AN ACT concerning public safety; relating to elevators, escalators, platform lifts, stairway chairlifts, dumbwaiters, moving walks, automated people movers and other conveyances.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Sections 1 through 30, and amendments thereto, shall be known and may be cited as the elevator safety act.

Sec. 2. As used in this act:
(a) "Act" means the elevator safety act.
(b) "ANSI" means the American national standards institute.
(c) "ASCE 21" means the American society of civil engineers' automated people mover standards in effect on the effective date of this act, or amendments to or revisions thereof, if adopted in rules and regulations of the board as provided in this act.
(d) "ASME A17.1" means the American society of mechanical engineers' safety code for elevators and escalators in effect on the effective date of this act, or amendments to or revisions thereof, if adopted in rules and regulations of the board as provided in this act.
(e) "ASME A17.3" means the American society of mechanical engineers' safety code for existing elevators and escalators in effect on the effective date of this act, or amendments to or revisions thereof, if adopted in rules and regulations of the board as provided in this act.
(f) "ASME A18.1" means the American society of mechanical engineers' safety standards for platform lifts and stairway chairlifts in effect on the effective date of this act, or amendments to or revisions thereof, if adopted in rules and regulations of the board as provided in this act.
(g) "ASME QEI" means the American society of mechanical engineers' standards for the qualification of elevator inspectors in effect on the effective date of this act, or amendments to or revisions thereof, if adopted in rules and regulations of the board as provided in this act.
(h) "Automated people mover" means an installation defined as an "automated people mover" in the ASCE 21.
(i) "Board" means the elevator safety review board.
(j) "Certificate of operation" means a document issued by the secretary that indicates that the conveyance has had the required safety
inspection and tests and fees have been paid as set by the secretary.

(k) "Code" means the standards established by the board by rules and regulations based upon the safety code for elevators, ASME A17.1; the safety code for existing elevators and escalators, ASME A17.3; the safety standards for platform lifts and stairway chairlifts, ASME A18.1; the standards for the qualification of elevator inspectors, ASME QE1-1; and the automated people mover standards, ASCE 21.

(l) "Conveyance" or "conveyance equipment" means any elevator, dumbwaiter, escalator, moving sidewalk, platform lifts, stairway chairlifts or automated guided transit vehicles on guideways with an exclusive right-of-way, including, but not limited to, automated people movers. "Conveyance" or "conveyance equipment" includes all associated parts and the hoistway of the conveyance.

(m) "Dormant elevator, dumbwaiter or escalator" means an installation placed out of service as specified in the ASME A17.1 and ASME A18.1.

(n) "Elevator" means an installation defined as an "elevator" in ASME A17.1.

(o) "Elevator apprentice" and "elevator helper" means a person who works under the general direction of a licensed elevator mechanic. General direction of an apprentice or helper undertaking construction, modernization or repair is defined as having a licensed mechanic on the same job site. General direction of an apprentice or helper undertaking maintenance is defined as a licensed mechanic having the ability to physically intervene with an apprentice or helper within a safe and prudent time frame.

(p) "Elevator contractor" means any sole proprietor, firm, partnership, corporation or association that possesses an elevator contractor's license in accordance with the provisions of this act, and amendments thereto, and that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining conveyances covered by this act.

(q) "Elevator contractor's license" means a license which is issued to an elevator contractor who has been authorized by the secretary to possess this type of license. It entitles the holder thereof to engage in the business of erecting, constructing, installing, altering, servicing, testing, repairing or maintaining conveyances covered by this act.

(r) "Escalator" means an installation defined as an "escalator" in the ASME A17.1.

(s) "Existing installation" means an installation as defined as an "installation, existing" in ASME A17.1.

(t) "Elevator mechanic's license" means a license, which is issued to an individual who has proven such individual's qualifications and ability
and has been authorized by the secretary to work on conveyance equipment. It entitles the holder to install, construct, alter, service, repair, test, maintain and perform electrical work on conveyances covered by this act.

(u) "Inspector's license" means a license which is issued to an ASME QEI certified elevator inspector who has proven such elevator inspector's qualifications and ability and has been authorized by the secretary to possess this type of license. The inspector's license entitles the holder to engage in the business of inspecting conveyances covered by this act.

(v) "Licensee" means a licensed elevator contractor, elevator inspector or elevator mechanic.

(w) "Limited elevator contractor's license" means a license issued by the secretary authorizing a sole proprietor, firm, partnership, corporation or association which employs individuals to carry on a business of erecting, constructing, installing, altering, servicing, repairing or maintaining platform lifts and stairway chairlifts within any building or structure, including, but not limited to, private residences.

(x) "Material alteration" means "alteration" as defined in the code.

(y) "Moving walk" means an installation defined as a "moving walk" in the ASME A17.1.

(z) "Private residence" means a separate dwelling or a separate apartment or condominium in a multiple dwelling which is occupied by members of a single-family unit.

