

As Introduced

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H. B. No. 289

Representative Baldrige

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

A BILL

To amend sections 119.12, 121.084, 4105.01, 1
4105.10, and 4105.15 and to enact sections 2
4105.101, 4105.30, 4785.01, 4785.02, 4785.03, 3
4785.04, 4785.041, 4785.05, 4785.051, 4785.06, 4
4785.07, 4785.08, 4785.09, 4785.091, 4785.092, 5
and 4785.99 of the Revised Code to revise the 6
Elevator Law. 7

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

Section 1. That sections 119.12, 121.084, 4105.01, 8
4105.10, and 4105.15 be amended and sections 4105.101, 4105.30, 9
4785.01, 4785.02, 4785.03, 4785.04, 4785.041, 4785.05, 4785.051, 10
4785.06, 4785.07, 4785.08, 4785.09, 4785.091, 4785.092, and 11
4785.99 of the Revised Code be enacted to read as follows: 12

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

forfeiture under section 4301.252 of the Revised Code, or 19
imposing a civil penalty under section 4785.091 of the Revised 20
Code may appeal from the order of the agency to the court of 21
common pleas of the county in which the place of business of the 22
licensee is located or the county in which the licensee is a 23
resident. 24

(2) An appeal from an order described in division (A) (1) 25
of this section issued by any of the following agencies shall be 26
made to the court of common pleas of Franklin county: 27

(a) The liquor control commission; 28

(b) The Ohio casino control commission~~;~~ 29

(c) The state medical board; 30

~~(e)~~ (d) The state chiropractic board; 31

~~(d)~~ (e) The board of nursing; 32

~~(e)~~ (f) The bureau of workers' compensation regarding 33
participation in the health partnership program created in 34
sections 4121.44 and 4121.441 of the Revised Code; 35

(g) The elevator safety review board. 36

(3) If any party appealing from an order described in 37
division (A) (1) of this section is not a resident of and has no 38
place of business in this state, the party may appeal to the 39
court of common pleas of Franklin county. 40

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

county in which the building of the aggrieved person is located 46
and except that appeals under division (B) of section 124.34 of 47
the Revised Code from a decision of the state personnel board of 48
review or a municipal or civil service township civil service 49
commission shall be taken to the court of common pleas of the 50
county in which the appointing authority is located or, in the 51
case of an appeal by the department of rehabilitation and 52
correction, to the court of common pleas of Franklin county. 53

(C) This section does not apply to appeals from the 54
department of taxation. 55

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

2010, but not earlier than May 7, 2009, which was the date the 77
supreme court of Ohio released its opinion and judgment in 78
Medcorp, Inc. v. Ohio Dep't. of Job and Family Servs. (2009), 79
121 Ohio St.3d 622. 80

(E) The filing of a notice of appeal shall not 81
automatically operate as a suspension of the order of an agency. 82
If it appears to the court that an unusual hardship to the 83
appellant will result from the execution of the agency's order 84
pending determination of the appeal, the court may grant a 85
suspension and fix its terms. If an appeal is taken from the 86
judgment of the court and the court has previously granted a 87
suspension of the agency's order as provided in this section, 88
the suspension of the agency's order shall not be vacated and 89
shall be given full force and effect until the matter is finally 90
adjudicated. No renewal of a license or permit shall be denied 91
by reason of the suspended order during the period of the appeal 92
from the decision of the court of common pleas. In the case of 93
an appeal from the Ohio casino control commission, the state 94
medical board, or the state chiropractic board, the court may 95
grant a suspension and fix its terms if it appears to the court 96
that an unusual hardship to the appellant will result from the 97
execution of the agency's order pending determination of the 98
appeal and the health, safety, and welfare of the public will 99
not be threatened by suspension of the order. This provision 100
shall not be construed to limit the factors the court may 101
consider in determining whether to suspend an order of any other 102
agency pending determination of an appeal. 103

(F) The final order of adjudication may apply to any 104
renewal of a license or permit which has been granted during the 105
period of the appeal. 106

(G) Notwithstanding any other provision of this section, 107
any order issued by a court of common pleas or a court of 108
appeals suspending the effect of an order of the liquor control 109
commission issued pursuant to Chapter 4301. or 4303. of the 110
Revised Code that suspends, revokes, or cancels a permit issued 111
under Chapter 4303. of the Revised Code or that allows the 112
payment of a forfeiture under section 4301.252 of the Revised 113
Code shall terminate not more than six months after the date of 114
the filing of the record of the liquor control commission with 115
the clerk of the court of common pleas and shall not be 116
extended. The court of common pleas, or the court of appeals on 117
appeal, shall render a judgment in that matter within six months 118
after the date of the filing of the record of the liquor control 119
commission with the clerk of the court of common pleas. A court 120
of appeals shall not issue an order suspending the effect of an 121
order of the liquor control commission that extends beyond six 122
months after the date on which the record of the liquor control 123
commission is filed with a court of common pleas. 124

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

the date of the filing of the record of the Ohio casino control 138
commission with the clerk of the court of common pleas. A court 139
of appeals shall not issue an order suspending the effect of an 140
order of the Ohio casino control commission that extends beyond 141
six months after the date on which the record of the Ohio casino 142
control commission is filed with the clerk of a court of common 143
pleas. 144

