

*** Current through 2017 Regular Session (Chapter 493). ***

Title 68 Health, Safety and Environmental Protection
Safety
Chapter 121 Elevators, Dumbwaiters, Escalators, and Aerial Tramways

GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 68-121-101 (2017)

68-121-101. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Aerial passenger tramways" means recreational transportation of passengers on devices that are usually referred to by the following names:

(A) Reversible Aerial Tramways. That class of aerial passenger tramways and lifts in which the passengers are transported in carriers and are not in contact with the ground or snow surface, and in which the carriers reciprocate between terminals;

(i) Single-Reversible Tramways. That type of reversible aerial tramway that has a single carrier, or single group of carriers, that moves back and forth between terminals on a single path of travel and is sometimes called "to-and-fro" aerial tramway; and

(ii) Double-Reversible Tramways. That type of reversible aerial tramway that has two (2) carriers, or two (2) groups of carriers, that oscillate back and forth between terminals on two (2) paths of travel and is sometimes called "jig-back" tramway;

(B) Aerial Lifts and Ski Mobiles. That class of aerial passenger tramways and lifts in which the passengers are transported in carriers and are not in contact with the ground or snow surface and in which the carriers circulate around a closed system and are activated by a wire rope or chain. The carriers usually make U-turns in the terminals and move along generally parallel and opposing paths of travel. The carriers may be open or enclosed cabins, cars, or platforms. The carriers may be fixed or detachable;

(i) Gondola Lifts. That type of lift where the passengers are transported in open or enclosed cabins. The passengers embark and disembark while the carriers are stationary or moving slowly under a controlled arrangement;

(ii) Chair Lifts. That type of lift where the passengers are transported in chairs, either open or partially enclosed;

(iii) Ski Mobiles. That type of lift where the passengers are transported in open or enclosed cars that ride on a rigid structural system and are propelled by a wire rope or

chain; and

(iv) Similar Equipment. Lifts which utilize carrier configurations not specified in subdivision (1)(B)(i), (1)(B)(ii) or (1)(B)(iii), but do not require that the passenger remain in contact with the ground or snow surface;

(C) Surface Lifts. That class of conveyance where the passengers are propelled by means of a circulating overhead wire rope while remaining in contact with the ground or snow surface. Transportation is limited to one (1) direction. Connection between the passengers and the wire rope is by means of a device attached to and circulating with the haul rope known as a "towing outfit";

(i) T-bar Lifts. That type of lift where the device between the haul rope and passengers forms the shape of an inverted "T," propelling passengers located on both sides of the stem of the "T;"

(ii) J-bar Lifts. That type of lift where the device between the haul rope and passenger is in the general form of a "J," propelling a single passenger located on the one (1) side of the stem of the "J;"

(iii) Platter Lifts. That type of lift where the device between the haul rope and passenger is a single stem with a platter or disc attached to the lower end of the stem, propelling the passenger astride the stem of the platter, or disc; and

(iv) Similar Equipment. Lifts that utilize towing device configurations not specified in subdivision (1)(C)(i), (1)(C)(ii) or (1)(C)(iii), but require that passengers remain in contact with the ground or snow surface, and conform to the general description of this subdivision (1); and

(D) Tows. That class of conveyance where the passengers grasp the circulating haul rope, a handle attached to the circulating haul rope, or attach a gripping device to the circulating haul rope and are propelled by the circulating haul rope. The passengers remain in contact with the ground or snow surface. The upward-traveling haul rope remains adjacent to the uphill track of the passengers and at an elevation that permits them to maintain their grasp on the haul rope, handle, or gripping device throughout that portion of the tow length that is designed to be traveled;

(i) Fiber Rope Tow. A tow having a fiber, natural or synthetic, haul rope; and

(ii) Wire Rope Tow. A tow having a metallic haul rope;

(2) "Alteration" means any change or addition to the equipment other than ordinary repairs or replacement;

(3) "Amusement device" means:

(A) Any mechanical or structural device that carries or conveys a person, or that permits a person to walk along, around or over a fixed or restricted route or course or within a defined area, including the entrances and exits to the device, for the purpose of giving persons amusement, pleasure, thrills or excitement. "Amusement device" includes, but is not limited to, roller coasters, Ferris wheels, merry-go-rounds, glasshouses, and walk-through dark houses;

(B) "Amusement device" also includes:

(i) Any dry slide over twenty feet (20') in height excluding water slides; and

(ii) Any portable tram, open car, or combination of open cars or wagons pulled by a tractor or other motorized device, except hay rides, those used solely for transporting patrons to and from parking areas, or those used for guided or educational tours, but that do not necessarily follow a fixed or restricted course; and

(C) "Amusement device" does not include the following:

(i) Devices operated on a river, lake, or any other natural body of water;

(ii) Wavepools;

(iii) Roller skating rinks;

(iv) Ice skating rinks;

(v) Skateboard ramps or courses;

(vi) Mechanical bulls;

(vii) Buildings or concourses used in laser games;

(viii) All terrain vehicles;

(ix) Motorcycles;

(x) Bicycles;

(xi) Mopeds;

(xii) Go karts;

(xiii) Bungee cord or similar elastic device;

(xiv) An amusement device that is owned and operated by a nonprofit religious, educational or charitable institution or association, if the device is located within a building subject to inspection by the state fire marshal or by any political subdivision of the state under its building, fire, electrical and related public safety ordinances;

(xv) An amusement device that attaches to an animal so that while being ridden the path of the animal is on a fixed or restricted path;

(xvi) Climbing walls; and

(xvii) Seasonal haunted houses that are open no more than three (3) months in a calendar year;

(4) "Board" means the elevator and amusement device safety board, created in § 68-121-102;

(5) "Commissioner" means the commissioner of labor and workforce development;

(6) "Complete elevator, dumbwaiter or escalator" means any elevator, dumbwaiter or escalator for which the plans and specifications and the application for the construction permit required by § 68-121-108 are filed on or after the effective date of the application of the rules and regulations adopted by the board as provided in § 68-121-103(a)(2). All other elevators, dumbwaiters and escalators shall be deemed to be existing installations;

(7) "Department" means the department of labor and workforce development;

(8) "Dormant elevator, dumbwaiter or escalator" means an elevator or dumbwaiter whose cables have been removed, whose car and counterweight rest at the bottom of the shaftway, and whose shaftway doors are permanently boarded up or barricaded on the inside, or an escalator whose main power feed lines have been disconnected;

(9) "Dumbwaiter" means a hoisting and lowering mechanism equipped with a car that moves in guides in a substantially vertical direction, the floor area of which does not exceed nine square feet (9 sq. ft.), whose total compartment height does not exceed four feet (4'), the capacity of which does not exceed five hundred pounds (500 lbs.), and that is used exclusively for carrying freight. "Dumbwaiter" does not include a dormant dumbwaiter;

(10) "Elevator" means a hoisting and lowering mechanism equipped with a car or platform that moves in guides in a substantially vertical direction and that serves two (2) or more floors of a building. "Elevator" also includes stairway inclined lifts and platform lifts for transportation of handicapped persons;

(11) "Escalator" means a moving inclined continuous stairway or runway used for raising or lowering passengers;

(12) "Freight elevator" means an elevator used primarily for carrying freight and on which only the operator and the persons necessary for loading and unloading are permitted to ride;

