

it to the treasurer of state for deposit in the general fund of the state. Persons requested to make a contribution at a fundraising event shall be advised that it is illegal to make a contribution in excess of ten dollars unless the person making the contribution also provides the person's name and address.

Approved March 14, 2007

CHAPTER 15

DIRECTORS OF NONPROFIT CORPORATIONS — DUTIES

H.F. 258

AN ACT relating to the duties of directors of nonprofit corporations.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 504.831, subsections 2 and 4, Code 2007, are amended to read as follows:

2. The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making functions or when devoting attention to their oversight functions, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

4. In discharging board or committee duties, a director who does not have knowledge that makes reliance unwarranted, is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the persons specified in subsection 5.

Approved March 14, 2007

CHAPTER 16

CONVEYANCE SAFETY STANDARDS — ELEVATORS AND SIMILAR MECHANISMS

H.F. 369

AN ACT relating to elevator conveyance safety standards enforced by the division of labor services of the department of workforce development.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 88.19, Code 2007, is amended to read as follows:

88.19 ANNUAL REPORT.

Within one hundred twenty days following the convening of each session of each general assembly, the commissioner shall prepare and submit to the governor for transmittal to the general assembly a report upon the subject matter of this chapter, the progress toward achievement of the purpose of this chapter, the needs and requirements in the field of occupational safety and health, and any other relevant information. Such reports may include infor-

mation regarding occupational safety and health standards, and criteria for such standards, developed during the preceding year; evaluation of standards and criteria previously developed under this chapter, defining areas of emphasis for new criteria and standards; and evaluation of the degree of observance of applicable occupational safety and health standards, and a summary of inspection and enforcement activity undertaken, including remedial actions taken under chapter 89A; analysis and evaluation of research activities for which results have been obtained under governmental and nongovernmental sponsorship; an analysis of major occupational diseases; evaluation of available control and measurement technology for hazards for which standards or criteria have been developed during the preceding year; description of co-operative efforts undertaken between government agencies and other interested parties in the implementation of this chapter during the preceding year; a progress report on the development of an adequate supply of trained personnel in the field of occupational safety and health, including estimates of future needs and the efforts being made by government and others to meet those needs; listing of all toxic substances in industrial usage for which labeling requirements, criteria, or standards have not yet been established; and such recommendations for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this chapter.

Sec. 2. Section 89A.1, Code 2007, is amended to read as follows:

89A.1 DEFINITIONS.

As used in this chapter, except as otherwise expressly provided:

1. "Alteration" means any change made to an existing facility conveyance, other than the repair or replacement of damaged, worn, or broken parts necessary for normal maintenance.
2. "Commissioner" means the labor commissioner, appointed pursuant to section 91.2, or the labor commissioner's designee.
3. "Conveyance" means an elevator, dumbwaiter, escalator, moving walk, lift, or inclined or vertical wheelchair lift subject to regulation under this chapter, and includes hoistways, rails, guides, and all other related mechanical and electrical equipment.
4. "Division" means the division of labor services of the department of workforce development created under section 84A.1.
4. ~~5.~~ "Dormant ~~facility~~ conveyance" means a facility conveyance whose power feed lines have been disconnected from the mainline disconnect switch and is one of the following:
 - a. An electric elevator, material lift, or dumbwaiter whose suspension ropes have been removed, whose car and counterweight rest at the bottom of the hoistway, and whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side.
 - b. A hydraulic elevator, material lift, or dumbwaiter whose car rests at the bottom of the hoistway, whose pressure piping has been disassembled and a section removed from the premises; whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side; and, if provided, whose suspension ropes have been removed and the counterweights landed at the bottom of the hoistway.
 - c. An escalator or moving walk whose entrances have been permanently barricaded.
 - d. A rack and pinion or screw column ~~facility elevator~~, whose motor has been removed, platform lowered to the bottom, and entrances barricaded.
5. ~~6.~~ "Dumbwaiter" means a hoisting and lowering mechanism equipped with a car which moves in guides in a substantially vertical direction, when the floor area does not exceed nine square feet, the total compartment height does not exceed four feet, the capacity does not exceed five hundred pounds, and which is used exclusively for carrying materials.
6. ~~7.~~ "Elevator" means a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction, and which serves two or more floors of a building or structure. ~~The term elevator~~ "Elevator" does not include a dumbwaiter, endless belt, conveyor, chain or bucket hoist, construction hoist, or other device used for the primary purpose of elevating or lowering building or other materials and not used as a means of conveyance for individuals, ~~nor shall it~~ and does not include tiering, piling, feeding, or other machines or devices giving service within only one story.