(I) Notwithstanding any other provision of this section, 145
any order issued by a court of common pleas suspending the 146
effect of an order of the state medical board or state 147
chiropractic board that limits, revokes, suspends, places on 148
probation, or refuses to register or reinstate a certificate 149
issued by the board or reprimands the holder of the certificate 150
shall terminate not more than fifteen months after the date of 151
the filing of a notice of appeal in the court of common pleas, 152
or upon the rendering of a final decision or order in the appeal 153
by the court of common pleas, whichever occurs first. 154

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

party requesting it a copy of the stenographic report of 169
testimony offered and evidence submitted at any hearing and a 170
copy of the complete record. 171

~~(J)~~ (K) Notwithstanding any other provision of this 172
section, any party desiring to appeal an order or decision of 173
the state personnel board of review shall, at the time of filing 174
a notice of appeal with the board, provide a security deposit in 175
an amount and manner prescribed in rules that the board shall 176
adopt in accordance with this chapter. In addition, the board is 177
not required to prepare or transcribe the record of any of its 178
proceedings unless the appellant has provided the deposit 179
described above. The failure of the board to prepare or 180
transcribe a record for an appellant who has not provided a 181
security deposit shall not cause a court to enter a finding 182
adverse to the board. 183

~~(K)~~ (L) Unless otherwise provided by law, in the hearing of 184
the appeal, the court is confined to the record as certified to 185
it by the agency. Unless otherwise provided by law, the court 186
may grant a request for the admission of additional evidence 187
when satisfied that the additional evidence is newly discovered 188
and could not with reasonable diligence have been ascertained 189
prior to the hearing before the agency. 190

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

control commission issued pursuant to Chapter 4301. or 4303. of 199
the Revised Code, or the Ohio casino control commission issued 200
pursuant to Chapter 3772. of the Revised Code shall be set down 201
for hearing at the earliest possible time and takes precedence 202
over all other actions. The hearing in the court of common pleas 203
shall proceed as in the trial of a civil action, and the court 204
shall determine the rights of the parties in accordance with the 205
laws applicable to a civil action. At the hearing, counsel may 206
be heard on oral argument, briefs may be submitted, and evidence 207
may be introduced if the court has granted a request for the 208
presentation of additional evidence. 209

~~(M)~~ (N) The court may affirm the order of the agency 210
complained of in the appeal if it finds, upon consideration of 211
the entire record and any additional evidence the court has 212
admitted, that the order is supported by reliable, probative, 213
and substantial evidence and is in accordance with law. In the 214
absence of this finding, it may reverse, vacate, or modify the 215
order or make such other ruling as is supported by reliable, 216
probative, and substantial evidence and is in accordance with 217
law. The court shall award compensation for fees in accordance 218
with section 2335.39 of the Revised Code to a prevailing party, 219
other than an agency, in an appeal filed pursuant to this 220
section. 221

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

construction, or interpretation of statutes and rules of the 230
agency, and, in the appeal, the court may also review and 231
determine the correctness of the judgment of the court of common 232
pleas that the order of the agency is not supported by any 233
reliable, probative, and substantial evidence in the entire 234
record. 235

The court shall certify its judgment to the agency or take 236
any other action necessary to give its judgment effect. 237

Sec. 121.084. (A) All moneys collected under sections 238
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 239
4169.03, and 5104.051, and Chapter 4785. of the Revised Code, 240
and any other moneys collected by the division of industrial 241
compliance shall be paid into the state treasury to the credit 242
of the industrial compliance operating fund, which is hereby 243
created. The department of commerce shall use the moneys in the 244
fund for paying the operating expenses of the division and the 245
administrative assessment described in division (B) of this 246
section. 247

(B) The director of commerce, with the approval of the 248
director of budget and management, shall prescribe procedures 249
for assessing the industrial compliance operating fund a 250
proportionate share of the administrative costs of the 251
department of commerce. The assessment shall be made in 252
accordance with those procedures and be paid from the industrial 253
compliance operating fund to the division of administration fund 254
created in section 121.08 of the Revised Code. 255

Sec. 4105.01. As used in this chapter: 256

(A) "Elevator" means a hoisting and lowering apparatus 257
equipped with a car, cage, or platform which moves on or between 258

permanent rails or guides and serves two or more fixed landings 259
in a building or structure to which section 3781.06 of the 260
Revised Code applies or in a private residence. "Elevator" 261
includes dumb-waiters other than hand-powered dumb-waiters, 262
escalators, manlifts, moving walks, of the endless belt type, 263
other lifting or lowering apparatus permanently installed on or 264
between rails or guides, and all equipment, machinery, and 265
construction related to any elevator; but does not include 266
construction hoists and other similar temporary lifting or 267
lowering apparatuses, ski lifts, chairlifts installed in a 268
private residence, a lifting device installed in a showroom for 269
demonstration purposes only, traveling, portable amusement rides 270
or devices that are not affixed to a permanent foundation, or 271
nonportable amusement rides or devices that are affixed to a 272
permanent foundation. 273

(B) "Passenger elevator" means an elevator that is 274
designed to carry persons to its contract capacity. 275