(13) "Moving walks" means a moving runway for transporting passengers, where the passenger transporting surface remains parallel to its direction of motion and is uninterrupted;

(14) "Operator" means a person or the agent of a person who owns or controls, or has the duty to control, the operation of an amusement device or related electrical equipment;

(15) "Owner" means a person that owns, leases, controls or manages the operations of an amusement device and may include the state or any political subdivision of the state;

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

(17) "Qualified inspector" means any person who is:

(A) Found by the commissioner to possess the requisite training and experience in respect to amusement devices to perform competently the inspections required by this chapter;

(B) Certified by the National Association of Amusement Ride Safety Officials (NAARSO)

to have and maintain at least a level one certification;

(C) Is a member of, and certified by, the Amusement Industry Manufacturing and Suppliers (AIMS); or

(D) Is a member of, and certified by, the Association for Challenge Course Technology (ACCT);

(18) "Related electrical equipment" means any electrical apparatus or wiring used in connection with amusement devices;

(19) "Safety rules" means the rules and regulations governing rider conduct on an amusement device pursuant to § 68-121-125;

(20) "Serious incident" means any single incident where any person or persons are immediately transported to a licensed off-site medical care facility for treatment of an injury as a result of being on, or the operation of, the amusement device; and

(21) "Serious physical injury" means a patron's personal injury immediately reported to the owner or operator as occurring on an amusement device and that results in death, dismemberment, significant disfigurement or other significant injury that requires immediate in-patient admission and twenty-four-hour hospitalization under the care of a licensed physician for other than medical observation.

HISTORY: Acts 1951, ch. 235, § 1 (Williams, § 5379.9); Acts 1957, ch. 255, § 1; 1974, ch. 418, § 1; 1978, ch. 805, § 1; T.C.A. (orig. ed.), § 53-2601; Acts 1984, ch. 900, §§ 1, 2; 1989, ch. 11, §§ 1, 2; T.C.A., § 68-19-101; Acts 1999, ch. 520, § 46; 2007, ch. 104, § 1; 2008, ch. 723, § 2; 2015, ch. 337, § 1; 2016, ch. 815, § 1; 2017, ch. 393, §§ 1, 2.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.

For transfer of the elevator safety board and its functions to the department of labor, see Executive Order No. 20 (June 28, 1988; rescinding Executive Orders No. 30 and 31 dated February 11, 1983).

Amendments.

The 2015 amendment added (C)(xvi) in the definition of "Amusement device".

The 2016 amendment deleted "and meets the qualifications established by the board" following "(AIMS)" at the end of (C) in the definition of "qualified inspector".

The 2017 amendment added (C)(xvii) in the definition of "amusement device"; and added (D) in the definition of "qualified inspector".

Effective Dates.

Acts 2015, ch. 337, § 2. May 4, 2015.

Acts 2016, ch. 815, § 6. July 1, 2016.

Acts 2017, ch. 393, § 8. May 18, 2017.

Cross-References.

Ski area safety and liability, title 68, ch. 114.

Section to Section References.

This section is referred to in §§ 68-121-103, 68-121-109.

Law Reviews.

Criminal Law and Procedure (Robert E. Kendrick), 14 Vand. L. Rev. 1220.

Comparative Legislation.

Elevators and escalators:

Ark. Code § 20-24-101 et seq.

Ga. O.C.G.A. § 8-2-100 et seq.

Ky. Rev. Stat. Ann. § 198B.400 et seq.

N.C. Gen. Stat. § 95-110.1 et seq.

Cited:

Brown v. Allright Auto Parks, Inc., 61 Tenn. App. 543, 456 S.W.2d 660, 1970 Tenn. App. LEXIS 301 (Tenn. Ct. App. 1970).

NOTES TO DECISIONS

1. Aerial Passenger Tramways. 2. Amusement Device.

1. Aerial Passenger Tramways.

This section, which defines "aerial passenger tramways" as "recreation transportation of passengers," and § 68-114-105, which states that a passenger tramway "shall be deemed not to be the operation of a common carrier," are part of legislation intended to address public safety concerns, and it is neither appropriate nor persuasive to read into a private amusement tax act such definitions from an entirely unrelated statutory scheme. Sky Transpo, Inc. v. Knoxville, 703 S.W.2d 126, 1985 Tenn. LEXIS 580 (Tenn. 1985).

2. Amusement Device.

American Society of Testing Materials standards for playground equipment on which an accident victim's expert witness relied to assert that a company negligently designed an ice slide were not applicable because neither an ice slide, nor the ice exhibit where the ice slide was located met the definition of an amusement device. Hall v. Gaylord Entm't Co., -- S.W.3d --, 2015 Tenn. App. LEXIS 918 (Tenn. Ct. App. Nov. 17, 2015).

Collateral References.

26 Am. Jur. 2d Elevators and Escalators § 1 et seq.

What is "passenger elevator" with safety statute or regulation. 77 A.L.R.2d 477.

Carriers 293.



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GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 68-121-102 (2017)

68-121-102. Creation of elevator and amusement device safety board -- Members -- Terms -- Expenses -- Reporting of technical Issues.

(a) (1) There is created the elevator and amusement device safety board, consisting of eight (8) members appointed by the governor. The focus of five (5) members of the board shall be for elevator safety, the focus of two (2) members shall be amusement device safety, and the focus of one (1) member shall be on amusement device safety, representing the interests of the traveling amusement device business, inflatables, challenge courses, or the commercial sale or rental of amusement devices. The initial appointments for two (2) of the members whose focus is amusement device safety shall be as follows: one (1) member shall be appointed for a term of three (3) years and one (1) member shall be appointed for a term of four (4) years. The term of the member representing the interests of the traveling amusement device business, inflatables, challenge courses, or the commercial sale or rental of amusement devices shall be for a term of four (4) years. At the expiration of the respective terms of each member of the board, a successor, identifiable with the same focus as provided in this section, shall be appointed for a term of four (4) years. The term or appointment of any person who is a member of the elevator and amusement device safety board shall continue until the person's term expires and successors are appointed.

(2) Upon the death, resignation or incapacity of any member, the governor shall fill the vacancy for the remainder of the unexpired term, with a representative of the same focus as that of the member's predecessor.

(3) Of the five (5) appointed members whose focus is elevator safety, one (1) shall be a representative of the owners and lessees of elevators within this state; one (1) shall be a representative of the manufacturers of elevators used within this state; one (1) shall be a representative of an insurance company authorized to insure the operation of elevators in this state; and two (2) shall be representatives of the public at large.

(4) The appointed member whose focus is traveling amusement device safety shall represent the interests of the traveling amusement device business.

(5) Of the two (2) appointed members whose focus is amusement device safety: one (1) member shall represent the interest of the Tennessee Fair Association; and one (1) member shall represent the interests of the fixed amusement device business and be NAARSO or

AIMS certified. All members of the board shall be residents of this state.

(6) In making appointments to the board, the governor shall strive to ensure that at least one (1) person serving on the board is sixty (60) years of age or older and that at least one (1) person serving on the board is a member of a racial minority.

(b) Five (5) members of the board shall constitute a quorum.

(c) The members of the board shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties in accordance with subsection (d).

(d) All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(e) All technical issues concerning elevators, dumbwaiters, escalators, aerial passenger tramways, and amusement devices shall be heard by the elevator and amusement device safety board, which shall report findings and recommendations to the commissioner or commissioner's designee for final disposition.

