

STATE OF NEW YORK

4080

2019-2020 Regular Sessions

IN SENATE

February 27, 2019

Introduced by Sens. SAVINO, RAMOS -- read twice and ordered printed, and when printed to be committed 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 (Part A); and to amend the administrative code of the city of New York, in relation to the licensing of approved elevator agency directors, inspectors, and technicians performing elevator work in the city of New York; and to repeal the definition of private elevator inspection agency in section 28-401.3 of the administrative code of the city of New York (Part B)

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

1 Section 1. This act enacts into law legislation providing for elevator
2 safety. Each component is wholly contained within a Part identified as
3 Parts A through B. The effective date for each particular provision
4 contained within such Part is set forth in the last section of such
5 Part. Any provision in any section contained within a Part, including
6 the effective date of the Part, which makes reference to a section "of
7 this act", when used in connection with that particular component, shall
8 be deemed to mean and refer to the corresponding section of the Part in
9 which it is found. Section four of this act sets forth the general
10 effective date of this act.

11 § 2. Legislative findings and declaration. The legislature hereby
12 finds that the use of unsafe and defective elevators and other automated
13 people moving conveyances may expose the public to unsafe conditions and
14 increase the risk of injury. The legislature finds that improper design,
15 construction, maintenance and repair of such conveyances is preventable
16 by requiring proper training of persons employed to perform work on
17 elevators and other automated people moving conveyances and by requiring
18 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.

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involved in elevator and other automated people moving conveyances projects.

Nothing in this act is intended to create, expand, diminish, limit, impair, or supersede any rights under current law, rule, or regulation, or resulting from a determination of a court or the national labor relations board with regard to building trades and the work of such building trade. Nor is it intended to abrogate any rights or duties under any contract with regard to building trades and the work of such building trade.

PART A

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. Application.

951. Definitions.

952. Licensing, permit, registration and compliance requirements.

953. License and permit procedure.

954. Qualifications, training and continuing education.

955. Powers of the commissioner.

956. New York state elevator safety and standards board.

957. Exempt persons.

§ 950. Application. 1. The design, construction, erection, installation, inspection, testing, maintenance, alteration, service, and repair of the following equipment are covered by this article:

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

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

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

(d) automatic guided transit vehicles on guideways with an exclusive right of way. This equipments includes, but is not limited to, automated people movers.

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

(a) material hoists;

(b) manlifts;

(c) mobile scaffolds, towers, and platforms;

(d) powered platforms and equipment for exterior and interior maintenance;

(e) conveyor and related equipment;

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

(g) industrial trucks;

(h) portable equipment, except for portable escalators;

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

1 (j) equipment for feeding or positioning materials including, but not
2 limited to, machine tools and printing presses;
3 (k) skip or furnace hoists;
4 (l) wharf ramps;
5 (m) railroad car lifts or dumpers;
6 (n) stairway chairlifts for private residences;
7 (o) line jacks, false cars, shafters, moving platforms and similar
8 equipment used for installing an elevator by a contractor licensed in
9 this state.

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

18 4. No license shall be required for the removal or dismantling of
19 conveyances.

20 5. The provisions of this article and the rules adopted pursuant ther-
21 eto shall be the minimum standard required and shall supersede any
22 special law or local ordinance inconsistent therewith, and no local
23 ordinance inconsistent therewith shall be adopted, but nothing herein
24 contained shall prevent the enactment by local law or ordinance of addi-
25 tional requirements and restrictions.

26 § 951. Definitions. As used in this article, the following terms shall
27 have the following definitions:

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

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

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

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

41 5. "Conveyance" means any elevator, dumbwaiter, escalator, moving
42 sidewalk, platform lifts, non-residential stairway chairlifts and auto-
43 mated people movers.

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

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

3 8. "Elevator contractor" means, a public corporation, or instrumental-
4 ity of a public corporation, self-employed person, company, unincorpo-
5 rated association, firm, partnership, limited liability company, corpo-
6 ration, or any other entity, or any owner or operator of any of the
7 foregoing entities, who possesses an elevator contractor's license in
8 accordance with the provisions of sections nine hundred fifty-two and
9 nine hundred fifty-three of this article and is engaged in the business
10 of designing, erecting, constructing, installing, altering, repairing,
11 servicing or maintaining elevators or other automated people moving
12 conveyances covered by this article.

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

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

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

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

21 13. "Existing installation" means an installation that has been
22 completed or is under construction prior to the effective date of this
23 article.