(aa) "Repair" means "repair" as defined in the following standards:

(1) The safety code for elevators, ASME A17.1;

(2) the safety code for existing elevators and escalators, ASME A17.3;

(3) the safety standards for platform lifts and stairway chairlifts, ASME A18.1;

(4) the standard for the qualification of elevator inspectors, ASME QEI-1; or

(5) the automated people mover standards, ASCE 21.

(bb) "Secretary" means the secretary of labor.

(cc) "Temporary dormant elevator, dumbwaiter or escalator" means an installation whose power supply has been disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the "off" position.

All other building transportation terms pertaining to conveyances shall have the meaning as defined by the ASME A17.1 or ASME A18.1.

Sec. 3. (a) This act governs the design, construction, operation, inspection, testing, maintenance, alteration and repair of the following conveyance equipment:

(1) Hoisting and lowering mechanisms equipped with a car or
platform, which move between two or more landings. This equipment
includes, but is not limited to, the following:
(A) Elevators; and
(B) platform lifts and stairway chair lifts;
(2) power driven stairways and walkways for carrying persons
between landings. This equipment includes, but is not limited to, the
following:
(A) Escalators; and
(B) moving walks;
(3) hoisting and lowering mechanisms equipped with a car, which
serves two or more landings and is restricted to the carrying of material by
its limited size or limited access to the car. This equipment includes, but is
not limited to, the following:
(A) Dumbwaiters; and
(B) material lifts and dumbwaiters with automatic transfer devices.
(b) This act governs the design, construction, operation, inspection,
maintenance, alteration and repair of automated guided transit vehicles on
guideways with an exclusive right-of-way. This equipment includes, but is
not limited to, automated people movers.
Sec. 4. The following conveyance equipment is not covered by this
act:
(a) Material hoists within the scope of ANSI standard A10.5 as in
effect on the effective date of this act;
(b) manlifts within the scope of ASME A90.1 as in effect on the
effective date of this act;
(c) mobile scaffolds, towers and platforms within the scope of ANSI
A92 as in effect on the effective date of this act;
(d) powered platforms and equipment for exterior and interior
maintenance within the scope of ANSI 120.1 as in effect on the effective
date of this act;
(e) conveyors and related equipment within the scope of ASME
B20.1 as in effect on the effective date of this act;
(f) cranes, derricks, hoists, hooks, jacks and slings within the scope of
ASME B30 as in effect on the effective date of this act;
(g) industrial trucks within the scope of ASME B56 as in effect on the
effective date of this act;
(h) portable equipment, except for portable escalators covered by
ANSI A17.1;
(i) tiering or piling machines used to move materials to and from
storage located and operating entirely within one story of a building or
other structure;
(j) equipment for feeding or positioning materials including, but not
limited to, machine tools and printing presses;
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(k) skip or furnace hoists;
(l) wharf ramps;
(m) railroad car lifts or dumpers;
(n) line jacks, false cars, shafters, moving platforms and similar equipment used for installing an elevator by an elevator contractor or elevator mechanic licensed in this state as provided by this act; or
(o) conveyances under the control of the United States government.

Sec. 5. No city or county shall have the power to make any laws, ordinances or resolutions providing for the construction, installation, operation, inspection, maintenance and repair of conveyances covered by this act after the effective date of this act, within the limits of such city or county, and any such laws, ordinances or resolutions heretofore made or passed shall be void and of no effect, except that a city or county may make such an ordinance or resolution or such ordinance or resolution may continue in effect if such ordinance or resolution regulates more strictly or sets higher standards or safety requirements than required by this act or the rules and regulations enacted by the board pursuant to this act. This act shall not be construed so as to preempt a city or county from adopting or continuing requirements or standards that are more stringent than those of this act or the code.

Sec. 6. (a) No individual shall erect, construct, alter, replace, maintain, remove or dismantle any conveyance contained within buildings or other structures in this state unless such individual is licensed with an elevator mechanic's license as provided by this act and such individual is working under the direct supervision of an elevator contractor licensed pursuant to this act. No individual shall wire any conveyance, from the mainline feeder terminals on the controller, unless such individual is licensed with an elevator mechanic's license as provided by this act and such individual is working under the direct supervision of an elevator contractor licensed pursuant to this act. No other license shall be required for the work described in this subsection. An elevator mechanic's license or elevator contractor's license is not required for removing or dismantling conveyances which are 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 whereby no access is permitted therein to endanger the safety and welfare of a person.

(b) No individual shall inspect any conveyance within buildings or structures, including, but not limited to, private residences, unless such individual is licensed with an inspector's license as provided by this act.

(c) Conveyances and conveyance equipment covered by this act shall conform to the rules and regulations adopted by the board as provided by this act. No person, firm, partnership, corporation, association or other entity shall erect, alter, replace, maintain, remove, dismantle or operate any
conveyance in this state or construct any conveyance for use in this state in violation of this act or the rules and regulations adopted hereunder by the board. This act shall not be construed as in any way preventing the use, sale or reinstallation of a conveyance installed in this state prior to the effective date of this act, provided it has been made to conform to the rules and regulations adopted by the board and provided it has not been found upon inspection to be in an unsafe condition or in violation of the code.

