

House Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 66

HOUSE BILL 2228

AN ACT

AMENDING SECTIONS 23-491, 23-491.02 AND 23-491.05, ARIZONA REVISED STATUTES;
AMENDING TITLE 23, CHAPTER 2, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING
SECTION 23-491.16; RELATING TO ELEVATOR SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-491, Arizona Revised Statutes, is amended to
3 read:

4 23-491. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Authorized representative" means the elevator chief and elevator
7 inspector employed by the division.

8 2. "Board" means the elevator advisory board established to assist the
9 commission in drafting standards and regulations.

10 3. "CERTIFICATE" MEANS A CERTIFICATE OF INSPECTION ISSUED BY THE
11 DIVISION.

12 ~~3-~~ 4. "Commission" means the industrial commission of Arizona.

13 ~~4-~~ 5. "Conveyance" means an elevator, dumbwaiter, escalator, moving
14 walk, manlift, personnel hoist, material hoist, stage lift and special
15 purpose personnel elevator, excluding conveyances located at mines and
16 subject to regulation and inspection by the state mine inspector pursuant to
17 ~~the provisions of title 27, chapter 3.~~

18 ~~5-~~ 6. "Director" means the director of the division of occupational
19 safety and health.

20 ~~6-~~ 7. "Division" means the division of occupational safety and health
21 of the industrial commission.

22 ~~7-~~ 8. "Dumbwaiter" means a hoisting and lowering mechanism with a car
23 of limited capacity and size ~~which~~ THAT moves in guides in a substantially
24 vertical direction and THAT is used exclusively for carrying material.

25 ~~8-~~ 9. "Elevator" means a hoisting and lowering mechanism equipped
26 with a car or platform ~~which~~ THAT moves in guides in substantially vertical
27 direction and ~~which~~ THAT serves two or more floors of a building or
28 structure.

29 10. "ELEVATOR COMPANY" MEANS A PERSON THAT IS ENGAGED IN THE BUSINESS
30 OF ERECTING, CONSTRUCTING, INSTALLING, ALTERING, SERVICING, REPAIRING OR
31 MAINTAINING CONVEYANCES.

32 ~~9-~~ 11. "Escalator" means a power driven, inclined, continuous
33 stairway used for raising or lowering passengers.

34 ~~10-~~ 12. "Interested party" means the commission and its agents and the
35 owner or operator who has been issued a correction order.

36 ~~11-~~ 13. "Manlift" means a device consisting of a power driven endless
37 belt moving in one direction only and provided with steps or platforms and
38 attached handholds for the transportation of personnel from floor to floor.

39 ~~12-~~ 14. "Material hoist" means a hoist for raising and lowering
40 materials only and prohibiting the hoisting of persons.

41 ~~13-~~ 15. "Moving walk" means a type of passenger carrying device on
42 which passengers stand or walk and in which the passenger carrying surface
43 remains parallel to its direction of motion and is uninterrupted.

1 ~~14-~~ 16. "Owner" or "operator" means an individual or organization
2 including this state and all political subdivisions of this state who has
3 title to, controls or has the duty to control the operation of one or more
4 conveyances, but shall not include an individual or organization engaged in
5 mining or metallurgical operations whose operation is subject to regulation
6 and inspection by the state mine inspector pursuant to ~~the provisions of~~
7 title 27, chapter 3.

8 ~~15-~~ 17. "Personnel hoist" means a mechanism for use in connection with
9 the construction, alteration, maintenance or demolition of a building,
10 structure or other work, used for hoisting and lowering workers and materials
11 and equipped with a car that moves on guide members during its vertical
12 movement. The term includes a hoistway of a personnel hoist.

13 18. "PRIVATE ELEVATOR INSPECTOR" MEANS AN INDIVIDUAL WHO IS AUTHORIZED
14 BY THE COMMISSION UNDER SECTION 23-491.16 TO CONDUCT INSPECTIONS UNDER THIS
15 ARTICLE.

16 ~~16-~~ 19. "Special purpose personnel elevator" means a passenger, hand
17 powered, counterweighted device or an electric powered device ~~which~~ THAT
18 travels vertically in guides and THAT serves two or more landings.

19 ~~17-~~ 20. "Stage lift" means a hoisting and lowering mechanism equipped
20 with a platform ~~which~~ THAT moves in guides in a substantially vertical
21 direction and ~~which~~ THAT serves one or more landings.

