

By the Committee on Regulated Industries; and Senator Bennett

580-03083-10

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1 A bill to be entitled

2 An act relating to elevator safety; amending s.
3 399.01, F.S.; revising definitions; amending s.
4 399.02, F.S.; conforming a reference to a safety code;
5 requiring the Division of Hotels and Restaurants of
6 the Department of Business and Professional Regulation
7 to adopt rules; authorizing the division to enter
8 certain buildings; providing for variances; exempting
9 certain elevators from specific code update
10 requirements; providing a phase-in period for such
11 elevators; amending s. 399.035, F.S.; conforming a
12 reference to certain safety standards; amending s.
13 399.049, F.S.; specifying additional acts by a
14 registered elevator company or certificateholder which
15 are subject to discipline; amending s. 399.061, F.S.;
16 requiring certain licensees to provide written
17 responses to departmental requests relating to
18 inspection reports; amending s. 399.105, F.S.;
19 extending the time within which an elevator owner may
20 comply with certain orders to correct; creating s.
21 399.16, F.S.; providing procedures related to
22 citations and discipline relating to unlicensed
23 activity; creating s. 399.17, F.S.; providing
24 registration and continuing education requirements for
25 certified elevator inspectors; providing an effective
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsection (11) of section 399.01, Florida
31 Statutes, is repealed, present subsections (12) through (17) of
32 that section are redesignated as subsections (11) through (16),
33 respectively, and present subsection (14) of that section is
34 amended, to read:

35 399.01 Definitions.—As used in this chapter, the term:

36 (13)~~(14)~~ "Certified elevator inspector" is a natural person
37 registered with and authorized by the division to construct,
38 install, inspect, maintain, or repair any vertical conveyance,
39 after having properly acquired the qualified elevator inspector
40 credential as prescribed by the American Society of Mechanical
41 Engineers. ~~Each certified elevator inspector must annually~~
42 ~~register with the division and provide proof of completion of 8~~
43 ~~hours of continuing education, proof that the qualified elevator~~
44 ~~inspector credential remains in good standing, and proof of~~
45 ~~general liability insurance coverage in the minimum amounts set~~
46 ~~by the division.~~

47
48 All other building transportation terms are defined in the
49 current Florida Building Code.

50 Section 2. Paragraph (t) of subsection (3) and subsection
51 (6) of section 399.02, Florida Statutes, are amended, and
52 subsections (8) and (9) are added to that section, to read:

53 399.02 General requirements.—

54 (3) Equipment not covered by this chapter includes, but is
55 not limited to:

56 (t) Equipment covered in s. 1.1.2 ~~1.2~~ of the Elevator
57 Safety Code.

58 (6) (a) The department is empowered to carry out all of the

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59 provisions of this chapter relating to the inspection and
60 regulation of elevators and to enforce the provisions of the
61 Florida Building Code. The division shall adopt rules to
62 administer this chapter.

63 (b) In order to perform its duties and responsibilities
64 under this section, the division may enter and have reasonable
65 access to all buildings and rooms or spaces in which an existing
66 or newly installed conveyance and equipment are located.

67 (8) The division may grant variances for undue hardship
68 pursuant to s. 120.542 and the rules adopted under this section.
69 Such rules must include a process for requests for variances.
70 The division may not grant a request for a variance unless it
71 finds that the variance will not adversely affect the safety of
72 the public.

73 (9) Updates to the code requiring modifications for Phase
74 II Firefighters' Service on existing elevators, as amended into
75 the Safety Code for Existing Elevators and Escalators, ASME
76 A17.1 and A17.3, may not be enforced on elevators in
77 condominiums or multi-family residential buildings, including
78 those that are part of a continuing care facility licensed under
79 chapter 651 or similar retirement community with apartments,
80 issued a certificate of occupancy by the local building
81 authority as of July 1, 2008, for 5 years or until the elevator
82 is replaced or requires major modification, whichever occurs
83 first. This exception does not apply to a building for which a
84 certificate of occupancy was issued after July 1, 2008. This
85 exception does not prevent an elevator owner from requesting a
86 variance from the applicable codes before or after the
87 expiration of the 5-year term. This subsection does not prohibit

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88 the division from granting variances pursuant to s. 120.542 and
89 subsection (8). The division shall adopt rules to administer
90 this subsection.