HISTORY: Acts 1951, ch. 235, § 2 (Williams, § 5379.10); Acts 1976, ch. 806, § 1(36); T.C.A. (orig. ed.), § 53-2602; Acts 1984, ch. 900, §§ 3, 4; 1988, ch. 1013, § 64; T.C.A., § 68-19-102; Acts 2008, ch. 723, § 4; 2009, ch. 580, §§ 4, 5; 2016, ch. 815, § 2; 2017, ch. 393, § 3.

NOTES:

Compiler's Notes.

The elevator and amusement device safety board, created by this section, terminates June 30, 2019. See §§ 4-29-112, 4-29-240.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.

Amendments.

The 2016 amendment rewrote (e), which read: "(e)(1) There is established a subcommittee whose focus shall be related to issues concerning elevator safety. The members of the subcommittee shall be the five (5) members of the board whose focus is elevator safety. The subcommittee shall act as an advisory committee to the board concerning elevator safety and report all findings and recommendations to the board concerning all issues related to elevators, dumbwaiters, escalators and aerial passenger tramways; provided, that all final decisions concerning such actions shall be decided by the board.

"(2) All issues concerning elevators, dumbwaiters, escalators and aerial passenger tramways, and amusement devices shall be heard by the commissioner or the commissioner's designee who shall, pursuant to subdivision (e)(1), report findings and recommendations to the board for final disposition and action by the board concerning the findings and recommendations."

The 2017 amendment rewrote (a)(1), which read: " There is created the elevator and amusement device safety board, consisting of eight (8) members appointed by the governor. The focus of five (5) members of the board shall be for elevator safety, the focus of two (2) members shall be amusement device safety, and the focus of one (1) member

shall be traveling amusement device safety. The initial appointments for two (2) of the members whose focus is amusement device safety shall be as follows: one (1) member shall be appointed for a term of three (3) years and one (1) member shall be appointed for a term of four (4) years. The term of the traveling amusement device safety member shall be for a term of four (4) years. At the expiration of the respective terms of each member of the board, a successor, identifiable with the same focus as provided in this section, shall be appointed for a term of four (4) years. The term or appointment of any person who is a member of the elevator safety board on January 1, 2009, shall continue until the person's term expires and successors are appointed."

Effective Dates.

Acts 2016, ch. 815, § 6. July 1, 2016.

Acts 2017, ch. 393, § 8. May 18, 2017.

Section to Section References.

This section is referred to in §§ 4-29-240, 68-121-101.



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GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 68-121-103 (2017)

68-121-103. Duties and powers of board -- Rules and regulations.

(a) It is the duty of the board to license elevator inspectors as provided in this chapter, and the board has the power and it is its duty to consult with engineering authorities and organizations studying and developing safety codes, including the American Standards Association, and to determine what rules and regulations governing the qualifications, training and duties of elevator operators and the operation, maintenance, construction, alteration and installation of elevators, dumbwaiters and escalators, and the inspection of new and existing installations are adequate, reasonable and necessary to provide for the safety of life, limb and property, and to protect the public welfare and upon such determination shall make, amend or repeal from time to time rules and regulations as follows:

- (1) For the maintenance and operation of all elevators, dumbwaiters and escalators;
- (2) For the construction of new elevators, dumbwaiters and escalators;
- (3) For the alteration of existing elevators, dumbwaiters and escalators;
- (4) Prescribing minimum safety requirements for all existing elevators, dumbwaiters and escalators; and
- (5) Prescribing the fees for construction permits, operating permits, acceptance inspections, initial inspections and periodic inspections for new and existing elevators, dumbwaiters and escalators.

(b) The elevator safety board is also vested with the duty, power, authority and responsibility to regulate aerial passenger tramways and moving walks in the same manner as provided in this chapter for elevators, dumbwaiters and escalators.

(c) Any new technology, as defined in the adopted version of the Elevator Safety Code, as such code is defined in Rule 0800-3-4-01(7), shall be authorized for use under this chapter; provided, that such technology meets the latest published standards of the American Society of Mechanical Engineers Safety Code for Elevators and Escalators.

(d) The elevator and amusement device safety board shall have the following powers

related to amusement device safety in addition to those related to elevators, dumbwaiters, escalators and aerial passenger tramways pursuant to subsections (a)-(c):

(1) To consult with engineering authorities and organizations that are studying and developing amusement device safety standards;

(2) To adopt a code of rules and regulations governing the owner's duty of reasonable care for the installation, assembly, disassembly, repair, maintenance, use, testing, operation, and inspection of amusement devices. The board shall have the power to adopt a safety code only for those types of amusement devices defined in § 68-121-101. In promulgating the amusement device safety code the board may consider any existing or future American Society for Testing and Materials (ASTM) safety standards affecting amusement devices, or any other nationally acceptable standard; and

(3) To make recommendations to the commissioner concerning the board's findings on safety issues related to amusement devices.

(e) Any rules or regulations adopted and promulgated shall be of a reasonable nature, and based upon generally accepted engineering standards, formulas, and practices, and insofar as is practicable and consistent with this chapter, shall be uniform with the rules and regulations of other states. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

HISTORY: Acts 1951, ch. 235, § 2; 1953, ch. 229, § 1 (Williams, § 5379.10); Acts 1957, ch. 255, § 2; 1974, ch. 418, § 2; 1978, ch. 805, § 2; 1982, ch. 562, § 4; T.C.A. (orig. ed.), § 53-2603; Acts 1985, ch. 362, § 1; T.C.A., § 68-19-103; Acts 2006, ch. 637, § 1; 2007, ch. 104, § 2; 2008, ch. 723, § 5.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.

Section to Section References.

This section is referred to in §§ 68-121-101, 68-121-105, 68-121-106, 68-121-107, 68-121-108, 68-121-109, 68-121-110.



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Tenn. Code Ann. § 68-121-104

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Tenn. Code Ann. § 68-121-104 (2017)

68-121-104. Powers and duties of department.

(a) Except where otherwise provided, the department has the power, and it is its duty, to enforce this chapter and the rules and regulations promulgated by the board.

(b) The department shall exercise enforcement over moving walks in the same manner and to the same extent as provided in this chapter for elevators, dumbwaiters, and escalators.

(c) The commissioner shall promulgate rules necessary to administer this chapter, including rules for the reporting of any fatalities or serious physical injuries incurred from the operation of amusement devices, or specifically related electrical equipment, and the subsequent inspection of the amusement devices and related electrical equipment. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

HISTORY: Acts 1951, ch. 235, § 3 (Williams, § 5379.11); T.C.A. (orig. ed.), § 53-2604; Acts 1984, ch. 900, § 5; T.C.A., § 68-19-104; Acts 2007, ch. 104, § 3; 2008, ch. 723, § 6.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.



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Tenn. Code Ann. § 68-121-105

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Tenn. Code Ann. § 68-121-105 (2017)

68-121-105. Registration of elevators, dumbwaiters and escalators.

