

**As Reported by the House Commerce and Labor Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. H. B. No. 289**

**Representative Baldrige**

**Cosponsors: Representatives Ghanbari, Green, Cross, Wilkin, Jones, Patton,  
Sweeney, Lepore-Hagan, Skindell, Edwards**

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**A BILL**

To amend sections 119.12, 121.084, 4105.01, and 1  
4105.10 and to enact sections 4105.30, 4785.01, 2  
4785.02, 4785.03, 4785.04, 4785.041, 4785.05, 3  
4785.051, 4785.06, 4785.07, 4785.08, 4785.09, 4  
4785.091, 4785.092, and 4785.99 of the Revised 5  
Code to revise the Elevator Law. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 119.12, 121.084, 4105.01, and 7  
4105.10 be amended and sections 4105.30, 4785.01, 4785.02, 8  
4785.03, 4785.04, 4785.041, 4785.05, 4785.051, 4785.06, 4785.07, 9  
4785.08, 4785.09, 4785.091, 4785.092, and 4785.99 of the Revised 10  
Code be enacted to read as follows: 11

**Sec. 119.12.** (A) (1) Except as provided in division (A) (2) 12  
or (3) of this section, any party adversely affected by any 13  
order of an agency issued pursuant to an adjudication denying an 14  
applicant admission to an examination, or denying the issuance 15  
or renewal of a license or registration of a licensee, or 16  
revoking or suspending a license, or allowing the payment of a 17  
forfeiture under section 4301.252 of the Revised Code, or 18

imposing a civil penalty under section 4785.091 of the Revised 19  
Code may appeal from the order of the agency to the court of 20  
common pleas of the county in which the place of business of the 21  
licensee is located or the county in which the licensee is a 22  
resident. 23

(2) An appeal from an order described in division (A) (1) 24  
of this section issued by any of the following agencies shall be 25  
made to the court of common pleas of Franklin county: 26

(a) The liquor control commission; 27

(b) The Ohio casino control commission~~7~~1; 28

(c) The state medical board; 29

~~(e)~~(d) The state chiropractic board; 30

~~(d)~~(e) The board of nursing; 31

~~(e)~~(f) The bureau of workers' compensation regarding 32  
participation in the health partnership program created in 33  
sections 4121.44 and 4121.441 of the Revised Code; 34

(g) The elevator safety review board. 35

(3) If any party appealing from an order described in 36  
division (A) (1) of this section is not a resident of and has no 37  
place of business in this state, the party may appeal to the 38  
court of common pleas of Franklin county. 39

(B) Any party adversely affected by any order of an agency 40  
issued pursuant to any other adjudication may appeal to the 41  
court of common pleas of Franklin county, except that appeals 42  
from orders of the fire marshal issued under Chapter 3737. of 43  
the Revised Code may be to the court of common pleas of the 44  
county in which the building of the aggrieved person is located 45

and except that appeals under division (B) of section 124.34 of 46  
the Revised Code from a decision of the state personnel board of 47  
review or a municipal or civil service township civil service 48  
commission shall be taken to the court of common pleas of the 49  
county in which the appointing authority is located or, in the 50  
case of an appeal by the department of rehabilitation and 51  
correction, to the court of common pleas of Franklin county. 52

(C) This section does not apply to appeals from the 53  
department of taxation. 54

(D) Any party desiring to appeal shall file a notice of 55  
appeal with the agency setting forth the order appealed from and 56  
stating that the agency's order is not supported by reliable, 57  
probative, and substantial evidence and is not in accordance 58  
with law. The notice of appeal may, but need not, set forth the 59  
specific grounds of the party's appeal beyond the statement that 60  
the agency's order is not supported by reliable, probative, and 61  
substantial evidence and is not in accordance with law. The 62  
notice of appeal shall also be filed by the appellant with the 63  
court. In filing a notice of appeal with the agency or court, 64  
the notice that is filed may be either the original notice or a 65  
copy of the original notice. Unless otherwise provided by law 66  
relating to a particular agency, notices of appeal shall be 67  
filed within fifteen days after the mailing of the notice of the 68  
agency's order as provided in this section. For purposes of this 69  
paragraph, an order includes a determination appealed pursuant 70  
to division (C) of section 119.092 of the Revised Code. The 71  
amendments made to this paragraph by Sub. H.B. 215 of the 128th 72  
general assembly are procedural, and this paragraph as amended 73  
by those amendments shall be applied retrospectively to all 74  
appeals pursuant to this paragraph filed before September 13, 75  
2010, but not earlier than May 7, 2009, which was the date the 76

supreme court of Ohio released its opinion and judgment in 77  
Medcorp, Inc. v. Ohio Dep't. of Job and Family Servs. (2009), 78  
121 Ohio St.3d 622. 79

(E) The filing of a notice of appeal shall not 80  
automatically operate as a suspension of the order of an agency. 81  
If it appears to the court that an unusual hardship to the 82  
appellant will result from the execution of the agency's order 83  
pending determination of the appeal, the court may grant a 84  
suspension and fix its terms. If an appeal is taken from the 85  
judgment of the court and the court has previously granted a 86  
suspension of the agency's order as provided in this section, 87  
the suspension of the agency's order shall not be vacated and 88  
shall be given full force and effect until the matter is finally 89  
adjudicated. No renewal of a license or permit shall be denied 90  
by reason of the suspended order during the period of the appeal 91  
from the decision of the court of common pleas. In the case of 92  
an appeal from the Ohio casino control commission, the state 93  
medical board, or the state chiropractic board, the court may 94  
grant a suspension and fix its terms if it appears to the court 95  
that an unusual hardship to the appellant will result from the 96  
execution of the agency's order pending determination of the 97  
appeal and the health, safety, and welfare of the public will 98  
not be threatened by suspension of the order. This provision 99  
shall not be construed to limit the factors the court may 100  
consider in determining whether to suspend an order of any other 101  
agency pending determination of an appeal. 102

