An Act

ENROLLED HOUSE
BILL NO. 2517

By: Miller and Martin (Scott) of the House

and

Johnson (Mike) and Myers of the Senate

An Act relating to the Labor Department; consolidating certain revolving funds of the Department; amending 40 O.S. 2001, Section 141.16, as last amended by Section 1, Chapter 414, O.S.L. 2009 (40 O.S. Supp. 2009, Section 141.16), which relates to the Safety Standards Revolving Fund; modifying deposit requirements; deleting certain fund; amending 85 O.S. 2001, Section 63.1, which relates to penalties for failure to secure workers' compensation insurance; modifying deposit requirement; deleting certain fund; amending Section 5, Chapter 207, O.S.L. 2006, as amended by Section 18, Chapter 312, O.S.L. 2008 (59 O.S. Supp. 2009, Section 3024), which relates to elevator safety; changing deposit requirements for certain revenue; repealing Section 6, Chapter 207, O.S.L. 2006 (59 O.S. Supp. 2009, Section 3025), which relates to the Elevator Safety Revolving Fund; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 141.19a of Title 40, unless there is created a duplication in numbering, reads as follows:

Section 141.19a A. On the effective date of this act, the Workers' Compensation Enforcement Revolving Fund, the Safety

Standards Revolving Fund and the Elevator Safety Fund shall be discontinued, and all funds in the Workers' Compensation Enforcement Revolving Fund, the Safety Standards Revolving Fund and the Elevator Safety Fund shall be transferred to the Department of Labor Revolving Fund, created in Section 141.19 of Title 40 of the Oklahoma Statutes.

B. After the effective date of this act, any revenue placed to the credit of the Workers' Compensation Enforcement Revolving Fund, the Safety Standards Revolving Fund and the Elevator Safety Fund shall be placed in the Department of Labor Revolving Fund.

SECTION 2. AMENDATORY 40 O.S. 2001, Section 141.16, as last amended by Section 1, Chapter 414, O.S.L. 2009 (40 O.S. Supp. 2009, Section 141.16), is amended to read as follows:

Section 141.16

A. 1. a. Annual certificate of operation fee shall be as follows:

(1)	with manway state inspector	$75.00
(2)	without manway state inspector	$50.00
(3)	any size special - or owner/user inspector	$50.00
(4)	each public hot water supply heater (biennially)	$5.00
(5)	each public boiler inspection/certification	$25.00

b. Only one certificate of operation fee per year may be charged; except an additional fee equal to the certificate of operation fee may be charged for witnessing a hydrostatic test required after repairs, provided a fee equal to the total fees identified in division (1) or (2) of subparagraph a of this paragraph, whichever is appropriate, and subparagraph f of paragraph 2 of this subsection may be charged when the pressure-retaining item is not prepared and ready pursuant to rules promulgated by the Commissioner of Labor at the time of the inspection.

2. Other Fees

a.	hydrostatic test of steam pipeline per day	$150.00
	(for each additional half-day or part thereof)	$75.00
b.	shop review fees	$3,000.00
c.	licensing fees	
	(1) repair, service, install (annually)	$50.00
	(2) installer technician (one-time issuance)	$50.00
	(3) boiler operator (biennially)	$50.00
d.	certificate of competency fee	$15.00
e.	examination fee	$50.00
f.	boiler or pressure vessel inspection fee for certificate inspections by state inspectors	$155.00
g.	authorized inspector services for weld repairs or alterations, per eight-hour day or part thereof	$300.00
h.	a fee as established by rule may be assessed for the issuance of duplicate licenses and certificates, not to exceed	$10.00

B. All institutions owned or operated by the State of Oklahoma or its agencies or by any county, municipality or school district, and such institutions or agencies, and all owners or users of boilers or pressure vessels of historical significance as specified in subsection D of Section 141.5 of this title are exempt from the payment of only those fees provided for in paragraph 2 of subsection A of this section.

C. 1. Except for the revenue listed in paragraph 2 of this subsection, the Commissioner shall account for and transfer all fees

so received to the State Treasury to the credit of the General Revenue Fund, together with a detailed report of same.

2. The Commissioner shall account for and deposit all fee revenue received and listed in this paragraph to the ~~Safety Standards~~ Department of Labor Revolving Fund ~~created pursuant to subsection E of this section~~:

a. Twenty-five Dollars ($25.00) of each certificate of operation fee collected under divisions (1), (2) and (3) of subparagraph a of paragraph 1 of subsection A of this section,

b. all fees listed in divisions (4) and (5) of subparagraph a of paragraph 1 of subsection A of this section, and

c. all fees listed in subparagraphs b, g and h of paragraph 2 of subsection A of this section.

