

CHAPTER 65

H.B. No. 154

AN ACT

relating to the adoption of minimal safety standards for elevators, escalators, and related equipment, to the creation of the elevator advisory board, and to inspections of elevators, escalators, and related equipment; providing a penalty.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. The heading to Chapter 754, Health and Safety Code, is amended to read as follows:

CHAPTER 754. *ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT* [~~PASSENGER ELEVATORS~~]

SECTION 2. Sections 754.001–754.003, Health and Safety Code, are designated as Subchapter A, Chapter 754, of that code as follows:

SUBCHAPTER A. SAFETY DEVICES

SECTION 3. Chapter 754, Health and Safety Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. INSPECTION AND CERTIFICATION

Sec. 754.011. *DEFINITIONS. In this subchapter:*

- (1) “Board” means the elevator advisory board.
- (2) “Commissioner” means the commissioner of licensing and regulation.
- (3) “Related equipment” means automatic equipment that is used to move a person in a manner that is similar to that of an elevator or escalator and includes a dumbwaiter, manlift, and moving sidewalk.

Sec. 754.012. *ELEVATOR ADVISORY BOARD. (a) The elevator advisory board is composed of nine members appointed by the commissioner as follows:*

- (1) a representative of the insurance industry or a certified elevator inspector;
- (2) a representative of elevator, escalator, and related equipment constructors;
- (3) a representative of owners or managers of buildings having fewer than six stories and having an elevator, an escalator, or related equipment;
- (4) a representative of owners or managers of buildings having six stories or more and having an elevator, an escalator, or related equipment;
- (5) a representative of independent elevator, escalator, and related equipment maintenance companies;
- (6) a representative of elevator, escalator, and related equipment manufacturers;
- (7) a representative of professional engineers or architects;
- (8) a public member; and
- (9) a public member with a physical disability.

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

(c) The commissioner shall appoint a presiding officer of the board.

(d) The board shall meet at least twice each calendar year.

(e) A board member serves without compensation but is entitled to reimbursement for travel and other necessary expenses incurred in performing duties under this subchapter.

Sec. 754.013. *BOARD DUTIES. To protect public safety and to identify and correct potential hazards, the board shall advise the commissioner on:*

- (1) the adoption of appropriate standards for the installation, alteration, and operation of elevators, escalators, and related equipment;
- (2) the status of elevators, escalators, and related equipment used by the public in this state; and
- (3) any other matter considered relevant by the commissioner.

Sec. 754.014. *STANDARDS ADOPTED BY COMMISSIONER. (a) The commissioner shall adopt standards for the installation, alteration, and operation of elevators, escalators, and related 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 an elevator, an escalator, or related equipment that the public is generally invited to use, including a hotel, motel, apartment house, boardinghouse, church, office building, shopping center, or other commercial establishment.

(b) In adopting the standards, the commissioner shall adopt standards for elevators, escalators, and related equipment:

(1) constructed or installed before September 1, 1993, that are in compliance with the latest edition of the ASME Safety Code for Existing Elevators and Escalators A17.3; and

(2) constructed or installed on or after September 1, 1993, that are in compliance with the latest edition of the ASME Safety Code for Elevators and Escalators A17.1.

(c) In the event that compliance with ASME Safety Code for Existing Elevators and Escalators A17.3 is not "readily achievable" as that phrase is defined in the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) and its subsequent amendments, or its regulations, the commission shall authorize the certified inspector to waive or delay compliance with the particular standard which is not readily achievable. Provided however, in any event, an elevator, an escalator, or related equipment must at least be in compliance with the ASME Safety Code for Elevators and Escalators A17.1 in existence at the time of the construction of the elevator, escalator, or related equipment. The commission may charge reasonable fees for any application for waiver or delay.

Sec. 754.015. **RULES.** (a) The commissioner by rule shall provide for:

(1) the annual inspection and certification of elevators, escalators, and related equipment covered by standards adopted under this subchapter;

(2) the enforcement of those standards;

(3) the certification of qualified persons as inspectors for the purposes of this subchapter; and

(4) the form of the certificate of inspection.

(b) The commissioner by rule may not require that:

(1) inspection be made more often than once per year of elevators, escalators, and related equipment;

(2) persons post a bond or furnish insurance as a condition of certification; and

(3) certificates of inspection be placed in locations other than one provided in Section 754.019(4).

Sec. 754.016. **COVERAGE OF CERTIFICATE OF INSPECTION.** A certificate of inspection required under this subchapter must cover all elevators, escalators, and related equipment in a building or structure appurtenant to the building, including a parking facility, that are owned by the same person or persons. There shall be only one certificate of inspection for each building. The certificate of inspection shall specify the number of elevators in the building and shall specifically describe any elevators not in compliance with this subchapter, stating the reason or reasons for noncompliance.

