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134th General Assembly

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Sub. H. B. No. 107

Representative Baldrige

Cosponsors: Representatives Young, T., Sweeney, Cross, Abrams, Ghanbari, Johnson, Cutrona, Brent, Carfagna, Edwards, Galonski, Hicks-Hudson, Hillyer, Jones, Kelly, Leland, Lepore-Hagan, Lightbody, Loychik, Miller, A., Miller, J., O'Brien, Russo, Sheehy, Smith, K., Sobecki, Upchurch, Weinstein, West

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, 4785.021, 4785.03, 4785.04, 4785.041, 3
4785.05, 4785.051, 4785.06, 4785.07, 4785.08, 4
4785.09, 4785.091, 4785.092, and 4785.99 of the 5
Revised 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
4785.021, 4785.03, 4785.04, 4785.041, 4785.05, 4785.051, 9
4785.06, 4785.07, 4785.08, 4785.09, 4785.091, 4785.092, and 10
4785.99 of the Revised 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~~;~~ 28

(c) The state medical board; 29

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

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

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

(B) "Passenger elevator" means an elevator that is 273
designed to carry persons to its contract capacity. 274

(C) "Freight elevator" means an elevator normally used for 275
carrying freight and on which only the operator and employees in 276
the pursuit of their duties, by the permission of the employer, 277
are allowed to ride. 278

(D) "Gravity elevator" means an elevator utilizing gravity 279
to move. 280

(E) "General inspector" means a state inspector examined 281
and hired to inspect elevators and lifting apparatus for that 282
state. 283

(F) "Special inspector" means an inspector examined and 284
commissioned by the superintendent of industrial compliance to 285
inspect elevators and lifting apparatus in the state. 286

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| (G) "Inspector" means either a general or special inspector. | 287 288 |
| <u>(H) "Private residence" has the same meaning as in section 4785.01 of the Revised Code.</u> | 289 290 |
| Sec. 4105.10. <u>(A) Except as provided in division (B) of this section, elevators shall be inspected in accordance with the following:</u> | 291 292 293 |
| <u>(1) Every passenger elevator, escalator, moving walk, and freight elevator, including gravity elevators, shall be inspected twice every twelve months.</u> | 294 295 296 |
| (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> | 297 298 299 300 |
| (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> | 301 302 303 304 |
| <u>(B) Division (A) of this section does not apply to an elevator installed in a private residence.</u> | 305 306 |
| Sec. 4105.30. <u>(A) It shall be the responsibility of the owner of all conveyances to have an elevator contractor licensed under Chapter 4785. of the Revised Code ensure that the required tests are performed at intervals in compliance with the ASME A17.1/CSA B44 Appendix N, ASME A18.1, and ASCE 21. All tests shall be performed by an elevator mechanic licensed under Chapter 4785. of the Revised Code.</u> | 307 308 309 310 311 312 313 |
| <u>(B) As used in this section, "ASME A17.1," "ASME A18.1,"</u> | 314 |

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| <u>"ASCE 21," and "conveyance" have the same meanings as in section</u> | 315 |
| <u>4785.01 of the Revised Code.</u> | 316 |
| <u>Sec. 4785.01.</u> (A) As used in this chapter: | 317 |
| (1) <u>"Automated people mover" means an installation as</u> | 318 |
| <u>defined in the automated people mover standards.</u> | 319 |
| (2) <u>"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 |
| (3) <u>"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 |
| (4) <u>"Business entity" includes a sole proprietorship,</u> | 326 |
| <u>partnership, and corporation.</u> | 327 |
| (5) <u>"Cableways, cranes, derricks, hoists, hooks, jacks,</u> | 328 |
| <u>and slings safety standards" means the safety standards adopted</u> | 329 |
| <u>by the American society of mechanical engineers commonly</u> | 330 |
| <u>referred to as ASME B30.</u> | 331 |
| (6) <u>"Conveyance" means any means of transportation subject</u> | 332 |
| <u>to the jurisdiction of this chapter, as described in division</u> | 333 |
| <u>(A) of section 4785.02 of the Revised Code.</u> | 334 |
| (7) <u>"Conveyance services" means erecting, constructing,</u> | 335 |
| <u>installing, altering, servicing, repairing, dismantling,</u> | 336 |
| <u>removing, or maintaining a conveyance.</u> | 337 |
| (8) <u>"Conveyors, cableways, and related equipment safety</u> | 338 |
| <u>code" means the safety code adopted by the American society of</u> | 339 |
| <u>mechanical engineers commonly referred to as ASME B20.1.</u> | 340 |
| (9) <u>"Elevator" means a conveyance defined as an elevator</u> | 341 |