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

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

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

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

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

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

47 20. "Person" means any natural person.

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

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

54 23. "Alteration" means any change to equipment, including its parts,
55 components, and/or subsystems, other than maintenance, repair, or
56 replacement, but shall not include the professional services of engi-

1 neering or architecture as defined in sections seventy-two hundred one
2 and seventy-three hundred one of the education law.

3 24. "Design" means the act or process of planning the repair, alter-
4 ation or construction of any conveyance, but shall not include the
5 professional services of engineering or architecture as defined in
6 sections seventy-two hundred one and seventy-three hundred one of the
7 education law.

8 25. "Construction" means the act or process of constructing any
9 conveyance.

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

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

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

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

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

28 31. "Erect" means to vertically construct or connect any conveyance or
29 part or system thereof.

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

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

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

45 § 952. Licensing, permit, registration and compliance requirements. 1.
46 Except as otherwise provided for in subdivisions three and four of
47 section nine hundred fifty of this article, it shall be a violation of
48 this article for any elevator contractor to design, erect, construct,
49 install, alter, replace, service, or maintain, any conveyance contained
50 within buildings or structures in this state unless such elevator
51 contractor holds an elevator contractor's license.

52 2. Except as otherwise provided for in subdivisions three and four of
53 section nine hundred fifty of this article, it shall be a violation of
54 this article for any person to wire any conveyance, from the mainline
55 feeder terminals on the controller, in this state unless such person has
56 an elevator mechanic's license and is working under the direct super-

1 vision of a licensed elevator contractor pursuant to this article. No
2 other license shall be required for this work, excluding the installa-
3 tion of branch circuits and wiring terminations for machine room and pit
4 lighting, receptacles and HVAC as described in the NFPA National Elec-
5 tric Code 620.23 and 620.24 as well as fire and heat detectors and
6 alarms, may be performed by a licensed electrical contractor. Addi-
7 tionally, within New York city, the installation of branch circuits and
8 wiring terminations for the car fan, lights and receptacles, as
9 described in the NFPA National Electric Code 620.22, and intercoms and
10 voice communications as well as signal equipment or systems, as defined
11 in NFPA Article 620.2, that is not directly associated with the opera-
12 tion or safety of any conveyance, may be performed by a licensed elec-
13 trical contractor.

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

19 4. Except as otherwise provided for in subdivisions three and four of
20 section nine hundred fifty of this article, it shall be a violation of
21 this article for any elevator contractor to erect, construct, install,
22 or alter conveyances within buildings or structures within this state
23 unless a permit therefor has been issued by the commissioner before work
24 is commenced. No permit shall be issued except to a person holding a
25 valid elevator contractor's license. A copy of such permit shall be kept
26 at the construction site at all times while the work is in progress. An
27 application for a permit under this section with the commissioner shall
28 not be required if an authority having jurisdiction ("AHJ") posts all
29 permits issued to elevator contractors on the AHJ's official website
30 within forty-eight hours of their issuance. The information required to
31 be published must include, at a minimum, the date of issuance, the work
32 covered by the permit, the elevator contractor or contractors involved
33 and location and type of work to be performed.

34 5. Except as otherwise provided in subdivision three of section nine
35 hundred fifty of this article, all new conveyance installations shall be
36 performed by an elevator contractor licensed to install such conveyance.
37 Subsequent to installation, the elevator contractor must certify compli-
38 ance to the commissioner with the applicable sections of this article as
39 well as any other applicable law, rule, regulation or code. Prior to
40 such conveyances being used, the property owner or lessee must obtain a
41 certificate of operation from the commissioner. A fee, as set forth in
42 this article, shall be paid for such certificate of operation, however,
43 no such fee shall be required for conveyances in private residences. It
44 is the responsibility of the licensed elevator contractor to complete
45 and submit registrations for new installations. A certificate of opera-
46 tion shall be valid for one year, except for certificates issued for
47 platform lifts for private residences, which shall be valid for a period
48 of three years. Certificates of operation must be clearly and conspicu-
49 ously displayed on, in or around each conveyance and be accessible to
50 the state or locality inspecting or enforcing any applicable law, rule,
51 regulation or code. An application for a certificate of operation under
52 this section with the commissioner shall not be required if an authority
53 having jurisdiction ("AHJ") posts all certificates of operation issued
54 to a building owner on the AHJ's official website within forty-eight
55 hours of their issuance. The information required to be published must
56 include, at a minimum, the date of issuance, the unit subject to the

1 certificate of operation, the name and address of the building owner,
2 and the address of the unit.

