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CHAPTER 16.

 SOUTH CAROLINA ELEVATOR CODE

**SECTION 41‑16‑10.** Short title.

 This chapter is known and may be cited as the "South Carolina Elevator Code".

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑20.** Definitions.

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

 (1) "Facility" means any elevator, dumbwaiter, escalator, moving walk, handicap lift, or manlift subject to regulation under the provisions of this chapter and includes hoistways, rails, guides, and all other related mechanical and electrical equipment.

 (2) "Alteration" means any change made to an existing facility, other than the repair or replacement of damaged, worn, or broken parts necessary for normal maintenance.

 (3) "Department" means the South Carolina Division of Labor.

 (4) "Commissioner" means the Commissioner of the South Carolina Division of Labor or his designee or representative.

 (5) "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 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 does it include tiering, piling, feeding, or other machines or devices giving service within only one story.

 (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 and which is used exclusively for carrying materials.

 (7) "Escalator" means a power‑driven, inclined, continuous stairway used for raising or lowering passengers.

 (8) "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.

 (9) "Manlift" 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.

 (10) "Passenger elevator" means an elevator used to carry persons other than the operator and person necessary for loading and unloading.

 (11) "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.

 (12) "Dormant facility" means any elevator or dumbwaiter whose cables have been removed and whose car and counterweight rest at the bottom of the shaftway with all doors bolted shut to prevent entry. Hydraulic elevators and handicap lifts may be made dormant by resting the car at the bottom and bolting doors to prevent entry. Escalators, moving walks, or manlifts may be made dormant by barricading the entrances and disconnecting all power feed lines.

 (13) "New installation" means a facility, 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 regulations relating to those permits adopted by the commissioner under authority of this chapter. All other installations are existing installations.

 (14) "Inspector" means an inspector employed by the department for the purpose of administering this chapter.

 (15) "Special inspector" means an inspector licensed by the commissioner and not employed by the department.

 (16) "Provisions of this chapter" include regulations promulgated by the commissioner pursuant to this chapter.

 (17) "Temporarily decommissioned facility" means a facility that is not in service at the present time but which is expected to be returned to service within three years and whose fuses are removed and power feed lines disconnected.

 (18) "Handicap lift" means a lift whose sole purpose is the transportation of handicapped or disabled individuals.

HISTORY: 1985 Act No. 103, Section 1; 1993 Act No. 102, Sections 1‑4, eff June 14, 1993; 1993 Act No. 181, Section 977, eff February 1, 1994.

**SECTION 41‑16‑30.** Applicability.

 The provisions of this chapter do not apply to any facility installed in any single private dwelling residence or to facilities over which an agency of the federal government is asserting similar enforcement jurisdiction. Provisions of this chapter supersede similar provisions contained in building codes of this State or of any political subdivision of this State.

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑40.** Issuance of regulations.

 1. The commissioner shall promulgate regulations governing maintenance, construction, alteration, and installation of facilities and the inspection and testing of new and existing installations as necessary to provide for the public safety and to protect the public welfare. These regulations include, but are not limited to, regulations providing for:

 a. Classifications of types of facilities.

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

 c. Construction of new facilities.

 d. Alteration of existing facilities.

 e. Minimum safety requirements for all existing facilities.

 f. Control or prevention of access to facilities, temporarily decommissioned facilities, or dormant facilities.

 g. The reporting of accidents and injuries arising from the use of facilities.

 h. Qualifications for obtaining a special inspector's license, revocation of a special inspector's license, disqualification of special inspectors, and ethics of special inspectors.

 i. The adoption of procedures for the issuance of variances.

 j. The amount of fees charged and collected for inspection, permits, and licenses. Fees must 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. Insofar as applicable, regulations adopted for facilities installed after January 1, 1986, must be based on the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, and supplements thereto, A.17.1. The commissioner shall promulgate regulations for facilities installed prior to January 1, 1986, according to the applicable provisions of the American National Standard Safety Code as he considers necessary. In promulgating regulations the commissioner may adopt the American National Standard Safety Code, or any part of it, by reference.

 3. The commissioner shall furnish copies of the regulations promulgated by him to any person who requests them, without charge, or upon payment of a charge not to exceed the actual cost of printing of the regulations.

HISTORY: 1985 Act No. 103, Section 1; 1993 Act No. 102, Sections 5, 6, eff June 14, 1993.

