

STATE OF NEW YORK

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Introduced by M. of A. TITUS, SEAWRIGHT, WEPRIN, BICHOTTE, ORTIZ, TITONE, FAHY, O'DONNELL, BENEDETTO, MOSLEY, SKOUFIS, GALEF, THIELE, ABINANTI, HYNDMAN, BLAKE, STECK, HARRIS, PICHARDO, GJONAJ, ZEBROWSKI, PEOPLES-STOKES, JEAN-PIERRE, GUNTHER, RAIA, LUPINACCI, FINCH, PALUMBO, McDONOUGH, MONTESANO, GOTTFRIED, JAFFEE, SANTABARBARA, MALLIOTAKIS, SIMOTAS, BRONSON, JOYNER, HIKIND, QUART, CRESPO, COLTON, SIMANOWITZ, BARNWELL, WALKER, MURRAY, CUSICK, OTIS, RYAN, AUBRY, RICHARDSON, ROSENTHAL, MAGEE, NIOU, DILAN, SEPULVEDA, WALTER, BRAUNSTEIN, MAYER, PHEFFER AMATO, ARROYO -- Multi-Sponsored by -- M. of A. BUCHWALD, COOK, CROUCH, CURRAN, DenDEKKER, DINOWITZ, ENGLEBRIGHT, FARRELL, GIGLIO, GLICK, GOODELL, GRAF, HAWLEY, HEVESI, HOOPER, LUPARDO, MAGNARELLI, McDONALD, RA, RAMOS, RODRIGUEZ, SIMON -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law and the state finance law, in relation to requiring the licensing of persons engaged in the design, construction, inspection, maintenance, alteration, and repair of elevators and other automated people moving devices

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The labor law is amended by adding a new article 33 to read
2 as follows:

ARTICLE 33

ELEVATORS AND OTHER CONVEYANCES; LICENSING

Section 950. Legislative findings and declaration.

951. Application.

952. Definitions.

953. Licensing, permit, registration and compliance requirements.

954. License and permit procedure.

955. Qualifications, training and continuing education.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD01705-04-7

1 956. Powers of the commissioner.

2 957. New York state elevator safety and standards board.

3 958. Exempt persons.

4 § 950. Legislative findings and declaration. The legislature hereby
5 finds that the use of unsafe and defective elevators and other automated
6 people moving conveyances may expose the public to unsafe conditions and
7 increase the risk of injury. The legislature finds that improper design,
8 construction, maintenance and repair of such conveyances is preventable
9 by requiring proper training of persons employed to perform work on
10 elevators and other automated people moving conveyances and by requiring
11 the licensing of contractors and the certification of individuals
12 involved in elevator and other automated people moving conveyances
13 projects.

14 Nothing in this article is intended to create, expand, diminish,
15 limit, impair, or supersede any rights under current law, rule, or regu-
16 lation, or resulting from a determination of a court or the national
17 labor relations board with regard to building trades and the work of
18 such building trade. Nor is it intended to abrogate any rights or duties
19 under any contract with regard to building trades and the work of such
20 building trade.

21 § 951. Application. 1. The design, construction, erection, installa-
22 tion, inspection, testing, maintenance, alteration, service, and repair
23 of the following equipment are covered by this article:

24 (a) hoisting and lowering mechanisms equipped with a car or platform
25 which moves between two or more landings. This equipment includes, but
26 is not limited to elevators, platform lifts and stairway chair lifts;

27 (b) power driven stairways and walkways for carrying persons between
28 landings. This equipment includes, but is not limited to, escalators
29 and moving walks;

30 (c) hoisting and lowering mechanisms equipped with a car, which serves
31 two or more landings and is restricted to the carrying of material by
32 its limited size or limited access to the car. This equipment includes,
33 but is not limited to, dumbwaiters, material lifts, and dumbwaiters with
34 automatic transfer devices as defined in section nine hundred fifty-two
35 of this article; and

36 (d) automatic guided transit vehicles on guideways with an exclusive
37 right of way. This equipments includes, but is not limited to, auto-
38 mated people movers.

