

**SUBJECT:** Elevator, escalator, chair lift, and people mover safety regulation

**COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended

**VOTE:** 8 ayes — Wilson, Yarbrough, Goolsby, Haggerty, D. Jones, J. Moreno, A. Reyna, Wise  
0 nays  
1 absent — Flores

**SENATE VOTE:** On final passage, April 24 — voice vote

**WITNESSES:** None

**BACKGROUND:** Health and Safety Code, ch. 754 establishes guidelines for elevators, escalators, and related equipment. The Texas Department of Licensing and Regulation (TCLR) is charged with regulation and enforcement of elevator safety and required annual inspections. The commissioner of licensing and regulation appoints a nine-member elevator advisory board that meets twice a year. The board advises the commissioner regarding standards for installation, alteration, operation, and inspection of elevators, escalators, and related equipment, the status of this equipment throughout the state, and any other relevant information. Equipment inspectors must be certified by and registered with TDLR. If a person receives a notice of noncompliance from the commission and fails to remedy or attempt to remedy the violation within 60 days, it is a class C misdemeanor (maximum fine of \$500).

**DIGEST:** CSSB 1198 would amend the Health and Safety Code to update provisions regarding inspection and certification of elevators, escalators, chairlifts, automated cable-operated people movers, moving sidewalks, or related equipment, including the creation of new standards for certain elevators in single-family dwellings.

**Elevator Advisory Board.** The bill would increase the number of board members from nine to 12, including four members of the public and a

licensed or registered engineer or architect, all of whom would be appointed by the governor rather than the commissioner. The members would serve at the will of the governor. Board members would be reimbursed for travel as provided by the general appropriations act. The board would advise the commissioner on equipment safety and public awareness programs related to elevator safety, including programs for sellers and buyers of single-family dwellings with elevators or chairlifts.

**Standards.** Standards adopted by the commissioner would have to allow for alteration of existing equipment as long as it would not diminish the safety level of the equipment to an unacceptable level. The total accumulated time for all delays for compliance with the standards could not exceed three years, except for established allowed delays for door restrictors or firefighter's service or at the commissioner's discretion. The commissioner could grant a waiver of compliance from an applicable code requirement if noncompliance would not seriously threaten worker safety or if it were a result of compliance with a municipal code at the time of original installation and did not pose imminent and serious danger. The date of equipment alteration would be considered the date that the property owner entered into a contract for the installation or alteration of the equipment.

**Standards for equipment in a single-family home.** Elevators or chairlifts installed in a single-family home on or after January 1, 2002, would have to comply with the established codes and be inspected by a certified inspector when completed. The inspector would have to give the home owner a copy of the inspection report. The commissioner would have to adopt rules containing minimum safety standards to be used when inspecting elevators or chairlifts in single-family homes. A municipality could withhold a certificate of occupancy or for the installation of the elevator or chairlift until the owner provided a copy of the inspection report. A contractor would not have to report to TDLR any information concerning the equipment or the contractor's work on the equipment.

**Rules.** The commissioner would have to provide for an annual inspection and certification of equipment; registration of qualified inspectors and contractors; the form of inspection documents, contractor reports, and certificates of compliance; and notification to building owners, architects,

and other building industry professionals about the required annual inspection. The commissioner could not:

- ! require inspections more often than every 12 months;
- ! require a minimum amount of experience or education as a condition of certification or registration;
- ! require building owners to submit proposed plans for equipment installation and alteration to TDLR;
- ! forbid a certified and registered inspector from inspecting equipment; or
- ! require an inspection report or certificate of compliance to be placed inside or immediately outside an elevator or escalator or in the lobby or hallways of a building.

The commissioner could require a reinspection or recertification of equipment if the equipment had been altered and posed a serious safety threat or if an annual inspection report indicated that a violation had continued longer than the permitted delay.

The commissioner could charge fees up to a certain limit for various services, including registrations, educational courses, filing reports, certificates of compliance, license renewals, and reinstatements.

**Inspection documents.** An inspection document would have to be issued to a building owner within 10 days of an inspection. The commissioner would have to issue a certificate of compliance to the building owner if an application were submitted with applicable fees. The application would have to acknowledge that any noncompliance would be remedied within six months of the inspection report.

