

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1396

S. P. 398

In Senate, March 31, 1977

Taken from Table by the President and on motion by Senator O'Leary of Oxford referred to the Committee on State Government. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator O'Leary of Oxford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Merge the Passenger Tramway Safety Board with the Board of Elevator Rules and Regulations.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA § 2301, 11th line from the end is repealed as follows:

~~Passenger Tramway Safety Board;~~

Sec. 2. 25 MRSA c. 251, Pt. 5, as amended, is repealed.

Sec. 3. 26 MRSA c. 5, sub-c. V, as amended, is repealed.

Sec. 4. 26 MRSA c. 5, sub-c. V-A, is enacted to read:

SUBCHAPTER V-A

ELEVATORS AND TRAMWAYS

§ 471. Declaration of policy

It shall be the policy of the State to protect its citizens and visitors from unnecessary mechanical hazards in the operation of elevators and tramways, to ensure that reasonable design and construction are used, that accepted safety devices and sufficient personnel are provided for, and that such periodic maintenance, inspections and adjustments are made which are deemed essential for the safe operation of elevators and tramways. The primary responsibility for design, construction, maintenance and inspection rests with the firm, person, partnership, association or corporation which owns or operates such device.

§ 472. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Approved. "Approved" shall mean as approved by the Board of Elevator and Tramway Safety.

2. Board. "Board" shall mean the Board of Elevator and Tramway Safety.

3. Bureau. "Bureau" shall mean the Bureau of Labor.

4. Director. "Director" shall mean the Director of the Bureau of Labor.

5. Elevator. "Elevator" shall include escalators and manlifts and shall mean a guided hoisting and lowering mechanism equipped with a car or platform or load-carrying unit, including the doors, well, enclosures, means and appurtenances required by these regulations. The term "elevator" shall not include a dumbwaiter, conveyor, chain or bucket hoist, tiering, piling or feeding devices giving service within one story.

6. Escalator. "Escalator" shall mean a power-driven inclined, continuous stairway used for raising or lowering passengers.

7. Freight elevator. "Freight elevator" shall mean an elevator used for carrying freight and on which only the operator and the persons necessary for loading and unloading are permitted to ride.

8. Manlift. "Manlift" shall mean a device consisting of a power-driven endless belt or chains provided with steps or platforms and handholds attached to it for the transportation of personnel from floor to floor.

9. Operator. "Operator" shall mean the person or persons who physically operate an elevator or tramway.

10. Owner. "Owner" shall mean firm, person, partnership, association, corporation, state or political subdivision which owns an elevator or tramway.

11. Passenger elevator. "Passenger elevator" shall mean an elevator that is used to carry persons other than the operator and persons necessary for loading and unloading, except that passenger elevator shall not mean an escalator or manlift.

12. State inspector. "State inspector" shall mean an individual in the employ of the State whose duties shall be the examination and inspection of elevators and tramways under the direction of the director.

13. Tramway. "Tramway" shall mean a device used to transport passengers uphill on skis, or in cars on tracks or suspended in the air, by the use of steel cables, chains or belts or by ropes, and usually supported by trestles or towers with one or more spans. "Tramway" shall include the following:

A. Aerial tramways, including the class of aerial passenger tramways and lifts wherein the passengers are transported in carriers and are not in

contact with the ground or snow surface, and in which the carriers reciprocate between terminals;

B. Aerial lifts and skimobiles, including the class of aerial passenger tramways and lifts wherein the passengers are transported in carriers and are not in contact with the ground or snow surface and in which the carriers circulate around a closed system and are activated by a wire rope or chain. The carriers usually make u-turns in the terminals and move along generally parallel and opposing paths of travel. The carriers may be open or enclosed cabins, chairs, cars or platforms. The carriers may be fixed or detachable;

C. Surface lifts, including the class of conveyance where the passengers are propelled by means of circulating overhead wire rope while remaining in contact with the ground or snow surface. Transportation is limited to one direction. Connection between the passengers and the wire rope is by means of a device attached to and circulating with the haul rope known as a "towing outfit;" and

D. Tows, including the class of conveyance where the passengers grasp the circulating haul rope, a handle attached to the circulating haul rope or attach a gripping device to the circulating haul rope. The passengers remain in contact with the ground or snow surface. The upward traveling haul rope remains adjacent to the uphill track of the passengers and at an elevation which permits them to maintain their grasp on the haul rope, handle or gripping device throughout that portion of the tow length that is designed to be traveled.

