

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 2036

Short Title: Strengthen Elevator Safety Laws/Funds.

(Public)

Sponsors: Senator Rand.

Referred to: Rules and Operations of the Senate.

May 26, 2006

A BILL TO BE ENTITLED

1 AN ACT INCREASING THE MEMBERS OF THE STATE BOARD OF
2 EXAMINERS OF ELECTRICAL CONTRACTORS FROM SEVEN TO NINE;
3 AUTHORIZING THE ELECTRICAL BOARD TO ESTABLISH LICENSURE
4 REQUIREMENTS, SET FEES, AND ADOPT RULES FOR PERSONS
5 PERFORMING WORK AS ELEVATOR MECHANICS AND ELEVATOR
6 CONTRACTORS UNDER THE LAWS REGULATING ELECTRICAL
7 CONTRACTORS; AMENDING THE ELEVATOR SAFETY ACT OF NORTH
8 CAROLINA TO CREATE THE ELEVATOR SAFETY BOARD; PROVIDING
9 FOR THE INSPECTION OF PRIVATE RESIDENCE CONVEYANCES; AND
10 APPROPRIATING FUNDS FOR THESE PURPOSES.
11

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** G.S. 87-39(a) reads as rewritten:

14 "(a) The State Board of Examiners of Electrical Contractors shall continue as the
15 State agency responsible for the licensing of persons engaging in electrical contracting
16 within this State, and shall consist of one member from the North Carolina Department
17 of Insurance to be designated by the Commissioner of Insurance; one member from the
18 North Carolina Department of Labor to be designated by the Commissioner of Labor;
19 one member who has satisfied the requirements for an unlimited license as defined in
20 G.S. 87-43.3 and who is a representative of the North Carolina Association of Electrical
21 Contractors to be designated by the governing body of that organization; and ~~five-six~~
22 members to be appointed by the Governor: one from the faculty of The ~~Greater~~
23 University of North Carolina who teaches or does research in the field of electrical
24 engineering, one who is serving as a chief electrical inspector of a municipality or
25 county in North Carolina, one who has satisfied the requirements for an unlimited
26 license as defined in G.S. 87-43.3 and who is a representative of the Carolinas Electrical
27 Contractors Association operating a sole proprietorship, partnership or corporation
28 located in North Carolina which is actively engaged in the business of electrical
29 contracting, one who is a representative from the elevator industry, and two who have

1 no ties with the construction industry and who represent the interest of the public at
2 large."

3 **SECTION 2.** G.S. 87-39(e) reads as rewritten:

4 "(e) The Board shall hold regular meetings quarterly and may hold meetings on
5 call of the chair. The chair shall be required to call a special meeting upon written
6 request by two members of the Board. At its regular first quarter meeting, the Board
7 shall elect from its membership a chair and a vice-chair, each to serve for one year. ~~Four~~
8 Five members of the Board shall constitute a quorum. The principal office of the Board
9 shall be at such place as shall be designated by a majority of the members thereof.
10 Payment of compensation and reimbursement of expenses of Board members shall be
11 governed by G.S. 93B-5."

12 **SECTION 3.** G.S. 87-43 reads as rewritten:

13 "**§ 87-43. Electrical contracting defined; licenses.**

14 (a) Electrical contracting shall be defined ~~as~~ as:

15 (1) ~~engaging~~ Engaging or offering to engage in the business of installing,
16 maintaining, altering or repairing any electric work, wiring, devices,
17 appliances or equipment.

18 (2) Working as an elevator mechanic or elevator contractor.

19 (b) No person, partnership, firm or corporation shall engage, or offer to engage,
20 in the business of electrical contracting within the State of North Carolina without
21 having received a license in the applicable classification described in G.S. 87-43.3 from
22 the State Board of Examiners of Electrical Contractors in compliance with the
23 provisions of this Article, regardless of whether the offer was made or the work was
24 performed by a qualified individual as defined in G.S. 87-41.1. In each separate place of
25 business operated by an electrical contractor at least one listed qualified individual shall
26 be regularly on active duty and shall have the specific duty and authority to supervise
27 and direct all electrical wiring or electrical installation work done or made by such
28 separate place of business. Every person, partnership, firm or corporation engaging in
29 the business of electrical contracting shall display a current certificate of license in his
30 principal place of business and in each branch place of business which he operates.
31 Licenses issued hereunder shall be signed by the chairman and the secretary-treasurer of
32 the Board, under the seal of the Board. A registry of all licenses issued to electrical
33 contractors shall be kept by the secretary-treasurer of the Board, and said registry shall
34 be open for public inspection during ordinary business hours."

