

Department of State
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Sequence
 Number: 04-07-10
 Rule ID(s): 4701
 File Date: 04/20/2010
 Effective Date: 09/28/10

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Elevator & Amusement Device Safety Board
Division:	Boiler, Elevator & Amusement Device Division
Contact Person:	Gary W. Cookston
Address:	Floor 2 - Side B, 220 French Landing Drive, Nashville, Tennessee
Zip:	37243
Phone:	615-532-1929
Email:	gary.cookston@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
0800-03-04	Elevators, Dumbwaiters, Escalators, Aerial Passenger Tramways, Moving Walks, and Amusement Devices
Rule Number	Rule Title
0800-03-04-.25	Fees

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

0800-03-04-.25 Fees. Paragraph I, subparagraphs (a), (b), (c), (d), (e), and (g) are amended by deleting the fee amounts in their entirety and replacing them with the following fee amounts:

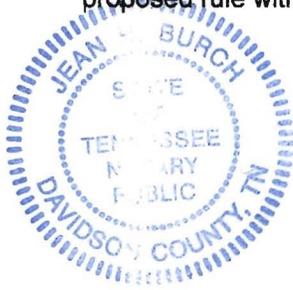
- (a) Construction permits for new or altered elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks.....\$200.00
- (b) Acceptance inspections for new or altered elevators, dumbwaiters, escalators, and moving walks..... \$200.00
- (c) Acceptance inspections for aerial passenger tramways.....\$150.00
- (d) Operating permits for new or existing elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks.....\$ 55.00
- (e) Periodic inspections for elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks.....\$ 60.00
- (g) Unscheduled follow up inspections for elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks.....\$200.00

Authority: 2009 Tennessee Public Acts Chapter 405, T.C.A. §§68-121-102, 68-121-103(a)(5), 68-121-103(e), 68-121-106, and 68-121-108(c).

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Jane Dawkins				X	
Perry Burch	X				
Robbie Fox	X				
David Hale	X				
Lester McClain	X				
Webb Morris	X				
James Sipes	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Elevator & Amusement Device Safety Board on 06/02/2009, and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.



Date: 3-16-10

Signature: R. Perry Burch

Name of Officer: B. Perry Burch

Title of Officer: Acting Chairperson

Subscribed and sworn to before me on: 3-16-10

Notary Public Signature: Jean H. Burch

My commission expires on: 9/8/13

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

R. E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
4-13-10
Date

Department of State Use Only

Filed with the Department of State on: 4/20/10

Effective on: 9/28/10

Tre Hargett
Tre Hargett
Secretary of State

SECRETARY OF STATE PUBLICATIONS

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Regulatory Flexibility Addendum

Pursuant to § T.C.A. 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Addendum

The Department's Boiler, Elevator and Amusement Device Division submits the following economic impact statement in order to analyze how the proposed rules will affect small businesses in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-203.

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:

Tennessee small businesses that operate or install and maintain elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks in the State of Tennessee will be most affected by the amended rules. There are approximately 800 small businesses that would be affected by the proposed rule.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

Reporting procedures, recordkeeping requirements, and administrative cost for compliance by affected businesses will not change as a result of the proposed rule.

3. A statement of the probable effect on impacted small businesses and consumers:

The Department feels that the proposed rule will not pose a significant detrimental impact on small businesses and consumers. The fee amounts will increase as a result of this rule but the increases are minimal and assessed per equipment in order to ensure the least possible impact while at the same time protecting the safety of the riding public.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

Tennessee's program for the regulation, permitting, and inspection of elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks has been successful in ensuring the safety of the riding public. The increases in fee amounts proposed by the rule are considered reasonable and necessary to fund this Division. The fee amounts are assessed per equipment in order to ensure the least possible impact to small businesses.

5. A comparison of the proposed rule with any federal or state counterparts:

A comparison of southeastern states' regulation of similar equipment shows that the proposed fee amounts that have been increased are reasonable and appear to be lower. Inspections are performed based upon generally accepted engineering standards, formulas, and practices utilizing requirements of the American Society of Mechanical Engineers (ASME).