§ 473. Retroactive effect

This subchapter shall not be construed in any way to prevent the use or sale of elevators in this State which were being used or installed prior to January 1, 1950, and which shall be made to conform to the rules of the board covering existing installations and which shall have been inspected as provided for in section 487.

This subchapter shall not apply to elevators or tramways upon reservations of the Federal Government, or to elevators used for agricultural purposes on farms or elevators which are located or maintained in private residences as long as they are exclusively for private use.

§ 474. Appeals

Any person aggrieved by an order or act of the supervising inspector or the state inspector or the bureau under this subchapter may, within 15 days after notice thereof, appeal from such order or act to the board which shall hold a hearing thereon. The board shall, after such hearing, issue an appropriate order either approving or disapproving the order or act.

Any such order of the board or any rule formulated by the board shall be subject to review by the Superior Court by an appeal taken within 60 days after the date of such order to the Superior Court held in and for the county in which the equipment is located at the instance of any party in interest

and aggrieved by the order or decision. Such appeal shall be prosecuted by complaint to which such party shall annex the order of the board and in which the appellant shall set out the substance of and the reasons for the appeal. Upon the filing thereof, the court shall order notice thereof. Upon the evidence and after hearing, which shall be held not less than 7 days after notice thereof, the court may modify, affirm or reverse the order of the board and the rule on which it is based in whole or in part in accordance with law and the weight of the evidence. The court shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any such order pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper.

An appeal may be taken to the law court as in other actions.

§ 475. Board of Elevator and Tramway Safety

The purpose of the Board of Elevator and Tramway Safety, as heretofore established, is to govern and control the construction, installation, alteration, repair, use, operation and inspection of elevators and tramways in order to provide for reasonable personal, material and public safety in connection with the use of such elevators and tramways. The board shall consist of 7 members, of whom 5 shall be appointed to membership by the director, subject to the approval of the Governor. Each member shall hold office until his successor is duly appointed. At the expiration of each member's term, his successor shall be appointed by the director, subject to the approval of the Governor, from the same classification in accordance with this section for a term of 4 years. In case of a vacancy in board membership, the director, with the approval of the Governor, shall appoint a member of the proper classification to serve the term of the absent member. Of the 5 appointed members of the board, one shall be a representative of owners or lessees of elevators within the State; one shall be a representative of manufacturers of elevators; one shall be a representative of insurance companies licensed to insure elevators and tramways in the State; one shall be a licensed elevator mechanic and one shall be a tramway owner. The 6th member of the board shall be a member of the Division of Fire Prevention appointed by the Commissioner of Public Safety and the 7th member of the board shall be the Director of the Bureau of Labor, who shall be chairman of the board.

The supervising inspector of elevators shall be the secretary of the board.

The board shall meet at least twice yearly at the State Capitol or any other place designated by the chairman.

The 5 appointed members of the board shall serve without salary and shall receive their actual expenses while engaged in the performance of their duties as members of the board, such expenses to be paid in the same manner as in the case of other state officers. The chairman of the board shall approve and countersign all vouchers for expenditures under this section.

§ 476. Powers and duties of board

The board shall formulate reasonable rules for the safe and proper construction, installation, alteration, repair, use, operation and inspection of

elevators and tramways in the State. The rules so formulated shall conform as near as practicable to the established standards as approved by the American National Standards Institute. Such rules shall become effective 90 days after the date they are adopted, except that rules applying to the construction of new elevators and tramways shall not become effective until 6 months after the date they are adopted. Before any rules are adopted, a public hearing shall be held after suitable notice has been published in at least 3 daily newspapers within the State.

