

HEALTH AND SAFETY CODE CHAPTER 754. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

HEALTH AND SAFETY CODE

TITLE 9. SAFETY

SUBTITLE A. PUBLIC SAFETY

CHAPTER 754. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

SUBCHAPTER A. SAFETY DEVICES

Sec. 754.001. SAFETY DEVICE REQUIREMENT FOR PASSENGER ELEVATORS. (a) A person may not operate a passenger elevator in a building located in this state unless the elevator is equipped with a device that will prevent the elevator's movement if the elevator's door or gate is open.

(b) Installation of a device, the design of which has been approved by the National Bureau of Standards or by the Industrial Accident Board, is prima facie evidence that the person has complied with this section.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 754.002. REVIEW OF DESIGNS. (a) The Industrial Accident Board shall inspect and approve or disapprove each model, drawing, or design of an elevator safety device submitted to the board in Austin under Section 754.001.

(b) The board shall charge a \$10 fee to inspect and approve or disapprove the model, drawing, or design.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 754.003. CRIMINAL PENALTY. (a) An individual, a member of a partnership, or a director, president, general manager, employee, agent, trustee, or receiver of a corporation that owns, leases, or is in charge of a building in which a passenger elevator is operated commits an offense if the elevator is operated and is not equipped with a safety device as prescribed by Section 754.001.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$5 or more than \$25.

(c) Each day a passenger elevator is operated without a safety device as prescribed by Section 754.001 constitutes a

separate offense.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. INSPECTION, CERTIFICATION, AND REGISTRATION

Sec. 754.011. DEFINITIONS. In this subchapter:

(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 or modernization of existing equipment. The term does not include 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 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.

(6) "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.

(6-a) "Executive director" means the executive director of the department.

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

(8) "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.

(9) "Board" means the elevator advisory board.

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

(11) Repealed by Acts 2007, 80th Leg., R.S., Ch. 574, Sec. 4, eff. June 16, 2007.

(12) "Contractor" means a person engaged in the installation, 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.

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

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

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

(16) "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.

(17) "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.

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

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

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1,

1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1,

2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 574, Sec. 1, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 574, Sec. 4, eff. June 16, 2007.

Sec. 754.0111. EXEMPTION. (a) This subchapter 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 subchapter does not apply to an elevator located in a single-family dwelling, except as provided by Section 754.0141.

Added by Acts 1995, 74th Leg., ch. 974, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1,

2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

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 certified 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 at least twice each calendar year.

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

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

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, alteration, operation, 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.

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1,

1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Sec. 754.014. STANDARDS ADOPTED BY COMMISSION. (a) The commission shall adopt standards for the installation, maintenance, alteration, operation, 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 by the commission 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 subchapter at the time of alteration.

(c) Standards adopted by the commission 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 by the commission 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 shall grant a delay for compliance with the applicable ASME Code A17.1, ASME Code A17.3, or ASME Code A18.1 until a specified time if compliance is not readily achievable, as that phrase is defined in the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations adopted under that Act. The accumulated total time of all delays may not exceed three years, except as provided by Subsection (f) or as allowed in the discretion of the executive director.

(f) The executive director shall grant a delay until

September 1, 2010, for compliance with the requirements for door restrictors or firefighter's service in the ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation and the equipment was not subsequently installed.

(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. 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.

(i) This subchapter 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.

(j) One application for a waiver or delay may contain all requests related to a unit of equipment. A delay may not be granted indefinitely but must be granted for a specified time not to exceed three years.

(k) For purposes of this section, 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 by the commission 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 by the commission, 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 by the commission.

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1,

1995; Acts 1995, 74th Leg., ch. 974, Sec. 1, eff. Sept. 1, 1995;

Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts

2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003; Acts 2003,

78th Leg., ch. 1268, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 574, Sec. 2, eff. June 16, 2007.

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 QEI-1 certified inspector after the installation is complete. The inspector shall provide the dwelling owner a copy of the inspection report.

