

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

orm #3

FILED

AUG 11 10 27 AM '93

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: WV Department of Labor TITLE NUMBER: 42

CITE AUTHORITY WV Code 21-3C

AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO X


IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 21

TITLE OF RULE BEING PROPOSED: Elevator Safety Act

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Commissioner of Labor

7.00

DATE: August 10, 1993

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Division of Labor

LEGISLATIVE RULE TITLE: Elevator Safety Act

1. Authorizing statute(s) citation WV Code 21-3C

2. a. Date filed in State Register with Notice of Hearing

June 28, 1993

b. What other notice, including advertising, did you give of the hearing?

Used only "Notice of Public Comment"

c. Date of Hearing(s) No hearings conducted

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached  No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 11, 1993

f. Name and phone number(s) of agency person(s) to contact for additional information:

Andrew A. Brown, Asst. to the Commissioner

(304) 558-7890, ext# 12

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A (public comment period was used)

b. Date of hearing: \_\_\_\_\_

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached \_\_\_\_\_

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000



## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

FAX: (304) 558-0900

March 18, 1994

Andy Brown  
Labor  
Bldg. 3, Rm. 319  
State Capitol Complex  
Charleston, WV 25305

**SB 1005** authorizing, **Title 42, Series 21, Elevator Safety Act**, passed the Legislature on **March 16, 1994**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 1005, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 1005** section **64-3-7(j)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

**\*\*\*IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You  
Administrative Law Division

FILED

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TITLE 42  
LEGISLATIVE RULE  
WEST VIRGINIA DIVISION OF LABOR

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 21

ELEVATOR SAFETY ACT

§42-21-1. General.

1.1. Scope. This legislative rule governs competency testing of inspectors, certification of inspectors, registration of elevators, inspection of elevators, issuance of Certificate of operation, fees, permits for repair, enforcement and penalties.

1.2. Authority. W.Va. Code §21-3C-11.

1.2. Filing Date.

1.3. Effective Date.

§42-21-2. Application and Enforcement.

2.1. Application. This legislative rule governs all persons, firms, corporations, government entities, materials and transactions covered by the provisions of West Virginia Code §21-3C-1, et seq.

2.2. Enforcement. The enforcement of this legislative rule is vested with the West Virginia Division of Labor or its designated representatives as authorized by W.Va. Code §21-3C-11(d).

§42-21-3. Definitions.

3.1. "Certificate of operation" means a certificate issued by the Division of labor certifying that an elevator has been inspected and deemed safe for operation, thus authorizing its operation. The "certificate of operation" shall be conspicuously posted on the elevator at all times.

3.2. "Division" means the Division of Labor.

3.3. "Elevator" means all the machinery, construction, apparatus and equipment used in raising and lowering a car, cage or platform vertically between permanent rails or guides and includes all elevators, power dumbwaiters, escalators, gravity elevators and other lifting or lowering apparatus permanently installed between rails or guides, but does not include hand

operated dumbwaiters, man-lifts or the platform type with a platform area not exceeding nine hundred square inches, construction hoists or other similar temporary lifting or lowering apparatus.

3.4. "Freight elevator" means an elevator used for carrying freight and on which only the operator, by the permission of the employer, is allowed to ride.

3.5. "Inspector" means a person hired by the division, a county or municipality who has successfully completed the required West Virginia state elevator inspector examination and is thereby qualified to conduct safety inspections on elevators.

3.6. "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity.

#### \$42-21-4. Registration of Elevators.

4.1. Registration. The owner or operator of any elevator shall register with the Division every elevator operated by him or her, providing all information required by the Division. The registration shall be made on a form designed and furnished by the Division. The division shall forward a list of registered elevators to the county or municipality in which the elevators are located.

4.2. Exemptions. The registration requirement is not applicable to elevators located within any single-family residential dwelling. Also, the requirement is not applicable to elevators or similar devices used by mining or industrial operations where the elevators are not available to the general public and are covered by employee safety and health enforcement activities of the Occupational Safety and Health Administration and the Mining Safety and Health Administration, both agencies of the U.S. Department of Labor.