Within sixty (60) days after the date of adoption by the board of rules and regulations under § 68-121-103, the owner or lessee of every existing elevator, dumbwaiter and escalator shall register with the department each elevator, dumbwaiter or escalator owned or operated by such owner or lessee, giving type, contract load and speed, name of manufacturer, its location and the purpose for which it is used and such other information as the department may require. The registration shall be made on a form to be furnished by the department on request. Elevators, dumbwaiters and escalators whose erection is begun subsequent to the date of adoption, but prior to the effective date of the rules and regulations adopted under § 68-121-103, shall be registered with the department within not more than seven (7) days after they are completed and placed in service.

HISTORY: Acts 1951, ch. 235, § 4 (Williams, § 5379.12); T.C.A. (orig. ed.), § 53-2605; Acts 1984, ch. 900, § 6; T.C.A., § 68-19-105.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.



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Tenn. Code Ann. § 68-121-106 (2017)

68-121-106. Schedule for inspecting and testing of elevators, dumbwaiters and escalators -- Report of inspections -- Failure to file report.

All new, altered and existing elevators, dumbwaiters and escalators, except dormant elevators, dumbwaiters and escalators, shall be tested and inspected in accordance with the following schedule:

(1) (A) Initial Inspection Test of New or Altered Installations. Every new or altered elevator, dumbwaiter and escalator shall be inspected and tested in conformity with the applicable rules and regulations adopted by the board before the operating permit, required by § 68-121-107, is issued. The inspections and tests shall be made under the supervision of an elevator inspector licensed and employed by the state.

(B) For each acceptance inspection and report made pursuant to subdivision (1)(A):

(i) The installer of an elevator, dumbwaiter, escalator or moving walk shall pay directly to the department or its authorized representative an inspection fee not to exceed one hundred dollars (\$100);

(ii) The installer of an aerial passenger tramway shall pay directly to the department or its authorized representative an inspection fee not to exceed two hundred dollars (\$200);

(2) Initial Inspection of Existing Elevators, Dumbwaiters and Escalators. The owner or lessee of every existing passenger elevator or escalator shall cause it to be inspected within three (3) months, and the owner or lessee of every existing freight elevator or dumbwaiter shall cause it to be inspected within six (6) months after the effective date of the rules and regulations adopted by the board under § 68-121-103, except that the commissioner may, at the commissioner's discretion, extend the time specified in this subdivision (2) for making such inspections;

(3) Periodic Inspections. The owner or lessee shall cause an inspection of every passenger elevator, dumbwaiter, escalator and freight elevator to be made periodically every sixth calendar month, following the month in which the initial inspection required by subdivision (1) or (2) has been made; provided, that any such inspection of either a passenger elevator, dumbwaiter, escalator or freight elevator may be made within the first

fifteen (15) days of the month following the calendar month during which such inspection is due. The inspections required by subdivisions (2) and (3) shall be made only by elevator inspectors who have been licensed in accordance with § 68-121-110;

(4) Required Inspections. The inspections required by subdivisions (1)-(3) are "required inspections";

(5) (A) Report of Inspections. A report of every required inspection shall be filed with the department by the inspector making the inspection on a form approved by the department within twenty (20) days after the inspection or test has been completed. For the inspections required by subdivisions (1)-(3), the report shall include all information required by the department to determine whether the elevator, dumbwaiter or escalator is in a safe operating condition and whether the owner or lessee of the elevator or escalator has complied with those rules and regulations adopted by the board under § 68-121-103 that are applicable;

(B) For the inspection required by subdivision (1), the report shall indicate whether the elevator, dumbwaiter or escalator has been installed in accordance with the permit issued by the department, and meets the requirements of the applicable rules and regulations adopted by the board under § 68-121-103;

(6) Failure to File Report of Inspection with Department. In the event that the report required by subdivision (5) is not filed with the department within twenty (20) days after the final date when the elevator, dumbwaiter, escalator or moving walk should have been inspected, as required by subdivisions (2) and (3), the commissioner shall designate a licensed inspector in the employ of the state to make the inspection and to report to the department. For each such inspection and report made at the direction of the commissioner, the owner or lessee of the elevator, dumbwaiter, escalator or moving walk shall pay to the department an inspection fee of a minimum of twenty-five dollars (\$25.00) with a maximum of one hundred fifty dollars (\$150), such fees to be charged as adopted by the board under § 68-121-103(a)(5). The fees shall be paid directly to the department, shall not be paid to the inspector and shall be the only fee for which the owner or lessee shall be liable under this chapter for the inspections required by subdivisions (2) and (3); and

(7) Additional Inspections. In addition to such required inspections, the commissioner may designate a licensed inspector in the employ of the state to make such additional inspections as may be required to enforce this chapter and the rules and regulations adopted by the board under § 68-121-103.

HISTORY: Acts 1951, ch. 235, § 5; 1953, ch. 229, § 2 (Williams, § 5379.13); 1957, ch. 255, § 3; 1976, ch. 410, § 1; 1977, ch. 61, § 1; 1982, ch. 562, §§ 1, 2; T.C.A. (orig. ed.), § 53-2606; Acts 1983, ch. 315, § 1; 1984, ch. 900, § 7; 1985, ch. 362, § 2; T.C.A., § 68-19-106; Acts 2009, ch. 405, §§ 1, 2.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.

Section to Section References.

This section is referred to in § 68-121-107.



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Tenn. Code Ann. § 68-121-107 (2017)

68-121-107. Operating permits.

(a) It is unlawful to operate any elevator, dumbwaiter, or escalator without a valid operating permit issued in accordance with this section. If an inspection report indicates compliance with this chapter, the commissioner shall issue an operating permit to the owner or lessee of such elevator, dumbwaiter, or escalator; provided, that no permits shall be issued if the fees required by § 68-121-106 have not been paid. The operating permit shall be issued for the period covered by the inspection required by § 68-121-106(1) and (2), shall state the contract load and speed for such elevator, dumbwaiter or escalator, and shall be posted conspicuously in the car or cage or in the platform of the elevator and on or near the dumbwaiter or escalator. It shall be extended by endorsement of the commissioner or the commissioner's duly appointed agent after each periodic inspection required by § 68-121-106(3).

(b) If the inspection report required by § 68-121-106 indicates failure of compliance with applicable rules and regulations approved by the board under § 68-121-103, the commissioner shall give notice to the owner or lessee or the person or persons of changes necessary for compliance with the rules and regulations. After the changes have been made, the commissioner shall issue an operating permit. The fee to be charged for the operating permit issued under this chapter shall be adopted by the board pursuant to § 68-121-103(a)(5), and shall be in an amount sufficient to defray the cost of administering this chapter. The fee shall not exceed a maximum of one hundred dollars (\$100).

(c) If the inspection report required by § 68-121-106 indicates that an elevator or escalator is in an unsafe condition, so that its continued operation may be dangerous to the public safety, then the commissioner may, at the commissioner's discretion, require the owner or lessee to discontinue the use of such elevator or escalator until it has been made safe and in conformity with the rules and regulations of the board. If the commissioner has reason to believe that any owner or lessee to whom an operating permit has been issued is not complying with the applicable rules and regulations adopted by the board under § 68-121-103, the commissioner shall so notify the owner or lessee and shall give notice of a date for a hearing on the noncompliance to the owner or lessee. If, after the hearing, the commissioner finds that the owner or lessee is not complying with the rules and regulations, the commissioner shall revoke the permit.

(d) No operating permit shall be required for elevators or escalators that are located in a highly restricted area owned and operated by the United States government. No state permit is to be issued for elevators located in municipalities where elevator inspection ordinances are in force in accordance with § 68-121-111, it being the responsibility of such municipalities to make the inspections and collect permit fees within their respective jurisdictions.