in the elevators and escalators safety code and the platform 342
lifts and stairway chairlifts safety standards. 343

(10) "Elevator contractor" means any business entity that 344
has been issued an elevator contractor's license under this 345
chapter and that is engaged in the business of providing 346
conveyance services. 347

(11) "Elevator mechanic" means any individual who has been 348
issued an elevator mechanic's license under this chapter. 349

(12) "Elevator mechanic's license" means a license issued 350
by the division authorizing the holder to provide conveyance 351
services and perform electrical work on conveyances. 352

(13) "Elevators and escalators safety code" means the 353
safety code adopted by the American society of mechanical 354
engineers commonly referred to as ASME A17.1/CSA B44. 355

(14) "Escalator" means a conveyance defined as an 356
escalator in the elevators and escalators safety code. 357

(15) "Material alteration" means an alteration, as defined 358
in the standards related to the item altered. 359

(16) "Material hoists safety requirements" means the 360
safety requirements adopted by the American national standards 361
institute commonly referred to as ANSI/ASSP A10.5. 362

(17) "Moving walk" means a moving walk as defined in the 363
elevators and escalators safety code. 364

(18) "Platform lifts and stairway chairlifts safety 365
standards" means the safety standard adopted by the American 366
society of mechanical engineers commonly referred to as ASME 367
A18.1. 368

(19) "Powered industrial trucks safety standards" means 369
the safety standards adopted by the American national standards 370
institute commonly referred to as ANSI/ITSDF B56. 371

(20) "Powered platforms for building maintenance safety 372
standards" means the standards adopted by the American society 373
of mechanical engineers commonly referred to as ASME 120.1. 374

(21) "Private residence" means a distinct building or a 375
unit in a multiple dwelling building that is occupied by members 376
of a single-family unit. 377

(22) "Repair" means a repair as defined in the appropriate 378
reference standard that does not require a permit. 379

(23) "Vehicle-mounted elevating and rotating work 380
platforms standards" means the standards adopted by the American 381
national standards institute and commonly referred to as 382
ANSI/SAIA A92. 383

(B) For any term found in this chapter that is not defined 384
in this section, the corresponding definition found in the 385
appropriate standard shall be used. 386

(C) If a standard referenced in this chapter is replaced 387
by a successor standard, then that successor shall be referenced 388
for purposes of interpreting this chapter. 389

Sec. 4785.02. (A) This chapter shall be used to regulate 390
the individuals and entities performing construction, testing, 391
maintenance, alteration, and repair of the following equipment, 392
associated parts, and hoistways: 393

(1) Hoisting and lowering mechanisms equipped with a car 394
or platform that moves between two or more landings, including 395
both of the following: 396

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| <u>(a) Elevators;</u> | 397 |
| <u>(b) Platform lifts.</u> | 398 |
| <u>(2) Power-driven stairways and walkways for carrying persons between landings, including both of the following:</u> | 399 400 |
| <u>(a) Escalators;</u> | 401 |
| <u>(b) Moving walks.</u> | 402 |
| <u>(3) Hoisting and lowering mechanisms equipped with a car that serves two or more landings and is restricted to the carrying of material by its limited size or limited access to the car, including both of the following:</u> | 403 404 405 406 |
| <u>(a) Dumbwaiters;</u> | 407 |
| <u>(b) Material lifts and dumbwaiters with automatic transfer devices.</u> | 408 409 |
| <u>(4) Automatic guided transit vehicles on guideways with an exclusive right-of-way, including automated people movers.</u> | 410 411 |
| <u>(B) This chapter shall not be used to regulate any of the following:</u> | 412 413 |
| <u>(1) Material hoists within the scope of the material hoists safety requirements;</u> | 414 415 |
| <u>(2) Manlifts within the scope of the belt manlifts safety standards;</u> | 416 417 |
| <u>(3) Mobile scaffolds, towers, and platforms within the scope of the vehicle-mounted elevating and rotating work platforms standards;</u> | 418 419 420 |
| <u>(4) Powered platforms and equipment for exterior and interior maintenance within the scope of the powered platforms</u> | 421 422 |