22 Sec. 2. Section 23-491.02, Arizona Revised Statutes, is amended to
23 read:

24 23-491.02. Owner's and operator's duty

25 Every owner and operator of a conveyance shall:

26 1. Construct, furnish, maintain and provide safe and adequate devices
27 with which to safely and properly convey or move all persons and material
28 utilizing the services offered by the owner or operator of such device.

29 2. Comply with all standards and regulations issued pursuant to this
30 article.

31 3. ENSURE THAT A CONVEYANCE IS INSPECTED AT ALL OF THE FOLLOWING
32 TIMES:

33 (a) BEFORE PLACING A CONVEYANCE IN OPERATION AFTER THE INITIAL
34 INSTALLATION OF THE CONVEYANCE.

35 (b) AFTER MODIFICATION OR ALTERATION OF A CONVEYANCE.

36 (c) AFTER THE INSPECTION PURSUANT TO SUBDIVISION (a), ANNUALLY OR AS
37 OTHERWISE DIRECTED BY THE COMMISSION.

38 Sec. 3. Section 23-491.05, Arizona Revised Statutes, is amended to
39 read:

40 23-491.05. Division powers

41 The division ~~shall~~ MAY:

42 1. Inspect conveyances ~~annually and may do so at other times~~ when
43 deemed necessary or appropriate by the division.

44 2. Recommend to the commission for approval or disapproval standards
45 and regulations and amendments to such standards and regulations.

1 3. Enforce, pursuant to section 23-491.09, all standards and
2 regulations promulgated by the commission.
3 Sec. 4. Title 23, chapter 2, article 12, Arizona Revised Statutes, is
4 amended by adding section 23-491.16, to read:
5 23-491.16. Private elevator inspector; qualifications;
6 prohibited conduct; civil penalty
7 A. THE COMMISSION MAY AUTHORIZE AN INDIVIDUAL TO PERFORM INITIAL OR
8 ANNUAL INSPECTIONS UNDER THIS ARTICLE OR ANY OTHER INSPECTION UNDER THIS
9 ARTICLE DESIGNATED BY THE COMMISSION, IF THE INDIVIDUAL DOES ALL OF THE
10 FOLLOWING:
11 1. MEETS THE QUALIFICATIONS AND INSURANCE REQUIREMENTS PRESCRIBED BY
12 THE COMMISSION.
13 2. IS CERTIFIED BY AN ORGANIZATION THAT IS ACCREDITED BY A NATIONAL
14 SOCIETY OF MECHANICAL ENGINEERS IN ACCORDANCE WITH A NATIONAL STANDARD FOR
15 SAFETY OF ELEVATORS, DUMBWAITERS, ESCALATORS AND MOVING WALKS AS DETERMINED
16 BY THE COMMISSION.
17 3. FOLLOWS THE INSPECTION PROCEDURES ESTABLISHED BY THE COMMISSION FOR
18 PRIVATE ELEVATOR INSPECTORS.
19 B. A PRIVATE ELEVATOR INSPECTOR SHALL REGISTER WITH THE COMMISSION
20 ANNUALLY AND PROVIDE PROOF OF ALL OF THE FOLLOWING WITH THE REGISTRATION:
21 1. COMPLETION OF AT LEAST EIGHT HOURS OF CONTINUING EDUCATION APPROVED
22 BY THE COMMISSION.
23 2. THAT THE CERTIFICATION PRESCRIBED IN SUBSECTION A IS IN GOOD
24 STANDING.
25 3. THAT THE PRIVATE ELEVATOR INSPECTOR IS MAINTAINING THE INSURANCE
26 PRESCRIBED BY THE COMMISSION.
27 C. THE COMMISSION MAY SUSPEND OR REVOKE A PRIVATE ELEVATOR INSPECTOR'S
28 AUTHORIZATION TO PERFORM INSPECTIONS FOR ANY REASON RELATED TO THE
29 PERFORMANCE OF AN INSPECTION UNDER THIS ARTICLE OR FOR ANY OTHER GOOD CAUSE
30 AS DETERMINED BY THE COMMISSION.
31 D. THE COMMISSION MAY IMPOSE A CIVIL PENALTY OF ONE THOUSAND DOLLARS
32 ON A PRIVATE ELEVATOR INSPECTOR OR AN ELEVATOR COMPANY FOR EACH INSTANCE THE
33 INSPECTOR OR COMPANY DOES ANY OF THE FOLLOWING:
34 1. MAKES A FALSE STATEMENT AS TO A MATERIAL MATTER IN AN APPLICATION
35 FOR AUTHORIZATION UNDER THIS ARTICLE.
36 2. COMMITS FRAUD, MISREPRESENTATION OR BRIBERY IN REGARD TO
37 CONVEYANCES OR ANY INSPECTION OR ACTION TAKEN PURSUANT TO THIS ARTICLE.
38 3. COMMITS A VIOLATION OF THIS ARTICLE OR THE RULES OR INSPECTION
39 PROCEDURES ADOPTED PURSUANT TO THIS ARTICLE.
40 E. A PRIVATE ELEVATOR INSPECTOR SHALL NOT DO ANY OF THE FOLLOWING:
41 1. INSPECT A CONVEYANCE OWNED, OPERATED OR LAST SERVICED BY ANY OF THE
42 FOLLOWING:
43 (a) THE PRIVATE ELEVATOR INSPECTOR.
44 (b) A COMPANY OWNED BY THE PRIVATE ELEVATOR INSPECTOR.

