Proposed Rulemaking

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JUN 19 2026
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Title

Promulgated by:
Department of Labor and Licensing

Title 20. Public Health and Welfare

Chapter XXX. Generally, Department of Labor and Licensing

Subchapter A. Generally

Part 881. Elevator Safety Board Rules

Subpart 1. Generally

20 CAR § 881-101. Statement of organization and operations.

(a) The Department of Labor and Licensing~~, Division of Occupational and Professional Licensing Boards and Commissions~~ is an agency of state government, Arkansas Code § 25-43-1106.

(b) The Elevator Safety Board was created by Arkansas Code § 20-24-105 and given regulatory authority over the construction, alteration, repair, maintenance, operation, and inspection of elevators, escalators, moving sidewalks, dumbwaiters, and wheelchair lifts, and the power to oversee the licensure of elevator:

(1) Inspectors;
(2) Mechanics; and
(3) Contractors.

(c) The ~~division~~ board is charged with enforcement of the state's laws regarding elevator safety, as well as the rules promulgated by the board, Arkansas Code § 20-24-104.

(d) Ultimate authority for the operation of the agency is in the Secretary of the Department of Labor and Licensing.

(e)(1) For administrative purposes, the secretary has created the Elevator Safety Section which is responsible for administering and enforcing state law and the rules of the board.

(2) The individual charged with the day-to-day operations of the Elevator Safety Section is referred to as ~~Chief Elevator Inspector~~the Director of Code Enforcement, who is selected by the secretary.

(f) From time to time, the board promulgates rules.

20 CAR § 881-102. Information for public guidance.

(a) The mailing address and telephone number for the Elevator Safety Section is:

Elevator Safety Section
Department of Labor and Licensing
900 West Capitol, Suite 400
Little Rock, AR 72201
(501) 682-4538

(b)(1) The Department of Labor and Licensing makes available a list of persons holding certain responsibilities for handling Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., requests, licensing questions, and complaints against licensees so that the public may obtain information about the agency or make submissions or requests.

(2) The names, mailing addresses, telephone numbers, and electronic addresses can be obtained from the Elevator Safety Section's office or website.

(c)(1) The Elevator Safety Section has a list of official forms used by the Elevator Safety Section and a list of all formal, written statements of policy and written interpretative memoranda and orders, decisions, and opinions resulting from adjudications, which may be obtained from the Elevator Safety Section's office or website.

(2) The department website is: https://www.labor.arkansas.gov/.

(3) The Elevator Safety Section's website is: https://www.labor.arkansas.gov/divisions/code-enforcement/elevator-inspection-and-permits/.

(4) Copies of all forms used by the Elevator Safety Section, written statements of policy and written interpretive memoranda, and all orders issued by the Elevator Safety Board may be obtained from the Elevator Safety Section's office.

20 CAR § 881-103. General organization.

(a)(1) The Elevator Safety Section is generally divided into an office staff and a field staff.

(2) The field staff is composed of elevator inspectors.

(b)(1) The Elevator Safety Board consists of six (6) members, one (1) of whom is the Secretary of the Department of Labor and Licensing or his or her designee, who serves as chair.

(2) A quorum for the transaction of business is a majority of the members.

(c)(1) All public meetings, including meetings of the board, will be conducted pursuant to Robert's Rules of Order and in conformity with the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

(2) Regular meetings will be held every other month.

(3) Special meetings may be held on the call of the chair.

(d)(1) The board may create standing and ad hoc committees.

(2) The chair will select members of committees.

(3) A quorum for the transaction of committee business is a majority of the number of voting members of the committee.

(e)(1) The ~~Chief Elevator Inspector~~Elevator Safety Section will prepare the agenda for regular and special meetings.

(2) The agenda will be distributed to board members and agency staff and made available to the public in advance of the meeting.

(3) The agenda should state with specificity the items that will be considered at a:

(A) Meeting;

(B) Hearing; or

(C) Workshop.

(4)(A) The agenda should include the following topics as applicable:

(i) The call to order;

(ii) Review of minutes;

(iii) Old business;

(iv) New business;

(v) Other business;

(vi) Adjudicatory hearings;

(vii) Rulemaking hearings; and

(viii) Public comment.

(B) The order of the agenda items is intended to be flexible and may be adjusted to meet the needs of the board.

(C) Additionally, the agenda may be amended by appropriate motion.

20 CAR § 881-104. Purpose and scope.

(a) **Purpose.**

(1) The purpose of this part is to establish:

(A) Minimum safety standards for the maintenance, inspection, tests, and operation of all elevators and escalators and other conveyances;

(B) Minimum safety standards for the construction of new:

(i) Elevators;

(ii) Dumbwaiters;

(iii) Escalators; and

(iv) Other conveyances;

(C) Minimum safety standards for the alteration of existing:

(i) Elevators;

(ii) Dumbwaiters;

(iii) Escalators; and

(iv) Other conveyances;

(D) Minimum safety standards for existing:

(i) Elevators;

(ii) Escalators;

(iii) Dumbwaiters; and

(iv) Other conveyances;

(E) Rules prescribing fees;

(F) Rules for the application and granting of variances and exceptions;

(G) Minimum standards for licensing and qualifying elevator inspectors, elevator contractors, and elevator mechanics; and

(H) Rules for the effective administration and enforcement of the elevator safety law, Arkansas Code § 20-24-101 et seq.

(2) This part is intended to protect the general public, invitees, guests, employees, and all persons who could be reasonably expected to use:

(A) An elevator;

(B) An escalator;

(C) A dumbwaiter; or

(D) Other conveyance.

(b) **Scope and application.**

(1) This part applies to all elevators, escalators, dumbwaiters, and other conveyances in the State of Arkansas, except as specifically exempted herein.

(2) This part does not apply to:

(A) A conveyor, chain or bucket hoist, construction hoist, or similar devices used for the primary purpose of elevating or lowering materials and is not used for elevating or lowering workers or other riders, including those workers loading and unloading; and

(B) Tiering, piling, feeding, or similar machines or devices giving service within only one (1) story.

(3) Conveyances installed in private single-family dwellings are exempt from the testing and inspection requirements of Arkansas Code § 20-24-112 and the permitting requirements of Arkansas Code §§ 20-24-115 and 20-24-116.

20 CAR § 881-105. Definitions.

As used in this part, unless the context otherwise requires:

(1)(A) "Alteration" means any change made to an existing elevator, dumbwaiter, escalator, or other conveyance, or to its hoistway, enclosure, or doors other than the repair or replacement of damaged, worn, or broken parts necessary for normal operation.

(B) The changing of the speed governor shall be considered an alteration;

(2) "Authorized representative" means the building department of cities, towns, or other governmental subdivisions designated by the Department of Labor and Licensing to enforce certain provisions of Arkansas Code § 20-24-101 et seq.;

(3) "Board" means the Elevator Safety Board;

(4) “Conveyance” means:

(A) An elevator;

(B) A dumbwaiter;

(C) An escalator;

(D) A moving sidewalk;

(E) An automatic people mover;

(F) A platform lift; or

(G) A stairway chair lift;

(5) "Department" means the Department of Labor and Licensing;

~~(6) "Director" means the Director of the Division of Labor;~~

(~~7~~6) "Dormant elevator, dumbwaiter, or escalator" means an elevator or dumbwaiter whose:

(A) Cables have been removed;

(B) Car and counterweight rest at the bottom of the shaftway; and

(C) Shaftway doors are permanently boarded up or barricaded on the inside or an escalator whose main power feed lines have been disconnected;

(~~8~~7) "Dumbwaiter" means a hoisting and lowering mechanism, driven by mechanical power, equipped with a car which moves in guides in a substantially vertical direction, the floor area of which does not exceed nine square feet (9 ft^2), whose total compartment height does not exceed four feet (4'), the capacity of which does not exceed five hundred pounds (500 lbs.), and which is used exclusively for carrying freight;

(~~9~~8)(A) "Elevator" means a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction.

(B) The term "elevator" shall not include a conveyor chain bucket hoist, construction hoist, or similar devices used for the primary purpose of elevating or lowering materials, nor shall it include tiering, piling, feeding, or similar machines or devices giving service within only one (1) story.

(C) The term "power elevator" means those driven by the application of energy other than hand or gravity.

(D) "Hand elevators" means those driven by manual power.

(E) The term "elevator" shall include vertical wheelchair lifts, inclined wheelchair lifts, and inclined stairway chairlifts installed in any location, including a private, single-family dwelling for use by individuals with physical disabilities;

(~~10~~9) "Escalator" means a power-driven, inclined, continuous stairway or runway used for raising or lowering passengers;

(~~11~~10) "Freight elevator" means an elevator used for carrying freight and on which only the operator and the persons necessary for loading and unloading are permitted to ride; ~~and~~

(~~12~~11) "Passenger elevator" means an elevator that is used to carry persons other than the operator and persons necessary for loading and unloading~~.~~; and

(12) "Secretary" means the Secretary of the Department of Labor and Licensing.

20 CAR § 881-106. Rulemaking.

(a) **Initiation of rulemaking.**

(1) The process of adopting a new rule or amending or repealing an existing rule (hereinafter referred to rulemaking) may be initiated by request of the Elevator Safety Board that the staff submit proposed drafts.