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| <u>for building maintenance safety standards;</u> | 423 |
| <u>(5) Conveyors and related equipment within the scope of</u> | 424 |
| <u>the conveyors, cableways, and related equipment safety code;</u> | 425 |
| <u>(6) Cranes, derricks, hoists, hooks, jacks, and slings</u> | 426 |
| <u>within the scope of cableways, cranes, derricks, hoists, hooks,</u> | 427 |
| <u>jacks, and slings safety standards;</u> | 428 |
| <u>(7) Industrial trucks within the scope of the powered</u> | 429 |
| <u>industrial trucks safety standards;</u> | 430 |
| <u>(8) Portable equipment, except for portable escalators</u> | 431 |
| <u>which are covered by the elevators and escalators safety code;</u> | 432 |
| <u>(9) Tiering or piling machines used to move materials to</u> | 433 |
| <u>and from storage located and operating entirely within one</u> | 434 |
| <u>story;</u> | 435 |
| <u>(10) Equipment for feeding or positioning materials at</u> | 436 |
| <u>machine tools, printing presses, and similar machines;</u> | 437 |
| <u>(11) Skip or furnace hoists;</u> | 438 |
| <u>(12) Wharf ramps;</u> | 439 |
| <u>(13) Railroad car lifts or dumpers;</u> | 440 |
| <u>(14) Line jacks, false cars, shafters, moving platforms,</u> | 441 |
| <u>and similar equipment used for installing an elevator by a</u> | 442 |
| <u>contractor licensed in this state;</u> | 443 |
| <u>(15) Chairlifts;</u> | 444 |
| <u>(16) Any conveyance installed in a showroom that is for</u> | 445 |
| <u>demonstration purposes only.</u> | 446 |
| <u>Sec. 4785.021. The general assembly's intent in amending</u> | 447 |
| <u>sections 119.12, 121.084, 4105.01, and 4105.10 of the Revised</u> | 448 |

Code and in enacting section 4105.30 and Chapter 4785. of the 449
Revised Code is to provide for the safety of installers, 450
maintainers, and users of elevators and other conveyances, as 451
well as to promote public safety awareness regarding the same. 452
The use of unsafe and defective lifting devices imposes a 453
substantial probability of serious and preventable injury to 454
employees and the public. The prevention of these injuries and 455
protection of employees and the public from unsafe conditions is 456
in the best interest of the people of this state. Elevator 457
personnel performing work covered by H.B. 107 of the 134th 458
General Assembly shall, by documented training, experience, or 459
both, be familiar with the operation and safety functions of the 460
components and equipment. Training and experience shall 461
guarantee the ability to recognize the safety hazards and 462
perform the procedures to which they are assigned in conformance 463
with the requirements of section 4105.10 of the Revised Code, as 464
amended by H.B. 107 of the 134th General Assembly, and Chapter 465
4785. of the Revised Code, as enacted by H.B. 107 of the 134th 466
General Assembly. These sections shall be considered the minimum 467
standard for elevator and conveyance personnel. 468

Sec. 4785.03. (A) Except as provided in divisions (C) and 469
(D) of this section, no individual shall provide conveyance 470
services in buildings or structures unless that individual is a 471
licensed elevator mechanic and one of the following applies: 472

(1) The elevator mechanic is working for a licensed 473
elevator contractor. 474

(2) The elevator mechanic is a sole proprietor who holds 475
an elevator contractor's license. 476

