

HOUSE BILL 644

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Rodolpho "Rudy" S. Martinez and Harry Garcia

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; ENACTING THE ELEVATOR SAFETY ACT; ESTABLISHING THE ELEVATOR SAFETY BUREAU; PROVIDING FOR INSPECTION AND REGISTRATION OF ELEVATORS; PROVIDING CIVIL AND CRIMINAL PENALTIES; AMENDING SECTIONS OF THE CONSTRUCTION INDUSTRIES LICENSING ACT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 18 of this act may be cited as the "Elevator Safety Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Elevator Safety Act:

A. "apprentice" means a person who is enrolled in an apprenticeship training program for mechanics, which program meets the requirements of the Elevator Safety Act, and who

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1 works under the supervision of a mechanic;

2 B. "apprenticeship training program" means an
3 apprenticeship training program that:

4 (1) is registered with and approved by the
5 federal department of labor and the workforce solutions
6 department for providing education and skills training in the
7 conveyance industry;

8 (2) has graduated apprentices for at least
9 three of the past five years; and

10 (3) requires a course of education and
11 training in the conveyance trade that consists of a minimum of
12 eight thousand hours of supervised on-the-job training and one
13 hundred forty-four hours of related technical education per
14 year from a provider of training and educational services in
15 the conveyance industry that has been approved by the
16 commission;

17 C. "bureau" means the elevator safety bureau of the
18 division;

19 D. "certificate of operation" means a document
20 issued by the bureau that indicates the conveyance has passed
21 the required safety inspection and tests and fees have been
22 paid as set forth in the Elevator Safety Act;

23 E. "commission" means the construction industries
24 commission;

25 F. "contractor" means a sole proprietorship,

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1 partnership, firm or corporation that:

2 (1) is engaged in the business of erecting,
3 constructing, installing, altering, servicing, repairing or
4 maintaining conveyances;

5 (2) is properly licensed as a contractor by
6 the division pursuant to the Construction Industries Licensing
7 Act; and

8 (3) employs mechanics and apprentices pursuant
9 to the Elevator Safety Act;

10 G. "conveyance" means:

11 (1) a hoisting and lowering mechanism equipped
12 with a car or platform that moves between two or more landings,
13 including elevators, escalators, moving sidewalks, platform
14 lifts or stairway chair lifts for carrying persons between
15 landings; and

16 (2) a hoisting and lowering mechanism that is
17 equipped with a car, that serves two or more landings and that
18 is restricted to carrying materials by its limited size and
19 limited access;

20 H. "director" means the director of the division;

21 I. "division" means the construction industries
22 division of the regulation and licensing department;

23 J. "inspector" means an individual who:

24 (1) is engaged in the inspection of elevators
25 and related conveyances to determine compliance with adopted

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1 standards;

2 (2) possesses an American society of
3 mechanical engineers certification as a qualified elevator
4 inspector; and

5 (3) is certified pursuant to the Elevator
6 Safety Act;

7 K. "mechanic" means an individual who:

8 (1) possesses a journeyman elevator mechanic's
9 certification pursuant to the provisions of the Elevator Safety
10 Act; and

11 (2) is engaged in erecting, constructing,
12 installing, altering, servicing, testing, repairing or
13 maintaining and performing electrical work on related
14 conveyances covered by the Elevator Safety Act;

15 L. "standards" means national standards developed
16 through an open, balanced consensus process for the
17 installation, use or maintenance of conveyances as recommended
18 by the bureau, including:

19 (1) ASCE 21 - American society of civil
20 engineers automated people mover standards;

21 (2) ASME A17.1/CSA B44 - the safety code for
22 elevators and escalators, an American national standard;

23 (3) ASME A17.3 - the safety code for existing
24 elevators and escalators, an American national standard;

25 (4) ASME A17.7/CSA B44.7 - the performance-

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1 based safety code for elevators and escalators, an American
2 national standard;

3 (5) ASME A17.8/CSA standards for wind turbine
4 tower elevators; and

5 (6) ASME A18.1 - the safety standard for
6 platform lifts and stairway chairlifts, an American national
7 standard; and

8 M. "temporarily dormant" means a conveyance that is
9 placed out of service as specified in the standards.

10 SECTION 3. [NEW MATERIAL] EXEMPTIONS.--The following are
11 exempted from the provisions of the Elevator Safety Act:

- 12 A. material hoists;
- 13 B. boom lifts;
- 14 C. mobile scaffolds, towers and platforms;
- 15 D. powered platforms and equipment for exterior and
16 interior maintenance;
- 17 E. conveyors and related equipment;
- 18 F. cranes, derricks, hoists, jacks and slings;
- 19 G. industrial trucks;
- 20 H. portable equipment, except for portable
21 escalators that are covered by the standards;
- 22 I. tiering or piling machines that are used to move
23 materials to and from storage and that are located and
24 operating entirely within one story;
- 25 J. equipment for feeding or positioning materials

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1 at machine tools, printing presses and similar equipment;

2 K. skip or furnace hoists;

3 L. wharf ramps;

4 M. railroad car lifts or dumpers;

5 N. line jacks, false cars, shafters, moving
6 platforms and similar equipment used for installing a
7 conveyance by a contractor licensed in this state; and

8 O. conveyances within a single family dwelling.

9 SECTION 4. [NEW MATERIAL] COMMISSION DUTIES--RULES.--

10 A. The commission shall adopt rules for conveyances
11 regulated by the Elevator Safety Act. Any modifications to
12 those standards that the commission deems necessary shall be
13 justified in writing. The commission shall grant exceptions
14 and variances to its rules only where such exceptions and
15 variances will not jeopardize the public safety and welfare.