Sec. 7. (a) There is hereby established the elevator safety review board. The adoption, oversight and amendment of rules and regulations in this state pertaining to the safety, operation, installation, erection, construction, alteration, replacement, servicing, repair, maintenance, removal, dismantling or demolition of conveyances covered by this act, and rules and regulations setting guidelines and standards for the allowance of waivers of such rules or regulations by the secretary, are hereby vested in the elevator safety review board. The elevator safety review board shall consist of nine members, one of whom shall be the secretary of labor or such secretary's designee and one of whom shall be the secretary of administration or such secretary's designee. The governor shall appoint the remaining seven members of the board as follows:

(1) One representative from a major elevator manufacturing company or its authorized representative;
(2) one representative from an elevator servicing company;
(3) one representative of the architectural design or elevator consulting profession;
(4) one representative of the general public;
(5) one representative of a city or county in this state;
(6) one representative of a building owner or building manager; and
(7) one representative of labor involved in the installation, maintenance and repair of elevators.

(b) The term of office of each member of the board appointed by the governor under (a)(1) through (7) shall expire on June 30 of the third year following the year of appointment. Upon the expiration of a term of office of a member of the board appointed by the governor, the governor shall appoint a qualified successor. Each member of the board appointed by the governor shall serve until a successor is appointed and qualified. Whenever a vacancy occurs among the membership of the board appointed by the governor for any reason other than the expiration of a member's term of office, the governor shall appoint a qualified successor to fill the unexpired term. The members of the board shall serve without compensation. The governor shall appoint one of the members to serve as chairperson. The chairperson shall be the deciding vote in the event of a tie vote.

(c) The board shall meet regularly once in each month at a time and
place to be fixed by it and at such times as it is deemed necessary for the
consideration of code, rules and regulations, and for the transaction of such
other business as properly may come before it. Special meetings may be
called as provided in the rules and regulations adopted by the board. Any
appointed board member absent from three consecutive meetings shall be
dismissed.

(d) The members of the committee who are not state officers or
employees and who are attending meetings of such committee, or
attending a subcommittee meeting thereof authorized by such committee,
shall be paid amounts provided in K.S.A. 75-3223(e), and amendments
thereto. Amounts paid under this subsection shall be from appropriations
to the Kansas department of labor upon warrants of the director of
accounts and reports issued pursuant to vouchers approved by the
secretary of labor or a person designated by the secretary.

Sec. 8. (a) The board shall be authorized to consult with private or
public engineering authorities and organizations concerned with standard
safety codes or rules and regulations governing the operation,
maintenance, servicing, construction, alteration, installation or inspection
of conveyances or the qualifications which are adequate, reasonable and
necessary for an elevator mechanic, elevator contractor or elevator
inspector.

(b) The board shall be authorized to recommend legislation to the
legislature.

(c) The board shall adopt rules and regulations, consistent with the
provisions of this act, for the operation, maintenance, servicing,
construction, alteration, installation and inspection of equipment or
conveyances regulated by this act, standards to be applied by the secretary
in granting waivers from such rules and regulations and the licensing
requirements or qualifications for elevator mechanics, elevator contractors
or elevator inspectors. Rules and regulations adopted by the board shall be
based upon and follow generally accepted nationwide engineering or
safety standards. Such rules and regulations shall include the incorporation
by reference of the following standards or national codes as such standards
or national codes are in effect on the effective date of this act:

(1) The safety code for elevators and escalators, ASME A17.1;
(2) the safety code for existing elevators and escalators, ASME
A17.3;
(3) the safety standards for platform lifts and stairway chairlifts,
ASME A18.1;
(4) the standard for the qualification of elevator inspectors, ASME
QEI-1; and
(5) the standard for automated people movers, ASCE 21.

(d) The board may, by rules and regulations, adopt or incorporate by
reference updated or revised editions or versions of such standards or portions of such revised editions or versions of such standards, if within six months of the effective date of such updated or revised editions or versions of such standards, the board submits such proposed rules and regulations to the secretary of administration, as provided by K.S.A. 77-420, and amendments thereto.

Sec. 9. (a) The secretary shall have the authority to grant or deny requests for exceptions and variances from the requirements of rules and regulations adopted by the board or from municipal or county ordinances in cases where the secretary finds such exception or variance would not jeopardize the public safety and welfare and that the request meets the applicable standards adopted by the board for granting such an exception or variance. The secretary shall adopt rules and regulations governing the process, procedure and fees for review of such requests for exceptions and variances.

(b) The secretary shall establish fee schedules for licenses, permits, certificates, inspections and variance requests except as otherwise provided herein. The fees shall reasonably reflect the secretary's actual costs and expenses to operate and to conduct its duties as described in this act.

Sec. 10. There is hereby created the elevator safety fee fund. The secretary shall remit all moneys received by it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the elevator safety fee fund. All expenditures from the elevator safety fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

Sec. 11. (a) (1) Elevator contractor. Any sole proprietor, firm, partnership, corporation or association wishing to engage in the business of the installation, alteration, service, replacement or maintenance of conveyances covered under this act shall make application for an elevator contractor license with the secretary on a form provided by the secretary.

