



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Aaron Johnston, Ohio Department of Commerce

FROM: Michael Bender, Business Advocate

DATE: April 15, 2024

RE: **CSI Review – Elevator Contractors and Elevator Mechanics; Elevator Safety Review Board (OAC 1301:3-11-01 through 1301:3-11-19 and 1301:3-12-01 through 1301:3-12-07)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of twenty-six new rules proposed by the Ohio Department of Commerce (Department). This rule package was submitted to the CSI Office on March 15, 2024, and the public comment period was held open through March 29, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 15, 2024.

The twenty-six new rules in this package are proposed by the Department to comply with the legislative directive in House Bill 107 (134th General Assembly) to adopt rules pertaining to the licensing of elevator mechanics, elevator contractors, and related disqualifying offenses. Ohio Administrative Code (OAC) 1301:3-11-01 contains definitions pertaining to elevator contractors and elevator mechanics. OAC 1301:3-11-02 establishes the scope of OAC Chapter 1301:3-11 as it applies to the enforcement by the Department's Division of Industrial Compliance (Division) of ORC Chapter 4785. OAC 1301:3-11-03 authorizes certain individuals to perform conveyance services in

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buildings or structures. OAC 1301:3-11-04 provides for the initial application for an elevator contractor's license or elevator mechanic's license. OAC 1301:3-11-05 provides for the approval of an application for an elevator contractor's or elevator mechanic's license. OAC 1301:3-11-06 provides for the elevator mechanic's examination that is administered by the Division. OAC 1301:3-11-07 establishes the fees for examination, issuance, and biennial renewal of elevator contractor's and elevator mechanic's licenses. OAC 1301:3-11-08 authorizes the Superintendent of the Division (Superintendent) to deny an initial application or renewal application for an elevator contractor's or elevator mechanic's license for certain reasons. OAC 1301:3-11-09 provides for the renewal of an elevator contractor's or elevator mechanic's license. OAC 1301:3-11-10 provides for the approval of testing agencies and continuing education and training providers.

OAC 1301:3-11-11 sets forth requirements regarding continuing education. OAC 1301:3-11-12 requires licensed elevator contractors and elevator mechanics to notify the Division when they will be performing a safety test of a conveyance subject. OAC 1301:3-11-13 authorizes the Division to issue emergency elevator mechanic's licenses when the Superintendent has declared a state of emergency. OAC 1301:3-11-14 authorizes the Division to issue a temporary mechanics license when it is notified by an elevator contractor of a licensee shortage. OAC 1301:3-11-15 requires all business entities holding an elevator contractor's license to maintain contractor's liability insurance. OAC 1301:3-11-16 requires a licensed elevator contractor to employ at least one licensed elevator mechanic and notify the Division of the death of a licensed elevator mechanic if the deceased mechanic was the only such one employed by the contractor. OAC 1301:3-11-17 requires the Division to refer violation complaints to the Elevator Safety Review Board (Board) for investigation. OAC 1301:3-11-18 provides for the issuance of temporary licenses to members of the military and their spouses. OAC 1301:3-11-19 provides for the issuance of licenses to out-of-state applicants.

OAC 1301:3-12-01 contains definitions pertaining to the Board. OAC 1301:3-12-02 establishes the scope of OAC Chapter 1301:3-12 as it applies to the Board's enforcement of ORC Chapter 4785. OAC 1301:3-12-03 requires the Board to provide proper notice of all regularly scheduled meetings and special meetings that it holds. OAC 1301:3-12-04 requires the Board, when it receives a request for investigation, to determine whether there are reasonable grounds to believe that a violation or danger exists and to conduct an investigation if so. OAC 1301:3-12-05 requires the Board to hold a disciplinary hearing prior to taking administrative action. OAC 1301:3-12-06 authorizes the Board to suspend or revoke a license, impose a civil penalty, or do any combination thereof upon finding that a licensee has committed a violation and impose a civil penalty against an unlicensed individual who performs conveyance services. OAC 1301:3-12-07 provides for administrative appeals of civil penalties by elevator mechanics or elevator contractors.

During early stakeholder outreach, the Division consulted with National Elevator Industry Incorporated, the National Association of Elevator Safety Authorities, the National Association of

Elevator Contractors, the International Union of Elevator Contractors, and Stateside Associates. The Division relied on the input it received from these stakeholders when developing the rules. During the CSI public comment period, the Department received comments from Access Solutions, Inc., Harris Companies, Inc., Marietta Mobility Services, Acme Elevator, LLC, and an elevator mechanic. Access Solutions believed that additional language was needed to support the statutory exemption for those installing residential elevators, platform lifts, and stairlifts from being required to obtain licensure, but the Board replied that this was unnecessary and not applicable to the rules. Harris Companies requested clarification on when the requirements would begin and how much the licenses would cost. The Board responded that the requirements would take effect when the rules do and noted that the license fees only applied at initial licensure and at renewal as opposed to annually. Marietta Mobility Services, Acme Elevator, and the elevator mechanic asked how the rules would apply to their respective situations, specifically with respect to being grandfathered in. The Board provided appropriate clarification. Lastly, the Board made a couple of technical corrections to the rules.

The business community impacted by the rules includes owners and operators of conveyances, individuals working in the installation and repair of conveyances such as elevator contractors and elevator mechanics, testing agencies, and continuing education and training providers. The adverse impacts created by the rules include licensing requirements, examination, fees, continuing education, and discipline for violation of applicable rules and statutes. Such discipline may include suspension or revocation of a license and/or a civil penalty. Fees are \$100 for an application for examination and reexamination for Department-administered examinations, \$1,000 for issuance and renewal of an elevator contractor's license, and \$250 for issuance and renewal of an elevator mechanic's license. The Division believes that the overwhelming majority of applicants initially applying for elevator mechanic's licenses will do so based on legacy status, having previously worked in the industry prior to the licensing requirement taking effect. Such individuals will not be required to sit for the licensing examination. The Division estimates that it will take approximately two hours for an individual to compile the necessary documentation and complete and submit an application demonstrating that legacy status requirements are satisfied. The Department states that the adverse impacts to business are necessary to comply with statutory requirements and ensure that those working in the conveyance services industry are appropriately qualified.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.