35 **SECTION 4.** Article 4 of Chapter 87 of the General Statutes is amended by
36 adding a new section to read:

37 "**§ 87-43.5. Elevator mechanics and contractors license.**

38 There is hereby created a separate license for elevator mechanics and elevator
39 contractors to allow an elevator mechanic or elevator contractor to engage in elevator
40 mechanics or elevator contracting work. The Board shall establish licensure
41 requirements for elevator mechanics and elevator contractors and set fees for licensure.
42 The Board shall adopt rules necessary to implement this section."

43 **SECTION 5.** G.S. 95-110.2 reads as rewritten:

44 "**§ 95-110.2. Scope.**

1 This Article shall govern the design, construction, installation, plans review, testing,
2 inspection, certification, operation, use, maintenance, alteration, relocation and
3 investigation of accidents involving:

- 4 (1) Elevators, dumbwaiters, escalators, and moving walks;
- 5 (2) Personnel hoists;
- 6 (3) Inclined stairway chair lifts;
- 7 (4) Inclined and vertical wheelchair lifts;
- 8 (5) Manlifts; and
- 9 (6) Special equipment.

10 This Article shall not apply to ~~devices and equipment located and operated in a~~
11 ~~single family residence, to (i)~~ conveyors and related equipment within the scope of the
12 American National Standard Safety Standard for Conveyors and Related Equipment
13 (ANSI/ASME B20.1) constructed, installed and used exclusively for the movement of
14 ~~materials, or to materials or (ii)~~ mining equipment specifically covered by the Federal
15 Mine Safety and Health Act or the Mine Safety and Health Act of North Carolina or the
16 rules and regulations adopted pursuant thereto."

17 **SECTION 6.** G.S. 95-110.3 reads as rewritten:

18 **"§ 95-110.3. Definitions.**

19 ~~(a) The term "Commissioner" shall mean the North Carolina Commissioner of~~
20 ~~Labor or his authorized representative.~~

21 ~~(b) The term "Director" shall mean the Director of the Elevator and Amusement~~
22 ~~Device Division of the North Carolina Department of Labor.~~

23 ~~(c) The term "dumbwaiter" shall mean a hoisting and lowering mechanism equipped~~
24 ~~with a car or platform which moves in guides in a substantially vertical direction, the~~
25 ~~floor area of which does not exceed nine square feet, the total inside height of which,~~
26 ~~whether or not provided with fixed or removable shelves, does not exceed four feet, the~~
27 ~~capacity of which does not exceed 500 pounds, and which is used exclusively for~~
28 ~~carrying materials.~~

29 ~~(d) The term "elevator" shall mean a hoisting and lowering mechanism equipped~~
30 ~~with a car or platform which moves in guides, and which serves two or more floors of a~~
31 ~~building or structure.~~

32 ~~(e) The term "escalator" shall mean a power driven, inclined continuous stairway~~
33 ~~used for raising and lowering passengers.~~

34 ~~(f) The term "inclined stairway chair lift" shall mean a hoisting and lowering~~
35 ~~mechanism with one or more chairs or a platform for one or more wheelchairs installed~~
36 ~~on a stairway for the purpose of transporting a physically disabled person.~~

37 ~~(g) The term "inclined or vertical wheelchair lift" shall mean a powered~~
38 ~~platform elevating device used to transport a physically disabled person in a wheelchair.~~

39 ~~(h) The term "manlift" shall mean platforms or brackets and accompanying~~
40 ~~handholds, mounted on, or attached to, an endless belt operating vertically in one~~
41 ~~direction only and being supported by, and driven through, pulleys at the top and bottom~~
42 ~~and intended primarily for the conveyance of persons.~~

1 (i) The term "moving walk" shall mean a type of passenger carrying device on which
2 passengers stand or walk and in which the passenger carrying surface remains parallel
3 to its direction of motion and is uninterrupted.

4 (j) The term "operator" shall mean any person having direct control over the
5 operation of any covered device or equipment.

6 (k) The term "owner" shall mean any person or authorized agent of such person who
7 owns a device or equipment subject to regulation under this Article, or in the event the
8 device or equipment is leased, the lessee. The term "owner" also shall include the State
9 of North Carolina or any political subdivision thereof or any unit of local government.

10 (l) The term "person" shall mean any individual, association, partnership, firm,
11 corporation, private organization, or the State of North Carolina or any political
12 subdivision thereof or any unit of local government.

