

HOUSE LABOR, VETERANS' AND MILITARY AFFAIRS
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 299

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; ENACTING THE ELEVATOR
SAFETY ACT; PROVIDING FOR INSPECTION AND REGISTRATION OF
ELEVATORS.

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

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

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Elevator Safety Act:

A. "apprentice" means an individual who is learning
a trade from a licensed employer and is registered or
unregistered with an apprenticeship program;

B. "certificate of operation" means a document
issued by the division that indicates the conveyance has passed
the required safety inspection and tests and fees have been

1 paid as set forth in the Elevator Safety Act;

2 C. "contractor" means a person that:

3 (1) is engaged in the trade of erecting,
4 constructing, installing, altering, servicing, testing,
5 repairing, maintaining, removing or dismantling conveyances
6 contained within a building or structure;

7 (2) is properly licensed as a contractor by
8 the division pursuant to the Elevator Safety Act; and

9 (3) employs mechanics and apprentices pursuant
10 to the Elevator Safety Act;

11 D. "conveyance" means:

12 (1) a hoisting and lowering mechanism equipped
13 with a car or platform that moves between two or more landings,
14 including elevators, escalators, moving sidewalks, platform
15 lifts or stairway chair lifts for carrying persons between
16 landings; and

17 (2) a hoisting and lowering mechanism that is
18 equipped with a car, that serves two or more landings and that
19 is restricted to carrying materials by its limited size and
20 limited access;

21 E. "director" means the director of the division;

22 F. "division" means the construction industries
23 division of the regulation and licensing department;

24 G. "inspector" means a person certified by the
25 division in the trade of elevator safety to conduct inspections

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1 and ensure that work performed by a contractor complies with
 2 applicable standards and codes and is employed by the division
 3 or a county, municipality or other political subdivision;

4 H. "mechanic" means an individual who:

5 (1) possesses a journeyman elevator mechanic's
 6 certificate pursuant to the provisions of the Elevator Safety
 7 Act; and

8 (2) is engaged in erecting, constructing,
 9 installing, altering, servicing, testing, repairing,
 10 maintaining, removing or dismantling conveyances covered by the
 11 Elevator Safety Act;

12 I. "standards" means national standards developed
 13 for the installation, use or maintenance of conveyances and
 14 adopted by division rule; and

15 J. "temporarily dormant" means a conveyance that is
 16 placed out of service as specified in the Elevator Safety Act.

17 **SECTION 3. [NEW MATERIAL] EXEMPTIONS.--**The following are
 18 exempted from the provisions of the Elevator Safety Act:

- 19 A. material hoists;
- 20 B. boom lifts;
- 21 C. mobile scaffolds, towers and platforms;
- 22 D. powered platforms and equipment for exterior and
 23 interior maintenance;
- 24 E. conveyors and related equipment;
- 25 F. cranes, derricks, hoists, hooks, jacks and

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1 slings;

2 G. industrial trucks;

3 H. portable equipment, except for portable
4 escalators that are covered by the standards;

5 I. tiering or piling machines that are used to move
6 materials to and from storage and that are located and
7 operating entirely within one story;

8 J. equipment for feeding or positioning materials
9 at machine tools, printing presses and similar equipment;

10 K. furnace hoists;

11 L. skips or hoists subject to the regulation of the
12 United States department of labor's mine safety and health
13 administration;

14 M. wharf ramps;

15 N. railroad car lifts or dumpers;

16 O. line jacks, false cars, shafters, moving
17 platforms and similar equipment used for installing a
18 conveyance by a contractor licensed in this state;

19 P. conveyances within a single family dwelling; and

20 Q. services provided by a person who is licensed as
21 an architect or engineer in the state.

22 SECTION 4. [NEW MATERIAL] DIVISION POWERS--RULES.--The
23 division shall:

24 A. enforce and administer the provisions of the
25 Elevator Safety Act in accordance with the Uniform Licensing

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1 Act; and

2 B. adopt rules in accordance with the State Rules
3 Act to enforce and administer the Elevator Safety Act.

4 SECTION 5. [NEW MATERIAL] ELEVATOR MECHANICS, CONTRACTORS
5 AND INSPECTORS--REQUIREMENTS.--

6 A. A person shall not erect, construct, install,
7 service, test, repair, alter, maintain, remove or dismantle any
8 conveyance contained within a building or structure unless the
9 person is a contractor licensed by the division to perform such
10 work. A contractor shall not allow a person to perform work in
11 connection with the erection, construction, repair, alteration,
12 installation, service, testing, maintaining, removing or
13 dismantling of a conveyance contained within a building or
14 structure unless that person is a mechanic or an apprentice
15 working under the supervision of a mechanic.