(2) Elevator mechanic. Any individual wishing to engage in the installing, altering, repairing or servicing of conveyances covered under this act shall make application for an elevator mechanic license on a form provided by the secretary.

(3) Inspector. Any individual, wishing to engage in the business of inspections of conveyances covered under this act shall, upon proof of ASME QEI certification, make application for a license with the secretary on a form to be provided by the secretary.
(b) Applications submitted pursuant to subsection (a) shall contain the following information:

(1) If an individual or sole proprietor, the name, residence and business address of the applicant;

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

(3) if a domestic corporation, the name and business address of the corporation and the name and residence address of the principal officer of such corporation; if a foreign corporation, the name and address of its designated agent located within this state who shall be authorized to accept service of process and official notices;

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

(5) the approximate number of individuals, if any, to be employed by an elevator contractor applicant, and if applicable, satisfactory evidence that the employees are or will be covered by worker's compensation insurance;

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

(7) criminal record of convictions, if any, as verified by the Kansas bureau of investigation. The applicant shall bear the cost of obtaining such verified criminal record; and

(8) such other information as may be required by the boards' rules and regulations and as may be required by the secretary in rules and regulations adopted by the secretary.

(c) Any changes to information required by this subsection shall be promptly reported to the secretary by an applicant.

(d) Qualifications for an elevator mechanic's license. (1) No license shall be granted to any person who has not demonstrated the requisite qualifications and abilities required by this act and the code to the satisfaction of the secretary. Applicants for an elevator mechanic's license must demonstrate an acceptable combination of documented experience and education as follows:

(A) Not less than three years' work experience in the elevator industry, in construction, maintenance or service or repair, or any combination thereof, as verified by current and previous employers licensed to do business in this state, which employers need not be elevator contractors licensed pursuant to this act; and

(B) satisfactory completion of a written examination developed and administered by the secretary.

(2) Any individual who furnishes the secretary with acceptable proof that they have worked as an elevator constructor, maintenance or repair person as described in this paragraph, upon making application for a
license and paying the applicable license fee shall be entitled to receive a
license without an examination. They shall have performed the duties of a
licensed elevator mechanic for an elevator contractor that has received a
license pursuant to this act, without requiring direct and immediate
supervision by another, for a period not less than three years immediately
preceding the effective date of this act. The individual must make
application within one year of the effective date of this act.

(3) Except as otherwise provided in paragraph (4), all applicants shall
provide proof of:

(A) A certificate showing successful completion 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; or

(B) a certificate of completion of a four-year apprenticeship program
for elevator mechanics, having standards substantially equal to those of
this act and the code and registered with the bureau of apprenticeship and
training, United States department of labor or a state apprenticeship
council.

(4) The examination, experience or education requirements of this
section may be waived for an applicant holding a valid license from a state
having licensing standards determined by the board to be substantially
equal to or greater than those of this act and the code.

(e) Qualification for an elevator inspector's license. No inspector's
license shall be granted to any individual, unless the individual
demonstrates to the satisfaction of the secretary that they meet the
qualifications required by the code for elevator inspectors.

(f) Qualifications for an elevator contractor's license. (1) No license
shall be granted to any sole proprietor, firm, partnership, corporation or
association that has not demonstrated the requisite qualifications and
abilities required by this act and the code to the satisfaction of the
secretary. Applicants for an elevator contractor's license must demonstrate
that they have in their employ a licensed elevator mechanic or mechanics
that perform work described in section 6, and amendments thereto, and
must have proof of compliance with the insurance requirements set forth in
sections 11 and 12, and amendments thereto.

(2) A license may be issued to a sole proprietor, firm, partnership,
association or corporation holding a valid license from a state having
standards substantially equal to those of this act and the code, upon
application.

(g) An elevator apprentice or elevator helper is not required to be
licensed.

Sec. 12. (a) Elevator contractors shall submit proof to the secretary of
a current insurance policy issued by an insurance company authorized to
do business in this state, providing general liability coverage of at least $1,000,000 for injury or death of any number of persons in any one occurrence, with coverage of at least $500,000 for property damage in any occurrence and proof of workers compensation insurance coverage as required by Kansas law.

(b) Elevator inspectors, not employed by an agency, county or municipality, shall submit to the director of licenses proof of a current insurance policy, issued by an insurance company authorized to do business in this state, providing general liability coverage of at least $1,000,000 for injury or death of any number of persons in any one occurrence, with coverage of at least $500,000 for property damage in any occurrence and proof of statutory workers compensation insurance coverage.

c) Proof of such policies shall be delivered to the secretary before or at the time of the issuance of a license. In the event of any material alteration of or cancellation of any policy, at least 10 days' notice shall be given to the secretary.

Sec. 13. Upon the secretary's approval of an application as having met the requirements of this act and the applicable rules and regulations adopted by the board and the secretary, the secretary shall issue a license. Such license shall be valid for a period of two years and be renewable biennially. A fee schedule for license renewals shall be set by the secretary.