(3) The elevator mechanic is a member of a partnership 477
that holds an elevator contractor's license. 478

(B) (1) No individual shall wire any conveyance, from the 479
mainline feeder terminals on the controller, unless that 480
individual is a licensed elevator mechanic and one of the 481
following applies: 482

(a) The elevator mechanic is working for a licensed 483
elevator contractor. 484

(b) The elevator mechanic is a sole proprietor who holds 485
an elevator contractor's license. 486

(c) The elevator mechanic is a member of a partnership 487
that holds an elevator contractor's license. 488

(2) No other license shall be required to wire a 489
conveyance. 490

(C) An individual or business entity providing conveyance 491
services, including wiring a conveyance, exclusively in private 492
residences is not required to obtain a license under this 493
chapter. 494

(D) (1) Except as provided in division (D) (2) of this 495
section, an individual or business entity shall not dismantle a 496
conveyance unless licensed under this chapter. 497

(2) Division (D) (1) of this section does not apply to a 498
conveyance that is to be destroyed as a result of a complete 499
demolition of a secured building or structure or where the 500
hoistway or wellway is demolished back to the basic support 501
structure and where no access is permitted therein. 502

Sec. 4785.04. (A) Any business entity wishing to provide 503
conveyance services shall apply for an elevator contractor's 504
license with the division of industrial compliance within the 505
department of commerce on a form provided by the division. 506

(B) Any individual wishing to provide conveyance services shall apply for an elevator mechanic's license with the division on a form provided by the division. 507
508
509

(C) An application made under this section shall contain all of the following: 510
511

(1) (a) If an applicant is an individual or sole proprietor, the name, residence address, and business address of the applicant; 512
513
514

(b) If an applicant is a partnership, the name, residence address, and business address of each partner; 515
516

(c) If an applicant is a domestic corporation, the name and business address of the corporation and the name and residence address of the principal officer of the corporation; 517
518
519

(d) If the applicant is a corporation other than a domestic corporation, the name and address of an agent located in this state who shall be authorized to accept service of process and official notices. 520
521
522
523

(2) The number of years the applicant has engaged in the business of conveyance services; 524
525

(3) If the applicant is applying for an elevator contractor's license, both of the following: 526
527

(a) The approximate number of individuals, if any, to be employed by the applicant, and if applicable, satisfactory evidence that the employees are or will be covered by workers' compensation insurance in accordance with section 4785.07 of the Revised Code; 528
529
530
531
532

(b) Satisfactory evidence that the applicant and all employees are, or will be, covered by general liability, 533
534

personal injury, and property damage insurance in accordance 535
with section 4785.07 of the Revised Code. 536

(4) A description of the criminal convictions and pleas of 537
guilty of the applicants and each employee, if any, as verified 538
by a criminal records check; 539

(5) Such other information as the division considers 540
appropriate. 541

(D) The division may issue an elevator mechanic's license 542
to an applicant only if that applicant has demonstrated one of 543
the following qualifications: 544

(1) An acceptable combination of documented experience and 545
education credits, as follows: 546

(a) Not less than three years of work experience in the 547
elevator industry, in construction, maintenance, service, 548
repair, or any combination thereof, as verified by current and 549
previous employers licensed to do business in this state; 550

(b) Satisfactory completion of a written examination 551
administered by the division, or by a testing agency approved by 552
the division, on the most recent referenced codes and standards. 553

(2) (a) Acceptable proof that the applicant has worked as 554
an elevator construction, maintenance, or repair person, 555
consisting of having worked without direct and immediate 556
supervision for an elevator contractor authorized to do business 557
in this state for a period of not less than three years 558
immediately prior to the effective date of this section; 559

(b) An applicant seeking to establish qualifications 560
pursuant to division (D)(2)(a) of this section shall apply 561
within one year after the effective date of this section. 562

(3) A certificate of completion or other evidence of 563
having successfully passed the mechanic examination of a 564
nationally recognized training program for the elevator 565
industry, such as the national elevator industry educational 566
program or the certified elevator technician program of the 567
national association of elevator contractors; 568

