



SPONSOR: Rep. Osienski & Sen. Walsh

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 358

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD OF ELEVATOR MECHANICS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 61, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6101. Purpose.

(a) ~~The primary purpose of this chapter is to protect the general public and persons working in the elevator industry.~~ The Board of Elevator Mechanics' primary objective, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of services regulated by this chapter, from unsafe practices and from occupational practices which tend to reduce competition or fix the price of services rendered.

(b) ~~The secondary purposes-objectives of the Board~~ are to maintain minimum standards of competency and to maintain certain standards in the delivery of services to the public. In meeting its objectives, the Board ~~of Elevator Mechanics~~ will develop standards assuring professional competence, will monitor complaints brought against ~~mechanics~~ licensees regulated by the Board, will adjudicate at formal hearings, will promulgate rules and regulations, and will impose sanctions where necessary against ~~licensed mechanics~~ licensees.

§ 6102. Definitions.

As used in this chapter:

(3) "Elevator mechanic" means an individual who is licensed by the Board to plan, estimate, layout, perform, or supervise the installation, erection, replacement, service, and repair of any elevator in any structure.

~~(3)~~ (4) "License" means the certificate issued by the Board.

~~(4)~~ "Master elevator mechanic" means an individual, licensed by the Board, to plan, estimate, layout, perform, or supervise the installation, erection, replacement, service, and repair of any elevator in any structure.

(5) "Substantially related" means the nature of the criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the work of ~~a master~~ an elevator mechanic.

(6) "Unlicensed practitioner" means any person who engages in the occupational practice of ~~a master~~ an elevator mechanic and has not been granted a license by the Board.

§ 6103. Board of Elevator Mechanics; appointments; composition; qualifications; term; vacancies; suspension or removal; unexcused absences; compensation.

~~(b) Members of the Board shall be appointed by the Governor. The Board shall consist of 5 members who are residents of the State. One member will be a public member, who shall serve at the pleasure of the Governor. The remaining 4 members, will be licensed in the State as master electrician special elevator or master elevator mechanic, and will be from the following: The Board shall consist of 5 members who are appointed by the Governor and are residents of the State.~~

(1) Four members must be licensed in the State as a master electrician special elevator or elevator mechanic, and must be composed of the following:

~~(1)-a.~~ a. One individual who represents the interests of a major elevator, escalator, or moving walkway manufacturing company.

~~(2)-b.~~ b. One individual who is primarily engaged in the business of elevator, escalator, or moving walkway installation, alteration, repair, or maintenance.

~~(3)-c.~~ c. One individual who represents the interests of elevator inspection, ~~consulting~~ consulting, or engineering firms.

~~(4)-d.~~ d. One representative from a major labor organization that represents elevator mechanics and apprentices who work in the elevator industry.

(2) The fifth Board member must be a public member who is accessible to inquiries, comments, and suggestions from the general public, and who is not, nor has ever been, any of the following:

a. An elevator mechanic or a member of the immediate family of an elevator mechanic.

b. Employed by an elevator mechanic business.

c. The holder of a material financial interest in the providing of goods and services to elevator mechanics.

d. Engaged in an activity directly related to the provision of elevator mechanic services.

50 (c) ~~Except for the public member, each~~ Each member shall serve a term of 3 years, and may ~~succeed himself or~~
51 ~~herself for 1 additional term, serve up to 2 consecutive terms.~~ Each term of office shall expire on the date specified in the
52 appointment; however, the board member will remain eligible to participate in board proceedings unless and until replaced
53 by the Governor.

54 § 6105. Powers and duties.

55 (a) The Board of Elevator Mechanics has the authority to perform the following:

56 (10) Require, if necessary, that a licensed elevator mechanic take over the work done by an unlicensed
57 ~~practitioner, elevator mechanic,~~ or if the work is completed, that the work be inspected by an inspection agency, within
58 5 working days after receipt of the Board's request.

59 ~~(b) The Board shall require that all persons receiving a license, display on the vehicles used in the performance of~~
60 ~~their work, the words "Licensed Elevator Mechanic," and the number assigned to them, in not less than 3-inch letters and~~
61 ~~numbers.~~

62 ~~(e)(b)~~ The Board shall promulgate regulations specifically identifying those crimes which are substantially related
63 to the work of an elevator mechanic.