(b) The commission shall, before January 1, 2004, adopt rules containing minimum safety standards that must be used by QEI-1 certified 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 QEI-1 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 QEI-1 certified inspector.

(f) An inspection by a QEI-1 certified 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 754.022, 754.023, or 754.024.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

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 subchapter;

(2) enforcement of those standards;

(3) registration of qualified inspectors and contractors;

(4) the form of inspection documents, contractor reports, and certificates of compliance;

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

(6) approval of continuing education programs for registered QEI-1 certified inspectors; and

(7) standards of conduct for individuals who are registered under this subchapter.

(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);

(2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration;

(3) require building owners to submit to the department proposed plans for equipment installation or alteration; or

(4) prohibit a QEI-1 certified inspector who is registered with the department from inspecting equipment.

(c) The commission by rule may require a reinspection or recertification of equipment if the equipment has been altered and poses a significant threat to passenger or worker safety or if 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 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) applying for a waiver, variance, or delay; and

(6) attending a continuing education program sponsored by the department for registered QEI-1 inspectors.

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 574, Sec. 3, eff. June 16, 2007.

Sec. 754.016. INSPECTION REPORTS AND CERTIFICATES OF COMPLIANCE. (a) Inspection reports and certificates of compliance required under this subchapter 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) An inspector shall date and sign an inspection report and shall issue the report to the building owner not later than the 10th calendar day after the date of inspection.

(c) The executive director shall date and sign a certificate of compliance and shall issue the certificate to the building owner. The certificate of compliance shall state:

(1) that the equipment has been inspected by a certified inspector and found by the inspector to be in compliance, except for any delays or waivers granted by the executive director and stated in the certificate;

(2) the date of the last inspection and the due date for the next inspection; and

(3) contact information at the department to report a violation of this subchapter.

(d) The commission by rule shall:

(1) specify what information must be contained in a certificate of compliance;

(2) describe the procedure by which a certificate of compliance is issued;

(3) require that a certificate of compliance related to an elevator be posted in a publicly visible area of the building; and

(4) determine what constitutes a "publicly visible area" under Subdivision (3).

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Sec. 754.017. CERTIFIED 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 a QEI-1 inspector by an organization accredited by the American Society of Mechanical Engineers; and
- (4) pay all applicable fees.

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

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

(d) A certified inspector may not be required to attend more than seven hours of continuing education during each licensing period.

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may not install, repair, or maintain equipment without registering as a contractor with the department as required by this subchapter.

(b) A contractor shall submit an application for registration and pay appropriate fees to the department. The registration application form may require information concerning the background, experience, or identity of the applicant.

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

(d) A person registering as a contractor under this subchapter shall submit to the department an initial report, not later than the 60th day following the application date, containing:

- (1) the street address of each building or location at which the person performed installation, repair, alteration, or maintenance of equipment for the previous two years; and

- (2) the name and mailing address of the building owner.

(e) After the initial report required by Subsection (d), a contractor registered as required by this subchapter shall submit to the department a quarterly report containing:

(1) the street address of each building or location at which the contractor performed installation, repair, alteration, or maintenance of equipment not reported in the contractor's initial report to the department under Subsection (d); and

(2) the name and mailing address of the building owner.

(f) Installation, repair, alteration, 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.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Sec. 754.0172. INSPECTION FEE. The amount charged for an inspection or the performance of an inspection of equipment under this subchapter may not be contingent on the existence of a maintenance contract between the person performing the inspection and any other person.

Added by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995. Renumbered from Health & Safety Code Sec. 754.0171 and amended by Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section 754.014(h), if a municipality operates a program for the installation, maintenance, alteration, inspection, or certification of equipment, this subchapter shall not apply to the equipment in that municipality, provided that the standards of installation, maintenance, alteration, inspection, and certification are at least equivalent to those contained in this subchapter.

