

Vermont's Elevator Safety Rules

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STATE OF VERMONT ELEVATOR SAFETY RULES

ARTICLE I

Section 1: PURPOSE OF THE RULES

The purpose of this subchapter is to assure that elevators and other automated conveyances are correctly and safely installed and operated within the state by authorizing and enforcing rules for the design, installation, operation and maintenance of automated people conveyances, and by licensing mechanics and inspectors who work on these conveyances.

Section 2: AUTHORITY AND DEFINITIONS

These rules are adopted under the authority of 21 VSA section 144 (b). For the purposes of these rules all definitions shall be the same as section 141(b) of the elevator safety law (21 VSA Chapter 3) contained in the appendix.

Section 3: EFFECTIVE DATE

These rules shall take effect December 1, 2005.

ARTICLE II: RULES OF THE BOARD

Section 1: ELEVATOR SAFETY REVIEW BOARD

(a)The Elevator Safety Review Board is comprised of (5) members as specified in 21 V.S.A. Section 144. The Board office is located at the Division of Fire Safety, 1311 US Route 302 – Berlin, Suite 600, Barre, VT 05641-2351.

(b) The Board controls the issuance, renewal, suspension and revocation of elevator mechanics, lift mechanics and inspectors licenses. In order to exercise its powers and carry out its responsibilities the Board may:

- (1) Conduct or otherwise provide examinations;

- (2) Conduct hearings with regard to the administration of its affairs;
- (3) Investigate all matters within its jurisdiction; and,
- (4) Adopt rules consistent with its statutory authority.

(c) The public may obtain information and make submissions or requests at the Board's office.

Section 2: REGISTRATION OF CONVEYANCES

(a) The owner or lessee of a conveyance shall register the conveyance with the department, pursuant to rules adopted by the Board. The registration shall include the type, rated load and speed, manufacturer, location, purpose, date of installation and any additional information the Board may require.

(b) The Board may, after notice and hearing, assess an administrative penalty of no more than \$1,000.00 against a building owner or lessee who fails to register a conveyance as required by this subchapter 30 days after being directed to do so by the Board.

Section 3: ADOPTION OF NATIONALLY RECOGNIZED SAFETY CODES:

THE NATIONAL SAFETY CODE FOR ELEVATORS AND ESCALATORS (ASME A.17.1) 2004 Edition. The code is amended as follows:

8.11.1.1.2(a) is amended to read:

(a) Periodic tests shall be performed by a person holding a valid Vermont elevator mechanic's license.

THE NATIONAL SAFETY CODE FOR EXISTING ELEVATORS AND ESCALATORS (ASME A.17.3) 2002 Edition. The code is amended as follows:

Appendix C, Rule 211.3 Firefighter's Service – Automatic Elevators is amended to read:

All automatic (nondesignated attendant) operation elevators having a travel distance of more than 3 stories above or below the designated level shall conform to the requirements of this rule. Elevators that exceed this travel distance may apply for a variance under Section 4 of these rules.

Those conveyances that are required to be in compliance with the provisions of ASME A17.3 – 2002 shall have until July 1, 2007 to meet the requirement of this standard.

THE NATIONAL SAFETY STANDARD FOR PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS (ASME A.18.1) 2003 Edition.

THE NATIONAL SAFETY STANDARD FOR THE QUALIFICATIONS OF ELEVATOR INSPECTORS (ASME QEI-1) in its most recent published edition.

Section 4. VARIANCE, EXEMPTION AND RECONSIDERATION

(a) The Board may grant a variance approving a different solution to compliance with the intent of this code. In considering a request for a variance, the board may take into

consideration the impact to the historic character of the conveyance and/or the building. It is the policy of the Board that whenever possible the determination of a variance or exemption request be made by the Elevator Safety Review Board.

(b) In order for a variance or exemption request to be reviewed the owner or designated representative shall submit:

- (1) Evidence that the proposed or existing conveyance is not in compliance with this Code.
- (2) Evidence, letters, statements, test results, construction documents, or other supporting information as required to justify the request.
- (3) Evidence that strict compliance with the Code would entail practical difficulty, unnecessary hardship or is otherwise found unwarranted.
- (4) Evidence that any such variance or exemption secures the public safety and health and that the methods, means or practices proposed provide equal protection of the public safety and health.

(c) Review of the variance or exemption request shall consider evidence that the Code from which the variance or exemption is sought has not been promulgated as a rule or standard under the Vermont Occupational Safety and Health Act.

(d) The determination on the variance or exemption request shall be made in writing to the applicant and shall advise the applicant of the reconsideration process as contained in Section (e). This determination shall be made no later than 30 days after the Board meeting at which the variance or exemption request is heard.

