

E N G R O S S E D

COMMITTEE SUBSTITUTE

FOR

H. B. 4006

(BY DELEGATE MANCHIN)

(Originating in the Committee on Government Organization)
[January 17, 2012]

A BILL to amend and reenact §21-3C-1, §21-3C-10a and §21-3C-11 of the Code of West Virginia, 1931, as amended, all relating to elevators; defining certain terms; requiring licensure; providing licensure requirements; providing renewal requirements; providing for temporary licensure in case of an emergency; providing reciprocity requirements; and providing continuing education requirements.

Be it enacted by the Legislature of West Virginia:

That §21-3C-1, §21-3C-10a and §21-3C-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3C. ELEVATOR SAFETY.

§21-3C-1. Definitions.

1 (1) “Accessibility equipment” means lifting devices
2 designated to remove access barriers in public buildings and
3 private residences for persons with physical challenges,
4 including residential elevators, ~~and~~ limited use/limited
5 application elevators, vertical platforms, inclined platform
6 lifts and stairway chairlifts.

7 (2) “Certificate of acceptance” means a certificate issued
8 by the Division of Labor certifying that a newly installed
9 elevator has been inspected and was found to be installed in
10 compliance with the safety standards set forth in the
11 American Society of Mechanical Engineers Safety Code for
12 Elevators and Escalators (ASME) A17.1-3, “Safety Code for
13 Elevators” and ASME A18.1, “Safety Code for Platform
14 Lifts and Stairway Chairlifts.”

15 (3) “Certificate of competency” means a certificate issued
16 by the Division of Labor certifying that an individual is
17 qualified to inspect elevators.

18 (4) "Certificate of operation" means a certificate issued
19 by the Division of Labor certifying that an elevator has been
20 inspected and is safe for operation.

21 (5) "Commissioner" means the Commissioner of the
22 Division of Labor.

23 (6) "Division" means the Division of Labor.

24 (7) "Division inspector" means an employee or contractor
25 of the division who has been examined and issued a
26 certificate of competency and who only inspects elevators in
27 state owned buildings.

28 (8) "Elevator" means all the machinery, construction,
29 apparatus and equipment used in raising and lowering a car,
30 cage or platform vertically between permanent rails or guides
31 and includes all elevators, power dumbwaiters, escalators,
32 gravity elevators and other lifting or lowering apparatus
33 permanently installed between rails or guides, but does not
34 include hand operated dumbwaiters, platform lifts for loading
35 docks, manlifts of the platform type with a platform area not
36 exceeding nine hundred square inches, construction hoists or
37 other similar temporary lifting or lowering apparatus.

38 (9) "Elevator apprentice" means a person who meets the
39 requirements set forth in legislative rule promulgated
40 pursuant to this article.

41 (10) "Elevator mechanic" means a person who possesses an
42 elevator mechanic's license in accordance with the provisions of
43 this article and who is engaged in the business of erecting,
44 constructing, installing, altering, servicing, repairing or
45 maintaining elevators or related conveyances covered by this
46 article.

47 (11) "Freight elevator" means an elevator used for
48 carrying freight and on which only the operator, by the
49 permission of the employer, is allowed to ride.

50 (12) "Inspector" means both a division inspector and a
51 private inspector.

52 (13) "License" means a license issued to an elevator
53 mechanic pursuant to this article.

54 (14) "Private residence elevator" means a passenger
55 elevator of which use is limited by size, capacity, rise and
56 speed, and access is limited by its location, by the
57 requirement of a key for its operation or by other restriction.

58 (15) “Passenger elevator” means an elevator that is
59 designed to carry persons to its contract capacity.

60 (16) “Limited Use/Limited Application elevator” means
61 a power elevator in which the use and application is limited
62 by size, capacity, speed, and rise.

63 (17) “Private inspector” means a person who has been
64 examined and issued a certificate of competency to inspect
65 elevators within this state.

**§21-3C-10a. License requirements for elevator mechanics,
accessibility technicians, limited technicians;
**contractor’s license requirements; supervision
of elevator apprentice’s requirements.****

1 (a) A person may not engage or offer to engage in the
2 business of erecting, constructing, installing, altering, servicing,
3 repairing or maintaining elevators or related conveyances
4 covered by this article in this state, unless he or she has a license
5 issued by the commissioner of Labor in accordance with this
6 article.