**Certified inspectors.** In order to inspect equipment, a person would have to attend certain required educational programs and pay all applicable fees. A registration would expire one year after issuance.

**Contractor registration.** A person would have to register as a contractor with TDLR in order to install, repair, or maintain equipment. The registering contractor would have to submit to TDLR an initial report within 60 days of the application date containing details of work performed in the previous two years. After the initial report, the registered contractor would have to submit

to TDLR quarterly reports on the current project.

**Elevator mechanic license.** A person would have to be licensed to install, repair, wire, test, or maintain elevator equipment. An individual who was directly supervised by a licensed elevator mechanic would not have to be licensed. The commissioner could adopt rules about work activities that an unlicensed employee could perform without direct supervision. The commissioner would have to adopt rules regarding emergency and temporary licenses, licenses from other states, and standards of conduct for license holders. The bill would establish guidelines for qualifications, applications, license issuances and renewals, continuing education, and examinations.

**Duties of property owners.** The bill would strike language about the filing fees for inspection reports, and the consequences of late filing an inspection report or fee payment. An owner would have to report to TDLR each equipment accident within 72 hours.

**Chief elevator inspector.** The commissioner could appoint a chief elevator inspector to administer the inspection and registration program. The chief inspector could not have conflicting financial or commercial interests and would have to be certified as an inspector or obtain certification within six months of becoming the chief inspector.

**Deposit of fees.** The bill would strike a provision relating to the deposit of fees into a general revenue account.

**Investigation; registration and license proceedings; injunction; emergency orders.** A TDLR employee could investigate equipment that posed an imminent danger, including entrance with notice to the property being investigated. The commissioner could assess an administrative penalty for license or registration fraud or for falsifying a report. The bill would authorize and establish guidelines for an emergency order if there were a threat to public health and safety. All proceedings with regard to denial, suspension, or revocation of a license or registration, and appeals from those proceedings would be subject to open records. The commissioner could issue an emergency order as needed to enforce the provisions of this bill, including an order to disconnect power or lock out equipment that was determined to be an imminent and significant danger.

The bill would take effect September 1, 2001.

**SUPPORTERS  
SAY:**

CSSB 1198 is needed to establish guidelines for chairlifts and automated cable-operated people movers. These industries are not regulated specifically by the state, and it would be appropriate to set rules and procedures for them in order to ensure public safety. When these mechanisms are located in public buildings, it is particularly important to have laws to ensure compliance with industry-specific regulations.

Statutory procedures are needed with regard to contractors and elevator mechanics. Current law already establishes guidelines for certified inspectors, but no direction exists for the state regulation of contractors for elevators, escalators, or other related equipment. This bill would help ensure that these types of equipment were compliant with TDLR rules, therefore enhancing public safety.

Allowing the commissioner to issue emergency orders could help provide for quick and effective action when there was an imminent and significant danger to the public. Authorizing this kind of action to order a building owner or manager to disconnect power to or lock equipment if necessary is appropriate and would protect public health and safety.

**OPPONENTS  
SAY:**

It is inappropriate to allow the state to regulate equipment in private single-family homes. Private elevators and chairlifts should be regulated at the local level like any other building code enforcement. The Health and Safety Code, sec. 754.014 requires the commissioner to adopt standards for the installation, alteration, operation, and inspection of equipment used by the public in buildings that are state-operated or owned or are open to the public. This does not include private homes. While it is necessary to be able to inspect the safety compliance of all equipment regardless of where it is, it is inappropriate to allow the state to enter people's private homes to do these inspections when they could be done on a local level.

**NOTES:**

The substitute makes several changes to the original, including:

- ! establishing that the board serves at the will of the governor rather than the commissioner;
- ! adding duties to the board;

- ! providing that a person under the direct supervision of a licensed inspector would not have to be licensed;
- ! requiring a person registering as a contractor to submit an initial report to TDLR and providing the contents of the report; and
- ! requiring a property owner to report an accident to TDLR within 72 hours.

According to the fiscal note, the bill would cost \$193,077 in fiscal 2002 and \$195,468 in fiscal 2003 due to the additional FTEs necessary to implement its oversight provisions. TDLR would absorb these costs through adjustment of fees.