



Cherie K. Berry
Commissioner

Legal Affairs Division

MEMORANDUM

TO: All Owners and Authorized Agents Covered Under the Elevator Safety Act
FROM: NCDOL – Legal Affairs Division
RE: Release of Information to NCDOL – EAD Bureau and Elevator and Amusement Device Inspectors
DATE: November 2005

The Elevator Safety Act was created for the purpose of preventing injuries to employees and the public that would result from the use of unsafe and defective lifting devices. As determined by the North Carolina General Assembly, it is in the best interest and welfare of the people of North Carolina that the employees and public alike be protected from preventable injuries and unsafe conditions related to lifting devices.

As set forth in N.C. Gen. Stat. § 95-110.2, the Elevator Safety Act governs the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration, relocation and investigation of accidents involving the following:

- (1) Elevators, dumbwaiters, escalators, and moving walks;
- (2) Personnel hoists;
- (3) Inclined stairway chair lifts;
- (4) Inclined and vertical wheelchair lifts;
- (5) Manlifts; and
- (6) Special Equipment

Pursuant to N.C. Gen. Stat. § 95-110.5(10), the Director of the Elevator and Amusement Device Bureau (“EAD Bureau”) has the authority to investigate accidents involving the devices and equipment subject to the provisions of this Article to determine the cause of such accident, and has full subpoena powers in conducting such investigations. The Elevator Safety Act also sets forth the responsibilities of any owner, or his authorized agent, of any device or equipment regulated under this Article. Pursuant to N.C. Gen. Stat. § 95-110.9(a), any owner or authorized agent shall, within 24 hours, notify the Commissioner of each and every occurrence involving such device or equipment when:

- (1) The occurrence results in death or injury requiring medical treatment, other than first aid, by a physician. First aid means the one time treatment or observation of scratches, cuts not requiring stitches, burns, splinters and contusions or a diagnostic procedure, including examination and x-rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed personnel; or
- (2) The occurrence results in damage to the device indicating a substantial defect in design, mechanics, structure or equipment, affecting the future safe operation of the device. No reporting is required in the case of normal wear and tear.

If one or more of the above occurs, the Commissioner, without delay, is required to make a complete and thorough investigation of the occurrence, detailing all the facts and information available. The owner may submit for inclusion in the file any results of investigations independent of the department’s investigation. Furthermore, any information obtained from the owner or his authorized agent pertaining to an occurrence that “contains or might reveal a trade secret shall be considered confidential, except when it is relevant in any proceeding under the same. In any such proceeding, the Commissioner or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.” N.C. Gen. Stat. § 95-110.14.

Therefore, through delegation by the Commissioner, the Director of the EAD Bureau, has the authority to request documentation from the owner or his authorized agent in order to conduct a full investigation of any incident related to a lifting device, and the owner or authorized agent is authorized to release such information to the Elevator and Amusement Device Inspector who is performing his or her duties in accordance with the N.C. General Statutes. If this information is not voluntarily released, an administrative subpoena will be issued in order to obtain the information.

For questions or concerns regarding this matter, please contact the NCDOL–Legal Affairs Division at the number below.

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