**SECTION 41‑16‑50.** Enforcement powers of commissioner.

 The commissioner is charged with the affirmative duty of administering and enforcing the provisions of this chapter.

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑60.** Registration of facilities.

 Within three months after the date of promulgation of regulations under this chapter relating to registration of facilities, the owner of every existing facility, whether or not dormant, shall register each facility with the commissioner, giving type, contract load and speed, name of manufacturer, its location, and the purpose for which it is used and any other information the commissioner may require. Registration must be made on a form to be furnished by the department upon request. Facilities, the construction of which are commenced subsequent to the date of promulgation of those regulations, must be registered in the manner prescribed by the commissioner.

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑70.** Inspections.

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

 1. Every new or altered facility must be inspected and tested before the operating permit is issued.

 2. Every existing facility registered with the commissioner must be inspected within one year after the effective date of the registration, except that the commissioner may, at his discretion, extend by regulation the time specified for making inspections.

 3. Every facility must be inspected not less frequently than annually, except that the commissioner may adopt regulations providing for inspections of facilities at intervals other than annually.

 4. The inspections required by items 1 to 3 of this section must 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 must be filed with the commissioner by the inspector or special inspector, on a form approved by and containing all information required by the commissioner, after the inspection has been completed and within the time provided by regulation, but not to exceed thirty days. The report shall include all information required by the commissioner to determine whether the owner of the facility has complied with applicable regulations. For the inspection required by item 1, the report shall indicate whether the facility has been installed in accordance with the detailed plans and specifications approved by the commissioner and meets the requirements of the applicable regulations.

 6. In addition to the inspections required by items 1 to 3, the commissioner may provide by regulation for additional inspections he considers necessary to enforce the provisions of this chapter.

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑75.** Special inspector prohibited from inspecting certain elevators.

 It is unlawful for a special inspector to perform elevator inspections under this chapter or regulations promulgated pursuant to it on an elevator on which he or his employer has a current service or warranty contract.

HISTORY: 1995 Act No. 124, Section 1, eff June 12, 1995.

**SECTION 41‑16‑80.** Alteration permits.

 On and after the effective date of regulations relating to alterations, detailed plans of each facility to be altered must be submitted to the commissioner, together with an application for an alteration permit, on forms to be furnished or approved 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, nothing in this section authorizes the use of any facility contrary to an order issued pursuant to Section 41‑16‑110.

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑90.** Permits for new installations.

 A permit must be issued by the commissioner before construction on a new installation is begun. The department shall issue a permit for relocation or installation, as applicable, if the plans and specifications indicate compliance with applicable regulations.

 If the plans and specifications indicate a failure of compliance with applicable regulations, the department shall give notice of necessary changes to the person filing the application. After the changes have been made and approved, the department shall issue a permit.

 Plans must be submitted in triplicate and must be accompanied by an application for the permit on a form to be furnished by the commissioner. The plans shall include:

 1. Sectional plan of car and hoistway.

 2. Sectional plan of machine room.

 3. Sectional elevation of hoistway and machine room, including the pit, bottom, and top clearance of car, and counterweight.

 4. Size and weight of guide rails, and guide rail bracket spacing.

 5. Other information which the department may require.

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑100.** Operating certificates.

 Operating certificates must be issued by the commissioner to the owner of every facility when the inspection report indicates compliance with the applicable provisions of this chapter. However, no certificates may be issued if the fees required by Section 41‑16‑140 have not been paid. Certificates must be issued within thirty days after determination by the department that all deficiencies found upon inspection have been corrected and all fees have been paid. No facility may be operated after the thirty days or after any extension granted by the commissioner has expired, unless an operating certificate has been issued.

 The operating certificate 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. The certificate must be posted conspicuously in the car of an elevator or on or near a dumbwaiter, escalator, moving walk, handicap lift, or manlift.

HISTORY: 1985 Act No. 103, Section 1; 1993 Act No. 102, Section 7, eff June 14, 1993.

**SECTION 41‑16‑110.** Temporary or permanent injunction for imminently dangerous facility.

 If the commissioner has reason to believe that the continued operation of a facility constitutes an imminent danger which could reasonably be expected to injure seriously or cause death to members of the public, the commissioner may apply to the circuit court in the county in which the imminently dangerous condition exists for a temporary order for the purpose of enjoining the imminently dangerous facility. Upon hearing, if considered appropriate by the court, a permanent injunction may be issued to ensure that the imminently dangerous facility be prevented or controlled. Upon the elimination or rectification of the imminently dangerous condition, the temporary or permanent injunction must be vacated.