7 (b) A person licensed under this article must:

8 (1) Have in his or her possession a copy of the license
9 issued pursuant to this article on any job on which he or she
10 is performing elevator mechanic work; and

11 (2) Be, or be employed by, a contractor licensed pursuant
12 to the provisions of article eleven, chapter twenty-one of this
13 code unless the work is performed by a historic resort hotel's
14 regular employees, for which the employees are paid regular
15 wages and not a contract price, on property owned or leased
16 by the historic resort hotel which is not intended for
17 speculative sale or lease;

18 (c) (1) To obtain an elevator mechanic's license a person
19 ~~must~~ shall:

20 ~~(1) Complete a four-year apprenticeship program;~~
21 ~~registered by the United States Department of Labor;~~
22 ~~qualifying for a commercial license;~~

23 (A) Hold an active elevator mechanic license issued by a
24 jurisdiction that has a licensing program that is at least
25 equivalent to the elevator mechanic licensing program
26 established under this article;

27 (B) (i) Successfully complete one of the following formal
28 four year educational programs that is registered with the
29 Bureau of Apprenticeship and Training of the United States
30 Department of Labor, including all required examinations
31 and work experience:

32 (I) The National Elevator Industry Educational Program;

33 or

34 (II) The Certified Elevator Technician (CET) Educational
35 Certification Program; or

36 (ii) If an applicant successfully completed a program as
37 described in subparagraphs (I) and (II) prior to the program
38 being registered with the Bureau of Apprenticeship and
39 Training of the United States Department of Labor, the
40 division may grant a license to an applicant after the
41 applicant successfully proves to the division that he or she
42 has successfully completed all the test and work experience
43 requirements;

44 (C) (i) Provide an acceptable combination of documented
45 experience and educational credits of not less than three years

46 of recent and active experience in the elevator industry in
47 construction, maintenance, or service/repair or any
48 combination thereof, as verified by current and previous
49 employers licensed to do business in this state, on a sworn
50 affidavit; and

51 (ii) Obtain a score of 70% or better on a written
52 competency examination approved or provided by the
53 division.

54 (2) A licensed elevator mechanic may work on all
55 elevators covered by this article.

56 (d) (1) To obtain an accessibility technician's license a
57 person shall:

58 (A) Provide a certificate of completion of an accessibility
59 training program for the elevator industry such as the
60 Certified Accessibility Training (CAT) program by the
61 National Association of Elevator Contractors, or equivalent
62 nationally recognized training program; or

63 (B) (i) Have at least eighteen months experience in the
64 construction, maintenance, service and repair, or any

65 combination thereof, as verified by current and previous
66 employers, licensed to do business in this state, on a sworn
67 affidavit, of accessibility lifts;

68 (ii) At least one year of documented vocational training
69 and/or an associate degree in a related field; and

70 (iii) Obtain a score of 70% or better on a written
71 competency examination approved or provided by the
72 division.

73 ~~(2) Complete a two-year apprenticeship program,~~
74 ~~registered by the United States Department of Labor,~~
75 ~~qualifying for an accessibility license.~~

76 (2) A person holding an accessibility license may only
77 perform work on accessibility equipment.; or

78 (e) (1) An applicant for a limited use/limited application
79 (LULA) elevator endorsement must satisfy all of the
80 following:

81 (A) Hold a current accessibility technician license;

82 (B) Provide certificate of LULA manufacturer's training;

83 and

84 (C) Provide at least one year of documented work

85 experience, on a sworn affidavit, in the construction,

86 maintenance, service and repair of LULA elevators and

87 comparable equipment, while under the supervision of a

88 licensed accessibility technician; or

89 (2) Any person having at least eighteen months of

90 accessibility technician's experience, as of July 1, 2012, in

91 construction, maintenance, service and repair, or any

92 combination thereof, as verified by current and previous

93 employers, licensed to do business in this state, on a sworn

94 affidavit, shall receive an accessibility technician's license to

95 continue to work on this type of equipment: *Provided, That*

96 an additional one year of documented work as an

97 accessibility technician with certification of manufacturer's

98 factory training, is required before a LULA endorsement may

99 be obtained.

100 (3) Any person carrying an accessibility license as of July
101 1, 2012, shall receive the required endorsement to continue
102 to work on this type of equipment, and will be qualified to
103 supervise future applicants as described in this section.

104 (f) To obtain a limited technician's license a person must:

105 ~~(3)~~(1) (A) Complete a certified apprenticeship program,
106 registered by the United States Department of Labor
107 established at a historic resort hotel, qualifying for a limited
108 technician license; or

109 (B) Provide an acceptable combination of documented
110 experience, and educational credits: not less than three years
111 of recent and active experience in the elevator industry, in
112 maintenance, or service/repair or any combination thereof, as
113 verified by current and previous employers authorized to do
114 business in this state, on a sworn affidavit; and obtain a score
115 of 70% or better on a written competency examination
116 approved or provided by the division.

117 (2) A person holding a limited technician license may
118 only perform work at a historic resort hotel.

119 ~~(d)~~(3) For the purposes of this section, “historic resort
120 hotel” has the same meaning ascribed to it in section two,
121 article twenty-five, chapter twenty-nine of this code.

