

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 280

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY  
Phil A. Griego

AN ACT

RELATING TO PROFESSIONAL STANDARDS; ENACTING THE ELEVATOR  
SAFETY ACT; PROVIDING FOR LICENSURE OF CONVEYANCE MECHANICS,  
CONTRACTORS AND INSPECTORS; PROVIDING FOR FEES FOR LICENSURE  
AND PERMITTING; CREATING A FUND; PROVIDING PENALTIES; MAKING AN  
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the  
"Elevator Safety Act".

SECTION 2. DEFINITIONS.--As used in the Elevator Safety  
Act:

A. "commission" means the construction industries  
commission;

B. "contractor" means a sole proprietor, firm or  
corporation that possesses an elevator contractor's license

1 pursuant to the Elevator Safety Act and is engaged in the  
2 business of erecting, constructing, installing, altering,  
3 servicing, repairing or maintaining conveyances;

4 C. "conveyance" means:

5 (1) any hoisting and lowering mechanism  
6 equipped with a car or platform that moves between two or more  
7 landings, including elevators, escalators, moving sidewalks,  
8 platform lifts or stairway chair lifts for carrying persons  
9 between landings; and

10 (2) hoisting and lowering mechanisms that are  
11 equipped with a car, that serve two or more landings and that  
12 are restricted to carrying materials by its limited size and  
13 limited access;

14 D. "director" means the director of the  
15 construction industries division of the regulation and  
16 licensing department;

17 E. "inspector" means a person who possesses an  
18 elevator inspector's license pursuant to the Elevator Safety  
19 Act;

20 F. "mechanic" means a person who possesses an  
21 elevator mechanic's license pursuant to the provisions of the  
22 Elevator Safety Act and who is engaged in erecting,  
23 constructing, installing, altering, servicing, testing,  
24 repairing or maintaining and performing electrical work on  
25 related conveyances covered by that act;

.182671.3

underscoring material = new  
~~[bracketed material] = delete~~

1           G. "standards" means the American society of civil  
2 engineer's and the American society of mechanical engineer's  
3 automated people mover standards; and

4           H. "temporarily dormant" means that a conveyance  
5 whose power supply has been disconnected by removing fuses and  
6 placing a padlock on the mainline disconnect switch in the off  
7 position is parked and the hoistway doors are in the closed and  
8 latched position with a wire seal installed on the mainline  
9 disconnect switch by an inspector.

10           **SECTION 3. EXEMPTIONS.**--The following are exempted from  
11 the provisions of the Elevator Safety Act:

- 12           A. material hoists;  
13           B. manlifts;  
14           C. mobile scaffolds, towers and platforms;  
15           D. powered platforms and equipment for exterior and  
16 interior maintenance;  
17           E. conveyors and related equipment;  
18           F. cranes, derricks, hoists, hooks, jacks and  
19 slings;  
20           G. industrial trucks;  
21           H. portable equipment, except for portable  
22 escalators that are covered by the standards;  
23           I. tiering or piling machines that are used to move  
24 materials to and from storage and that are located and  
25 operating entirely within one story;

.182671.3

underscoring material = new  
~~[bracketed material] = delete~~

1 J. equipment for feeding or positioning materials  
2 at machine tools, printing presses and similar equipment;  
3 K. skip or furnace hoists;  
4 L. wharf ramps;  
5 M. railroad car lifts or dumpers; and  
6 N. line jacks, false cars, shafters, moving  
7 platforms and similar equipment used for installing an elevator  
8 by a contractor licensed in this state.

9 SECTION 4. CONVEYANCE MECHANICS, CONTRACTORS AND  
10 INSPECTORS--LICENSE REQUIREMENTS.--

11 A. No person shall erect, construct, alter,  
12 replace, maintain, remove or dismantle any conveyance contained  
13 within buildings or structures unless the person is a mechanic  
14 licensed pursuant to the Elevator Safety Act who is working  
15 under the direct supervision of a contractor pursuant to that  
16 act. No person shall wire any conveyance from the mainline  
17 feeder terminals on the controller unless the person is  
18 licensed as a mechanic pursuant to the Elevator Safety Act and  
19 is working under the direct supervision of a contractor  
20 pursuant to that act. No other license shall be required for  
21 this work.