HISTORY: Acts 1951, ch. 235, § 6; 1953, ch. 229, § 3 (Williams, § 5379.14); 1957, ch. 255, § 4; T.C.A. (orig. ed.), § 53-2607; Acts 1983, ch. 315, § 2; 1985, ch. 354, § 23; 1985, ch. 362, § 3; 1989, ch. 11, § 3; T.C.A., § 68-19-107; Acts 2009, ch. 405, § 3.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.

Cross-References.

Penalties of violations of chapter or permit fee requirements, § 68-121-115.

Section to Section References.

This section is referred to in § 68-121-106.

Collateral References.

Incompetent or inexperienced or negligent operator, employment of, as independent ground of negligence toward one other than an employee. 8 A.L.R. 576.



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Tenn. Code Ann. § 68-121-108 (2017)

68-121-108. Installations, relocations or alterations -- Submission of plans -- Fees.

(a) Plans and Specifications. On and after the effective date of the rules and regulations adopted by the board under § 68-121-103, detailed plans and specifications of each elevator, dumbwaiter or escalator to be thereafter installed, relocated or altered shall be submitted to the department or its authorized representative, together with an application for a construction permit or form to be furnished or approved by the department or its authorized representative. Repairs or replacements normally necessary for maintenance 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 such repairs or replacements.

(b) Construction Permits. (1) A construction permit shall be issued by the department or its authorized representatives for every new elevator, dumbwaiter or escalator installation or alteration before the installation of the elevator, dumbwaiter or escalator is started. The department or its authorized representative shall issue such permit, if the plans and specifications required under subsection (a) indicate compliance with the applicable rules and regulations adopted by the board under § 68-121-103. If such plans and specifications indicate failure to comply with the applicable rules and regulations adopted by the board under § 68-121-103, the department or its authorized representative shall give notice to the person filing the application of changes necessary for compliance with the applicable rules and regulations.

(2) After such changes have been made, the department or its authorized representative shall issue a construction permit. No permit shall be required for the repairs or replacements normally necessary for maintenance.

(c) Fees. (1) A fee shall be paid to the department or its authorized representative for the issuing of construction permits required under subsection (b) for each new or altered elevator, dumbwaiter, escalator or moving walk. The fee shall not exceed a maximum of three hundred dollars (\$300) annually. The fees shall be charged as adopted by the board under § 68-121-103(a)(5) and shall be in an amount sufficient to defray the cost of administering this chapter. The department shall give receipts for all fees and sums received and shall transmit the fees and sums upon receipt to the state treasurer, who shall maintain

a separate account of the fees and sums; and the fees and sums shall constitute expendable receipts of the department in addition to the appropriations otherwise available.

(2) A fee shall be paid to the department or its authorized representative for the issuing of construction permits required by subsection (b) for each new or altered aerial passenger tramway. The fee shall not exceed a maximum of three hundred dollars (\$300) annually. The fees to be charged as adopted by the board under § 68-121-103(a)(5) and shall be in an amount sufficient to defray the cost of administering this chapter. The department shall give receipts for all fees and sums received and shall transmit the fees and sums upon receipt to the state treasurer, who shall maintain a separate account of the fees and sums; and the fees and sums shall constitute expendable receipts of the department in addition to the appropriations otherwise available.

(3) A fee shall be paid to the department or its authorized representative for the acceptance inspection and for each unscheduled follow-up inspection following the construction or alteration of an elevator, dumbwaiter, escalator, moving walk or aerial passenger tramway. The fees shall be charged as adopted by the board under § 68-121-103(a)(5) and shall be in an amount sufficient to defray the cost of administering this chapter. The fee shall not exceed a maximum of three hundred dollars (\$300) annually. The department shall give receipts for all fees and sums received and shall transmit the fees and sums upon receipt to the state treasurer, who shall maintain a separate account of the fees and sums; and the fees and sums shall constitute expendable receipts of the department in addition to the appropriations otherwise available.

HISTORY: Acts 1953, ch. 229, § 3 (Williams, § 5379.14); 1957, ch. 255, § 5; 1974, ch. 418, §§ 3, 5; 1982, ch. 562, § 3; T.C.A. (orig. ed.), § 53-2608; Acts 1985, ch. 362, § 4; 1989, ch. 11, §§ 4-6; T.C.A., § 68-19-108; Acts 2000, ch. 707, § 1; 2009, ch. 405, § 4; 2016, ch. 599, § 7.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.

Acts 2016, ch. 599, § 7, provided that references from the elevator division, division of mines, labor standards division, and division of boiler and elevator inspection, are to be changed to the department of labor and workforce development as sections are amended and volumes are replaced.

Amendments.

The 2016 amendment substituted "department of labor and workforce development" for "division of boiler and elevator inspection" in the fourth sentence of (c)(1), (c)(2) and (c)(3).

Effective Dates.

Acts 2016, ch. 599, § 8. July 1, 2016.

Section to Section References.

This section is referred to in §§ 68-121-101, 68-121-109.



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Tenn. Code Ann. § 68-121-109 (2017)

68-121-109. Maintenance in safe operating condition.

(a) Every elevator, dumbwaiter and escalator shall be maintained by the owner or lessee in a safe operating condition and so that it conforms to the rules and requirements of the board as adopted under § 68-121-103.

(b) Every aerial passenger tramway shall be maintained by the owner or lessee in a safe operating condition and so that it conforms to the rules and requirements of the board as adopted under §§ 68-121-101, 68-121-103, 68-121-108, and this section.

(c) (1) As provided in the applicable codes of the American Society of Mechanical Engineers (ASME) as adopted by the Tennessee elevator safety board, each elevator shall have a means of two-way communication. The code requirement of two-way communication may be satisfied with a dedicated line, a line consolidation technology that enables the simultaneous operation of more than one (1) communication device, or an intercom system where a central answering location is staffed twenty-four (24) hours a day.

(2) If the state chooses to upgrade its two-way communication system in elevators in state facilities, funds in the facilities revolving fund may be used for such upgrade.

HISTORY: Acts 1951, ch. 235, § 7 (Williams, § 5379.15); 1974, ch. 418, § 4; T.C.A. (orig. ed.), §§ 53-2609, 68-19-109; Acts 2005, ch. 436, § 3.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.



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Tenn. Code Ann. § 68-121-110 (2017)

68-121-110. Licensing inspectors -- Qualifications -- Examinations -- Fee -- Revocation of license.

(a) No person shall be licensed as an elevator inspector to inspect elevators, escalators or new or altered dumbwaiters, unless the person is an employee of the state authorized to inspect elevators, escalators and dumbwaiters or an employee authorized to inspect elevators, escalators and dumbwaiters for any insurance company insuring such elevators, escalators and dumbwaiters in this state; provided, that the person has satisfied the board that the person has had experience in inspecting elevators, escalators and dumbwaiters, has satisfactorily passed a written examination given by the board testing the person's knowledge of this chapter and the rules and regulations adopted by the board under § 68-121-103; provided, however, that the board may license a person as an elevator inspector without such examination, if the person holds a license as an inspector of elevators for a state or city that has a standard of examination substantially equal to that provided for in this section. A written application for such examination and license shall be made upon a form to be supplied by the board upon request, and shall be accompanied by a statement of the applicant's experience, together with an examination fee of five dollars (\$5.00). The examination shall be given not more than six (6) months from the date the applicant makes such application. If the applicant has the experience and successfully passes the examination, the applicant shall, upon payment to the board of a license fee of five dollars (\$5.00), be entitled to a license as an elevator inspector as a matter of right, and the license shall be renewable annually at a fee of two dollars (\$2.00). There shall be no limit to the number of times an applicant may seek a license as herein provided, except that a rejected applicant may not make a new application within six (6) months from the date on which the applicant is notified that the applicant has failed to qualify. A fee of five dollars (\$5.00) shall be paid to the board for each subsequent examination.