39 2. The following equipment is not covered by this article:

40 (a) material hoists;

41 (b) manlifts;

42 (c) mobile scaffolds, towers, and platforms;

43 (d) powered platforms and equipment for exterior and interior mainte-
44 nance;

45 (e) conveyor and related equipment;

46 (f) cranes, derricks, hoists, hooks, jacks and slings;

47 (g) industrial trucks;

48 (h) portable equipment, except for portable escalators;

49 (i) tiering and piling machines used to move materials to and from
50 storage located and operating entirely within one story;

51 (j) equipment for feeding or positioning materials including, but not
52 limited to, machine tools and printing presses;

53 (k) skip or furnace hoists;

54 (l) wharf ramps;

55 (m) railroad car lifts or dumpers;

1 (n) line jacks, false cars, shafters, moving platforms and similar
2 equipment used for installing an elevator by a contractor licensed in
3 this state.

4 3. The licensing, permitting and certification provisions of this
5 article shall not apply to the owners or lessees of private residences
6 who design, erect, construct, install, alter, repair, service or main-
7 tain conveyances that are located or will be located in such owner or
8 lessee's private residence. However, any person hired to design, erect,
9 construct, install, alter, repair, service, maintain, or perform any
10 other work related to such conveyances must comply with the provisions
11 of this article.

12 4. No license shall be required for the removal or dismantling of
13 conveyances.

14 5. The provisions of this article and the rules adopted pursuant ther-
15 eto shall be the minimum standard required and shall supersede any
16 special law or local ordinance inconsistent therewith, and no local
17 ordinance inconsistent therewith shall be adopted, but nothing herein
18 contained shall prevent the enactment by local law or ordinance of addi-
19 tional requirements and restrictions.

20 § 952. Definitions. As used in this article, the following terms shall
21 have the following definitions:

22 1. "Automated people mover" means a guided transit mode with fully
23 automated operation, featuring vehicles that operate on guideways with
24 exclusive right-of-way.

25 2. "Board" means the New York state elevator safety and standards
26 board established by section nine hundred fifty-seven of this article.

27 3. "Certificate of operation" means a document issued by the commis-
28 sioner that indicates that the elevator or related conveyance has had
29 the required safety inspection and tests and that the fees required by
30 this article have been paid.

31 4. "Temporary certificate of operation" means a document issued by the
32 commissioner which permits the temporary use of a non-compliant elevator
33 or related conveyance by the general public for a limited time, not to
34 exceed thirty days, while minor repairs are being completed.

35 5. "Conveyance" means any elevator, dumbwaiter, escalator, moving
36 sidewalk, platform lifts, stairway chairlifts and automated people
37 movers.

38 6. "Dormant elevator, dumbwaiter, or escalator" means an installation
39 placed out of service under the following circumstances: (a) when an
40 installation's power has been disconnected and (i) when an electric
41 elevator, dumbwaiter, or material lift whose suspension ropes have been
42 removed, whose car and counterweight rest at the bottom of the hoistway,
43 and whose hoistway doors have been permanently barricaded or sealed in
44 the closed position on the hoistway side; or (ii) a hydraulic elevator,
45 dumbwaiter, or material lift whose car rests at the bottom of the hoist-
46 way and whose doors are permanently barricaded or sealed; or (iii) an
47 escalator or moving walk whose entrances have been permanently barricad-
48 ed; or (b) as determined by state or local law, code, rule, or regu-
49 lations.

50 7. "Elevator" means a hoisting and lowering mechanism, equipped with a
51 car, that moves within guides and serves two or more landings.

52 8. "Elevator contractor" means, a public corporation, or instrumentality
53 of a public corporation, self-employed person, company, unincorporated
54 association, firm, partnership, limited liability company, corpora-
55 tion, or any other entity, or any owner or operator of any of the
56 foregoing entities, who possesses an elevator contractor's license in

1 accordance with the provisions of sections nine hundred fifty-three and
2 nine hundred fifty-four of this article and is engaged in the business
3 of designing, erecting, constructing, installing, altering, repairing,
4 servicing or maintaining elevators or other automated people moving
5 conveyances covered by this article.

6 9. "Elevator helper/apprentice/assistant mechanic" means any person
7 who works under the general direction of a licensed elevator mechanic.

8 10. "Elevator inspector" means any person who possesses an elevator
9 inspector's license in accordance with the provisions of this article.

10 11. "Elevator mechanic" means any person who possesses an elevator
11 mechanic's license in accordance with the provisions of this article.

12 12. "Escalator" means power-driven, inclined, continuous stairway used
13 for raising or lowering passengers.

14 13. "Existing installation" means an installation that has been
15 completed or is under construction prior to the effective date of this
16 article.