64 § 6107. Qualifications of applicant

65 (a) An applicant, who is applying for licensure as an elevator mechanic under this chapter, shall submit evidence,
66 verified by oath and satisfactory to the Board, that such individual:

67 (1) ~~For licensure as a master elevator mechanic an~~ An applicant shall have knowledge of elevator installation,
68 maintenance and repair in the residential, commercial and industrial areas, and in addition must ~~have~~ have at least one
69 of the following:

70 a. Six years' full-time experience under the supervision of a licensed ~~master~~ elevator mechanic;
71 ~~or mechanic.~~

72 b. Eight thousand hours of full-time experience under the supervision of a licensed ~~master~~ elevator
73 mechanic, plus 576 hours of related instruction, or other approved training verified by a certificate of completion
74 of apprenticeship from a lawful, registered apprenticeship program of any state; or state.

75 c. Four years' full-time experience under the supervision of a licensed ~~master~~ elevator mechanic and
76 6,000 hours of technical training.

77 (2) After fulfilling the applicable experience and training requirements of this section, an applicant applying
78 for licensure as ~~a master~~ an elevator mechanic must achieve a passing score on the written third-party witnessed
79 standardized examination for licensure as determined by the Board in rules and regulations approved by the Division.

(5) Does not have a criminal conviction record for an offense substantially related to providing elevator ~~mechanical~~ services. Applicants who have criminal conviction records must request appropriate authorization to provide information about the conviction directly to the Board. If, after considering the factors set forth under § 8735 (x)(3) of Title 29, through a hearing or review of documentation, the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board shall waive the requirements of this paragraph.

(f) An individual who is in possession of a master electrician special elevator license on or before October 14, 2022, is eligible for ~~a master~~ an elevator mechanic license without meeting the requirements set forth under paragraphs (a)(1) and (2) of this section.

§ 6108. Reciprocity.

(a) Upon payment of the appropriate fee and the submission and acceptance of an application, the Board shall grant a license to an applicant who presents proof of current licensure in good standing in another state, the District of Columbia, or territory of the United States whose standards for licensure are substantially similar to those of this State, as defined in § 6107(a) of this title.

(b) An individual with a license from a state with less stringent requirements than those of this State may obtain a license through reciprocity if the individual can prove to the satisfaction of the Board that the individual has worked in another jurisdiction or jurisdictions in the field for which the individual is seeking a license in Delaware for a minimum of 5 years after licensure.

(c) An applicant seeking licensure by reciprocity must submit evidence verified by oath or other certification that, in all states in which the applicant is or was licensed, the applicant's license is in good standing.

§ 6109. Issuance and renewal of licenses.

(a) The Board must issue a license to each applicant who meets the requirements of this chapter for licensure as an elevator mechanic and who pays the applicable fee established.

(b) A license may be renewed biennially, in a manner as determined by the Division, upon payment of the appropriate fee and submission of an attestation, as set forth in the Board's rules and regulations, that the licensee has met the continuing education requirements established by the Board.

(c) The Board, in its rules and regulations, may determine the period of time within which a licensee may renew a license, notwithstanding the fact that such licensee failed to renew on or before the renewal date, provided, however, that such period shall not exceed 1 year.

(d) A licensee may be placed in an inactive status. An inactive licensee who desires to reactivate a license must submit a request for reactivation that includes a fee set by the Division and submit proof of fulfillment of continuing education requirements in accordance with the rules and regulations of the Board.

(e) An applicant or licensee must notify the Division of a change of address or a change of any other information provided on the applicant or licensee's application, registration, or renewal within 30 days of the change.

§ 6108-6110. Fees.

The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board, as well as the proportional expenses incurred by the Division in its service on behalf of the Board. There shall be a separate fee charged for each service or activity, but no fee shall be charged for a purpose not specified in this chapter. At the beginning of each licensure biennium, the Division, or any other state agency acting on its behalf, shall compute, for each separate service or activity, the appropriate board fees for the licensure or biennium.

§ 6109-6111. Grounds for discipline.

(a) A licensed ~~master~~ elevator mechanic shall be subject to disciplinary actions under § ~~6111-6113~~ of this title, if, after a hearing, the Board finds that the ~~practitioner~~ licensee has:

(2) Illegally, ~~incompetently~~ incompetently, or negligently provided elevator ~~mechanical~~ services.

