building, including a parking facility, that are owned by the same person or persons.

(b) A registered elevator inspector shall issue an inspection report to the owner not later than the fifth calendar day after the date of inspection in accordance with the procedures established by commission rule.

(c) The executive director shall issue a certificate of compliance to the owner.

(d) The commission by rule shall:

(1) require that a certificate of compliance for any equipment be posted in a publicly visible area of the building; and

(2) determine what constitutes a "publicly visible area" under Subdivision (1).

(e) The department shall prescribe the format and the required information contained in the inspection reports, the certificates of compliance, and other documents.

Sec. 754.017. Registered Elevator Inspectors.

(a) In order to inspect equipment, an individual must:

(1) be registered with the department;

(2) attend educational programs approved by the department;

(3) be certified as an inspector in accordance with the rules adopted by the commission;

(4) comply with the continuing education requirements established by commission rule for registration renewal; and

(5) pay all applicable fees.

(b) A person assisting a registered elevator inspector and working under the direct, on-site supervision of the inspector is not required to be registered.

(c) A registration expires on the first anniversary of the date of issuance.

(d) A registered elevator inspector may not inspect equipment if the inspector or the inspector's employer has a financial or personal conflict of interest or the appearance of impropriety related to the inspection of that equipment.

Sec. 754.0171. Contractor Registration.

(a) A person may not install, repair, alter, test, or maintain equipment without registering as a contractor with the department as required by this chapter.

(b) A contractor shall submit an application for registration or renewal of registration, as applicable, and pay appropriate fees to the department. The registration application form shall require:

(1) information concerning the background, experience, and identity of the applicant;

(2) designation of and information regarding the responsible party or parties under Section 754.0173; and

(3) documentation of fulfillment of the continuing education requirements for renewal of registration, if applicable.

(c) A registration expires on the first anniversary of the date of issuance.

(f) Installation, repair, alteration, testing, and maintenance standards for contractors must be consistent with ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

Sec. 754.0172. Inspection Fee.

The amount charged for an inspection or the performance of an inspection of equipment under this chapter may not be contingent on the existence of a maintenance contract between the person performing the inspection and any other person.

Sec. 754.0173. Designation of Responsible Party or Parties.

(a) Each contractor who registers with the department must designate at least one but not more than two responsible parties.

(b) A responsible party designated under this section must:

(1) have a minimum of three years of elevator contractor experience related to elevator installation, repair, and maintenance; and

(2) comply with continuing education requirements as determined by commission rule in order for an elevator contractor to renew an elevator contractor registration.

(c) The commission shall adopt rules regarding documentation of the completion of the continuing education to accompany the application for registration.

(d) A responsible party may be added to or removed from the registration at any time by providing written notice to the department. If a responsible party is added to a registration, the written notice must include evidence that the responsible party meets the requirements of this section.

Sec. 754.0174. Continuing Education for Renewal of Elevator Inspector and Contractor Registrations.

(a) Each contractor's responsible party must complete continuing education requirements set by commission rule before the contractor may renew the contractor's registration.

(a-1) Each registered elevator inspector must complete continuing education requirements set by commission rule before the inspector may renew the inspector's registration.

(b) A provider of continuing education under this section must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education for a registered elevator inspector or designated responsible party, as applicable.

Sec. 754.018. Powers of Municipalities.

Subject to Section 754.014(h), if a municipality operates a program for the installation, maintenance, alteration, inspection, testing, or certification of equipment, this chapter shall not apply to the equipment in that municipality, provided that the standards of installation, maintenance, alteration, inspection, testing, and certification are at least equivalent to those contained in this chapter.

Sec. 754.019. Duties of Owners.

(a) The owner shall:

(1) have the equipment inspected annually by a registered elevator inspector;

(2) obtain an inspection report from the inspector evidencing that all equipment in a building on the real property was inspected in accordance with this chapter and rules adopted under this chapter;

(3) file with the executive director each inspection report, and all applicable fees, not later than the 30th calendar day after the date on which an inspection is made under this chapter;

(4) display the certificate of compliance for the equipment in a publicly visible area as defined by commission rule; and

(5) maintain the equipment in compliance with the standards and codes adopted under commission rules.

(b) When an inspection report is filed, the owner shall submit to the executive director, as applicable:

(1) verification that any deficiencies in the registered elevator inspector's report have been remedied or that a bona fide contract to remedy the deficiencies has been entered into; or

(2) any application for delay or waiver of an applicable standard.

(c) For the purpose of determining timely filing under Subsection (a)(3) and Section 754.016(b), an inspection report and filing fees are considered filed on the earlier of:

(1) the date of personal delivery;

(2) the date of postmark by United States mail if properly addressed to the executive director; or

(3) the date of deposit with a commercial courier service, if properly addressed to the executive director.

(d) A fee may not be charged or collected for a certificate of compliance for an institution of higher education as defined in Section 61.003 Education Code

(e) An owner shall report to the department each accident involving equipment not later than 24 hours following the accident.

Sec. 754.020. Chief Elevator Inspector.

The executive director may appoint a chief elevator inspector to administer the equipment inspection and registration program. The chief elevator inspector:

(1) may not have a financial or commercial interest in the manufacture, maintenance, repair, inspection, installation, or sale of equipment; and

(2) must possess the certification or obtain the certification required under Section 754.017 within six months after becoming chief elevator inspector.