17 14. "License" means a license duly issued by the commissioner, author-
18 izing the design, erection, construction, installation, alteration,
19 repair, service, maintenance, or inspection of elevators or other
20 conveyances covered by this article.

21 15. "Elevator contractor's license" means a license which entitles the
22 holder thereof to engage in the business of designing, erecting,
23 constructing, installing, altering, repairing, servicing or maintaining
24 conveyances covered by this article.

25 16. "Elevator inspector's license" means a license which entitles the
26 holder thereof to engage in the business of inspecting or testing
27 conveyances covered by this article.

28 17. "Elevator mechanic's license" means a license which entitles the
29 holder thereof to install, construct, alter, service, repair, test,
30 maintain, and perform work on conveyances or other automated people
31 movers covered by this article.

32 18. "Moving walk/sidewalk" means a type of passenger-carrying device
33 on which passengers stand or walk, and in which the passenger-carrying
34 surface remains parallel to its direction of motion and is uninter-
35 rupted.

36 19. "Permit" means a document issued by the commissioner prior to the
37 commencement of work that permits a conveyance to be erected,
38 constructed, installed, or altered under plans approved by the commis-
39 sioner pursuant to this article.

40 20. "Person" means any natural person.

41 21. "Private residence" means a separate dwelling or a separate apart-
42 ment in a multiple dwelling, which is occupied by members of a single
43 family unit.

44 22. "Repair" means reconditioning or renewal of parts, components,
45 and/or subsystems necessary to keep equipment in compliance with appli-
46 cable code requirements.

47 23. "Alteration" means any change to equipment, including its parts,
48 components, and/or subsystems, other than maintenance, repair, or
49 replacement, but shall not include the professional services of engi-
50 neering or architecture as defined in sections seventy-two hundred one
51 and seventy-three hundred one of the education law.

52 24. "Design" means the act or process of planning the repair, alter-
53 ation or construction of any conveyance, but shall not include the
54 professional services of engineering or architecture as defined in
55 sections seventy-two hundred one and seventy-three hundred one of the
56 education law.

1 25. "Construction" means the act or process of constructing any
2 conveyance.

3 26. "Inspection" means a critical examination, observation or evalu-
4 ation of quality and code compliance of any conveyance.

5 27. "Testing" means a process or trial of operation of any conveyance.

6 28. "Maintenance" means a process of routine examination, lubrication,
7 cleaning, and adjustment of parts, components, and/or subsystems for the
8 purpose of ensuring performance in accordance with any applicable code
9 requirements.

10 29. "Service or servicing" means a service call or other unscheduled
11 visit, not including routine maintenance or a repair, from a licensed
12 elevator mechanic to troubleshoot, adjust or repair an improperly func-
13 tioning or an otherwise shut down conveyance.

14 30. "Temporarily dormant elevator, dumbwaiter, or escalator" means an
15 installation temporarily placed out of service under the following
16 circumstances: (a) (i) when such installation's power supply has been
17 disconnected; and (ii) the car is parked and any doors are closed and
18 latched; and (iii) a wire seal is installed on the mainline disconnect
19 switch by a licensed elevator inspector; or (b) as determined by state
20 or local law, code, rule, or regulation.

21 31. "Erect" means to vertically construct or connect any conveyance or
22 part or system thereof.

23 32. "Installation" means to place or fix any conveyance or part or
24 system thereof, in position for operation.

25 Temporarily dormant installations shall not be used until such instal-
26 lation has been restored to a safe running order and is in condition
27 suitable for use in accordance with all applicable laws, codes, rules
28 and regulations. Such temporarily dormant installation shall be subject
29 to continued inspections for the duration of the "temporarily dormant"
30 status by a licensed elevator inspector. Such inspector shall file a
31 report with the commissioner describing the conditions of such temporar-
32 ily dormant installation. The report shall be filed annually or more or
33 less frequent as determined by the commissioner. "Temporarily dormant"
34 status shall be renewable on an annual basis, but shall not exceed a
35 five-year period.

36 No person shall remove the wire seal and padlock for any purpose with-
37 out the express permission of the elevator inspector.

38 § 953. Licensing, permit, registration and compliance requirements. 1.
39 Except as otherwise provided for in subdivisions three and four of
40 section nine hundred fifty-one of this article, it shall be a violation
41 of this article for any elevator contractor to design, erect, construct,
42 install, alter, replace, service, or maintain, any conveyance contained
43 within buildings or structures in this state unless such elevator
44 contractor holds an elevator contractor's license.

