

A-Engrossed House Bill 2180

Ordered by the House April 26
Including House Amendments dated April 26

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Consumer and Business Services and Office of Regulatory Streamlining)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows inspection frequency for elevators to be established by rule. Eliminates requirement for annual elevator inspection. Changes scope of Department of Consumer and Business Services' duty to inspect and witness safety testing of new or altered elevators.

Provides for establishment by rule of fees for administration and enforcement of Elevator Safety Law. *[Eliminates elevator inspection fee schedule.]*

[Modifies terminology to distinguish between elevator contractor license types.]

[Eliminates process for bringing action to collect delinquent fees relating to elevators.]

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to elevators; creating new provisions; amending ORS 460.005, 460.035, 460.045, 460.065,
3 460.085, 460.125 and 460.165; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 460.005 is amended to read:

6 460.005. As used in ORS 460.005 to 460.175, unless the context requires otherwise:

7 (1) "Alteration" means any change or addition to the equipment other than ordinary repair or
8 replacement of an existing part *[thereof]* **of the equipment.**

9 *[(2) "Board" means the Electrical and Elevator Board established under ORS 455.138.]*

10 *[(3)]* **(2)** "Certified elevator inspector" means an employee or representative of a casualty in-
11 surance company or companies who has passed the required examination and has been issued a
12 certificate of competency as an elevator inspector by the Department of Consumer and Business
13 Services.

14 *[(4) "Department" means the Department of Consumer and Business Services.]*

15 *[(5) "Director" means the Director of the Department of Consumer and Business Services.]*

16 *[(6) "Elevator" means a hoisting and lowering mechanism equipped with a car or platform which*
17 *moves in guides, and which serves two or more landings, and includes but is not limited to*
18 *dumbwaiters, escalators, manlifts, platform hoists, vertical parking units for motor vehicles and moving*
19 *walks.]*

20 **(3) "Elevator" means a hoisting and lowering mechanism equipped with a car or platform**
21 **that moves in guides, and that serves two or more landings, and includes but is not limited**
22 **to dumbwaiters, escalators, manlifts, platform hoists, vertical parking units for motor vehi-**
23 **cles and moving walks.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 [(7)] (4) “License” means an annual permit issued by the department under ORS 460.005 to
2 460.175 authorizing the person whose name appears as licensee *[thereon]* to act as *[an]* elevator
3 contractor for the installation, alteration, repair and maintenance of elevators.

4 [(8)] (5) “Minimum safety standards” means safety standards provided by ORS 460.005 to 460.175.

5 [(9)] (6) “Moving walk” means a power-driven, horizontal or inclined, or combination,
6 passenger-carrying device, in which the passenger-carrying surface remains parallel to its direction
7 of motion, and is uninterrupted.

8 [(10)] (7) “Operating permit” means a permit issued by the department for the operation of an
9 elevator. *[indicating that the required safety inspection has been made and the elevator has been found*
10 *to be in compliance with the minimum safety standards provided for in ORS 460.005 to 460.175.]*

11 [(11)] (8) “Platform hoist” means a hoisting and lowering mechanism equipped with an open
12 platform *[which]* **that** moves in a substantially vertical direction and *[which]* **that** travels a limited
13 distance above or below a building floor or dock level.

14 [(12)] (9) “Provisional operating permit” means a permit issued by the department on the basis
15 of a variance from the minimum safety standards under ORS 460.005 to 460.175.

16 **SECTION 2.** ORS 460.035 is amended to read:

17 460.035. (1) *[No]* Fees *[shall be]* **are not** required under ORS 460.005 to 460.175 to install, alter,
18 repair, operate or maintain an elevator:

19 (a) Under the supervision of the United States Government.

20 (b) That is a nonpower-driven lifting device.

21 (c) Located in a private residence, except for initial installation.

22 (2) *[However, the Department of Consumer and Business Services may, at the request of the owner*
23 *or user thereof, make an inspection of the above exempt elevators and]* **The owner or user of an el-**
24 **evator described in subsection (1) of this section may request that the Department of Con-**
25 **sumer and Business Services inspect the elevator. If the department performs the**
26 **inspection, the department, notwithstanding subsection (1) of this section, may collect the**
27 **appropriate fee [listed in ORS 460.165.] for performing the inspection.**

28 [(2)] (3) Pipes installed in an elevator hoistway prior to July 1, 1961, *[which]* **that** do not convey
29 gases or liquids that would endanger life if discharged into the hoistway~~*[, are not required to]*~~ **need**
30 **not** be removed.