(F) The final order of adjudication may apply to any 103  
renewal of a license or permit which has been granted during the 104  
period of the appeal. 105

(G) Notwithstanding any other provision of this section, 106

any order issued by a court of common pleas or a court of 107  
appeals suspending the effect of an order of the liquor control 108  
commission issued pursuant to Chapter 4301. or 4303. of the 109  
Revised Code that suspends, revokes, or cancels a permit issued 110  
under Chapter 4303. of the Revised Code or that allows the 111  
payment of a forfeiture under section 4301.252 of the Revised 112  
Code shall terminate not more than six months after the date of 113  
the filing of the record of the liquor control commission with 114  
the clerk of the court of common pleas and shall not be 115  
extended. The court of common pleas, or the court of appeals on 116  
appeal, shall render a judgment in that matter within six months 117  
after the date of the filing of the record of the liquor control 118  
commission with the clerk of the court of common pleas. A court 119  
of appeals shall not issue an order suspending the effect of an 120  
order of the liquor control commission that extends beyond six 121  
months after the date on which the record of the liquor control 122  
commission is filed with a court of common pleas. 123

(H) Notwithstanding any other provision of this section, 124  
any order issued by a court of common pleas or a court of 125  
appeals suspending the effect of an order of the Ohio casino 126  
control commission issued under Chapter 3772. of the Revised 127  
Code that limits, conditions, restricts, suspends, revokes, 128  
denies, not renews, fines, or otherwise penalizes an applicant, 129  
licensee, or person excluded or ejected from a casino facility 130  
in accordance with section 3772.031 of the Revised Code shall 131  
terminate not more than six months after the date of the filing 132  
of the record of the Ohio casino control commission with the 133  
clerk of the court of common pleas and shall not be extended. 134  
The court of common pleas, or the court of appeals on appeal, 135  
shall render a judgment in that matter within six months after 136  
the date of the filing of the record of the Ohio casino control 137

commission with the clerk of the court of common pleas. A court 138  
of appeals shall not issue an order suspending the effect of an 139  
order of the Ohio casino control commission that extends beyond 140  
six months after the date on which the record of the Ohio casino 141  
control commission is filed with the clerk of a court of common 142  
pleas. 143

(I) Notwithstanding any other provision of this section, 144  
any order issued by a court of common pleas suspending the 145  
effect of an order of the state medical board or state 146  
chiropractic board that limits, revokes, suspends, places on 147  
probation, or refuses to register or reinstate a certificate 148  
issued by the board or reprimands the holder of the certificate 149  
shall terminate not more than fifteen months after the date of 150  
the filing of a notice of appeal in the court of common pleas, 151  
or upon the rendering of a final decision or order in the appeal 152  
by the court of common pleas, whichever occurs first. 153

~~(I)~~ (J) Within thirty days after receipt of a notice of 154  
appeal from an order in any case in which a hearing is required 155  
by sections 119.01 to 119.13 of the Revised Code, the agency 156  
shall prepare and certify to the court a complete record of the 157  
proceedings in the case. Failure of the agency to comply within 158  
the time allowed, upon motion, shall cause the court to enter a 159  
finding in favor of the party adversely affected. Additional 160  
time, however, may be granted by the court, not to exceed thirty 161  
days, when it is shown that the agency has made substantial 162  
effort to comply. The record shall be prepared and transcribed, 163  
and the expense of it shall be taxed as a part of the costs on 164  
the appeal. The appellant shall provide security for costs 165  
satisfactory to the court of common pleas. Upon demand by any 166  
interested party, the agency shall furnish at the cost of the 167  
party requesting it a copy of the stenographic report of 168

testimony offered and evidence submitted at any hearing and a 169  
copy of the complete record. 170

~~(J)~~ (K) Notwithstanding any other provision of this 171  
section, any party desiring to appeal an order or decision of 172  
the state personnel board of review shall, at the time of filing 173  
a notice of appeal with the board, provide a security deposit in 174  
an amount and manner prescribed in rules that the board shall 175  
adopt in accordance with this chapter. In addition, the board is 176  
not required to prepare or transcribe the record of any of its 177  
proceedings unless the appellant has provided the deposit 178  
described above. The failure of the board to prepare or 179  
transcribe a record for an appellant who has not provided a 180  
security deposit shall not cause a court to enter a finding 181  
adverse to the board. 182

~~(K)~~ (L) Unless otherwise provided by law, in the hearing of 183  
the appeal, the court is confined to the record as certified to 184  
it by the agency. Unless otherwise provided by law, the court 185  
may grant a request for the admission of additional evidence 186  
when satisfied that the additional evidence is newly discovered 187  
and could not with reasonable diligence have been ascertained 188  
prior to the hearing before the agency. 189

~~(L)~~ (M) The court shall conduct a hearing on the appeal and 190  
shall give preference to all proceedings under sections 119.01 191  
to 119.13 of the Revised Code, over all other civil cases, 192  
irrespective of the position of the proceedings on the calendar 193  
of the court. An appeal from an order of the state medical board 194  
issued pursuant to division (G) of either section 4730.25 or 195  
4731.22 of the Revised Code, the state chiropractic board issued 196  
pursuant to section 4734.37 of the Revised Code, the liquor 197  
control commission issued pursuant to Chapter 4301. or 4303. of 198

the Revised Code, or the Ohio casino control commission issued 199  
pursuant to Chapter 3772. of the Revised Code shall be set down 200  
for hearing at the earliest possible time and takes precedence 201  
over all other actions. The hearing in the court of common pleas 202  
shall proceed as in the trial of a civil action, and the court 203  
shall determine the rights of the parties in accordance with the 204  
laws applicable to a civil action. At the hearing, counsel may 205  
be heard on oral argument, briefs may be submitted, and evidence 206  
may be introduced if the court has granted a request for the 207  
presentation of additional evidence. 208