(C) "Freight elevator" means an elevator normally used for 276
carrying freight and on which only the operator and employees in 277
the pursuit of their duties, by the permission of the employer, 278
are allowed to ride. 279

(D) "Gravity elevator" means an elevator utilizing gravity 280
to move. 281

(E) "General inspector" means a state inspector examined 282
and hired to inspect elevators and lifting apparatus for that 283
state. 284

(F) "Special inspector" means an inspector examined and 285
commissioned by the superintendent of industrial compliance to 286
inspect elevators and lifting apparatus in the state. 287

(G) "Inspector" means either a general or special inspector.	288 289
<u>(H) "Private residence" has the same meaning as in section 4785.01 of the Revised Code.</u>	290 291
Sec. 4105.10. (A) <u>Except as provided in division (B) of this section, elevators shall be inspected in accordance with the following:</u>	292 293 294
<u>(1) Every passenger elevator, escalator, moving walk, and freight elevator, including gravity elevators, shall be inspected twice every twelve months.</u>	295 296 297
(B) <u>(2) Power dumb-waiters, hoists, and other lifting or lowering apparatus, not designed to carry persons, permanently installed, either on or between rails or guides, shall be inspected at least once every twelve months.</u>	298 299 300 301
(C) <u>(3) The board of building standards may designate, by rule, classifications of passenger elevators with a capacity of seven hundred fifty pounds or less that shall be inspected once every twelve months.</u>	302 303 304 305
<u>(B) (1) Division (A) of this section does not apply to an elevator installed in a private residence. Such elevators shall only be inspected for the initial certificate of inspection as provided in section 4105.15 of the Revised Code and pursuant to division (B) (2) of this section.</u>	306 307 308 309 310
<u>(2) If title to a private residence containing an elevator is to be transferred, then that elevator shall be inspected and its certificate of operation shall be renewed not more than sixty days prior to the date of the sale.</u>	311 312 313 314
Sec. 4105.101. (A) <u>Upon completion of an inspection of an</u>	315

elevator installed in a private residence, the inspector shall 316
provide to the owner of that residence a notice informing the 317
owner of the hazards of altering or repairing an elevator and 318
the liability that the owner could potentially face for making 319
such an alteration or repair without the proper training or 320
license. 321

(B) The owner of the elevator shall acknowledge receiving 322
the notification required under this section via signature. 323

(C) The division of industrial compliance shall adopt the 324
exact form of such a notification in rule. 325

Sec. 4105.15. (A) No certificate of operation for any 326
elevator shall be issued by the director of commerce until such 327
elevator has been inspected as required by this chapter. 328
Certificates 329

(B) (1) Except as provided in division (B) (2) of this 330
section, certificates of operation shall be renewed by the owner 331
or user of the elevator in accordance with rules adopted by the 332
superintendent of industrial compliance pursuant to section 333
4105.12 of the Revised Code. 334

(2) A certificate of operation provided to the owner of an 335
elevator installed in a private residence need not be renewed, 336
except as provided in division (B) (2) of section 4105.10 of the 337
Revised Code. 338

Sec. 4105.30. (A) It shall be the responsibility of the 339
owner of all conveyances to have an elevator contractor licensed 340
under Chapter 4785. of the Revised Code ensure that the required 341
tests are performed at intervals in compliance with the ASME 342
A17.1/CSA B44 Appendix N, ASME A18.1, and ASCE 21. All tests 343
shall be performed by an elevator mechanic licensed under 344

<u>Chapter 4785. of the Revised Code.</u>	345
<u>(B) As used in this section, "ASME A17.1," "ASME A18.1,"</u>	346
<u>"ASCE 21," and "conveyance" have the same meanings as in section</u>	347
<u>4785.01 of the Revised Code.</u>	348
<u>Sec. 4785.01. (A) As used in this chapter:</u>	349
<u>(1) "Automated people mover" means an installation as</u>	350
<u>defined in the automated people mover standards.</u>	351
<u>(2) "Automated people mover standards" means the standards</u>	352
<u>adopted by the American society of civil engineers commonly</u>	353
<u>referred to as ASCE 21.</u>	354
<u>(3) "Belt manlifts safety standards" means the safety</u>	355
<u>standards adopted by the American society of mechanical</u>	356
<u>engineers commonly referred to as ASME A90.1.</u>	357
<u>(4) "Board" means the elevator safety review board, which</u>	358
<u>is within the board of building standards and under the</u>	359
<u>department of commerce.</u>	360
<u>(5) "Business entity" includes a sole proprietorship,</u>	361
<u>partnership, and corporation.</u>	362
<u>(6) "Cableways, cranes, derricks, hoists, hooks, jacks,</u>	363
<u>and slings safety standards" means the safety standards adopted</u>	364
<u>by the American society of mechanical engineers commonly</u>	365
<u>referred to as ASME B30.</u>	366
<u>(7) "Conveyance" means any means of transportation subject</u>	367
<u>to the jurisdiction of this chapter, as described in division</u>	368
<u>(A) of section 4785.02 of the Revised Code.</u>	369
<u>(8) "Conveyance services" means erecting, constructing,</u>	370
<u>installing, altering, servicing, repairing, dismantling,</u>	371

