An Act

ENROLLED HOUSE
BILL NO. 2530

By: Schwartz and Cox of the House

and

Justice, Leftwich and Johnson (Mike) of the Senate

An Act relating to professions and occupations; amending 59 O.S. 2001, Section 3021, as last amended by Section 15, Chapter 2, O.S.L. 2009 (59 O.S. Supp. 2009, Section 3021), which relates to the Elevator Safety Act; modifying exemptions; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 3021, as last amended by Section 15, Chapter 2, O.S.L. 2009 (59 O.S. Supp. 2009, Section 3021), is amended to read as follows:

Section 3021. A. The Legislature, finding that the protection of public health and safety requires that elevators and similar devices be installed, maintained, and regularly inspected in compliance with recognized safety standards and codes, declares that elevator contractors, elevator mechanics, and elevator inspectors shall be licensed by this state pursuant to the Elevator Safety Act.

B. 1. Effective November 1, 2006, except as otherwise provided for by the Elevator Safety Act or rules promulgated pursuant thereto, no person shall erect, construct, install, wire, alter, replace, maintain, remove, repair, or dismantle any elevator unless the person holds a valid elevator mechanic's license pursuant to the

Elevator Safety Act and is employed by a person or business entity licensed as an elevator contractor pursuant to the Elevator Safety Act. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, subject to a fine of not more than Five Hundred Dollars ($500.00) for the first offense and up to One Thousand Dollars ($1,000.00) for each additional offense, or imprisonment in the county jail for not more than ten (10) days, or both such fine and imprisonment. Each day's violation shall constitute a separate offense. Conviction as provided herein shall not preclude any filing of a civil action.

2. Whenever an emergency exists in this state due to disaster, act of God or work stoppage, and the number of persons in the state holding licenses issued by the Commissioner of Labor is insufficient to cope with the emergency, licensed elevator contractors shall respond as necessary to assure the safety of the public. Any person certified by a licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall apply for an emergency elevator mechanic license from the Department of Labor within five (5) business days after commencing work requiring a license. The Commissioner shall issue emergency elevator mechanic licenses. The licensed elevator contractor shall furnish proof of competency as the Commissioner may require. Each such license shall state that it is valid for a period of forty-five (45) days from the date thereof and for such particular elevators or geographical areas as the Commissioner may designate and otherwise shall entitle the licensee to the rights and privileges of an elevator mechanic license issued pursuant to the Elevator Safety Act. The Commissioner shall renew an emergency elevator mechanic license upon proper application during the existence of an emergency. No fee shall be charged for any emergency elevator mechanic license or renewal thereof.

3. A licensed elevator contractor shall notify the Commissioner of Labor when there are no licensed personnel available to perform elevator work. The licensed elevator contractor may request that the Commissioner issue temporary elevator mechanic licenses to persons certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Any person certified by a licensed elevator contractor to have any combination of documented experience and education to perform elevator work without direct and immediate supervision shall immediately apply for a temporary elevator mechanic license from the

Commissioner and shall pay such fee as the Commissioner shall determine. Each such license shall state that it is valid for a period not to exceed forty-five (45) days and while employed by the licensed elevator contractor that certified the individual as qualified. The Commissioner shall renew such licenses upon proper application and payment of any required fees as long as the shortage of license holders shall continue.

4. The Commissioner of Labor or an authorized representative may issue a written order for the temporary cessation of operation of an elevator if it has been determined after inspection to be hazardous, unsafe, or in violation of any provisions of the Elevator Safety Act or rules promulgated by the Commissioner. Operations shall not resume until such conditions are corrected to the satisfaction of the Commissioner. The Commissioner or an authorized representative may inspect any elevator without notice. The Commissioner or an authorized representative may issue a written order for the temporary cessation of any licensing violations and/or any violations of any rule or order promulgated pursuant to the provisions of the Elevator Safety Act.

5. Any alleged violator of paragraph 2 of this subsection shall be afforded an opportunity for a fair and swift administrative hearing. The hearing may be conducted by the Commissioner or his/her designated hearing officer in conformity with, and records made thereof as provided by, Sections 308a through 323 of Title 75 of the Oklahoma Statutes.

6. Any order issued by the Commissioner or an authorized representative may be enforced in the district court in an action for an injunction or writ of mandamus upon the petition of the district attorney or Attorney General, upon the request of the Commissioner. Provided further, an injunction without bond may be granted by the district court to the Commissioner, for the purpose of enforcing the Elevator Safety Act.

C. Effective November 1, 2006, except as otherwise provided by the Elevator Safety Act, every elevator in this state shall be subject to the provisions as required by this act. Within six (6) months of November 1, 2006, the owner or lessee of every elevator already in service or put into service by November 1, 2006, shall register the elevator with the Department of Labor, giving the type, rated load and speed, name of manufacturer, location of the elevator, and purpose for which used, as well as such other information as the Commissioner of Labor may require. Elevators

newly constructed or installed on or after November 1, 2006, shall be registered and inspected before being put into service.

D. The provisions of the Elevator Safety Act shall not apply to elevators that are:

1. In or adjacent to buildings or excavations owned by and/or under the operational control of the government of the United States or located on federal property and/or a sovereign tribal nation. Such elevators shall be inspected if the authorized representative of the owner request such an inspection in writing and agrees to pay inspection fees established pursuant to the Elevator Safety Act;

2. In an existing owner-occupied private residence or an existing building of not more than two floors owned by a municipal public trust that is used solely for independent living apartments for persons sixty-two (62) years of age or older; provided, such elevators shall be inspected if the property owner so requests and pays inspection fees established pursuant to the Elevator Safety Act. Inspection of an elevator ~~in a private residence~~ pursuant to this paragraph shall not cause any other provision of the Elevator Safety Act to apply to the owner with respect to the private residence or building; or

3. Located in or adjacent to a building or structure within a manufacturing, utility or industrial facility. Such elevators shall be inspected if the authorized representative of the facility requests such an inspection in writing and agrees to pay inspection fees established pursuant to the Elevator Safety Act.

E. Nothing in the Elevator Safety Act shall be construed as prohibiting municipalities, counties, or other political subdivisions of the state from enacting and enforcing licensure requirements or safety standards exceeding those required by the Elevator Safety Act.

F. Provisions of Section 863.1 et seq. of Title 19 of the Oklahoma Statutes that are in conflict with provisions of the Elevator Safety Act shall prevail over provisions of the Elevator Safety Act unless the provisions of Section 863.1 et seq. of Title 19 of the Oklahoma Statutes are less stringent than the provisions of the Elevator Safety Act.

G. No person, firm, or corporation shall interfere with, obstruct, or hinder by force or otherwise the Commissioner of Labor or an authorized representative while in the performance of their duties, or refuse to properly answer questions asked by such officers pertaining to the laws over which he or she has supervision under the provisions of the Elevator Safety Act, or refuse them admittance to any place where an elevator is located which is affected by the act.

SECTION 2. This act shall become effective November 1, 2010.

Passed the House of Representatives the 4th day of May, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 8th day of April, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 5th

day of May, **20** 10,

at 1:15 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 10th **day of** May, **20** 10, **at** 7:40 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

11th **day of** May, **20** 10,

at 11:52 **o'clock** A **M.**

By: M. Susan Savage