45 2. Except as otherwise provided for in subdivisions three and four of
46 section nine hundred fifty-one of this article, it shall be a violation
47 of this article for any person to wire any conveyance, from the mainline
48 feeder terminals on the controller, in this state unless such person has
49 an elevator mechanic's license and is working under the direct super-
50 vision of a licensed elevator contractor pursuant to this article. No
51 other license shall be required for this work, excluding the installa-
52 tion of branch circuits and wiring terminations for machine room and pit
53 lighting, receptacles and HVAC as described in the NFPA National Elec-
54 tric Code 620.23 and 620.24 as well as fire and heat detectors and
55 alarms, may be performed by a licensed electrical contractor. Addi-
56 tionally, within New York city, the installation of branch circuits and

1 wiring terminations for the car fan, lights and receptacles, as
2 described in the NFPA National Electric Code 620.22, and intercoms and
3 voice communications as well as signal equipment or systems, as defined
4 in NFPA Article 620.2, that is not directly associated with the opera-
5 tion or safety of any conveyance, may be performed by a licensed elec-
6 trical contractor.

7 3. Except as otherwise provided for in subdivision three of section
8 nine hundred fifty-one of this article, it shall be a violation of this
9 article for any person to inspect or test any conveyance within build-
10 ings or structures unless such person holds an elevator inspector's
11 license.

12 4. Except as otherwise provided for in subdivisions three and four of
13 section nine hundred fifty-one of this article, it shall be a violation
14 of this article for any elevator contractor to erect, construct,
15 install, or alter conveyances within buildings or structures within this
16 state unless a permit therefor has been issued by the commissioner
17 before work is commenced. No permit shall be issued except to a person
18 holding a valid elevator contractor's license. A copy of such permit
19 shall be kept at the construction site at all times while the work is in
20 progress.

21 5. Except as otherwise provided in subdivision three of section nine
22 hundred fifty-one of this article, all new conveyance installations
23 shall be performed by an elevator contractor licensed to install such
24 conveyance. Subsequent to installation, the elevator contractor must
25 certify compliance to the commissioner with the applicable sections of
26 this article as well as any other applicable law, rule, regulation or
27 code. Prior to such conveyances being used, the property owner or
28 lessee must obtain a certificate of operation from the commissioner. A
29 fee, as set forth in this article, shall be paid for such certificate of
30 operation, however, no such fee shall be required for conveyances in
31 private residences. It is the responsibility of the licensed elevator
32 contractor to complete and submit registrations for new installations.
33 A certificate of operation shall be valid for one year, except for
34 certificates issued for platform and stairway chairlifts for private
35 residences, which shall be valid for a period of three years. Certif-
36 icates of operation must be clearly and conspicuously displayed on, in
37 or around each conveyance and be accessible to the state or locality
38 inspecting or enforcing any applicable law, rule, regulation or code.

39 6. Except as otherwise provided in subdivision three of section nine
40 hundred fifty-one of this article, the certificate of operation for
41 newly installed platform lifts and stairway chairlifts for private resi-
42 dences shall be issued only subsequent to an inspection by a licensed
43 third party inspection firm. The certificate of operation fee for all
44 new and existing platform and stairway chairlifts for private residences
45 and any renewal certificate fees are hereby waived. The inspection of
46 private residence platform and stairway chairlifts shall be done at the
47 request and consent of the private residence's owner or lessees.

48 7. It shall be the responsibility of licensees to ensure that the
49 installation, service or maintenance of conveyances is performed in
50 compliance with existing state and local building and maintenance codes.

51 § 954. License and permit procedure. All applications for elevator
52 contractor's, elevator mechanic's, and elevator inspector's licenses and
53 required permits shall be submitted to the department in writing on
54 forms furnished by the commissioner and shall contain the information
55 set forth in this section as well as any additional information that the

1 commissioner may require. The commissioner shall also set fees for
2 licensing and permitting under this section.

3 1. Applications for licenses. Every application for a license under
4 this article shall include the following:

5 (a) the name, residence address and business address of the applicant;

6 (b) the number of years the applicant has engaged in the business or
7 practice of designing, constructing, erecting, installing, inspecting,
8 testing, repairing, altering, maintaining, or servicing conveyances
9 covered by this article;

10 (c) the approximate number of persons, if any, to be employed by the
11 applicant for an elevator contractor's license;

12 (d) evidence that the applicant is or will be covered by general
13 liability, personal injury and property damage insurance; and

14 (e) any other information which the commissioner may require.