3 6. Except as otherwise provided in subdivision three of section nine
4 hundred fifty of this article, the certificate of operation for newly
5 installed platform lifts for private residences shall be issued only
6 subsequent to an inspection by a licensed third party inspection firm.
7 The certificate of operation fee for all new and existing platform lifts
8 for private residences and any renewal certificate fees are hereby
9 waived. The inspection of private residence platform lifts shall be done
10 at the request and consent of the private residence's owner or lessees.

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

14 § 953. License and permit procedure. All applications for elevator
15 contractor's, elevator mechanic's, and elevator inspector's licenses and
16 required permits shall be submitted to the department in writing on
17 forms furnished by the commissioner and shall contain the information
18 set forth in this section as well as any additional information that the
19 commissioner may require. The commissioner shall also set fees for
20 licensing and permitting under this section.

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

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

24 (b) the number of years the applicant has engaged in the business or
25 practice of designing, constructing, erecting, installing, inspecting,
26 testing, repairing, altering, maintaining, or servicing conveyances
27 covered by this article;

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

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

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

33 Upon approval of an application for a license the commissioner shall
34 issue such license which shall be valid for two years. The fees for such
35 license and renewal thereof shall be set by the commissioner. Any denial
36 for such application shall set forth the reasons therefor.

37 2. Application for permits. Every application for a permit under this
38 article shall include plans and specifications stamped and signed by a
39 professional engineer and/or an architect licensed pursuant to article
40 one hundred forty-five and/or article one hundred forty-seven of the
41 education law. Every application for a permit under this article shall
42 include the following:

43 (a) copies of the specifications and accurately scaled and fully
44 dimensioned plans showing the location of the installation in relation
45 to the plans and elevation of the building;

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

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

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

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

54 (f) any required permitting fees, which are subject to return upon
55 denial of a permit application; and

(g) the department shall maintain and publish a registry of all licensed elevator mechanics, contractors and inspectors, which shall list and identify, all licensed elevator mechanics, contractors, and inspectors doing business in this state. The department shall make the registry available on its website.

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

3. Licensing and permitting exemptions. Whenever an emergency exists in this state due to a disaster or act of God, which imperils the health, safety or welfare of an individual or individuals and placing such individual or individuals in imminent danger of injury or death and the number of persons in the state holding licenses granted by the board is insufficient to cope with such emergency, any person certified by a licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall seek an emergency elevator mechanic's license from the commissioner within five business days after commencing work requiring a license. The commissioner shall issue emergency elevator mechanic's licenses to address the emergency that exists. The licensed elevator contractor shall furnish proof of competency as the commissioner may require. Each such license shall recite that it is valid for a period of fifteen days from the date thereof and for such particular elevators or geographical areas as the commissioner may designate to address the emergency situation and otherwise shall entitle the licensee to the rights and privileges of an elevator mechanic's license issued in this article. The commissioner shall renew an emergency elevator mechanic's license during the existence of an emergency as needed. No fee shall be charged for any emergency elevator mechanic's license or renewal thereof.

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

§ 954. Qualifications, training and continuing education. 1. No license shall be granted to any person who has not paid the required application fee and demonstrated his or her qualifications and abilities. Applicants for a mechanic's license must demonstrate one of the following qualifications:

(a) acceptable proof that he or she has worked on elevator construction, maintenance or repair with direct and immediate super-

1 vision in this state for a period of not less than four years immediate-
2 ly prior to the effective date of this article, provided that such
3 applicant shall file such application within one year of release and
4 access to the licensing application as defined in this article; or

5 (b) a certificate of successful completion of the joint apprentice and
6 training committee of the elevator industry of local 3, IBEW, EE divi-
7 sion training program or an apprenticeship program for elevator mechan-
8 ics, having standards substantially equal to those of this chapter, and
9 registered with the bureau of apprenticeship and training, U.S. depart-
10 ment of labor or a state apprenticeship council; or

11 (c) industry educational program, The National Association of Elevator
12 Contractors (NAEC) Certified Elevator Technician (CET), or their equiv-
13 alent; or

14 (d) The commissioner shall upon application and without examination,
15 issue a license to any person over the age of eighteen years who has
16 been duly licensed by any other state of the United States to engage in
17 the business of construction, operation, inspection, maintenance, alter-
18 ation and repair of elevators as verified by current and previous
19 employers, upon compliance with standards and requirements not lower, in
20 the judgement of the commissioner than those of this state, provided,
21 however, that such state extends the same reciprocity to the licensees
22 of this state. Such application shall be accompanied by the required
23 license fee.