#### \$42-21-5. Certificate of operation required.

5.1. Certificate of operation. No elevator may be operated in this state, except those exempted by section 4.2 of this rule, without a valid certificate of operation. No certificate of operation shall be issued by the Division until the elevator has been inspected and certified safe for operation by an inspector who holds a certificate of competency issued by the Division. The fee for a certificate of operation is twenty-five dollars (\$25) for an initial certificate and twenty-five dollars (\$25) for each subsequent renewal. The fee shall be paid directly to the Division. A certificate of operation is valid for twelve (12) months from the date of issue. The owner or operator of an elevator shall apply for a certificate of operation on a form provided by the Division and shall remit the appropriate fee.

Provided that; elevators which have been in use for less than five years from their initial installation date, are required to be issued a certificate of operation but are not required to be inspected.

5.2. Renewal. Every certificate to operate shall be renewed on or before its expiration date. The renewal fee is twenty-five dollars (\$25). The owner or operator of the elevator shall apply for renewal on a form furnished by the Division and shall remit the appropriate renewal fee. The Division shall not a certificate of operation until the elevator has been inspected and found safe for operation by an inspector who holds a certificate of competency issued by the division. Provided; that elevators which have been in service for less than five years from the date of initial installation are not subject to inspection.

5.3. Revocation of a certificate to operate. A certificate to operate may be revoked by the Division for any of the following reasons:

- a. any condition which presents an immediate and serious safety hazard to passengers,
- b. the failure of an owner or operator to comply with any safety hazard abatement order issued by the Division,
- c. the violation of a barricade order issued by the Division or by an inspector certified for competency by the Division,
- d. the submission of any information or statements to the Division which are known by the person submitting the information to be false or misleading in a material respect,
- e. the failure or refusal by the owner or operator of an elevator to permit the Division or its inspectors access to or to copy records, or the failure to make required reports or to provide information, or the failure or refusal to permit entry or inspection as required by this rule, or
- f. the failure to pay any fee required by law or this rule.

#### \$42-21-6. Inspection.

6.1. Inspection required. As required by Section 5.1 of this rule, elevators must be inspected for safety and certified safe for operation by an inspector who has been certified for competency by the Division. The Division and its certified inspectors or employees may enter into any establishment in which there is located an elevator covered by this rule for the purpose of inspecting the elevator for safety. The inspection may occur,

announced or unannounced, at any time between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, or at such other reasonable times as considered necessary by the Division in the exercise of its duties.

6.2. Safety Standards. The American National Standards Institute (ANSI) Code A17.1-3, "Safety Code for Elevators and Escalators", is hereby incorporated by reference. This Code shall serve to regulate the safety of elevators and escalators in this state. Every passenger elevator shall be equipped, maintained and operated in accordance with the ANSI Code A17.1-3, even though the elevator may be exempted from the inspection process, as authorized by Section 5.1 of this rule.

6.3. Inspection Report. Every inspector shall prepare a report of inspection showing the exact condition of each elevator. The inspector shall leave a copy of the report at the elevator on the day of inspection. The inspector shall forward a copy of the report of inspection to the Division and to the county or municipality in which the elevator is located.

If any elevator requires changes or repairs to make it safe to operate, the recommendations shall be contained in the report of inspection. A copy of the report as approved by the Division shall be submitted to the owner or operator of the elevator. Unless the findings in the report are appealed, the owner or operator of the elevator shall make the required changes or repairs before a certificate of operation is issued.

The owner or operator of an elevator may appeal the findings of a report of inspection by making application to the Division for a hearing. An application for a hearing must be filed within twenty (20) days of the receipt of the report of inspection. The Division shall conduct hearings in accordance with the requirements of WV Code §29A-5-1, et seq, State Administrative Procedures Act-Contested Cases.

6.4. Inspection Fees. The fee for the inspection of an elevator is one hundred dollars (\$100) for any one inspection. Provided, That in buildings with more than one elevator, the fee is one hundred dollars (\$100) for the first elevator inspected and twenty-five dollars (\$25) for each additional elevator. In situations where changes and/or repairs are required prior to the issuance of a certificate of operation, no inspection fee will be charged for the first follow-up inspection. However, if subsequent follow-up inspections are required because of the failure to make proper repairs and/or changes, inspection fees shall be charged at the same level as for an original inspection for each subsequent follow-up inspection. The failure to pay the required inspection fee is sufficient grounds for the Division to withhold the issuance of a certificate of operation.