(4) A certificate of completion of an apprenticeship 569
program for elevator mechanics that has standards substantially 570
equal to those of this chapter and is registered with the bureau 571
of apprenticeship and training, United States department of 572
labor, or a state apprenticeship council; 573

(5) A valid license from a state having standards 574
substantially equal to those of this chapter, upon application 575
and without examination. 576

(E) The division shall not issue an elevator mechanic's 577
license to any applicant to which any of the following apply: 578

(1) The applicant has been convicted of or pleaded guilty 579
or no contest to a disqualifying offense specified on the list 580
the division adopts pursuant to division (B) of section 9.79 of 581
the Revised Code and the division determines that the license 582
should be denied using the process described in section 9.79 of 583
the Revised Code. 584

(2) The applicant has violated any provision of this 585
chapter. 586

(3) The applicant has violated any rule adopted pursuant 587
to this chapter. 588

(4) The applicant has demonstrated incompetence or 589
untrustworthiness. 590

(5) The applicant has engaged in fraud, misrepresentation, 591
or deception in the conduct of business. 592

(6) The applicant has obtained or attempted to obtain a 593
license or renewal of such license pursuant to this chapter by 594
means of fraud, deception, or misrepresentation. 595

(7) The applicant has obtained or attempted to obtain an 596
order, ruling, or authorization from the division by means of 597
fraud or misrepresentation. 598

(F) (1) The division may issue an elevator contractor's 599
license to a business entity only if the applicant has in its 600
employ a licensed elevator mechanic and has proof of compliance 601
with the insurance requirements prescribed in section 4785.07 of 602
the Revised Code. 603

(2) The division may issue an elevator contractor's 604
license to an applicant that holds a valid license from a state 605
having standards substantially equal to those of this chapter. 606

(G) Upon approval of an application made under this 607
section, the division shall issue a license to the applicant. 608

(H) Any license issued under this section is valid for a 609
period of two years and may be renewed. 610

Sec. 4785.041. (A) The division of industrial compliance 611
within the department of commerce may renew a license issued 612
under section 4785.04 of the Revised Code if the licensee does 613
all of the following: 614

(1) Submits an application for license renewal on a form 615
prescribed by the division; 616

(2) Pays the license renewal fee established by the 617
division; 618

(3) If the licensee is an elevator mechanic, submits 619
evidence that the applicant has completed the continuing 620
education coursework described in division (B) of this section; 621

(4) If the license is an elevator contractor's license, 622
submits proof that the applicant is in compliance with the 623
insurance requirements prescribed in section 4785.07 of the 624
Revised Code. 625

(B) The continuing education courses described in division 626
(A) (3) of this section shall: 627

(1) Instruct licensees on new and existing rules and 628
standards adopted by the division; 629

(2) Consist of not less than eight hours of instruction; 630

(3) Be attended and completed within one year immediately 631
preceding the scheduled date for the license renewal; 632

(4) Be taught by instructors through continuing education 633
providers approved by the division. 634

(C) A continuing education instructor who holds a license 635
under this chapter is exempt from the continuing education 636
requirement prescribed in division (A) (3) of this section, 637
provided that any such applicant was qualified as an instructor 638
at any time during the year immediately preceding the scheduled 639
date for the license renewal. 640

(D) (1) A licensee who is unable to complete the continuing 641
education coursework required under this section before the 642
expiration of the licensee's license due to a temporary 643
disability may apply for a temporary continuing education waiver 644
from the division. 645

(2) An application for a temporary continuing education 646

waiver shall be made in a form prescribed by the division, which 647
shall be signed by the applicant under the penalty of perjury 648
and accompanied by a certified statement from a competent 649
physician attesting to the temporary disability. If the division 650
grants the waiver, the licensee's license does not expire but is 651
placed on inactive status. 652

(3) On the termination of the temporary disability, the 653
licensee shall submit to the division a certified statement from 654
the same physician, if practicable, attesting to the termination 655
of the temporary disability. The division shall then take the 656
licensee's license off inactive status and shall issue a waiver 657
sticker, valid for ninety days, to the licensee and affix the 658
sticker to the license. The licensee may then perform the tasks 659
the license authorizes the licensee to perform but the licensee 660
shall meet the continuing education requirement during this 661
ninety-day period or be considered to have not met the 662
continuing education requirement and the license shall be deemed 663
to be expired. 664