24 2. Applicants for an elevator contractor's license must demonstrate to
25 the commissioner that such elevator contractor employs licensed elevator
26 mechanics who perform the work described in section nine hundred fifty
27 of this article and have proof of compliance with the insurance require-
28 ments set forth in paragraph (d) of subdivision one of section nine
29 hundred fifty-three of this article.

30 3. Applicants for an elevator inspector's license must demonstrate to
31 the satisfaction of the commissioner that such applicant meets or
32 exceeds applicable standards such as a Qualified Elevator Inspector
33 (QEI) or its equivalent. Private elevator inspectors shall maintain the
34 same insurance requirements as an elevator contractor.

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

51 (b) The commissioner shall assess a fee for each training program
52 completion certificate and for each refresher training program
53 completion certificate provided, however, that in no event shall the
54 cost of such certificates be assessed by the sponsor of such training
55 program against the participants.

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

8 The courses shall be taught through continuing education providers
9 that may include, but shall not be limited to, association seminars, and
10 labor training programs or programs that deliver an approved apprentice-
11 ship and are registered with the department or the New York state
12 apprenticeship training council. The commissioner shall approve the
13 continuing education providers. All instructors shall be exempt from the
14 requirements of the preceding paragraph with regard to their application
15 for license renewal provided that such applicant was qualified as an
16 instructor at any time during the one year immediately preceding the
17 scheduled date for such renewal.

18 Approved training providers shall keep uniform records, for a period
19 of six years, of attendance of licensees following a format approved by
20 the commissioner and such records shall be available for inspection by
21 the commissioner at his or her request. Approved training providers
22 shall be responsible for the security of all attendance records and
23 certificates of completion; provided, however, that falsifying or know-
24 ingly allowing another to falsify such attendance records or certifi-
25 icates of completion shall constitute grounds for suspension or revoca-
26 tion of the approval required under this section.

27 § 955. Powers of the commissioner. 1. The commissioner shall have the
28 authority to inspect, or cause to be inspected, ongoing or completed
29 conveyances projects and to conduct an investigation thereof upon the
30 commissioner's own initiation or upon receipt of a complaint by any
31 person or entity. However, nothing in this subdivision shall permit the
32 commissioner to enter a private residence.

33 2. If, upon receipt of a complaint alleging a violation of this arti-
34 cle, the commissioner reasonably believes that such violation exists, he
35 or she shall investigate as soon as practicable to determine if such
36 violation exists. If the commissioner determines that no violation or
37 danger exists, the commissioner shall inform the complaining person or
38 entity.

39 3. If, upon investigation, the commissioner determines that the
40 alleged violation exists, the commissioner may deliver to such owner or
41 elevator contractor or his or her agent or representative a written
42 order to cure such violation and may order that their permit to work on
43 such installation, repair or maintenance project shall be suspended
44 until such violation is cured. Such order shall specifically enumerate
45 the violations which constitute the basis of the order to cure or order
46 of suspension and shall specify the corrective action to be taken. The
47 commissioner may allow the permit to toll during the time of such order.

48 4. Upon receipt of a written notice from the elevator contractor, or
49 his or her agent or representative, that such violation has been
50 corrected, the commissioner shall, within ten days, issue a determi-
51 nation as to whether such order to cure has been satisfied and such
52 order of suspension, if any, shall be lifted. If the commissioner deter-
53 mines that the order to cure has not been satisfied he or she may
54 continue such order for a reasonable period of time upon the consent of
55 the contractor, or his or her agent or representative. If the commis-
56 sioner does not continue the order, or if the contractor, or his or her

1 agent or representative does not consent to such continuation, the
2 contractor shall have the right to a hearing to determine if such order
3 shall be lifted. Any entity or contractor who may be adversely affected
4 by a notice, suspension, or determination issued under this section may
5 commence a proceeding pursuant to article seventy-eight of the civil
6 practice law and rules.

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

10 (a) any false statement as to a material matter in the application;
11 (b) fraud, or misrepresentation, in securing a license;
12 (c) failure to notify the commissioner and the owner or lessee of a
13 conveyance of any condition not in compliance with this article;
14 (d) a violation of section nine hundred fifty-two of this article; or
15 (e) a finding by the commissioner that a contractor has violated this
16 article or any rule or regulation promulgated thereunder twice within a
17 period of three years, or that a contractor has violated a provision of
18 this article and such violation resulted in a serious threat to the
19 health or safety of an individual or individuals. The commissioner may,
20 in addition to ordering that such contractor's license be revoked, bar
21 such individual from being eligible to reapply for such license for a
22 period not to exceed two years.