<u>removing, or maintaining a conveyance.</u>	372
<u>(9) "Conveyors, cableways, and related equipment safety code" means the safety code adopted by the American society of mechanical engineers commonly referred to as ASME B20.1.</u>	373 374 375
<u>(10) "Division" means the division of industrial compliance located within the department of commerce.</u>	376 377
<u>(11) "Elevator" means a conveyance defined as an elevator in the elevators and escalators safety code and the platform lifts and stairway chairlifts safety standards.</u>	378 379 380
<u>(12) "Elevator contractor" means any business entity that has been issued an elevator contractor's license under this chapter and that is engaged in the business of providing conveyance services.</u>	381 382 383 384
<u>(13) "Elevator mechanic" means any individual who has been issued an elevator mechanic's license under this chapter.</u>	385 386
<u>(14) "Elevator mechanic's license" means a license issued by the division authorizing the holder to provide conveyance services and perform electrical work on conveyances.</u>	387 388 389
<u>(15) "Elevators and escalators safety code" means the safety code adopted by the American society of mechanical engineers commonly referred to as ASME A17.1/CSA B44.</u>	390 391 392
<u>(16) "Escalator" means a conveyance defined as an escalator in the elevators and escalators safety code.</u>	393 394
<u>(17) "Material alteration" means an alteration, as defined in the standards related to the item altered.</u>	395 396
<u>(18) "Material hoists safety requirements" means the safety requirements adopted by the American national standards</u>	397 398

<u>institute commonly referred to as ANSI/ASSP A10.5.</u>	399
<u>(19) "Moving walk" means a moving walk as defined in the elevators and escalators safety code.</u>	400 401
<u>(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.</u>	402 403 404 405
<u>(21) "Powered industrial trucks safety standards" means the safety standards adopted by the American national standards institute commonly referred to as ANSI/ITSDF B56.</u>	406 407 408
<u>(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.</u>	409 410 411
<u>(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.</u>	412 413 414
<u>(24) "Repair" means a repair as defined in the appropriate reference standard that does not require a permit.</u>	415 416
<u>(25) "Superintendent" means the superintendent of industrial compliance.</u>	417 418
<u>(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.</u>	419 420 421 422
<u>(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.</u>	423 424 425

(C) If a standard referenced in this chapter is replaced 426
by a successor standard, then that successor shall be referenced 427
for purposes of interpreting this chapter. 428

Sec. 4785.02. (A) This chapter shall be used to regulate 429
the individuals and entities performing construction, testing, 430
maintenance, alteration, and repair of the following equipment, 431
associated parts, and hoistways: 432

(1) Hoisting and lowering mechanisms equipped with a car 433
or platform that moves between two or more landings, including 434
both of the following: 435

(a) Elevators; 436

(b) Platform lifts. 437

(2) Power-driven stairways and walkways for carrying 438
persons between landings, including both of the following: 439

(a) Escalators; 440

(b) Moving walks. 441

(3) Hoisting and lowering mechanisms equipped with a car 442
that serves two or more landings and is restricted to the 443
carrying of material by its limited size or limited access to 444
the car, including both of the following: 445

(a) Dumbwaiters; 446

(b) Material lifts and dumbwaiters with automatic transfer 447
devices. 448

(4) Automatic guided transit vehicles on guideways with an 449
exclusive right-of-way, including automated people movers. 450

(B) This chapter shall not be used to regulate any of the 451
following: 452

<u>(1) Material hoists within the scope of the material</u>	453
<u>hoists safety requirements;</u>	454
<u>(2) Manlifts within the scope of the belt manlifts safety</u>	455
<u>standards;</u>	456
<u>(3) Mobile scaffolds, towers, and platforms within the</u>	457
<u>scope of the vehicle-mounted elevating and rotating work</u>	458
<u>platforms standards;</u>	459
<u>(4) Powered platforms and equipment for exterior and</u>	460
<u>interior maintenance within the scope of the powered platforms</u>	461
<u>for building maintenance safety standards;</u>	462
<u>(5) Conveyors and related equipment within the scope of</u>	463
<u>the conveyors, cableways, and related equipment safety code;</u>	464
<u>(6) Cranes, derricks, hoists, hooks, jacks, and slings</u>	465
<u>within the scope of cableways, cranes, derricks, hoists, hooks,</u>	466
<u>jacks, and slings safety standards;</u>	467
<u>(7) Industrial trucks within the scope of the powered</u>	468
<u>industrial trucks safety standards;</u>	469
<u>(8) Portable equipment, except for portable escalators</u>	470
<u>which are covered by the elevators and escalators safety code;</u>	471
<u>(9) Tiering or piling machines used to move materials to</u>	472
<u>and from storage located and operating entirely within one</u>	473
<u>story;</u>	474
<u>(10) Equipment for feeding or positioning materials at</u>	475
<u>machine tools, printing presses, and similar machines;</u>	476
<u>(11) Skip or furnace hoists;</u>	477
<u>(12) Wharf ramps;</u>	478
<u>(13) Railroad car lifts or dumpers;</u>	479

(14) Line jacks, false cars, shafters, moving platforms, 480
and similar equipment used for installing an elevator by a 481
contractor licensed in this state; 482

(15) Chairlifts; 483

(16) Any conveyance installed in a showroom that is for 484
demonstration purposes only. 485