(E) (1) Approved continuing education providers shall keep 665
uniform records, for a period of ten years, of attendance of 666
licensees in a format approved by the division. Such records 667
shall be available for inspection by the division on request. 668

(2) Approved training providers are responsible for the 669
security of all attendance records and certificates of 670
completion, provided, however, that falsifying or knowingly 671
allowing another to falsify such attendance records or 672
certificates of completion constitutes grounds for suspension or 673
revocation of a continuing education provider's division 674
approval. 675

(F) The division shall not renew the license of an 676

individual or entity if the individual or entity would be denied 677
an initial license for a reason listed in division (E) of 678
section 4785.04 of the Revised Code. 679

Sec. 4785.05. (A) Whenever the division of industrial 680
compliance within the department of commerce determines that an 681
emergency exists due to disaster, act of God, or work stoppage, 682
and the number of individuals in the state holding elevator 683
mechanic's licenses issued by the division is insufficient to 684
cope with the emergency, the division shall declare such a state 685
of emergency and respond as prescribed in this section to assure 686
the safety of the public. 687

(B) Notwithstanding section 4785.03 of the Revised Code, 688
during such a state of emergency, any individual found by a 689
licensed elevator contractor to have an acceptable combination 690
of documented experience and education to perform conveyance 691
services without direct and immediate supervision may perform 692
conveyance services without an elevator mechanic's license, as 693
provided in this section. 694

(C) Such an individual shall seek an emergency elevator 695
mechanic's license from the division within five business days 696
after commencing work that would otherwise require an elevator 697
mechanic's license. 698

(D) An elevator contractor associated with an individual 699
seeking an emergency elevator mechanic's license shall furnish 700
proof of competency as the division may require. 701

(E) (1) An emergency elevator mechanic's license is valid 702
for a period of forty-five days from the date of issuance. 703

(2) The division may restrict the validity of an emergency 704
elevator mechanic's license to a particular conveyance or 705

geographical area as the division sees fit, but shall otherwise 706
entitle the licensee to the rights and privileges of an elevator 707
mechanic's license issued pursuant to this chapter. 708

(F) The division may renew an emergency elevator 709
mechanic's license for the duration of a state of emergency. 710

(G) No fee shall be charged for any emergency elevator 711
mechanic's license or renewal thereof. 712

Sec. 4785.051. (A) An elevator contractor shall notify the 713
division of industrial compliance within the department of 714
commerce when there are no licensed elevator mechanics available 715
to provide conveyance services and may request that the division 716
issue temporary elevator mechanic's licenses to individuals 717
certified by the licensed elevator contractor to have an 718
acceptable combination of documented experience and education to 719
provide conveyance services without direct and immediate 720
supervision. 721

(B) Any individual certified by an elevator contractor to 722
have an acceptable combination of documented experience and 723
education to provide conveyance services without direct and 724
immediate supervision shall immediately seek a temporary 725
elevator mechanic's license from the division and shall pay an 726
application fee as set by the division. If the division is 727
satisfied as to the individual's qualifications, the division 728
shall issue a temporary elevator mechanic's license to the 729
individual. 730

(C) A temporary license issued under this section is valid 731
only for a specified term set by the division, which shall be 732
noted on the license, and only while the licensee is employed by 733
the elevator contractor that certified the individual as being 734

qualified. 735

(D) A temporary elevator mechanic's license is renewable 736
in accordance with rules adopted by the division. 737

Sec. 4785.06. Licensees shall ensure that installation, 738
service, and maintenance of a conveyance is performed in 739
accordance with state and local law and with generally accepted 740
standards referenced in such laws or related rules. 741

When any material alteration is made to a conveyance, the 742
licensees involved shall ensure that the conveyance adheres to 743
the appropriate conveyance standard for the alteration. 744