(e) The Board may reconsider an interpretation or decision made pursuant to this Section. To request reconsideration the owner shall submit a written request to the Board including:

- (1) Evidence the proposed or existing conveyance is not in compliance with this Code.
- (2) Evidence, letters, statements, test results, construction documents or other supporting information as required to justify the request.
- (3) Evidence that the true intent of the Code has been incorrectly interpreted, or the provisions of the Code do not fully apply; or the decision is unreasonable or arbitrary as it applies to alternatives or new materials.

(f) The request for reconsideration shall be submitted no later than 30 days after receiving the variance or exemption determination.

(g) A request for variance, exemption, or reconsideration shall not relieve a person from complying with this Code, permit or occupancy requirements, unless the Board expressly authorizes an extension of compliance period pending review of the request.

Section 5: QUALIFICATIONS TO BE LICENSED AS AN ELEVATOR MECHANIC

No License shall be granted to any person who has not proven their qualifications and abilities. Applicants must demonstrate the following qualifications.

(a) An acceptable combination of documented experience and education credits: not less than 4 years work experience in the elevator industry, in construction, maintenance and service/repair, as verified by current and previous employers; or

(b) Certificates of completion and successfully passing the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program or the Canadian Elevator Industry Education Program or their equivalent, that have been approved by the Department; or

(c) Certificates of completion of an apprenticeship program for elevator mechanic, having standards substantially equal to those of this chapter, and registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor or the Vermont State Apprenticeship Council; and

(d) Satisfactory completion of a written examination administered by the Division on the most recent referenced codes and standards. The person that is enrolled in an apprenticeship or training program must complete the program and is not eligible to take this examination until completion of the program.

(e) A License shall be issued to an individual holding a valid license from a state or province having standards substantially equal to those of this chapter, upon application and payment of the fee but without examination.

Section 5a: QUALIFICATIONS TO BE LICENSED AS AN ELEVATOR INSPECTOR

No License shall be granted to any person who has not proven their qualifications and abilities. Applicants must demonstrate the following qualifications. An acceptable combination of documented experience and education credits: not less than 4 years work experience in the elevator industry, in construction, maintenance and service/repair, as verified by current and previous employers.

(a) possession of a valid certification as an ASME Qualified Elevator Inspector (QEI) 1; and

(b) proof of possession of insurance coverage in the amount of \$1,000,000 per occurrence and \$3,000,000 general aggregate.

Section 5b: QUALIFICATIONS TO BE LICENSED AS A LIFT MECHANIC

No License shall be granted to any person who has not proven their qualifications and abilities. Applicants must demonstrate the following qualifications.

- (a) An acceptable combination of documented experience and education credits: not less than 2 years work experience in the platform lift industry, in construction, maintenance and service/repair, as verified by current and previous employers; or
- (b) Certificates of completion of an apprenticeship program for lift mechanic, having standards substantially equal to those of this chapter, and registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor or the Vermont State Apprenticeship Council; and
- (c) Satisfactory completion of a written examination administered by the Division on the most recent referenced codes and standards. The person that is enrolled in an apprenticeship or training program must complete the program and is not eligible to take this examination until completion of the program.
- (d) A License shall be issued to an individual holding a valid license from a state or province having standards substantially equal to those of this chapter, upon application and payment of the fee but without examination.

Section 5c: PROHIBITION

Any person licensed as both a mechanic and an inspector is prohibited from inspecting that individuals own work.

Section 6: ELEVATOR INSPECTORS AND MECHANICS LICENSE FEES

License fees shall be established as follows:

Elevator Mechanics license (initial and renewal)\$75.00;

Elevator Inspectors license (initial and renewal)\$150.00.

Lift Mechanic License (initial and renewal)\$50.00

Section 7: RENEWAL OF LICENSE

- (a) A license issued by the Board shall be valid for two years. The Board may renew a license, provided the applicant submits a written application for renewal accompanied by the required fee prior to expiration of the license.
- (b) Applicants for license renewal shall provide evidence, satisfactory to the Board, of completion of eight hours of instruction approved by the Board, designed to ensure the continued qualifications of the applicant.
- (b) If a license is allowed to lapse it may be renewed within one year of its expiration date by the payment of \$25.00 in addition to the renewal fee.

- (c) (d) If a license is not renewed within one year of its expiration date the inactive licensee shall make application for a new license and shall follow the appropriate licensing procedure.

Section 8: EMERGENCY TEMPORARY MECHANICS LICENSE

Whenever an emergency exists in the State of Vermont due to disaster, an act of God or work stoppage and the number of persons in the state holding a License granted by the Board is insufficient to cope with the emergency, the Elevator or Lift Company shall respond as necessary to assure the safety of the public. Any person certified by an Elevator or Lift Company to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall seek an Emergency License from the Board within five business days after commencing work requiring a certificate of competency. The Board shall issue an Emergency License. The company shall furnish proof of competency as the Board may require. Each such certificate of competency shall recite that it is valid for a period of thirty days from the date thereof and for such particular elevators or geographical areas as the Board may designate and otherwise shall entitle the certificate of competency to the rights and privileges of a License issued in this chapter. The Board shall renew an emergency License during the existence of an emergency. No fee shall be charged for any Emergency License or renewal thereof.