§ 477. Appointment of inspectors

The director shall appoint, with the approval of the Governor, and may remove for cause when so appointed, a citizen of the State qualified to fulfill the functions of the office to serve as supervising inspector, after he shall have successfully passed an examination prescribed by the board. The director may appoint such state inspectors as are necessary to carry out this subchapter from among applicants who successfully pass the examination.

§ 478. Examination of inspectors

Examination for the state inspectors shall be given by the supervising inspector or by 2 or more examiners to be appointed by the supervising inspector. Such examination must be written in part or in whole, and must be confined to questions, the answers to which will aid in determining the fitness and competency of the applicant for the intended service and must be of uniform grade throughout the State. In case an applicant fails to pass this examination, he may appeal to the board for a 2nd examination within 90 days of notification of his failure to pass and such 2nd examination shall be given by the board or by examiners other than those by whom the first examination was given. Upon the result of this 2nd examination, the board shall determine whether or not the applicant is qualified.

The record of the applicant's examination, whether original or on appeal, shall be accessible to him. The examinations must be kept on file in the office of the supervising inspector for a period of not less than 2 years.

§ 479. Notice to director of accidents

Each elevator or tramway accident caused by equipment failure, resulting in injury to a person or in substantial damage to the equipment shall be reported by the owner or lessee within 48 hours of its occurrence to the supervising inspector and the inspection certificate for the involved elevator shall be summarily revoked until the supervising inspector or a state authorized elevator inspector directed to do so by him shall have inspected the conveyance and shall have reinstated the inspection certificate.

§ 480. Examination of accidents by director

The director may, whenever he deems it expedient or advisable, examine or cause to be examined the cause, circumstances and origin of all elevator or tramway accidents within the State of which he has knowledge. Upon request, he shall furnish to the proper county attorney the names of witnesses and all information obtained by him.

§ 481. Employment of minors

No person, firm or corporation shall employ or permit any person under 16 years of age to have the care, custody, management or operation of any elevator or tramway. Whoever violates any of the provisions of this section shall be punished by a fine of not less than \$50 per day for each day of such illegal activity.

§ 482. Elevator mechanics; license; definition

No person shall service, repair, alter or install any elevator unless he is licensed as an elevator mechanic under section 483. Elevator work in industrial plants, manufacturing plants and hospitals may be performed by plant personnel who are not licensed under sections 482 to 484, provided such work is supervised by the plant engineer.

The word "elevator" as used in sections 482 to 484 shall include all electrical equipment, wiring, steelwork and piping in the elevator machine room, hoistway and pit, pertaining to the operation and control of an elevator, except power feeders and required power equipment up to the control panel, heating, lighting, ventilation and drainage equipment.

§ 483. Issuance; qualifications

The director shall issue an elevator mechanic's license to any person who makes application therefor, provided that person has had at least 2 years' experience in the service, repair, alteration or installation of elevators while employed by an elevator company or has had equivalent experience as defined by regulations of the board and provided that person shall satisfactorily pass the examination provided for in section 484.

A licensed elevator mechanic may not have more than 2 helpers under his direct supervision. These helpers need not be licensed.

A licensed elevator mechanic shall be required to comply with all sections of the elevator rules of Maine in the performance of his duties.

§ 484. Examination; applications; fees

The examination for elevator mechanics shall be given by the supervising inspector and one member of the Electricians Examining Board or by 2 or more examiners, one of whom shall be a member of the Electricians Examining Board, to be appointed by the supervising inspector. The person to be examined shall pay an examination fee of \$10. Such examination shall be written in whole or in part, and shall be confined to questions, the answers to which will determine the fitness and competency of the applicant for the intended service.

In case an applicant for a mechanic's license fails to pass his examination, he may request a 2nd examination within 90 days of notification of his failure to pass and such examination shall be given without further fee. Any additional examinations shall be given only upon the payment of the examination fee as provided in this section.

The record and examination papers of the applicant shall be accessible to him and his employer and shall be kept on file in the office of the supervising inspector for a period of not less than 2 years.

Applications for examination and license shall be made on forms furnished by the bureau.

All elevator mechanics' licenses shall expire on the anniversary date of the original issue and may be renewed thereafter for periods of one year without further examination, provided a renewal fee in the amount of \$10 is paid and provided that during that period he has worked as an elevator mechanic.