Sec. 4785.03. (A) Except as provided in divisions (C) and 486
(D) of this section, no individual shall provide conveyance 487
services in buildings or structures unless that individual is a 488
licensed elevator mechanic and one of the following applies: 489

(1) The elevator mechanic is working for a licensed 490
elevator contractor. 491

(2) The elevator mechanic is a sole proprietor who holds 492
an elevator contractor's license. 493

(3) The elevator mechanic is a member of a partnership 494
that holds an elevator contractor's license. 495

(B) (1) No individual shall wire any conveyance, from the 496
mainline feeder terminals on the controller, unless that 497
individual is a licensed elevator mechanic and one of the 498
following applies: 499

(a) The elevator mechanic is working for a licensed 500
elevator contractor. 501

(b) The elevator mechanic is a sole proprietor who holds 502
an elevator contractor's license. 503

(c) The elevator mechanic is a member of a partnership 504
that holds an elevator contractor's license. 505

(2) No other license shall be required to wire a 506

conveyance. 507

(C) An individual or business entity providing conveyance services, including wiring a conveyance, exclusively in private residences shall not be required to obtain a license under this chapter. 508
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(D) (1) Except as provided in division (D) (2) of this section, an individual or business entity shall not dismantle a conveyance unless licensed under this chapter. 512
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(2) Division (D) (1) of this section does not apply to a conveyance that is to be destroyed as a result of a complete demolition of a secured building or structure or where the hoistway or wellway is demolished back to the basic support structure and where no access is permitted therein. 515
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Sec. 4785.04. (A) Any business entity wishing to provide conveyance services shall apply for an elevator contractor's license with the division of industrial compliance within the department of commerce on a form provided by the division. 520
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(B) Any individual wishing to provide conveyance services shall apply for an elevator mechanic's license with the division of industrial compliance on a form provided by the division. 524
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(C) An application made under this section shall contain all of the following: 527
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(1) (a) If an applicant is an individual or sole proprietor, the name, residence address, and business address of the applicant; 529
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(b) If an applicant is a partnership, the name, residence address, and business address of each partner; 532
533

(c) If an applicant is a domestic corporation, the name 534

and business address of the corporation and the name and 535
residence address of the principal officer of the corporation; 536

(d) If the applicant is a corporation other than a 537
domestic corporation, the name and address of an agent located 538
in this state who shall be authorized to accept service of 539
process and official notices. 540

(2) The number of years the applicant has engaged in the 541
business of conveyance services; 542

(3) If the applicant is applying for an elevator 543
contractor's license, both of the following: 544

(a) The approximate number of individuals, if any, to be 545
employed by the applicant, and if applicable, satisfactory 546
evidence that the employees are or will be covered by workers' 547
compensation insurance in accordance with section 4785.07 of the 548
Revised Code; 549

(b) Satisfactory evidence that the applicant and all 550
employees are, or will be, covered by general liability, 551
personal injury, and property damage insurance in accordance 552
with section 4785.07 of the Revised Code. 553

(4) A description of the criminal convictions and pleas of 554
guilty of the applicants and each employee, if any, as verified 555
by a criminal records check; 556

(5) Such other information as the division considers 557
appropriate. 558

(D) The division may issue an elevator mechanic's license 559
to an applicant only if that applicant has demonstrated one of 560
the following qualifications: 561

(1) An acceptable combination of documented experience and 562

<u>education credits, as follows:</u>	563
<u>(a) Not less than three years of work experience in the</u>	564
<u>elevator industry, in construction, maintenance, service,</u>	565
<u>repair, or any combination thereof, as verified by current and</u>	566
<u>previous employers licensed to do business in this state;</u>	567
<u>(b) Satisfactory completion of a written examination</u>	568
<u>administered by the division, or by a testing agency approved by</u>	569
<u>the division, on the most recent referenced codes and standards.</u>	570
<u>(2) (a) Acceptable proof that the applicant has worked as</u>	571
<u>an elevator construction, maintenance, or repair person,</u>	572
<u>consisting of having worked without direct and immediate</u>	573
<u>supervision for an elevator contractor authorized to do business</u>	574
<u>in this state for a period of not less than three years</u>	575
<u>immediately prior to the effective date of this section;</u>	576
<u>(b) An applicant seeking to establish qualifications</u>	577
<u>pursuant to division (D) (2) (a) of this section shall apply</u>	578
<u>within one year of the effective date of this section.</u>	579
<u>(3) A certificate of completion or other evidence of</u>	580
<u>having successfully passed the mechanic examination of a</u>	581
<u>nationally recognized training program for the elevator</u>	582
<u>industry, such as the national elevator industry educational</u>	583
<u>program or the certified elevator technician program of the</u>	584
<u>national association of elevator contractors;</u>	585
<u>(4) A certificate of completion of an apprenticeship</u>	586
<u>program for elevator mechanics that has standards substantially</u>	587
<u>equal to those of this chapter and is registered with the bureau</u>	588
<u>of apprenticeship and training, United States department of</u>	589
<u>labor, or a state apprenticeship council;</u>	590
<u>(5) A valid license from a state having standards</u>	591

substantially equal to those of this chapter, upon application 592
and without examination. 593

(E) The division shall not issue an elevator mechanic's 594
license to any applicant to which any of the following apply: 595