16 B. A licensed contractor and a permit are required
17 for removing or dismantling a conveyance that is destroyed as a
18 result of a complete demolition of a secured building or
19 structure or where the hoistway or wellway is demolished back
20 to the basic support structure and for safety reasons no access
21 is permitted therein.

22 C. A person shall not inspect a conveyance within a
23 building or structure unless the person is an inspector
24 certified by the division pursuant to the Elevator Safety Act.

25 SECTION 6. [NEW MATERIAL] CONTRACTOR LICENSING--

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1 MECHANIC'S AND INSPECTOR'S CERTIFICATIONS.--

2 A. A person wishing to engage in the trade of
3 installing, altering, servicing, repairing, testing, erecting,
4 maintaining, removing or dismantling a conveyance contained
5 within a building or structure shall apply for the appropriate
6 license with the division on forms established by the division.

7 B. A journeyman elevator mechanic shall:

8 (1) demonstrate a combination of documented
9 experience and education credits and complete a written
10 examination approved by the division on the most recent
11 standards;

12 (2) provide a certificate of completion of and
13 successful passing of the mechanic's examination of a
14 nationally recognized training program for the elevator
15 industry, such as the national elevator industry educational
16 program or its equivalent as approved by the division;

17 (3) provide a certificate of completion of a
18 United States department of labor-approved apprenticeship
19 program for the elevator industry approved by the United States
20 department of labor or the workforce solutions department; or

21 (4) hold a valid journeyman elevator
22 mechanic's license or certification from another state having
23 standards substantially equal to those of the Elevator Safety
24 Act.

25 C. A journeyman elevator mechanic may receive a

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1 journeyman elevator mechanic certification without examination
 2 if the journeyman elevator mechanic furnishes the division,
 3 before January 1, 2026, with an acceptable combination of
 4 documented experience and education credits, including not less
 5 than four years of work experience in the elevator industry in
 6 construction, maintenance, service or repair, as verified by
 7 current and previous employers, and:

8 (1) the work was performed without direct and
 9 immediate supervision;

10 (2) the work was for a contractor; and

11 (3) three of the four years of the work were
 12 performed after July 1, 2022.

13 D. An inspector shall:

14 (1) possess a certification from a nationally
 15 recognized professional association for mechanical engineering
 16 as a qualified elevator inspector; and

17 (2) hold a valid journeyman elevator
 18 mechanic's certification as approved by the division.

19 SECTION 7. ~~[NEW MATERIAL]~~ ISSUANCE AND RENEWAL OF
 20 LICENSES AND CERTIFICATES--FEES--CONTINUING EDUCATION.--

21 A. The division may issue a license or certificate
 22 pursuant to the Elevator Safety Act that is valid for up to
 23 four years.

24 B. The renewal of a journeyman elevator mechanic's
 25 certificate shall consist of not less than eight hours of

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1 continuing education instruction.

2 C. The courses shall be taught through continuing
3 education providers that are approved by the division and may
4 include association seminars and labor training programs.

5 SECTION 8. [NEW MATERIAL] REGISTRATION OF EXISTING
6 CONVEYANCES.--By January 1, 2026, the owner or lessee of every
7 existing conveyance shall register with the division a
8 conveyance owned and operated by the owner or lessee and
9 provide the type of conveyance, its rated load and speed, the
10 name of the manufacturer, its location, the purpose for which
11 it is used and any additional information that the division
12 requires. The division shall inspect the conveyance and issue,
13 within ninety days, a certificate of operation or a written
14 inspection report detailing all code violations. The owner or
15 lessee of the conveyance shall have sixty days from the date of
16 the inspection report to remedy any violations set forth in the
17 inspection report. After January 1, 2026, all conveyances
18 shall be registered at the time they are completed and issued a
19 certificate of operation before being placed in service.

20 SECTION 9. [NEW MATERIAL] COMPLIANCE WITH STATE FIRE
21 PREVENTION AND BUILDING CODES.--

22 A. A contractor licensed pursuant to the Elevator
23 Safety Act shall ensure that installation or service and
24 maintenance of conveyances are performed in compliance with all
25 laws, ordinances and rules, including fire and building codes.

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1 B. All electrical work performed pursuant to the
2 Elevator Safety Act shall be performed pursuant to the
3 Construction Industries Licensing Act.