(b) If the board has reason to believe that a licensed inspector is no longer qualified to hold such licensed inspector's license, it shall give such inspector reasonable notice of the time and place of a hearing at which the board shall inquire into the inspector's fitness and competency to act as an elevator inspector. If the board finds that such inspector is no longer qualified to act as an elevator inspector, it shall revoke such inspector's license forthwith, and such inspector shall not thereafter make any inspection required under this chapter.

HISTORY: Acts 1951, ch. 235, § 8; 1953, ch. 229, § 4 (Williams, § 5379.16); 1957, ch. 255, § 6; T.C.A. (orig. ed.), §§ 53-2610, 68-19-110.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.

Section to Section References.

This section is referred to in § 68-121-106.



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Tenn. Code Ann. § 68-121-111 (2017)

68-121-111. Municipal laws or ordinances unaffected.

This chapter shall not have the effect of replacing any municipal law or ordinance in municipalities having regulations controlling the design, construction, location, installation, inspection and operation of elevators, dumbwaiters or escalators where such local laws, ordinances or regulations are in substantial conformity with the commonly accepted standards of safety concerning the design, construction, location, installation, inspection and operation of elevators, dumbwaiters or escalators and in substantial conformity with the published standards of the American Standard Safety Code for Elevators, Dumbwaiters and Escalators, and nothing in this chapter shall be construed as preventing the local officials or boards of such municipalities from the exclusive right to regulate or enforce all such local laws, ordinances or regulations now in force or hereafter enacted as may comply with the standards above defined, and no provision of this chapter shall be construed as permitting the erection of elevators, dumbwaiters or escalators without first obtaining a building or like permit from the proper municipal authorities in compliance with local laws and ordinances provided therefor.

HISTORY: Acts 1951, ch. 235, § 8a (Williams, § 5379.17); T.C.A. (orig. ed.), §§ 53-2611, 68-19-111.

NOTES:
Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.

Section to Section References.

This section is referred to in § 68-121-107.



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Tenn. Code Ann. § 68-121-112 (2017)

68-121-112. Appeals.

(a) Any person aggrieved by an order or act of the commissioner or department under this chapter may, within fifteen (15) days after notice thereof, appeal from such order or act to the board.

(b) The board shall hear the appeal in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

HISTORY: Acts 1951, ch. 235, § 9 (Williams, § 5379.18); T.C.A. (orig. ed.), § 53-2612; Acts 1985, ch. 362, § 5; T.C.A., § 68-19-112.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.



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Tenn. Code Ann. § 68-121-113 (2017)

68-121-113. [Reserved.]

NOTES:
Compiler's Notes.

Former § 68-19-113 (Acts 1951, ch. 235, § 10 (Williams, § 5379.19); T.C.A. (orig. ed.), § 53-2613), concerning alteration or amendment of rules and regulations, was repealed by Acts 1985, ch. 362, § 6. Upon the transfer of this part in 1992, this location was reserved to preserve the relationship of the code sections in this part.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.



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Tenn. Code Ann. § 68-121-114 (2017)

68-121-114. Violations to be prosecuted.

Prosecutions for violations of this chapter shall be instituted by the commissioner, and shall be in the form of summary proceedings before a court of competent jurisdiction. Upon conviction, after a hearing, the penalties provided for in § 68-121-115 shall be imposed and shall be final, subject to appeal to a court of proper jurisdiction in the manner prescribed by law.

HISTORY: Acts 1951, ch. 235, § 11 (Williams, § 5379.20); T.C.A. (orig. ed.), §§ 53-2614, 68-19-114.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.

Collateral References.

Liability of building owner, lessee, or manager for injury or death resulting from use of automatic passenger elevator. 99 A.L.R.5th 141.

Right to contribution or indemnity on behalf of owner, operator, maintainer, repairer, or installer of automatic passenger elevator in action by elevator user. 100 A.L.R.5th 409.



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Tenn. Code Ann. § 68-121-115 (2017)

68-121-115. Penalties for violations of chapter or permit fee requirements.

(a) Any person, firm or corporation that violates any of this chapter or the rules and regulations adopted by the board, or who fails or neglects to pay the fees as required in this chapter, commits a Class C misdemeanor.

(b) The fee for any inspection or operating permit under this chapter shall be increased fifty percent (50%), if such fee is not paid within sixty (60) days from the date of the invoice for such inspection or permit.

(c) Notwithstanding subsection (a) to the contrary, any person who knowingly makes a false statement, representation, or certification in an application, record, report, or other document filed or required to be maintained under this chapter shall be guilty of a Class A misdemeanor.

HISTORY: Acts 1951, ch. 235, § 12 (Williams, § 5379.21); 1957, ch. 255, § 7; T.C.A., (orig. ed.), § 53-2615; Acts 1985, ch. 362, § 7; 1989, ch. 591, § 113; T.C.A., § 68-19-115; Acts 2008, ch. 723, § 7.

NOTES:

Compiler's Notes.

Former title 68, ch. 19, §§ 68-19-101 -- 68-19-115, was transferred to title 68, ch. 121, §§ 68-121-101 -- 68-121-115, respectively, in 1992.

Cross-References.

Penalties for Class A and C misdemeanors, § 40-35-111.

Section to Section References.

This section is referred to in §§ 68-121-114, 68-121-117.

Collateral References.

Liability of building owner, lessee, or manager for injury or death resulting from use of automatic passenger elevator. 99 A.L.R.5th 141.

Right to contribution or indemnity on behalf of owner, operator, maintainer, repairer, or installer of automatic passenger elevator in action by elevator user. 100 A.L.R.5th 409.



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Tenn. Code Ann. § 68-121-116 (2017)

68-121-116. Amusement devices -- Legislative findings.

(a) The legislature finds that:

(1) An unsafe amusement device is likely to cause serious and preventable injuries to members of the public; and

(2) For the welfare of the people of the state, these injuries must be prevented and the public must be protected from unsafe amusement devices.

(b) The purpose of regulating amusement devices is to ensure, as far as reasonably possible, the safety of the public in the use of amusement devices in the state by providing for:

(1) Adoption of safety regulations for the owner's duty of reasonable care;

(2) An effective enforcement and compliance program;

(3) Reporting procedures on the safety of amusement devices; and

(4) Safety provisions governing riders' use of amusement devices.

HISTORY: Acts 2008, ch. 723, § 3.



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Tenn. Code Ann. § 68-121-117 (2017)

68-121-117. Violations -- Penalties.

(a) (1) It is an offense, punishable as provided in § 68-121-115, for:

(A) The owner of any amusement device to operate, or permit any person to operate, any amusement device, unless an annual permit has been issued by the department to the owner of the amusement device, which permit shall be valid in any and all counties in the state for one (1) year from the date the permit is issued.