(2) Additionally, staff of the Department of Labor and Licensing may request

permission of to initiate rulemaking.

(3) Third persons outside the department may petition for the issuance, amendment, or repeal of any rule.

(b) **Petition to initiate rulemaking.**

(1) Third parties may initiate rulemaking to adopt, amend, or repeal a rule by filing a petition with the department to initiate rulemaking.

(2) The petition must contain:

(A) The name, address, and telephone number of the petitioner;

(B) The specific rule or action requested;

(C) The reasons for the rule or action requested; and

(D) Facts showing that the petitioner is regulated by the Elevator Safety ~~Section~~ Board or has a substantial interest in the rule or action requested.

(3) The petition to initiate rulemaking shall be filed with the Secretary of the Department of Labor and Licensing.

(4) Within thirty (30) days after submission of the petition, the board will either deny the petition, stating its reasons in writing, or will initiate rulemaking.

(5) A special meeting will be called if necessary to meet this timeframe.

(c) **Filing with Legislative Council.** Thirty (30) days before the public comment period ends, the agency will file with the Legislative Council the text of the proposed rule or amendment as well as a financial impact statement and any additional information as may be required by the Legislative Council as provided by Arkansas Code § 10-3-309.

(d) **Public input.**

(1)(A) Before finalizing language of a proposed new rule or an amendment to, or repeal of, an existing rule, the board will receive public input through written comments and/or oral submissions.

(B) The department will designate in its public notice the format and timing of public comment.

(2) Any public hearing will provide affected persons and other members of the public a reasonable opportunity for presentation of evidence, arguments, and oral statements within reasonable conditions and limitations imposed by the agency to avoid:

(A) Duplication;

(B) Irrelevant comments;

(C) Unnecessary delay; or

(D) Disruption of the proceedings.

(3)(A) The ~~Director of the Division of Labor~~Secretary or his or her designee may preside at the public hearing.

(B) The department must ensure that the personnel responsible for preparing the proposed rule or amendment are available and will notify third parties initiating rule changes to be available to explain the proposal and to respond to questions or comments regarding the proposed rule.

(4) The department will preserve the comments made at the public hearing by a recording.

(5)(A) Any person may submit written statements within the specified period of time.

(B) All timely, written statements will be considered by the board and be made a part of the rulemaking record.

(e) **Notice of rulemaking.**

(1) The department will give notice of proposed rulemaking to be published pursuant to Arkansas Code § 25-15-204.

(2) The notice will set any written comment period and will specify the time, date, and place of any public hearing.

(f) **The decision to adopt a rule.**

(1) The board will not finalize language of the rule or decide whether to adopt a rule until the period for public comment has expired and the proposed rule has been reviewed and approved by the Legislative Council or other legislative committee pursuant to Arkansas Code § 10-3-309.

(2) Before acting on a proposed rule, the board will consider all of the written submissions and/or oral submissions received in the rulemaking proceeding or any memorandum summarizing such oral submissions, and any regulatory analysis or fiscal impact statement issued in the rulemaking proceedings.

(3) The board may use its own experience, specialized knowledge, and judgment in the adoption of a rule or consider the experience, specialized knowledge, and judgment of department staff.

(g) **Variance between adopted rule and published notice of proposed rule.**

(1) The board may not adopt a rule that differs from the rule proposed in the published notice of the intended rulemaking on which the rule is based unless:

(A) The final rule is in character with the original scheme and was a logical outgrowth of the notice and comments stemming from the proposed rule; or

(B) The notice fairly apprised interested persons of the subject and the issues that would be considered so that those persons had an opportunity to comment.

(2) In determining whether the final rule is in character with the original scheme and was a logical outgrowth of the notice and comments, and that the notice of intended rulemaking provided fair warning that the outcome of that rulemaking proceeding could be the rule in question, the board must consider the following factors:

(A) The extent to which persons who will be affected by the rule should have understood that the rulemaking proceeding on which it is based could affect their interests;

(B) The extent to which the subject matter of the rule or issues determined by the rule are different from the subject matter or issues contained in the notice of intended rulemaking; and

(C) The extent to which the effects of the rule differ from the effects of the proposed rule contained in the notice of intended rulemaking.

(h) **Concise statement of reasons.**

(1)(A) When requested by an interested person, either prior to the adoption of a rule or within thirty (30) days after its adoption, the department shall issue a concise statement of the principal reasons for and against the adoption of the rule.

(B) Requests for such a statement must be in writing and be delivered to the ~~director~~Elevator Safety Section.

(C) The request should indicate whether the statement is sought for all or only a specified part of a rule.

(D) A request will be considered to have been submitted on the date on which it is received by the department.

(2) The concise statement of reasons must contain:

(A) The board's reasons for adopting the rule;

(B) An indication of any change between the text of the proposed rule and the text of the rule as finally adopted, with explanations for any such change; and

(C) The principal reasons urged in the rulemaking procedure for and against the rule, and the board's reasons for overruling the arguments made against the rule.

(i) **Contents.**

(1) The department shall cause the board's rules to be published and made available to interested persons.

(2) The publication must include:

(A) The text of the rule; and

(B) A note containing the following:

(i) The date or dates the board adopted or amended the rule;

(ii) The effective date or dates of the rule;

(iii) Any findings required by any provisions of law as a prerequisite to adoption for effectiveness of the rule; and

(iv) Citation to the entire specific statutory or other authority authorizing the adoption of the rule.

(3) The publication of the rule or rules must state the date of publication.

(j) **Format.** The published rules of the board will be organized substantially in the following format:

(1) Statement of organization and operations;

(2) Information for public guidance;

(3) General organization;

(4) Purpose and scope;

(5) Definitions;

(6) Rulemaking;

(7) Emergency rulemaking;

(8) Declaratory orders;

(9) Adjudicative hearings;

(10) Licensing; and

(11) Substantive rules and other rules of agency.

(k) **Incorporation by reference.**

(1) By reference in a rule, the board may incorporate all or any part of a code, standard, rule, or other matter if the board finds that copying the matter in the board's rule would be unduly cumbersome, expensive, or otherwise inexpedient.

(2) The reference in the rule must:

(A) Fully and precisely identify the incorporated matter by title, citation, date, and edition, if any;

(B) Briefly indicate the precise subject and general contents of the incorporated matter; and

(C) State that the rule does not include any later amendments or editions of the incorporated matter.

(3) The board may incorporate such a matter by reference in a proposed or adopted rule only if the department makes copies of the incorporated matter readily available to the public.

(4) The rules must state how and where copies of the incorporated matter may be obtained at cost from the department, and how and where copies may be obtained from an agency of the United States, this state, another state, or the organization, association, or persons originally issuing that matter.

(5) The department must retain permanently a copy of any materials incorporated by reference in a rule of the board.

(l) **Filing.**

(1) After the board formally adopts a new rule or amends a current rule or repeals an existing rule, and after the rule change has been reviewed and approved by the Legislative Council, the department staff will file final copies of the rule with the Secretary of State, the Arkansas State Library, and the Legislative Council, or as otherwise provided by Arkansas Code § 25-15-204.

(2) Proof of filing a copy of the rule, amendment, or repeal with the Secretary of State, the Arkansas State Library, and the Legislative Council will be kept in a file maintained by the department.

(3) Notice of the rule change will be posted on the department website.

20 CAR § 881-107. Emergency rulemaking.

(a) **Request for emergency rulemaking.**

(1) The proponent of a rule may request the Elevator Safety Board to adopt an emergency rule.

(2) In addition to the text of the proposed rule or amendment to an existing rule and any other information required by 20 CAR § 881-106(b), the proponent will provide a written statement setting out the facts or circumstances that would support a finding of imminent peril to the public health, safety, or welfare.

(b) **Finding of an emergency.**

(1) Upon receipt of the written statement requesting an emergency rulemaking and documents or other evidence submitted in support of the assertion that an emergency exists, the board will make an independent judgment as to whether the circumstances and facts constitute an imminent peril to the public health, safety, or welfare requiring adoption of the rule upon fewer than thirty (30) days' notice.

(2) If the board determines that the circumstances warrant emergency rulemaking, it will make a written determination that sets out the reasons for its finding that an emergency exists.

(3) Upon making this finding, the board may proceed to adopt the rule without

any prior notice or hearing, or it may determine to provide an abbreviated notice and hearing.

(c) **Effective date of emergency rule.**

(1) The board shall not finalize an emergency rule or file an emergency rule with the Secretary of State for adoption until the emergency rule has been approved under Arkansas Code § 10-3-309.

(2)(A) The emergency rule will be effective immediately upon filing, or at a stated time less than ten (10) days thereafter, if the board finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare.

(B) The Department of Labor and Licensing will file with the rule the board's written findings justifying the determination that emergency rulemaking is appropriate and, if applicable, the basis for the effective date of the emergency rule being less than ten (10) days after the filing of the rule pursuant to Arkansas Code § 25-15-204(e).

(C) The department will take appropriate measures to make emergency rules known to persons who may be affected by them.