~~(M)~~ (N) The court may affirm the order of the agency 209  
complained of in the appeal if it finds, upon consideration of 210  
the entire record and any additional evidence the court has 211  
admitted, that the order is supported by reliable, probative, 212  
and substantial evidence and is in accordance with law. In the 213  
absence of this finding, it may reverse, vacate, or modify the 214  
order or make such other ruling as is supported by reliable, 215  
probative, and substantial evidence and is in accordance with 216  
law. The court shall award compensation for fees in accordance 217  
with section 2335.39 of the Revised Code to a prevailing party, 218  
other than an agency, in an appeal filed pursuant to this 219  
section. 220

~~(N)~~ (O) The judgment of the court shall be final and 221  
conclusive unless reversed, vacated, or modified on appeal. 222  
These appeals may be taken either by the party or the agency, 223  
shall proceed as in the case of appeals in civil actions, and 224  
shall be pursuant to the Rules of Appellate Procedure and, to 225  
the extent not in conflict with those rules, Chapter 2505. of 226  
the Revised Code. An appeal by the agency shall be taken on 227  
questions of law relating to the constitutionality, 228  
construction, or interpretation of statutes and rules of the 229

agency, and, in the appeal, the court may also review and 230  
determine the correctness of the judgment of the court of common 231  
pleas that the order of the agency is not supported by any 232  
reliable, probative, and substantial evidence in the entire 233  
record. 234

The court shall certify its judgment to the agency or take 235  
any other action necessary to give its judgment effect. 236

**Sec. 121.084.** (A) All moneys collected under sections 237  
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 238  
4169.03, and 5104.051, and Chapter 4785. of the Revised Code, 239  
and any other moneys collected by the division of industrial 240  
compliance shall be paid into the state treasury to the credit 241  
of the industrial compliance operating fund, which is hereby 242  
created. The department of commerce shall use the moneys in the 243  
fund for paying the operating expenses of the division and the 244  
administrative assessment described in division (B) of this 245  
section. 246

(B) The director of commerce, with the approval of the 247  
director of budget and management, shall prescribe procedures 248  
for assessing the industrial compliance operating fund a 249  
proportionate share of the administrative costs of the 250  
department of commerce. The assessment shall be made in 251  
accordance with those procedures and be paid from the industrial 252  
compliance operating fund to the division of administration fund 253  
created in section 121.08 of the Revised Code. 254

**Sec. 4105.01.** As used in this chapter: 255

(A) "Elevator" means a hoisting and lowering apparatus 256  
equipped with a car, cage, or platform which moves on or between 257  
permanent rails or guides and serves two or more fixed landings 258

in a building or structure to which section 3781.06 of the Revised Code applies or in a private residence. "Elevator" includes dumb-waiters other than hand-powered dumb-waiters, escalators, manlifts, moving walks, of the endless belt type, other lifting or lowering apparatus permanently installed on or between rails or guides, and all equipment, machinery, and construction related to any elevator; but does not include construction hoists and other similar temporary lifting or lowering apparatuses, ski lifts, chairlifts installed in a private residence, a lifting device installed in a showroom for demonstration purposes only, traveling, portable amusement rides or devices that are not affixed to a permanent foundation, or nonportable amusement rides or devices that are affixed to a permanent foundation.

(B) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity.

(C) "Freight elevator" means an elevator normally used for carrying freight and on which only the operator and employees in the pursuit of their duties, by the permission of the employer, are allowed to ride.

(D) "Gravity elevator" means an elevator utilizing gravity to move.

(E) "General inspector" means a state inspector examined and hired to inspect elevators and lifting apparatus for that state.

(F) "Special inspector" means an inspector examined and commissioned by the superintendent of industrial compliance to inspect elevators and lifting apparatus in the state.

(G) "Inspector" means either a general or special

inspector. 288

(H) "Private residence" has the same meaning as in section 289  
4785.01 of the Revised Code. 290

**Sec. 4105.10.** (A) Except as provided in division (B) of 291  
this section, elevators shall be inspected in accordance with 292  
the following: 293

(1) Every passenger elevator, escalator, moving walk, and 294  
freight elevator, including gravity elevators, shall be 295  
inspected twice every twelve months. 296

~~(B)~~ (2) Power dumb-waiters, hoists, and other lifting or 297  
lowering apparatus, not designed to carry persons, permanently 298  
installed, either on or between rails or guides, shall be 299  
inspected at least once every twelve months. 300

~~(C)~~ (3) The board of building standards may designate, by 301  
rule, classifications of passenger elevators with a capacity of 302  
seven hundred fifty pounds or less that shall be inspected once 303  
every twelve months. 304

(B) Division (A) of this section does not apply to an 305  
elevator installed in a private residence. 306

**Sec. 4105.30.** (A) It shall be the responsibility of the 307  
owner of all conveyances to have an elevator contractor licensed 308  
under Chapter 4785. of the Revised Code ensure that the required 309  
tests are performed at intervals in compliance with the ASME 310  
A17.1/CSA B44 Appendix N, ASME A18.1, and ASCE 21. All tests 311  
shall be performed by an elevator mechanic licensed under 312  
Chapter 4785. of the Revised Code. 313

(B) As used in this section, "ASME A17.1," "ASME A18.1," 314  
"ASCE 21," and "conveyance" have the same meanings as in section 315