15 Upon approval of an application for a license the commissioner shall
16 issue such license which shall be valid for two years. The fees for such
17 license and renewal thereof shall be set by the commissioner. Any denial
18 for such application shall set forth the reasons therefor.

19 2. Application for permits. Every application for a permit under this
20 article shall include plans and specifications stamped and signed by a
21 professional engineer and/or an architect licensed pursuant to article
22 one hundred forty-five and/or article one hundred forty-seven of the
23 education law. Every application for a permit under this article shall
24 include the following:

25 (a) copies of the specifications and accurately scaled and fully
26 dimensioned plans showing the location of the installation in relation
27 to the plans and elevation of the building;

28 (b) the location of the machinery room and the equipment to be
29 installed, relocated or altered;

30 (c) all structural supporting members thereof, including foundations;

31 (d) a list of all materials to be employed and all loads to be
32 supported and conveyed;

33 (e) any other information that the commissioner may require to ensure
34 that such plans and specifications are sufficiently complete and illus-
35 trate all details of construction and design; and

36 (f) any required permitting fees, which are subject to return upon
37 denial of a permit application.

38 Upon approval of an application for a permit the commissioner shall
39 issue such permit. Such permit shall state the time by which the work
40 shall commence and also when such permit expires. If after the work has
41 been started, work is suspended or abandoned for a period of sixty days,
42 or such shorter period of time as the commissioner may specify at the
43 time the permit is issued, the permit shall expire. Upon expiration of
44 a permit for which work has not been completed, the commissioner may
45 extend such permit.

46 3. Licensing and permitting exemptions. Whenever an emergency exists
47 in this state due to a disaster or act of God, which imperils the
48 health, safety or welfare of an individual or individuals and placing
49 such individual or individuals in imminent danger of injury or death and
50 the number of persons in the state holding licenses granted by the board
51 is insufficient to cope with such emergency, any person certified by a
52 licensed elevator contractor to have an acceptable combination of docu-
53 mented experience and education to perform elevator work without direct
54 and immediate supervision shall seek an emergency elevator mechanic's
55 license from the commissioner within five business days after commencing
56 work requiring a license. The commissioner shall issue emergency eleva-

1 tor mechanic's licenses to address the emergency that exists. The
2 licensed elevator contractor shall furnish proof of competency as the
3 commissioner may require. Each such license shall recite that it is
4 valid for a period of fifteen days from the date thereof and for such
5 particular elevators or geographical areas as the commissioner may
6 designate to address the emergency situation and otherwise shall entitle
7 the licensee to the rights and privileges of an elevator mechanic's
8 license issued in this article. The commissioner shall renew an emer-
9 gency elevator mechanic's license during the existence of an emergency
10 as needed. No fee shall be charged for any emergency elevator mechanic's
11 license or renewal thereof.

12 4. Restricted license. A restricted class of lift mechanic license
13 shall be known as "accessibility technician". Such class of license
14 shall be restricted to performing work involving platform lifts and
15 stairway chairlifts including those installed in private residences
16 which are covered by the provisions of ASME (American society of mechan-
17 ical engineer) codes and standards A18.1-2005. An applicant for such
18 restricted license shall complete an application approved by the board
19 and shall have at least three years verified work experience in
20 constructing, maintaining and repairing those lifts covered by ASME
21 A18.1-2005 and shall provide to the commissioner a certificate of
22 completion of an accessibility training program for lifts under the
23 scope of A18.1-2005 such as the certified accessibility training
24 provided by the national association of elevator contractors, or an
25 equivalent program as deemed by the department.

26 § 955. Qualifications, training and continuing education. 1. No
27 license shall be granted to any person who has not paid the required
28 application fee and demonstrated his or her qualifications and abili-
29 ties. Applicants for a mechanic's license must demonstrate one of the
30 following qualifications: (a) an acceptable combination of documented
31 experience and education credits consisting of (i) not less than four
32 years work experience in the construction, maintenance and service
33 repair of elevators, as verified by current and previous employers and
34 (ii) satisfactory completion of a written examination, administered or
35 accepted by the commissioner, on the most recent national, state, and
36 local conveyances codes and standards; or

37 (b) acceptable proof that he or she has worked on elevator
38 construction, maintenance or repair with direct and immediate super-
39 vision in this state for a period of not less than four years immedi-
40 ately prior to the effective date of this article, provided that such
41 applicant shall file such application within one year of release and
42 access to the licensing application as defined in this article; or