D. All fees shall be paid directly to the Department of Labor.

~~E. There is hereby created in the State Treasury a revolving fund for the Department of Labor to be designated the "Safety Standards Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies collected by the Department and specifically designated for deposit pursuant to the Boiler and Pressure Vessel Safety Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.~~

SECTION 3. AMENDATORY 85 O.S. 2001, Section 63.1, is amended to read as follows:

Section 63.1 A. In addition to any other penalty prescribed by law, any employer who fails to secure compensation required by Section 61 of this title shall be liable for a civil penalty, to be assessed by the Commissioner of Labor or designee, of not more than Two Hundred Fifty Dollars ($250.00) per employee for a first offense, unless the employer secures workers' compensation insurance within thirty (30) days after receiving notice of the violation. If the employer secures workers' compensation insurance within thirty (30) days after receiving notice of the violation, the employer shall be liable for a civil penalty of not more than Seventy-five

Dollars ($75.00) per employee. An employer shall be liable for a civil penalty of not more than One Thousand Dollars ($1,000.00) per employee for a second or subsequent offense. Provided, the maximum civil penalty shall not exceed Ten Thousand Dollars ($10,000.00) for all related series of violations. All civil penalties collected shall be deposited in the ~~"Workers' Compensation Enforcement~~ Department of Labor Revolving Fund~~" created by this section~~ and shall be used to enforce the provisions of the Workers' Compensation Act.

B. After an employer is cited for two offenses of failing to obtain workers' compensation insurance and fails to obtain coverage within thirty (30) days of the second citation, the Commissioner of Labor shall issue cease and desist orders, in accordance with the Department of Labor administrative rules and procedures, against an employer until the violating employer shall obtain workers' compensation insurance for its employees. The Commissioner of Labor shall have the authority to require the cessation of activities of an employer whose employees are not covered by workers' compensation insurance until the violating employer shall obtain workers' compensation insurance for its employees; provided that an employer who has made application for workers' compensation coverage with either the State Insurance Fund or a private insurance carrier, and who, through no fault of the employer, has not received notice that such coverage has commenced, shall not be made to cease operations, as provided for in this section, until a determination has been made concerning his application for workers' compensation coverage. Any order to cease and desist issued by the Commissioner may be enforced in district court. The district court may issue the Commissioner an injunction without bond, for the purposes of enforcing this section.

C. The Commissioner of Labor or designee shall assess and collect any civil penalty incurred under subsection A of this section and, in the Commissioner's discretion, may remit, mitigate or negotiate said penalty. In determining the amount of the penalty to be assessed, or the amount agreed upon in any negotiation, consideration shall be given to the appropriateness of such penalty in light of the life of the business of the employer charged, the gravity of the violation, and the extent to which the employer charged has complied with the provisions of Section 61 of this title or has otherwise attempted to remedy the consequences of the said violation. Individual proceedings shall be conducted pursuant to the provisions of Section 63.2 of this title.

D. ~~There is hereby created in the State Treasury a revolving fund for the Department of Labor to be designated the "Workers' Compensation Enforcement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies collected by the Department pursuant to the provisions of this section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.~~

~~E.~~ No hospital or health provider shall charge more for a workers' compensation claim than for the same service not involving workers' compensation.

SECTION 4. AMENDATORY Section 5, Chapter 207, O.S.L. 2006, as amended by Section 18, Chapter 312, O.S.L. 2008 (59 O.S. Supp. 2009, Section 3024), is amended to read as follows:

Section 3024. A. The Commissioner of Labor shall have the following powers and duties:

1. The Commissioner shall:

a. adopt or determine standards of elevator safety,

b. license elevator contractors, elevator mechanics, and elevator inspectors,

c. register elevator apprentices,

d. determine qualifications for examination, establish application processes, and examine applicants for licensure,

e. establish terms of licensure and renewal procedures,

f. attempt to achieve reciprocity agreements whereby licenses issued by other jurisdictions may be accepted in this state in lieu of examination,

g. establish grounds for revocation, suspension, and nonrenewal of licenses and policies for reinstatement of licenses and for imposition of lesser disciplinary measures,

h. establish continuing education requirements,

i. provide for the inspection and certification of elevators,

j. provide for the enforcement of the Elevator Safety Act,

k. hear appeals pursuant to the Administrative Procedures Act,

l. establish a procedure for the reporting and investigation of accidents, and

m. establish a procedure to allow variances from the literal requirement of the code;