<u>4785.01 of the Revised Code.</u>	316
<u>Sec. 4785.01. (A) As used in this chapter:</u>	317
<u>(1) "Automated people mover" means an installation as</u>	318
<u>defined in the automated people mover standards.</u>	319
<u>(2) "Automated people mover standards" means the standards</u>	320
<u>adopted by the American society of civil engineers commonly</u>	321
<u>referred to as ASCE 21.</u>	322
<u>(3) "Belt manlifts safety standards" means the safety</u>	323
<u>standards adopted by the American society of mechanical</u>	324
<u>engineers commonly referred to as ASME A90.1.</u>	325
<u>(4) "Board" means the elevator safety review board, which</u>	326
<u>is within the board of building standards and under the</u>	327
<u>department of commerce.</u>	328
<u>(5) "Business entity" includes a sole proprietorship,</u>	329
<u>partnership, and corporation.</u>	330
<u>(6) "Cableways, cranes, derricks, hoists, hooks, jacks,</u>	331
<u>and slings safety standards" means the safety standards adopted</u>	332
<u>by the American society of mechanical engineers commonly</u>	333
<u>referred to as ASME B30.</u>	334
<u>(7) "Conveyance" means any means of transportation subject</u>	335
<u>to the jurisdiction of this chapter, as described in division</u>	336
<u>(A) of section 4785.02 of the Revised Code.</u>	337
<u>(8) "Conveyance services" means erecting, constructing,</u>	338
<u>installing, altering, servicing, repairing, dismantling,</u>	339
<u>removing, or maintaining a conveyance.</u>	340
<u>(9) "Conveyors, cableways, and related equipment safety</u>	341
<u>code" means the safety code adopted by the American society of</u>	342

<u>mechanical engineers commonly referred to as ASME B20.1.</u>	343
<u>(10) "Division" means the division of industrial</u>	344
<u>compliance located within the department of commerce.</u>	345
<u>(11) "Elevator" means a conveyance defined as an elevator</u>	346
<u>in the elevators and escalators safety code and the platform</u>	347
<u>lifts and stairway chairlifts safety standards.</u>	348
<u>(12) "Elevator contractor" means any business entity that</u>	349
<u>has been issued an elevator contractor's license under this</u>	350
<u>chapter and that is engaged in the business of providing</u>	351
<u>conveyance services.</u>	352
<u>(13) "Elevator mechanic" means any individual who has been</u>	353
<u>issued an elevator mechanic's license under this chapter.</u>	354
<u>(14) "Elevator mechanic's license" means a license issued</u>	355
<u>by the division authorizing the holder to provide conveyance</u>	356
<u>services and perform electrical work on conveyances.</u>	357
<u>(15) "Elevators and escalators safety code" means the</u>	358
<u>safety code adopted by the American society of mechanical</u>	359
<u>engineers commonly referred to as ASME A17.1/CSA B44.</u>	360
<u>(16) "Escalator" means a conveyance defined as an</u>	361
<u>escalator in the elevators and escalators safety code.</u>	362
<u>(17) "Material alteration" means an alteration, as defined</u>	363
<u>in the standards related to the item altered.</u>	364
<u>(18) "Material hoists safety requirements" means the</u>	365
<u>safety requirements adopted by the American national standards</u>	366
<u>institute commonly referred to as ANSI/ASSP A10.5.</u>	367
<u>(19) "Moving walk" means a moving walk as defined in the</u>	368
<u>elevators and escalators safety code.</u>	369

(20) "Platform lifts and stairway chairlifts safety standards" means the safety standard adopted by the American society of mechanical engineers commonly referred to as ASME A18.1. 370  
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(21) "Powered industrial trucks safety standards" means the safety standards adopted by the American national standards institute commonly referred to as ANSI/ITSDF B56. 374  
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(22) "Powered platforms for building maintenance safety standards" means the standards adopted by the American society of mechanical engineers commonly referred to as ASME 120.1. 377  
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(23) "Private residence" means a distinct building or a unit in a multiple dwelling building that is occupied by members of a single-family unit. 380  
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(24) "Repair" means a repair as defined in the appropriate reference standard that does not require a permit. 383  
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(25) "Superintendent" means the superintendent of industrial compliance. 385  
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(26) "Vehicle-mounted elevating and rotating work platforms standards" means the standards adopted by the American national standards institute and commonly referred to as ANSI/SAIA A92. 387  
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(B) For any term found in this chapter that is not defined in this section, the corresponding definition found in the appropriate standard shall be used. 391  
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(C) If a standard referenced in this chapter is replaced by a successor standard, then that successor shall be referenced for purposes of interpreting this chapter. 394  
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Sec. 4785.02. (A) This chapter shall be used to regulate 397

<u>the individuals and entities performing construction, testing,</u>	398
<u>maintenance, alteration, and repair of the following equipment,</u>	399
<u>associated parts, and hoistways:</u>	400
<u>(1) Hoisting and lowering mechanisms equipped with a car</u>	401
<u>or platform that moves between two or more landings, including</u>	402
<u>both of the following:</u>	403
<u>(a) Elevators;</u>	404
<u>(b) Platform lifts.</u>	405
<u>(2) Power-driven stairways and walkways for carrying</u>	406
<u>persons between landings, including both of the following:</u>	407
<u>(a) Escalators;</u>	408
<u>(b) Moving walks.</u>	409
<u>(3) Hoisting and lowering mechanisms equipped with a car</u>	410
<u>that serves two or more landings and is restricted to the</u>	411
<u>carrying of material by its limited size or limited access to</u>	412
<u>the car, including both of the following:</u>	413
<u>(a) Dumbwaiters;</u>	414
<u>(b) Material lifts and dumbwaiters with automatic transfer</u>	415
<u>devices.</u>	416
<u>(4) Automatic guided transit vehicles on guideways with an</u>	417
<u>exclusive right-of-way, including automated people movers.</u>	418
<u>(B) This chapter shall not be used to regulate any of the</u>	419
<u>following:</u>	420
<u>(1) Material hoists within the scope of the material</u>	421
<u>hoists safety requirements;</u>	422
<u>(2) Manlifts within the scope of the belt manlifts safety</u>	423