20 CAR § 881-108. Declaratory orders.

(a) **Purpose and use of declaratory orders.**

(1) A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the Elevator Safety Board has authority.

(2) A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances.

(3) A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency.

(4) A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

(b) **The petition.** The process to obtain a declaratory order is begun by filing with the ~~Director of the Division of Labor~~Elevator Safety Section a petition that provides the following information:

(1) The caption shall read: "Petition for Declaratory Order Before Arkansas Department of Labor and Licensing, Elevator Safety Board";

(2) The name, address, telephone number, and ~~facsimile number~~electronic mail of the petitioner;

(3) The name, address, telephone number, and ~~facsimile number~~electronic mail of the attorney of the petitioner;

(4) The statutory provision or provisions, board rule or rules, or agency or board order or orders on which the declaratory order is sought;

(5) A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue on which petitioner seeks a declaratory order;

(6) The signature of the petitioner or petitioner's attorney;

(7) The date; and

(8) Request for a hearing, if desired.

(c) **Board disposition.**

(1)(A) The board may hold a hearing to consider a petition for declaratory statement.

(B) If a hearing is held, it shall be conducted in accordance with Arkansas Code §§ 25-15-208 and 25-15-213, and the board's rules for adjudicatory hearings.

(2)(A) The board may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts.

(B) Within ninety (90) days of the filing of the petition, the board will render a final order denying the petition or issuing a declaratory order.

20 CAR § 881-109. Adjudicative hearings.

(a) **Scope of this rule.**

(1) This section applies in all administrative adjudications conducted by the Elevator Safety Board or the Elevator Safety Section of the Department of Labor and Licensing.

(2) This procedure is developed to provide a process by which the board or Elevator Safety Section formulates orders (for example, an order revoking a license to practice or imposing civil penalties).

(b) **Presiding officer.**

(1) The Director of ~~the Division of Labor~~Code Enforcement, who is designated by the Secretary of the Department of Labor and Licensing as chair of the board, shall preside at a hearing before the board or may designate one (1) or more members of the board or one (1) or more examiners, referees, or hearing officers to preside at a hearing.

(2) The director shall designate one (1) or more examiners, referees, or hearing officers to preside at a hearing before the Elevator Safety ~~Section~~Board.

(c) **Appearances.**

(1) Any party appearing has the right, at his or her own expense, to be represented by counsel.

(2) The respondent may appear on his or her own behalf.

(3) Any attorney representing a party to an adjudicatory proceeding must file notice of appearance as soon as possible.

(4) Service on counsel of record is the equivalent of service on the party represented.

(5) On written motion served on the party represented and all other parties of record, the presiding officer may grant counsel of record leave to withdraw for good cause shown.

(d) **Consolidation.** If there are separate matters that involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.

(e) **Notice to interested parties.** If it appears that the determination of the rights of parties in a proceeding will necessarily involve a determination of the substantial interests of persons who are not parties, the presiding officer may enter an order requiring that an absent person be notified of the proceeding and be given an opportunity to be joined as a party of record.

(f) **Service of papers.** Unless the presiding officer otherwise orders, every pleading and every other paper filed for the proceeding, except applications for witness subpoenas and the subpoenas, shall be served on each party or the party's representative at the last address of record.

(g) **Initiation and notice of hearing.**

(1) An administrative adjudication is initiated by the issuance by the agency of a notice of hearing.

(2)(A) The notice of hearing will be sent to the respondent by United States Postal Service, return receipt requested, delivery restricted to the named recipient or his or her agent, as well as by regular United States Postal Service.

(B) Notice shall be sufficient when it is so mailed to the respondent's latest address on file with the agency.

(3) Notice will be mailed at least twenty (20) days before the scheduled hearing.

(4) The notice will include:

(A) A statement of the time, place, and nature of the hearing;

(B) A statement of the legal authority and jurisdiction under which the hearing is to be held; and

(C) A short and plain statement of the matters of fact and law asserted.

(h) **Motions.**

(1) All requests for relief will be by motion.

(2) Motions must be in writing or made on the record during a hearing.

(3) A motion must fully state the action requested and the grounds relied upon.

(4) The original written motion will be filed with the Elevator Safety ~~Section~~Board.

(5) When time allows, the other parties may, within seven (7) days of the service of the written motion, file a response in opposition.

(6)(A) The presiding officer may conduct such proceedings and enter such orders as are deemed necessary to address issues raised by the motion.

(B) However, a presiding officer, other than the director, will not enter a dispositive order unless expressly authorized in writing to do so by the Secretary.

(i) **Answer.** A respondent may file an answer.

(j) **Discovery.**

(1) Upon written request, the Elevator Safety Section will provide the information designated in Arkansas Code § 25-15-208(a)(3).

(2) Such requests should be received by the Elevator Safety Section at least ten (10) days before the scheduled hearing.

(k) **Continuances.**

(1)(A) The presiding officer may grant a continuance of hearing for good cause shown.

(B) Requests for continuances will be made in writing.

(C) The request must state the grounds to be considered and be made as soon as practicable and, except in cases of emergencies, no later than five (5) days prior to the date noticed for the hearing.

(D) In determining whether to grant a continuance, the presiding officer may consider:

(i) Prior continuances;

(ii) The interests of all parties;

(iii) The likelihood of informal settlements;

(iv) The existence of an emergency;

(v) Any objection;

(vi) Any applicable time requirement;

(vii) The existence of a conflict of the schedules of counsel, parties, or witnesses;

(viii) The time limits of the request; and

(ix) Other relevant factors.

(2) The presiding officer may require documentation of any grounds for continuance.

(l) **Hearing procedures.**

(1) The presiding officer presides at the hearing and may rule on motions, require briefs, and issue such orders as will ensure the orderly conduct of the proceedings, provided, however, any presiding officer other than the director shall not enter a dispositive order or proposed decision unless expressly authorized in writing to do so.

(2) All objections must be made in a timely manner and stated on the record.

(3) Parties have the right to participate or to be represented by counsel in all hearings or prehearing conferences related to their case.

(4) Subject to terms and conditions prescribed by the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., parties have the right to introduce evidence on issues of material fact, cross-examine witnesses as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and, upon request by the department, may submit briefs and engage in oral argument.

(5) The presiding officer is charged with maintaining the decorum of the hearing and may refuse to admit, or may expel, anyone whose conduct is disorderly.

(m) **Order of proceedings.** The presiding officer will conduct the hearing in the following manner:

(1) The presiding officer will give an opening statement, briefly describing the nature of the proceedings;

(2) The parties are to be given the opportunity to present opening statements;

(3) The parties will be allowed to present their cases in the sequence determined by the presiding officer;

(4)(A) Each witness must be sworn or affirmed by the presiding officer, or the

court reporter, and be subject to examination and cross-examination as well as questioning by the board ~~and the representative of the Elevator Safety Section~~.

(B) The presiding officer may limit questioning in a manner consistent with the law; and

(5) When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

(n) **Evidence.**

(1) The presiding officer shall rule on the admissibility of evidence and may, when appropriate, take official notice of facts in accordance with all applicable requirements of law.

(2)(A) Stipulation of facts is encouraged.

(B) The board may make a decision based on stipulated facts.

(3)(A) Evidence in the proceeding must be confined to the issues set forth in the hearing notice, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues.

(B) If the presiding officer decides to admit evidence outside the scope of the notice, over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to prepare for the additional issue and to permit amendment of pleadings.

(4)(A) A party seeking admission of an exhibit must provide seven (7) copies of each exhibit at a hearing before the board and three (3) copies of any exhibit in a hearing before the Elevator Safety ~~Section~~Board.

(B) The presiding officer must provide the opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility.

(C) All exhibits admitted into evidence must be appropriately marked and be made part of the record.

(5)(A) Any party may object to specific evidence or may request limits on the scope of the examination or cross-examination.

(B) A brief statement of the grounds upon which it is based shall accompany such an objection.

(C) The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record.

(D) The presiding officer may rule on the objection at the time it is made or may reserve the ruling until the written decision.

(6)(A) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record.

(B) The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony.

(C) If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

(7)(A) Irrelevant, immaterial, and unduly repetitive evidence will be excluded.

(B) Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent men and women

in the conduct of their affairs.

(8) **Reasonable inferences.** The finder of fact may base its findings of fact upon reasonable inferences derived from other evidence received.

(o) **Default.** If a party fails to appear or participate in an administrative adjudication after proper service of notice, the board ~~or the Elevator Safety Section~~ may proceed with the hearing and render a decision in the absence of the party.

(p) **Subpoenas.**

(1)(A) At the request of any party, the ~~director~~ Director of Code Enforcement shall issue subpoenas for the attendance of witnesses at the hearing.

(B) The requesting party shall specify whether the witness is also requested to bring documents and reasonably identify said documents.

(2)(A) A subpoena may be served by any person specified by law to serve process or by any person who is not a party and who is eighteen (18) years of age or older.

(B) Delivering a copy to the person named in the subpoena shall make service.

(C) Proof of service may be made by affidavit of the person making service.

(D) The party seeking the subpoena shall have the burden of obtaining service of the process and shall be charged with the responsibility of tendering appropriate mileage fees and witness fees pursuant to Rule 45, Arkansas Rules of Civil Procedure.