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

25 (a) any false statements or misrepresentation as to a material fact in
26 the application, plans, or specifications on which the permit was based;
27 (b) any application which by omission or mistake fails to comply with
28 the requirements of this article;
29 (c) any failure to perform work in accordance with the provisions of
30 the application, plans or specifications or with the requirements of
31 this article or conditions of the permit;
32 (d) a failure by the owner or elevator contractor to whom the permit
33 was issued to comply with an order issued pursuant to subdivision four
34 of this section; or
35 (e) a finding by the commissioner that an individual or contractor who
36 has been issued a permit has violated any provision under section nine
37 hundred fifty-two of this article.

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

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

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

52 9. The commissioner may bring an action in a court of competent juris-
53 isdiction to enjoin any conduct that violates the provisions of this arti-
54 cle.

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

1 § 956. New York state elevator safety and standards board. 1. An
2 elevator safety and standards board is hereby created, to consist of
3 nine members. The governor, the temporary president of the senate, and
4 the speaker of the assembly shall each appoint three members. The gover-
5 nor's appointees shall be comprised of a representative of a major
6 elevator manufacturing company, an elevator inspector and a building
7 owner, manager or representative; the temporary president of the
8 senate's appointees shall be comprised of an elevator servicing company,
9 an elevator architectural designer or consultant, and an individual from
10 an elevator industry association; the speaker of the assembly's appoint-
11 ees shall be comprised of an elevator contractor employee labor union,
12 an elevator mechanic, and a fire marshal. The commissioners of health,
13 labor, education, and economic development or their designees shall be
14 ex-officio members. The board shall meet on an as needed basis to advise
15 the commissioner on the implementation of this article. The board shall
16 elect a chairperson to serve for the term of their appointment to the
17 board. The board shall prepare an annual report for the governor and
18 the legislature, copies of which shall be sent to the commissioners of
19 health, education, economic development, and labor.

20 2. The first member appointed by the governor, the temporary president
21 of the senate, and the speaker of the assembly shall have a term of one
22 year; the second member appointed by each shall have a term of two years
23 and the remaining members shall have a term of three years. Each of such
24 appointed members shall hold office for the term for which such member
25 was appointed and until his or her successor shall have been appointed
26 or until he or she shall resign. The term of office of all successor
27 members shall be three years. The members shall serve without salary or
28 compensation, but shall be reimbursed for necessary expenses incurred in
29 the performance of their duties.

30 3. The board may consult with engineering authorities and organiza-
31 tions concerned with standard safety codes, rules and regulations
32 governing the operation, maintenance, servicing, construction, alter-
33 ation, installation, and inspection of conveyances and the adequate,
34 reasonable, and necessary qualifications of elevator mechanics, contrac-
35 tors, and inspectors.

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

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

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

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

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

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

52 § 957. Exempt persons. This article shall not be construed to apply to
53 the practice, conduct, activities, or services by a person licensed to
54 practice architecture within this state pursuant to article one hundred
55 forty-seven of the education law or engineering within this state pursu-
56 ant to article one hundred forty-five of the education law.

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

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

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

3. Moneys of the fund shall be available to the commissioner of labor for purposes of offsetting the costs incurred by the commissioner of labor for the administration of article thirty-three of the labor law, including the administration of elevator and related conveyances safety programs, the administration of licenses and permits, and the administration of certificates of operation as set forth in such article thirty-three.

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

5. Notwithstanding the provisions of any general or special law, no moneys shall be available from the fund until a certificate of allocation and a schedule of amounts to be available therefor shall have been issued by the director of the budget, and a copy of such certificate filed with the comptroller. Such certificate may be amended from time to time by the director of the budget and a copy of each such amendment shall be filed with the comptroller.

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

PART B

Section 1. The undesignated paragraph subtitled "private elevator inspection agency" of section 28-401.3 of the administrative code of the city of New York is REPEALED and three new undesignated paragraphs are added following the undesignated paragraph subtitled "direct employ" to read as follows:

ELEVATOR AGENCY. An approved agency authorized by the commissioner to perform elevator work and to inspect and test elevators, escalators and other conveying equipment regulated by this code.

ELEVATOR AGENCY HELPER. An individual having required qualifications to perform elevator work, as defined in this chapter, under the direct and continuing supervision of an elevator agency director, and in the presence of a licensed elevator agency technician.