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The owner of real property on which equipment covered by this subchapter is located shall:

(1) have the equipment inspected annually by a certified 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 subchapter and rules adopted under this subchapter;

(3) file with the executive director each inspection report, and all applicable fees, not later than the 60th day after the date on which an inspection is made under this subchapter;

(4) display the certificate of compliance:

(A) in a publicly visible area of the building, as determined by commission rule under Section 754.016, if the certificate relates to an elevator;

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

(C) in a place designated by the executive director if the certificate relates to equipment other than an elevator or escalator; and

(5) display the inspection report at the locations designated in Subdivision (4) until a certificate of compliance is issued.

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

(1) verification that any deficiencies in the 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 72 hours following the accident. Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

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 a QEI-1 certification or obtain the certification within six months after becoming chief inspector. Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS. The executive director shall:

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

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

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, 26.006, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department learns of a situation of noncompliance under Section 754.019, the department 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.

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Sec. 754.023. INVESTIGATION; REGISTRATION PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good cause for the executive director to believe that equipment on real property poses an imminent and significant danger or that an accident involving equipment occurred on the property and serious bodily injury or property damage resulted, the executive director may enter the property during regular business hours after notice to the owner, operator, or person in charge of the property to inspect the equipment or investigate the danger or accident at no cost to the owner.

(b) The executive director may enter real property during regular business hours after notice to the owner, operator, or person in charge of the property to verify, at no cost to the owner, whether an inspection report or certificate of compliance has been displayed as required under Section 754.019(a).

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

(1) obtaining registration with the executive director by fraud or false representation;

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

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

(d) Proceedings for the denial, suspension, or revocation

of a registration and appeals from those proceedings are governed by Chapter 2001, Government Code.

(e) The executive director is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this subchapter or a rule adopted under this subchapter.

(f) The executive director 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 executive director in the suit.

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

(h) The executive director may issue an emergency order with simultaneous notice and without hearing or with the notice and opportunity for hearing practicable under the circumstances.

(i) If an emergency order is issued under this section without a hearing, the executive director shall set the time and place for a hearing to affirm, modify, or set aside the emergency order not later than the 10th day after the date the order was issued.

(j) An emergency order may direct a building owner or manager to disconnect power to or lock out equipment if:

(1) the department determines imminent and significant danger to passenger safety exists if action is not taken immediately and reasonable effort has been made for voluntary compliance by notification to the building owner or manager of the danger before the issuance of an emergency order; or

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

(A) the department gives the building owner or manager, or the agent of the building owner or manager, 60 days' written notice by certified mail directing the equipment to be inspected according to this subchapter; and

(B) after the expiration of the notice period under Paragraph (A), the department gives the building owner or manager, or the agent of the building owner or manager, written

notice by certified mail stating that an order to disconnect power or lock out equipment will be made after the seventh day after the date notice is delivered.

(k) If an emergency order to disconnect power or lock out equipment is issued, the building owner or manager may have the power reconnected or the equipment unlocked only if:

(1) a registered inspector or contractor or a department representative has filed a written form with the department verifying the imminent and significant danger has been removed by repair, replacement, or other means; and

(2) the building owner, before the reconnection of power or unlocking of equipment, reimburses the department for all expenses incurred relating to the disconnection of power or lockout.

(1) The executive director or the executive director's designee may allow delayed payment if the building owner or manager commits in writing to pay the department for the expenses required by Subsection (k) not later than the 10th day after the date power is reconnected or equipment is unlocked.

(m) If an emergency order to disconnect power or lock out equipment is issued and the building 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 (k) are satisfied, promptly issue written permission to reconnect power or unlock the equipment and notify the owner.

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

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 has not remedied the noncompliance or entered into a bona fide contract to remedy the noncompliance before the 61st 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 an offense under Subsection (a) constitutes a separate offense.

Added by Acts 1993, 73rd Leg., ch. 65, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 865, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.

Sec. 754.025. APPLICATION OF CERTAIN LAW. (a) Chapter 53, Occupations Code, applies to a registration under this subchapter.

(b) Sections 51.401 and 51.404, Occupations Code, do not apply to this subchapter.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 9.001, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 935, Sec. 1, eff. Sept. 1, 2003.