31 [(3)] (4) ORS 460.005 to 460.175 do not apply to:

32 (a) Belt, bucket, scoop, roller or similar type material conveyors.

33 (b) Hoists for raising or lowering materials and *[which]* **that** are provided with unguided hooks,
34 slings and similar means for attachment to the materials.

35 (c) Material hoists used only to raise and lower building material in buildings under con-
36 struction.

37 (d) Stackers that serve one floor only.

38 (e) Window-washing scaffolds.

39 (f) Nonpower-driven lifting devices.

40 (g) Amusement rides.

41 (h) Mine elevators.

42 (i) Elevators under the supervision of the United States Government.

43 (j) Elevators located in private residences, except for initial installation.

44 **(k) Other elevators and equipment as provided by the department by rule.**

45 **SECTION 3.** ORS 460.045 is amended to read:

1 460.045. [Subject to ORS 460.035,] A person [shall] **may** not:

2 (1) Engage in the business of installation, alteration, repair or maintenance of an elevator
3 without an elevator [contractor's license.] **contractor license issued under ORS 460.005 to 460.175**
4 **or 479.510 to 479.945.**

5 (2) Install, alter, repair or maintain an elevator unless the person possesses a valid license is-
6 sued under ORS 460.059 or 479.630 (6).

7 (3) Install, alter, or commence to install or alter, an elevator covered by ORS 460.005 to 460.175
8 **unless the Department of Consumer and Business Services has approved** the plans and perti-
9 nent data for [which have not been approved by the Department of Consumer and Business Services]
10 **the installation or alteration.**

11 (4) Permit or suffer an elevator to be operated, without a current operating permit, on property
12 [which] **that** the person owns, controls, manages or supervises.

13 (5) Act or offer to act as a certified elevator inspector unless the person has a current certif-
14 icate of competency as an elevator inspector issued by the department.

15 (6) Place in service a new or altered elevator without a current operating permit issued after
16 a satisfactory acceptance inspection made by the department and satisfactory acceptance tests per-
17 formed in the presence of a member of the department's staff of elevator inspectors.

18 (7) Place in service an elevator [which] **that** has caused an injury to a person or persons
19 [until] **unless** permission has been obtained from the department.

20 **SECTION 4.** ORS 460.065 is amended to read:

21 460.065. (1) [Subject to ORS 460.075,] The expiration date of:

22 [(a) Elevator operating permits shall be one year from the original date of issue and thereafter on
23 the anniversary date of issue.]

24 [(b) A certified elevator inspector's certificate of competency shall be December 31 of the year in
25 which it is issued.]

26 [(c) Elevator contractors' licenses shall be July 1 following the date of issuance.]

27 **(a) An elevator contractor license is July 1 following the date of issuance.**

28 **(b) A certified elevator inspector certificate of competency is December 31 of the year in**
29 **which the certificate is issued.**

30 **(c) An elevator operating permit is as established by the Department of Consumer and**
31 **Business Services by rule.**

32 (2) [Subject to ORS 460.055, 460.075 and 460.165, holders of an elevator contractor's license, a]
33 **Except as provided in ORS 460.055, a holder of a valid elevator contractor license, elevator**
34 **inspector** certificate of competency or [an] **elevator** operating permit who [have] **has** complied with
35 ORS 460.005 to 460.175 and the rules made under ORS 460.085 (1)[, shall be] **is** entitled to renewal
36 at the expiration [thereof] **of the license, certificate or permit.**

37 **SECTION 5.** ORS 460.085 is amended to read:

38 460.085. (1) In accordance with the applicable provisions of ORS chapter 183, the Director of the
39 Department of Consumer and Business Services, after consultation with the Electrical and Elevator
40 Board, shall adopt reasonable rules:

41 (a) Establishing safety standards applicable to the installation of elevators [installed after July
42 21, 1973].

43 (b) Establishing safety standards applicable to the alteration, repair or maintenance of elevators.
44 The [department] **director** may provide differing standards for elevators installed prior to July 1,
45 1961, and after July 1, 1961.