Sec. 4785.07. (A) Elevator contractors shall submit to the 745
division of industrial compliance within the department of 746
commerce proof of insurance coverage greater than or equal to 747
the following amounts: 748

(1) One million dollars for injury or death of any number 749
of individuals in any one occurrence; 750

(2) Five hundred thousand dollars for property damage in 751
any one occurrence; 752

(3) Workers' compensation insurance coverage. 753

(B) Such proof of insurance shall be delivered to the 754
division before or at the time of the issuance or renewal of a 755
license. 756

(C) If any policy required under this section is 757
materially altered or canceled, the elevator contractor covered 758
by the policy shall give notice of the material alteration or 759
cancellation to the division at least ten days prior to the 760
change. 761

Sec. 4785.08. (A) In accordance with Chapter 119. of the 762
Revised Code, the superintendent of industrial compliance shall 763
adopt rules pertaining to all of the following: 764

(1) The issuance and renewal of elevator mechanic's 765
licenses and elevator contractor's licenses; 766

(2) The list of disqualifying offenses required under 767
division (B) of section 9.79 of the Revised Code. 768

(B) In accordance with Chapter 119. of the Revised Code, 769
the superintendent may adopt rules pertaining to all of the 770
following: 771

(1) Assisting in the development of public awareness 772
programs; 773

(2) Classifications or subclassifications of licenses for 774
elevator mechanics and elevator contractors; 775

(3) Monitoring inspections and testing in order to ensure 776
satisfactory performance by licensees; 777

(4) Fee schedules for elevator mechanic and elevator 778
contractor licenses. The fees shall reflect the actual costs and 779
expenses necessary to administer this chapter. 780

(5) Establishing standards for the approval of license 781
testing agencies, pursuant to division (D)(1)(b) of section 782
4785.04 of the Revised Code; 783

(6) Establishing standards for the approval of continuing 784
education and training providers, pursuant to division (B) of 785
section 4785.041 of the Revised Code; 786

(7) Any other rules necessary to administer and carry out 787
this chapter. 788

(C) Notwithstanding divisions (A) and (B) of this section 789
or Chapter 4105. of the Revised Code, the superintendent shall 790
not adopt rules relating to the construction, maintenance, and 791
repair of elevators, except as pertaining to licensing 792
individuals under this chapter. 793

(D) The superintendent may exercise such other powers and 794
duties as are necessary to carry out the purpose and intent of 795
this chapter. 796

(E) Notwithstanding any provision of section 121.95 of the 797
Revised Code to the contrary, the superintendent may adopt rules 798
pertaining to the issuance and renewal of elevator mechanic's 799
licenses and elevator contractor's licenses that contain 800
regulatory restrictions as described in that section without 801
simultaneously removing two or more other existing regulatory 802
restrictions. 803

Sec. 4785.09. (A) There is hereby created, within the 804
division of industrial compliance within the department of 805
commerce, the elevator safety review board. 806

(B) The board is responsible for investigating violations 807
of this chapter, holding disciplinary administrative hearings, 808
and assessing penalties in accordance with sections 4785.091 and 809
4785.092 of the Revised Code. 810

(C) The board consists of the following members: 811

(1) The director of commerce or the director's designee; 812

(2) A representative of the board of building standards; 813

(3) The following individuals, appointed by the governor: 814

(a) One representative of a major elevator manufacturing 815
company; 816

| | |
|--|--------------------------|
| <u>(b) One representative of an elevator servicing company;</u> | 817 |
| <u>(c) One representative of the architectural design or elevator consulting profession;</u> | 818 819 |
| <u>(d) One representative of the general public;</u> | 820 |
| <u>(e) One representative of municipal corporations in this state;</u> | 821 822 |
| <u>(f) One representative of building owners or managers;</u> | 823 |
| <u>(g) One representative of the building trade, comprised of an individual providing conveyance services.</u> | 824 825 |
| <u>(D) The term of those members appointed to the board is three years. Vacancies shall be filled in the same manner as the original appointments.</u> | 826 827 828 |
| <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> | 829 830 831 |
| <u>(F) (1) The governor shall appoint one of the members to serve as chair of the board.</u> | 832 833 |
| <u>(2) A majority of the board shall constitute a quorum.</u> | 834 |
| <u>(3) The chair shall be the deciding vote in the event of a tie vote.</u> | 835 836 |
| <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> | 837 838 839 840 |
| <u>(2) (a) The board shall meet not less than once a month and as often as the board considers necessary for the consideration of code regulations, appeals, and variances, and for the</u> | 841 842 843 |

transaction of such other business as properly may come before 844
it. 845

(b) Special meetings shall be called as prescribed in 846
rules adopted by the board. 847