22 B. A licensed elevator contractor is not required  
23 for removing or dismantling conveyances that are destroyed as a  
24 result of a complete demolition of a secured building or  
25 structure or where the hoistway or wellway is demolished back

.182671.3

underscoring material = new  
~~[bracketed material] = delete~~

1 to the basic support structure whereby no access is permitted  
2 therein to endanger the safety and welfare of any person.

3 C. No person shall inspect any conveyance within  
4 buildings or structures, including but not limited to  
5 residences, unless the person is licensed as an inspector  
6 pursuant to the Elevator Safety Act.

7 SECTION 5. ELEVATOR MECHANIC'S, INSPECTOR'S AND  
8 CONTRACTOR'S LICENSES.--

9 A. A person wishing to engage in the business or  
10 practice of installing, altering, servicing, replacing,  
11 maintaining or inspecting conveyances shall apply for the  
12 appropriate license with the director on a form provided by the  
13 director.

14 B. Applications shall contain:

15 (1) if the applicant is an individual, the  
16 name, residence and business address of the applicant;

17 (2) if the applicant is a partnership, the  
18 name, residence and business address of each partner;

19 (3) if the applicant is a domestic  
20 corporation, the name and business address of the corporation  
21 and the name and residence address of the principal officer of  
22 the corporation;

23 (4) if the applicant is a corporation other  
24 than a domestic corporation, the name and address of an agent  
25 located locally who shall be authorized to accept service of

.182671.3

1 process or official notices;

2 (5) the number of years that the applicant has  
3 engaged in the business of installing, inspecting, maintaining  
4 or servicing conveyances;

5 (6) the approximate number of persons, if any,  
6 to be employed by a contractor applicant and, if applicable,  
7 satisfactory evidence that those employees are or will be  
8 covered by workers' compensation insurance;

9 (7) satisfactory evidence that the applicant  
10 is or will be covered by general liability, personal injury and  
11 property damage insurance;

12 (8) any record of criminal convictions, as  
13 verified by the department of public safety; and

14 (9) any other information that the director  
15 may require.

16 C. No license shall be granted to a person who has  
17 not fulfilled the requirements of this section.

18 D. Applicants for a mechanic's license shall:

19 (1) demonstrate an acceptable combination of  
20 documented experience and education credits, including not less  
21 than three years of work experience in the elevator industry or  
22 in construction, maintenance, service or repair or any  
23 combination thereof, as verified by current and previous  
24 employers licensed to do business; and

25 (2) complete a written examination

underscoring material = new  
~~[bracketed material] = delete~~

1 administered by the director on the most recent referenced  
2 codes and standards; except that a person shall be entitled to  
3 receive a license without an examination if the person  
4 furnishes the commission with:

5 (a) acceptable proof that the person has  
6 worked in elevator construction, maintenance or repair if the  
7 work was without direct and immediate supervision, was for an  
8 elevator contractor and was not less than three years prior to  
9 the effective date of the Elevator Safety Act and the person  
10 makes application within one year of the effective date of that  
11 act;

12 (b) certificates of completion and of  
13 successfully passing the mechanic's examination of a nationally  
14 recognized training program for the elevator industry, such as  
15 the national elevator industry educational program or its  
16 equivalent;

17 (c) certificates of completion of an  
18 apprenticeship program for elevator mechanics that has  
19 standards substantially equal to those of the Elevator Safety  
20 Act and is registered with the office of apprenticeship of the  
21 United States department of labor or a state apprenticeship  
22 council; or

23 (d) a valid license issued to the person  
24 by a state having standards substantially equal to those of the  
25 Elevator Safety Act.