1 (c) Governing the issuance, renewal, suspension and revocation of licenses, permits and certif-
2 icates of competency issued under ORS 460.005 to 460.175.

3 (d) Prescribing the time, place and circumstances under which permits, licenses and certificates
4 of competency shall be exhibited for inspection.

5 (e) Governing the internal organization and procedure of the Department of **Consumer and**
6 **Business Services** for administering and enforcing ORS 460.005 to 460.175.

7 (f) Prescribing, requiring and governing reports by the department's staff of elevator inspectors
8 and certified elevator inspectors on elevators inspected by them.

9 **(g) Establishing standards, criteria and intervals for the periodic inspection under ORS**
10 **460.125 of the various types of elevators.**

11 **(h) Establishing standards for the inspection of, and safety testing on, a new or altered**
12 **elevator prior to placement of the elevator into service.**

13 **(i) Establishing fees under ORS 460.165 and any other reasonable fees the department**
14 **considers appropriate for the purpose of administering and enforcing ORS 460.005 to 460.175.**

15 (2) In adopting rules under subsection (1) of this section, the director shall consider:

16 (a) Technological advances in the elevator industry.

17 (b) The practicability of following the standards under consideration, if adopted.

18 (c) The probability, extent and gravity of the injury to the public or property *[which]* **that** would
19 result from failure to follow the standards under consideration.

20 (d) Safety standards followed, proposed or approved by responsible members of the elevator in-
21 dustry.

22 (3) The sole purpose of subsection (1)(b) of this section is to provide reasonable safety for life
23 and limb. In case of practical difficulty or unnecessary hardship, the *[department]* **director** shall
24 grant exceptions from the literal requirements or permit the use of other devices or methods than
25 specified pursuant to subsection (1)(b) of this section when it is evident that reasonable safety is
26 thereby secured.

27 (4) Any owner, user or other person aggrieved by the application by the department of the
28 minimum safety standards established **by the director** pursuant to subsection (1)(b) of this section
29 may appeal in the same manner and for the same reasons as provided under ORS 460.155.

30 **SECTION 6.** ORS 460.125 is amended to read:

31 460.125. (1) The Department of Consumer and Business Services shall:

32 (a) *[At least once each year]* **Except as provided in this subsection, periodically** inspect each
33 elevator to ascertain if *[it]* **the elevator** is being operated and maintained in accordance with ORS
34 460.005 to 460.175; *provided, however, the department shall not be*. **The department is not** required
35 to inspect *[any]* **an** elevator *[about which]* **if** the department *[has been]* **is** notified in writing, by the
36 employer of a certified elevator inspector, that inspection will be made by *[their]* **the** certified
37 inspector, *if]* **and** a copy of *[each]* **the inspection** report is filed with the department within 30 days
38 of the *[due date of each of said elevators]* **date the elevator is due for inspection.**

39 (b) Periodically check the authenticity, appropriateness and expiration date of elevator permits.

40 (c) Review with the Electrical and Elevator Board any appeals from the decisions of the in-
41 spectors.

42 (d) *[Inspect]* **To the extent necessary to ensure safety, perform inspections** and witness
43 safety tests of *[all]* new or altered elevators before *[they]* **the elevators** are placed in service. *[In-*
44 *spection and tests are to be governed by ORS 460.085 (1).]*

45 *[e)]* (2) Inspection reports provided to owners, users or other affected parties shall contain a

1 notification of the right of appeal as provided in ORS 460.155.

2 [(2)] (3) If the department finds that an elevator is being operated otherwise than in compliance
3 with ORS 460.005 to 460.175, the department may cause [it] **the elevator** to be disconnected from
4 [its] **the source of power for the elevator**. The department shall give reasonable notice to the
5 owner or operator prior to [taking such action] **causing the elevator to be disconnected** unless
6 continued operation of the elevator would constitute an immediate hazard to the health and safety
7 of persons.

8 **SECTION 7.** ORS 460.165 is amended to read:

9 460.165. (1) Subject to ORS 460.035 (1) and 460.085 (1), [the maximum fees described in this sub-
10 section may be collected by] the Department of Consumer and Business Services **may adopt fees that**
11 **do not exceed the maximum fees described in this subsection** for examining plans, for the in-
12 spection of elevators, for issuing or renewing an elevator contractor's license and for processing
13 reports and issuing the [annual] permit for the operation of an elevator[, as the case may be. Actual
14 fees shall be prescribed by the department with]. **Fees adopted by the department are subject to**
15 approval of the Oregon Department of Administrative Services. [This section applies to the following
16 fees:] **The maximum fees are:**

17 (a) For **each year of** an elevator contractor's license for each place of business operated by the
18 applicant, \$195.