2. The Commissioner shall publish informational brochures about license examinations that indicate the scope of the examinations, include suggestions about how to prepare for the examinations, and may include sample questions of the type to be expected, but shall never include test items that will be used in future examinations. In no case shall information about forthcoming examinations, that is not generally available, be given to any school, coaching service, or individual privately; and

3. The Commissioner shall have subpoena powers and shall have the right to seek injunctive relief to prevent the operation of elevators lacking a certificate of operation after November 1, 2006, or failing inspection. For any violation of the Elevator Safety Act, the Commissioner may assess an administrative fine of not more than Five Hundred Dollars ($500.00), which fine may be assessed in addition to any other penalties provided pursuant to the Elevator Safety Act.

B. Fees shall be as follows:

1.	Elevator contractor examination	$100.00
2.	Elevator inspector examination	$100.00
3.	Elevator mechanic examination	$100.00
4.	Initial and renewal elevator contractor license	$100.00

5.	Initial and renewal elevator inspector License	$ 75.00
6.	Initial and renewal elevator mechanic License	$ 50.00
7.	Annual elevator apprentice registration	$ 25.00
8.	Late renewal - in addition to license fee	$ 10.00
9.	Replacement of lost or mutilated license	$ 10.00
10.	Reinstatement - in addition to license fee	$100.00
11.	Existing elevator - certification of operation	$ 25.00
12.	New elevator - inspection and certification	$150.00
13.	Elevator temporary certification	$ 25.00
14.	Elevator temporary mechanic license for 30 days	$ 10.00
15.	Labor for chief elevator inspector or deputy elevator inspector to perform inspection for issuance of certificate of operation:	
	a. any escalator or moving walkway	$125.00
	b. elevator, two-four floors	$ 75.00
	c. elevator, five-ten floors	$100.00
	d. elevator, eleven floors and over	$125.00
	e. wheelchair lift	$ 25.00

C. All revenues received shall be deposited to the ~~Elevator Safety~~ Department of Labor Revolving Fund. It is the intent of the Legislature that fees charged pursuant to the Elevator Safety Act be adjusted to provide sufficient income, but not substantially more than sufficient income, to ensure elevator safety as provided by the Elevator Safety Act. Accordingly, the Commissioner of Labor shall make an annual study of the revenues to and expenditures from the ~~Elevator Safety~~ Department of Labor Revolving Fund related to elevator safety and shall prepare a report indicating what fee adjustments, if any, shall be recommended. The report shall be submitted by September 1 each year to the Director of the Office of State Finance, the Chair of the Appropriations Committee of the Senate, and the Chair of the Appropriations and Budget Committee of the House of Representatives, and shall be filed with the Department of Labor.

D. Licenses and certifications issued in accordance with the provisions of the Elevator Safety Act shall be renewed according to the following schedule:

1. Elevator contractor, elevator inspector, elevator mechanic licenses and elevator apprentice registration shall be renewed annually prior to the last day of the calendar month in which the license or registration was initially issued;

2. Any such license, registration or certificate required by the Elevator Safety Act not renewed by the last day of the calendar month in which renewal is required shall be subject to a late fee as provided by this act;

3. Any elevator contractor, elevator inspector, elevator mechanic license or apprentice registration having been expired for a period of not less than thirty (30) days nor more than three hundred sixty-five (365) days shall be subject to a reinstatement fee as provided for in the Elevator Safety Act; and

4. Any elevator contractor, elevator inspector, elevator mechanic license or apprentice registration being expired for a period of one (1) year or longer from the last day of the month in which renewal was required shall be considered void and the licensee shall be subject to all requirements for new issuance.

SECTION 5. REPEALER Section 6, Chapter 207, O.S.L. 2006 (59 O.S. Supp. 2009, Section 3025), is hereby repealed.

SECTION 6. This act shall become effective July 1, 2010.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 28th day of May, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 28th day of May, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 28th

day of May, **20** 10,

at 8:45 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 9th **day of**

June, **20** 10, **at** 10:16 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

10th **day of** June, **20**10,

at 3:08 **o'clock** P **M.**

By: