

MAINE STATE LEGISLATURE

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NEW DRAFT OF S. P. 505—L. D. 1006

NINETY-FOURTH LEGISLATURE

Legislative Document

No. 1495

S. P. 664

In Senate, April 14, 1949

Reported by Senator Baker of Kennebec from Committee on Legal Affairs and printed under Joint Rules No. 10.

CHESTER T. WINSLOW, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT Relating to Elevators.

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

R. S., c. 25, § 99-A—99-Q, additional. Chapter 25 of the revised statutes is hereby amended by adding thereto 17 new sections, to be numbered 99-A to 99-Q, inclusive, to read as follows:

Board of Elevator Rules and Regulations

Sec. 99-A. Establishment and purpose; membership; classification; terms; salary and expenses. There is hereby established and created the board of elevator rules and regulations for the purpose of governing and controlling the construction, installation, alteration, repair, use, operation and inspection of elevators, in order to provide for reasonable personal, material and public safety in connection with the use of such elevators. The said board shall consist of 5 members, of whom 3 shall be appointed to membership by the commissioner of labor and industry, subject to the approval of the governor and council. Of the said 3 appointed members, 1 shall be appointed for a term of 2 years; 1 shall be appointed for a term of 3 years; and 1 shall be appointed for a term of 4 years. 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 commissioner

of labor and industry, subject to the approval of the governor and council, from the same classification in accordance with the provisions of this section for a term of 4 years. In case of a vacancy in board membership, the commissioner of labor and industry, with the approval of the governor and council, shall appoint a member of the proper classification to serve the term of the absent member. Of the 3 appointed members of the board, 1 shall be a representative of owners or lessees of elevators within the state, 1 shall be a representative of manufacturers of elevators; 1 shall be a representative of insurance companies licensed to insure elevators in the state. The 4th member of the board shall be the commissioner of insurance and the 5th member of the board shall be the commissioner of labor and industry, who shall also be chairman of the board.

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

The 3 appointed members of said board shall serve without salary and shall receive their actual expenses while engaged in the performance of their duties as members of said board, such expenses to be paid in the same manner as in the case of other state officers. The chairman of said board shall approve and countersign all vouchers for expenditures under the provisions of this section.

Sec. 99-B. Definitions. Under the provisions of sections 99-A to 99-Q, inclusive, the following words shall have the following meanings:

“Elevator” shall mean a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term “elevator” shall not include a dumb-waiter, endless belt, conveyor, chain or bucket hoist or other devices used for the primary purpose of elevating or lowering building or other materials, nor shall it include tiering, piling, feeding or other machines or devices giving service within only one story.

“Passenger elevator” shall mean an elevator that is used to carry persons other than the operator and persons necessary for loading and unloading.

“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.

“Board” shall mean the board of elevator rules and regulations hereby created.

“Commissioner” shall mean the commissioner of labor and industry.

“State elevator inspector” shall mean an individual in the employ of the state whose duties shall be the examination and inspection of elevators under the direction of the commissioner.

“Authorized elevator inspector” shall mean an individual authorized by the commissioner to examine and inspect elevators and may be a person in the employ of an elevator company doing business in this state or a person in the employ of an insurance company licensed to insure against loss from elevator accidents in the state.

“Approved” shall mean as approved by the board of elevator rules and regulations.

Sec. 99-C. Duties and powers of the board. The board shall formulate reasonable rules and regulations for the safe and proper construction, installation, alteration, repair, use, operation and inspection of elevators in the state. The rules and regulations so formulated shall conform as far as practicable to the standard safety code for elevators as approved by the American Standards Association. Such rules and regulations shall become effective 90 days after the date they are adopted, except that rules and regulations applying to the construction of new elevators shall not become effective until 6 months after the date they are adopted; provided, however, that before any rules or regulations are adopted, a public hearing shall be held after suitable notice has been published in at least 3 daily newspapers within the state.

Sec. 99-D. Supervising and state elevator inspectors; how appointed. The commissioner shall appoint with the approval of the governor and council, 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 commissioner may appoint such state elevator inspectors as are necessary to carry out the provisions of sections 99-A to 99-Q, inclusive, from among applicants who successfully pass the examination.

Sec. 99-E. Powers of the commissioner and the supervising inspector. The commissioner shall be empowered to investigate all elevator accidents which result in either a lost time injury to a person or in damage to the installation.

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

I. To enforce the laws of the state governing the use of elevators and to enforce adopted rules and regulations of the board;

II. To have free access for himself and the state elevator inspectors at all reasonable times to any premises in the state where an elevator is installed or is under construction for the purpose of ascertaining whether such elevator is installed, operated, repaired or constructed in accordance with the provisions of sections 99-A to 99-Q, inclusive;

III. To allocate and supervise the work of elevator inspectors;

IV. To keep a record of the type, dimensions, age, conditions and location and date of last inspection of all elevators to which sections 99-A to 99-Q, inclusive, apply;

V. To issue, suspend and revoke certificates allowing elevators to be operated;

VI. To hold examinations, and to establish the fitness of applicants to become elevator inspectors, and upon authorization by the board, to issue certificates of authority to those persons who have successfully passed such examinations and are approved by the board as authorized elevator inspectors;

VII. To publish and distribute among owners, lessees, elevator manufacturers, elevator repair companies and others requesting them copies of the rules as adopted by the board.