19 (b) [With] **For** the submission of plans and other pertinent data, for each elevator, \$78.

20 (c) For each [periodical or other inspection made by a member of the department's staff of elevator
21 inspectors, except as provided in paragraph (f) of this subsection, the following schedule of maximum
22 fees shall apply:] **year of an inspection period for a:**

23 (A) Dumbwaiter, sidewalk elevator, residential elevator, residential inclinor or subveyor, \$52.

24 (B) Escalator, lowerator, manlift, stagelift, inclined elevator, platform hoist or moving walk, \$78.

25 (C) Power-driven elevator with a four floor rise or under, \$78.

26 (D) Power-driven elevator with over a four floor rise, but under a 10-floor rise, \$98.

27 (E) Power-driven elevator with over 10-floor rise, but under 20-floor rise, \$124.

28 (F) Power-driven elevator with a 20-floor rise or over, \$147.

29 [(G)] (d) **For** a callback made on a mechanism listed in [subparagraphs (A) to (F) of this para-
30 graph] **subsection (c) of this section** and made by request or in the continued existence of a defect,
31 \$52.

32 [(d)] (e) **For** special inspections of hoisting or lowering mechanisms other than elevators or
33 under special agreement between the department and a person requesting a special inspection, [shall
34 be at the maximum rate of] \$55 per hour for travel and inspection time.

35 [(e)] (f) For the processing of each report of an inspection required under the provisions of ORS
36 460.005 to 460.175, \$20.

37 [(f)] (g) [Maximum inspection fee in the case of installation or alteration of an elevator,] **For the**
38 **inspection of an installation or alteration of an elevator**, if the total cost of the installation or
39 alteration[, other than the inspection fee,] is:

40 (A) \$1,000 or under, [the maximum fee is] \$98.

41 (B) Over \$1,000 but under \$15,000, [the maximum fee is] \$98 plus \$13 for each \$1,000 or fraction
42 of \$1,000 by which the cost exceeds \$1,000.

43 (C) \$15,000 or over but under \$50,000, [the maximum fee is] \$280 plus \$8 for each \$1,000 or
44 fraction of \$1,000 by which the cost exceeds \$15,000.

45 (D) \$50,000 or over, [the maximum fee is] \$553 plus \$3 for each \$1,000 or fraction of \$1,000 by

1 which the cost exceeds \$50,000.

2 (2) Whenever an owner or user of any elevator equipment fails to pay a fee required under this
3 section within 90 days after the date of depositing written notification in the United States mail,
4 postage prepaid, and addressed to the last-known address of said owner or user, the fee shall be
5 considered delinquent and the fee shall be doubled unless the owner or user of the elevator equip-
6 ment establishes to the satisfaction of the department justification for failure to pay. The court may
7 award reasonable attorney fees to the department if the department prevails in an action for the
8 collection of a fee required by this section. The court may award reasonable attorney fees to a de-
9 fendant who prevails in an action for the collection of a fee required by this section if the court
10 determines that the department had no objectively reasonable basis for asserting the claim or no
11 reasonable basis for appealing an adverse decision of the trial court.

12 **SECTION 8. The amendments to ORS 460.005, 460.035, 460.045, 460.065, 460.085, 460.125 and**
13 **460.165 by sections 1 to 7 of this 2005 Act become operative January 1, 2006.**

14 **SECTION 9. The Department of Consumer and Business Services, in consultation with**
15 **the Electrical and Elevator Board, may adopt rules and take other actions prior to January**
16 **1, 2006, for the purpose of implementing, administering and enforcing on and after January**
17 **1, 2006, inspection and permitting schedules under ORS 460.005, 460.035, 460.045, 460.065,**
18 **460.085, 460.125 and 460.165, as amended by sections 1 to 7 of this 2005 Act.**

19 **SECTION 10. This 2005 Act being necessary for the immediate preservation of the public**
20 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
21 **on its passage.**