<u>standards;</u>	424
<u>(3) Mobile scaffolds, towers, and platforms within the</u>	425
<u>scope of the vehicle-mounted elevating and rotating work</u>	426
<u>platforms standards;</u>	427
<u>(4) Powered platforms and equipment for exterior and</u>	428
<u>interior maintenance within the scope of the powered platforms</u>	429
<u>for building maintenance safety standards;</u>	430
<u>(5) Conveyors and related equipment within the scope of</u>	431
<u>the conveyors, cableways, and related equipment safety code;</u>	432
<u>(6) Cranes, derricks, hoists, hooks, jacks, and slings</u>	433
<u>within the scope of cableways, cranes, derricks, hoists, hooks,</u>	434
<u>jacks, and slings safety standards;</u>	435
<u>(7) Industrial trucks within the scope of the powered</u>	436
<u>industrial trucks safety standards;</u>	437
<u>(8) Portable equipment, except for portable escalators</u>	438
<u>which are covered by the elevators and escalators safety code;</u>	439
<u>(9) Tiering or piling machines used to move materials to</u>	440
<u>and from storage located and operating entirely within one</u>	441
<u>story;</u>	442
<u>(10) Equipment for feeding or positioning materials at</u>	443
<u>machine tools, printing presses, and similar machines;</u>	444
<u>(11) Skip or furnace hoists;</u>	445
<u>(12) Wharf ramps;</u>	446
<u>(13) Railroad car lifts or dumpers;</u>	447
<u>(14) Line jacks, false cars, shafters, moving platforms,</u>	448
<u>and similar equipment used for installing an elevator by a</u>	449
<u>contractor licensed in this state;</u>	450

<u>(15) Chairlifts;</u>	451
<u>(16) Any conveyance installed in a showroom that is for demonstration purposes only.</u>	452 453
<u>Sec. 4785.03. (A) Except as provided in divisions (C) and (D) of this section, no individual shall provide conveyance services in buildings or structures unless that individual is a licensed elevator mechanic and one of the following applies:</u>	454 455 456 457
<u>(1) The elevator mechanic is working for a licensed elevator contractor.</u>	458 459
<u>(2) The elevator mechanic is a sole proprietor who holds an elevator contractor's license.</u>	460 461
<u>(3) The elevator mechanic is a member of a partnership that holds an elevator contractor's license.</u>	462 463
<u>(B) (1) No individual shall wire any conveyance, from the mainline feeder terminals on the controller, unless that individual is a licensed elevator mechanic and one of the following applies:</u>	464 465 466 467
<u>(a) The elevator mechanic is working for a licensed elevator contractor.</u>	468 469
<u>(b) The elevator mechanic is a sole proprietor who holds an elevator contractor's license.</u>	470 471
<u>(c) The elevator mechanic is a member of a partnership that holds an elevator contractor's license.</u>	472 473
<u>(2) No other license shall be required to wire a conveyance.</u>	474 475
<u>(C) An individual or business entity providing conveyance services, including wiring a conveyance, exclusively in private</u>	476 477

residences shall not be required to obtain a license under this 478  
chapter. 479

(D)(1) Except as provided in division (D)(2) of this 480  
section, an individual or business entity shall not dismantle a 481  
conveyance unless licensed under this chapter. 482

(2) Division (D)(1) of this section does not apply to a 483  
conveyance that is to be destroyed as a result of a complete 484  
demolition of a secured building or structure or where the 485  
hoistway or wellway is demolished back to the basic support 486  
structure and where no access is permitted therein. 487

**Sec. 4785.04.** (A) Any business entity wishing to provide 488  
conveyance services shall apply for an elevator contractor's 489  
license with the division of industrial compliance within the 490  
department of commerce on a form provided by the division. 491

(B) Any individual wishing to provide conveyance services 492  
shall apply for an elevator mechanic's license with the division 493  
of industrial compliance on a form provided by the division. 494

(C) An application made under this section shall contain 495  
all of the following: 496

(1)(a) If an applicant is an individual or sole 497  
proprietor, the name, residence address, and business address of 498  
the applicant; 499

(b) If an applicant is a partnership, the name, residence 500  
address, and business address of each partner; 501

(c) If an applicant is a domestic corporation, the name 502  
and business address of the corporation and the name and 503  
residence address of the principal officer of the corporation; 504

(d) If the applicant is a corporation other than a 505

domestic corporation, the name and address of an agent located 506  
in this state who shall be authorized to accept service of 507  
process and official notices. 508

(2) The number of years the applicant has engaged in the 509  
business of conveyance services; 510

(3) If the applicant is applying for an elevator 511  
contractor's license, both of the following: 512

(a) The approximate number of individuals, if any, to be 513  
employed by the applicant, and if applicable, satisfactory 514  
evidence that the employees are or will be covered by workers' 515  
compensation insurance in accordance with section 4785.07 of the 516  
Revised Code; 517

(b) Satisfactory evidence that the applicant and all 518  
employees are, or will be, covered by general liability, 519  
personal injury, and property damage insurance in accordance 520  
with section 4785.07 of the Revised Code. 521

(4) A description of the criminal convictions and pleas of 522  
guilty of the applicants and each employee, if any, as verified 523  
by a criminal records check; 524

(5) Such other information as the division considers 525  
appropriate. 526

(D) The division may issue an elevator mechanic's license 527  
to an applicant only if that applicant has demonstrated one of 528  
the following qualifications: 529

(1) An acceptable combination of documented experience and 530  
education credits, as follows: 531

(a) Not less than three years of work experience in the 532  
elevator industry, in construction, maintenance, service, 533

repair, or any combination thereof, as verified by current and 534  
previous employers licensed to do business in this state; 535

(b) Satisfactory completion of a written examination 536  
administered by the division, or by a testing agency approved by 537  
the division, on the most recent referenced codes and standards. 538

(2) (a) Acceptable proof that the applicant has worked as 539  
an elevator construction, maintenance, or repair person, 540  
consisting of having worked without direct and immediate 541  
supervision for an elevator contractor authorized to do business 542  
in this state for a period of not less than three years 543  
immediately prior to the effective date of this section; 544

(b) An applicant seeking to establish qualifications 545  
pursuant to division (D) (2) (a) of this section shall apply 546  
within one year of the effective date of this section. 547