16 B. The commission shall establish fee schedules for
17 licenses, permits and certificates. The fees shall reflect the
18 actual costs and expenses to carry out the provisions of the
19 Elevator Safety Act.

20 SECTION 5. [NEW MATERIAL] ELEVATOR MECHANICS, CONTRACTORS
21 AND INSPECTORS--REQUIREMENTS.--

22 A. No person shall erect, construct, alter,
23 replace, maintain, remove or dismantle any conveyance contained
24 within buildings or structures unless the person is a
25 contractor licensed by the division to perform such work. A

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1 contractor shall not allow any person to perform work in
2 connection with the erection, construction, replacing,
3 maintaining, modifying, removing or dismantling of any
4 conveyance contained within buildings or structures unless that
5 person is a mechanic or apprentice. No other licenses shall be
6 required for this work.

7 B. A licensed contractor is not required for
8 removing or dismantling conveyances that are destroyed as a
9 result of a complete demolition of a secured building or
10 structure or where the hoistway or wellway is demolished back
11 to the basic support structure whereby no access is permitted
12 therein to endanger the safety and welfare of any person.

13 C. No person shall inspect any conveyance within
14 buildings or structures unless the person is an inspector
15 certified by the division pursuant to the Elevator Safety Act.

16 SECTION 6. [NEW MATERIAL] CONTRACTOR LICENSING--
17 MECHANIC'S AND INSPECTOR'S CERTIFICATES.--

18 A. Any sole proprietorship, partnership, firm or
19 corporation wishing to engage in the business or practice of
20 installing, altering, servicing, replacing, maintaining or
21 inspecting conveyances shall apply for the appropriate license
22 with the division on forms established by the division.

23 B. Mechanics employed by licensed contractors shall
24 demonstrate an acceptable combination of documented experience
25 and education credits, including not less than four years of

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1 work experience in the elevator industry in construction,
2 maintenance, service or repair or any combination thereof, as
3 verified by current and previous employers and complete a
4 written examination approved by the director on the most recent
5 standards. A person may be entitled to a waiver of the
6 examination requirement if:

7 (1) within one year of the effective date of
8 the Elevator Safety Act the person furnishes the commission
9 with acceptable proof that the person has worked in elevator
10 construction, maintenance or repair and the work:

11 (a) was without direct and immediate
12 supervision;

13 (b) was for an elevator contractor; and

14 (c) was not less than four years prior
15 to the effective date of the Elevator Safety Act;

16 (2) the person provides a certificate of
17 completion of and successful passing of the mechanic's
18 examination of a nationally recognized training program for the
19 elevator industry, such as the national elevator industry
20 educational program or its equivalent;

21 (3) the person provides a certificate of
22 completion of a federal department of labor-approved
23 apprenticeship program; or

24 (4) the person holds a valid elevator
25 mechanic's license or certification from another state having

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1 standards substantially equal to those of the Elevator Safety
2 Act.

3 C. No inspector's certificate shall be granted to a
4 person, unless the person demonstrates that the person meets
5 the current American society of mechanical engineers QEI-1,
6 standards for the qualifications of elevator inspectors.

7 D. No license or certificate shall be granted to a
8 person who has not fulfilled the requirements of this section.

9 SECTION 7. [NEW MATERIAL] ISSUANCE AND RENEWAL OF
10 LICENSES AND CERTIFICATES--FEES--CONTINUING EDUCATION.--

11 A. The director may issue a license or certificate
12 pursuant to the Elevator Safety Act valid for not more than
13 three years from the month of issuance upon payment of a fee
14 set by the director.

15 B. The renewal of any journeyman elevator mechanic
16 certification shall be conditioned upon the submission of a
17 certificate of completion of a course designed to ensure the
18 continuing education of mechanics. Such course shall consist
19 of not less than eight hours of instruction that shall be
20 attended and completed within one year immediately preceding
21 any such license renewal.

22 C. The courses shall be taught by instructors
23 through continuing education providers that may include
24 association seminars and labor training programs. The director
25 shall approve the continuing education providers.

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1 D. A mechanic who is unable to complete the
2 continuing education course required pursuant to this section
3 prior to the expiration of the certification due to a temporary
4 disability may apply for a waiver from the director.

5 **SECTION 8. [NEW MATERIAL] EMERGENCY AND TEMPORARY**
6 **MECHANIC CERTIFICATIONS.--**

7 A. If the governor has declared an emergency due to
8 a disaster, act of God or work stoppage and the number of
9 persons in the state holding licenses granted by the director
10 is insufficient to cope with the emergency, contractors may
11 respond as necessary to ensure the safety of the public. A
12 person certified by a licensed contractor to have an acceptable
13 combination of documented experience and education to perform
14 elevator work without direct and immediate supervision shall
15 seek an emergency mechanic's license from the director within
16 five business days after commencing work that otherwise
17 requires a license. The director shall issue emergency
18 mechanic's certifications. The contractor shall furnish such
19 proof of competency as the director may require. Each
20 emergency certification shall be valid for no more than
21 forty-five days from the date of its issuance and for such
22 particular elevators or geographical areas as the director
23 designates. The director shall renew an emergency mechanic's
24 certification if the emergency continues beyond forty-five
25 days. No fee shall be charged for an emergency mechanic's

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1 license or its renewal.