13 (m) The term "personnel hoist" shall mean an elevator installed inside or outside of
14 buildings during construction, alteration or demolition and used primarily to raise and
15 lower workers and other persons connected with or related to the building project.

16 (n) The term "special equipment" shall mean any permanently or semi permanently
17 located device, manually or power operated, used for moving or lifting person or
18 persons and materials but not considered as an elevator, escalator, dumbwaiter, moving
19 walk, personnel hoist, inclined stairway chair lift, inclined or vertical wheelchair lift, or
20 manlift. Special equipment shall include, but not be limited to, manhoists, lift bridges,
21 elevators which are used only for handling building materials and workmen during
22 construction, and stage and orchestra lifts.

23 The following definitions apply in this Article.

24 (1) Board. – The Elevator Safety Board.

25 (2) Bureau. – The Elevator and Amusement Device Bureau.

26 (3) Commissioner. – The North Carolina Commissioner of Labor or the
27 Commissioner's authorized representative.

28 (4) Director. – The Director of the Elevator and Amusement Device
29 Division of the North Carolina Department of Labor.

30 (5) Dumbwaiter. – A hoisting and lowering mechanism equipped with a
31 car or platform which moves in guides in a substantially vertical
32 direction, the floor area of which does not exceed nine square feet, the
33 total inside height of which, whether or not provided with fixed or
34 removable shelves, does not exceed four feet, the capacity of which
35 does not exceed 500 pounds, and which is used exclusively for
36 carrying materials.

37 (6) Elevator. – A hoisting and lowering mechanism equipped with a car
38 or platform which moves in guides, and which serves two or more
39 floors of a building or structure.

40 (7) Escalator. – A power-driven, inclined continuous stairway used for
41 raising and lowering passengers.

42 (8) Inclined stairway chair lift. – A hoisting and lowering mechanism
43 with one or more chairs or a platform for one or more wheelchairs

1 installed on a stairway for the purpose of transporting a mobility
2 impaired person.

3 (9) Inclined or vertical wheelchair lift. – A powered platform-elevating
4 device used to transport a mobility-impaired person in a wheelchair.

5 (10) Manlift. – Platforms or brackets and accompanying handholds,
6 mounted on, or attached to, an endless belt operating vertically in one
7 direction only and being supported by, and driven through, pulleys at
8 the top and bottom and intended primarily for the conveyance of
9 persons.

10 (11) Moving walk. – A type of passenger-carrying device on which
11 passengers stand or walk and in which the passenger-carrying surface
12 remains parallel to its direction of motion and is uninterrupted.

13 (12) Operator. – Any person having direct control over the operation of
14 any covered device or equipment.

15 (13) Owner. – Any person or authorized agent of such person who owns a
16 device or equipment subject to regulation under this Article, or in the
17 event the device or equipment is leased, the lessee. The term "owner"
18 also shall include the State of North Carolina or any political
19 subdivision thereof or any unit of local government.

20 (14) Person. – Any individual, association, partnership, firm, corporation,
21 private organization, or the State of North Carolina or any political
22 subdivision thereof or any unit of local government.

23 (15) Personnel hoist. – An elevator installed inside or outside of buildings
24 during construction, alteration, or demolition and used primarily to
25 raise and lower workers and other persons connected with or related to
26 the building project.

27 (16) Private residence conveyance. – An elevator, an inclined stairway lift,
28 or an inclined or vertical wheelchair lift located in a private residence.

29 (17) Special equipment. – Any permanently or semipermanently located
30 device, manually or power-operated, used for moving or lifting person
31 or persons and materials but not considered as an elevator, escalator,
32 dumbwaiter, moving walk, personnel hoist, inclined stairway chair lift,
33 inclined or vertical wheelchair lift, or manlift. Special equipment shall
34 include, but not be limited to, manhoists, lift bridges, elevators which
35 are used only for handling building materials and workmen during
36 construction, and stage and orchestra lifts."

37 **SECTION 7.** Article 14A of Chapter 95 of the General Statutes is amended
38 by adding a new section to read:

39 **"§ 95-110.8A. Inspection of private residence conveyances.**

40 (a) The Bureau shall perform a one-time inspection of all newly installed private
41 residence conveyances. When a private residence conveyance successfully passes
42 inspection, the Bureau shall issue a private residence notice or certificate that notifies
43 the homeowner that the private residence conveyance has passed an installation
44 operational inspection. Inspectors shall encourage the homeowner to have the private

1 residence conveyance regularly maintained and periodically inspected to ensure proper
2 operation.