Sec. 14. (a) Whenever the secretary determines an emergency exists in the state due to disaster, an act of God or work stoppage and the number of persons in the state holding elevator mechanic's licenses granted by the secretary is determined by the secretary to be insufficient to cope with the emergency, elevator contractors shall respond as necessary to assure the safety of the public as directed by the secretary. Any individual certified by a licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without the direct and immediate supervision of another shall seek an emergency elevator mechanic's license from the secretary within five business days after commencing work requiring such license. The secretary shall issue emergency elevator mechanic's licenses if the secretary finds that the requirements for emergency elevator mechanic's licenses, as adopted in rules and regulations by the secretary, have been met. The elevator contractor or applicant shall furnish such proof of competency as the secretary may require. Each such license shall recite that it is valid for a period of 60 days from the date issued by the secretary and for such particular elevators or geographical areas as the secretary may designate and otherwise shall entitle the licensee to the rights and privileges of an elevator mechanic's license issued pursuant to this act. The secretary may renew an emergency elevator mechanic's license for additional 60-day
periods during the existence of an emergency. No fee shall be charged for any emergency elevator mechanic's license or renewal. The secretary shall adopt rules and regulations governing the determination of an emergency by the secretary and as otherwise necessary to implement this subsection.

(b) An elevator contractor shall notify the secretary when there are no licensed personnel available to perform work requiring an elevator mechanic's license. The elevator contractor may request that the secretary issue temporary elevator mechanic's licenses to persons certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform such work without the direct and immediate supervision of another. Any individual certified by an elevator contractor to have an acceptable combination of documented experience and education to perform such work without the direct and immediate supervision of another shall immediately seek a temporary elevator mechanic's license from the secretary and shall pay such fee as the secretary shall determine. The secretary may issue the applicant a temporary elevator mechanic's license if the secretary finds that the requirements for temporary elevator mechanic's licenses, as adopted by rules and regulations of the secretary, have been met. Each such license or renewal of such license shall recite that it is valid for a period of 60 days from the date of issuance and while the licensee is employed by the licensed elevator contractor that certified the individual as qualified. Upon application to the secretary, such license may be renewed by the secretary for additional 60-day periods as long as the shortage of license holders shall continue, as determined by the secretary. The applicant shall pay such fee as the secretary shall determine. The secretary shall adopt rules and regulations governing the secretary's determination of whether a shortage of elevator mechanic's license holders exists and as otherwise necessary to implement this subsection.

Sec. 15. (a) Except as provided in this subsection, the renewal of all licenses granted under the provisions of this section shall be conditioned upon the submission to the secretary of a certificate of completion of a course designed to ensure the continuing education of licensees on new and existing provisions of the regulations of the board. Such course shall consist of not less than eight hours of instruction that shall be attended and completed within the 12 months immediately preceding any such license renewal application. The secretary may waive this requirement for renewals of emergency elevator mechanic's licenses in the secretary's discretion if the secretary finds the applicant has not been reasonably able to attend such a course due to circumstances arising as a result of the emergency.

(b) The continuing education courses shall be taught by instructors through continuing education providers that may include, but shall not be
limited to, association seminars and labor training programs. The secretary shall approve the continuing education providers. All instructors shall have been licensed pursuant to this act, be approved by the secretary and subject to annual renewals of their qualifications to instruct, pursuant to rules and regulations to be adopted by the secretary. Instructors shall be exempt from the provisions of this section with regard to employment, education or examination requirements for an application for a license renewal under this section, provided that such instructor provides documentation acceptable to the secretary at the time an application for license renewal would be otherwise required by this section showing that such instructor was qualified as an instructor for any time period during the one-year period immediately preceding the scheduled date for such instructor's license renewal.

(c) A licensee who is unable to complete the continuing education course required under this section prior to the expiration of their license due to a temporary disability may apply for a waiver from the secretary. The application for waiver shall be on a form provided by the secretary which shall be signed under penalty of perjury and accompanied by a certified statement from a competent physician attesting to such temporary disability. Upon the secretary's approval, a waiver valid for 90 days shall be issued to such licensee and shall be affixed to the license. Such waiver may be renewed in the same manner as the original waiver application. Upon the termination of such temporary disability, such licensee shall submit to the board a certified statement from the same physician, or another physician if the same physician is not reasonably available, attesting to the termination of such temporary disability.

(d) Approved continuing education providers shall keep uniform records, for a period of 10 years, of the attendance of licensees following a format approved by the secretary. Such records shall be available for inspection by the secretary at the secretary's request. Approved continuing education providers shall be responsible for the security of all attendance records and certificates of completion. Falsifying or knowingly allowing another to falsify such attendance records or certificates of completion shall constitute grounds for suspension or revocation by the secretary of the approval required under this section to be a continuing education provider.