122 ~~(e)~~(g) An elevator apprentice who is enrolled in a four-
123 year apprenticeship program approved by the commissioner,
124 and who is in good standing in the program, may work under
125 the supervision of a licensed elevator mechanic, as follows:

126 ~~(f)~~(1) An apprentice who has not successfully completed
127 the equivalent of at least one year of the program may work
128 only under the direct supervision of a licensed elevator
129 mechanic who is present on the premises and available to the
130 apprentice at all times;

131 (2) An apprentice who has successfully completed the
132 equivalent of at least one year of the program may:

133 (A) Work under the direct supervision of a licensed
134 elevator mechanic as set forth in subdivision (1) of this
135 subsection; and

136 (B) Perform the tasks set forth in this paragraph, only if
137 delegated by and performed under the general supervision of
138 a licensed elevator mechanic, who must, at a minimum, meet
139 the apprentice on the job at the beginning of each day to
140 delegate the specific tasks, and who remains responsible for
141 the delegated tasks:

142 (i) Oiling, cleaning, greasing and painting;

143 (ii) Replacing of combplate teeth;

144 (iii) ~~Reclamping~~ Relamping and fixture maintenance;

145 (iv) Inspection, cleaning and lubricating of hoistway
146 doors, car tops, bottoms and pits; and

147 (v) Observing operation of equipment.

§21-3C-11. Disposition of fees; legislative rules.

1 (a) The division shall propose rules for legislative approval
2 in accordance with the provisions of article three, chapter
3 twenty-nine-a of this code, for the implementation and
4 enforcement of the provisions of this article, which shall
5 provide:

6 (1) Standards, qualifications and procedures for
7 submitting applications, taking examinations, and issuing and
8 renewing licenses, certificates of competency and certificates
9 of operation of the three licensure classifications set forth in
10 section ten-a of this article;

11 (2) For the renewal of a license, even if the licensee is
12 unemployed or not working in the industry: *Provided, That,*
13 to engage or offer to engage in the business of erecting,
14 constructing, installing, altering, servicing, repairing, or
15 maintaining an elevator or related conveyance covered by
16 this article the licensee shall be a contractor, or be employed
17 by a contractor licensed pursuant to the provisions of section
18 ten-a, article eleven, chapter twenty-one of the code;

19 ~~(2)~~(3) Qualifications and supervision requirements for
20 elevator apprentices; and

21 ~~(3)~~ (4) Provisions for the granting of licenses without
22 examination, to applicants who present satisfactory evidence
23 of having the expertise required to perform work as defined

24 in this article and who apply for licensure on or before July
25 1, 2010: *Provided*, That if a license issued under the authority
26 of this subsection subsequently lapses, the applicant may, at
27 the discretion of the commissioner, be subject to all licensure
28 requirements, including the examination.

29 (b) Issuance and renewal of licenses fees.

30 (1) Upon approval of an application, the division may
31 issue a license, which shall be renewable biennially. The fee
32 for the license and for renewal shall be set by the
33 commissioner.

34 (2) The commission shall renew a person's license, even
35 if unemployed or not working in the industry: *Provided*,
36 however, That to engage or offer to engage in the business of
37 erecting, constructing, installing, altering, servicing,
38 repairing, or maintaining elevator or related conveyance
39 covered by this article in this state must be, or be employed
40 by a contractor licensed pursuant to the provisions of article
41 eleven, chapter twenty-one of the code.

42 (3) Whenever an emergency exists in the state due to
43 disaster, act of God or work stoppage and the number of
44 persons in the state holding licenses granted by the division
45 is insufficient to cope with the emergency, elevator
46 contractors shall respond as necessary to assure the safety of
47 the public. Any person certified by a licensed elevator
48 contractor to have an acceptable combination of documented
49 experience and education to perform elevator work without
50 direct and immediate supervision shall seek an emergency
51 elevator mechanic license from the commissioner within five
52 business days after commencing work requiring a license.
53 The commissioner shall issue emergency elevator mechanic
54 licenses. The elevator contractor shall furnish proof of
55 competency as the commissioner may require. Each license
56 shall state that it is valid for a period of forty-five days from
57 the date thereof and for such particular elevators or
58 geographical areas as the commissioner may designate and
59 otherwise shall entitle the licensee to the rights and privileges
60 of an elevator mechanic license issued in this chapter. The

61 commissioner shall renew an emergency elevator mechanic
62 license during the existence of an emergency. No fee shall be
63 charged for any emergency elevator mechanic license or
64 renewal thereof.