(3) A certificate of completion or other evidence of 548  
having successfully passed the mechanic examination of a 549  
nationally recognized training program for the elevator 550  
industry, such as the national elevator industry educational 551  
program or the certified elevator technician program of the 552  
national association of elevator contractors; 553

(4) A certificate of completion of an apprenticeship 554  
program for elevator mechanics that has standards substantially 555  
equal to those of this chapter and is registered with the bureau 556  
of apprenticeship and training, United States department of 557  
labor, or a state apprenticeship council; 558

(5) A valid license from a state having standards 559  
substantially equal to those of this chapter, upon application 560  
and without examination. 561

(E) The division shall not issue an elevator mechanic's 562

<u>license to any applicant to which any of the following apply:</u>	563
<u>(1) The applicant has been convicted of or pleaded guilty</u>	564
<u>or no contest to a crime of moral turpitude or disqualifying</u>	565
<u>offense as those terms are defined in section 4776.10 of the</u>	566
<u>Revised Code and the rules adopted pursuant to division (A) (2)</u>	567
<u>of section 4785.08 of the Revised Code.</u>	568
<u>(2) The applicant has violated any provision of this</u>	569
<u>chapter.</u>	570
<u>(3) The applicant has violated any rule adopted pursuant</u>	571
<u>to this chapter.</u>	572
<u>(4) The applicant has demonstrated incompetence or</u>	573
<u>untrustworthiness.</u>	574
<u>(5) The applicant has engaged in fraud, misrepresentation,</u>	575
<u>or deception in the conduct of business.</u>	576
<u>(6) The applicant has obtained or attempted to obtain a</u>	577
<u>license or renewal of such license pursuant to this chapter by</u>	578
<u>means of fraud, deception, or misrepresentation.</u>	579
<u>(7) The applicant has obtained or attempted to obtain an</u>	580
<u>order, ruling, or authorization from the division of industrial</u>	581
<u>compliance by means of fraud or misrepresentation.</u>	582
<u>(F) (1) The division may issue an elevator contractor's</u>	583
<u>license to a business entity only if the applicant has in its</u>	584
<u>employ a licensed elevator mechanic and has proof of compliance</u>	585
<u>with the insurance requirements prescribed in section 4785.07 of</u>	586
<u>the Revised Code.</u>	587
<u>(2) The division may issue an elevator contractor's</u>	588
<u>license to an applicant that holds a valid license from a state</u>	589
<u>having standards substantially equal to those of this chapter.</u>	590

(G) Upon approval of an application made under this 591  
section, the division shall issue a license to the applicant. 592

(H) Any license issued under this section shall be valid 593  
for a period of two years and may be renewed. 594

**Sec. 4785.041.** (A) The division may renew a license issued 595  
under section 4785.04 of the Revised Code if the licensee does 596  
all of the following: 597

(1) Submits an application for license renewal on a form 598  
prescribed by the division; 599

(2) Pays the license renewal fee established by the 600  
division; 601

(3) If the licensee is an elevator mechanic, submits 602  
evidence that the applicant has completed the continuing 603  
education coursework described in division (B) of this section; 604

(4) If the license is an elevator contractor's license, 605  
submits proof that the applicant is in compliance with the 606  
insurance requirements prescribed in section 4785.07 of the 607  
Revised Code. 608

(B) The continuing education courses described in division 609  
(A) (3) of this section shall: 610

(1) Instruct licensees on new and existing rules and 611  
standards adopted by the division; 612

(2) Consist of not less than eight hours of instruction; 613

(3) Be attended and completed within one year immediately 614  
preceding the scheduled date for the license renewal; 615

(4) Be taught by instructors through continuing education 616  
providers approved by the division. 617

(C) A continuing education instructor shall be exempt from 618  
the continuing education requirement prescribed in division (A) 619  
(3) of this section, provided that any such applicant was 620  
qualified as an instructor at any time during the year 621  
immediately preceding the scheduled date for the license 622  
renewal. 623

(D) (1) A licensee who is unable to complete the continuing 624  
education coursework required under this section prior to the 625  
expiration of the licensee's license due to a temporary 626  
disability may apply for a temporary continuing education waiver 627  
from the division. 628

(2) An application for a temporary continuing education 629  
waiver shall be made in a form prescribed by the division, which 630  
shall be signed by the applicant under the penalty of perjury 631  
and accompanied by a certified statement from a competent 632  
physician attesting to the temporary disability. If the division 633  
grants the waiver, the licensee's license does not expire but is 634  
placed on inactive status. 635

(3) Upon the termination of the temporary disability, the 636  
licensee shall submit to the division a certified statement from 637  
the same physician, if practicable, attesting to the termination 638  
of the temporary disability. The division shall then take the 639  
licensee's license off inactive status and shall issue a waiver 640  
sticker, valid for ninety days, to the licensee and affix the 641  
sticker to the license. The licensee may then perform the tasks 642  
the license authorizes the licensee to perform but the licensee 643  
shall meet the continuing education requirement during this 644  
ninety-day period or be considered to have not met the 645  
continuing education requirement and the license shall be deemed 646  
to be expired. 647

(E) (1) Approved continuing education providers shall keep uniform records, for a period of ten years, of attendance of licensees in a format approved by the division. Such records shall be available for inspection by the division upon request. 648  
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(2) Approved training providers shall be responsible for the security of all attendance records and certificates of completion, provided, however, that falsifying or knowingly allowing another to falsify such attendance records or certificates of completion shall constitute grounds for suspension or revocation of a continuing education provider's division approval. 652  
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(F) The division shall not renew the license of any individual or entity that fails to meet the standard prescribed in division (E) of section 4785.04 of the Revised Code. 659  
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**Sec. 4785.05.** (A) Whenever the division determines that an emergency exists due to disaster, act of God, or work stoppage, and the number of individuals in the state holding elevator mechanic's licenses issued by the division is insufficient to cope with the emergency, the division shall declare such a state of emergency and respond as prescribed in this section to assure the safety of the public. 662  
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(B) Notwithstanding section 4785.03 of the Revised Code, during such a state of emergency, any individual found by a licensed elevator contractor to have an acceptable combination of documented experience and education to perform conveyance services without direct and immediate supervision may perform conveyance services without an elevator mechanic's license, as provided in this section. 669  
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(C) Such an individual shall seek an emergency elevator 676

mechanic's license from the division within five business days 677  
after commencing work that would otherwise require an elevator 678  
mechanic's license. 679