Section 8a: CONTINUING EDUCATION

The renewal of all licenses granted under the provisions of this section shall be conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education of the holder of a License on new and existing provisions of the regulations of the Division. Such course shall consist of not less than eight hours of instruction that shall be attended and completed within the year immediately preceding the renewal.

The courses shall be taught by instructors through continuing education providers that may include, but shall not be limited to, association seminars, and labor training programs. The Division shall approve the continuing education providers. All instructors shall be approved by the Division and are exempt from the requirements of the preceding paragraph with regard to their application for License renewal provided that such applicant was qualified as an instructor at any time during year immediately preceding the renewal.

A holder of a License who is unable to complete the continuing education course required under this section prior to the expiration of their License due to a temporary disability may apply for a waiver from the Division. This will be on a form provided by the Division, shall be signed under the pains and penalties of perjury and shall be accompanied by a certified statement from a competent physician attesting to such temporary disability. At that time a waiver sticker, valid for 90 days, shall be issued to such person and affixed to their License. Upon the termination of such temporary disability, such person shall submit to the Division a certified statement from the same physician, if practicable, attesting to the termination of such temporary disability.

Approved training providers shall keep uniform records, for a period of ten years, of attendance of person holding an License following a format approved by the Division and such records shall be available for Inspection by said Division at its request. Approved training providers shall be responsible for the security of all attendance records and certificates of completion; provided, however, that falsifying or knowingly allowing another to falsify such attendance records or certificates of completion shall constitute grounds for suspension or revocation of the approval required under this section.

Section 9: COMPLAINTS

A person may file a complaint with the Board by doing so in writing, setting forth a full statement of the facts concerning the alleged infraction of the elevator licensing law or rules. In the event a complaint is filed with the Board, the Board's investigation shall not be limited to the matter set forth in the request for investigation but may extend to any act coming to the attention of the Board which appears to violate the law or these rules.

Section 10: DISCIPLINARY PROCEEDINGS

(a) In accordance with 21 V.S.A. Section 149, the Elevator Safety Review Board may revoke or suspend a license. This shall not preclude the Board from taking lesser steps, including, but not limited to formal reprimand, required education, etc. The Board may act if:

- (1) The license was wrongfully or fraudulently obtained.
- (2) Failure to notify the Department and the owner or lessee of a conveyance of the non compliance of the conveyance with the standard adopted under the subchapter.
- (3) Unprofessional or improper conduct.
- (4) Violation of any provision of the subchapter.

(b) The Board may take these actions only after notice and provision to the licensee of an opportunity to appear before the Board for a hearing, in accordance with 3 V.S.A. Chapter 25, the Vermont Administrative Procedure Act, and these rules issued thereunder.

Section 10a: INITIATING A COMPLAINT AGAINST A LICENSEE

(a) Form of complaint filing. A person may register a complaint against a mechanic or inspector licensed by the Elevator Board by filing a written complaint with the Division of Fire Safety, 1311 US Route 302 – Berlin, 600, Barre, VT 05641-2351. The written complaint must set forth, at a minimum, the nature, date and place of the alleged violations. The Board may also initiate a license review procedure on its own motion by filing a complaint with the department.

(b) Verification. Upon receipt of a complaint, the department will verify the Vermont license number of the person against whom the complaint is lodged. If the person is unlicensed and the complaint alleges criminal conduct, the department will refer the

complaint to the office of the Criminal Division of the Attorney General's Office. If the person is a licensee of the Board, the department will docket the complaint and open an investigation file under the name and license number of the person.

(c) Investigating Panel. An investigating panel consisting of an investigator designated by the department and an Assistant Attorney General will be formed upon the docketing of a complaint. The Assistant Attorney General assigned to the case will head the panel and supervise the investigation of the complaint.

Section 10b: INITIATING THE INVESTIGATION

(a) Notice to the Licensee. The department will send written notice of the initiation of an investigation to the licensee against whom the complaint has been filed. The notice shall include a copy of the complaint and a copy of the statute and these rules. The notice will inform the licensee that inquiries or materials regarding the investigation should be addressed to the investigating panel at the address of the department.

(b) Notice to the Board. The department will send written notice to the Board and the complainant indicating that an investigation has been instituted regarding a licensing complaint.