Sec. 754.021. List of Registered Elevator Inspectors and Contractors; Personnel.

The executive director shall:

(1) compile a list of elevator inspectors and contractors who are registered with the department; and

(2) employ personnel who are necessary to enforce this chapter.

Sec. 754.0231. Inspections and Investigations.

(a) Except as provided by Subsection (b), the department may conduct an inspection or investigation of equipment regulated under this chapter in accordance with Chapter 51, Occupations Code. The department shall be granted access to any location in the building that is inaccessible to the public in order to conduct a full inspection or investigation of the equipment.

(b) If there is good cause for the executive director to believe that equipment on the property poses an imminent and significant danger or that an accident involving equipment occurred on the property, the executive director or the executive director's designee may at any time enter the property to inspect the equipment or investigate the danger or accident. The executive director or the executive director's designee must be granted access to any location in the building that is inaccessible to the public in order to conduct a full inspection or investigation.

Sec. 754.0232. Registration Proceedings.

(a) The commission or executive director may deny, suspend, or revoke a registration under this chapter and may assess an administrative penalty for:

(1) obtaining registration by fraud or false representation;

(2) falsifying a report submitted to the executive director; or

(3) violating this chapter or a rule adopted under this chapter.

(b) Proceedings for the denial, suspension, or revocation of a registration and appeals from these proceedings are governed by Chapter 2001, Government Code.

Sec. 754.0233. Injunctive Relief; Civil Penalty.

(a) The attorney general or the executive director may institute an action for injunctive relief to prevent or restrain a violation or threatened violation of this chapter or a rule adopted under this chapter.

(b) The attorney general or the executive director may institute an action to collect a civil penalty from a person that appears to be violating or threatening to violate this chapter or a rule adopted under this chapter. A civil penalty assessed under this subsection may not exceed $5,000 per day for each violation.

(c) An action filed under this section must be filed in a district court in Travis County.

(d) The attorney general and the department may recover reasonable expenses incurred in obtaining injunctive relief or civil penalties under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Sec. 754.0234. Emergency Orders.

(a) The executive director may issue an emergency order as necessary to enforce this chapter if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety.

(b) The executive director shall issue an emergency order in accordance with Chapter 51, Occupations Code.

Sec. 754.0235. Orders to Disconnect Power To or Lock Out Equipment.

(a) An emergency order issued in accordance with Section 754.0234 may also direct an owner to disconnect power to or lock out equipment if:

(1) the department determines imminent and significant danger to passenger or worker safety exists if action is not taken immediately; or

(2) an annual inspection has not been performed in more than two years.

(b) If an emergency order to disconnect power or lock out equipment is issued, the owner may have the power reconnected or the equipment unlocked only if a registered elevator inspector or contractor or a department representative verifies in writing to the department that the imminent and significant danger has been removed by repair, replacement, or other means.

(c) If an emergency order to disconnect power or lock out equipment is issued and the owner later notifies the department that the imminent and significant danger no longer exists, the executive director or the executive director's designee shall, after the requirements of Subsection (b) are satisfied, issue written permission to reconnect power or unlock the equipment and notify the owner.

Sec. 754.025. Application of Certain Law.

Sections 51.401 and 51.404, Occupations Code, do not apply to this chapter, except those sections do apply to Sections 754.017 and 754.0171.

NOTE: Per SB 972, 83rd Leg, (2013), Section 754.024, Criminal Penalty was repealed effective May 18, 2013, but will remain in effect for offenses committed before May 18, 2013.

AS AMENDED BY ACTS 2013, 83rd LEG., SB 972, SECTION 6 READS:

The repeal of an offense by this Act does not apply to an offense committed before the effective date of the repeal. An offense committed before the effective date of the repeal is governed by the law as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of the repeal if any element of the offense occurred before that date.

NOTE: AS AMENDED BY ACTS 2013, 83rd LEG., SB 540, SECTION 13 (b), and (c) READS:

(b) The changes in law made by this Act apply only to an application submitted to the Texas Department of Licensing and regulation on or after January 1, 2014, for an elevator inspector registration or for renewal of an elevator inspector registration with an expiration date on or after January 1, 2014. An application for an elevator inspector registration or for renewal of an elevator inspector registration with an expiration date on

or after January 1, 2014, that is submitted before January 1, 2014, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(c) Subsection (a), Section 754.012, Health and Safety Code, as amended by this Act, applies only to a member appointed to the elevator advisory board on or after January 1, 2014.

NOTE: AS AMENDED BY ACTS 2013, 83rd LEG., SB 673, SECTION 24 (b) and (c) READS:

(b) Subsection (b), Section 754.016, and Subdivision (3), Subsection (a), Section 754.019, Health and Safety Code, as amended by this Act, apply only to an inspection initiated on or after January 1, 2014.

(c) The repeal by this Act of Subchapter A, Chapter 754, Health and Safety Code, and Section 754.024, Health and Safety Code, does not apply to an offense committed under Section 754.003 or 754.024, Health and Safety Code, before the effective date of the repeal. An offense committed before the effective date of the repeal is governed by Section 754.003 or 754.024, Health and Safety Code, as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of the repeal if any element of the offense occurred before that date.