6.5. Enforcement; defective machinery. The Division or inspectors have the authority to remove from service, any elevator which is found to be unsafe for passenger use.



- a. **Notice of unsafe condition.** If, during the course of an inspection, the Division or inspector finds that a passenger elevator or any part of the elevator cannot be operated safely, the Division or inspector shall contact the owner or operator in writing stating the deficiencies and recommended repairs and/or changes. The Division or inspector shall post a notice upon the elevator prohibiting further use. The notice shall contain a statement that operators or passengers are subject to injury by the use of the elevator. Further, the notice shall describe the repairs and/or changes necessary to be made in order to secure safe operation, the date of the notice, and the name and signature of the inspector issuing the notice.
- b. **Condemnation.** If an inspector finds a passenger elevator to be so unsafe that it presents imminent danger of death or physical injury, the inspector shall seal the elevator out of service and post a hazard notice on the elevator, as described in Section 6.5a of this rule. The Division shall be notified immediately as to the location and condition of the elevator. Any passenger elevator, once sealed, may not be operated except for the purpose of making repairs as prescribed by the Division. To seal an elevator is to render it mechanically inoperable and to erect a barricade sufficient to deter physical access to the elevator. No seal, notice or barricade placed on or around an elevator in accordance with the provisions of this rule may be removed, obstructed or in any way altered without the written consent of the Division.

6.6. **Permits for removal or repair.** Before any existing elevator is removed to a different location, the owner or operator shall submit an application of specifications to the Division on forms provided by the division. A copy of the complete installation plan shall be submitted with the application. Also, any proposed repairs or changes by the owner or operator of an elevator which alter the construction or classification, grade or rated lifting capacity of an elevator shall require a permit, except where the alterations are recommended in an inspection report prepared by an inspector.

Upon approval of the application and installation plans, the Division shall issue a permit for the installation or repair of the elevator. No elevator being removed and re-installed or repaired may be operated until its completion, in accordance with the approved plans and specifications.

#### §42-21-7. Competency of Inspectors.

7.1. **Certificate of Competency.** No person may serve as a elevator inspector unless he or she successfully completes the examination required by this rule and holds a certificate of competency issued by the Division.

7.2. Examination required. Any person desiring to obtain a certificate of competency from the Division shall apply to the Division for an examination. An application for examination shall be made in writing and accompanied by a ten dollar (\$10) fee, upon a form designed and furnished by the Division. The applicant shall provide all information requested on the form and any failure to provide the information shall cause the application to be rejected. The applicant shall also submit a letter from one or more of his or her previous employers concerning his or her character and experience.

After review of the application by the Division, the applicant, if considered appropriate by the Division, shall be tested by means of a written examination. The examination shall address the construction, installation, operation, maintenance and repair of elevators and their accessories and shall have as its primary reference source the American National Standards Institute Code A17.1-1990, Safety Code for Elevators and Escalators, as adopted by Section 6.2 of this rule. The applicant must achieve a minimum score of seventy percent (70%) to be considered to have passed the examination.

An applicant who fails to successfully complete an initial examination, may submit an application for a second examination, ninety (90) days or more after the initial examination. An application for a second examination must be accompanied by a ten dollar (\$10) fee. If an applicant fails to successfully complete the examination on the second trial, he or she may not submit an application for another examination for a period of one year after the second failure.

7.3. Suspension or revocation of certificates. A certificate of competency may be suspended or revoked by the Division if the inspector is found to be incompetent or untrustworthy. Any willfully submitted false statement contained in an inspection report is grounds for suspension of the certificate of competency.

#### \$42-21-8. Powers and duties of counties and municipalities.

8.1. Work-sharing agreements with the Division. The Division may enter into a work-sharing agreement with any county or municipality whereby the county or municipality would, under the supervision of the Division, assume the inspection and enforcement provisions of West Virginia Code §21-3C-1 et seq.. Under an agreement, the county or municipality will insure:

- a. that all elevators covered under the provisions of West Virginia Code §21-3C-1 et seq within the county or municipality are inspected annually for safety;
- b. that no elevator covered by West Virginia Code §21-3C-1 et seq shall be permitted to operate without having first obtained a certificate of operation from the Division;

- c. that any inspector employed by the county or municipality is certified for competency by the Division as required by Section 7 of this rule;
- d. that all inspections for safety are conducted in accordance with the provisions of this rule;
- e. that reports on inspection be filed with the Division within five (5) days of the date of inspection; and
- f. that the county or municipality will comply with any written orders issued by the Division relative to revised inspection procedures or enforcement of West Virginia Code §21-3C-1 et seq.