(c) The inspector assigned to investigate the complaint shall inspect the work which is the subject of the complaint and interview the complainant. The inspector may also meet and interview the licensee at the direction of the Assistant Attorney General assigned to the matter.

Section 10c: RECOMMENDED ACTION

(a) At the conclusion of the investigation the Assistant Attorney General assigned to the matter shall make a recommendation as to whether formal proceedings should commence against the licensee.

(b) If formal disciplinary proceedings are recommended, the Assistant Attorney General shall submit a complaint describing the alleged violations, and the rules or statutes violated, with the recommendation.

(c) If the licensee is willing to admit to the charges the Assistant Attorney General may explore the possibility of a stipulated settlement. A stipulated settlement must be approved by the Board.

(d) If no disciplinary action is recommended the case will be closed and the complainant and the licensee will be notified that no further action will be taken at this time. The matter may be reopened if new evidence is presented.

Section 10d: FORMAL HEARING BY THE BOARD.

(a) Notice and Place of Hearing. Upon the filing of a notice of charges by the investigating panel, the Board will commence the hearing process by serving the notice of charges and a notice of the hearing upon the licensee. Notice will be served personally or by certified mail, return receipt requested. Copies will be sent to the members of the investigating panel and the complainant. The hearing will be scheduled at least 20 days after service.

(b) Failure to Appear. If the licensee fails to appear after proper notice has been given, the Board shall hold the hearing and make a decision on the charges.

(c) A quorum of the Board shall be a majority of its members.

(d) Conduct of Hearing; Receipt of Evidence; Argument. The Board may admit any evidence it deems of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. All persons shall testify under oath or affirmation. The licensee or his attorney may examine or cross examine witnesses, inspect documents, and explain or rebut any evidence presented to the Board. The Assistant Attorney General, investigator, and licensee may present oral and written argument in addition to evidence, which also shall be made part of the record.

Where a licensee is not represented by counsel the Board shall advise the licensee and aid in the examining and cross examining of witnesses as effectively as possible compatible with the impartial discharge of its duties as a body of impartial review.

(e) Authority of the Chair. The chair shall administer oaths to witnesses, rule on questions of evidence and upon the service of subpoenas and other notices, and do whatever is necessary and proper to conduct the hearing in a judicious, fair and expeditious manner.

(f) Disqualification of a Board Member. A member of the Board shall voluntarily disqualify himself or herself and withdraw from any hearing in which the member cannot act in a fair and impartial manner, or where the member has an interest in the proceedings. Any party to a hearing may request disqualification of a Board member by filing an affidavit stating with particularity the grounds for disqualification. If the Board member does not disqualify himself or herself in response to the motion, the chair of the Board shall decide the issue of disqualification. A hearing shall be held if requested by the moving party or if deemed necessary by the chair. All materials pertinent to a matter of disqualification shall be made part of the record.

If a Board member is disqualified, thereby negating the quorum, the chair shall appoint a hearing officer to decide the matter in the same manner as if the Board were presiding.

(g) Judgment of the Board. The Board will issue a decision within a reasonable time following the conclusion of the hearing. The decision must be in writing and be signed by the members of the Board. The decision shall set forth findings of fact, conclusions of fact and law, and the judgment. If a decision of the Board is not unanimous, the decision of the majority will control. The minority may file a dissenting opinion.

The Board promptly shall mail or deliver a copy of its decision to the licensee, the investigating panel and, if appropriate, to the complainant. An order attached to the judgment will go into effect after the end of the 30 day appeal period, if no appeal is filed.

(h) Appeal From a Decision of the Board. A licensee aggrieved by a judgment of the Board may appeal that judgment to the supreme court. The Board may grant, or the court may order, a stay of the Board's order upon application of the licensee.

(i) Transcripts. A contested case hearing shall be recorded but not transcribed unless a transcript is requested by an interested person. Transcripts will be available for cost. The Board will provide an estimate of transcription cost before filling an order for transcript.

Section 11: FORMS

All forms which are required by the Board shall be available on request at the Board's office.

Section 12: REPEAL

All rules adopted by the Board and filed in the Office of the Secretary of State prior to the effective date of these rules are hereby repealed.

ARTICLE III. RULES OF DEPARTMENT

Section 1: DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety, Division of Fire Safety, enforces the nationally recognized safety codes and administers the licensing procedures established under Article 2.

Section 2: PERMIT

(a) An application for a permit shall be filed with the department in accordance with 21 V.S.A. Section 151 for all elevator work covered under these rules.

(b) Each application for a permit shall be accompanied by a fee of \$25.00, and copies of specifications and accurately-scaled and fully-dimensioned plans that clearly indicate location of the elevator in the building; the location of the machinery room and the equipment to be installed, relocated or altered; all structural supporting members, including foundations; and a specification of all materials to be used and all loads to be supported or conveyed. The plans and specifications shall be sufficiently complete to illustrate all details of construction and design.