HISTORY: 1985 Act No. 103, Section 1; 1993 Act No. 102, Section 8, eff June 14, 1993.

**SECTION 41‑16‑120.** Exceptions or variances.

 The commissioner, pursuant to regulation, may grant exceptions and variances from the requirements of regulations promulgated for any facility. Exceptions or variances must be reasonably related to the age of the facility and may be conditioned upon a repair or modification of the facility considered necessary by the commissioner to assure reasonable safety. However, no exception or variance may be granted except to prevent undue hardship. These facilities are subject to orders issued pursuant to Section 41‑16‑110.

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑130.** Access to facilities by inspectors.

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

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑140.** Fees.

 The commissioner shall promulgate regulations to charge and collect fees for inspection, permits, and licenses. Fees may be set by regulation not more than once each year. Fees established by the commissioner must be based upon the costs of administering the provisions of this chapter and shall give due regard to the time spent by department personnel in performing duties and to any travel expenses incurred.

 In cases where the fees are not paid within sixty days, the Attorney General shall bring an action against the assessed owner or operator. Any amounts collected must be turned over to the State Treasurer for deposit in the general fund of the State. The State may be granted costs and attorneys' fees for such collection actions.

HISTORY: 1985 Act No. 103 Section 1; 1993 Act No. 102, Section 9, eff June 14, 1993.

**SECTION 41‑16‑150.** General duties of owner.

 Every facility must be maintained by the owner in a safe operating condition and in conformity with the regulations promulgated by the commissioner.

HISTORY: 1985 Act No. 103 Section 1.

**SECTION 41‑16‑160.** Pre‑emption of local regulation.

 No political subdivision may make or maintain any ordinance, bylaw, or resolution providing for the licensing of special inspectors. Any ordinance, bylaw, or resolution relating to the inspection, construction, installation, alteration, maintenance, or operation of facilities within the limits of the political subdivision, which conflicts with this chapter or with regulations promulgated by the commissioner, is void. The commissioner, in his discretion, may accept inspections by local authorities in lieu of inspections required by Section 41‑16‑70, but only upon a showing by the local authority that applicable laws and regulations will be consistently and literally enforced and that inspections will be performed by special inspectors.

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑170.** Criminal penalties.

 In addition to any other penalty provided by law, any person who violates any of the provisions of this chapter is guilty of a misdemeanor, unless otherwise specifically provided in this chapter, and upon conviction must be punished by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days, or by both, and by the immediate revocation for a period of three years of any permit or license issued under the provisions of this chapter.

HISTORY: 1985 Act No. 103, Section 1.

**SECTION 41‑16‑180.** Civil penalties.

 1. Any owner, operator, or management company who fails to register a facility as required by Section 41‑16‑60 may be assessed a civil penalty of not more than five hundred dollars for each facility not registered.

 2. Any owner, operator, or management company who fails to correct a violation of any safety standard promulgated pursuant to this chapter after being given written notice by the commissioner of the standard and of the time set for its correction may be assessed a civil penalty of not more than one thousand dollars for each such violation.

 3. Any owner, operator, or installation contractor who begins alteration, relocation, or installation of a facility before permits are issued pursuant to Sections 41‑16‑80 or 41‑16‑90 may be assessed a civil penalty of not more than two times the applicable permit fee.

 4. Any owner, operator, or management company who fails to report an accident which results in serious injury to any person other than an employee of the owner or operator may be assessed a civil penalty of not more than one thousand dollars.

 5. Any owner, operator, or management company who operates a facility after an order of the commissioner declaring that facility dormant, temporarily decommissioned, or otherwise ineligible for an operating permit may be assessed a civil penalty of not more than two thousand dollars for each such violation.

 6. All amounts collected under this section must be turned over to the State Treasurer for deposit in the general fund of the State.

 7. Any owner, operator, management company, or contractor affected or aggrieved by (a) any act of the commissioner, (b) any citation issued by the commissioner, (c) any penalty assessed by the commissioner, or (d) any abatement period set by the commissioner may petition the commissioner within thirty days of notice of the act complained of for administrative review. The provisions of Article II (Administrative Procedures) of Act 176 of 1977, as amended, shall govern contested cases of this nature.

HISTORY: 1985 Act No. 103, Section 1; 1993 Act No. 102, Section 10, eff June 14, 1993.