Sec. 16. (a) A license issued pursuant to this act by the secretary may be suspended or revoked, and the licensee subjected, in addition to any other penalties provided by law, to a civil penalty by the secretary upon a finding by the secretary that any one or more of the following has been committed by the licensee:

(1) Any willfully false statement or willful omission as to a material matter made in the process of securing a license or renewal of a license. A
material matter is a fact relevant to a question or line of inquiry in the applicable application form or in additional inquiry of the applicant by the secretary that if made known to the secretary could constitute a basis for a denial of the application under this act or the rules and regulations adopted by the board or by the secretary.

(2) Fraud, misrepresentation or bribery in securing a license.

(3) Failure to notify the secretary and the owner or lessee of a conveyance or related mechanisms of any condition of the conveyance or operation of the conveyance not in compliance with this act or not in compliance with the rules and regulations adopted by the board that was known to the licensee or reasonably should have been known by the licensee.

(4) Violation of any provision of this act or the code.

(b) A license issued pursuant to this act by the secretary may be suspended or revoked upon a finding by the secretary:

(1) That the licensee has entered a plea of guilty, nolo contendere, or been convicted of a felony;

(2) that the licensee has failed to maintain any requirement, or has failed to notify the secretary of any material alteration or change relating to any requirement, that is necessary to obtain or renew a license under this act or under the rules or regulations of the board or the rules and regulations of the secretary that is in nature a continuing requirement, including, but not limited to, insurance requirements or a designated agent for service of process;

(3) that facts and circumstances exist, whether or not in violation of provisions of this act or the rules and regulations of the board or the secretary, that require suspension or revocation of the license to protect the safety of the public, including, but not limited to, facts and circumstances going to the competence, ability or fitness of the licensee to safely conduct the work or activities permitted by the license in a manner that does not risk the safety or well-being of co-workers, employees or the public; or

(4) in the case of an inspector's license, that the inspector has performed duties incompetently, has demonstrated untrustworthiness, has falsified any matter or statement contained in any application or report, or has failed to report findings of any inspection made by such inspector to the secretary as required by this act. Such a suspension or revocation of certificate shall be effective as soon as notice of the suspension or termination has been delivered to the inspector or the inspector's employer.

(c) The secretary shall adopt rules and regulations to implement the provisions of this section.

Sec. 17. (a) Except as otherwise provided in this act, no license shall be suspended or revoked, or a licensee subjected to civil penalty by the secretary, until after a hearing before the secretary upon notice to the
licensee of at least 10 days at the last known address appearing on the
license, served personally or by registered mail, except that the secretary
may issue emergency orders, including, but not limited to, immediate
suspensions or revocations of a license, as provided by the Kansas
administrative procedure act, K.S.A. 77-536, and amendments thereto. The
notice shall state the date, hour and place of hearing and set forth a
statement of facts constituting the grounds for the action or civil penalty
against the licensee.

Sec. 18. In addition to any other penalty provided by law, the
secretary, upon finding that any owner, lessee or operator of a conveyance,
or owner or lessee of a building or structure in which a conveyance is
located, has violated, knowingly permitted a violation, or negligently
failed to detect, report or correct a violation of any of the provisions of this
act or any rule or regulation promulgated under the authority of this act
with regard to the construction, installation, maintenance, inspection
requirements or operation of a conveyance, is authorized to impose a civil
penalty not to exceed $1,000 per violation for each day of such unlawful
operation or violation, which shall constitute an actual and substantial
economic deterrent to the violation for which the penalty is assessed. No
civil penalty shall be imposed pursuant to this subsection, except upon the
written order of the secretary to the person who committed the violation.
Such order shall state the violation, the penalty to be imposed and the right
of the person to request a hearing as provided in section 19, and
amendments thereto.

Sec. 19. (a) An individual, sole proprietor, firm, partnership,
association or corporation aggrieved by an order issued by the secretary
pursuant to the provisions of this act, may request a hearing thereon within
15 days from the date of the service of such order by filing such request in
writing with the secretary. Such hearing shall be conducted in accordance
with the provisions of the Kansas administrative procedure act. The filing
of a request for a hearing shall not abate or operate as a stay of the effect
of an emergency order or an order to cease and desist or a stop work order
unless otherwise stated in such order.

(b) Except as otherwise provided, all administrative proceedings by
the secretary under this act shall be conducted in accordance with the
provisions of the Kansas administrative procedure act.

(c) Judicial review and civil enforcement of agency actions under this
act shall be in accordance with the Kansas judicial review act.

Sec. 20. Within six months after the date of the appointment of the
board, the owner or lessee of every existing conveyance shall register with
the secretary each conveyance owned or leased and operated by them,
giving the type, rated load and speed, name of manufacturer, its location
and the purpose for which it is used and such additional information as the
secretary may require in rules and regulations adopted by the secretary. Conveyances upon which construction has begun subsequent to the effective date of this act shall be registered at the time they are completed and placed in service.

Sec. 21. It shall be the responsibility of individuals, firms, partnerships, associations or corporations licensed as described in this act to ensure that installation, service and maintenance of conveyances are performed in compliance with the provisions contained in the state safety and fire prevention act, K.S.A. 31-132 et seq., and amendments thereto.