3 (b) Inspection of existing private residence conveyances shall be performed only
4 upon the request and consent of the homeowner.

5 (c) If a private residence conveyance fails to pass the initial inspection, the
6 inspector shall notify the general building contractor.

7 (d) The penalty provisions of this Article shall not apply as to any private
8 residence conveyance located in an owner-occupied private residence."

9 **SECTION 8.** Article 14A of Chapter 95 of the General Statutes is amended
10 by adding a new section to read:

11 **"§ 95-110.5A. Elevator Safety Board established.**

12 (a) There is created the Elevator Safety Board. The Board shall consist of eight
13 members, as follows:

14 (1) Seven members appointed by the Commissioner, including:

15 a. One representative from a major elevator manufacturing
16 company.

17 b. One representative from an elevator servicing company.

18 c. One representative of the architectural design or elevator
19 consulting profession.

20 d. One representative of a municipality of this State.

21 e. One representative who is a building owner or manager.

22 f. One representative of the Department involved in the
23 installation, maintenance, and repair of elevators.

24 g. One representative of the general public.

25 (2) The Director of the Elevator and Amusement Device Division.

26 (b) The Board shall consider code regulations, new industry technology, and
27 industry safety guidelines relating to the safety of conveyances and shall make
28 recommendations to the Commissioner on the adoption of rules for the administration of
29 this Article. The Board may consult with engineering authorities and organizations
30 concerned with standard safety codes, rules, and regulations governing the operation,
31 maintenance, servicing, construction, alteration, installation, and inspection of the
32 various conveyances regulated by this Article.

33 (c) The Commissioner shall appoint one member to serve as chair of the Board,
34 who may cast the deciding vote in the event of a tie. The members shall elect the
35 secretary of the Board, who shall serve a fixed term in accordance with policies adopted
36 by the Board. Regular meetings of the Board shall be held at least once each quarter at a
37 time and place to be fixed by the Board. The Board shall meet at the call of the chair,
38 except that special meetings may be called as necessary by the chair or by a majority of
39 the Board members. Any appointed member of the Board absent from three consecutive
40 meetings shall be dismissed from the Board. The initial Board shall meet and organize
41 within 10 days after the last member is appointed. The organizational meeting shall
42 include election of the secretary.

1 (d) Members of the Board shall serve for terms of three years, except that the
2 Director shall serve continuously. Members shall serve without compensation but may
3 receive reimbursement in the manner prescribed by G.S. 138-5.

4 (e) The Commissioner may veto an action taken by the Board. The
5 Commissioner shall notify the Board in writing whenever the Commissioner vetoes a
6 specific motion or action of the Board."

7 **SECTION 9.** Notwithstanding the provisions of G.S. 87-39, to establish
8 staggered terms for the member to be designated by the Commissioner of Labor and the
9 member to be appointed by the Governor who is a representative from the elevator
10 industry pursuant to G.S. 87-39(a), as enacted in Section 1 of this act, the Commissioner
11 of Labor shall designate one member for an initial one-year term to commence July 1,
12 2006, and expire June 30, 2007, and the Governor shall appoint one member for an
13 initial two-year term to commence July 1, 2006, and expire June 30, 2008. After
14 staggered terms have been established for the members designated and appointed to the
15 Board pursuant to this section, members subsequently designated or appointed to the
16 Board shall serve seven-year terms.

17 **SECTION 10.** Any person who submits proof to the Board that the person
18 has engaged at the journeyman level as defined by 13 NCAC 14.0102 or as a mechanic
19 in the business of elevator construction, maintenance, or repair without the direct and
20 immediate supervision of an elevator contractor licensed to do business in this State for
21 at least three consecutive years prior to the effective date of this act may be granted the
22 appropriate license without an examination upon making application to the Board and
23 payment of any required fees established under G.S. 87-43.5, as enacted in Section 4 of
24 this act. All persons who do not make application to the Board within one year of the
25 effective date of this act shall be required to complete all requirements prescribed by the
26 Board and to otherwise comply with the provisions of Article 4 of Chapter 87 of the
27 General Statutes.

28 **SECTION 11.** There is appropriated from the General Fund to the
29 Department of Labor the sum of twenty-five thousand dollars (\$25,000) for the
30 2006-2007 fiscal year to implement this act.

31 **SECTION 12.** This act becomes effective July 1, 2006.