65 (3) An elevator contractor shall notify the commissioner
66 when there are no licensed personnel available to perform
67 elevator work. The elevator contractor may request that the
68 Commissioner of Labor issue temporary elevator mechanic
69 licenses to persons certified by the licensed elevator
70 contractor to have an acceptable combination of documented
71 experience and education to perform elevator work without
72 direct and immediate supervision. Any person certified by an
73 elevator contractor to have an acceptable combination of
74 documented experience and education to perform elevator
75 work without direct and immediate supervision shall
76 immediately seek a temporary elevator mechanic license from
77 the commissioner and shall pay such fee, as the commissioner
78 shall determine. Each license shall state that it is valid for the

79 term specified pursuant to this section and while employed by
80 the licensed elevator contractor that certified the individual
81 as qualified. A temporary license may be renewed as long as
82 the shortage of license holders continues.

83 (4) Excluding subdivisions two and three, subsection (b)
84 of this section, the renewal of all licenses granted under the
85 provisions of this section shall be conditioned upon the
86 submission of a certificate of completion of a course designed
87 to ensure the continuing education of licensees on new and
88 existing provisions of the regulations of the division. The
89 course shall consist of not less than eight hours of instruction
90 that shall be attended and completed within one year
91 immediately preceding any such license renewal.

92 (5) The continuing education courses shall be taught by
93 instructors through continuing education providers that may
94 include, but shall not be limited to, association seminars, and
95 labor training programs. The commissioner shall approve the
96 continuing education providers. All instructors shall be

97 approved by the commissioner and exempt from the
98 requirements of the preceding paragraph with regard to their
99 application for license renewal provided that such applicant
100 was qualified as an instructor at any time during the one year
101 immediately preceding the scheduled date for such renewal.

102 (6) A licensee who is unable to complete the continuing
103 education course required under this section prior to the
104 expiration of their license due to a temporary disability may
105 apply for a waiver from the commissioner. This will be on a
106 form provided by the commissioner which shall be signed
107 under the pains and penalties of perjury and accompanied by
108 a certified statement from a competent physician attesting to
109 such temporary disability. Upon the termination of such
110 temporary disability, such licensee shall submit to said board
111 a certified statement from the same physician, if practicable,
112 attesting to the termination of such temporary disability. At
113 which time a waiver sticker, valid for 90 days, shall be issued
114 to such licensee and affixed to his license.

115 (7) Approved training providers shall keep uniform
116 records, for a period of ten years, of attendance of licensees
117 following a format approved by the commissioner and such
118 records shall be available for inspection by the commissioner
119 at his or her request. Approved training providers shall be
120 responsible for the security of all attendance records and
121 certificates of completion: *Provided*, That falsifying or
122 knowingly allowing another to falsity such attendance
123 records or certificates of completion shall constitute grounds
124 for suspension or revocation of the approval required under
125 this section.

126 (8) A license shall be issued to an individual holding a valid
127 license from a state having standards substantially equivalent to
128 those of this article, upon application and without examination
129 as outlined in section ten-a of this article;

130 ~~(8)~~ (9) Procedures for investigating complaints and
131 revoking or suspending licenses, certificates of competency
132 and certificates of operation, including appeal procedures;

133 ~~(9)~~ (10) Fees for testing, issuance and renewal of
134 licenses, certificates of competency and certificates of
135 operation, and other costs necessary to administer the
136 provisions of this article;

137 ~~(10)~~ (11) Enforcement procedures; and

138 ~~(11)~~ (12) Any other rules necessary to effectuate the
139 purposes of this article.

140 ~~(b)~~ (c) The rules proposed for promulgation pursuant to
141 section eleven shall establish the amount of any fee
142 authorized pursuant to the provisions of this article:
143 *Provided*, That in no event may the fees established for the
144 issuance of certificates of operation exceed \$50.

145 ~~(c)~~ (d) All fees collected pursuant to the provisions of this
146 article shall be deposited in an appropriated special revenue
147 account hereby created in the State Treasury known as the
148 “Elevator Safety Fund” and expended for the implementation
149 and enforcement of this article: *Provided*, That amounts
150 collected which are found from time to time to exceed funds

151 needed for the purposes set forth in this article may be
152 transferred to other accounts or funds and redesignated for
153 other purposes by appropriation of the Legislature.

154 ~~(d)~~ (e) The division may enter into agreements with
155 counties and municipalities whereby such counties and
156 municipalities be permitted to retain the inspection fees
157 collected to support the enforcement activities at the local
158 level.

159 ~~(e)~~ (f) The commissioner and his or her deputy
160 commissioner or any compliance officer of the division as
161 authorized by the commissioner may consult with
162 engineering authorities and organizations concerned with
163 standard safety codes, rules and regulations governing the
164 operation, maintenance, servicing, construction, alteration,
165 installation and the qualifications which are adequate,
166 reasonable and necessary for the elevator mechanic and
167 inspector.