Sec. 22. (a) No conveyance covered by this act shall be erected, constructed, installed or altered within a building or structure unless a permit obtained from the secretary before the work is commenced is valid and in force and any stop work order issued by the secretary is not in effect. Where any material alteration is made, the conveyance shall conform to applicable requirements of the code. No permit required hereunder shall be issued except to a sole proprietor, firm, corporation, partnership or other association holding a valid elevator contractor's license duly issued pursuant to this act. A copy of such permit shall be kept at the construction site at all times while the work is in progress.

(b) A permit fee shall be as set by the secretary pursuant to rules and regulations to be adopted by the secretary. Permit fees collected are non-refundable.

(c) Permit requirements are as follows:

(1) Each application for a permit shall be accompanied by copies of specifications and accurately scaled and fully dimensioned plans showing the location of the installation in relation to the plans and elevation of the building; the location of the machinery room and the equipment to be installed, relocated or altered; and all structural supporting members, including foundations, and shall specify all materials to be employed and all loads to be supported or conveyed. Such plans and specifications shall be sufficiently complete to illustrate all details of construction and design.

(2) The applicable fee shall accompany each permit application.

(d) Permits may be revoked by the secretary for the following reasons:

(1) Where any false statement or misrepresentation exists as to the material facts in the application, plans or specifications on which the permit was based;

(2) where the permit was issued in error and should not have been issued in accordance with the act;

(3) where the work detailed under the permit is not being performed in accordance with the provisions of the application, plans or specifications, or the code or conditions of the permit; or

(4) where the elevator contractor to whom the permit was issued fails
or refuses to comply with a stop work order issued by the secretary.

(e) Permits shall expire:

(1) If the work authorized by such permit is not commenced within six months after the date of issuance, or within a shorter period of time as the secretary or the secretary's duly authorized designee, in the secretary or designee's discretion, may specify at the time the permit is issued.

(2) If after the work has been commenced the work is suspended or abandoned for a period of 60 days, or such shorter period of time as the secretary, in the secretary's discretion, may specify at the time the permit is issued. For good cause, the secretary or the secretary's designee may allow an extension of the foregoing period at the secretary or designee's discretion.

Sec. 23. (a) All new conveyance installations shall be performed by an elevator contractor licensed as provided by this act. Subsequent to installation, and prior to the new conveyance being used, such licensed elevator contractor must certify compliance with the applicable sections of the code to the secretary and complete and submit to the secretary the first time request for a certificate of operation.

(b) Prior to any conveyance being used, the property owner or lessee must obtain a certificate of operation from the secretary. The property owner or lessee must submit a request for a certificate of operation to the secretary for conveyances installed prior to the effective date of this act within six months after the date of appointment of the board.

(c) The certificate of operation fee for all new and existing platform lifts and stairway chairlifts for private residences and any renewal certificate fees shall be waived. The director of public works for the county or city in which the residence exists, or such director's designee, shall inspect in accordance with the code, before a transfer of ownership, all newly installed platform lifts and stairway chairlifts for private residences subsequent to an inspection by an elevator inspector. If the residence exists in a county or city with no department of public works, the secretary or secretary's designee shall inspect in accordance with the code, before a transfer of ownership, all newly installed platform lifts and stairway chairlifts for a private residence, subsequent to an inspection by an elevator inspector. The secretary shall provide the owner of the private residence where the conveyance is located with relevant information about conveyance safety requirements, including, but not limited to, having the owner contact the secretary in order to ensure that the conveyance is periodically and timely inspected and made safe before the permit for the conveyance expires. The penalty provisions of this act shall not apply to private residence owners.

(d) A certificate of operation shall be renewable annually and shall not be valid after the expiration of one year from the date of issuance,
except for certificates issued for platform lifts and stairway chairlifts for
private residences, which shall be valid for a period of three years and may
be renewed for subsequent three-year periods. Certificates of operation
must be clearly displayed on or in each conveyance or in the machine
room for such conveyance.
   (e) The secretary shall grant applications and renewal applications for
certificates of operation if the secretary finds the applicant has
demonstrated to the secretary's satisfaction that all applicable rules and
regulations of the board have been met, the conveyance will be operated
pursuant to the rules and regulations of the board, and operation of the
conveyance will not present a danger to the public. The secretary shall
establish a fee schedule for initial and renewal applications for certificates
of operation.
Sec. 24. (a) Any person may make a request for an investigation into
an alleged violation of this act or the installation, servicing, maintenance
or operation of a conveyance that appears to place the public or persons
using such conveyance in danger by giving notice to the secretary of such
violation or danger. Such notice shall be in writing, setting forth in
reasonable particularity the grounds for the notice and be signed by the
person making the request. The secretary shall advise the person making
the request for an investigation that upon request, such person's name shall
not appear on any copy of such notice or any record published, released or
made available to the public or the investigatee, except if ordered by a
court, and such person's name shall not constitute a public record under the
Kansas open records act.
   (b) Upon receipt of such notification, the secretary shall cause to be
made an investigation as soon as practicable, and to the extent determined
appropriate by the secretary, to determine if such violation or danger exists
and may make such orders as the secretary deems necessary to avoid
danger to the public during such investigation. If the secretary determines
that there are no reasonable grounds to believe that a violation or danger
exists, the secretary shall notify the owner or lessee of the conveyance and
the person making the request in writing of such determination. If the
secretary determines that a violation or danger exists, the secretary shall
revoke the certificate of operation for such conveyance, make such orders
as the secretary deems necessary to address the violation or danger or take
such other actions as provided by this act to address the violation or
danger.
Sec. 25. This act shall not be construed to relieve or lessen the
responsibility or liability of any person, firm or corporation owning,
operating, controlling, maintaining, erecting, constructing, installing,
altering, inspecting, testing or repairing any elevator or other related
mechanisms covered by this act for damages to a person or property
caused by any defect therein, nor does the state assume any such liability or responsibility or any liability to any person for whatever reason by the adoption of this act or any acts or omissions arising hereunder.