(D) An elevator contractor associated with an individual 680  
seeking an emergency elevator mechanic's license shall furnish 681  
proof of competency as the division may require. 682

(E) (1) An emergency elevator mechanic's license shall be 683  
valid for a period of forty-five days from the date of issuance. 684

(2) The division may restrict the validity of an emergency 685  
elevator mechanic's license to a particular conveyance or 686  
geographical area as the division sees fit, but shall otherwise 687  
entitle the licensee to the rights and privileges of an elevator 688  
mechanic's license issued pursuant to this chapter. 689

(F) The division may renew an emergency elevator 690  
mechanic's license for the duration of a state of emergency. 691

(G) No fee shall be charged for any emergency elevator 692  
mechanic's license or renewal thereof. 693

**Sec. 4785.051.** (A) An elevator contractor shall notify the 694  
division when there are no licensed elevator mechanics available 695  
to provide conveyance services and may request that the division 696  
issue temporary elevator mechanic's licenses to individuals 697  
certified by the licensed elevator contractor to have an 698  
acceptable combination of documented experience and education to 699  
provide conveyance services without direct and immediate 700  
supervision. 701

(B) Any individual certified by an elevator contractor to 702  
have an acceptable combination of documented experience and 703  
education to provide conveyance services without direct and 704  
immediate supervision shall immediately seek a temporary 705

elevator mechanic's license from the division and shall pay an 706  
application fee as set by the division. If the division is 707  
satisfied as to the individual's qualifications, the division 708  
shall issue a temporary elevator mechanic's license to the 709  
individual. 710

(C) A temporary license issued under this section shall be 711  
valid only for a specified term set by the division, which shall 712  
be noted on the license, and only while the licensee is employed 713  
by the elevator contractor that certified the individual as 714  
being qualified. 715

(D) A temporary elevator mechanic's license shall be 716  
renewable in accordance with rules adopted by the division. 717

**Sec. 4785.06.** Licensees shall ensure that installation, 718  
service, and maintenance of a conveyance is performed in 719  
accordance with state and local law and with generally accepted 720  
standards referenced in such laws or related rules. 721

When any material alteration is made to a conveyance, the 722  
licensees involved shall ensure that the conveyance adheres to 723  
the appropriate conveyance standard for the alteration. 724

**Sec. 4785.07.** (A) Elevator contractors shall submit to the 725  
division proof of insurance coverage greater than or equal to 726  
the following amounts: 727

(1) One million dollars for injury or death of any number 728  
of individuals in any one occurrence; 729

(2) Five hundred thousand dollars for property damage in 730  
any one occurrence; 731

(3) Workers' compensation insurance coverage. 732

(B) Such proof of insurance shall be delivered to the 733

division before or at the time of the issuance or renewal of a 734  
license. 735

(C) If any policy required under this section is 736  
materially altered or canceled, the elevator contractor covered 737  
by the policy shall give notice of the material alteration or 738  
cancellation to the division at least ten days prior to the 739  
change. 740

**Sec. 4785.08.** (A) In accordance with Chapter 119. of the 741  
Revised Code, the superintendent of industrial compliance shall 742  
adopt rules pertaining to all of the following: 743

(1) The issuance and renewal of elevator mechanic's 744  
licenses and elevator contractor's licenses; 745

(2) A list of disqualifying offenses, pursuant to division 746  
(E) of section 4785.04 of the Revised Code. 747

(B) In accordance with Chapter 119. of the Revised Code, 748  
the superintendent may adopt rules pertaining to all of the 749  
following: 750

(1) Assisting in the development of public awareness 751  
programs; 752

(2) Classifications or subclassifications of licenses for 753  
elevator mechanics and elevator contractors; 754

(3) Monitoring inspections and testing in order to ensure 755  
satisfactory performance by licensees; 756

(4) Fee schedules for elevator mechanic and elevator 757  
contractor licenses. The fees shall reflect the actual costs and 758  
expenses necessary to administer this chapter. 759

(5) Establishing standards for the approval of license 760

<u>testing agencies, pursuant to division (D) (1) (b) of section</u>	761
<u>4785.04 of the Revised Code;</u>	762
<u>(6) Establishing standards for the approval of continuing</u>	763
<u>education and training providers, pursuant to division (B) of</u>	764
<u>section 4785.041 of the Revised Code;</u>	765
<u>(7) Any other rules necessary to administer and carry out</u>	766
<u>this chapter.</u>	767
<u>(C) Notwithstanding divisions (A) and (B) of this section</u>	768
<u>or Chapter 4105. of the Revised Code, the superintendent shall</u>	769
<u>not adopt rules relating to the construction, maintenance, and</u>	770
<u>repair of elevators, except as pertaining to licensing</u>	771
<u>individuals under this chapter.</u>	772
<u>(D) The superintendent may exercise such other powers and</u>	773
<u>duties as are necessary to carry out the purpose and intent of</u>	774
<u>this chapter.</u>	775
<b><u>Sec. 4785.09.</u></b> (A) <u>There is hereby created, within the</u>	776
<u>board of building standards established by section 3781.07 of</u>	777
<u>the Revised Code, the elevator safety review board.</u>	778
<u>(B) The board shall be responsible for investigating</u>	779
<u>violations of this chapter, holding disciplinary administrative</u>	780
<u>hearings, and assessing penalties in accordance with sections</u>	781
<u>4785.091 and 4785.092 of the Revised Code.</u>	782
<u>(C) The board shall consist of the following members:</u>	783
<u>(1) The director of commerce or the director's designee;</u>	784
<u>(2) A representative of the board of building standards;</u>	785
<u>(3) The following individuals, appointed by the governor:</u>	786
<u>(a) One representative of a major elevator manufacturing</u>	787