(E) The witness must be served at least two (2) days prior to the hearing.

(F) For good cause, the agency may authorize the subpoena to be served less than two (2) days before the hearing.

(3) Any motion to quash or limit the subpoena shall be filed with the Elevator Safety ~~Section~~ Board and shall state the grounds relied upon.

(q) **Recording the proceedings.**

(1) The responsibility to record the testimony heard at a hearing is borne by the Elevator Safety ~~Section~~Board.

(2) Upon the filing of a petition for judicial review, the Elevator Safety ~~Section~~ Board will provide a transcript of testimony taken before the board.

(3) If the board is successful upon appeal, the Elevator Safety ~~Section~~ Board may request that the court assess the costs against the opposing party.

(r) **Factors to be considered in imposing sanctions or fines.** In addition to any other considerations permitted by Arkansas Code § 20-24-101 et seq., if applicable, the board in imposing any sanction or fine may consider the following:

(1) The nature and degree of the misconduct for which the sanction is being sought;

(2) The seriousness and circumstances surrounding this misconduct;

(3) The loss or damage to clients or others;

(4) The assurance of future compliance;

(5) The profit to the wrongdoer;

(6) The avoidance of repetition;

(7) Whether the conduct was deliberate, intentional, or negligent;

(8) The deterrent effect on others;

(9) The conduct of the individual during the course of the disciplinary proceeding;

(10) Any prior enforcement or disciplinary actions or sanctions, including warnings; and

(11) Matters offered in mitigation or extenuation, except that a claim of disability or impairment resulting from the use of alcohol or drugs may not be considered unless the individual demonstrates that he or she is successfully pursuing in good faith a program of recovery.

(s) **Final order.**

(1) The department will serve on the respondent a written order that reflects the action taken by the board.

(2) The order will include a recitation of facts found based on testimony and other evidence presented and reasonable inferences derived from the evidence pertinent to the issues of the case.

(3) It will also state conclusions of law and directives or other disposition entered against or in favor of the respondent.

(4) The order will be served personally or by mail on the respondent.

(5) If counsel represents respondent, service of the order on respondent's counsel shall be deemed service on the respondent.

20 CAR § 881-110. Licensing.

(a) **General.**

(1) All action of the Elevator Safety Board or the Elevator Safety Section regarding licensure shall be governed by Arkansas Code § 20-24-101 et seq., this part, and, when applicable, Arkansas Code §§ 25-15-208 – 25-15-213.

(2) The board is responsible for licensure of:

(A) Elevator inspectors, Arkansas Code § 20-24-108(a);

(B) Elevator mechanics, Arkansas Code § 20-24-108(b); and

(C) Elevator contractors, Arkansas Code § 20-24-108(c).

(b) **Requirement to keep current address on file.**

(1) All persons holding a license issued by the agency are required to provide the Elevator Safety Section with information so that the board can remain in contact and provide notice of complaints ~~and/~~or hearings.

(2) The licensee is required to provide written notice to the board of any change in business ~~and/~~or residence address within ten (10) working days of the change.

(3) Service of notices of hearing sent by mail will be addressed to latest address on file with the board.

(c) **Review of application.**

(1) The application and supporting documentation will be reviewed by staff of the Elevator Safety Section.

(2) The Elevator Safety Section will inform the applicant in writing if it

determines that the application is incomplete, and will specify why the application is incomplete.

(3) When a completed application, a supplemental application, or the requested information is returned, the Elevator Safety Section will reinitiate action on the application for license.

(4) If all requirements are met, the applicant will be licensed.

(d) **Denial of license.**

(1) If a preliminary determination is made that the application should be denied, the Elevator Safety Section will inform the applicant of the opportunity for a hearing on the application.

(2)(A) The grounds or basis for the proposed denial of a license will be set forth in writing by the Elevator Safety Section.

(B) The applicant may appeal the Elevator Safety Section's determination to the board by making a written request to the board for a hearing within thirty (30) days of the notice of denial.

(C) Any hearing on the denial of a license will be conducted in accordance with Arkansas Code §§ 25-15-208 and 25-15-213, and unless otherwise provided by law, the applicant has the burden of establishing entitlement to the license.

(e) **Suspension, revocation, annulment, or withdrawal.**

(1) Prior to the entry of a final order to suspend, revoke, annul, or withdraw a license, or to impose other sanctions upon a licensee, the Elevator Safety Section will serve the licensee a notice of hearing in the manner set out in Arkansas Code § 25-15-208 and 20 CAR § 881-109.

(2) The Elevator Safety Section has the burden of proving the alleged facts and violations of law stated in the notice.

(f) **Emergency action.**

(1)(A) If the board finds that the public health, safety, or welfare imperatively requires emergency action and incorporates that finding in its order, the board can summarily suspend, limit, or restrict a license.

(B) The notice requirement in 20 CAR § 881-109(g) does not apply and must not be construed to prevent a hearing at the earliest time practicable.

(2) **Emergency order.**

(A) An emergency adjudicative order must contain written findings that the public health, safety, and welfare imperatively require emergency action to be taken by the board.

(B) The written order must include notification of the date on which board proceedings are scheduled for completion.

(3) **Written notice.**

(A) The written emergency adjudicative order will be immediately delivered to persons who are required to comply with the order.

(B) One (1) or more of the following procedures will be used:

(i) Personal delivery;

(ii) Certified mail, return receipt requested, to the last address on file with the board;

(iii) First-class mail to the last address on file with the board;

(iv)~~*(a)* Fax~~Electronic mail.

~~*(b)* Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that Elevator Safety Section orders be sent by fax and has provided a fax number for that purpose;~~ or

(v) Oral notice.

(C) Unless the written emergency order is served by personal delivery on the same day that the order issues, the Elevator Safety Section shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

(4) Unless otherwise provided by law, within ten (10) days after emergency action taken pursuant to subdivision (f)(1) of this section, the Elevator Safety ~~Section~~ Board must initiate a formal suspension or revocation proceeding.

(g) **Voluntary surrender of license.** The licensee, in lieu of formal disciplinary proceedings, may offer to surrender his or her license, subject to the board's determination to accept the proffered surrender, rather than conducting a formal disciplinary proceeding.

(h) **Duty of a sanctioned licensee.** In every case in which a license is revoked, suspended, or surrendered, the licensee shall, within thirty (30) days of the revocation, suspension, or surrender, do the following:

(1) Return his or her license and any license pocket cards to the Elevator Safety Section's office;

(2) Notify all of his or her clients and employer in writing that his or her license has been:

(A) Revoked;

(B) Suspended; or

(C) Surrendered;

(3) Notify all clients and employer to make arrangements for other services, calling attention to any urgency in seeking the substitution of another licensee;

(4) Deliver to all clients or employer any papers or property to which they are entitled, or notify the client or employer of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property;

(5) Refund any part of the fees paid in advance that have not been earned;

(6) Keep and maintain a record of the steps taken to accomplish the foregoing;

(7)(A) File with the Elevator Safety Section a list of all other state, federal, and administrative jurisdictions by which he or she is licensed.

(B) Upon such filing, the agency will notify those entitled of the:

(i) Revocation;

(ii) Suspension; or

(iii) Surrender; and

(8)(A) The licensee shall, within thirty (30) days of revocation, suspension, or surrender of the license, file an affidavit with the Elevator Safety Section that he or she

has fully complied with the provisions of the order and completely performed the foregoing or provide a full explanation of the reasons for his or her noncompliance.

(B) Such affidavit shall also set forth the address where communications may thereafter be directed to the respondent.

(i) **Reinstatement after suspension.**

(1) An order suspending a license may provide that a person desiring reinstatement may file with the Director of ~~the Division of Labor~~Code Enforcement a verified petition requesting reinstatement.

(2) The petition for reinstatement must set out the following:

(A) That the individual has fully and promptly complied with the requirements of subsection (h) of this section pertaining to the duty of a sanctioned professional;

(B) That the individual has refrained from practicing in this occupation or business during the period of suspension;

(C) That the individual's license fee is current or has been tendered to the Elevator Safety Section; and

(D) That the individual has fully complied with any requirements imposed as conditions for reinstatement.

(3) Any knowing misstatement of fact may constitute grounds for denial or revocation of reinstatement.

(4) Failure to comply with the provisions of subdivisions (h)(7) and (8) of this section precludes consideration for reinstatement.

(5) No individual will be reinstated unless the board approves reinstatement by majority vote.

(j) **Relicensure for revoked or surrendered license.**

(1)(A) No individual who has had his or her license revoked or who has surrendered his or her license will be licensed, except on petition made to the board.

(B) The application for relicensure is not allowed until at least two (2) years after the revocation or surrender of license took effect.

(2) The applicant bears the burden of proof that he or she:

(A) Is rehabilitated following the revocation or surrender of his or her license;

(B) Can engage in the conduct authorized by the license without undue risk to the public health, safety, and welfare; and

(C) Is otherwise qualified for the license pursuant to Arkansas Code § 20-24-101 et seq.

(3) The board may impose any appropriate conditions or limitations on a license to protect the public health, safety, and welfare.