(c) The Department may refuse to issue a permit if the license holder has other on-going elevator work for which a permit application has not been filed, or if the Department is owed fees.

(d) A permit may be revoked for any of the following reasons:

- (1) A false statement or a misrepresentation of a material fact in the application, plans or specifications on which the permit was based.
- (2) Failure of the permittee to perform work in accordance with the conditions of the permit, the provisions of the application, plans or specifications or the standards required by this subchapter.
- (3) Failure of the permit holder to comply with any order issued pursuant to section 154 of this title.

(e) Work shall commence within six months after the date of issuance of a permit, or within a shorter period of time as the Commissioner may specify in the permit.

(f) A permit shall expire if work is suspended or abandoned for more than 60 days after work has begun, or a shorter period of time as the Commissioner may specify in the permit. For good cause shown, the Commissioner may extend this period.

Section 3. ADMINISTRATIVE PENALTIES

(a) Scope

The Commissioner may, after notice and an opportunity for a hearing, assess an administrative penalty against any person who violates the laws, rules and standards enforced by the Board.

These rules establish the procedure for issuing administrative citations, assessing penalties and appealing citations. The purpose of these rules is to encourage code compliance, which will result in improved safety and access for the public in a timely manner.

(b) Issuance of Administrative Citation

(1) The Commissioner may issue an administrative citation and have the administrative citation served on the person by certified mail or personal service. Each citation shall be in writing and shall specifically describe the nature of the violation, its location and include a reference to the particular section of the law, rule or standard alleged to have been violated. The citation shall also state the amount of the fine and the process for appeal.

(2) The person alleged to have committed the violations shall have twenty days from the date of service to notify the Commissioner, in writing, of any intent to appeal the citation and fine. If no notice or appeal is filed the citation and penalty shall be deemed a final order of the Commissioner.

(3) Administrative citations and penalties issued under these rules shall not limit the authority of the Commissioner under other sections of law to issue orders, revoke permits, stop work on construction or to order the electrical power to be disconnected, or to take any other appropriate enforcement action.

(c) Appeal of Proposed Penalty

The procedures set forth in 3 V.S.A. § 809 and 813 shall cover all hearings under these rules.

(1) A person who appeals a citation issued by the Commissioner, pursuant to Section 3 of this rule shall be entitled to a hearing before the Commissioner or designee within 45 days of filing the notice of appeal. The 45-day time frame may be extended if the appellant requests, in writing, additional time to prepare for the hearing.

(2) A hearing notice to the appellant shall include the following information:

(A) A statement of the time, place, and nature of the hearing;

(B) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(C) A reference to the sections of the statutes and rules involved;

(D) A short and plain statement of the matters at issue.

(3) The Commissioner may appoint a hearing officer to hear evidence on any complaint and prepare findings and recommend a decision.

(4) The applicant may appear at the hearing with Counsel, present evidence and cross-examine witnesses.

(5) At the hearing the rules of evidence shall be according to 3 V.S.A. § 810.

(6) Opportunity shall be given all parties to respond and present evidence and argument on all issues involved.

(7) The hearing officer may compel, by subpoena, the attendance and testimony of witnesses and the production of books and record in accordance with 3 V.S.A. § 809.

(8) At the close of the evidence the Commissioner shall issue a written decision with findings of fact and conclusions of law determining whether a violation or violations have occurred and the amount of any penalty to be assessed.

(9) Nothing in this section shall prohibit the informal disposition of a citation by stipulation, agreed settlement, consent order or default. Informal disposition may proceed with clear and simple documentation without complete adherence to this section.

(d) Administrative Penalty/Fine

When a penalty is assessed the fine shall be as follows:

(1) Code Violations:

In assessing the penalty for code violations the Commissioner or a duly authorized representative shall consider the seriousness of the hazard, the number of people exposed to the hazard, whether or not the violation was corrected after notification of its existence, and whether the person has been fined for the same or similar violations in the past.

(A) The fine shall not exceed \$1,000.00 for each code violation, which poses a serious threat to life safety.

(B) The fine shall not exceed \$100.00 for each technical code violation, which does not pose a serious threat to life safety.

(C) The fine shall not exceed \$200.00 for each technical code violation, which does not pose a serious threat to life safety where the person has not corrected the violation after receiving written notification.

(2) Licensing and Certification:

A person who performs elevator work without being properly licensed shall be fined not more than \$1,000.00 for each occurrence.

(3) Other:

The fine shall not exceed \$500.00 for each administrative or technical violation not otherwise noted in this section.

Section 4: MUNICIPAL INSPECTIONS.

RESERVED

Section 5: SEVERABILITY CLAUSE

In the event any part or provision of these rules is held to be illegal, this shall not have the effect of making void or illegal any of the other parts or provisions of these rules.