2 B. A contractor shall notify the director when
3 there are no licensed personnel available to perform elevator
4 work. The contractor may request that the director issue
5 temporary elevator mechanic's certification to persons
6 certified by the contractor to have an acceptable combination
7 of documented experience and education to perform elevator work
8 without direct and immediate supervision. Any person certified
9 by a contractor to have an acceptable combination of documented
10 experience and education to perform elevator work without
11 direct and immediate supervision shall immediately seek a
12 temporary elevator mechanic's certification from the director
13 and shall pay a fee as determined by the director. Each
14 temporary elevator mechanic's certification shall state that it
15 is valid for twelve months and only while employed by the
16 licensed contractor that certified the individual as qualified.
17 It shall be renewable as long as the shortage of license
18 holders shall continue.

19 SECTION 9. [NEW MATERIAL] REGISTRATION OF EXISTING
20 CONVEYANCES.--By January 1, 2020, the owner or lessee of every
21 existing conveyance shall register with the director such
22 conveyance owned and operated by the owner or lessee and
23 provide the type of conveyance, its rated load and speed, the
24 name of the manufacturer, its location, the purpose for which
25 it is used and any additional information that the director

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1 requires. After January 1, 2020, all conveyances shall be
2 registered at the time they are completed and placed in
3 service.

4 SECTION 10. [NEW MATERIAL] COMPLIANCE WITH STATE FIRE
5 PREVENTION AND BUILDING CODES.--Persons licensed or certified
6 pursuant to the Elevator Safety Act shall ensure that
7 installation or service and maintenance of conveyances are
8 performed in compliance with all laws, ordinances and rules,
9 including fire and building codes.

10 SECTION 11. [NEW MATERIAL] PERMITS.--

11 A. No conveyance shall be erected, constructed,
12 installed or altered within buildings or structures unless a
13 permit has been obtained from the director before the work is
14 commenced. The conveyance, and any alteration thereto, shall
15 conform to all applicable standards. No permit shall be issued
16 except to a contractor properly licensed pursuant to the
17 Construction Industries Licensing Act and in compliance
18 pursuant to the Elevator Safety Act. The director may provide
19 a six-month extension of the term of the permit. A copy of the
20 permit shall be kept at the construction site at all times
21 while the work is in progress.

22 B. A permit fee shall be set by the director and
23 shall not be refundable.

24 C. Each application for a permit shall be
25 accompanied by copies of specifications and accurately scaled

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1 and fully dimensioned plans and shall include:

2 (1) the location of the installation in
3 relation to the plans and elevation of the building;

4 (2) the location of the machinery room and the
5 equipment to be installed, relocated or altered;

6 (3) all structural supporting members,
7 including foundations; and

8 (4) all materials to be employed and all loads
9 to be supported or conveyed.

10 D. A permit issued pursuant to the Elevator Safety
11 Act shall expire no later than six months after the date of
12 issuance of the permit or if the work is suspended or abandoned
13 for a period of sixty days. The director may provide an
14 extension not exceeding six months to any permit.

15 SECTION 12. [NEW MATERIAL] CERTIFICATES OF OPERATION--
16 ANNUAL INSPECTIONS--REGISTRATIONS.--

17 A. All new conveyance installations shall be
18 performed by a contractor properly licensed pursuant to the
19 Construction Industries Licensing Act and the Elevator Safety
20 Act. Prior to any conveyance being used, a property owner or
21 lessee must obtain an inspection and report certifying that the
22 conveyance has been installed in compliance with all applicable
23 codes and standards. The inspection and report shall be by an
24 inspector, who may be a third party inspector, certified by the
25 director pursuant to the Elevator Safety Act. A property owner

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1 or lessee, prior to any new conveyance being used, must obtain
2 a certificate of operation from the bureau with a fee set by
3 the bureau.

4 B. Certificates of operation shall be renewed
5 annually. The owner or lessee of any new or existing
6 conveyance located in any building or structure shall have the
7 conveyance inspected annually by an inspector certified by the
8 director pursuant to the Elevator Safety Act. Subsequent to
9 inspection, the inspector shall supply a property owner or
10 lessee and the bureau with a written inspection report
11 detailing all code violations, if any. It shall be the
12 responsibility of the director to enforce code compliance.
13 Property owners shall have sixty days from the date of the
14 published inspection report to be in full compliance with
15 correcting the violations. A certificate of operation shall
16 not be renewed by the director except upon receipt of a report
17 from a certified inspector indicating that no code violations
18 exist, or that all code violations have been remedied.

19 C. It shall be the responsibility of the owner or
20 lessee of any conveyance to:

21 (1) ensure that the required tests are
22 performed at intervals in compliance with standards;

23 (2) have all tests performed by a properly
24 certified mechanic; and

25 (3) have a properly certified inspector

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1 present to physically witness all testing.