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Since the intended goal of the regulation of elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks is for the general safety of the riding public, the exemption of any business, large or small would effectively put the riding public at risk.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 0800-03-04-.25(1)(a) - Increased the fee amount for construction permits for new or altered elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks by \$50.00;

Rule 0800-03-04-.25(1)(b) - Increased the fee amount for acceptance inspections for new or altered elevators, dumbwaiters, escalators, and moving walks by \$150.00;

Rule 0800-03-04-.25(1)(c) - Increased the fee amount for acceptance inspections for aerial passenger tramways by \$50.00;

Rule 0800-03-04-.25(1)(d) - Increased the fee amount for operating permits for new or existing elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks by \$5.00;

Rule 0800-03-04-.25(1)(e) - Increased the fee amount for periodic inspections for elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks by \$10.00;

Rule 0800-03-04-.25(1)(g) - Increased the fee amount for unscheduled follow up inspections for elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks by \$50.00.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. §68-121-103(a)(5) grants the Elevator and Amusement Device Safety Board the authority to prescribe fees.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Businesses that operate or install and maintain elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks in the State of Tennessee will be most affected by the proposed rules. There has been neither support nor opposition to the adoption of this rule by affected businesses. Since it has been several years since fee amounts were increased, it is perceived by most as reasonable and necessary to offset the administrative cost of the Division.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There have been no opinions of the Attorney General and Reporter or any judicial ruling that

directly relates to the rule.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Based on the estimated number of elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks, state revenues will increase by approximately \$300,000 with no increase in expenditures. It is estimated that local government revenues will not increase or decrease, and expenditures will not increase or decrease as a result of the promulgation of this rule.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Gary W. Cookston, Assistant Administrator; Boiler, Elevator and Amusement Device Division; Department of Labor and Workforce Development.

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Gary W. Cookston, Assistant Administrator; Boiler, Elevator and Amusement Device Division; Department of Labor and Workforce Development.

- (H)** Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

220 French Landing Drive, Nashville, Tennessee. Phone: 615-532-1929.

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF BOILER, ELEVATOR AND AMUSEMENT DEVICE INSPECTION
ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD**

**CHAPTER 0800-03-04
ELEVATORS, DUMBWAITERS, ESCALATORS, AERIAL PASSENGER TRAMWAYS,
MOVING WALKS, AND AMUSEMENT DEVICES**

0800-03-04-.25 FEES.

- (1) The required fees shall be as follows:
- (a) Construction permits for new or altered elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks...~~\$150.00~~
.....\$200.00
 - (b) Acceptance inspections for new or altered elevators, dumbwaiters, escalators, and moving walks.....~~\$ 50.00~~
.....\$200.00
 - (c) Acceptance inspections for aerial passenger tramways.....~~\$100.00~~
.....\$150.00
 - (d) Operating permits for new or existing elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks....~~\$ 50.00~~
.....\$ 55.00
 - (e) Periodic inspections for elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks.....~~\$ 50.00~~
.....\$ 60.00
 - (f) Failure to file report inspection.....\$ 50.00
 - (g) Unscheduled follow up inspections for elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks....~~\$150.00~~
.....\$200.00
 - (h) Annual permit for amusement devices owner.....\$150.00
 - (i) Annual permit for amusement devices designed for passengers forty-two (42) inches or less in height.....\$ 50.00
 - (j) Annual permit for amusement devices designed for passengers forty-two (42) inches or more in height and the manufacturer's recommended assembly time is less than forty (40) work hours.....\$100.00
 - (k) Annual permit for amusement devices designed for passengers forty-two (42) inches or more in height when the manufacturer's recommended assembly time is more than forty (40) work hours.....\$200.00

- (l) Annual permit for miscellaneous (e.g., hand powered) amusement devices.....\$25.00
- (m) Reinspection for amusement devices.....\$150.00

Authority: 2009 Tennessee Public Acts Chapter 405, T.C.A. §§ 68-121-102, 68-121-103(a)(5), 68-121-103(e), 68-121-104(c), 68-121-106(6), 68-121-108(c)(3), 68-121-117, and 68-121-120(c).