Sec. 754.017. **CERTIFIED INSPECTORS.** (a) An inspector must meet the qualification requirements of the ASME-QEI-1. An inspector or inspection supervisor must be certified by an organization accredited by ASME in accordance with the requirements of ASME-QEI-1. Any accreditation or certification charges or fees shall be paid by the inspector.

(b) The commissioner may not by rule prohibit an ASME-QEI-1 certified inspector from inspecting and certifying under this subchapter an elevator, an escalator, or related equipment.

(c) The commissioner may charge a \$10 fee to certified inspectors for registering with the Texas Department of Licensing and Regulation.

Sec. 754.018. **POWERS OF MUNICIPALITIES.** If a municipality operates a program for the inspection and certification of elevators, escalators, and related equipment, this subchapter shall not apply to elevators, escalators, and related equipment in that municipality, provided that the standards of inspection and certification are no less stringent than those contained in this subchapter.

Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) *The owner of real property on which an elevator, an escalator, or related equipment covered by this subchapter is located shall:*

(1) *have the elevator, escalator, or related equipment inspected and certified in accordance with the commissioner's rules;*

(2) *obtain a certificate of inspection evidencing that the elevator, escalator, or related equipment was inspected in accordance with this subchapter and determined to be in compliance with the safety standards adopted under Section 754.014;*

(3) *file with the commissioner a copy of each certificate of inspection and a \$15 filing fee for each certificate not later than the 30th day after the date on which an inspection is made under this subchapter; and*

(4) *display the certificate of inspection:*

(A) *in the elevator mechanical room if the certificate relates to the inspection of an elevator;*

(B) *in the escalator box if the certificate relates to the inspection of an escalator; or*

(C) *in a place designated by the commissioner if the certificate relates to the inspection of related equipment.*

(b) *For the purpose of determining timely filing under Subsection (a)(3), a certificate and fee are considered filed on the date of mailing by United States mail if properly addressed to the commissioner.*

(c) *If the certificate copy and the fee required by Subsection (a)(3) are not timely filed, the commissioner may charge the owner of the real property on which the equipment is located an additional \$100 fee for late filing.*

(d) *The commissioner may not require that a certificate of inspection be placed inside or immediately outside an elevator cab or escalator or in the lobby or hallways of a building.*

(e) *A fee may not be charged or collected for a certificate of inspection for an institution of higher education as defined in Section 61.003, Education Code.*

Sec. 754.020. DEPOSIT OF FEES. *Fees collected under this subchapter shall be deposited to the credit of an account in the general revenue fund that may be used by the commissioner only to administer and enforce this subchapter and to reimburse expenses of board members provided by this subchapter.*

Sec. 754.021. LIST OF INSPECTORS; PERSONNEL. *The commissioner may:*

(1) *compile a list of inspectors certified by the commissioner to perform an inspection under this subchapter; and*

(2) *employ personnel as necessary to enforce this subchapter.*

Sec. 754.022. NOTICE OF NONCOMPLIANCE. *If the commissioner learns of a situation of noncompliance under Section 754.019, the commissioner shall send notice by certified mail of the noncompliance and the actions required to remedy the noncompliance to the record owner of the real property on which the equipment that is the subject of the noncompliance is located.*

Sec. 754.023. INJUNCTION. (a) *The commissioner is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this subchapter or a rule adopted under this subchapter.*

(b) *The commissioner may bring suit in a district court in Travis County or in the county in which the violation or threatened violation occurs. If requested, the attorney general shall represent the commissioner in the suit.*

Sec. 754.024. CRIMINAL PENALTY. (a) *A person commits an offense if the person receives notice of noncompliance under Section 754.022 and the person fails or refuses to remedy the noncompliance before the 31st day after the date on which the notice is received.*

(b) *An offense under this section is a Class C misdemeanor.*

(c) *Each day of failure or refusal to remedy the noncompliance after the 30th day after the date on which the notice is received constitutes a separate offense.*

SECTION 4. (a) This Act takes effect September 1, 1993.

(b) An elevator, an escalator, or related equipment is not required to comply with the standards adopted under Subchapter B, Chapter 754, Health and Safety Code, as added by this Act, before March 1, 1994.

(c) A person is not required to comply with the inspection and certification requirements of Subchapter B, Chapter 754, Health and Safety Code, as added by this Act, or required to display the certificate of inspection required by that subchapter before March 1, 1994, and a person may not be prosecuted for an offense committed under that subchapter before March 1, 1994.

(d) The commissioner of licensing and regulation shall appoint the members of the elevator advisory board not later than October 1, 1993, and the commissioner shall adopt rules to implement Subchapter B, Chapter 754, Health and Safety Code, as added by this Act, not later than January 1, 1994.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 9, 1993, by a non-record vote; passed by the Senate on April 21, 1993, by a viva-voce vote.

Approved May 2, 1993.

Effective Sept. 1, 1993.