43 (c) a certificate of successful completion and successfully passing
44 the mechanic examination of a nationally recognized training program for
45 the elevator industry including, but not limited to, the national eleva-
46 tor industry educational program or its equivalent; or

47 (d) a certificate of successful completion of the joint apprentice and
48 training committee of the elevator industry of local 3, IBEW, EE divi-
49 sion training program or an apprenticeship program for elevator mechan-
50 ics, having standards substantially equal to those of this chapter, and
51 registered with the bureau of apprenticeship and training, U.S. depart-
52 ment of labor or a state apprenticeship council; or

53 (e) a certificate of successful completion of the national elevator
54 industry educational program, or a certified elevator technician certif-
55 ication from the national association of elevator contractors, or a
56 certification from their equivalent; or

1 (f) The commissioner shall upon application and without examination,
2 issue a license to any person over the age of eighteen years who has
3 been duly licensed by any other state of the United States to engage in
4 the business of construction, operation, inspection, maintenance, alter-
5 ation and repair of elevators as verified by current and previous
6 employers, upon compliance with standards and requirements not lower, in
7 the judgement of the commissioner than those of this state, provided,
8 however, that such state extends the same reciprocity to the licensees
9 of this state. Such application shall be accompanied by the required
10 license fee.

11 2. Applicants for an elevator contractor's license must demonstrate to
12 the commissioner that such elevator contractor employs licensed elevator
13 mechanics who perform the work described in section nine hundred fifty-
14 one of this article and have proof of compliance with the insurance
15 requirements set forth in paragraph (d) of subdivision one of section
16 nine hundred fifty-four of this article.

17 3. Any applicants for an elevator inspector's license must demonstrate
18 to the satisfaction of the commissioner that such applicant meets or
19 exceeds applicable standards such as a qualified elevator inspector
20 certification or an equivalent certification. Private elevator inspec-
21 tors shall maintain the same insurance requirements as an elevator
22 contractor.

23 4. (a) The renewal of all licenses granted under the provisions of
24 this subdivision shall be conditioned upon the submission of a certif-
25 icate of completion of a course designed to ensure the continuing educa-
26 tion of licensees on new and existing national, state, and local convey-
27 ances codes and standards and on technology and technical education and
28 workplace safety. Such course shall consist of not less than eight
29 contact hours (.8 CEU) annually and completed preceding any such license
30 renewal. The commissioner shall establish requirements for continuing
31 education and training programs, and shall approve such programs, as
32 well as maintain a list of approved programs which shall be made avail-
33 able to license applicants, permit applicants, renewal applicants and
34 other interested parties upon request. The commissioner shall promulgate
35 rules and regulations setting forth the criteria for approval of such
36 programs, the procedures to be followed in applying for such approval,
37 and other rules and regulations as the commissioner deems necessary and
38 proper to effectuate the purposes of this section.

39 (b) The commissioner shall assess a fee for each training program
40 completion certificate and for each refresher training program
41 completion certificate.

42 5. The renewal of all licenses granted under the provisions of this
43 section shall be conditioned upon the submission of a certificate of
44 completion of a course designed to ensure the continuing education of
45 licensees on new and existing regulations of the department. Such course
46 shall consist of not less than eight contact hours (.8 CEU) of instruc-
47 tion that shall be attended and completed annually prior to any such
48 license renewal.

49 The courses shall be taught through continuing education providers
50 that may include, but shall not be limited to, association seminars, and
51 labor training programs or programs that deliver an approved apprentice-
52 ship and are registered with the department or the New York state
53 apprenticeship training council. The commissioner shall approve the
54 continuing education providers. All instructors shall be exempt from the
55 requirements of the preceding paragraph with regard to their application
56 for license renewal provided that such applicant was qualified as an

1 instructor at any time during the one year immediately preceding the
2 scheduled date for such renewal.

3 Approved training providers shall keep uniform records, for a period
4 of six years, of attendance of licensees following a format approved by
5 the commissioner and such records shall be available for inspection by
6 the commissioner at his or her request. Approved training providers
7 shall be responsible for the security of all attendance records and
8 certificates of completion; provided, however, that falsifying or know-
9 ingly allowing another to falsify such attendance records or certif-
10 icates of completion shall constitute grounds for suspension or revoca-
11 tion of the approval required under this section.