7. ~~8.~~ “Escalator” means a power-driven, inclined, continuous stairway used for raising or lowering passengers.

8. ~~“Facility” means an elevator, dumbwaiter, escalator, moving walk, lift, or inclined or vertical wheelchair lift subject to regulation under this chapter, and includes hoistways, rails, guides, and all other related mechanical and electrical equipment.~~

9. “Freight elevator” means an elevator used for carrying freight and on which only the operator and persons necessary for unloading and loading the freight are permitted to ride.

10. “Inclined or vertical wheelchair lift” means a lift used as part of an accessible route in or at a public building as specified in the American society of mechanical engineers safety codes for elevators and escalators, A17.1.

11. “Inspector” means an inspector employed by the division for the purpose of administering this chapter.

12. “Lift” means a device consisting of a power-driven endless belt, provided with steps or platforms and handholds attached to it for the transportation of persons from floor to floor.

13. ~~“Material lift elevator” means an elevator existing at the location prior to January 1, 1975, which is limited in use to the movement of materials.~~

14. “Moving walk” means a type of passenger-carrying device on which passengers stand or walk, and in which the passenger-carrying surface remains parallel to its direction in motion and is uninterrupted.

15. “New installation” means a facility conveyance the construction or relocation of which is begun, or for which an application for a new installation permit is filed, on or after the effective date of rules relating to those permits adopted by the commissioner under authority of this chapter. All other installations are existing installations.

16. “Owner” means the owner of a facility conveyance, unless the facility conveyance is a new installation or is undergoing major alterations, in which case the owner shall be considered the person responsible for the installation or alteration of the facility conveyance until the facility conveyance has passed final inspection by the division.

17. “Passenger elevator” means an elevator that is used to carry persons other than the operator and person¹ necessary for loading and unloading.

18. “Safety board” means the elevator safety board created in section 89A.13.

19. “Special inspector” means an inspector ~~licensed~~ commissioned by the labor commissioner, and not employed by the division.

Sec. 3. Section 89A.2, Code 2007, is amended to read as follows:

89A.2 SCOPE OF CHAPTER.

The provisions of this chapter shall not apply to any facility conveyance installed in any single private dwelling residence, to facilities conveyances subject to regulation under Iowa Administrative Code, chapter 26 of the rules of the division of labor services (regulation 875 IAC 26.1 and 29 C.F.R. 1926.552), to lifts subject to regulation under chapter 88, to material lift elevators existing in the same location since prior to January 1, 1975, or to facilities conveyances over which an agency of the federal government is asserting similar enforcement jurisdiction. Provisions of this chapter supersede similar conflicting provisions contained in building codes of this state or any subdivision thereof.

Sec. 4. Section 89A.3, subsections 1 and 2, Code 2007, are amended to read as follows:

1. The safety board may adopt rules governing maintenance, construction, alteration, and installation of facilities conveyances, and the inspection and testing of new and existing installations as necessary to provide for the public safety, and to protect the public welfare.

The safety board shall adopt, amend, or repeal rules pursuant to chapter 17A as it deems necessary for the administration of this chapter, which shall include, but not be limited to, rules providing for:

a. Classifications of types of facilities conveyances.

b. Maintenance, inspection, testing, and operation of the various classes of facilities conveyances.

¹ According to enrolled Act; the word “persons” probably intended

- c. Construction of new facilities conveyances.
 - d. Alteration of existing facilities conveyances.
 - e. Minimum safety requirements for all existing facilities conveyances.
 - f. Control or prevention of access to facilities conveyances or dormant facilities conveyances.
 - g. The reporting of accidents and injuries arising from the use of facilities conveyances.
 - h. The adoption of procedures for the issuance of variances.
 - i. The amount of fees charged and collected for inspection, permits, and licenses commissions. Fees shall be set at an amount sufficient to cover costs as determined from consideration of the reasonable time required to conduct an inspection, reasonable hourly wages paid to inspectors, and reasonable transportation and similar expenses.
2. The safety board shall adopt rules for facilities conveyances according to the applicable provisions of the American society of mechanical engineers safety codes for elevators and escalators, A17.1 and A17.3, as the safety board deems necessary. In adopting rules the safety board may adopt the American society of mechanical engineers safety codes, or any part of the codes, by reference.
- The safety board may adopt rules permitting existing passenger and freight elevators to be modified into material lift elevators.