ARTICLE IV. VERMONT STATE STATUTES

Title 21: Labor

Chapter 3: SAFETY

Subchapter II-A. Elevators and Conveyances

§ 141. Purpose; definitions

(a) The purpose of this subchapter is to assure that elevators and other automated conveyances are correctly and safely installed and operated within the state by authorizing and enforcing rules for the design, installation, operation and maintenance of automated people conveyances, and by licensing mechanics and inspectors who work on these conveyances.

(b) For the purposes of this subchapter:

- (1) "Board" means the elevator safety review board.
- (2) "Certificate of operation" means a document issued by the department indicating that a conveyance has passed the required safety inspection, and the conveyance may be operated for a year from the date the certificate is issued.
- (3) "Commissioner" means the commissioner of public safety or the commissioner's designee.

- (4) "Conditional certificate of operation" means a document issued by the department that permits a conveyance that is not in compliance with rules adopted under this subchapter, but, after inspection, has been deemed safe for temporary operation to operate for up to 30 days or until the conveyance is in compliance, whichever occurs earlier.
- (5) "Conveyance" means an electrically-driven mechanical device that moves people or materials vertically, and includes elevators, escalators, platform lifts and stairway chairlifts.
- (6) "Department" means the department of public safety.
- (7) "Elevator inspector" means an individual who is licensed by the commissioner to perform safety inspections of newly installed and existing conveyances.
- (8) "Elevator mechanic" means an individual who is licensed by the commissioner to erect, construct, install, alter, service, repair and maintain conveyances.
- (9) "Public building" has the same meaning as that term is defined in section 2730 of Title 20.
- (10) "Lift mechanic" means an individual who is licensed by the commissioner to erect, construct, install, alter, service, repair and maintain platform lifts and stairway chairlifts. (Added 2001, No. 60, § 1, eff. June 16, 2001; amended 2001, No. 151 (Adj. Sess.), § 44b, eff. June 27, 2002; 2005, No. 8, § 6, eff. April 25, 2005.)

TITLE 21

Labor

CHAPTER 3. SAFETY

Subchapter II-A. Elevators and Conveyances

§ 142. Conveyances regulated

(a) This subchapter regulates the design, construction, operation, inspection, testing, maintenance, alteration, and repair of the following conveyances and associated parts that are installed in or on a public building:

(1) Hoisting and lowering mechanisms equipped with a car or platform, that moves between two or more landings, including:

(A) Elevators.

(B) Platform lifts and stairway chairlifts.

(C) Power-driven stairways.

(D) Escalators.

(2) Hoisting and lowering mechanisms equipped with a car that serves two or more landings and is designed to carry material, not people, but not including dumbwaiters.

(b) This subchapter does not cover the conveyances that are regulated by the Vermont tramway board or by the rules of the Vermont occupational and safety administration, or

by the Federal Mine Safety and Health Act, 30 U.S.C.A. § 801 et seq. (Added 2001, No. 60, § 1, eff. June 16, 2001.)

TITLE 21

Labor

CHAPTER 3. SAFETY

Subchapter II-A. Elevators and Conveyances

§ 143. License required

No person shall erect, construct, wire, alter, replace, or maintain any conveyance located in any public building in this state unless the person is licensed as an elevator mechanic, except that person who is licensed as a lift mechanic may erect, construct, wire, alter, replace, or maintain any conveyance located in any public building. An apprentice or helper may perform any of the activities described in this section only when a mechanic licensed under this chapter is physically present and is immediately available to direct and supervise that apprentice or helper. (Added 2001, No. 60, § 1, eff. July 1, 2002; amended 2001, No. 151 (Adj. Sess.), § 44d, eff. June 27, 2002; 2005, No. 8, § 6a, eff. April 25, 2005.)

TITLE 21

Labor

CHAPTER 3. SAFETY

Subchapter II-A. Elevators and Conveyances

§ 144. Elevator safety review board; members; duties

(a) The elevator safety review board is established within the department, and shall consist of five members, one of whom shall be the commissioner or the commissioner's designee, and four members to be appointed by the governor as follows: one representative from a major elevator manufacturing company; one representative from an elevator servicing company; an owner or manager of a multistoried building, in which a conveyance is installed; and an individual who actually installs, maintains and repairs conveyances. The members appointed by the governor shall be appointed for staggered terms of three years, and shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

(b) The board shall:

(1) Adopt rules regarding the following:

(A) Safety standards for the operation, maintenance, servicing, construction, alteration, installation, and inspection of conveyances covered by this subchapter. At a minimum, the board shall adopt rules that include the Safety Code for Elevators and Escalators, ASME A17.1; the Safety Code for Existing Elevators and Escalators, ASME A17.3; the Safety Standards for Platform Lifts and Stairway Chairlifts, ASME A18.1; and Standard for the Qualification of Elevator Inspectors, ASME QEI-1. The board shall amend the rules to include any changes or amendments to these standards within six months after

the effective date of the standard changes. The board may adopt rules to modify these standards as the board deems necessary.

(B) Any other rule necessary to implement this subchapter.

(2) Grant variances, provided the variance provides an equal or greater level of public safety. The decision of the board in regard to an application for a variance shall be final.

(c) The board may:

(1) Adopt rules for temporary elevator mechanic licenses in the event of an emergency.

(2) Contract with a national testing service to develop and administer licensing examinations. (Added 2001, No. 60, § 1, eff. June 16, 2001.)

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§ 145. Elevator mechanic license and lift mechanic license

An individual shall submit to the commissioner a written application for an elevator mechanic or a lift mechanic license on a form provided by the board, accompanied by the required fee. A license shall be granted to an applicant who demonstrates to the satisfaction of the board that the applicant meets the qualifications established by the board. An individual who holds an elevator mechanic license may work on platform lifts and stairway chairlifts without a lift mechanic license. An individual who holds only a lift mechanic license may not work on elevators without an elevator mechanic license. (Added 2001, No. 60, § 1, eff. June 16, 2001; amended 2001, No. 151 (Adj. Sess.), § 44c, eff. June 27, 2002.)

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§ 146. Elevator inspector license

An individual shall submit to the commissioner a written application for an elevator inspector license on a form provided by the board, accompanied by the required fee. A license shall be granted to an applicant who demonstrates to the satisfaction of the board that the applicant meets the qualifications established by the board. (Added 2001, No. 60, § 1, eff. June 16, 2001.)

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Subchapter II-A. Elevators and Conveyances

§ 147. Examination not required

A license for elevator mechanic or inspector shall be issued to an applicant, upon application and payment of the required fee, or to an individual who holds a comparable valid license or certification from a state that has equal or more stringent requirements.

(Added 2001, No. 60, § 1, eff. June 16, 2001.)

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§ 148. Issuance and renewal of licenses; fees

(a) A license issued by the board shall be valid for two years. The board may renew a license, provided the applicant submits a written application for renewal accompanied by the required fee prior to expiration of the license.

(b) Applicants for license renewal shall provide evidence, satisfactory to the board, of completion of eight hours of instruction approved by the board, designed to ensure the continued qualifications of the applicant.

(c) License and renewal fees are as follows:

(1) Elevator mechanic license: \$75.00.

(2) Elevator inspector license: \$150.00.

(3) Lift mechanic license: \$50.00. (Added 2001, No. 60, § 1, eff. June 16, 2001; amended 2001, No. 151 (Adj. Sess.), § 44e, eff. June 27, 2002.)

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§ 149. Civil penalties; suspension; revocation of license

After notice and hearing, the board may suspend or revoke a license and assess administrative penalties pursuant to section 156 of this title for any of the following reasons:

(1) Fraud or deceit in obtaining the license.

- (2) Failure to notify the department and the owner or lessee of a conveyance of noncompliance of the conveyance with the standards adopted under this subchapter.
- (3) Violation of any provisions of this subchapter. (Added 2001, No. 60, § 1, eff. July 1, 2002.)

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§ 150. Registration of conveyances

(a) The owner or lessee of a conveyance shall register the conveyance with the department, pursuant to rules adopted by the board. The registration shall include the type, rated load and speed, manufacturer, location, purpose, date of installation, and any additional information the board may require.

Subsection (b) effective March 1, 2003 until January 1, 2006; see also subsection (b) set out below.

(b) The commissioner may, after notice and hearing, assess an administrative penalty of no more than \$1,000.00 against a building owner or lessee who fails to register a conveyance as required by this subchapter 30 days after being directed to do so by the commissioner.

Subsection (b) effective January 1, 2006; see also subsection (b) set out above.

(b) The commissioner may, after notice and hearing, assess an administrative penalty of no more than \$1,000.00 against a building owner or lessee who fails to register a conveyance as required by this subchapter. (Added 2001, No. 60, §§ 1, 3a, eff. date see notes set out below.)

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§ 151. Permits

(a) No conveyance shall be erected, constructed, installed or altered in a public building unless a permit has been obtained from the department before work is commenced. Before a material alteration, as defined by rule, is begun, the conveyance shall conform to rules adopted by the board regulating the alteration. A copy of the permit shall be kept at the construction site at all times while work is in progress.