.182671.3

underscoring material = new  
~~[bracketed material] = delete~~

1           E. No inspector's license shall be granted to a  
2 person unless the person demonstrates to the satisfaction of  
3 the director that current standards for the qualifications of  
4 elevator inspectors have been met.

5           F. A contractor's license may be issued to an  
6 applicant that holds a valid license from a state having  
7 standards substantially equal to those of the Elevator Safety  
8 Act; but no contractor's license shall be granted to an  
9 applicant that has not demonstrated the requisite  
10 qualifications and abilities, including:

11                   (1) employing a licensed mechanic who performs  
12 the work; and

13                   (2) proof of compliance with the insurance  
14 requirements of the Elevator Safety Act.

15           **SECTION 6. ISSUANCE AND RENEWAL OF LICENSES--FEES--**  
16 **CONTINUING EDUCATION.--**

17           A. The director may issue a license pursuant to the  
18 Elevator Safety Act, renewable biennially, upon payment of a  
19 fee set by the director.

20           B. The renewal of a license shall be conditioned  
21 upon the submission of a certificate of completion of a course  
22 designed to ensure the continuing education of licensees on new  
23 and existing provisions of the rules of the commission,  
24 including not less than eight hours of instruction completed  
25 within one year immediately preceding the date of license

.182671.3

underscored material = new  
~~[bracketed material] = delete~~

1 renewal.

2 C. Continuing education courses shall be taught by  
3 instructors through continuing education providers and may  
4 include association seminars or labor training programs  
5 approved by the commission; except that instructors may be  
6 exempt from the requirements for license renewal if the  
7 instructor was qualified at any time during the year  
8 immediately preceding the scheduled date for renewal.

9 D. A licensee who, due to a temporary disability,  
10 is unable to complete the continuing education course required  
11 under this section prior to the expiration of the license, may  
12 apply for a waiver from the director on a form provided by the  
13 director, signed under penalty of perjury and accompanied by a  
14 certified statement from a competent physician attesting to the  
15 temporary disability. Upon termination of the temporary  
16 disability, the licensee shall submit to the director a  
17 certified statement from the same physician, if practicable,  
18 attesting to the termination of the temporary disability. At  
19 that time, a waiver sticker, valid for ninety days, shall be  
20 issued to the licensee and affixed to the licensee's license.

21 E. Training providers shall be subject to approval  
22 by the director. Training providers shall keep uniform records  
23 for ten years of attendance of licensees and shall follow a  
24 format approved by the director. The records shall be  
25 available for inspection by the director. Training providers

.182671.3

underscored material = new  
~~[bracketed material] = delete~~

1 shall be responsible for the security of all attendance records  
2 and certificates of completion. Falsifying or knowingly  
3 allowing another to falsify attendance records or certificates  
4 of completion constitutes grounds for suspension or revocation  
5 of the training provider's approval.

6 SECTION 7. EMERGENCY AND TEMPORARY LICENSES--LICENSES.--

7 A. If the governor has declared an emergency due to  
8 a disaster, act of God or work stoppage and the number of  
9 persons in the state holding licenses granted by the director  
10 is insufficient to cope with the emergency, contractors may  
11 respond as necessary to ensure the safety of the public. A  
12 person certified by a licensed contractor to have an acceptable  
13 combination of documented experience and education to perform  
14 elevator work without direct and immediate supervision shall  
15 seek an emergency mechanic's license from the director within  
16 five business days after commencing work that otherwise  
17 requires a license. The director shall issue emergency  
18 mechanic's licenses. The contractor shall furnish such proof  
19 of competency as the director may require. Each emergency  
20 license shall be valid for no more than forty-five days from  
21 the date of its issuance and for such particular elevators or  
22 geographical areas as the director designates. The director  
23 shall renew an emergency mechanic's license if the emergency  
24 continues beyond forty-five days. No fee shall be charged for  
25 an emergency mechanic's license or its renewal.

.182671.3

underscored material = new  
~~[bracketed material] = delete~~

1           B. A contractor shall notify the director when  
2 there are no licensed personnel available to perform elevator  
3 work. The contractor may request that the director issue  
4 temporary elevator mechanic's licenses to persons certified by  
5 the contractor to have an acceptable combination of documented  
6 experience and education to perform elevator work without  
7 direct and immediate supervision. Any person certified by a  
8 contractor to have an acceptable combination of documented  
9 experience and education to perform elevator work without  
10 direct and immediate supervision shall immediately seek a  
11 temporary elevator mechanic's license from the director and  
12 shall pay a fee as determined by the director. Each temporary  
13 elevator mechanic's license shall state that it is valid for  
14 the term of the employing contractor's license, and renewable  
15 biennially, as long as the shortage of licensed personnel  
16 continues.

17           **SECTION 8. TEMPORARILY DORMANT CONVEYANCES.--A**

18 temporarily dormant conveyance shall not be used again until it  
19 has been put in safe running order and is in condition for use,  
20 and annual inspections shall continue for the duration of the  
21 temporarily dormant status by an inspector. Temporarily  
22 dormant status shall be renewable on an annual basis and shall  
23 not exceed five years. The inspector shall file a report with  
24 the director describing the current conditions. The wire seal  
25 and padlock shall not be removed for any purpose without

.182671.3

underscored material = new  
~~[bracketed material] = delete~~

1 permission from the inspector.

2           **SECTION 9. REGISTRATION OF EXISTING CONVEYANCES.--**By  
3 January 1, 2012, the owner or lessee of every existing  
4 conveyance shall register with the director each conveyance  
5 owned and operated by the owner or lessee and provide the type  
6 of conveyance, its rated load and speed, the name of the  
7 manufacturer, its location, the purpose for which it is used  
8 and any additional information that the director requires.  
9 After July 1, 2011, all conveyances shall be registered at the  
10 time they are completed and placed in service.

11           **SECTION 10. COMPLIANCE WITH STATE FIRE PREVENTION AND**  
12 **BUILDING CODES.--**Persons licensed pursuant to the Elevator  
13 Safety Act shall ensure that installation or service and  
14 maintenance of conveyances are performed in compliance with all  
15 laws, ordinances and rules, including fire and building codes.

16           **SECTION 11. PERMITS.--**

17           A. No conveyance shall be erected, constructed,  
18 installed or altered within buildings or structures unless a  
19 permit has been obtained from the director before the work is  
20 commenced. The conveyance shall conform to all applicable  
21 standards. No permit shall be issued except to a licensee  
22 pursuant to the Elevator Safety Act. A copy of the permit  
23 shall be kept at the construction site at all times while the  
24 work is in progress.

25           B. A permit fee to be deposited into the elevator

.182671.3

underscoring material = new  
~~[bracketed material] = delete~~

1 safety fund shall be set by the director and shall not be  
2 refundable.

3 C. Each application for a permit shall be  
4 accompanied by copies of specifications and accurately scaled  
5 and fully dimensioned plans and shall include:

6 (1) the location of the installation in  
7 relation to the plans and elevation of the building;

8 (2) the location of the machinery room and the  
9 equipment to be installed, relocated or altered;

10 (3) all structural supporting members,  
11 including foundations; and

12 (4) all materials to be employed and all loads  
13 to be supported or conveyed.

14 D. Permits may be revoked for:

15 (1) false statements or misrepresentations as  
16 to the material facts in the application, plans or  
17 specifications on which the permit was based;

18 (2) violation of the Elevator Safety Act or  
19 any other law, code, ordinance or rule;

20 (3) work detailed under the permit that is not  
21 being performed in accordance with the provisions of the  
22 application, plans or specifications; or

23 (4) failure or refusal of the permittee to  
24 comply with a stop work order.

25 E. The term of the permit shall expire no later

.182671.3

underscoring material = new  
~~[bracketed material]~~ = delete

1 than six months after the date of issuance of the permit or if  
2 the work is suspended or abandoned for a period of sixty days.  
3 The director may provide a six-month extension of the term of  
4 the permit.