Sec. 5. Section 89A.5, Code 2007, is amended to read as follows:

89A.5 REGISTRATION OF FACILITIES CONVEYANCES.

The owner of every existing facility conveyance, whether or not dormant, shall register the facility conveyance with the commissioner, giving type, contract load and speed, name of manufacturer, its location and the purpose for which it is used, and other information the commissioner may require. Registration shall be made in a format required by the division.

Sec. 6. Section 89A.6, Code 2007, is amended to read as follows:

89A.6 INSPECTIONS — REPORTS — NONLIABILITY.

All new and existing facilities conveyances, except dormant facilities conveyances, shall be tested and inspected in accordance with the following schedule:

- 1. Every new or altered facility conveyance shall be inspected and tested before the operating permit is issued.
- 2. Every existing facility conveyance registered with the commissioner shall be inspected within one year after the effective date of the registration, except that the safety board may extend by rule the time specified for making inspections.
- 3. Every facility conveyance shall be inspected not less frequently than annually, except that the safety board may adopt rules providing for inspections of facilities conveyances at intervals other than annually.
- 4. The inspections required by subsections 1 to 3 shall be made only by inspectors or special inspectors. An inspection by a special inspector may be accepted by the commissioner in lieu of a required inspection by an inspector.
- 5. A report of every inspection shall be filed with the commissioner by the inspector or special inspector, in a format required by the commissioner, after the inspection has been completed and within the time provided by rule, but not to exceed thirty days. The report shall include all information required by the commissioner to determine whether the facility conveyance is in compliance with applicable rules. For the inspection required by subsection 1, the report shall indicate whether the facility conveyance has been installed in accordance with the detailed plans and specifications approved by the commissioner, and meets the requirements of the applicable rules. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.
- 6. In addition to the inspections required by subsections 1 to 3, the safety board may provide by rule for additional inspections as the safety board deems necessary to enforce the provisions of this chapter.

Sec. 7. Section 89A.7, Code 2007, is amended to read as follows:

89A.7 ALTERATION PERMITS.

The owner shall submit to the commissioner detailed plans, specifications, and other information the commissioner may require for each facility conveyance to be altered, together with an application for an alteration permit, in a format required by the commissioner. Repairs or replacements necessary for normal maintenance are not alterations, and may be made on existing installations with parts equivalent in material, strength, and design to those replaced and no plans or specifications or application need be filed for the repairs or replacements. However, this section does not authorize the use of any facility conveyance contrary to an order issued pursuant to section 89A.10, subsections 2 and 3.

Sec. 8. Section 89A.9, Code 2007, is amended to read as follows:

89A.9 OPERATING PERMITS.

Operating permits shall be issued by the commissioner to the owner of every facility conveyance when the inspection report indicates compliance with the applicable provisions of this chapter. However, a permit shall not be issued if the fees required by this chapter have not been paid. Permits shall be issued within thirty days after filing of the inspection report required by section 89A.6, unless the time is extended for cause by the division. A facility conveyance shall not be operated after the thirty days or after an extension granted by the commissioner has expired, unless an operating permit has been issued.

The operating permit shall indicate the type of equipment for which it is issued, and in the case of elevators shall state whether passenger or freight, and also shall state the contract load and speed for each facility conveyance. The permit shall be posted conspicuously in the car of an elevator, or on or near a dumbwaiter, escalator, moving walk, or lift.

Sec. 9. Section 89A.10, subsections 2 and 3, Code 2007, are amended to read as follows:

2. If the owner does not make the changes necessary for compliance as required in subsection 1 within the period specified by the commissioner, the commissioner, upon notice, may suspend or revoke the operating permit, or may refuse to issue the operating permit for the facility conveyance. The commissioner shall notify the owner of any action to suspend, revoke, or refuse to issue an operating permit and the reason for the action by service in the same manner as an original notice or by certified mail. An owner may appeal the commissioner's initial decision to the safety board. The decision of the safety board shall be considered final agency action pursuant to chapter 17A.