4 **SECTION 10. [NEW MATERIAL] PERMITS.--**A person shall not
5 erect, construct, service, test, repair, maintain, install,
6 alter, remove or dismantle a conveyance within a building or
7 structure unless a permit has been obtained from the division
8 before the work is commenced. The conveyance, and any
9 alteration thereto, shall conform to all applicable standards.
10 The division shall issue permits to contractors properly
11 licensed pursuant to the Elevator Safety Act. A copy of the
12 permit shall be kept at the construction site at all times
13 while the work is in progress.

14 **SECTION 11. [NEW MATERIAL] INSPECTIONS--CERTIFICATES OF**
15 **OPERATION--REGISTRATIONS.--**

16 A. A certified elevator mechanic shall perform all
17 work required for inspections and the associated tests of a
18 conveyance. A certified elevator inspector shall be physically
19 present to witness the tests and verify the test results.

20 B. New conveyance installations shall be performed
21 by a contractor properly licensed pursuant to the Elevator
22 Safety Act. Prior to a conveyance being used, a property owner
23 or lessee shall obtain an inspection and a report certifying
24 that the conveyance has been installed in compliance with all
25 applicable codes and standards. An inspector who is certified

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1 by the division pursuant to the Elevator Safety Act shall
2 conduct the inspection and write the report. A property owner
3 or lessee, prior to any new conveyance being used, shall obtain
4 a certificate of operation from the division.

5 C. A certificate of operation shall be renewed
6 annually. The owner or lessee of a new or existing conveyance
7 located in a building or structure shall have the conveyance
8 inspected annually by an inspector certified by the division
9 pursuant to the Elevator Safety Act. Subsequent to inspection,
10 the inspector shall supply a property owner or lessee and the
11 division with a written inspection report detailing all code
12 violations, if any. It shall be the responsibility of the
13 division to enforce code compliance. Property owners or
14 lessees shall have sixty days from the date of the published
15 inspection report to remedy any violations set forth in the
16 inspection report. The division shall not renew a certificate
17 of operation without a receipt of a report from a certified
18 inspector indicating that no code violations exist or that all
19 code violations have been remedied.

20 D. The owner or lessee of a conveyance shall:

21 (1) ensure that the required tests are
22 performed at intervals in compliance with standards and codes;

23 (2) have all tests performed by a properly
24 certified mechanic; and

25 (3) have a properly certified inspector

1 present to physically witness all testing.

2 E. If an inspector finds that a conveyance is in a
3 dangerous condition, there is an immediate hazard to those
4 riding or using the conveyance or the design or the method of
5 operation in combination with the devices used is inherently
6 dangerous, the division shall notify the owner or lessee of the
7 condition, order alterations or additions that are necessary to
8 eliminate the dangerous condition and direct that the
9 conveyance may not be used until the dangerous condition has
10 been remedied.

11 F. Any order for alterations or additions or
12 direction that the conveyance not be used until the dangerous
13 condition is remedied shall be considered a final decision of
14 the division subject to appeal pursuant to Section 39-3-1.1
15 NMSA 1978.

16 SECTION 12. [NEW MATERIAL] TEMPORARILY DORMANT
17 CONVEYANCES.--

18 A. A conveyance shall be put into temporarily
19 dormant status by:

- 20 (1) disconnecting the conveyance from the
21 power supply by removing the fuses;
22 (2) placing a padlock on the mainline
23 disconnect switch that has been set to the off position; and
24 (3) having a certified inspector install a
25 wire seal on the mainline disconnect switch.

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1 B. A temporarily dormant conveyance shall not be
2 used until it has been put in safe running order. Temporarily
3 dormant status may be renewable on an annual basis and shall
4 not exceed five years.

5 **SECTION 13. [NEW MATERIAL] FEES.--**

6 A. The division shall establish, charge and
7 collect:

8 (1) an initial license or renewal fee for a
9 four-year contractor license, not to exceed one thousand
10 dollars (\$1,000);

11 (2) an inspection fee per inspection of an
12 elevator, not to exceed three hundred dollars (\$300); and

13 (3) an elevator permit fee per permit per
14 elevator, not to exceed one thousand dollars (\$1,000).

15 B. All money collected by the division under the
16 Elevator Safety Act shall be deposited in the construction
17 industries division publications revolving fund.

18 **SECTION 14. [NEW MATERIAL] ENFORCEMENT.--**The director or
19 the director's designee may enforce by injunction in district
20 court the laws relating to conveyances and rules adopted by the
21 division.

22 **SECTION 15. [NEW MATERIAL] APPRENTICESHIP TRAINING**
23 **PROGRAM.--**An apprenticeship training program for an elevator
24 mechanic shall be registered with and approved by the United
25 States department of labor or the workforce solutions

1 department for providing education and skills training in the
2 conveyance industry.

3 SECTION 16. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2025.

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