(4) The board may require that the person seeking relicensure take the licensing examination.

(k) **Inspectors.**

(1) **Qualifications.** An applicant for an elevator inspector's license shall complete an application approved by the board and shall have:

(A) At least four (4) years verified experience in designing, installing,

maintaining, or inspecting conveyances;

(B)(i) Successfully passed the written examination for elevator inspectors administered by an accredited ASME testing facility and evidenced by certification of the applicant as a qualified elevator inspector.

(ii) This is commonly referred to as being QEI certified;

(C)(i) No financial interest in any business or operation which manufactures, installs, repairs, modifies, or services conveyances and have submitted a financial disclosure statement on a form approved by the Elevator Safety Section.

(ii) This qualification does not prohibit employees of insurance companies insuring conveyances in Arkansas from obtaining a license as an elevator inspector;

(D) Submitted proof of insurance by an insurance company authorized to do business in Arkansas of general liability coverage for at least one million dollars ($1,000,000) for injury or death of a person and five hundred thousand dollars ($500,000) for property damage; and

(E) Tendered a license fee in the amount of one hundred dollars ($100).

(2) **License renewal.** An application for renewal shall be submitted no later than January 31 of each calendar year, regardless of the date of issue or renewal and shall be submitted with:

(A) A license fee in the amount of one hundred dollars ($100);

(B) Proof of insurance as required by subdivision (k)(1) of this section;

(C) An annual financial disclosure statement on a form approved by the Elevator Safety Section; and

(D) Proof of completion of eight (8) contact hours or continuing education hours every two (2) years in a course of training or instruction approved by the board as required by subsection (q) of this section.

(3) Elevator inspectors in the employ of the Department of Labor and Licensing are exempt from payment of licensing fees and fees for renewal of license.

(l) **Elevator contractors.**

(1) **Qualifications.** An applicant for an elevator contractor's license shall complete an application approved by the board and shall have:

(A) A permanent office located in the State of Arkansas with an individual designated by the contractor to receive notices on behalf of the contractor or be currently registered with the Secretary of State with a designated agent for service of process who is also authorized to receive notices on behalf of the contractor;

(B) Submitted verification of employment of a licensed elevator mechanic;

(C) Submitted proof of insurance by an insurance company authorized to do business in Arkansas of general liability coverage for at least one million dollars ($1,000,000) for injury or death of a person and five hundred thousand dollars ($500,000) for property damage; and

(D) Tendered a license fee in the amount of two hundred fifty dollars ($250).

(2) **License renewal.** An application for renewal shall be submitted no later than January 31 of each calendar year, regardless of the date of issue or renewal and

shall be submitted with:

(A) A license fee in the amount of two hundred fifty dollars ($250); and

(B) Proof of insurance as required by subdivision (l)(1) of this section.

(m) **Elevator testing contractor.**

(1) **Qualifications.** An applicant for an elevator testing contractor's license shall complete an application approved by the board and shall have:

(A) All qualifications under subdivision (l)(1)(A)-(D) above; and

(B) Be limited in scope to perform only the testing of conveyances.

(~~m~~n) **Elevator mechanics.**

(1) **Qualifications.** An applicant for an elevator mechanic's license shall complete an application approved by the board and shall have:

(A) At least three (3) years verified work experience in constructing, maintaining, servicing, or repairing conveyances;

(B) Successfully passed a written examination approved for elevator mechanics by the board; ~~and~~

(C) Pay the examination fees of one hundred dollars ($100) for the exam to the department or third party provider and fifty dollars ($50.00) processing fee to the department; and

(~~C~~D) Tendered a license fee in the amount of seventy-five dollars ($75.00) annually.

(2) **Restricted license.**

(A) A restricted class of elevator mechanic's license shall be known as an accessibility technician.

(B) Such class of license shall be restricted to performing work involving vertical platform lifts, wheelchair lifts, and inclined stairway chairlifts, including those for private residences, which are covered by the provisions of ASME A18.1, ~~2005~~2020.

(C) An applicant for such a restricted license shall complete an application approved by the board and shall have:

(i) At least three (3) years verified work experience in constructing, maintaining, servicing, or repairing those conveyances covered by ASME A18.1, ~~2005~~2020; and

(ii) Tendered a license fee in the amount of seventy-five dollars ($75.00) annually.

(3) **License renewal.** An application for renewal shall be submitted no later than January 31 of the year of expiration, regardless of the date of issue or renewal and shall be submitted with:

(A) A license fee in the amount of one hundred fifty dollars ($150) for two (2) years; and

(B) Proof of completion of eight (8) contact hours or continuing education hours every two (2) years in a course of training or instruction approved by the board as required by subsection (q) of this section.

(4) **Emergency licensing and temporary licensing.**

(A) Whenever an emergency exists or there is a strike or lock-out and the board determines that there are not enough licensed elevator mechanics to perform the

work necessary to provide for the safety of life, limb, and property and to protect the public welfare, the board may waive the examination requirements of this part and the provisions of Arkansas Code § 20-24-108, and issue an emergency elevator mechanic's license that may be valid for no longer than thirty (30) days.

(B) Whenever the board determines that there are not enough licensed elevator mechanics available to perform work necessary for the completion of a project for which an installation permit has been issued pursuant to 20 CAR § 881-111 or 20 CAR § 881-112 and Arkansas Code § 20-24-115(d), the board may waive the requirements of this part and the provisions of Arkansas Code § 20-24-108, and issue a temporary elevator mechanics license that may be valid for no longer than thirty (30) days.

(C) The board may renew an emergency or temporary license if the circumstances justifying its original issuance continue.

(D) The fee for an emergency or temporary license shall be seventy-five dollars ($75.00) annually for a license valid in only thirty-day increments.

(~~n~~o) **License renewal and reinstatement generally.**

(1) A license for an elevator mechanic or an elevator inspector may be renewed within six (6) months after the date of expiration by paying the renewal fee as follows, provided the licensee is otherwise qualified for renewal:

(A) Elevator inspector license: one hundred twenty dollars ($120); and

(B) Elevator mechanic license: ninety-five dollars ($95.00) for one (1) year ~~or one hundred seventy dollars ($170) for two (2) years~~.

(2)(A) A license will not be issued or renewed if there is an unpaid fine or fee due the agency.

(B) Further, failure to pay any fine or fee may result in license suspension or revocation.

(3) **Reinstatement.**

(A) Notwithstanding any rule to the contrary, an individual may seek reinstatement under this subdivision (n)(3) provided the applicant for reinstatement demonstrates that he or she:

(i) Was previously licensed by the board at any time;

(ii) Was licensed in good standing at the time of licensing;

(iii) Did not have his or her license revoked for an act of bad faith or a violation of law, rule, or ethics;

(iv) Is not holding a suspended or probationary license in a sister state; and

(v) Passes a licensing examination if the applicant's license has been expired for more than six (6) months.

(B) Continuing education requirements apply to a reinstated licensee in the same manner as other licensees.

(C) An applicant for reinstatement shall not be required to comply with the requirements of this subdivision (n)(3) if the applicant meets the requirements for reciprocity pursuant to subsection (o) of this section.

(D)(i) The Elevator Safety Section shall review and decide on any

application for reinstatement in order to expedite the process.

(ii) The decision of the Elevator Safety Section is subject to review by the board upon written request by the applicant.

(~~o~~p) **Reciprocity.**

(1) The board may license a person as an elevator inspector, elevator mechanic, or elevator contractor without examination if he or she holds an equivalent license for a state or city that has similar requirements to that provided for in this part and Arkansas Code § 20-24-108 and the person has not had a license revoked for an act of bad faith or a violation of law, rules, or ethics.

(2) **Provisional license.**

(A) The board shall issue a temporary and provisional license immediately upon receipt of an application, the required fee, and the documentation required under this subsection.

(B) The temporary and provisional license shall be effective until the board makes a decision on the application unless the board determines that the applicant does not meet the requirements in this subsection, in which case the temporary and provisional license shall be immediately revoked.

(C) An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license.

(~~p~~q) **Verified work experience.**

(1)(A) Work experience required for licensure shall be documented by:

(i) Notarized letters or affidavits from past or present employers;

(ii) Official letters or certifications from other government licensing authorities detailing the duration and character of the work; or

(iii) Equivalent evidence that verifies work experience.

(B) The name, address, and telephone number of anyone verifying work experience shall be provided on the verification document.

(2) For purposes of determining experience qualification, the board shall not consider the following:

(A) Any experience obtained in violation of Arkansas Code § 20-24-108; or

(B) Any experience obtained in violation of any federal, state, or local licensing or registration requirements.

(~~q~~r) **Continuing education.**

(1)(A) Licensed inspectors and licensed elevator mechanics must complete eight (8) contact hours or continuing education hours every two (2) calendar years.

(B) An applicant for renewal must submit proof of having completed this requirement.

(2)(A) A certificate of completion provided to the course participant is sufficient for any course preapproved by the board.

(B) If the course has not been approved by the board, the licensee will not be given credit unless or until the board has approved the course.

(3) A course of training or education may be approved by the board by the submission of:

(A) An Application for Continuing Education Approval;

(B) An overview of the course material; and

(C) A professional resume of the trainer.