§ 485. Penalty

Any person who engages in the service, repair, alteration or installation of elevators without having a valid elevator mechanic's license or any person who, being himself in the business, employs a person to do such work who has not such a valid license, or any person who procures an elevator mechanic's license by fraud, or any person who violates sections 482 to 484, shall be guilty of a misdemeanor and shall be punished by a fine of not than \$50 per day for each day of such illegal activity.

§ 486. Duties of skiers; acts prohibited

It shall be the duty of any skier to conduct himself within the limitation of his individual ability and in no way contribute to the injury of himself or others. No person engaged in skiing shall be authorized to:

1. Embark and disembark from tramway except as designated. Embark or disembark from any tramway, as defined in this subchapter, except at a designated area;

2. Throw or expel objects from a tramway. While riding on any tramway, as defined in this subchapter, or similar device, throw or expel therefrom any object, nor while riding on such tramway, shall the skier do any act or thing which shall interfere with the running of that tramway;

3. Engage in harmful conduct. While riding on any tramway, as defined in this subchapter, willfully engage in any type of conduct which will contribute to or cause injury to any person, nor shall he willfully place any object in the uphill ski track which will cause another person to fall.

§ 487. Penalties

Any ski area, its owner, manager and employees, who finds a person in violation of section 486 may first issue a verbal warning to that individual and mark his ski lift ticket to indicate that such a warning has been given. Any person who fails to heed the warning issued by the ski area, its owner, manager or employees shall forfeit his ski lift ticket and be refused issuance of another.

§ 488. Inspection of elevators and tramways

Each elevator or tramway proposed to be used within this State shall be thoroughly inspected by either the supervising inspector or a state inspector,

and if found to conform to the rules of the board, upon payment of the inspection fee where required and a certificate fee of \$5 per year by the owner or user of such elevator or tramway, the bureau shall issue to such owner or user an inspection certificate. The certificate shall specify the maximum load to which such conveyance shall be subjected, the date of its issuance and the date of its expiration. Such elevator certificate shall be posted in the elevator and the tramway certificate at a conspicuous place in the machine area.

To maintain a certificate in force, a state inspector shall inspect every elevator periodically every 6th calendar month and every tramway twice each year. One tramway inspection shall be made when weather conditions permit complete inspection of all stationary and moving parts. The 2nd tramway inspection shall be made while the tramway is in operation.

The supervising inspector or state inspector may at any time suspend an inspection certificate when in his opinion the conveyance is found not to comply with the rules provided for. Such suspension of an inspection certificate shall continue in effect until that elevator or tramway shall be made to conform to the rules of the board and until the inspection certificate shall be reinstated by the person suspending it or by the supervising inspector. Any inspector suspending a certificate shall notify the supervising inspector immediately.

Whenever upon inspection an inspector finds that an elevator or tramway is unsafe and creates a menace to public safety, he shall promptly make the facts known to the supervising inspector who may order the conveyance out of service immediately, post or direct the posting of a red card of condemnation at every entrance to the conveyance, and shall notify in writing the owner or lessee of the elevator or tramway. The condemnation card shall be a warning to the public and shall be of such type and dimensions as the board shall determine.

The condemnation card may be removed only by the inspector posting it or by the supervising inspector. Any other person removing or defacing such card shall be punished by a fine of not more than \$50.

If upon inspection an elevator or tramway is, in the opinion of the inspector, found to be in reasonably safe condition but not in full compliance with the rules of the board, the inspector shall certify to the supervising inspector his findings and the supervising inspector may issue a special certificate, the same to be posted as required in this section. This certificate shall set forth any special conditions under which the conveyance may be operated.

§ 489. Condemned conveyances not to be operated

No elevator or tramway which has been condemned under section 488 shall be operated in this State. Whoever owns or operates or causes to be operated for other than repair or corrective purposes such elevator or tramway in violation of this section shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or by both.