2 D. Upon the inspection of any conveyance, if the
3 equipment is found to be in a dangerous condition, if there is
4 an immediate hazard to those riding or using the conveyance or
5 if the design or the method of operation in combination with
6 the devices used is considered inherently dangerous, in the
7 opinion of the bureau, the director shall notify the owner of
8 the condition, shall order alterations or additions that are
9 deemed necessary to eliminate the dangerous condition and shall
10 direct that the conveyance may not be used until the dangerous
11 condition has been remedied.

12 SECTION 13. [NEW MATERIAL] TEMPORARILY DORMANT

13 CONVEYANCES.--A temporarily dormant conveyance shall not be
14 used again until it has been put in safe running order and is
15 in condition for use. Annual inspections shall continue for
16 the duration of the temporarily dormant status by an inspector.
17 Temporarily dormant status may be renewable on an annual basis
18 and shall not exceed five years. The inspector shall file a
19 report with the director describing the current conditions.

20 SECTION 14. [NEW MATERIAL] ANNUAL PERMIT FEES.--For the

21 purpose of defraying the expense of administering the laws
22 relating to the permitting and inspection of conveyances, each
23 person, firm or corporation, at the time of submitting a permit
24 for the construction of a conveyance, at the time of
25 registering an existing conveyance and annually thereafter as

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1 provided in Section 12 of the Elevator Safety Act, shall pay to
2 the division reasonable permit fees as set, classified and
3 defined by the director for each conveyance.

4 SECTION 15. [NEW MATERIAL] ENFORCEMENT.--The director
5 shall enforce by injunction in district court the laws relating
6 to conveyances and rules or orders adopted by the division or
7 the commission pursuant to those laws, which remedy shall be in
8 addition to the civil and criminal penalties provided in the
9 Elevator Safety Act or the Construction Industries Licensing
10 Act.

11 SECTION 16. [NEW MATERIAL] MISDEMEANOR--PENALTY.--A
12 person violating a provision of the Elevator Safety Act or the
13 rules, regulations or orders of the bureau or the commission
14 issued pursuant to that act is guilty of a misdemeanor and
15 shall be punished pursuant to Section 31-19-1 NMSA 1978.

16 SECTION 17. [NEW MATERIAL] CIVIL PENALTIES, SUSPENSION
17 AND REVOCATION OF LICENSES.--A license, certification or
18 certificate of operation issued pursuant to the Elevator Safety
19 Act may be suspended, revoked or subject to civil penalty by
20 the director upon verification that one or more of the
21 following reasons exist:

22 A. any false statement as to a material matter in
23 an application;

24 B. fraud, misrepresentation or bribery in securing:

25 (1) an elevator contractor license;

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- 1 (2) a journeyman mechanic certification;
- 2 (3) a conveyance inspector certification; or
- 3 (4) a certificate of operation;

4 C. failure to notify the director and the owner or
5 lessee of an elevator or related conveyance of any condition
6 not in compliance with the Elevator Safety Act; or

7 D. a violation of a provision of the Elevator
8 Safety Act.

9 SECTION 18. [NEW MATERIAL] POWERS OF MUNICIPALITIES.--If
10 a municipality operates a program for the permitting,
11 installation, maintenance, alteration, inspection or testing of
12 conveyances, the Elevator Safety Act shall not apply to the
13 conveyances in that municipality, provided that the standards
14 are at least equivalent to those contained in the Elevator
15 Safety Act, except that all conveyances regardless of location
16 must be registered by the bureau as required by that act.

17 SECTION 19. Section 60-13-2 NMSA 1978 (being Laws 1967,
18 Chapter 199, Section 2, as amended by Laws 2013, Chapter 142,
19 Section 1 and by Laws 2013, Chapter 153, Section 1) is amended
20 to read:

21 "60-13-2. GENERAL DEFINITIONS.--As used in the
22 Construction Industries Licensing Act:

23 A. "division" means the construction industries
24 division of the regulation and licensing department;

25 B. "trade bureau", "jurisdiction" and "trade bureau

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1 jurisdiction" mean the electrical bureau, the mechanical
2 bureau, the general construction bureau, ~~[or]~~ the liquefied
3 petroleum gas bureau or the elevator safety bureau of the
4 division;

5 C. "jurisdictional conflict" means a conflict
6 between or among trade bureaus as to the exercise of
7 jurisdiction over an occupation or trade for which a license is
8 required under the provisions of the Construction Industries
9 Licensing Act;

10 D. "person" includes an individual, firm,
11 partnership, corporation, association or other organization or
12 any combination thereof;

13 E. "qualifying party" means an individual who
14 submits to the examination for a license to be issued under the
15 Construction Industries Licensing Act and who is responsible
16 for the licensee's compliance with the requirements of that act
17 and with the rules, regulations, codes and standards adopted
18 and promulgated in accordance with that act;

19 F. "certificate of qualification" means a
20 certificate issued by the division to a qualifying party;

21 G. "journeyman" means an individual who is properly
22 certified by the electrical bureau, ~~[or]~~ the mechanical bureau
23 or the elevator safety bureau as required by law, to engage in
24 or work at the certified trade;

25 H. "apprentice" means an individual who is engaged,

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1 as the individual's principal occupation, in learning and
2 assisting in a trade;

3 I. "wages" means compensation paid to an individual
4 by an employer from which taxes are required to be withheld by
5 federal and state law;

6 J. "public use" means the use or occupancy of a
7 structure, facility or manufactured commercial unit to which
8 the general public, as distinguished from residents or
9 employees, has access;

10 K. "bid" means a written or oral offer to contract;

11 L. "building" means a structure built for use or
12 occupancy by persons or property, including manufactured
13 commercial units and modular homes or premanufactured homes
14 designed to be placed on permanent foundations whether mounted
15 on skids or permanent foundations or whether constructed on or
16 off the site of location;

17 M. "inspection agency" means a firm, partnership,
18 corporation, association or any combination thereof approved in
19 accordance with regulations as having the personnel and
20 equipment available to adequately inspect for the proper
21 construction of manufactured commercial units, modular homes,
22 [~~or~~] premanufactured homes or conveyances;

23 N. "director" means the administrative head of the
24 division;

25 O. "chief" means the administrative head of a trade

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1 bureau;

2 P. "commission" means the construction industries
3 commission;

4 Q. "manufactured commercial unit" means a movable
5 or portable housing structure over thirty-two feet in length or
6 over eight feet in width that is constructed to be towed on its
7 own chassis and designed so as to be installed without a
8 permanent foundation for use as an office or other commercial
9 purpose and that may include one or more components that can be
10 retracted for towing purposes and subsequently expanded for
11 additional capacity, or two or more units separately towable
12 but designed to be joined into one integral unit, as well as a
13 single unit, but that does not include any movable or portable
14 housing structure over twelve feet in width and forty feet in
15 length that is used for nonresidential purposes. "Manufactured
16 commercial unit" does not include modular or premanufactured
17 homes, built to a nationally recognized standard adopted by the
18 commission and designed to be permanently affixed to real
19 property;

20 R. "code" means a body or compilation of provisions
21 or standards adopted by the commission that govern contracting
22 or some aspect of contracting; that provide for safety and
23 protection of life and health; and that are published by a
24 nationally recognized standards association;

25 S. "inspector" means a person certified by the

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1 division and certified by one or more trade bureaus to conduct
2 inspections of permitted work to ensure that all work performed
3 by a contractor or the homeowner complies with the applicable
4 code;

5 T. "statewide inspector's certificate" means a
6 certificate that enables an inspector to conduct inspections in
7 one or more trade bureau jurisdictions for the state or any
8 county, municipality or other political subdivision that has a
9 certified building official in its employ; ~~and~~

10 U. "certified building official" means an employee
11 of any county, municipality or other political subdivision who
12 has a broad knowledge of the construction industry, holds a
13 current nationally recognized code organization certified
14 building official certificate and has:

15 (1) been a practicing inspector or practicing
16 contractor for at least five years; or

17 (2) held a management position in a
18 construction-related company or construction organization for
19 at least five of the past ten years; and

20 V. "conveyance" means:

21 (1) any hoisting and lowering mechanism
22 equipped with a car or platform that moves between two or more
23 landings, including elevators, escalators, moving sidewalks,
24 platform lifts or stairway chair lifts for carrying persons
25 between landings; and

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1 (2) hoisting and lowering mechanisms that are
2 equipped with a car, that serve two or more landings and that
3 are restricted to carrying materials by its limited size and
4 limited access."

5 SECTION 20. Section 60-13-6 NMSA 1978 (being Laws 1977,
6 Chapter 245, Section 168, as amended) is amended to read:

7 "60-13-6. CONSTRUCTION INDUSTRIES COMMISSION CREATED--
8 MEMBERSHIP--DUTIES.--

9 A. There is created within the division the
10 "construction industries commission". The commission shall be
11 composed of [~~nine~~] ten voting members who shall serve at the
12 pleasure of the governor. Members shall be appointed by the
13 governor, with the advice and consent of the senate, as
14 follows:

15 (1) one member who is a representative of the
16 residential construction industry of this state;

17 (2) one member who is a licensed electrical
18 contractor;

19 (3) one member who is a licensed mechanical
20 contractor;

21 (4) one member who is a licensed and
22 practicing architect;

23 (5) one member who is a practicing general
24 contractor;

25 (6) one member who is a representative of the

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1 liquefied petroleum gas industry;

2 (7) one member who is a resident of the state,
3 who is not a licensed contractor or certified journeyman and
4 who shall represent the people of New Mexico;

5 (8) one member who is a representative of the
6 subcontracting industry of the state; ~~and~~

7 (9) one member who is a representative of
8 organized labor; and

9 (10) one member who is a representative of the
10 elevator construction industry.

11 Members shall be appointed to provide adequate
12 representation of all geographic areas of the state.

13 B. Each member of the commission shall receive per
14 diem and mileage as provided in the Per Diem and Mileage Act
15 and shall receive no other compensation, perquisite or
16 allowance.

17 C. The commission shall annually elect a chair and
18 vice chair from its membership. The director shall serve as
19 the executive secretary of the commission.

20 D. The commission shall meet bimonthly or at the
21 call of the chair.

22 E. The commission shall establish policy for the
23 division. It shall advise on, review, coordinate and approve
24 or disapprove all rules, standards, codes and licensing
25 requirements that are subject to the approval of the commission

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1 under the provisions of the Construction Industries Licensing
2 Act, ~~[or]~~ the LPG and CNG Act or the Elevator Safety Act so as
3 to ensure that uniform codes and standards are promulgated and
4 conflicting provisions are avoided. However, the commission
5 shall not enact a bylaw, order, building code, policy or rule
6 requiring the installation of a residential fire protection
7 sprinkler system in detached one- and two-family dwellings and
8 multiple single-family dwellings, such as townhouses that are
9 not more than three stories above grade plane in height and
10 that have a separate means of egress and their accessory
11 structures. The commission shall:

12 (1) revoke or suspend, for cause, any license
13 or certificate of qualification issued under the provisions of
14 the Construction Industries Licensing Act or the LPG and CNG
15 Act; and

16 (2) define and establish all license
17 classifications. The licensee shall be limited in bidding and
18 contracting as provided in Subsection B of Section 60-13-12
19 NMSA 1978. A licensee, subsequent to the issuance of a
20 license, may make application for additional classification and
21 be licensed in more than one classification if the licensee
22 meets the prescribed qualification for the additional
23 classification."

24 **SECTION 21.** Section 60-13-31 NMSA 1978 (being Laws 1967,
25 Chapter 199, Section 34, as amended) is amended to read:

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1 "60-13-31. TRADE BUREAUS CREATED.--There are created
2 under the division the "electrical bureau", the "mechanical
3 bureau", the "general construction bureau", [~~and~~] the
4 "liquefied petroleum gas bureau" and the "elevator safety
5 bureau."

6 SECTION 22. Section 60-13-32 NMSA 1978 (being Laws 1967,
7 Chapter 199, Section 35, as amended) is amended to read:

8 "60-13-32. TRADE BUREAUS--DEFINITIONS.--As used in the
9 Construction Industries Licensing Act:

10 A. "electrical wiring" means all wiring,
11 conductors, fixtures, devices, conduits, appliances or other
12 equipment, including generating equipment such as solar
13 electricity generating equipment of not over ten kilowatt
14 capacity, used in connection with the general distribution or
15 use of electrical energy;

16 B. "plumbing" means the installing, altering and
17 repairing of all plumbing fixtures, fixture traps and soil,
18 waste, supply and vent pipes, with their devices, appurtenances
19 and connections, through which water, waste, sewage, oil and
20 air are carried, when done within the property lines of the
21 building or structure to be served by the plumbing or to the
22 point of connection with the utility system. This subsection
23 shall not be construed as prohibiting the installation by a
24 "fixed works" licensee of service lines from the utility system
25 to a point five feet outside the building or structure to be

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1 served by the plumbing;

2 C. "fixtures" includes closet bowls, lavatories,
3 bathtubs, showers, kitchen sinks, laundry trays, hot water
4 tanks, softeners, urinals, bidets, service sinks, shower pans,
5 drink fountains, water compressors, water coolers, septic tanks
6 or similar systems of sewage disposal and such other similar
7 fixtures used in plumbing as designated by the mechanical
8 bureau;

9 D. "gas fitting" means the installing, altering and
10 repairing of consumers' gas piping and the installation of
11 appliances utilizing natural gas as fuel and their
12 appurtenances in or upon premises of the consumers;

13 E. "softener" or "water conditioner" means any
14 appliance, apparatus, fixture and equipment that is designed to
15 soften, filter or change the mineral content of water, whether
16 permanent or portable; and

17 F. "certificate of competence" means evidence of
18 competence issued by the division to a journeyman electrician,
19 journeyman plumber, journeyman gas fitter, journeyman pipe
20 fitter, [~~or~~] journeyman welder working on pipelines, collection
21 lines or compressor stations or journeyman elevator mechanic."

22 SECTION 23. Section 60-13-38 NMSA 1978 (being Laws 1967,
23 Chapter 199, Section 41, as amended) is amended to read:

24 "60-13-38. CERTIFICATES OF COMPETENCE--EXAMINATION--
25 JOURNEYMEN.--

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1 A. A person shall not engage in the occupation or
2 trade of journeyman unless [~~he~~] the person holds a certificate
3 of competence issued by the division for the occupation or
4 trade in which [~~he~~] the person desires to engage.

5 B. The categories for certificates of competence
6 are: journeyman electrician, journeyman plumber, journeyman
7 gas fitter, journeyman pipe fitter, journeyman sheet metal
8 worker, journeyman boiler operator, residential wireman, [~~and~~]
9 journeyman welder working on pipelines, collection lines or
10 compressor stations and journeyman elevator mechanic.

11 C. An applicant for a certificate of competence
12 shall be required to take an examination approved and adopted
13 by the division as to [~~his~~] knowledge of the orders and rules
14 governing the occupation or trade for which a certificate is
15 sought, and as to [~~his~~] technical knowledge and ability
16 pertaining to [~~his~~] the particular trade. The examination may
17 be oral, written or demonstrative or any combination thereof,
18 as required by rules of the commission.

19 D. The division shall issue a certificate of
20 competence to [~~any~~] a journeyman welder working on pipelines,
21 collection lines or compressor stations who shows evidence of
22 having satisfactorily completed an examination administered by
23 an independent testing organization or public utility employing
24 engineers registered with the state, such examination meeting
25 the minimum pipeline safety standards set by the public

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1 regulation commission.