The Division shall:

- a. provide technical assistance to the county or municipal inspectors as may be necessary to insure adequate enforcement of the West Virginia Code §21-3C-1 et seq;
- b. provide supplies of all reporting/inspection forms as may be required by the Division;
- c. permit the county or municipality to collect and retain fees for inspections as a means to support the enforcement effort at the local level. The fees collected shall not exceed those established by this rule; and
- d. provide direct supervision, where considered necessary by the Division, to county or municipal inspectors.

With the approval of the Division, counties and municipalities may combine their jurisdictions into a single work-sharing agreement.

8.2. Form of agreement. Work-sharing agreements executed under the provisions of this section shall be executed on a form provided by the Division and approved by the Office of the Attorney General.

#### §42-21-9. Penalties.

9.1. Any person who violates any provision of the West Virginia Code §21-3C, or any directive or order issued pursuant thereto is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000) per day. Each day the violation continues constitutes a separate offense.

#### §42-21-10. Severability.

10.1. If any provision of this rule or its application to any person is held invalid, the invalidity shall not affect the provisions or application of this rule which can be given effect without the invalid provisions or application, and to this end the provisions of this rule are declared to be severable.

## RESULTS OF PUBLIC COMMENT PERIOD

A notice of public comment period was filed with the Office of the Secretary of State on June 28, 1993 relative to proposed legislative rule series 21, The Elevator Safety Act. Written comments were received from five individual parties. The basic comment of the five parties merely voiced opposition to the passage of HB #2184 and recommended that the bill be defeated. In as much as HB #2184 has passed and has been signed into law, these comments were disregarded.

The most consistent comment received was concern about "dual inspections". It was assumed by the respondents that their own insurance company or elevator maintenance company would be performing the exact same inspection that would be required and performed by the Division of Labor. This would be a duplication of effort as well as additional inspection fees to be paid by the elevator owners. While this situation could occur, special provisions were made in HB #2184 and also in the rule to deal with this concern. For a fee of \$10.00 and a written application, any individual may be examined by the Division of Labor for certification as an elevator inspector. Primarily, the applicants would be insurance company personnel and employees of elevator maintenance companies. However, the field of applicants has only as its limitations, an experienced background and the ability to pass a written examination relative to elevator safety code. Persons who qualify would be issued a Certificate of Competency by the Division and the Division would then accept standard inspection reports from these persons in lieu of performing an additional inspection. Therefore, relative to the dual inspection/fees comment, this issue is addressed by the rule and would not present any additional burden upon elevator owners.

One respondent commented concern about the content of the elevator inspector examination. The examination will be adopted as a part of the overall Code as incorporated by reference: American National Standards Institute (ANSI), A 17.1, A 17.2 and A 17.3. This method of examination is currently used nationwide and appears appropriate for use in West Virginia.

One respondent voiced opposition to the requirement that the "Certificate to Operate" be posted, visible to the public, on each applicable elevator. This requirement was mandated by WV Code §21-3C-1,(1).

One respondent voiced opposition to the fees, both permit fees and inspection fees, stating that the fees were excessive. The fees are within the legislative intent of the Act. The permit, or certificate to operate fee is consistent with that charged in other states enforcing similar legislation. The fee level set,

\$25, is considered an offset for costs incurred for processing reports and administration. The inspection fee is set at \$100 per elevator, except where multiple elevators are contained within the same structure and there the fee would be \$100 for the first elevator and \$25 for each additional elevator. The Division conducted telephone surveys of elevator maintenance companies which service the West Virginia area. The findings of that survey indicated that the average inspection required two hours for cable operated systems and about three hours for hydraulic systems. The going hourly rate ranged from \$80 per hour to \$140 per hour. This would indicate that the least expensive inspection would be two hours (a cable system) at \$80 per hour for a total inspection cost of \$160.. Therefore, the fee set by this rule appears very reasonable.