(4) A list of approved courses will be posted on the board's website or made available upon request to the Elevator Safety Section.

(~~r~~s) **Uniformed service members, veterans, and spouses.**

(1) As used in this subsection:

(A) "Automatic licensure" means the granting of occupational licensure without an individual's having met occupational licensure requirements provided under the Arkansas Code or by this part; and

(B) "Uniformed service veteran" means a former member of the uniform services of the United States discharged under circumstances other than dishonorable.

(2) The board shall grant automatic licensure to an individual who is the holder in good standing of a license with a similar scope of practice issued by another state, territory, or district of the United States and is:

(A) A uniformed service member stationed in the State of Arkansas;

(B) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or

(C) The spouse of:

(i) A person under subdivision (r)(2)(A) or subdivision (r)(2)(B) of this section;

(ii) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or

(iii) A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

(3) The board shall grant such automatic licensure upon receipt of all of the below:

(A) Payment of the initial licensure fee;

(B) Evidence that the individual holds a license with a similar scope of practice in another state; and

(C) Evidence that the applicant is a qualified applicant under subdivision (r)(2) of this section.

(4) The expiration date of a license for a deployed uniform service member or spouse will be extended for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(5) A full exemption from continuing education requirements will be allowed for a deployed uniform service member or spouse until one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(~~s~~t) **Prohibitions and requirements.**

(1) No elevator inspector shall inspect an elevator, escalator, or dumbwaiter if the inspector, or any member of his or her immediate family, has a financial interest in the building in which the elevator, escalator, or dumbwaiter is located, or in any business which occupies the building in which the elevator, escalator, or dumbwaiter is

located.

(2) No elevator inspector or any member of his or her immediate family shall have or maintain a financial interest in any business which manufactures, installs, alters, or services elevators, escalators, or dumbwaiters.

(3) No elevator inspector shall recommend or refer one of his or her clients or customers to a specific business, firm, or corporation which manufactures, installs, repairs, alters, or services elevators, escalators, or dumbwaiters.

(4)(A) **Financial disclosure.** On or before the last day of January of each year, all licensed elevator inspectors shall file with the department a financial disclosure statement on forms provided by the department and approved by the board.

(B) Such forms shall include, but not be limited to, the following:

(i)*(a)* The name and address of any corporation, firm, or enterprise in which the person has a direct financial interest of a value in excess of one thousand dollars ($1,000).

(b) Policies of insurance issued to the inspector or his or her spouse are not to be considered a financial interest;

(ii) A list of every office or directorship held by himself or herself or his or her spouse in any corporation, firm, or enterprise subject to jurisdiction of the board;

(iii) A list showing the name and address of any person, corporation, firm, or enterprise from which the person received compensation in excess of one thousand five hundred dollars ($1,500) during the preceding year; and

(iv) A list showing the name and address of any person, corporation, firm, or enterprise from which the persons received compensation in excess of twelve thousand five hundred dollars ($12,500) during the preceding year.

(5) An elevator contractor shall perform all scheduled maintenance and required safety tests in a timely manner as notified by the Elevator Safety ~~Section~~Board.

(6)(A) No elevator contractor shall employ helpers or apprentices not licensed as elevator mechanics to erect, construct, alter, replace, repair, maintain, remove, or dismantle any conveyance unless such helper or apprentice is working under the direct supervision of a licensed elevator mechanic, except:

(i) In a ratio of one (1) helper or apprentice to every one (1) licensed elevator mechanic; or

(ii) In the event of a crew of five (5) or more workers, a ratio of three (3) helpers or apprentices to every two (2) licensed elevator mechanics.

(B) Notwithstanding the provisions of this section, an industrial employer utilizing its own employees for repair or alteration work on industrial property owned or leased by the employer may utilize a ratio of four (4) helpers or apprentices to every one (1) licensed elevator mechanic.

(~~t~~u) **Workforce Expansion Act fee waiver.** The board shall waive the initial licensing fee for any license if the applicant:

(1) Is receiving assistance through the:

(A) Arkansas Medicaid Program;

(B) Supplemental Nutrition Assistance Program;

(C) Special Supplemental Nutrition Program for Women, Infants, and Children;

(D) Temporary Assistance for Needy Families Program; or

(E) Lifeline Assistance Program;

(2) Was approved for unemployment within the last twelve (12) months; or

(3) Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

(~~u~~v) **Earn and Learn Act apprenticeships.**

(1) The board shall grant a license to an applicant who:

(A) Completes an apprenticeship as defined by Arkansas Code § 17-6-103 in an occupation licensed by this board;

(B) Passes an examination with a score required for licensure, if deemed to be necessary by the board and required of all applicants;

(C) Pays the appropriate licensing fee; and

(D) Completes all other requirements unrelated to training and education.

(2) Should the board deny an application under this section, the board shall provide the applicant with a written denial detailing the reason for the denial including whether the board determined the applicant's apprenticeship program does not correspond to the level of license for which the applicant applied.

(3) An apprenticeship for a profession or occupation licensed by the board is not required to exceed the number of hours required by the board for the profession or occupation, except as otherwise required by federal law.

20 CAR § 881-111. New construction and installation.

(a) **Minimum standards.**

(1)(A) All new elevators, escalators, and dumbwaiters shall be constructed and installed in conformity with the standards in the American Society of Mechanical Engineers Safety Code for Elevators and Escalators, ASME A17.1, ~~2007~~2019.

(B) ASME A17.1.2.27.1.13 and ASME A17.1.2.27.1.14 shall be interpreted to require two-way audio communications only.

(B) These standards are hereby adopted by reference and incorporated herein.

(2) The minimum standards for the construction and installation of vertical platform lifts, inclined wheelchair lifts, inclined stairway chairlifts, and residential elevators shall be ASME A18.1, ~~2005~~2020, which is hereby adopted by reference and incorporated herein.

(3) The minimum standards for the construction and demolition industry shall be ANSI/ASSE A10.4, ~~2007~~2016, Safety Requirements for Personnel Hoists and Employee Elevators, which is hereby adopted by reference and incorporated herein.

(4) This section does not include any later amendments or editions of the standards incorporated by reference.

(5) Copies of these standards incorporated by reference can be viewed in the offices of the Elevator Safety Section or can be obtained by contacting the following:

American Society of Mechanical Engineers
Two Park Avenue
New York, NY 10016-5990
1-800-843-2763
www.asme.org

(b) **Installation permit.**

(1)(A) Prior to the installation or construction of any elevator, escalator, dumbwaiter, or other conveyance, an installation permit shall be obtained from the Elevator Safety Section.

(B) The installation permit shall be posted at the job site in a conspicuous location near the location of the conveyance prior to work beginning on the installation.

(2)(A) Application for an installation permit shall be made on a form furnished by the Elevator Safety Section and shall be submitted by the installing contractor.

(B) The application shall require the submission of detailed plans and specifications.

(3)(A) Upon receipt of an application for installation, the required plans and specifications, and the required fee for an installation permit, the Elevator Safety Section shall review the application for compliance with the provisions of Arkansas Code § 20-24-101 et seq., and this part.

(B) The Elevator Safety Section shall issue an installation permit or shall notify the applicant in writing of the reasons the installation permit is denied.

(4) Any applicant who has been denied an installation permit by the Elevator Safety Section may appeal that denial to the Elevator Safety Board, provided a written request to appeal is received by the Department of Labor and Licensing within thirty (30) days of the notice of the denial.

(c) **Inspection and testing.**

(1) Prior to the operation of any new conveyance or the issuance of the operating permit, such installation shall be inspected and tested in conformity with this part by a licensed elevator inspector in the employ of the department or its authorized representative.

(2)(A) An inspection report shall be filed with the Elevator Safety Section by the inspector making the inspection within thirty (30) days after completion of the inspection.

(B) The inspection report shall be on a paper or electronic form furnished by the Elevator Safety Section and approved by the board.

(C) It shall indicate whether the conveyance was installed in accordance with the plans and specifications approved by the Elevator Safety Section and meets the requirements of Arkansas Code § 20-24-101 et seq., and this part.

(d) **Initial operating permit.**

(1) The owner or operator of a conveyance shall obtain an initial operating permit within seven (7) days after the required date for filing the inspection report required by Arkansas Code § 20-24-113(a) and subdivision (c)(2) of this section.

(2) No operating permit shall be issued until all required fees have been paid.

(3)(A) If the inspection report required by Arkansas Code § 20-24-113 and subdivision (c)(2) of this section indicates that there is a failure to comply with the plans and specifications approved by the Elevator Safety Section, Arkansas Code § 20-24-101 et seq., or this part, the operating permit shall be denied.

(B) The Elevator Safety Section shall notify the owner or operator in writing of the reasons for the denial of an operating permit.

(4) Any owner or operator who has been denied an operating permit by the Elevator Safety Section may appeal that denial to the board, provided a written request to appeal is received by the department within thirty (30) days of the notice of the denial.

