

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

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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".

.225421.5AIC February 28, 2023 (5:04pm)

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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 HCEDC→is←HCEDC HCEDC→participates in a←HCEDC registered HCEDC→or unregistered with an←HCEDC 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 paid as set forth in the Elevator Safety Act;

C. "contractor" means a person that:

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

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

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

D. "conveyance" means:

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

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

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

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

G. "inspector" means a person certified by the division in the trade of elevator safety to conduct inspections and ensure that work performed by a contractor complies with applicable standards and codes and is employed by the division or a county, municipality or other political subdivision;

H. "mechanic" means an individual who:

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

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

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

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

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

- A. material hoists;
- B. boom lifts;
- C. mobile scaffolds, towers and platforms;
- D. powered platforms and equipment for exterior and interior maintenance;
- E. conveyors and related equipment;
- F. cranes, derricks, hoists, hooks, jacks and slings;
- G. industrial trucks;
- H. portable equipment, except for portable escalators that are covered by the standards;
- I. tiering or piling machines that are used to move materials to and from storage and that are located and operating entirely within one story;
- J. equipment for feeding or positioning materials at machine tools, printing presses and similar equipment;
- K. furnace hoists;
- L. skips or hoists subject to the regulation of the United States department of labor's mine safety and health administration;
- M. wharf ramps;
- N. railroad car lifts or dumpers;
- O. line jacks, false cars, shafters, moving

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platforms and similar equipment used for installing a conveyance by a contractor licensed in this state;

P. conveyances within a single family dwelling; and

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

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

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

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

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

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

B. A licensed contractor and a permit are required

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for removing or dismantling a conveyance that is destroyed as a result of a complete demolition of a secured building or structure or where the hoistway or wellway is demolished back to the basic support structure and for safety reasons no access is permitted therein.

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

**SECTION 6. [NEW MATERIAL] CONTRACTOR LICENSING--  
MECHANIC'S AND INSPECTOR'S CERTIFICATIONS.--**

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

B. A journeyman elevator mechanic shall:

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

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

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

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

C. A journeyman elevator mechanic may receive a journeyman elevator mechanic certification without examination if the journeyman elevator mechanic furnishes the division, before January 1, 2026, with an acceptable combination of documented experience and education credits, including not less than four years of work experience in the elevator industry in construction, maintenance, service or repair, as verified by current and previous employers, and:

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

(2) the work was for a contractor; and

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

D. An inspector shall:

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

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

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

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

B. The renewal of a journeyman elevator mechanic's certificate shall consist of not less than eight hours of continuing education instruction.

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

**SECTION 8. [NEW MATERIAL] REGISTRATION OF EXISTING CONVEYANCES.--**By January 1, 2026, the owner or lessee of every existing conveyance shall register with the division a conveyance owned and operated by the owner or lessee and provide the type of conveyance, its rated load and speed, the name of the manufacturer, its location, the purpose for which it is used and any additional information that the division requires. The division shall inspect the conveyance and issue, within ninety days, a certificate of operation or a written inspection report detailing all code violations. The owner or lessee of the conveyance shall have sixty days from the date of the inspection report to remedy any violations set forth in the

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inspection report. After January 1, 2026, all conveyances shall be registered at the time they are completed and issued a certificate of operation before being placed in service.

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

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

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

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

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

A. A certified elevator mechanic shall perform all

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work required for inspections and the associated tests of a conveyance. A certified elevator inspector shall be physically present to witness the tests and verify the test results.

B. New conveyance installations shall be performed by a contractor properly licensed pursuant to the Elevator Safety Act. Prior to a conveyance being used, a property owner or lessee shall obtain an inspection and a report certifying that the conveyance has been installed in compliance with all applicable codes and standards. An inspector who is certified by the division pursuant to the Elevator Safety Act shall conduct the inspection and write the report. A property owner or lessee, prior to any new conveyance being used, shall obtain a certificate of operation from the division.

C. A certificate of operation shall be renewed annually. The owner or lessee of a new or existing conveyance located in a building or structure shall have the conveyance inspected annually by an inspector certified by the division pursuant to the Elevator Safety Act. Subsequent to inspection, the inspector shall supply a property owner or lessee and the division with a written inspection report detailing all code violations, if any. It shall be the responsibility of the division to enforce code compliance. Property owners or lessees shall have sixty days from the date of the published inspection report to remedy any violations set forth in the inspection report. The division shall not renew a certificate

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of operation without a receipt of a report from a certified inspector indicating that no code violations exist or that all code violations have been remedied.

D. The owner or lessee of a conveyance shall:

- (1) ensure that the required tests are performed at intervals in compliance with standards and codes;
- (2) have all tests performed by a properly certified mechanic; and
- (3) have a properly certified inspector present to physically witness all testing.

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

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

**SECTION 12. [NEW MATERIAL] TEMPORARILY DORMANT**

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CONVEYANCES.--

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

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

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

SECTION 13. [NEW MATERIAL] FEES.--

A. The division shall establish, charge and collect:

- (1) an initial license or renewal fee for a four-year contractor license, not to exceed one thousand dollars (\$1,000);
- (2) an inspection fee per inspection of an elevator, not to exceed three hundred dollars (\$300); and
- (3) an elevator permit fee per permit per elevator, not to exceed one thousand dollars (\$1,000).

B. All money collected by the division under the Elevator Safety Act shall be deposited in the construction

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industries division publications revolving fund.

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

SECTION 15. [NEW MATERIAL] APPRENTICESHIP TRAINING PROGRAM.--An apprenticeship training program for an elevator mechanic shall be registered with and approved by the United States department of labor or the workforce solutions department for providing education and skills training in the conveyance industry.

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

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