§ 490. Certificate required

From a date 90 days after the rules are adopted by the board, it shall be unlawful for a firm, person, partnership, association or corporation to operate any elevator or tramway covered by this subchapter without a valid inspection certificate attached thereto. The operation of any elevator or tramway without an inspection certificate displayed shall constitute a misdemeanor by the owner, lessee or the agent thereof and he shall be punished by a fine of not more than \$50 per day for each day of such illegal operation.

§ 490-A. Installation of new elevators and tramways; fees

Detailed plans or specifications of each new or altered elevator or tramway shall be submitted to and approved by the supervising inspector before the construction of the same may be started. Fees for examination of such plans or specifications shall be \$1 per thousand of the valuation of the elevator or tramway as covered by the blueprints. The minimum fee shall not be less than \$5 and the maximum fee shall not be more than \$25. All fees and sums received shall be deposited with the Treasurer of State to be credited to the General Fund.

§ 490-B. Inspection fees

The initial inspection shall be made by the supervising inspector or a state inspector and the fee for such initial inspection of each new or altered elevator or tramway shall be \$25 plus expenses.

The fee for each required inspection of elevators shall be \$16 plus \$1 for each landing.

The annual fee for the required inspections of tramways shall be: Gondola, \$200, plus \$10 for each 500 feet of length, sheave to sheave; chair lift, \$175, plus \$10 for each 500 feet of length, sheave to sheave; T-bar, J-bar, platter, \$150, plus \$10 for each 500 feet of length, sheave to sheave; and pony, ropetow, \$50, plus \$10 for each 500 feet of length, sheave to sheave.

All fees and sums received shall be deposited with the Treasurer of State to be credited to the General Fund.

§ 490-C. Reports by state inspectors

The state inspectors shall make a full report to the supervising inspector, giving all data required by the rules adopted by the board and shall report to the supervising inspector and to the owner or lessee all defects found and all noncompliances with such rules. Where any serious infraction of the rules is found by a state inspector and where such infraction is, in the opinion of the inspector, dangerous to life, limb or property, it shall be the duty of such inspector to report such infraction immediately to the supervising inspector.

§ 490-D. Powers of director and supervising inspector

The director shall be empowered to investigate all elevator and tramway accidents which result in injury to a person or in damage to the installation.

Under the direction of the director, the supervising inspector shall be empowered:

1. Enforce laws and rules. To enforce the laws of the State governing the use of elevators and tramways and to enforce adopted rules of the board;

2. Free access to premises or location. To have free access for himself and the state inspectors at all reasonable times to any premises in the State where an elevator or tramway is installed or is under construction for the purpose of ascertaining whether such elevator or tramway is installed; operated, repaired or constructed in accordance with this subchapter;

3. Supervise inspectors. To allocate and supervise the work of inspectors;

4. Records. To keep a record of the type, dimensions, age, conditions and location and date of last inspection of all elevators to which this subchapter applies;

5. Certificates. To issue, suspend and revoke certificates allowing elevators and tramways to be operated;

6. Examinations. To hold examinations, and to establish the fitness of applicants to become inspectors or elevator mechanics, and to issue certificates or licenses to those persons who have successfully passed such examinations and are approved by the board as elevator inspectors or elevator mechanics; and

7. Copies of rules. To publish and distribute among elevator and tramway owners, lessees, manufacturers, repair companies and others requesting them, copies of the rules as adopted by the board, except those rules which are ANSI standard which must be obtained from the publisher.

Sec. 5. Appropriation. There is appropriated from the General Fund to the Department of Manpower Affairs, Bureau of Labor, the sum of \$4,000 for the fiscal year ending June 30, 1978 and the sum of \$4,000 for the fiscal year ending June 30, 1979 to carry out the purposes of this Act.

STATEMENT OF FACT

The purpose of this bill is to combine the Tramway Safety Board and the Board of Elevator Rules and Regulations. The Tramway Safety Board will relinquish their responsibilities and be represented on the Board of Elevator Rules and Regulations. The Bureau of Labor will administer this self-supporting program. The proposed appropriation would cover travel expenses and training of present staff in tramway inspection. An inspector will be a combination boiler inspector, elevator inspector and tramway inspector. It is estimated that there will be additional General Fund revenue in the amount of \$15,000 for each year of the biennium.