Sec. 26. (a) Any owner or lessee of a conveyance who willfully violates any provision of this act, upon conviction, shall be guilty of a class C misdemeanor and be fined an amount not to exceed $1,500 or be imprisoned for a period not exceeding 30 days, or both.

(b) It shall be unlawful for any person, firm, partnership, corporation or other entity to install or operate any conveyance in this state or to construct any conveyance for use in this state in violation of this act or the rules and regulations of the board adopted pursuant to this act, and any such unlawful installation, operation or construction shall constitute a class C misdemeanor. Each day of unlawful installation, operation or construction shall be deemed a separate offense.

Sec. 27. The provisions of this act are not retroactive unless otherwise stated and conveyances and conveyance equipment shall be required to comply with the applicable code at the date of its installation or within six months of the appointment of the board as provided in sections 20 and 23, and amendments thereto, or an additional period determined by the secretary for compliance upon a finding that good cause has been shown and no harm to the public shall result from the delay. If upon the inspection of any conveyance covered by this act, the conveyance is found to be in a dangerous condition or there is an immediate hazard to those riding or using such equipment or if the design or the method of operation in combination with the conveyance equipment used is considered inherently dangerous in the opinion of the secretary, the secretary shall notify the owner or lessee of such condition and shall order such alterations or additions as may be deemed necessary to eliminate the dangerous condition and may issue such other orders as provided by this act.

Sec. 28. (a) Except for private residence owners, it shall be the responsibility of the owner of any new or existing conveyance located in any building or structure to have the conveyance inspected annually by a licensed elevator inspector. Subsequent to such inspection, the licensed elevator inspector shall supply the conveyance owner and operator, the property owner or lessee, and the secretary with a written inspection report describing any and all code violations. It shall be the responsibility of the secretary to enforce compliance. The owner of the conveyance shall have 30 days from the date of the published inspection report to be in full compliance by correcting such violations. The secretary may grant additional 30-day extensions of time if the secretary determines good cause has been shown and the safety of the public will not be endangered.

(b) It shall be the responsibility of the owner of any conveyance to
have an elevator contractor conduct all required tests at the intervals
required in compliance with the code.
(c) All tests shall be performed by a licensed elevator mechanic.

Sec. 29. The secretary or secretary's designee or a licensed elevator
inspector shall have free access, during reasonable hours, to any premises
in the state where conveyances are being operated, repaired, installed or
constructed for use in this state, except private residences not used for
business purposes, for the purpose of ascertaining whether such
conveyances have been constructed and installed or are being maintained
and operated in accordance with the provisions of this act or the rules and
regulations adopted by the board or whether there exists a danger to the
safety of the public from such conveyances.

Sec. 30. (a) If upon the inspection of any conveyance covered by this
act, the conveyance is found to be in a dangerous condition or there is an
immediate hazard to those riding or using such equipment or if the design
or the method of operation in combination with the conveyance equipment
used is considered inherently dangerous in the opinion of the secretary, the
secretary shall notify the owner or lessee of such condition and shall order
such alterations or additions as may be deemed necessary to eliminate the
dangerous condition and may issue such other orders as provided by this
act.
(b) The secretary is authorized to order the revocation or suspension
of any certificate or permit issued pursuant to this act, and order any
owner, operator or resident agent of an owner to cease and desist operation
of any conveyance subject to this act for failure to comply with any of the
provisions of this act or any rules and regulations promulgated under the
authority of this act. The secretary is further authorized to order any
owner, operator or resident agent of an owner to cease and desist operation
of any conveyance subject to this act if the secretary finds that such
conveyance does not have a certificate of operation as required by this act,
or finds that such conveyance cannot be operated without danger to the
public health, safety or welfare.
(c) An order revoking or suspending a certificate of operation or
permit or any cease and desist order shall continue in effect until the owner
or operator of the conveyance demonstrates that any danger has been
abated and this act and the applicable rules and regulations have been
complied with. The secretary shall cause the conveyance to be re-inspected
to ensure that it is safe to operate and that all applicable rules and
regulations have been complied with before issuing or reinstating a
certificate to operate the conveyance.

Sec. 31. This act shall take effect and be in force from and after