1 (c) A COMPANY FOR WHICH THE PRIVATE ELEVATOR INSPECTOR IS AN EMPLOYEE
2 AT THE TIME OF THE INSPECTION.

3 (d) A COMPANY AFFILIATED WITH A COMPANY OWNED BY THE PRIVATE ELEVATOR
4 INSPECTOR OR FOR WHICH THE PRIVATE ELEVATOR INSPECTOR IS AN EMPLOYEE AT THE
5 TIME OF THE INSPECTION.

6 2. ENGAGE IN THE SALE OR SERVICE OF ANYTHING RELATED TO ELEVATORS.

7 3. CONDUCT AN INSPECTION PURSUANT TO THIS ARTICLE UNLESS THE INSPECTOR
8 HAS THE CURRENT CERTIFICATION AND COMMISSION AUTHORIZATION PURSUANT TO
9 SUBSECTION A.

10 F. THIS STATE IS NOT LIABLE FOR ANY ACT OR OMISSION OF A PRIVATE
11 ELEVATOR INSPECTOR. THE COMMISSION IS NOT OBLIGATED TO PAY ANY FEE CHARGED
12 OR OTHER CONSIDERATION SOUGHT BY A PRIVATE ELEVATOR INSPECTOR FOR AN
13 INSPECTION PURSUANT TO THIS ARTICLE. THE FEE OR CONSIDERATION IS THE SOLE
14 OBLIGATION OF THE OWNER OR OPERATOR THAT RETAINED OR CONTRACTED WITH THE
15 PRIVATE ELEVATOR INSPECTOR.

16 G. THE COMMISSION SHALL COMPILE A LIST OF PRIVATE ELEVATOR INSPECTORS
17 THAT ARE CURRENTLY AUTHORIZED PURSUANT TO SUBSECTION A. AN OWNER OR AN
18 OPERATOR MAY HIRE A PRIVATE ELEVATOR INSPECTOR.

19 H. AN OWNER OR OPERATOR IS NOT RELIEVED OF THE OBLIGATIONS UNDER THIS
20 ARTICLE BY THE USE OF A PRIVATE ELEVATOR INSPECTOR.

21 I. THE COMMISSION IS EXEMPT FROM THE RULE MAKING REQUIREMENTS OF TITLE
22 41, CHAPTER 6, IN THE ADOPTION OF PRIVATE ELEVATOR INSPECTOR QUALIFICATIONS
23 AND INSPECTION PROCEDURES.

24 J. CIVIL PENALTIES AND INTEREST ASSESSED PURSUANT TO THIS SECTION ACT
25 AS A JUDGMENT IN THE SAME MANNER AND WITH LIKE EFFECT AS IF THEY WERE A
26 JUDGMENT OF THE SUPERIOR COURT. THE COMMISSION MAY RECOVER REASONABLE
27 ATTORNEY FEES INCURRED IN COLLECTING ANY CIVIL PENALTY ASSESSED UNDER THIS
28 SECTION. ALL MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN
29 THE ADMINISTRATIVE FUND ESTABLISHED BY SECTION 23-1081.

APPROVED BY THE GOVERNOR APRIL 16, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2010.

Passed the House February 16, 2010

Passed the Senate April 7, 2010

by the following vote: 58 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting
1 vacancy

0 Nays, 1 Not Voting

[Signature]
Speaker of the House
Pro Tempore

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

13 day of April, 20 10

at 8:50 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 16th day of

April

at 4:52 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 19th day of April, 20 10

at 11:40 o'clock a M.

[Signature]
Secretary of State

H.B. 2228