(e) **Fees.**

(1) **Installation permits.** The following fees shall be paid to the Elevator Safety Section for installation permits:

(A) Elevator: one hundred fifty dollars ($150);

(B) Escalator or moving: two hundred dollars ($200);

(C) Dumbwaiter: one hundred dollars ($100);

(D) Wheelchair lift: one hundred dollars ($100); and

(E) Workman's hoist: two hundred dollars ($200).

(2) A fee of one hundred dollars ($100) shall be paid for installation permits for all other types of conveyances.

(3)(A) A final inspection fee and the fee for the initial operating permit are included in the installation permit fee.

(B) If a scheduled final inspection is canceled without due notice to the Elevator Safety Section or if the elevator is not complete in the judgment of the inspector, an additional fee of one hundred dollars ($100) shall be charged to the elevator contractor for an additional final inspection.

(4) The fee for the operating permit is established by 20 CAR § 881-115(f).

20 CAR § 881-112. Alterations.

(a) **Minimum standards.** All alterations and major repairs to conveyances shall be made in conformity with the same standards as established by 20 CAR § 881-111(a).

(b) **Alteration permit.**

(1) Prior to the alteration or major repair of any conveyance, an alteration permit shall be obtained from the Elevator Safety Section.

(2)(A) Application for an alteration permit shall be made on a form furnished by the Elevator Safety Section and shall be submitted by the installing contractor.

(B) The application shall require the submission of detailed plans and specifications.

(3)(A) Upon receipt of an application for alteration or major repair, the required plan and specifications, and the required fee for an alteration permit, the Elevator Safety Section shall review the application for compliance with the provisions of Arkansas Code § 20-24-101 et seq., and this part.

(B) The Elevator Safety Section shall issue an alteration permit or shall notify the applicant in writing of the reasons the alteration permit is denied.

(4) Any applicant who has been denied a permit for alteration or major repair by the Elevator Safety Section may appeal that denial to the Elevator Safety Board provided written request to appeal is received by the Department of Labor and Licensing within thirty (30) days of the notice of the denial.

(c) **Inspection and testing.**

(1) Prior to the operation of any conveyance which has undergone an alteration or major repair and prior to the issuance of a new operating permit pursuant to subsection (d) of this section, such conveyance shall be inspected and required safety tests witnessed by a licensed elevator inspector in the employ of the department or its authorized representative.

(2)(A) An inspection report shall be filed with the Elevator Safety Section by the inspector making the inspection within thirty (30) days after completion of the inspection.

(B) The inspection report shall be on a form furnished and approved by the Elevator Safety Section.

(C) It shall indicate whether the conveyance was altered or repaired in accordance with the plans and specifications approved by the Elevator Safety Section and meets the requirements of Arkansas Code § 20-24-101 et seq., and this part.

(3) The Elevator Safety Section shall mail a copy of the inspection report to the installing contractor and the owner.

(d) **Operating permit.**

(1) The owner or operator of a conveyance which has undergone an alteration or major repair shall obtain a new operating permit within seven (7) days after the required date for filing the inspection required by Arkansas Code § 20-24-113(a) and subsection (c) of this section.

(2) No operating permit shall be issued until all the required fees have been paid.

(3)(A) If the inspection report required by Arkansas Code § 20-24-113 and subsection (c) of this section indicates that there is a failure to comply with the plans and specifications approved by the Elevator Safety Section, Arkansas Code § 20-24-101 et seq., or this part, the operating permit shall be denied.

(B) The Elevator Safety Section shall notify the owner or operator in writing of the reasons for the denial of an operating permit.

(4) Any owner or operator who has been denied an operating permit by the Elevator Safety Section may appeal that denial to the board provided a written request to appeal is received by the department within thirty (30) days of the notice of the denial.

(e) **Fees.**

(1) The fee for an alteration permit shall be one hundred dollars ($100).

(2)(A) A final inspection fee is included in the alteration permit fee.

(B) If a scheduled final inspection is canceled without ~~due~~ three (3) business days notice to the department or if the elevator is not complete in the judgment of the inspector, an additional fee of one hundred dollars ($100) shall be charged to the elevator contractor for an additional final inspection.

(3) The fee for the operating permit is established by 20 CAR § 881-115(f).

20 CAR § 881-113. Existing elevators.

(a) **Minimum standards.**

(1) All conveyances shall be maintained by the owner or lessee in a condition that conforms to the standards established by the Elevator Safety Board which were in effect on the date of installation or the provisions of ASME A17.3, ~~2005~~2005, whichever are more stringent.

(2) Notwithstanding the provisions of ASME A17.3, ~~2005~~2005, the owner or operator of any elevator without Phase I and Phase II fire service shall have a period of five (5) years from the effective date of this part or until alteration to install Phase I and Phase II fire service, whichever occurs first.

(3) Notwithstanding the provisions of ASME A17.3, ~~2005~~2005, Part 4.3.3 applicable to hydraulic elevators, the owner or operator of any hydraulic elevator with a flat-bottom jack shall be required to replace or retrofit to comply with A17.3, Part 4.3.3, within five (5) years from the effective date of this part or alteration, whichever occurs first.

(4) This section does not include any later amendments or editions of the standards incorporated by reference.

(5) Copies of these standards incorporated by reference can be viewed in the offices of the Elevator Safety Section or can be obtained by contacting the following:

American Society of Mechanical Engineers
Two Park Avenue
New York, NY 10016-5990
1-800-843-2763
www.asme.org

(b) **Operation.**

(1) Any conveyance which is out of operation or without an operating permit for twelve (12) months or more shall have a safety test or leak down test and a pressure test performed in the presence of a licensed elevator inspector in the employ of the Department of Labor and Licensing or its authorized representative before a new operating permit can be issued or before such can operate.

(2) Additionally, such conveyance shall conform to the standards established by 20 CAR § 881-111 or have a variance issued pursuant to 20 CAR § 881-116 before an operating permit can be issued or before it can operate.

20 CAR § 881-114. Periodic inspections and testing.

(a) **Minimum standards.**

(1) All inspections and testing required by Arkansas Code § 20-24-101 et seq., or this part shall be made in accordance with the standards established by this part and the American Society of Mechanical Engineers Guide for Inspection of Elevators, Escalators and Moving Walks, ASME A17.2, ~~2001~~2023, which is hereby adopted and

incorporated herein.

(2) This section does not include any later amendments or editions of the standards incorporated by reference.

(3) Copies of these standards incorporated by reference can be viewed in the offices of the Elevator Safety Section or can be obtained by contacting the following:

American Society of Mechanical Engineers
Two Park Avenue
New York, NY 10016-5990
1-800-843-2763
www.asme.org

(b) **Periodic inspections.**

(1)(A) The owner or lessee of every power passenger elevator and escalator shall have it inspected ~~periodically every twelfth calendar month following the month in which the initial inspection was made~~annually, thirty (30) days prior to certificate expiration.

(B) The owner or lessee of every power freight elevator and of every dumbwaiter and elevator driven by manual power shall have it inspected periodically ~~every twelfth calendar month following the month in which the initial inspection was made~~annually, thirty (30) days prior to certificate expiration.

(2) Any inspection required by Arkansas Code § 20-24-112(a)(3) or subdivision (b)(1) of this section:

(A) ~~May~~ Shall be made ~~during the month following the calendar month during which such inspection is due~~annually, thirty (30) days prior to certificate expiration; and

(B) Shall be made only by elevator inspectors licensed in accordance with the provisions of Arkansas Code §§ 20-24-108 and 20-24-109 and 20 CAR § 881-110.

(3) In addition to required inspections, the Elevator Safety Section or its authorized representative may designate a licensed inspector in its employ to make such additional inspections as may be required to enforce the provisions of this section and this part.

(c) **Tests.**

(1) All tests shall be made in accordance with the applicable ASME code as adopted herein and frequency of testing referenced in the below table.

Elevator Type	**Testing Requirement**
Traction Elevator	Every 5 years
Hydraulic Elevator	Every 3 years
Roped Hydraulic Elevator	Every 3 years
Special Purpose Personal Elevator	Annually
Permanently Installed Rack & Pinion Elevator	Annually
Temporarily Installed Rack & Pinion Elevator	Every 90 days

Escalator	Annually
Moving Walk	Annually
Hydraulic Vertical Platform Lift	No testing requirement
Vertical Platform Lift	No testing requirement
Incline & Platform Lift	No testing requirement
Dumbwaiter	No testing requirement

(2) Elevator inspectors shall not be required to perform any tests.

(3) Tests required by this part shall be made by a licensed elevator mechanic in the presence of a licensed elevator inspector in the employ of the Department of Labor and Licensing or its authorized representative.

(d) **Inspection reports.**

(1) A report of every required inspection shall be filed with the Elevator Safety ~~Section~~ Board or its authorized representative by the inspector making the inspection on a form approved by the department or its authorized representative within ~~thirty~~ fifteen (~~30~~15) days after the inspection or test has been completed.

(2) In the event the inspection report required by subdivision (d)(1) of this section and Arkansas Code § 20-24-113 is not filed within ~~thirty~~ fifteen (~~30~~15) days after the final date when the conveyance should have been inspected, the Elevator Safety Section shall designate a licensed inspector in its employ to make the inspection and report required.