2 E. Applications for certificates of competence
3 shall be in the form and shall contain [~~such~~] the information
4 and attachments as the division prescribes.

5 F. The division shall establish a reasonable fee
6 for [~~any~~] an examination or issuance of certificate of
7 competence.

8 G. A person is not eligible to take an examination
9 for a certificate of competence unless [~~he~~] the person has had
10 two years' experience in the occupation or trade for which a
11 certificate of competence is sought, or the equivalent thereof
12 as determined by the commission, or has successfully completed
13 a course in the trade approved by the instructional support and
14 vocational education division of the [~~state department of~~]
15 public education department.

16 H. Employment of an apprentice working under the
17 direct supervision of a certified journeyman is not prohibited
18 by the Construction Industries Licensing Act.

19 I. A person is eligible to take an examination for
20 a journeyman electrician certificate of competence after at
21 least:

22 (1) four years of accredited training in the
23 electrical trade;

24 (2) four years of apprenticeship in the
25 electrical trade;

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1 (3) four years of practical experience in the
2 electrical trade, of which two years are in the commercial
3 trade, industrial trade or the equivalent as determined by the
4 commission; or

5 (4) successfully completing an electrical
6 trade program approved by the instructional support and
7 vocational education division of the [~~state department of~~]
8 public education department and two years of practical
9 experience in the commercial electrical trade.

10 J. Continuing education requirements for a
11 journeyman electrician shall include at least sixteen hours of
12 continuing education in every three-year period between
13 national electrical code updates, of which eight hours are code
14 change instructions and eight hours are other industry-related
15 instruction. All continuing education curricula and
16 instructors shall be approved by the commission based on
17 recommendations by the electrical bureau.

18 K. A certificate of competence shall not be renewed
19 until a complete application for renewal has been received by
20 the division. Proof of completion of the continuing education
21 requirements shall be submitted to the division with the
22 application for renewal of certificate of competence. An
23 application for renewal that is not accompanied by proof of
24 completion of the continuing education requirements is
25 incomplete and shall not be processed. The continuing

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1 education requirements in this subsection shall only apply to a
2 journeyman electrician with the designation "EE-98J" or "JE98".
3 This does not apply to EE98.

4 L. A person is eligible to take an examination for
5 a residential wireman's certificate of competence after at
6 least:

7 (1) two years of accredited training or
8 apprenticeship in the electrical trade;

9 (2) two years of practical experience in
10 wiring residential dwellings; or

11 (3) successfully completing a course in the
12 trade approved by the instructional support and vocational
13 education division of the [~~state department of~~] public
14 education department and one year of practical experience in
15 wiring residential dwellings.

16 M. [~~The provisions of Subsections I and L of this~~
17 ~~section do not apply to a person who was enrolled as a full-~~
18 ~~time student before June 20, 2003 in an electrical trade~~
19 ~~program approved by the vocational education division of the~~
20 ~~state department of public education.~~] A journeyman elevator
21 mechanic certificate of competence shall not be renewed until a
22 complete application for renewal has been received by the
23 division. Proof of completion of the continuing education
24 requirements shall be submitted to the division with the
25 application for renewal of certificate of competence. An

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1 application for renewal that is not accompanied by proof of
2 completion of the continuing education requirements is
3 incomplete and shall not be processed."

4 SECTION 24. A new section of the Construction Industries
5 Licensing Act, Section 60-13-41.1 NMSA 1978, is enacted to
6 read:

7 "60-13-41.1. [NEW MATERIAL] CONVEYANCE INSPECTORS.--

8 A. Inspectors performing inspections pursuant to
9 the Elevator Safety Act may be privately contracted or employed
10 by the building owner or lessee or may be employees of the
11 division. Inspectors performing inspections pursuant to the
12 Elevator Safety Act shall, however, be required to:

- 13 (1) be registered with the division;
- 14 (2) meet the minimum continuing education
15 requirements set forth in the Elevator Safety Act;
- 16 (3) be certified as an inspector in accordance
17 with rules adopted by the commission; and
- 18 (4) pay all applicable fees.

19 B. Qualifications for inspectors pursuant to the
20 Elevator Safety Act shall be prescribed by the commission.

21 C. The division shall certify and issue a statewide
22 inspector's certificate to any person who meets the
23 requirements of the Elevator Safety Act for inspectors."

24 SECTION 25. Section 60-13-44 NMSA 1978 (being Laws 1967,
25 Chapter 199, Section 52, as amended) is amended to read:

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1 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

2 A. The electrical bureau shall recommend to the
3 commission minimum standards for the installation or use of
4 electrical wiring. The recommendations shall substantially
5 embody the applicable provisions of an electrical code for
6 safety to life and property promulgated by a nationally
7 recognized association and developed through an open, balanced
8 consensus process.

9 B. The mechanical bureau shall recommend to the
10 commission minimum standards for the installation of all
11 fixtures, consumers' gas pipe, appliances and materials
12 installed in the course of a mechanical installation. The
13 recommendations shall be in substantial conformity with codes
14 and standards that are developed through an open, balanced
15 consensus process. Manufacturers may choose the independent
16 certification organization they wish to certify their products
17 if the certification organization is accredited by the American
18 national standards institute or other accreditation
19 organization selected by the commission.