12 § 956. Powers of the commissioner. 1. The commissioner shall have the
13 authority to inspect, or cause to be inspected, ongoing or completed
14 conveyances projects and to conduct an investigation thereof upon the
15 commissioner's own initiation or upon receipt of a complaint by any
16 person or entity. However, nothing in this subdivision shall permit the
17 commissioner to enter a private residence.

18 2. If, upon receipt of a complaint alleging a violation of this arti-
19 cle, the commissioner reasonable believes that such violation exists, he
20 or she shall investigate as soon as practicable to determine if such
21 violation exists. If the commissioner determines that no violation or
22 danger exists, the commissioner shall inform the complaining person or
23 entity.

24 3. If, upon investigation, the commissioner determines that the
25 alleged violation exists, the commissioner may deliver to such owner or
26 elevator contractor or his or her agent or representative a written
27 order to cure such violation and may order that their permit to work on
28 such installation, repair or maintenance project shall be suspended
29 until such violation is cured. Such order shall specifically enumerate
30 the violations which constitute the basis of the order to cure or order
31 of suspension and shall specify the corrective action to be taken. The
32 commissioner may allow the permit to toll during the time of such order.

33 4. Upon receipt of a written notice from the elevator contractor, or
34 his or her agent or representative, that such violation has been
35 corrected, the commissioner shall, within ten days, issue a determi-
36 nation as to whether such order to cure has been satisfied and such
37 order of suspension, if any, shall be lifted. If the commissioner deter-
38 mines that the order to cure has not been satisfied he or she may
39 continue such order for a reasonable period of time upon the consent of
40 the contractor, or his or her agent or representative. If the commis-
41 sioner does not continue the order, or if the contractor, or his or her
42 agent or representative does not consent to such continuation, the
43 contractor shall have the right to a hearing to determine if such order
44 shall be lifted. Any entity or contractor who may be adversely affected
45 by a notice, suspension, or determination issued under this section may
46 commence a proceeding pursuant to article seventy-eight of the civil
47 practice law and rules.

48 5. The commissioner may, after a notice and hearing, suspend or revoke
49 a license issued under this article based on any of the following
50 violations:

- 51 (a) any false statement as to a material matter in the application;
52 (b) fraud, or misrepresentation, in securing a license;
53 (c) failure to notify the commissioner and the owner or lessee of a
54 conveyance of any condition not in compliance with this article;
55 (d) a violation of section nine hundred fifty-three of this article;
56 or

(e) a finding by the commissioner that a contractor has violated this article or any rule or regulation promulgated thereunder twice within a period of three years, or that a contractor has violated a provision of this article and such violation resulted in a serious threat to the health or safety of an individual or individuals. The commissioner may, in addition to ordering that such contractor's license be revoked, bar such individual from being eligible to reapply for such license for a period not to exceed two years.

6. The commissioner may, after notice and hearing, revoke a permit issued under this article based on any of the following violations:

(a) any false statements or misrepresentation as to a material fact in the application, plans, or specifications on which the permit was based;

(b) any application which by omission or mistake fails to comply with the requirements of this article;

(c) any failure to perform work in accordance with the provisions of the application, plans or specifications or with the requirements of this article or conditions of the permit;

(d) a failure by the owner or elevator contractor to whom the permit was issued to comply with an order issued pursuant to subdivision four of this section; or

(e) a finding by the commissioner that an individual or contractor who has been issued a permit has violated any provision under section nine hundred fifty-three of this article.

7. (a) Except as provided in paragraph (b) of this subdivision, if the commissioner finds, after notice and hearing, that an individual has violated any provision of this article, he or she may impose a civil penalty not to exceed one thousand dollars for each such violation. Upon a second or subsequent violation within three years of the determination of a prior violation, the commissioner may impose a civil penalty not to exceed two thousand dollars.

(b) The penalty provided for in paragraph (a) of this subdivision may be increased to an amount not to exceed five thousand dollars if the violation resulted in a serious threat to the health or safety of an individual or individuals.

8. Any entity or contractor who may be adversely affected by an order issued under this section may commence a proceeding pursuant to article seventy-eight of the civil practice law and rules.

9. The commissioner may bring an action in a court of competent jurisdiction to enjoin any conduct that violates the provisions of this article.

10. The commissioner may promulgate rules and regulations necessary to carry out and effectuate the provisions of this article.

