

STATE OF NEW YORK

5887

2017-2018 Regular Sessions

IN ASSEMBLY

February 17, 2017

Introduced by M. of A. HARRIS -- read once and referred to the Committee on Labor

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:

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

956. Powers of the commissioner.

957. New York state elevator safety and standards board.

958. Exempt persons.

§ 950. Legislative findings and declaration. The legislature hereby finds that the use of unsafe and defective elevators and other automated people moving conveyances may expose the public to unsafe conditions and increase the risk of injury. The legislature finds that improper design, construction, maintenance and repair of such conveyances is preventable by requiring proper training of persons employed to perform work on elevators and other automated people moving conveyances and by requiring the licensing of contractors and the certification of individuals

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

LBD01705-02-7

1 involved in elevator and other automated people moving conveyances
2 projects.

3 Nothing in this article is intended to create, expand, diminish,
4 limit, impair, or supersede any rights under current law, rule, or regu-
5 lation, or resulting from a determination of a court or the national
6 labor relations board with regard to building trades and the work of
7 such building trade. Nor is it intended to abrogate any rights or duties
8 under any contract with regard to building trades and the work of such
9 building trade.

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

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

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

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

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

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

29 (a) material hoists;

30 (b) manlifts;

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

32 (d) powered platforms and equipment for exterior and interior mainte-
33 nance;

34 (e) conveyor and related equipment;

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

36 (g) industrial trucks;

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

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

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

42 (k) skip or furnace hoists;

43 (l) wharf ramps;

44 (m) railroad car lifts or dumpers;

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

48 3. The licensing, permitting and certification provisions of this
49 article shall not apply to the owners or lessees of private residences
50 who design, erect, construct, install, alter, repair, service or main-
51 tain conveyances that are located or will be located in such owner or
52 lessee's private residence. However, any person hired to design, erect,
53 construct, install, alter, repair, service, maintain, or perform any
54 other work related to such conveyances must comply with the provisions
55 of this article.

1 4. No license shall be required for the removal or dismantling of
2 conveyances.

3 5. The provisions of this article and the rules adopted pursuant ther-
4 eto shall be the minimum standard required and shall supersede any
5 special law or local ordinance inconsistent therewith, and no local
6 ordinance inconsistent therewith shall be adopted, but nothing herein
7 contained shall prevent the enactment by local law or ordinance of addi-
8 tional requirements and restrictions.

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

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

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

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

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

24 5. "Conveyance" means any elevator, dumbwaiter, escalator, moving
25 sidewalk, platform lifts, stairway chairlifts and automated people
26 movers.

27 6. "Dormant elevator, dumbwaiter, or escalator" means an installation
28 placed out of service under the following circumstances: (a) when an
29 installation's power has been disconnected and (i) when an electric
30 elevator, dumbwaiter, or material lift whose suspension ropes have been
31 removed, whose car and counterweight rest at the bottom of the hoistway,
32 and whose hoistway doors have been permanently barricaded or sealed in
33 the closed position on the hoistway side; or (ii) a hydraulic elevator,
34 dumbwaiter, or material lift whose car rests at the bottom of the hoist-
35 way and whose doors are permanently barricaded or sealed; or (iii) an
36 escalator or moving walk whose entrances have been permanently barricad-
37 ed; or (b) as determined by state or local law, code, rule, or regu-
38 lations.

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

41 8. "Elevator contractor" means, a public corporation, or instrumental-
42 ity of a public corporation, self-employed person, company, unincorpo-
43 rated association, firm, partnership, limited liability company, corpo-
44 ration, or any other entity, or any owner or operator of any of the
45 foregoing entities, who possesses an elevator contractor's license in
46 accordance with the provisions of sections nine hundred fifty-three and
47 nine hundred fifty-four of this article and is engaged in the business
48 of designing, erecting, constructing, installing, altering, repairing,
49 servicing or maintaining elevators or other automated people moving
50 conveyances covered by this article.