5 SECTION 12. ELEVATOR SAFETY FUND--CREATED.--The "elevator  
6 safety fund" is created in the state treasury. The fund  
7 consists of permit and license fees collected by the director,  
8 income from investment of the fund and money otherwise accruing  
9 to the fund. Money in the fund shall not revert to any other  
10 fund at the end of a fiscal year. The director shall  
11 administer the fund, and money in the fund is appropriated to  
12 the construction industries division of the regulation and  
13 licensing department to administer the provisions of the  
14 Elevator Safety Act. Money in the fund shall be disbursed on  
15 warrants signed by the secretary of finance and administration  
16 pursuant to vouchers signed by the director or the director's  
17 authorized representative.

18 SECTION 13. CERTIFICATES OF OPERATION--ANNUAL  
19 INSPECTIONS--REGISTRATIONS--WAIVER FOR PRIVATE RESIDENCES.--

20 A. All new conveyance installations shall be  
21 performed by a contractor licensed pursuant to the Elevator  
22 Safety Act. Subsequent to installation, a contractor shall  
23 certify compliance with the Elevator Safety Act. Prior to any  
24 conveyance being used, a property owner or lessee must obtain a  
25 certificate of operation from the director with a fee set by

.182671.3

underscored material = new  
~~[bracketed material] = delete~~

1 the director. The contractor shall complete the certificate of  
2 operation for new installations. The certificate of operation  
3 and the fee for newly installed platform lifts and stairway  
4 chair lifts for residences shall be subsequent to an inspection  
5 by an inspector, who may be a third-party inspector.

6 B. The certificate of operation fee for all new and  
7 existing platform and stairway chair lifts for private  
8 residences and any renewal certificate fees shall be waived.  
9 The director shall inspect all newly installed and existing  
10 platform lifts and stairway chair lifts for residences  
11 subsequent to an inspection by a private inspector. The  
12 director shall provide notice to the owner of the residence  
13 where the conveyance is located with relevant information about  
14 conveyance safety requirements, including the requirement that  
15 the owner contact the director in order to ensure that the  
16 conveyance is periodically inspected and made safe before the  
17 permit for the conveyance expires. The inspection shall only  
18 be done at the request and consent of a private residence  
19 owner.

20 C. Certificates of operation shall be renewed  
21 annually, except that certificates issued for platform and  
22 stairway chair lifts for residences shall be valid for a period  
23 of three years. Certificates of operation shall be clearly  
24 displayed on or in each conveyance or in the machine room for  
25 the benefit of code enforcement staff.

.182671.3

1           SECTION 14.  INSURANCE REQUIRED.--

2           A.  Contractors shall submit to the director an  
3 insurance policy or a certified copy of an insurance policy  
4 issued by an insurance company to provide general liability  
5 coverage of at least one million dollars (\$1,000,000) for  
6 injury or death of any number of persons in any one occurrence;  
7 with coverage of at least five hundred thousand dollars  
8 (\$500,000) for property damage in any one occurrence; and  
9 statutory workers' compensation insurance coverage.

10          B.  Inspectors not employed by the director shall  
11 submit to the director an insurance policy or a certified copy  
12 issued by an insurance company to provide general liability  
13 coverage of at least one million dollars (\$1,000,000) for  
14 injury or death of any number of persons in any one occurrence;  
15 with coverage of at least five hundred thousand dollars  
16 (\$500,000) for property damage in any one occurrence; and  
17 statutory workers' compensation insurance coverage.

18          C.  The policies, certified copies or appropriate  
19 certificates of insurance approved by the director shall be  
20 delivered to the director before or at the time of the issuance  
21 of a license.  In the event of any material alteration or  
22 cancellation of any policy, at least ten days' notice thereof  
23 shall be given to the director.