(B) Any person to operate an amusement device, if the person:

(i) Has knowledge that the annual permit required, pursuant to subdivision (a)(1)(A), has not been issued to the owner;

(ii) Has no authority to operate the amusement device; or

(iii) Operates the amusement device beyond the authorization given to the person by the owner.

(2) If the amusement device is not at a fixed location within this state, then the owner of the amusement device shall only be required to obtain one (1) such annual permit and the permit shall be displayed in a conspicuous location.

(b) The department is authorized to charge a fee to be set by the department for the issuance of an annual permit, but the department shall not issue the permit until the owner furnishes to the department proof of insurance for, and proof of inspection of the amusement device or devices by any authorized insurer, or its designated representative. The proof of insurance shall be in an amount of not less than one million dollars (\$1,000,000) per occurrence, insuring the owner or operator against liability for bodily injury and property damage arising from the use of the amusement device.

(c) (1) If the annual permit is issued for an individual amusement device, the permit shall be prominently displayed on the amusement device.

(2) If the annual permit is issued for amusement devices to an enterprise that has

multiple amusement devices owned or managed by one (1) owner, the permit shall be filed at the main office of the site where the amusement devices are located, and shall be available for inspection by any public official during the normal business hours of the office and by members of the public during the normal business operating hours of the amusement devices.

(d) The policy or bond required by this section shall be a standardized form approved by the department and obtained from one (1) or more insurers or sureties approved by the department.

HISTORY: Acts 2008, ch. 723, § 3; 2016, ch. 599, § 7.

NOTES:

Compiler's Notes.

Acts 2016, ch. 599, § 7, provided that references from the elevator division, division of mines, labor standards division, and division of boiler and elevator inspection, are to be changed to the department of labor and workforce development as sections are amended and volumes are replaced.

Amendments.

The 2016 amendment substituted "department of labor and workforce development" for "elevator division of the department" in (a)(1)(A) and at the beginning of the first sentence of (b) and substituted "department" for "division" in the first sentence of (a)(1)(A).

Effective Dates.

Acts 2016, ch. 599, § 8. July 1, 2016.

Section to Section References.

This section is referred to in § 68-121-120.



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Tenn. Code Ann. § 68-121-118

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GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 68-121-118 (2017)

68-121-118. Responsibilities of owner or operator of amusement device -- Report of fatalities, physical injuries or incidents -- Inspections -- Penalties.

(a) The owner or operator of an amusement device shall immediately cease to operate any amusement device upon which a fatality, serious physical injury, or serious incident has occurred. An owner shall report any accident involving a fatality, serious physical injury, or serious incident resulting from the operation of an amusement device to the commissioner, in writing, within twenty-four (24) hours and contact a qualified inspector from the list maintained by the commissioner pursuant to § 68-121-119 to conduct an inspection.

(b) The cessation shall remain in force until an inspection has been performed by a qualified inspector, the inspector has determined that the amusement device or related equipment is safe for public use, and the department has authorized the owner or operator to resume operation of the amusement device.

(c) The qualified inspector shall initiate the inspection within twenty-four (24) hours of receipt of the report of a fatality, serious physical injury, or serious incident caused by the operation of an amusement device and shall perform the inspection in a manner that proceeds with all practicable speed and minimizes the disruption of the remainder of the amusement devices at the site where the amusement device is located, as well as unrelated commercial activities. The cost of an inspection shall be paid for by the owner of the amusement device. The amusement device may resume operation, upon authorization from the department, immediately following the reasonable determination by a qualified inspector that a principal cause of the serious physical injury was the victim's failure to comply with the posted safety rules or with verbal instructions. If an owner or operator of an amusement device fails to comply with any requirement listed in this section, that owner or operator shall incur a penalty of three hundred dollars (\$300) each day, enforceable by the department, until full compliance is achieved. Any penalties deposited or collected shall be deposited into the general fund.

HISTORY: Acts 2008, ch. 723, § 3; 2016, ch. 815, § 3; 2017, ch. 393, § 4.

NOTES:
Amendments.

The 2016 amendment rewrote this section, which read: "The operator of an amusement device shall immediately cease to operate any amusement device upon which a fatality, serious physical injury or serious incident has occurred. An owner shall report any accident involving serious physical injury resulting from the operation of an amusement device to the commissioner, either orally or in writing, within twenty-four (24) hours and contact a qualified inspector from the list maintained by the commissioner pursuant to § 68-121-119. The cessation shall remain in force until an inspection has been performed by a qualified inspector and the inspector has determined that the amusement device or related equipment is safe for public use. The qualified inspector shall initiate the inspection within twenty-four (24) hours of receipt of the report of a fatality, serious physical injury or serious incident caused by the operation of an amusement device and shall perform the inspection in a manner that proceeds with all practicable speed and minimizes the disruption of the remainder of the amusement devices at the site where the amusement device is located, as well as unrelated commercial activities. The cost of any such inspection shall be paid for by the owner of the amusement device. The inspection may be completed immediately following the reasonable determination by a qualified inspector that a principal cause of the serious physical injury was the victim's failure to comply with the posted safety rules or with verbal instructions. In the event that a qualified inspector does not initiate an inspection within twenty-four (24) hours from the time the inspection was requested by the owner of the amusement device, the owner and operator may presume the amusement device can reopen. This does not preclude an inspection from occurring at a later date."

The 2017 amendment substituted "qualified inspector" for "qualified, third-party inspector" throughout the section.

Effective Dates.

Acts 2016, ch. 815, § 6. July 1, 2016.

Acts 2017, ch. 393, § 8. May 18, 2017.

Section to Section References.

This section is referred to in § 68-121-123.



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Tenn. Code Ann. § 68-121-119 (2017)

68-121-119. Qualified inspectors.

(a) The commissioner shall compile a list of persons who have been found to be qualified inspectors. The list shall be posted on the web site maintained by the department.

(b) The commissioner may employ or contract with qualified inspectors to conduct inspections of amusement devices pursuant to this chapter. However, if the commissioner does not employ or contract with qualified inspectors, then owners and operators shall provide the commissioner with all resulting inspection reports.

HISTORY: Acts 2008, ch. 723, § 3; 2017, ch. 393, § 5.

NOTES:

Amendments.

The 2017 amendment added (b).

Effective Dates.

Acts 2017, ch. 393, § 8. May 18, 2017.

Section to Section References.

This section is referred to in § 68-121-118.



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Tenn. Code Ann. § 68-121-120 (2017)

68-121-120. Operation of amusement device -- Inspections -- Permit.

(a) A person shall not operate an amusement device unless the owner of the amusement device has the device inspected at least once annually by a qualified inspector, who is either provided by the commissioner or whom the owner or insurer has selected from the lists maintained on the department's website pursuant to § 68-121-119, and has obtained written documentation from the qualified inspector that the inspection has been made and the amusement device meets American Society of Testing Materials (ASTM) standards or the Association for Challenge Course Technology (ACCT) industry standards. The owner of the amusement device is solely responsible for the cost of an inspection conducted pursuant to this subsection (a).

(b) The inspection required pursuant to subsection (a) must be conducted, at a minimum, to meet the manufacturer's or engineer's specifications and to follow the applicable ASTM standards or ACCT industry standards.