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

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

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

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

3 13. "Existing installation" means an installation that has been
4 completed or is under construction prior to the effective date of this
5 article.

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

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

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

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

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

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

29 20. "Person" means any natural person.

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

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

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

41 24. "Design" means the act or process of planning the repair, alter-
42 ation or construction of any conveyance, but shall not include the
43 professional services of engineering or architecture as defined in
44 sections seventy-two hundred one and seventy-three hundred one of the
45 education law.

46 25. "Construction" means the act or process of constructing any
47 conveyance.

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

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

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

55 29. "Service or servicing" means a service call or other unscheduled
56 visit, not including routine maintenance or a repair, from a licensed

1 elevator mechanic to troubleshoot, adjust or repair an improperly func-
2 tioning or an otherwise shut down conveyance.

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

10 31. "Erect" means to vertically construct or connect any conveyance or
11 part or system thereof.

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

14 Temporarily dormant installations shall not be used until such instal-
15 lation has been restored to a safe running order and is in condition
16 suitable for use in accordance with all applicable laws, codes, rules
17 and regulations. Such temporarily dormant installation shall be subject
18 to continued inspections for the duration of the "temporarily dormant"
19 status by a licensed elevator inspector. Such inspector shall file a
20 report with the commissioner describing the conditions of such temporar-
21 ily dormant installation. The report shall be filed annually or more or
22 less frequent as determined by the commissioner. "Temporarily dormant"
23 status shall be renewable on an annual basis, but shall not exceed a
24 five-year period.

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

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

34 2. Except as otherwise provided for in subdivisions three and four of
35 section nine hundred fifty-one of this article, it shall be a violation
36 of this article for any person to wire any conveyance, from the mainline
37 feeder terminals on the controller, in this state unless such person has
38 an elevator mechanic's license and is working under the direct super-
39 vision of a licensed elevator contractor pursuant to this article. No
40 other license shall be required for this work, excluding the installa-
41 tion of branch circuits and wiring terminations for machine room and pit
42 lighting, receptacles and HVAC as described in the NFPA National Elec-
43 tric Code 620.23 and 620.24 as well as fire and heat detectors and
44 alarms, may be performed by a licensed electrical contractor. Addi-
45 tionally, within New York city, the installation of branch circuits and
46 wiring terminations for the car fan, lights and receptacles, as
47 described in the NFPA National Electric Code 620.22, and intercoms and
48 voice communications as well as signal equipment or systems, as defined
49 in NFPA Article 620.2, that is not directly associated with the opera-
50 tion or safety of any conveyance, may be performed by a licensed elec-
51 trical contractor.

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

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

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

28 6. Except as otherwise provided in subdivision three of section nine
29 hundred fifty-one of this article, the certificate of operation for
30 newly installed platform lifts and stairway chairlifts for private resi-
31 dences shall be issued only subsequent to an inspection by a licensed
32 third party inspection firm. The certificate of operation fee for all
33 new and existing platform and stairway chairlifts for private residences
34 and any renewal certificate fees are hereby waived. The inspection of
35 private residence platform and stairway chairlifts shall be done at the
36 request and consent of the private residence's owner or lessees.

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

40 § 954. License and permit procedure. All applications for elevator
41 contractor's, elevator mechanic's, and elevator inspector's licenses and
42 required permits shall be submitted to the department in writing on
43 forms furnished by the commissioner and shall contain the information
44 set forth in this section as well as any additional information that the
45 commissioner may require. The commissioner shall also set fees for
46 licensing and permitting under this section.

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

49 (a) the name, residence address and business address of the applicant;
50 (b) the number of years the applicant has engaged in the business or
51 practice of designing, constructing, erecting, installing, inspecting,
52 testing, repairing, altering, maintaining, or servicing conveyances
53 covered by this article;

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

1 (d) evidence that the applicant is or will be covered by general
2 liability, personal injury and property damage insurance; and
3 (e) any other information which the commissioner may require.