20 C. The general construction bureau shall recommend
21 to the commission minimum standards for the construction,
22 alteration or repair of buildings, except for those activities
23 within the jurisdiction of the electrical bureau, [~~or~~] the
24 mechanical bureau or the elevator safety bureau. The
25 recommendations shall substantially embody the applicable

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1 provisions of a nationally recognized building code that is
2 developed through an open, balanced consensus process and shall
3 give due regard to physical, climatic and other conditions
4 peculiar to New Mexico. The standards shall include the
5 authority to permit or deny occupancy of existing and new
6 buildings or structures and authority to accept or deny the use
7 of materials manufactured within or without the state. The
8 general construction bureau may set minimum fees or charges for
9 conducting tests to verify claims or specifications of
10 manufacturers.

11 D. The general construction bureau shall recommend
12 to the commission additional specifications for any public
13 building constructed in the state through expenditure of state,
14 county or municipal funds, bonds and other revenues, which
15 specifications shall embody standards making the building
16 accessible to persons who have a physical disability, and the
17 specifications shall conform substantially with those contained
18 in a nationally recognized standard for making public
19 facilities accessible to persons with a physical disability
20 that is developed through an open, balanced consensus process.
21 All orders and rules recommended by the general construction
22 bureau and adopted by the commission under the provisions of
23 this section shall be printed and distributed to all licensed
24 contractors, architects and engineers and to the governor's
25 commission on disability. The orders and rules shall take

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1 effect on a date fixed by the commission, which shall not be
2 less than thirty days after their adoption by the commission,
3 and shall have the force of law.

4 E. The general construction bureau shall have the
5 right of review of all specifications of public buildings and
6 the responsibility to ensure compliance with the adopted
7 standards.

8 F. All political subdivisions of the state are
9 subject to the provisions of codes adopted and approved under
10 the Construction Industries Licensing Act. Such codes
11 constitute a minimum requirement for the codes of political
12 subdivisions.

13 G. The trade bureaus within their respective
14 jurisdictions shall recommend to the commission standards that
15 are developed through an open, balanced consensus process for
16 the installation or use of electrical wiring, the installation
17 of all fixtures, consumers' gas pipe, appliances and materials
18 installed in the course of mechanical installation and the
19 construction, alteration or repair of all buildings intended
20 for use by persons with a physical disability or persons
21 requiring special facilities to accommodate the aged. The
22 recommendations shall give due regard to physical, climatic and
23 other conditions peculiar to New Mexico.

24 H. The trade bureaus within their respective
25 jurisdictions shall recommend to the commission standards for

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1 the construction, alteration, repair, use or occupancy of
2 manufactured commercial units, modular homes and
3 premanufactured homes. The recommendations shall substantially
4 embody the applicable provisions or standards for the safety to
5 life, health, welfare and property approved by the nationally
6 recognized standards association and developed through an open,
7 balanced consensus process and shall give due regard to
8 physical, climatic and other conditions peculiar to New Mexico.
9 Wherever existing state codes or standards conflict with the
10 codes and standards adopted by the commission under the
11 provisions of this subsection, the provisions of the applicable
12 New Mexico building codes adopted pursuant to the Construction
13 Industries Licensing Act and the LPG and CNG Act in effect at
14 the applicable time shall exclusively apply and control, except
15 for codes and standards for mobile housing units.

16 I. Modular homes and premanufactured homes in
17 existence at the time of the effective date of the Construction
18 Industries Licensing Act shall have their use or occupancy
19 continued if such use or occupancy was legal on the effective
20 date of that act, provided such continued use or occupancy is
21 not dangerous to life. Any change in the use or occupancy or
22 any major alteration or repair of a modular home or
23 premanufactured home shall comply with all codes and standards
24 adopted under the Construction Industries Licensing Act.

25 J. The elevator safety bureau shall recommend to

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1 the commission standards that are developed through an open,
2 balanced consensus process for the installation, use or
3 maintenance of conveyances pursuant to the Elevator Safety Act.
4 The recommendations shall give due regard to physical, climatic
5 and other conditions peculiar to New Mexico. The elevator
6 safety bureau shall be authorized to consult with engineering
7 authorities and organizations concerned with safety codes,
8 rules and regulations governing the operation, maintenance,
9 servicing, construction, alteration, installation and
10 inspection of conveyances and the qualifications that are
11 adequate, reasonable and necessary for the elevator mechanic,
12 contractor and inspector.

13 [~~J~~] K. The commission shall review all
14 recommendations made under the provisions of this section and
15 shall by rule adopt standards and codes that substantially
16 comply with the requirements of this section that apply to the
17 recommendations of the trade bureaus."

18 **SECTION 26. APPROPRIATION.**--Three hundred fifty thousand
19 dollars (\$350,000) is appropriated from the general fund to the
20 regulation and licensing department for expenditure in fiscal
21 year 2020 to implement the provisions of the Elevator Safety
22 Act. Any unexpended or unencumbered balance remaining at the
23 end of fiscal year 2020 shall revert to the general fund.

24 **SECTION 27. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is July 1, 2019.

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