Sec. 99-F. Certificates of authority; authorized inspectors; how appointed; duties. In addition to any state elevator inspector appointed under the provisions of section 99-D, the commissioner shall upon the request of any company licensed to insure against loss from elevator accident in this state, issue to any elevator inspector of such company a certificate of authority as an authorized elevator inspector, provided that each such inspector before receiving his certificate of authority shall pass satisfactorily the examination provided for in section 99-G or in lieu of such examination shall hold a certificate as an inspector of elevators in a state that has a standard of examination equal to that in this state. The commissioner shall also upon request from any elevator company doing business in this state issue to any employee designated by the requesting company a certificate of authority as an authorized elevator inspector, provided that each such inspector before receiving his certificate of authority shall pass satisfactorily the examination provided for in section 99-G. An authorized inspector appointed under the provisions of this section shall re-

ceive no salary from the state and have no expenses paid by the state and continuance of such authorized inspector's certificate of authority shall be conditioned upon his continuing in employment as an elevator inspector by such insurance company, or in employment by such elevator company, as the case may be, and upon his maintenance of the standards imposed by the provisions of sections 99-A—99-Q, inclusive. Such authorized inspectors shall inspect all elevators insured or maintained by their respective companies, and the owners or users of such elevators shall be exempt from the payment of the fees for the periodic inspections provided in section 99-K. Each company employing such an authorized inspector shall within 15 days following each legally required inspection made by an authorized inspector file a report of such inspection with the supervising inspector.

The certificate of authority may be revoked by the supervising inspector of elevators for incompetence or untrustworthiness of the holder thereof or wilful falsification of any matter or statement contained in his application or in a report or any inspection. A person whose certificate of authority is revoked may appeal from the revocation to the board of elevator rules and regulations, which shall hear the appeal and either set aside or affirm the revocation, and its decision shall be final. The person whose certificate has been revoked is entitled to be present in person and by counsel on the hearing of the appeal. When a certificate of authority has been revoked for incompetence, the inspector may be reinstated by the board upon his passing a special examination and upon his furnishing such further proof as the board may require. Application for reinstatement may not be made within 90 days of revocation. When a certificate of authority has been revoked on the proof of untrustworthiness or wilful falsification, no reinstatement of a certificate of authority can be granted, except by unanimous approval of the board.

If a certificate is lost or destroyed, a new certificate shall be issued in its place without another examination and on the payment of a fee to be prescribed by the board.

Sec. 99-G. State and authorized inspectors to be examined. Examination for the state and authorized inspectors shall be given by the supervising inspector, or by 2 or more examiners to be appointed by the supervising inspector. The person to be examined must pay an examination fee of \$10. 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 for a certificate of

authority fails to pass this examination, he may appeal to the board for a second examination within 90 days of notification of his failure to pass and such second examination shall be given without further fee 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 and his employer. The examinations must be kept on file in the office of the supervising inspector for a period of not less than 2 years.

Sec. 99-H. Inspector of elevators. Each elevator proposed to be used within this state shall be thoroughly inspected by either the supervising inspector or a state elevator inspector, and if found to be safe for use and to conform to the rules of the board, upon payment of the inspection fee where required and a registration fee of \$1 per year by the owner or user of such elevator to the supervising inspector, the latter shall issue to such owner or user an inspection certificate. He shall specify on the certificate the maximum load to which such conveyance shall be subjected, the date of its issuance and the date of its expiration. Such inspection certificate shall be posted in the elevator.

To maintain a certificate in force either a state elevator inspector or an authorized elevator inspector shall inspect every passenger elevator periodically every 6th calendar month and every freight elevator every 12th calendar month, following the month in which the initial inspection has been made, provided that any such inspection of either a passenger elevator or freight elevator may be made within the first 15 days of the month following the calendar month during which such inspection is due.

The supervising inspector or state elevator inspector may at any time suspend an inspection certificate when in his opinion the conveyance for which it was issued may not be continued to be operated without menace to the public safety and when the conveyance is found not to comply with the rules herein provided for. Such suspension of an inspection certificate shall continue in effect until said elevator shall be made to conform to the rules of the board and until said 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 is unsafe and creates a menace to public safety he shall promptly make the facts known to the supervising inspector or a state elevator 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 building in which the elevator is located. 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 \$100 or by imprisonment for not more than 3 months, or by both such fine and imprisonment.

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. This certificate shall set forth any special conditions under which the conveyance may be operated.