ELEVATOR WORK. Alteration, assembly, installation, maintenance, repair, replacement and modernization work, as defined by ASME A17.1 as modified by appendix K of the New York city building code, performed on conveyances regulated by this code or other applicable laws or rules. Elevator work does not include material hoists, platform lifts, stair chair lifts, or personnel hoists.

§ 2. Articles 421 and 422 of chapter 4 of title 28 of the administrative code of the city of New York, as added by section 91 of part A of local law number 141 of the city of New York for the year 2013, are amended to read as follows:

ARTICLE 421

~~[PRIVATE]~~ ELEVATOR ~~[INSPECTION]~~ AGENCY DIRECTOR LICENSE

§ 28-421.1 ~~[Private elevator inspection]~~ Elevator agency director license required. ~~[Only private elevator inspection agencies may]~~ It shall be unlawful to perform elevator work as defined by this chapter or perform and/or witness inspections and tests or enter into contracts pursuant to article 304 of chapter 3 of this code unless licensed pursuant to this article. Each ~~[such]~~ elevator agency shall designate one director in responsible charge who shall be licensed pursuant to this article. The designated director in responsible charge shall be in the direct employ of the agency and shall supervise all the operations of the agency. All elevator work shall be performed by individuals who are under the direct and continuing supervision of the elevator agency director as defined in section 28-401.3 of this chapter. All elevator work performed by such agency pursuant to article 304 of chapter 3 of this code shall be performed by or ~~[under the direct and continuing supervision of the designated director in responsible charge]~~ in the presence of a licensed elevator agency director or technician.

§ 28-421.1.1 Additional directors. In addition to the designated director in responsible charge, the agency may have other individuals in its employ who may be issued ~~[private]~~ elevator ~~[inspection]~~ agency director licenses pursuant to this article. ~~[Notwithstanding any other provision of this chapter, such individuals may only perform inspections or other work pursuant to article 304 of chapter 3 of this code under the direct and continuing supervision of the designated director in responsible charge.]~~

§ 28-421.2 Qualifications. All applicants for ~~[a private]~~ an elevator ~~[inspection]~~ agency director license shall submit satisfactory proof establishing that the applicant has satisfactorily completed, within two years prior to the date of application, a course that is at least thirty hours in length and approved by the United States department of labor and the occupational safety and health administration in general industry training; and also satisfies one of the following:

1. Has at least ten years of practical experience in the supervision of the assembly, installation, maintenance, repair, design or inspection of elevators within the fifteen years prior to application; or

2. Is an engineer or architect and has at least five years experience in the supervision of the assembly, installation, maintenance, repair, review and approval of design documents or inspection of elevators within the seven years prior to application.

§ 28-421.3 ~~[Director restriction]~~ Restriction. Each ~~[private]~~ elevator ~~[inspection]~~ agency director shall supervise and perform elevator work or inspections and tests pursuant to article 304 of chapter 3 of this code for only one ~~[private]~~ elevator ~~[inspection]~~ agency, and shall not inspect and/or test elevators or perform elevator work on related devices as an inspector ~~[or]~~, director or elevator agency helper for any other ~~[private]~~ elevator ~~[inspection]~~ agency.

§ 28-421.4 Place of business. Every licensed ~~[private]~~ elevator ~~[inspection]~~ agency shall have a place of business within the city in conformance with department rules and regulations.

ARTICLE 422

~~[PRIVATE]~~ ELEVATOR ~~[INSPECTION]~~ AGENCY INSPECTOR LICENSE

§ 28-422.1 ~~[Private elevator inspection agency]~~ Elevator agency inspector license required. ~~[Individuals who]~~ It shall be unlawful to witness and/or perform inspections and tests on behalf of [a private] an elevator ~~[inspection]~~ agency pursuant to article 304 of chapter 3 of

1 this code [~~shall be~~] unless licensed pursuant to this article. Licensed
2 inspectors shall perform such work under the direct and continuing
3 supervision of a designated director in responsible charge licensed
4 pursuant to article 421 of this chapter.

5 § 28-422.2 Qualifications. [~~Applicants~~] All applicants for [~~a private~~]
6 an elevator agency inspector license shall submit satisfactory proof
7 establishing that the applicant has satisfactorily completed, within two
8 years prior to the date of application, a course that is at least ten
9 hours in length and approved by the United States department of labor
10 and the occupational safety and health administration in general indus-
11 try standards; and also satisfies the following:

12 1. Has at least seven years of practical experience in the [~~assembly,~~
13 ~~installation, repair, design, or~~] inspection of elevators, or as an
14 elevator mechanic within the ten years prior to application.