<u>company;</u>	788
<u>(b) One representative of an elevator servicing company;</u>	789
<u>(c) One representative of the architectural design or elevator consulting profession;</u>	790 791
<u>(d) One representative of the general public;</u>	792
<u>(e) One representative of municipal corporations in this state;</u>	793 794
<u>(f) One representative of building owners or managers;</u>	795
<u>(g) One representative of the building trade, comprised of an individual providing conveyance services.</u>	796 797
<u>(D) The term of those members appointed to the board shall be three years. Vacancies shall be filled in the same manner as the original appointments.</u>	798 799 800
<u>(E) All members of the board shall serve without salary, but shall be reimbursed for all expenses necessary in the performance of their duties.</u>	801 802 803
<u>(F) (1) The governor shall appoint one of the members to serve as chair of the board.</u>	804 805
<u>(2) A majority of the board shall constitute a quorum.</u>	806
<u>(3) The chair shall be the deciding vote in the event of a tie vote.</u>	807 808
<u>(G) (1) The board shall meet and organize within ten days after the appointment of its members and at such meeting shall elect from its members one secretary of the board to serve for a term as prescribed in rules adopted by the board.</u>	809 810 811 812
<u>(2) (a) The board shall meet not less than once a month and</u>	813

as often as the board considers necessary for the consideration 814  
of code regulations, appeals, and variances, and for the 815  
transaction of such other business as properly may come before 816  
it. 817

(b) Special meetings shall be called as prescribed in 818  
rules adopted by the board. 819

(H) The seat of any appointed board member absent from 820  
three consecutive meetings shall be deemed vacant. 821

**Sec. 4785.091.** (A) The elevator safety review board may 822  
suspend or revoke a license issued pursuant to this chapter or 823  
subject the licensee to civil penalty if the board determines 824  
that one or more of the following applies to the licensee: 825

(1) The licensee has been convicted of or pleaded guilty 826  
to a crime of moral turpitude or disqualifying offense as those 827  
terms are defined in section 4776.10 of the Revised Code and 828  
rules adopted pursuant to division (A) (2) of section 4785.08 of 829  
the Revised Code. 830

(2) The licensee has violated any provision of this 831  
chapter. 832

(3) The licensee has violated any rule adopted pursuant to 833  
this chapter. 834

(4) The licensee has demonstrated incompetence or 835  
untrustworthiness. 836

(5) The licensee has engaged in fraud, misrepresentation, 837  
or deception in the conduct of business. 838

(6) The licensee has obtained or attempted to obtain a 839  
license or renewal of such license pursuant to this chapter by 840  
means of fraud, deception, or misrepresentation. 841

(7) The licensee has obtained or attempted to obtain an order, ruling, or authorization from the division of industrial compliance by means of fraud or misrepresentation. 842  
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(B)(1) An administrative action taken under division (A) of this section shall be made only after a hearing held by the board in accordance with Chapter 119. of the Revised Code. 845  
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(2) Notice of such a hearing shall be provided to the licensee in question at least ten days prior to the hearing at the last known address appearing on the license, served personally or by registered mail. 848  
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The notice shall state the date, hour, and place of the hearing and set forth a statement of facts constituting the grounds for the charges against the licensee. 852  
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**Sec. 4785.092.** (A)(1) Any individual may request an investigation into an alleged violation of this chapter by giving notice to the elevator safety review board of a potential violation or danger. 855  
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(2) Such notice shall be in writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the individual making the request. 859  
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(3) Upon the request of any individual signing the notice, the individual's name shall not appear on any copy of such notice or any record published, released, or made available. 862  
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(B)(1) If, upon receipt of such a request, the board determines that there are reasonable grounds to believe that the violation or danger exists, the board shall investigate whether or not a violation or danger exists. 865  
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(2) If the board determines that there are no reasonable 869

grounds to believe that a violation or danger exists, the board 870  
shall notify the individual making the request in writing of 871  
that determination. 872

**Sec. 4785.99.** Whoever recklessly violates any of the 873  
provisions of this chapter shall be fined not more than one 874  
thousand five hundred dollars, sentenced to a jail term not 875  
exceeding thirty days, or both. 876

**Section 2.** That existing sections 119.12, 121.084, 877  
4105.01, and 4105.10 of the Revised Code are hereby repealed. 878

**Section 3.** The General Assembly's intent in enacting this 879  
act is to provide for the safety of installers, maintainers, and 880  
users of elevators and other conveyances, as well as to promote 881  
public safety awareness regarding the same. The use of unsafe 882  
and defective lifting devices imposes a substantial probability 883  
of serious and preventable injury to employees and the public. 884  
The prevention of these injuries and protection of employees and 885  
the public from unsafe conditions is in the best interest of the 886  
people of this state. Elevator personnel performing work covered 887  
by this act shall, by documented training, experience, or both, 888  
be familiar with the operation and safety functions of the 889  
components and equipment. Training and experience shall 890  
guarantee the ability to recognize the safety hazards and 891  
perform the procedures to which they are assigned in conformance 892  
with the requirements of this act. This act shall be considered 893  
the minimum standard for elevator and conveyance personnel. 894

**Section 4.** Section 119.12 of the Revised Code is presented 895  
in this act as a composite of the section as amended by both Am. 896  
Sub. H.B. 52 and Am. Sub. H.B. 64 of the 131st General Assembly. 897  
The General Assembly, applying the principle stated in division 898  
(B) of section 1.52 of the Revised Code that amendments are to 899

be harmonized if reasonably capable of simultaneous operation,	900
finds that the composite is the resulting version of the section	901
in effect prior to the effective date of the section as	902
presented in this act.	903