Sec. 99-I. Inspection certificate required; penalty. From a date 90 days after the rules and regulations are adopted by the board, it shall be unlawful for a firm, person, partnership, association or corporation to operate any elevator covered by sections 99-A to 99-Q, inclusive, without a valid inspection certificate attached thereto. The operation of any elevator without inspection certificate displayed shall constitute a misdemeanor by the owner, lessee or the agent thereof and shall be punishable by a fine of not more than \$50 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

Sec. 99-J. Reports by the state and authorized elevator inspectors. The state and authorized elevator inspectors shall make a full report to the supervising inspector, giving all data required by the rules and regulations adopted by the board and shall report to the supervising inspector and to the owner or lessee all defects found and all non-compliances with such rules and regulations. Where any serious infraction of said rules and regulations is found by a state or authorized elevator inspector and where such infraction is in the opinion of the inspector, dangerous to life, limb or property, it shall be the duty of said inspector to report such infraction immediately to the supervising inspector.

Sec. 99-K. Rules governing installation of new elevators; fees. After 6 months from date upon which rules and regulations provided for in sections 99-A to 99-Q, inclusive, are adopted, no new or altered elevator which

does not conform to the rules adopted by the board shall be installed within this state. Detailed plans or specifications of each new or altered elevator 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 as covered by the blueprints; provided, however, the minimum fee shall be not less than \$5 and the maximum fee shall not be more than \$25.

The initial inspection shall be made by the supervising inspector or a state elevator inspector and the fee for such initial inspection of each new or altered elevator shall be \$10. Fees for each required periodic inspection subsequent to the initial inspection shall be \$3.

The state elevator inspector shall give receipts for all fees and all sums so received. He shall pay the same to the supervising inspector who shall deposit said sums with the treasurer of the state to be credited to the department of labor and industry to be used solely to defray the expenses of such investigations and inspections and are hereby appropriated for such purposes. The commissioner may incur such expense as may be necessary to carry out his duties in investigating and inspecting or causing to be inspected such elevators.

Sec. 99-L. Application of sections 99-A to 99-Q, inclusive to elevators now in use. The provisions of sections 99-A to 99-Q, inclusive, shall not be construed in any way to prevent the use or sale of elevators in this state which are being used or installed prior 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 99-H.

The provisions of sections 99-A to 99-Q, inclusive, shall not apply to elevators upon reservations of the federal government or under control of the public utilities commission or those which are located or maintained in private residences as long as they are exclusively for private use.

Sec. 99-M. Appeals. Any person aggrieved by an order or act of the supervising inspector or the state elevator inspector or the department under the provisions of sections 99-A to 99-Q, inclusive, may, within 15 days after notice thereof, appeal from such order or act to the board which shall hold a hearing thereon, and said board shall, after such hearing, issue an appropriate order either approving or disapproving said order or act.

Any such order of said board or any rule or regulation formulated by said board shall be subject to review by a justice of the superior court in

term time or vacation 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 said order or decision. Such appeal shall be prosecuted by petition 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 in term time or a justice thereof in vacation shall order notice thereof. Upon the evidence and after hearing which shall be held not less than 7 days after notice thereof, the court or a justice thereof may modify, affirm or reverse the order of the board and the rule or regulation on which it is based in whole or in part in accordance with law and the weight of the evidence. The court or a justice thereof 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.

Exceptions shall lie to the law court from the decision of the superior court.

Sec. 99-N. Filing of inspection reports. In case an elevator is inspected by an authorized elevator inspector of a duly accredited insurance company which is the primary insurer of the conveyance and which is licensed to do business in this state, a copy of the record of each inspection of such elevator as required by sections 99-A to 99-Q, inclusive, shall be filed by the insurance company with the supervising inspector within 15 days of said inspection.

In case an insurance company cancels insurance upon any elevator or the policy expires and is not renewed, notice shall immediately be given to the supervising inspector. An insurance company shall likewise notify the supervising inspector immediately upon placing of insurance upon an elevator.

Sec. 99-O. Condemned conveyances not to be operated; penalty. No elevator which has been condemned under the provisions of section 99-H shall be operated in this state. Whoever owns or operates or causes to be operated for other than repair or corrective purposes such elevator in violation of the provisions 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 such fine and imprisonment.

Sec. 99-P. Commissioner to be notified immediately whenever an elevator accident occurs. Each elevator accident or hoistway collision, or equip-

ment failure, resulting in a lost time injury to a person or in damage to the equipment shall:

I. Be reported by owner or lessee within 48 hours of its occurrence to the supervising inspector, and

II. The inspection certificate for the involved elevator shall be summarily revoked until the supervising inspector or a state or authorized elevator inspector directed so to do by him shall have inspected the conveyance or shall have again made valid its inspection certificate.

Sec. 99-Q. Commissioner may examine into cause and origin of all accidents. The commissioner may, whenever he deems it expedient or advisable, examine or cause to be examined the cause, circumstances and origin of all elevator 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.'