

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

April 3, 1951

To Marion E. Martin, Chairman, Board of Elevator Rules

Your inquiries of March 30th in regard to elevator rules are received in this office. You recite that under Chapter 374, Section 99-H, the supervising inspector of elevators is empowered to issue special certificates: "If, upon inspection, an elevator is in the opinion of the inspector found to be in reasonably safe condition but not in full compliance with the rules and regulations of the board, the elevator inspector shall certify to the supervising inspector his findings and said supervising inspector may issue a special certificate, the same to be posted as required in this section." You then inquire:

1) Would the Board of Elevator Rules have the power to make rules governing the issuance of special certificates?

Answer. Section 99-H provides that the supervising inspector *may* issue special certificates. This is optional and not mandatory. Under Section 99-C concerning the duties and powers of the board, it appears that the rules and regulations formulated shall conform, as far as practicable, to the Standard Safety Code for elevators approved by the American Standards Association, and that the Board shall formulate the rules. We believe there is authority for the issuance of special certificates and that they should be prescribed by the rules of the Board.

Query 2. Would the Board have authority to place a time limit on the use of special certificates?

Answer. The special certificate being issued in cases where inspection has been made and the elevator shown to be reasonably safe though not complying with the Board's regular rules, a time limit during which such compliance may be effected would be proper.

Query 3. If an elevator owner is operating on a special certificate and an elevator accident occurs, would he be under additional risk of being proved negligent in not having a regular certificate?

Answer. The statute does not provide an answer to this question. It may be said that the owner will at least be operating under a certificate issued by your Board after an inspection had shown the elevator to be reasonably safe, but at the same time showing that the elevator did not comply with all of your regular rules. We think there is an additional risk.

Your last query is what the Board's liability would be if they adopted rules lowering the standards by allowing lower gates and permitting the shipper rope to be accessible from the outside, both of which provisions they feel would increase the chances of accident, so that the owner would be allowed to operate on a regular rather than on a special certificate.

Answer. The standard to be adhered to is the one referred to above, and non-compliance would be not compliance with the statute and so is not contemplated.

NEAL A. DONAHUE
Assistant Attorney General