The comments received have caused no changes to be made to the original rule as filed on June 28, 1993.

TRACY & REISHMAN  
ATTORNEYS AT LAW  
318 MORRISON BUILDING  
815 QUARRIER STREET  
CHARLESTON, WEST VIRGINIA 25301

R. BRAWLEY TRACY  
JAMES M. REISHMAN

TELEPHONE (304) 344-2403  
FACSIMILE (304) 344-2405

July 20, 1993

Roy M. Smith, Commissioner  
WV Division of Labor  
Room #319, Building #3  
State Capitol Complex  
Charleston, West Virginia 25305

RE: Elevator Safety Rules and Regulations, 1993 Regular Session of the  
West Virginia Legislature HB 2184

Dear Commissioner Smith:

With reference to the proposed Rule No. 21, Elevator Safety Act, I  
have the following comments.

By way of background I do not know what motivated the Legislature  
in passing HB 2184, but assume there have been injuries to people on or  
about elevators, which presumably might have been avoided if elevators  
are regularly inspected by competent personnel.

Therefore I would like to suggest that there be exempt from the  
inspection requirement in the proposed rules, elevators that are made  
subject to a maintenance contract with an organization that is approved  
by your office that employees personnel to maintain elevators and inspect  
them that meet standards promulgated by your office.

It appears to me that a large number of elevators are already being  
inspected by competent personnel. For example, I own interest in  
buildings that have nine elevators. These elevators have constantly been  
subject to a maintenance contract with reputable concerns, such as Dover  
Elevator Company and Otis Elevator Company, to mention but two. These  
concerns employ employee union members that are highly trained and skilled  
personnel.

It seems to me that if such an exception is not in the rules, that  
the rules will encourage elevator owners to drop maintenance contracts  
such as those that I have mentioned and to rely on the inspection by the  
state inspectors who in my opinion for the most part will not have the  
level of competency and proficiency the private sector is providing  
through union members and further such will contribute to unemployment of  
highly skilled workers which is counter productive to the general welfare  
of the people of West Virginia.

Roy M. Smith, Commissioner  
July 20, 1993  
Page Two

Thank you for the opportunity to comment.

Very truly yours,

  
R. Brawley Tracy

RBT:dw





EXECUTIVE OFFICES  
CITY CENTER WEST  
900 PENNSYLVANIA AVENUE  
(304) 343-2201

July 19, 1993

Mr. Roy M. Smith, Commissioner  
West Virginia Division of Labor  
Office of the Commissioner  
Room #319, Building 3  
Capitol Complex  
Charleston, West Virginia 25305

Dear Mr. Smith:

We would like to voice opposition to HB2184, the Elevator Safety Act.

General Corporation is a real estate investment company which has office and distribution/warehouse space for lease. We also have sister companies with similar interests. General Corporation owns property. Some of our properties are managed by other companies and in some cases we manage our own.

We have high regard for the safe operation of elevators. Our maintenance agreements include inspections that exceed ANSI and OSHA requirements.

We feel this bill would place an unnecessary burden on property management and create a needless expense for the property owner.

Sincerely,

A handwritten signature in cursive script that reads 'Mary P. Casto'.

Mary P. Casto  
Marketing Director/  
Property Manager

# ATLANTIC DEVELOPMENT CORPORATION

950 KANAWHA BOULEVARD EAST  
CHARLESTON, WEST VIRGINIA 25301

304/343-3663

July 20, 1993

West Virginia Division of Labor  
Office of the Commissioner  
Room 319, Building 3  
Capitol Complex  
Charleston, WV 25305

Re: HB2184 Elevator Safety Act

Gentlemen:

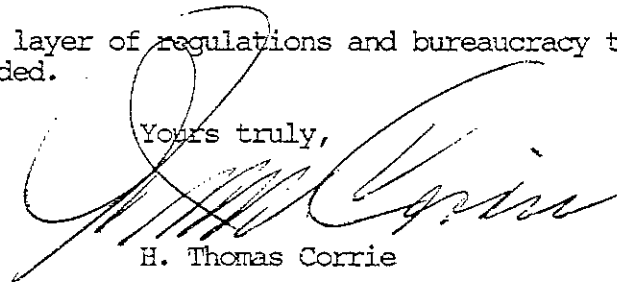
Eastern Associates, a West Virginia Limited Partnership, of which I am the general partner, owns an office building in Charleston with two elevators; one passenger and one freight.