(c) The commissioner may conduct a spot inspection of any amusement device without notice at any time while the amusement device is operating or will be operating in this state. The commissioner's designee may order temporary suspension of an operating permit if it has been determined after a spot inspection that an amusement device or devices are hazardous or unsafe. Operation of the amusement device shall not resume until the hazardous or unsafe condition has been corrected and subjected to reinspection by the commissioner for an inspection fee established by rule.

(d) An operator of an amusement device must be competent and at least sixteen (16) years of age. An operator shall operate no more than one (1) amusement device at any one (1) time and shall be in attendance at all times the device is in operation.

HISTORY: Acts 2008, ch. 723, § 3; 2017, ch. 393, § 6.

NOTES:
Amendments.

The 2017 amendment rewrote (a) and (b), which read: "(a) A person shall not operate an amusement device unless the owner has:

"(1) The amusement device inspected at least once annually by a qualified inspector, whom the owner or an insurer has provided to perform the inspection, and obtains from the qualified inspector written documentation that the inspection has been made and that the amusement device meets American Society of Testing Materials (ASTM) standards and is covered by the insurance required by § 68-121-117(b); and

"(2) Obtained an annual permit as required by § 68-121-117(a)(1).

"(b) The inspection required pursuant to subdivision (a)(1) shall be conducted at a minimum to meet the manufacturer's or engineer's specifications and to follow the applicable ASTM standards." ; and added (d).

Effective Dates.

Acts 2017, ch. 393, § 8. May 18, 2017.

Section to Section References.

This section is referred to in § 68-121-123.



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Tenn. Code Ann. § 68-121-121 (2017)

68-121-121. Maintenance, inspection, and accidents records for amusement device -- Proof of inspection.

(a) Each owner or operator shall retain on the premises or with a traveling or portable amusement device for at least twenty-four (24) months, all maintenance, inspection and accident records for each amusement device. The owner shall make the records for the amusement device under inspection for failure or malfunction available to the commissioner or the board upon request. The documents may be kept electronically or digitally.

(b) An owner or operator of an amusement device, as applicable, shall prominently display or have available on location the amusement device's proof of inspection, which shall include the date of the last inspection of the amusement device.

HISTORY: Acts 2008, ch. 723, § 3; 2017, ch. 393, § 7.

NOTES:
Amendments.

The 2017 amendment added (b).

Effective Dates.

Acts 2017, ch. 393, § 8. May 18, 2017.



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Tenn. Code Ann. § 68-121-122 (2017)

68-121-122. Itinerary of traveling or portable amusement devices -- Filing and content.

(a) The owner or operator of traveling or portable amusement devices shall file an itinerary with the department on a form prescribed by the commissioner no less than thirty (30) days before the operation of an amusement device for use by the public.

(b) The itinerary shall include the following:

- (1) The name of the amusement device owner;
- (2) The carnival, fair, or activity sponsor;
- (3) The address and telephone number of the site;
- (4) The dates open to the public; and
- (5) The name of the contact person on site.

HISTORY: Acts 2008, ch. 723, § 3; 2016, ch. 815, § 4.

NOTES:

Amendments.

The 2016 amendment substituted "the department" for "the board" in (a).

Effective Dates.

Acts 2016, ch. 815, § 6. July 1, 2016.



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Tenn. Code Ann. § 68-121-123 (2017)

68-121-123. Operation of amusement device during pendency of cessation -- Remedies.

In addition to any and all other remedies, if an owner, operator or person in charge of any amusement device continues to operate any amusement device during the pendency of a cessation pursuant to § 68-121-118 or § 68-121-120, then the commissioner may petition the circuit court, in an action brought in the name of the state, for a writ of injunction to restrain the use of the alleged defective amusement device.

HISTORY: Acts 2008, ch. 723, § 3.



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Tenn. Code Ann. § 68-121-124 (2017)

68-121-124. Liability for accidents.

The state and its officers and employees or members of the board shall not be construed to assume liability arising out of an accident involving an amusement device by reason of administration of this chapter.

HISTORY: Acts 2008, ch. 723, § 3.



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Tenn. Code Ann. § 68-121-125 (2017)

68-121-125. Safety rules governing rider -- Violations and penalties -- Duty to report injuries -- Display of rules.

(a) A rider on an amusement device shall, at a minimum:

(1) Obey the reasonable safety rules posted in accordance with subsection (g) and oral instructions for an amusement device issued by the amusement device's owner or the owner's employee or agent, unless:

(A) The safety rules are contrary to those issued by the board; or

(B) The oral instructions are contrary to the safety rules; and

(2) Refrain from acting in any manner that may cause or contribute to injuring the rider or others, including:

(A) Interfering with the safe operation of the amusement device;

(B) Not engaging any safety devices that are provided;

(C) Disconnecting or disabling a safety device except at the express instruction of the operator;

(D) Altering or enhancing the intended speed, course or direction of an amusement device;

(E) Extending arms and legs beyond the carrier or seating area except at the express direction of the amusement device operator;

(F) Throwing, dropping or expelling an object from or toward an amusement device;

(G) Getting on or off an amusement device except at the designated time and area, if any, at the direction of the amusement device operator, or in an emergency; and

(H) Unreasonably controlling the speed or direction of the rider or an amusement

device that requires the rider to control or direct the rider or a device.

(b) A rider of an amusement device shall not get on, enter, or attempt to get on an amusement device unless the rider reasonably determines that, at a minimum, the rider:

(1) Has sufficient knowledge to use, get on, enter, or get off the amusement device safely without instruction or has requested and received before getting on the amusement device sufficient information to get on, use, enter, or get off safely;

(2) Has located, reviewed and understood any signs in the vicinity of the amusement device and has satisfied any posted height, medical or other restrictions and abided by all rules, regulations and restrictions;

(3) Is not under the influence of alcohol or any drug that affects the rider's ability to safely use the amusement device or obey the posted rules or oral instructions; and

(4) Is authorized by the amusement device owner or the owner's authorized servant, agent or employee to get on the amusement device.

(c) (1) It is an offense for any person to knowingly violate subsection (a) or (b).

(2) A violation of subdivision (c)(1) is a Class C misdemeanor, punishable by a fine only.

(d) A rider, or the rider's parent or guardian on the rider's behalf, shall report in writing to the owner any injury sustained on an amusement device before leaving the owner's premises, including:

(1) The name, address, and phone number of the injured person;

(2) A full description of the incident, the injuries claimed, any treatment received, and the location, date, and time of the injury;

(3) The cause of the injury, if known; and

(4) The names, addresses, and phone numbers of any witnesses to the incident.

(e) If the rider, or the rider's parent or guardian on a rider's behalf, is unable to file a report before leaving the owner's premises because of the severity of the rider's injuries, the rider, or the rider's parent or guardian, shall file the report as soon as reasonably possible.

(f) The failure of a rider, or the rider's parent or guardian on a rider's behalf, to report an injury under this section shall have no effect on the rider's right to commence a civil action.

(g) Safety rules governing rider conduct must be prominently displayed at or near the entrance to, or loading platform for, the amusement device.

HISTORY: Acts 2008, ch. 723, § 3.

NOTES:

Cross-References.

Penalty for Class C misdemeanor, § 40-35-111.

Section to Section References.

This section is referred to in § 68-121-101.



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