§ 957. New York state elevator safety and standards board. 1. An elevator safety and standards board is hereby created, to consist of nine members. The governor, the temporary president of the senate, and the speaker of the assembly shall each appoint three members. The governor's appointees shall be comprised of a representative of a major elevator manufacturing company, an elevator inspector and a building owner, manager or representative; the temporary president of the senate's appointees shall be comprised of an elevator servicing company, an elevator architectural designer or consultant, and an individual from an elevator industry association; the speaker of the assembly's appointees shall be comprised of an elevator contractor employee labor union, an elevator mechanic, and a fire marshal. The commissioners of health, labor, education, and economic development or their designees shall be ex-officio members. The board shall meet on an as needed basis to advise

1 the commissioner on the implementation of this article. The board shall
2 elect a chairperson to serve for the term of their appointment to the
3 board. The board shall prepare an annual report for the governor and
4 the legislature, copies of which shall be sent to the commissioners of
5 health, education, economic development, and labor.

6 2. The first member appointed by the governor, the temporary president
7 of the senate, and the speaker of the assembly shall have a term of one
8 year; the second member appointed by each shall have a term of two years
9 and the remaining members shall have a term of three years. Each of such
10 appointed members shall hold office for the term for which such member
11 was appointed and until his or her successor shall have been appointed
12 or until he or she shall resign. The term of office of all successor
13 members shall be three years. The members shall serve without salary or
14 compensation, but shall be reimbursed for necessary expenses incurred in
15 the performance of their duties.

16 3. The board may consult with engineering authorities and organiza-
17 tions concerned with standard safety codes, rules and regulations
18 governing the operation, maintenance, servicing, construction, alter-
19 ation, installation, and inspection of conveyances and the adequate,
20 reasonable, and necessary qualifications of elevator mechanics, contrac-
21 tors, and inspectors.

22 4. The duties of the board are as follows:

23 (a) assist the commissioner and the department in establishing the
24 state regulations for equipment covered by this article;

25 (b) develop recommendations for an enforcement program which will
26 ensure compliance with the regulations and requirements promulgated by
27 the commissioner pursuant to this article;

28 (c) assist the commissioner in granting exceptions and variances from
29 the literal requirements of the applicable code and standards, regu-
30 lations, and local legislation, in cases where such variances would not
31 jeopardize the public safety and welfare;

32 (d) assist the commissioner in setting fee schedules for licenses,
33 permits, and inspections. The fees shall reflect the actual costs and
34 expenses to conduct the duties as described in this article; and

35 (e) assist the commissioner in any and all things necessary or conven-
36 ient to the commissioner's duty to carry out the purposes of this arti-
37 cle.

38 § 958. Exempt persons. This article shall not be construed to apply to
39 the practice, conduct, activities, or services by a person licensed to
40 practice architecture within this state pursuant to article one hundred
41 forty-seven of the education law or engineering within this state pursu-
42 ant to article one hundred forty-five of the education law.

43 § 2. The state finance law is amended by adding a new section 97-pppp
44 to read as follows:

45 § 97-pppp. Elevator and related conveyances safety program account.

46 1. There is hereby established in the custody of the state comptroller
47 the elevator and related conveyances safety program account.

48 2. Such fund shall consist of moneys collected pursuant to the
49 provisions of article thirty-three of the labor law.

50 3. Moneys of the fund shall be available to the commissioner of labor
51 for purposes of offsetting the costs incurred by the commissioner of
52 labor for the administration of article thirty-three of the labor law,
53 including the administration of elevator and related conveyances safety
54 programs, the administration of licenses and permits, and the adminis-
55 tration of certificates of operation as set forth in such article thir-
56 ty-three.

1 4. The moneys shall be paid out of the fund on the audit and warrant
2 of the comptroller on vouchers certified or approved by the commissioner
3 or his or her designee.

4 5. Notwithstanding the provisions of any general or special law, no
5 moneys shall be available from the fund until a certificate of allo-
6 cation and a schedule of amounts to be available therefor shall have
7 been issued by the director of the budget, and a copy of such certif-
8 icate filed with the comptroller. Such certificate may be amended from
9 time to time by the director of the budget and a copy of each such
10 amendment shall be filed with the comptroller.

11 § 3. This act shall take effect on the one hundred eightieth day after
12 it shall have become a law, provided, however, that effective immediate-
13 ly, the addition, amendment and/or repeal of any rules or regulations
14 necessary for the implementation of this act on its effective date, and
15 the appointment of the New York state elevator safety and standards
16 board, are authorized and directed to be established, made and completed
17 on or before such effective date.