We are concerned with elevator safety and we have our elevators inspected each month by the Armor Elevator Co. at a cost of \$140.85 per month; \$1,690.20 per year. We are not exceptions, most building owners are equally concerned about safety.

It may interest you to know that all major insurance companies require annual inspections of elevators as a condition of their policy. A simple directive from the Insurance Commissioner could insure that this condition would be permanent and that responsible people would be in a position of liability.

HB2184 will furnish another layer of regulations and bureaucracy that is unwarranted and certainly not needed.

Yours truly,



H. Thomas Corrie

clc

# THE HAWLEY CORPORATION

300 HAWLEY BUILDING

WHEELING, WEST VIRGINIA 26003-2794

Telephone 304-232-2520  
Fax 304-233-3840

July 22, 1993

West Virginia Division of Labor  
Office of the Commissioner  
Room 319, Building #3  
Capitol Complex  
Charleston, W. Va. 25305

Re: Title 42  
WV Code 21-3C  
Elevator Safety Act

Gentlemen:

1. Operating Certificates are not needed, should not be issued and waste time and money for the State.

Accidents involving injury in elevator operation are so rare it is not a problem that the State needs to address. Anyone owning an elevator knows they require periodic maintenance. Competent maintenance companies can certify safety of operation by answering questions on a form. Another reason to avoid certificates is the State could be a party to any lawsuit if injury resulted in a certified elevator.

2. Inspection.

If a regular elevator maintenance company maintains equipment it is unnecessary for the State to send inspectors around. We have electrician licensing, why not just license elevator maintenance firms and let them submit inspection reports annually.

Thank you for considering these suggestions.

Yours very truly,

THE HAWLEY CORPORATION

  
Robert B. Grindley

President

RBG/jmf



HAWLEY BUILDING

OFFICE RENTALS

PARKING GARAGE

STORE ROOMS

## One Valley Square

July 19, 1993

West Virginia Division of Labor  
Office of the Commissioner  
Room 319, Building #3  
Capitol Complex  
Charleston, WV 25305

Re: Comments on Elevator Safety Act  
House Bill 2184

Gentlemen:

I have reviewed the proposed text on the subject act and would like to make the following comments:

1. It is not logical to me that the Division of Labor would be the inspecting authority for elevators. I do not see the correlation between labor and elevators.
2. The examination for inspectors is not yet assembled. What qualifications will be required for the person putting together the examination and for the inspector? Who will have input to this process?
3. The twenty-five dollar certificate fee is excessive. I do not understand why it would cost twenty-five dollars to fill out a certificate and keep my application on file.
4. The inspection fee seems excessive. I would have to see what the inspector is qualified to do, and what he is charged with doing, before I would be willing to pay that kind of fee.
5. There is no provision for appeals to the inspector's findings. I would think that this would be very important to any elevator owner, and would prevent arbitrary decisions by the inspector.

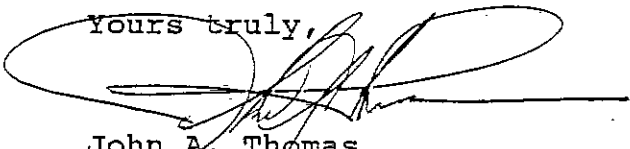
Page 2

In addition to these questions, I would strongly object to any requirement that the owner of the elevator would have to display the certificate in the elevator car. Everywhere I have seen this type of certificate, they have been subject to damage and are aesthetically unappealing. If we are required to have a certificate, I would like to see having it on file in the office be sufficient.

Finally, our building pays in excess of \$70,000.00 per year for a service contract with Otis Elevator to ensure that our elevators are in the best shape. There should be some provision in this law that would allow competency testing for mechanics of major elevator service companies that would allow them to certify the elevators under the maintenance contracts, thereby avoiding the inspection fees to the government authority.

If you have any questions concerning these comments, please do not hesitate to call me.

Yours truly,

A large, stylized handwritten signature in black ink, appearing to read 'John A. Thomas', written over the typed name below.

John A. Thomas  
Property Manager  
One Valley Square

JAT/jr