4 Upon approval of an application for a license the commissioner shall
5 issue such license which shall be valid for two years. The fees for such
6 license and renewal thereof shall be set by the commissioner. Any denial
7 for such application shall set forth the reasons therefor.

8 2. Application for permits. Every application for a permit under this
9 article shall include plans and specifications stamped and signed by a
10 professional engineer and/or an architect licensed pursuant to article
11 one hundred forty-five and/or article one hundred forty-seven of the
12 education law. Every application for a permit under this article shall
13 include the following:

14 (a) copies of the specifications and accurately scaled and fully
15 dimensioned plans showing the location of the installation in relation
16 to the plans and elevation of the building;

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

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

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

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

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

27 Upon approval of an application for a permit the commissioner shall
28 issue such permit. Such permit shall state the time by which the work
29 shall commence and also when such permit expires. If after the work has
30 been started, work is suspended or abandoned for a period of sixty days,
31 or such shorter period of time as the commissioner may specify at the
32 time the permit is issued, the permit shall expire. Upon expiration of
33 a permit for which work has not been completed, the commissioner may
34 extend such permit.

35 3. Licensing and permitting exemptions. Whenever an emergency exists
36 in this state due to a disaster or act of God, which imperils the
37 health, safety or welfare of an individual or individuals and placing
38 such individual or individuals in imminent danger of injury or death and
39 the number of persons in the state holding licenses granted by the board
40 is insufficient to cope with such emergency, any person certified by a
41 licensed elevator contractor to have an acceptable combination of docu-
42 mented experience and education to perform elevator work with direct and
43 immediate supervision shall seek an emergency elevator mechanic's
44 license from the commissioner within five business days after commencing
45 work requiring a license. The commissioner shall issue emergency eleva-
46 tor mechanic's licenses to address the emergency that exists. The
47 licensed elevator contractor shall furnish proof of competency as the
48 commissioner may require. Each such license shall recite that it is
49 valid for a period of fifteen days from the date thereof and for such
50 particular elevators or geographical areas as the commissioner may
51 designate to address the emergency situation and otherwise shall entitle
52 the licensee to the rights and privileges of an elevator mechanic's
53 license issued in this article. The commissioner shall renew an emer-
54 gency elevator mechanic's license during the existence of an emergency
55 as needed. No fee shall be charged for any emergency elevator mechanic's
56 license or renewal thereof.

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

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

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

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

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

42 (e) a certificate of successful completion of the national elevator
43 industry educational program, or a certified elevator technician certif-
44 ication from the national association of elevator contractors, or a
45 certification from their equivalent; or

46 (f) The commissioner shall upon application and without examination,
47 issue a license to any person over the age of eighteen years who has
48 been duly licensed by any other state of the United States to engage in
49 the business of construction, operation, inspection, maintenance, alter-
50 ation and repair of elevators as verified by current and previous
51 employers, upon compliance with standards and requirements not lower, in
52 the judgement of the commissioner than those of this state, provided,
53 however, that such state extends the same reciprocity to the licensees
54 of this state. Such application shall be accompanied by the required
55 license fee.

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

7 3. Any applicants for an elevator inspector's license must demonstrate
8 to the satisfaction of the commissioner that such applicant meets or
9 exceeds applicable standards such as a qualified elevator inspector
10 certification or an equivalent certification. Private elevator inspec-
11 tors shall maintain the same insurance requirements as an elevator
12 contractor.

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

29 (b) The commissioner shall assess a fee for each training program
30 completion certificate and for each refresher training program
31 completion certificate.

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

39 The courses shall be taught through continuing education providers
40 that may include, but shall not be limited to, association seminars, and
41 labor training programs or programs that deliver an approved apprentice-
42 ship and are registered with the department or the New York state
43 apprenticeship training council. The commissioner shall approve the
44 continuing education providers. All instructors shall be exempt from the
45 requirements of the preceding paragraph with regard to their application
46 for license renewal provided that such applicant was qualified as an
47 instructor at any time during the one year immediately preceding the
48 scheduled date for such renewal.