3. If the commissioner has reason to believe that the continued operation of a facility conveyance constitutes an imminent danger which could reasonably be expected to seriously injure or cause death to ~~members of the public~~, any person, in addition to any other remedies, the commissioner may apply to the district court in the county in which such imminently dangerous condition exists for a temporary order for the purpose of enjoining such imminently dangerous facility conveyance. Upon hearing, if deemed appropriate by the court, a permanent injunction may be issued to insure that such imminently dangerous facility conveyance be prevented or controlled. Upon the elimination or rectification of such imminently dangerous condition, the temporary or permanent injunction shall be vacated.

Sec. 10. Section 89A.11, Code 2007, is amended to read as follows:

89A.11 NONCONFORMING ~~FACILITIES~~ CONVEYANCES.

The safety board, pursuant to rule, may grant exceptions and variances from the requirements of rules adopted for any facility conveyance. Exceptions or variations shall be reasonably related to the age of the facility conveyance, and may be conditioned upon a repair or modification of the facility conveyance deemed necessary by the safety board to assure reasonable safety. However, an exception or variance shall not be granted except to prevent undue hardship. Such ~~facilities~~ conveyances shall be subject to orders issued pursuant to section 89A.10.

Sec. 11. Section 89A.12, Code 2007, is amended to read as follows:

89A.12 ACCESS TO ~~FACILITIES CONVEYANCES~~.

Every owner of a facility conveyance subject to regulation by this chapter shall grant access to that facility conveyance to the commissioner and personnel of the division. Inspections shall be permitted at reasonable times, with or without prior notice.

Sec. 12. Section 89A.13, subsections 1 and 7, Code 2007, are amended to read as follows:

1. An elevator safety board is created within the division of labor services in the department of workforce development to formulate definitions and rules for the safe and proper installation, repair, maintenance, alteration, use, and operation of facilities conveyances in this state.

7. Not later than July 1, 2005, and every three years thereafter, the safety board shall conduct a comprehensive review of existing ~~elevator and facility conveyance~~ rules, regulations, and standards.

Sec. 13. Section 89A.14, Code 2007, is amended to read as follows:

89A.14 CONTINUING DUTY OF OWNER.

Every facility conveyance shall be maintained by the owner in a safe operating condition and in conformity with the rules adopted by the safety board.

Sec. 14. Section 89A.15, Code 2007, is amended to read as follows:

89A.15 INSPECTIONS BY LOCAL AUTHORITIES.

A city or other governmental subdivision shall not make or maintain any ordinance, bylaw, or resolution providing for the licensing of special inspectors. An ordinance or resolution relating to the inspection, construction, installation, alteration, maintenance, or operation of facilities conveyances within the limits of the city or governmental subdivision which conflicts with this chapter or with rules adopted pursuant to this chapter is void. The commissioner, in the commissioner's discretion, may accept inspections by local authorities in lieu of inspections required by section 89A.6, but only upon a showing by the local authority that applicable laws and rules will be consistently and literally enforced and that inspections will be performed by special inspectors.

Sec. 15. Section 89A.18, Code 2007, is amended to read as follows:

89A.18 CIVIL PENALTY.

If upon notice and hearing the commissioner determines that an owner has operated a facility conveyance after an order of the commissioner that suspends, revokes, or refuses to issue an operating permit for the facility conveyance has become final under section 89A.10, subsection 2, the commissioner may assess a civil penalty against the owner in an amount not exceeding five hundred dollars, as determined by the commissioner. An order assessing a civil penalty is subject to appeal under section 89A.10, subsection 2, in the same manner and to the same extent as decisions referred to in that subsection. The commissioner may commence an action in the district court to enforce payment of the civil penalty. ~~No~~ A record of assessment against or payment of a civil penalty by any person for a violation of this section shall not be admissible as evidence in any court in any civil action. Revenue from the penalty provided in this section shall be remitted to the treasurer of state for deposit in the state general fund.

Sec. 16. Section 331.304, subsection 4, Code 2007, is amended to read as follows:

4. A county shall not license elevator inspectors or regulate elevator facilities conveyances except as provided in section 89A.15.

Approved March 14, 2007