15 § 28-422.3 [~~Inspector restriction~~] Restriction. Each [~~private~~] eleva-
16 tor [~~inspection~~] agency inspector shall perform work pursuant to article
17 304 of chapter 3 of this code for only one [~~private~~] elevator
18 [~~inspection~~] agency, and shall not witness and/or perform inspections
19 and/or test elevators or related devices as an inspector, technician or
20 director for any other [~~private~~] elevator [~~inspection~~] agency.

21 § 3. Chapter 4 of title 28 of the administrative code of the city of
22 New York is amended by adding three new articles 425, 426 and 427 to
23 read as follows:

24 ARTICLE 425

25 ELEVATOR AGENCY TECHNICIAN LICENSE

26 § 28-425.1 Elevator agency technician license required. It shall be
27 unlawful to perform elevator work as defined in this chapter, unless
28 that work is performed by or under the direction of an elevator agency
29 technician and under the supervision of a designated director of an
30 elevator agency licensed pursuant to article 421 of this chapter.

31 § 28-425.2 Restricted elevator agency technician license. A restricted
32 class of lift mechanic license shall be known as "accessibility techni-
33 cian". Such class of license shall be restricted to performing work
34 involving platform lifts including those installed in private residences
35 which are covered by the provisions of ASME (American society of mechan-
36 ical engineers) codes and standards A18.1-2005. An applicant for such
37 restricted license shall complete an application approved by the board
38 and shall have at least three years verified work experience in
39 constructing, maintaining and repairing those lifts covered by ASME
40 A18.1-2005 and shall provide to the commissioner a certificate of
41 completion of an accessibility training program for lifts under the
42 scope of A18.1-2005 such as the certified accessibility training
43 provided by the national association of elevator contractors, or an
44 equivalent program as deemed by the department.

45 § 28-425.3 Qualifications. All applicants for an elevator agency tech-
46 nician's license shall submit satisfactory proof establishing that the
47 applicant has satisfactorily completed, within two years prior to the
48 date of application, a course that is at least ten hours in length and
49 approved by the United States department of labor and the occupational
50 safety and health administration in general industry training; and also
51 satisfies one of the following:

52 1. Successful completion of a training program of at least four years
53 for elevator maintenance, installation or repair, registered with the
54 bureau of apprenticeship and training, United States department of labor
55 or a New York state apprenticeship council, including but not limited to
56 the national elevator industry elevator educational program; or

2. A certificate of successful completion and successfully passing the mechanic examination of a nationally recognized training program for the elevator industry including, but not limited to, the national elevator industry educational program or its equivalent; or

3. A certificate of successful completion of the joint apprentice and training committee of the elevator industry of local 3, IBEW, EE division training program or an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter, and registered with the bureau of apprenticeship and training, U.S. department of labor or a state apprenticeship council.

No licensing fees shall be charged to any individual who holds a New York state elevator mechanics license and seeks a New York city elevator technicians license.

ARTICLE 426

ELEVATOR AGENCY HELPER

§ 28-426.1 Qualifications. The agency may, by rule, establish qualifications for elevator agency helpers.

ARTICLE 427

PERMITS

§ 28-427.1 Applications and permits. All applications/permits issued to elevator contractors shall appear on the department of buildings website within forty-eight hours of issuance. The information required to be published must include, at a minimum, the date of issuance, the work covered by the permit, the elevator contractor or contractors involved and location and type of work to be performed. The department shall maintain and publish a registry of all licensed elevator agency helpers, technicians, and inspectors, which shall list and identify, all licensed elevator agency helpers, technicians, and inspectors, doing business in the city of New York. The department shall make the registry available on its website.

§ 28-427.2 Licensing and permitting exemptions. Whenever an emergency exists in this state due to a disaster or act of god, which imperils the health, safety or welfare of an individual or individuals and placing such individual or individuals in imminent danger of injury or death and the number of persons in the state holding licenses granted by the board is insufficient to cope with such emergency, any person certified by a licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall seek an emergency elevator mechanic's license from the commissioner within five business days after commencing work requiring a license. The commissioner shall issue emergency elevator mechanic's licenses to address the emergency that exists. The licensed elevator contractor shall furnish proof of competency as the commissioner may require. Each such license shall recite that it is valid for a period of fifteen days from the date thereof and for such particular elevators or geographical areas as the commissioner may designate to address the emergency and otherwise shall entitle the licensee to the rights and privileges of an elevator mechanic's license issued in this article. The commissioner shall renew an emergency elevator mechanic's license during the existence of an emergency as needed. No fee shall be charged for any emergency elevator mechanic's license or renewal thereof.