49 Approved training providers shall keep uniform records, for a period
50 of six years, of attendance of licensees following a format approved by
51 the commissioner and such records shall be available for inspection by
52 the commissioner at his or her request. Approved training providers
53 shall be responsible for the security of all attendance records and
54 certificates of completion; provided, however, that falsifying or know-
55 ingly allowing another to falsify such attendance records or certif-

1 icates of completion shall constitute grounds for suspension or revoca-
2 tion of the approval required under this section.

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

9 2. If, upon receipt of a complaint alleging a violation of this arti-
10 cle, the commissioner reasonable believes that such violation exists, he
11 or she shall investigate as soon as practicable to determine if such
12 violation exists. If the commissioner determines that no violation or
13 danger exists, the commissioner shall inform the complaining person or
14 entity.

15 3. If, upon investigation, the commissioner determines that the
16 alleged violation exists, the commissioner may deliver to such owner or
17 elevator contractor or his or her agent or representative a written
18 order to cure such violation and may order that their permit to work on
19 such installation, repair or maintenance project shall be suspended
20 until such violation is cured. Such order shall specifically enumerate
21 the violations which constitute the basis of the order to cure or order
22 of suspension and shall specify the corrective action to be taken. The
23 commissioner may allow the permit to toll during the time of such order.

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

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

42 (a) any false statement as to a material matter in the application;

43 (b) fraud, or misrepresentation, in securing a license;

44 (c) failure to notify the commissioner and the owner or lessee of a
45 conveyance of any condition not in compliance with this article;

46 (d) a violation of section nine hundred fifty-three of this article;
47 or

48 (e) a finding by the commissioner that a contractor has violated this
49 article or any rule or regulation promulgated thereunder twice within a
50 period of three years, or that a contractor has violated a provision of
51 this article and such violation resulted in a serious threat to the
52 health or safety of an individual or individuals. The commissioner may,
53 in addition to ordering that such contractor's license be revoked, bar
54 such individual from being eligible to reapply for such license for a
55 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 the commissioner on the implementation of this article. The board shall elect a chairperson to serve for the term of their appointment to the board. The board shall prepare an annual report for the governor and the legislature, copies of which shall be sent to the commissioners of health, education, economic development, and labor.

2. The first member appointed by the governor, the temporary president of the senate, and the speaker of the assembly shall have a term of one year; the second member appointed by each shall have a term of two years

1 and the remaining members shall have a term of three years. Each of such
2 appointed members shall hold office for the term for which such member
3 was appointed and until his or her successor shall have been appointed
4 or until he or she shall resign. The term of office of all successor
5 members shall be three years. The members shall serve without salary or
6 compensation, but shall be reimbursed for necessary expenses incurred in
7 the performance of their duties.

8 3. The board may consult with engineering authorities and organiza-
9 tions concerned with standard safety codes, rules and regulations
10 governing the operation, maintenance, servicing, construction, alter-
11 ation, installation, and inspection of conveyances and the adequate,
12 reasonable, and necessary qualifications of elevator mechanics, contrac-
13 tors, and inspectors.

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

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

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

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

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

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

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

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

37 § 97-pppp. Elevator and related conveyances safety program account.
38 1. There is hereby established in the custody of the state comptroller
39 the elevator and related conveyances safety program account.

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

42 3. Moneys of the fund shall be available to the commissioner of labor
43 for purposes of offsetting the costs incurred by the commissioner of
44 labor for the administration of article thirty-three of the labor law,
45 including the administration of elevator and related conveyances safety
46 programs, the administration of licenses and permits, and the adminis-
47 tration of certificates of operation as set forth in such article thir-
48 ty-three.

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

52 5. Notwithstanding the provisions of any general or special law, no
53 moneys shall be available from the fund until a certificate of allo-
54 cation and a schedule of amounts to be available therefor shall have
55 been issued by the director of the budget, and a copy of such certifi-
56 cate filed with the comptroller. Such certificate may be amended from

1 time to time by the director of the budget and a copy of each such
2 amendment shall be filed with the comptroller.

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