

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1013
Economic Matters

(Delegate Wivell, *et al.*)

**Public Safety - Elevator Inspections - Elevator Units Owned by Nonprofit
Entities**

This bill requires the Commissioner of Labor and Industry to develop and implement polices related to the inspection and decommissioning of elevator units owned by small nonprofit entities with limited financial resources. In doing so, the commissioner must consider (1) establishing eligibility requirements; (2) the potential for alternative methods for eligible entities to decommission an elevator unit they own; and (3) establishing pricing limitations for a third-party qualified inspector performing an inspection of an elevator unit owned by an eligible entity. A policy developed by the commissioner may include provisions for granting an eligible entity an extension of time or an exemption from scheduled inspections.

Fiscal Summary

State Effect: The Maryland Department of Labor (MDL) can generally establish and implement the required policies with existing budgeted resources, which includes any database modifications that may be required. Any costs would be paid for with special funds through an appropriation from the Workers' Compensation Commission. General fund revenues may decrease minimally from fewer citations and/or penalties assessed on noncompliant elevators owned by small nonprofits.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: “Elevator” means a hoisting and lowering machine equipped with a car or platform that moves in guides in a substantially vertical direction and serves two or more floors of a building or structure.

Elevators in the State must be inspected, tested, and maintained in a safe operating condition in accordance with the State Safety Code and regulations adopted by the Commissioner of Labor and Industry. Unless otherwise specified by statute, an elevator may not operate in a building, structure, or place of employment in the State unless it has been certified by the commissioner.

Inspections are required for new elevators and after any modifications to existing elevators. State inspectors must make a final acceptance inspection of all new elevators prior to issuance of a first certificate. Generally, operational elevators must undergo periodic annual inspections and more comprehensive five-year inspections by third-party qualified elevator inspectors.

A “third-party qualified elevator inspector” is an individual who meets the qualifications, insurance requirements, and procedures established by the Commissioner of Labor and Industry and also has a related specified national certification; third-party inspectors must register with the commissioner. An “elevator mechanic” is a person who is engaged in erecting, constructing, wiring, altering, replacing, maintaining, repairing, *dismantling*, or servicing elevator or accessibility lift units. An “elevator contractor” is a person who is in the business of doing so. Licensed mechanics must perform their work, including maintaining and servicing, under the direct supervision of a licensed elevator contractor. Both are licensed by the Elevator Safety Review Board within MDL.

Statute does not address decommissioning procedures directly, but dismantling is covered under the scope of work of an elevator mechanic.

Citations and Penalties

If, after an inspection or investigation, the commissioner determines that, within the immediately preceding six months, an elevator unit is in violation of the Safety Code or another regulation adopted by the commissioner under Part II of the elevator safety law, the commissioner must issue a citation to the owner of the elevator. Each citation must be in writing, describe the nature of the alleged violation, reference the provision of the elevator safety code or regulation that is alleged to be in violation, and set a reasonable period of time for abatement and correction of the alleged violation.

An owner who is issued a citation must post the citation or a copy of the citation conspicuously at or near the elevator unit alleged to be in violation. Generally, the citation, including any penalties, becomes a final order 15 days after receipt of the citation, unless a hearing is requested, which triggers specified administrative processes. The commissioner may also establish procedures for the issuance of a warning notice instead of a citation for a *de minimus* violation that has no direct or immediate relationship to health or safety.

Generally, the commissioner may assess and collect a civil penalty of up to \$5,000 for each elevator unit in violation of the elevator safety code or a regulation adopted by the commissioner under Part II of the elevator safety law. A willful or repeated violation is subject to a civil penalty of up to \$10,000. After 10 days, an ongoing failure to correct the violation is also subject to a civil penalty of up to \$1,000 per day.

Small Business Effect: While MDL is unsure of any overarching legal conflicts if the commissioner chooses to establish price limitations on what a third-party qualified inspector may charge a small nonprofit, if the commissioner were to do so, small elevator inspector businesses would be affected to the extent that price limitations reduce their revenues. Likewise, the nature of additional flexibility related to decommissioning may affect elevator mechanics and elevator contractors. As a completely illustrative example, the commissioner could allow small nonprofits to self-decommission accessibility lifts or chairlifts that go up one flight of stairs. The actual effects are unknown due to a lack of specific requirements but could be meaningful under certain scenarios.

Nonprofits are not considered small businesses for the purpose of fiscal and policy notes, but small nonprofits, to the extent they are covered under the bill, potentially benefit from flexibility in decommissioning processes and reduced inspection fees from third-party qualified inspectors. MDL advises that the definition of “elevator,” and the adopted elevator safety codes, includes typical elevators as well as accessibility lifts and chairlifts commonly found in churches and other non-profit establishments to assist persons traversing stairways.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

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