(1) The applicant has been convicted of or pleaded guilty 596
or no contest to a crime of moral turpitude or disqualifying 597
offense as those terms are defined in section 4776.10 of the 598
Revised Code and the rules adopted pursuant to division (A) (2) 599
of section 4785.08 of the Revised Code. 600

(2) The applicant has violated any provision of this 601
chapter. 602

(3) The applicant has violated any rule adopted pursuant 603
to this chapter. 604

(4) The applicant has demonstrated incompetence or 605
untrustworthiness. 606

(5) The applicant has engaged in fraud, misrepresentation, 607
or deception in the conduct of business. 608

(6) The applicant has obtained or attempted to obtain a 609
license or renewal of such license pursuant to this chapter by 610
means of fraud, deception, or misrepresentation. 611

(7) The applicant has obtained or attempted to obtain an 612
order, ruling, or authorization from the division of industrial 613
compliance by means of fraud or misrepresentation. 614

(F) (1) The division may issue an elevator contractor's 615
license to a business entity only if the applicant has in its 616
employ a licensed elevator mechanic and has proof of compliance 617
with the insurance requirements prescribed in section 4785.07 of 618
the Revised Code. 619

(2) The division may issue an elevator contractor's license to an applicant that holds a valid license from a state having standards substantially equal to those of this chapter. 620
621
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(G) Upon approval of an application made under this section, the division shall issue a license to the applicant. 623
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(H) Any license issued under this section shall be valid for a period of two years and may be renewed. 625
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Sec. 4785.041. (A) The division may renew a license issued under section 4785.04 of the Revised Code if the licensee does all of the following: 627
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(1) Submits an application for license renewal on a form prescribed by the division; 630
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(2) Pays the license renewal fee established by the division; 632
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(3) If the licensee is an elevator mechanic, submits evidence that the applicant has completed the continuing education coursework described in division (B) of this section; 634
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(4) If the license is an elevator contractor's license, submits proof that the applicant is in compliance with the insurance requirements prescribed in section 4785.07 of the Revised Code. 637
638
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(B) The continuing education courses described in division (A) (3) of this section shall: 641
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(1) Instruct licensees on new and existing rules and standards adopted by the division; 643
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(2) Consist of not less than eight hours of instruction; 645

(3) Be attended and completed within one year immediately 646

preceding the scheduled date for the license renewal; 647

(4) Be taught by instructors through continuing education 648
providers approved by the division. 649

(C) A continuing education instructor shall be exempt from 650
the continuing education requirement prescribed in division (A) 651
(3) of this section, provided that any such applicant was 652
qualified as an instructor at any time during the year 653
immediately preceding the scheduled date for the license 654
renewal. 655

(D) (1) A licensee who is unable to complete the continuing 656
education coursework required under this section prior to the 657
expiration of the licensee's license due to a temporary 658
disability may apply for a temporary continuing education waiver 659
from the division. 660

(2) An application for a temporary continuing education 661
waiver shall be made in a form prescribed by the division, which 662
shall be signed by the applicant under the penalty of perjury 663
and accompanied by a certified statement from a competent 664
physician attesting to the temporary disability. If the division 665
grants the waiver, the licensee's license does not expire but is 666
placed on inactive status. 667

(3) Upon the termination of the temporary disability, the 668
licensee shall submit to the division a certified statement from 669
the same physician, if practicable, attesting to the termination 670
of the temporary disability. The division shall then take the 671
licensee's license off inactive status and shall issue a waiver 672
sticker, valid for ninety days, to the licensee and affix the 673
sticker to the license. The licensee may then perform the tasks 674
the license authorizes the licensee to perform but the licensee 675

shall meet the continuing education requirement during this 676
ninety-day period or be considered to have not met the 677
continuing education requirement and the license shall be deemed 678
to be expired. 679

(E) (1) Approved continuing education providers shall keep 680
uniform records, for a period of ten years, of attendance of 681
licensees in a format approved by the division. Such records 682
shall be available for inspection by the division upon request. 683

(2) Approved training providers shall be responsible for 684
the security of all attendance records and certificates of 685
completion, provided, however, that falsifying or knowingly 686
allowing another to falsify such attendance records or 687
certificates of completion shall constitute grounds for 688
suspension or revocation of a continuing education provider's 689
division approval. 690

(F) The division shall not renew the license of any 691
individual or entity that fails to meet the standard prescribed 692
in division (E) of section 4785.04 of the Revised Code. 693

Sec. 4785.05. (A) Whenever the division determines that an 694
emergency exists due to disaster, act of God, or work stoppage, 695
and the number of individuals in the state holding elevator 696
mechanic's licenses issued by the division is insufficient to 697
cope with the emergency, the division shall declare such a state 698
of emergency and respond as prescribed in this section to assure 699
the safety of the public. 700

(B) Notwithstanding section 4785.03 of the Revised Code, 701
during such a state of emergency, any individual found by a 702
licensed elevator contractor to have an acceptable combination 703
of documented experience and education to perform conveyance 704

services without direct and immediate supervision may perform 705
conveyance services without an elevator mechanic's license, as 706
provided in this section. 707