(4) Been convicted of any offense, the circumstances of which substantially relate to the work of a ~~master~~ an elevator mechanic. A certified court copy of a record of conviction shall be conclusive evidence of conviction.

(8) Had a license as an elevator mechanic suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record, and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute 1 or more of the disciplinary acts defined in this chapter. Every individual licensed as a ~~master~~ an elevator mechanic in this State, as a condition of licensure, has given consent to the release of disciplinary information by all other jurisdictions, and to waiver of all objections to the admissibility of previously adjudicated evidence of such disciplinary acts or offenses.

§ 6110-6112. Complaints.

§ 6111-6113. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that 1 of the conditions or violations set forth in § ~~6109-6111~~ of this title applies to an individual or licensee regulated by this chapter:

(5) Impose a monetary penalty as follows:

a. No more than \$1,500 for each violation of § ~~6109(a)(2)~~6111(a)(2) and (a)(4) through (a)(9) of this title.

b. No less than \$4,500 for violations of § ~~6109(a)(1)~~6111(a)(1) and (a)(3) of this title.

§ 6114. Hearing procedures.

(a) If a complaint is filed with the Board pursuant to § 8735 of Title 29 alleging a violation of this chapter, a time and place shall be set to conduct a hearing on the complaint. Notice of the hearing shall be given and the hearing shall be conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29.

(b) Upon a decision or other final order of the Board, an elevator mechanic who disagrees with the action of the Board may appeal the Board's decision to the Superior Court within 30 days of service or of the postmarked date of the copy of the decision mailed to the elevator mechanic. Upon such appeal the Court shall hear the evidence on the record. Stays may be granted in accordance with § 10144 of Title 29.

~~§ 6112.~~6115. Reinstatement of a suspended license; removal from probationary status.

~~§ 6113.~~6116. Duty to report.

(a) An owner, operator, manager, or supervisor of a business performing elevator ~~mechanical~~-services shall have a duty to report to the Board, if such owner, operator, manager, or supervisor has knowledge that an individual working for or under his or her supervision is performing elevator work and does not have the proper license under this chapter.

(b) The report required pursuant to this section must be made in writing to the Board within 10 days of the owner, operator, manager, or supervisor having the required knowledge and must contain the name of the person performing the ~~electrical~~elevator work without a license.

(c) An owner, operator, manager, or supervisor of a business performing elevator ~~mechanical~~-services must check to see if an employee or independent contractor has the proper license under this chapter before allowing such employee or independent contractor to perform work for such owner, operator, manager or supervisor.

~~§ 6114.~~6117. Penalty; misdemeanor.

An individual not currently licensed as an elevator mechanic or exempt from licensure under this chapter, who is determined to be performing elevator ~~mechanical~~-work, or assuming or using a title or description conveying, or tending to convey, the impression that the individual is qualified to perform elevator work, shall be guilty of a misdemeanor. For a first offense, the individual shall be fined not less than \$500 nor more than \$1,500 for each offense. For a second or subsequent conviction, the fine shall be not less than \$1,500 nor more than \$2,300 for each offense. Justice of the Peace Courts shall have jurisdiction over all violations of this chapter.

~~§ 6115.~~6118. ~~Exceptions.~~Exemptions.

168 Nothing in this chapter shall be construed to prevent the performance of service and repair of any elevator in any
169 structure by individuals working in a manufacturing or industrial facility, who are all of the following:
170 (1) Recognized by their company as a person responsible for repairs, maintenance, or service.
171 ~~(2) Registered with the Board.~~
172 ~~(3)-(2)~~ Working under the supervision of a ~~master~~ an elevator mechanic or a master electrician with a special
173 elevator license.

SYNOPSIS

This Act serves to clean up certain sections of the Board's Practice Act. Required statutory language omitted due to oversight have been added, such as standards for reciprocity, issuance and renewal of licenses, and hearing procedures. The requirements for a public Board member have been clarified. Finally, inapplicable terms, such as "master" elevator mechanic, have been removed.

This Act requires passage by a 3/5 majority because it authorizes the Board to set fees for licensure and licensure renewals.

This Act makes technical changes to comply with the standards of the Delaware Legislative Drafting Manual.