(b) Each application for a permit shall be accompanied by a fee of \$25.00, and copies of specifications and accurately-scaled and fully-dimensioned plans that clearly indicate

location of the elevator in the building; the location of the machinery room and the equipment to be installed, relocated or altered; all structural supporting members, including foundations; and a specification of all materials to be used and all loads to be supported or conveyed. The plans and specifications shall be sufficiently complete to illustrate all details of construction and design.

(c) A permit may be revoked for any of the following reasons:

(1) A false statement or a misrepresentation of a material fact in the application, plans, or specifications on which the permit was based.

(2) Failure of the permittee to perform work in accordance with the conditions of the permit, the provisions of the application, plans or specifications, or with the standards required by this subchapter.

(3) Failure of the permit holder to comply with any order issued pursuant to section 154 of this title.

(d) Work shall commence within six months after the date of issuance of a permit, or within a shorter period of time as the commissioner may specify in the permit.

(e) A permit shall expire if work is suspended or abandoned for more than 60 days after work has begun, or a shorter period of time as the commissioner may specify in the permit. For good cause shown, the commissioner may extend this period. (Added 2001, No. 60, § 1, eff. July 1, 2002.)

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§ 152. New installations; annual inspections and registrations

(a) A new conveyance shall not be placed in operation until it has been inspected by an elevator inspector, and a certificate of operation has been issued.

(b) Every conveyance subject to this subchapter shall be inspected annually by an elevator inspector. An inspector may charge a fee not to exceed \$100.00 for each inspection. The inspector shall notify the department if a conveyance is found to be in violation of this subchapter or any rule adopted under this subchapter.

(c) An elevator inspector shall issue a certificate of operation after the inspector has inspected a new or existing conveyance, and has determined that the conveyance is in compliance with this subchapter. A certificate of operation shall be renewed annually. An owner of a conveyance shall ensure that the required inspections and tests are performed at intervals that comply with rules adopted by the board. Certificates of operation shall be clearly displayed on or in each conveyance or in each machinery room.

(d) The department may issue a conditional certificate of operation for a conveyance that is not in complete compliance, provided the conveyance has been inspected and determined to be safe for temporary operation. This conditional certificate of operation

permits a conveyance to operate for no more than 30 days or until the conveyance is in compliance, whichever occurs first.

(e) The inspector shall submit \$25.00 to the department for each certificate of operation issued under this subchapter. (Added 2001, No. 60, § 1, eff. July 1, 2002.)

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§ 153. Insurance requirements; license

A licensed elevator inspector shall submit to the department an insurance policy, or certified copy issued by an insurance company authorized to do business in Vermont, that provides general liability coverage in an amount to be determined, by rule. (Added 2001, No. 60, § 1, eff. June 16, 2001.)

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§ 154. Enforcement

(a) The commissioner may contract with elevator inspectors to perform random on-site inspections and tests on existing conveyances, conduct periodic inspections and tests to ensure satisfactory performance by licensed individuals, and develop public awareness programs.

(b) If the commissioner finds a violation of this subchapter, the commissioner may:

(1) Order the owner of the premises or the owner's agent and the individuals performing the work to correct or remove the violation.

(2) Suspend or retract the permit.

(3) Order the owner, a public utility or a private party furnishing electricity to the installation not to connect or disconnect electrical energy from the conveyance until the violation is corrected. (Added 2001, No. 60, § 1, eff. June 16, 2001.)

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§ 155. Liability

This subchapter shall not be construed to relieve any person that owns, operates, controls, maintains, erects, constructs, installs, alters, inspects, tests or repairs any elevator or other conveyance covered by this subchapter from liability for damages to persons or property caused by any defect in any conveyance. (Added 2001, No. 60, § 1, eff. June 16, 2001.)

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Subchapter II-A. Elevators and Conveyances

§ 156. Penalty

- (a) Any owner or lessee who violates any of the provisions of this subchapter shall be fined not more than \$1,500.00 for each occurrence.
- (b) The commissioner may, after notice and hearing, assess an administrative penalty of not more than \$1,000.00 for each violation of this subchapter.
- (c) Any person who erects, constructs, wires, alters, replaces, or maintains any conveyance located in any public building in this state without being licensed as required by this subchapter, or who employs an unlicensed person to perform this work, shall be fined not more than \$1,000.00 for each offense. (Added 2001, No. 60, § 1, eff. July 1, 2002.)

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§ 157. Elevator safety fund; creation

The elevator safety fund is created for the purpose of funding the elevator safety inspection and licensing program. All revenues from fees collected for licensing elevator mechanics and inspectors, and issuing permits and certificates of operation, shall be deposited in the fund. The commissioner, pursuant to an appropriation from the fund, shall request disbursements from the fund by the commissioner of finance and management. The fund shall be maintained by the state treasurer and shall be managed in accordance with the provisions of subchapter 5 of chapter 7 of Title 32. (Added 2001, No. 60, § 1, eff. June 16, 2001.)