(C) Such an individual shall seek an emergency elevator 708
mechanic's license from the division within five business days 709
after commencing work that would otherwise require an elevator 710
mechanic's license. 711

(D) An elevator contractor associated with an individual 712
seeking an emergency elevator mechanic's license shall furnish 713
proof of competency as the division may require. 714

(E) (1) An emergency elevator mechanic's license shall be 715
valid for a period of forty-five days from the date of issuance. 716

(2) The division may restrict the validity of an emergency 717
elevator mechanic's license to a particular conveyance or 718
geographical area as the division sees fit, but shall otherwise 719
entitle the licensee to the rights and privileges of an elevator 720
mechanic's license issued pursuant to this chapter. 721

(F) The division may renew an emergency elevator 722
mechanic's license for the duration of a state of emergency. 723

(G) No fee shall be charged for any emergency elevator 724
mechanic's license or renewal thereof. 725

Sec. 4785.051. (A) An elevator contractor shall notify the 726
division when there are no licensed elevator mechanics available 727
to provide conveyance services and may request that the division 728
issue temporary elevator mechanic's licenses to individuals 729
certified by the licensed elevator contractor to have an 730
acceptable combination of documented experience and education to 731
provide conveyance services without direct and immediate 732
supervision. 733

(B) Any individual certified by an elevator contractor to 734
have an acceptable combination of documented experience and 735
education to provide conveyance services without direct and 736
immediate supervision shall immediately seek a temporary 737
elevator mechanic's license from the division and shall pay an 738
application fee as set by the division. If the division is 739
satisfied as to the individual's qualifications, the division 740
shall issue a temporary elevator mechanic's license to the 741
individual. 742

(C) A temporary license issued under this section shall be 743
valid only for a specified term set by the division, which shall 744
be noted on the license, and only while the licensee is employed 745
by the elevator contractor that certified the individual as 746
being qualified. 747

(D) A temporary elevator mechanic's license shall be 748
renewable in accordance with rules adopted by the division. 749

Sec. 4785.06. Licensees shall ensure that installation, 750
service, and maintenance of a conveyance is performed in 751
accordance with state and local law and with generally accepted 752
standards referenced in such laws or related rules. 753

When any material alteration is made to a conveyance, the 754
licensees involved shall ensure that the conveyance adheres to 755
the appropriate conveyance standard for the alteration. 756

Sec. 4785.07. (A) Elevator contractors shall submit to the 757
division proof of insurance coverage greater than or equal to 758
the following amounts: 759

(1) One million dollars for injury or death of any number 760
of individuals in any one occurrence; 761

(2) Five hundred thousand dollars for property damage in 762

<u>any one occurrence;</u>	763
<u>(3) Workers' compensation insurance coverage.</u>	764
<u>(B) Such proof of insurance shall be delivered to the</u>	765
<u>division before or at the time of the issuance or renewal of a</u>	766
<u>license.</u>	767
<u>(C) If any policy required under this section is</u>	768
<u>materially altered or canceled, the elevator contractor covered</u>	769
<u>by the policy shall give notice of the material alteration or</u>	770
<u>cancellation to the division at least ten days prior to the</u>	771
<u>change.</u>	772
<u>Sec. 4785.08.</u> <u>(A) In accordance with Chapter 119. of the</u>	773
<u>Revised Code, the superintendent of industrial compliance shall</u>	774
<u>adopt rules pertaining to all of the following:</u>	775
<u>(1) The issuance and renewal of elevator mechanic's</u>	776
<u>licenses and elevator contractor's licenses;</u>	777
<u>(2) A list of disqualifying offenses, pursuant to division</u>	778
<u>(E) of section 4785.04 of the Revised Code.</u>	779
<u>(B) In accordance with Chapter 119. of the Revised Code,</u>	780
<u>the superintendent may adopt rules pertaining to all of the</u>	781
<u>following:</u>	782
<u>(1) Assisting in the development of public awareness</u>	783
<u>programs;</u>	784
<u>(2) Classifications or subclassifications of licenses for</u>	785
<u>elevator mechanics and elevator contractors;</u>	786
<u>(3) Monitoring inspections and testing in order to ensure</u>	787
<u>satisfactory performance by licensees;</u>	788
<u>(4) Fee schedules for elevator mechanic and elevator</u>	789

contractor licenses. The fees shall reflect the actual costs and 790
expenses necessary to administer this chapter. 791

(5) Establishing standards for the approval of license 792
testing agencies, pursuant to division (D)(1)(b) of section 793
4785.04 of the Revised Code; 794

(6) Establishing standards for the approval of continuing 795
education and training providers, pursuant to division (B) of 796
section 4785.041 of the Revised Code; 797

(7) Any other rules necessary to administer and carry out 798
this chapter. 799

(C) Notwithstanding divisions (A) and (B) of this section 800
or Chapter 4105. of the Revised Code, the superintendent shall 801
not adopt rules relating to the construction, maintenance, and 802
repair of elevators, except as pertaining to licensing 803
individuals under this chapter. 804

(D) The superintendent may exercise such other powers and 805
duties as are necessary to carry out the purpose and intent of 806
this chapter. 807

Sec. 4785.09. (A) There is hereby created, within the 808
board of building standards established by section 3781.07 of 809
the Revised Code, the elevator safety review board. 810