1 § 28-427.3 License renewal. The renewal of all licenses granted under
2 the provisions of this section shall be conditioned upon the submission
3 of a certificate of completion of a course designed to ensure the
4 continuing education of licensees on new and existing national, state,
5 and local conveyances codes and standards and on technology and techni-
6 cal education and workplace safety. Such course shall consist of not
7 less than eight hours annually and completed preceding any such license
8 renewal. The commissioner shall establish requirements for continuing
9 education and training programs, and shall approve such programs, as
10 well as maintain a list of approved programs, which shall be made avail-
11 able to license applicants, permit applicants, renewal applicants and
12 other interested parties upon request. The commissioner shall promulgate
13 rules and regulations setting forth the criteria for approval of such
14 programs, the procedures to be followed in applying for such approval,
15 and other rules and regulations as the commissioner deems necessary and
16 proper to effectuate the purposes of this section.

17 The renewal of all licenses granted under the provisions of this
18 section shall be conditioned upon the submission of a certificate of
19 completion of a course designed to ensure the continuing education of
20 licensees on new and existing regulations of the department. Such course
21 shall consist of not less than eight hours of instruction that shall be
22 attended and completed annually prior to any such license renewal.

23 The courses shall be taught through continuing education providers
24 that may include, but shall not be limited to, association seminars, and
25 labor training programs or programs that deliver an approved apprentice-
26 ship and are registered with the department or the New York state
27 apprenticeship training council. The commissioner shall approve the
28 continuing education providers.

29 § 28-427.4 Renewal fees. The commissioner shall assess a fee for each
30 training program completion certificate and for each refresher training
31 program completion certificate, provided, however, that in no event
32 shall the cost of such certificates be assessed by the sponsor of such
33 training program against the participants.

34 § 28-427.5 Recordkeeping. All instructors shall be exempt from the
35 requirements of the preceding section with regard to their application
36 for license renewal provided that such applicant was qualified as an
37 instructor at any time during the one year immediately preceding the
38 scheduled date for such renewal. Approved training providers shall keep
39 uniform records, for a period of six years, of attendance of licensees
40 following a format approved by the commissioner and such records shall
41 be available for inspection by the commissioner at his or her request.
42 Approved training providers shall be responsible for the security of all
43 attendance records and certificates of completion; provided, however,
44 that falsifying or knowingly allowing another to falsify such attendance
45 records or certificates of completion shall constitute grounds for
46 suspension or revocation of the approval required under this section.

47 § 28-427.6 Superiority of licensing of the state of New York. The
48 commissioner shall accept an elevator mechanic's license issued to any
49 person over the age of eighteen years by the state of New York as equiv-
50 alent to an elevator agency technician license in cities with popu-
51 lations of one million more, as defined in this article, without exam-
52 ination or application.

53 § 4. Section 28-304.6.1 of the administrative code of the city of New
54 York, as amended by section 61 of part A of local law number 141 for the
55 year 2013, is amended to read as follows:

§ 28-304.6.1 Inspection and testing entities. The required periodic inspections in Table N1 shall be made by the department. The other tests and inspections in Table N1 shall be performed on behalf of the owner by an approved agency in accordance with this code and department rules. Where indicated in Table N1, tests and inspections shall be witnessed by an approved agency not affiliated with the agency performing the test, and not affiliated with the agency performing the elevator work. Not affiliated, as used in this section, shall mean the approved agency owners, directors and inspectors shall be independent of all relative approved agencies, maintenance firms or other entities providing any associated services to the device owner. Such other tests and inspections shall comply with the timeframes established as follows:

1. Category 1 inspections and tests shall be performed between January 1st and December 31st of each year at a minimal time interval of six months from the date of the previous Category 1 testing. Category 1 tests are required on new installations the calendar year following final acceptance test.

2. Category 3 inspections and tests for water hydraulics shall be performed every three years on or before the anniversary month of the last Category 3 testing.

3. Category 5 inspections and tests shall be performed every five years on or before the month of the final acceptance test for new elevators or the anniversary month of the last Category 5 testing.

§ 5. This act shall take effect three years after it shall have become a law. Effective immediately, any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through B of this act shall be as specifically set forth in the last section of such Parts.