(H) The seat of any appointed board member absent from 848
three consecutive meetings shall be deemed vacant. 849

Sec. 4785.091. (A) The elevator safety review board may 850
suspend or revoke a license issued pursuant to this chapter or 851
subject the licensee to civil penalty if the board determines 852
that one or more of the following applies to the licensee: 853

(1) The licensee has been convicted of or pleaded guilty 854
to a crime of moral turpitude or disqualifying offense as those 855
terms are defined in section 4776.10 of the Revised Code and the 856
list adopted pursuant to division (A)(2) of section 4785.08 of 857
the Revised Code. 858

(2) The licensee has violated any provision of this 859
chapter. 860

(3) The licensee has violated any rule adopted pursuant to 861
this chapter. 862

(4) The licensee has demonstrated incompetence or 863
untrustworthiness. 864

(5) The licensee has engaged in fraud, misrepresentation, 865
or deception in the conduct of business. 866

(6) The licensee has obtained or attempted to obtain a 867
license or renewal of such license pursuant to this chapter by 868
means of fraud, deception, or misrepresentation. 869

(7) The licensee has obtained or attempted to obtain an 870

order, ruling, or authorization from the division of industrial 871
compliance by means of fraud or misrepresentation. 872

(B)(1) An administrative action taken under division (A) 873
of this section shall be made only after a hearing held by the 874
board in accordance with Chapter 119. of the Revised Code. 875

(2) Notice of such a hearing shall be provided to the 876
licensee in question at least ten days prior to the hearing at 877
the last known address appearing on the license, served 878
personally or by registered mail. 879

The notice shall state the date, hour, and place of the 880
hearing and set forth a statement of facts constituting the 881
grounds for the charges against the licensee. 882

Sec. 4785.092. (A)(1) Any individual may request an 883
investigation into an alleged violation of this chapter by 884
giving notice to the elevator safety review board of a potential 885
violation or danger. 886

(2) Such notice shall be in writing, shall set forth with 887
reasonable particularity the grounds for the notice, and shall 888
be signed by the individual making the request. 889

(3) On the request of any individual signing the notice, 890
the individual's name shall not appear on any copy of such 891
notice or any record published, released, or made available. 892

(B)(1) If, on receipt of such a request, the board 893
determines that there are reasonable grounds to believe that the 894
violation or danger exists, the board shall investigate whether 895
or not a violation or danger exists. 896

(2) If the board determines that there are no reasonable 897
grounds to believe that a violation or danger exists, the board 898

shall notify the individual making the request in writing of 899
that determination. 900

Sec. 4785.99. Whoever recklessly violates any of the 901
provisions of this chapter shall be fined not more than one 902
thousand five hundred dollars, sentenced to a jail term not 903
exceeding thirty days, or both. 904

Section 2. That existing sections 119.12, 121.084,
4105.01, and 4105.10 of the Revised Code are hereby repealed. 905
906

Section 3. Section 4785.03 of the Revised Code, as enacted 907
by this act, takes effect one year after the effective date of 908
this section. 909

Section 4. Section 119.12 of the Revised Code is presented 910
in this act as a composite of the section as amended by both 911
H.B. 52 and H.B. 64 of the 131st General Assembly. The General 912
Assembly, applying the principle stated in division (B) of 913
section 1.52 of the Revised Code that amendments are to be 914
harmonized if reasonably capable of simultaneous operation, 915
finds that the composite is the resulting version of the section 916
in effect prior to the effective date of the section as 917
presented in this act. 918