(B) The board shall be responsible for investigating 811
violations of this chapter, holding disciplinary administrative 812
hearings, and assessing penalties in accordance with sections 813
4785.091 and 4785.092 of the Revised Code. 814

(C) The board shall consist of the following members: 815

(1) The director of commerce or the director's designee; 816

<u>(2) A representative of the board of building standards;</u>	817
<u>(3) The following individuals, appointed by the governor:</u>	818
<u>(a) One representative of a major elevator manufacturing</u> <u>company;</u>	819 820
<u>(b) One representative of an elevator servicing company;</u>	821
<u>(c) One representative of the architectural design or</u> <u>elevator consulting profession;</u>	822 823
<u>(d) One representative of the general public;</u>	824
<u>(e) One representative of municipal corporations in this</u> <u>state;</u>	825 826
<u>(f) One representative of building owners or managers;</u>	827
<u>(g) One representative of the building trade, comprised of</u> <u>an individual providing conveyance services.</u>	828 829
<u>(D) The term of those members appointed to the board shall</u> <u>be three years. Vacancies shall be filled in the same manner as</u> <u>the original appointments.</u>	830 831 832
<u>(E) All members of the board shall serve without salary,</u> <u>but shall be reimbursed for all expenses necessary in the</u> <u>performance of their duties.</u>	833 834 835
<u>(F) (1) The governor shall appoint one of the members to</u> <u>serve as chair of the board.</u>	836 837
<u>(2) A majority of the board shall constitute a quorum.</u>	838
<u>(3) The chair shall be the deciding vote in the event of a</u> <u>tie vote.</u>	839 840
<u>(G) (1) The board shall meet and organize within ten days</u> <u>after the appointment of its members and at such meeting shall</u>	841 842

elect from its members one secretary of the board to serve for a 843
term as prescribed in rules adopted by the board. 844

(2) (a) The board shall meet not less than once a month and 845
as often as the board considers necessary for the consideration 846
of code regulations, appeals, and variances, and for the 847
transaction of such other business as properly may come before 848
it. 849

(b) Special meetings shall be called as prescribed in 850
rules adopted by the board. 851

(H) The seat of any appointed board member absent from 852
three consecutive meetings shall be deemed vacant. 853

Sec. 4785.091. (A) The elevator safety review board may 854
suspend or revoke a license issued pursuant to this chapter or 855
subject the licensee to civil penalty if the board determines 856
that one or more of the following applies to the licensee: 857

(1) The licensee has been convicted of or pleaded guilty 858
to a crime of moral turpitude or disqualifying offense as those 859
terms are defined in section 4776.10 of the Revised Code and 860
rules adopted pursuant to division (A) (2) of section 4785.08 of 861
the Revised Code. 862

(2) The licensee has violated any provision of this 863
chapter. 864

(3) The licensee has violated any rule adopted pursuant to 865
this chapter. 866

(4) The licensee has demonstrated incompetence or 867
untrustworthiness. 868

(5) The licensee has engaged in fraud, misrepresentation, 869
or deception in the conduct of business. 870

(6) The licensee has obtained or attempted to obtain a license or renewal of such license pursuant to this chapter by means of fraud, deception, or misrepresentation. 871
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(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. 874
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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. 877
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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. 880
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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. 884
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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. 887
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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. 891
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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. 894
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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 897
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violation or danger exists, the board shall investigate whether 899
or not a violation or danger exists. 900

(2) If the board determines that there are no reasonable 901
grounds to believe that a violation or danger exists, the board 902
shall notify the individual making the request in writing of 903
that determination. 904

Sec. 4785.99. Whoever recklessly violates any of the 905
provisions of this chapter shall be fined not more than one 906
thousand five hundred dollars, sentenced to a jail term not 907
exceeding thirty days, or both. 908

Section 2. That existing sections 119.12, 121.084, 909
4105.01, 4105.10, and 4105.15 of the Revised Code are hereby 910
repealed. 911

Section 3. The General Assembly's intent in enacting this 912
act is to provide for the safety of installers, maintainers, and 913
users of elevators and other conveyances, as well as to promote 914
public safety awareness regarding the same. The use of unsafe 915
and defective lifting devices imposes a substantial probability 916
of serious and preventable injury to employees and the public. 917
The prevention of these injuries and protection of employees and 918
the public from unsafe conditions is in the best interest of the 919
people of this state. Elevator personnel performing work covered 920
by this act shall, by documented training, experience, or both, 921
be familiar with the operation and safety functions of the 922
components and equipment. Training and experience shall 923
guarantee the ability to recognize the safety hazards and 924
perform the procedures to which they are assigned in conformance 925
with the requirements of this act. This act shall be considered 926
the minimum standard for elevator and conveyance personnel. 927

Section 4. Section 119.12 of the Revised Code is presented 928
in this act as a composite of the section as amended by both Am. 929
Sub. H.B. 52 and Am. Sub. H.B. 64 of the 131st General Assembly. 930
The General Assembly, applying the principle stated in division 931
(B) of section 1.52 of the Revised Code that amendments are to 932
be harmonized if reasonably capable of simultaneous operation, 933
finds that the composite is the resulting version of the section 934
in effect prior to the effective date of the section as 935
presented in this act. 936