91 Section 3. Paragraph (c) of subsection (1) of section
92 399.035, Florida Statutes, is amended to read:

93 399.035 Elevator accessibility requirements for the
94 physically handicapped.—

95 (1) Each elevator, the installation of which is begun after
96 October 1, 1990, must be made accessible to physically
97 handicapped persons with the following requirements:

98 (c) Each elevator covered by this section must be available
99 to be used at any time to assist the physically handicapped in
100 an emergency evacuation. The requirements of the latest revision
101 of s. 2.27 ~~211~~ of the American Society of Mechanical Engineers
102 Standard ASME ~~American National Standards Institute standard~~
103 ~~ANSI~~ A17.1 must be complied with to meet the requirements of
104 this paragraph.

105 Section 4. Subsection (1) of section 399.049, Florida
106 Statutes, is amended to read:

107 399.049 Disciplinary action.—

108 (1) The department may suspend or revoke an elevator
109 inspector certification, an elevator company registration, an
110 elevator certificate of competency, or an elevator certificate
111 of operation issued under this chapter or impose an
112 administrative penalty of up to \$1,000 per violation upon any
113 registered elevator company or certificateholder who commits any
114 one or more of the following violations:

115 (a) Any false statement as to a material matter in an
116 application for registration, certification, or any permit or

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117 certificate issued under this chapter.

118 (b) Fraud, misrepresentation, or bribery in the practice of
119 the profession.

120 (c) Failure by a certified elevator inspector to provide
121 the department and the certificate of operation holder with a
122 copy of the inspection report within 5 days after the date of
123 any inspection performed after the initial certificate of
124 operation is issued.

125 (d) Violation of any provision of this chapter.

126 (e) Failure by a certified elevator inspector to maintain
127 his or her qualified elevator inspector credential in good
128 standing.

129 (f) Having a license to install, inspect, maintain, or
130 repair any vertical conveyance revoked, suspended, or otherwise
131 acted against, including the denial of licensure, by the
132 licensing authority of another state, territory, or county.

133 (g) Engaging in fraud or deceit, negligence, incompetency,
134 or misconduct in the practice of the profession.

135 Section 5. Subsection (5) is added to section 399.061,
136 Florida Statutes, to read:

137 399.061 Inspections; service maintenance contracts;
138 correction of deficiencies.-

139 (5) A certified elevator inspector or registered elevator
140 company shall, upon the written request of the department,
141 provide a written response that explains the inspection
142 procedures and applications used to prepare an inspection report
143 that was found by the department to contain errors or omissions
144 of code violations or tests.

145 Section 6. Subsection (4) of section 399.105, Florida

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146 Statutes, is amended to read:

147 399.105 Administrative fines.—

148 (4) An elevator owner who fails to comply with an order to
149 correct issued under s. 399.061(4) within 90 ~~30~~ days after its
150 issuance is subject, in addition to any other penalty provided
151 by law, to an administrative fine in an amount not to exceed
152 \$1,000.

153 Section 7. Section 399.16, Florida Statutes, is created to
154 read:

155 399.16 Unlicensed activity; citations; prohibitions;
156 penalties.—

157 (1) The division may issue a citation for unlicensed
158 activity upon a finding of probable cause that activity
159 requiring a permit, certificate, or license is being performed
160 without a valid permit, certificate, or license. The citation
161 constitutes a stop work order that may be enforced by the
162 division.

163 (a) The citation shall be in a form prescribed by rule. The
164 division may adopt rules to administer this section, including a
165 schedule of penalties.

166 (b) The division shall issue a citation to the owner of an
167 unlicensed elevator, to unlicensed elevator personnel, or to the
168 owner of an unregistered elevator company.

169 (c) The activity for which a citation is issued shall cease
170 upon receipt of the citation and the person who receives the
171 citation must correct the violation and respond to the civil
172 penalty, which may not exceed \$1,000 per violation, or request
173 an administrative hearing pursuant to chapter 120.

174 (2) Each day that a violation continues constitutes a

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175 separate violation.

176 (3) The remedies in this section are not exclusive and may
177 be imposed in addition to other remedies in this chapter.

178 Section 8. Section 399.17, Florida Statutes, is created to
179 read:

180 399.17 Certified elevator inspectors; registration.—Each
181 certified elevator inspector must annually register with the
182 division and provide proof of completion of 8 hours of
183 continuing education, proof of good standing, and proof of
184 general liability insurance coverage in the minimum amounts
185 established by the division. The registration must remain in
186 good standing throughout the license year.

187 Section 9. This act shall take effect July 1, 2010.