24           SECTION 15.  ENFORCEMENT.--

25          A.  The director shall ensure annual inspection and

underscoring material = new  
~~[bracketed material] = delete~~

1 testing of all conveyances. The owner of a new or existing  
2 conveyance located in any building or structure shall have the  
3 conveyance inspected annually by an inspector.

4 B. Subsequent to inspection, the inspector shall  
5 supply a property owner or lessee and the director with a  
6 written inspection report describing all code violations, if  
7 any. The director shall ensure code compliance.

8 C. Property owners shall, within thirty days from  
9 the date of the published inspection report, achieve full  
10 compliance with the standards and correct any violations.

11 D. The owner of any conveyance shall ensure that  
12 the required tests are performed at intervals in compliance  
13 with the American society of mechanical engineer's standards.

14 E. All tests shall be performed by a licensed  
15 mechanic pursuant to the provisions of the Elevator Safety Act.

16 F. Any person may make a request for an  
17 investigation into alleged violations of the Elevator Safety  
18 Act by giving notice to the director of an alleged violation or  
19 danger. The notice shall be in writing, shall set forth with  
20 reasonable particularity the grounds for the notice and shall  
21 be signed by the person making the request. Upon the request  
22 of any person signing the notice, the person's name shall not  
23 appear on any copy of the notice or any record published,  
24 released or made available.

25 G. If the director determines that there are

.182671.3

underscoring material = new  
~~[bracketed material] = delete~~

1 reasonable grounds to believe that a violation or danger  
2 exists, the director shall cause to be made an investigation  
3 and inspection pursuant to the Elevator Safety Act as soon as  
4 practicable to determine if a violation or danger exists. If  
5 the director determines that there are no reasonable grounds to  
6 believe that a violation or danger exists, the director shall  
7 notify concerned parties in writing of the determination.

8 H. After July 1, 2011 and upon the inspection of  
9 any conveyance, if the equipment is found to be in dangerous  
10 condition, if there is an immediate hazard to those riding or  
11 using the conveyance or if the design or the method of  
12 operation in combination with devices used is considered  
13 inherently dangerous, in the opinion of the director, the  
14 director shall notify the owner of the condition and shall  
15 order alterations or additions that are deemed necessary to  
16 eliminate the dangerous condition.

17 **SECTION 16. LIABILITY.--**The Elevator Safety Act shall not  
18 be construed to relieve or lessen the responsibility or  
19 liability of any licensee owning, operating, controlling,  
20 maintaining, erecting, constructing, installing, altering,  
21 inspecting, testing or repairing any conveyance covered by the  
22 Elevator Safety Act for damages to persons or property caused  
23 by any defect.

24 **SECTION 17. CIVIL PENALTIES--SUSPENSION OR REVOCATION OF**  
25 **LICENSES.--**

.182671.3

underscoring material = new  
~~[bracketed material] = delete~~

1           A. A license issued pursuant to the Elevator Safety  
2 Act may be suspended, revoked or subject to civil penalty by  
3 the director if:

4                   (1) a false statement was made as to a  
5 material matter in the application;

6                   (2) there is evidence of fraud,  
7 misrepresentation or bribery in securing a license; or

8                   (3) there was a failure to notify the director  
9 and the owner or lessee of a conveyance or a related mechanism  
10 of any condition not in compliance with that act.

11           B. No license shall be suspended, revoked or  
12 subject to civil penalty until after a hearing before the  
13 director upon notice to the licensee of at least ten days at  
14 the last known address appearing on the license, served  
15 personally or by registered mail. The notice shall state the  
16 date, hour and place of hearing and set forth a statement of  
17 facts constituting the grounds for the charges against the  
18 licensee. The director shall suspend or revoke the license or  
19 dismiss the proceeding.

20           C. A person whose license is revoked, suspended or  
21 subject to civil penalty may appeal the determination of the  
22 director, who shall within thirty days hold a hearing, for  
23 which at least fifteen days' written notice shall be given to  
24 all interested parties. The director shall, within thirty days  
25 after the hearing, issue a final decision.

.182671.3