(e) **Fees.**

(1) For each inspection and report made at the direction of the department, the owner, lessee, or insurance company responsible for the report of inspection shall pay to the Elevator Safety Section a fee of three hundred fifty dollars ($350).

(2) The fee shall be paid directly to the Elevator Safety Section and shall be the only fee or charges for which such owner, lessee, or insurance company shall be liable for the inspection required by Arkansas Code § 20-24-112(a).

20 CAR § 881-115. Operating permit.

(a) **Permit required.**

(1)(A) No conveyance shall operate unless the owner or lessee has obtained an operating permit from the Elevator Safety Section.

(B) Operation of a conveyance without a valid operating permit shall be grounds for:

(i) An immediate order or red-tag to discontinue use; and

(ii) A fine pursuant to Arkansas Code § 20-24-103 and 20 CAR § 881-117.

(2) An operating permit shall be issued for a period of one (1) year and the expiration date shall appear on its face.

(b) **Display.** The permit shall be posted conspicuously in the car of the elevator or lift and on or near the dumbwaiter or escalator.

(c) **Permit information.**

(1) The operating permit shall reflect on its face the following:

(A) The state number, or AS number, assigned by the Elevator Safety Section to that conveyance;

(B) The type of equipment for which it is issued;

(C) In the case of elevators, whether passenger or freight;

(D) The owner or lessee to whom the permit is issued;

(E) The location of the conveyance;

(F) The contract load and rated speed; and

(G) The expiration date.

(2) In addition to other requirements, the operating permit for vertical wheelchair lifts, inclined wheelchair lifts, and inclined stairway chairlifts shall state the following: "LIMITED USE ONLY - NOT FOR GENERAL PUBLIC USE".

(d) **Denial of an operating permit.**

(1) No operating permit shall be issued if the fees required by Arkansas Code § 20-24-116 and subsection (f) of this section have not been paid.

(2)(A) The Elevator Safety Section may deny an operating permit for cause, which shall include the failure to comply with the provisions of Arkansas Code § 20-24-101 et seq., this part, or the detailed plans and specifications approved by the Elevator Safety Section at the time of installation.

(B) In determining whether there exists cause to deny an operating permit, the Elevator Safety Section may rely on an inspection report filed by a licensed elevator inspector.

(3) The Elevator Safety Section shall notify the owner or lessee in writing of:

(A) The reasons the operating permit is denied;

(B) The changes necessary for compliance; and

(C) Their right to appeal to the Elevator Safety Board.

(4) Any owner or lessee who has been denied an operating permit by the Elevator Safety Section may appeal that denial to the board provided a written request to appeal is received by the Elevator Safety Section within thirty (30) days of the notice of the denial.

(5) The board may require as a condition of maintaining his or her license the presence of any elevator inspector upon whose report the denial of an operating permit was based at any hearing on such denial.

(e) **Revocation of an operating permit.**

(1)(A) The Elevator Safety Section may immediately revoke an operating permit if it determines there is a failure to comply with the provisions of Arkansas Code § 20-24-101 et seq., this part, or the detailed plans and specifications approved by the Elevator Safety Section at the time of installation and such elevator, escalator, or dumbwaiter is in an unsafe condition, so that its continued operation may be dangerous to the public safety.

(B) In making such a determination, the Elevator Safety Section may rely on an inspection report filed by a licensed elevator inspector.

(2)(A) In order to immediately revoke an operating permit, the Elevator Safety Section shall place a red tag or warning notice on or in the conveyance notifying the owner or lessee and the public that its use has been ordered to be discontinued.

(B) Such warning shall read as follows:

WARNING ORDER

The Elevator Safety Section of the Arkansas Department of Labor and Licensing has determined that this elevator or conveyance is in an unsafe condition, so that its continued operation would be dangerous. The Department of Labor and Licensing has ordered that the use of this elevator or conveyance be discontinued until it has been made safe in conformity with Arkansas Law and the rules of the Arkansas Elevator Safety Board.

Continued operation of this elevator or conveyance or removal of this notice may result in criminal and/or civil penalties.

This action is taken pursuant to the authority granted by Arkansas Code §§ 11-2-117(c) and 20-24-116. The specific conditions the Department of Labor and Licensing has found which render this elevator unsafe are as follows:

This tag shall only be removed by authority of the Chief Elevator Inspector.

Chief Elevator Inspector
State of Arkansas

By:
Dated:

Arkansas Department of Labor and Licensing
900 West Capitol, Suite 400
Little Rock, Arkansas 72201

(3) The Elevator Safety Section shall provide immediate written notice to the owner or lessee or agent of either present at the location of the conveyance, which notice shall include the following:

(A) Copy of the red tag or warning;

(B) Reason for revocation of the operating permit;

(C) The changes necessary for compliance; and

(D) The date, time, and place of a hearing on the revocation before a hearing officer designated to hear such matters.

(4) In the event the owner or lessee or agent of either is not present at the location of the conveyance, the Elevator Safety Section shall mail the notice required by subdivision (e)(3) of this section to the owner or lessee within twenty-four (24) hours to the address on file with the Elevator Safety Section.

(5)(A) The Department of Labor and Licensing shall hold a hearing on the immediate revocation of an operating permit within five (5) days of placing the red tag or warning on the conveyance.

(B) The department may extend the time for holding such a hearing upon the request, in advance, of the owner or lessee.

(C) The decision of the hearing officer shall constitute the final action of the department.

(6) Any owner or lessee may appeal the department's final action on the immediate revocation of an operating permit to the board, provided a written request to appeal is received by the department within thirty (30) days of the department's final action.

(7)(A)(i) If immediate action is not required, the Elevator Safety Section may request the board to revoke an operating permit if the department determines there is a failure to comply with the provisions of Arkansas Code § 20-24-101 et seq., this part, or the detailed plans and specifications approved by the Elevator Safety Section at the time of installation.

(ii) In determining whether there exists cause to seek revocation of an operating permit, the Elevator Safety Section may rely on an inspection report filed by a licensed elevator inspector.

(B) The Elevator Safety Section shall notify the owner or lessee in writing:

(i) That it has requested the revocation of the owner or lessee's operating permit;

(ii) The reasons the Elevator Safety Section is seeking the revocation;

(iii) The changes the Elevator Safety Section contends are necessary for compliance; and

(iv) The date, time, and place of a hearing before the board.

(C) If, after hearing, the board determines that there has been a failure to comply as alleged by the Elevator Safety Section, the board shall revoke the operating permit of the owner or lessee.

(f) **Fees.**

(1) The annual fee to be charged for an operating permit is established by Arkansas Code § 20-24-116, which provides:

(A) Dumbwaiters: thirty dollars ($30.00) annually;

(B) Elevators and wheelchair lifts: fifty dollars ($50.00) annually; and

(C) Escalators and moving walks: eighty-five dollars ($85.00) annually.

(2) A twenty percent (20%) penalty may be assessed when the fee is past due by thirty (30) days.

(3)(A)(i) The fee for a temporary operating permit on a new installation shall be one hundred dollars ($100) and shall be good for a period of thirty (30) days.

(ii) It may be renewed for an additional period of thirty (30) days for

a fee of fifty dollars ($50.00).

(iii) Retesting is required to renew after an initial sixty (60) days.

(B) The fee for a temporary operating permit for a workman's hoist shall be fifty dollars ($50.00) and shall be good for a period of ninety (90) days.

(g) **Requirement to keep current addresses on file.**

(1) All owners or operators holding an operating permit issued by the agency are required to provide the Elevator Safety Section with information so that the Elevator Safety Section can remain in contact and provide notice of complaints and/or hearings.

(2) The permit holder is required to provide written notice to the Elevator Safety Section of any change in business and/or residence address within ten (10) working days of the change.

(3) Service of notices of hearing sent by mail will be addressed to latest address on file with the Elevator Safety Section.

(h) **Requirement to report accidents.**

(1) Any mechanical, structural, or electrical defects directly affecting rider safety for which a conveyance is closed for use for a period of time more than eight (8) hours must be reported in writing by the owner or operator to the Elevator Safety Section within twenty-four (24) hours.

(2)(A) The owner or operator shall immediately cease to operate any conveyance involved in a fatality or serious physical injury, except to the extent necessary to protect life, limb, and property.

(B) Such accident shall be reported in writing by the owner or operator within twenty-four (24) hours to the Elevator Safety Section.

(C) For the purposes of this requirement, the term "serious physical injury" shall mean any significant injury that requires immediate medical examination or treatment by a licensed physician.

(3) Unless authorized in writing by the Elevator Safety Section, no conveyance may be operated, altered, repaired, or tampered with, except to protect life, limb, and property, following an accident involving a serious injury or death until the Elevator Safety Section has completed an investigation concerning the accident.

20 CAR § 881-116. Variances.

(a) **Generally.**

(1) Arkansas Code § 20-24-106(d) authorizes the Elevator Safety Board in any particular case to grant exceptions and variances which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of this part.

(2) In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby.

(3) The board may authorize the Chief Elevator Inspector to approve a variance request in cases which involve new technology issues not currently in the board adopted code.

(b) **Application and approval.**

(1)(A) An application for a variance shall be complete and shall be submitted

by the owner or a licensed elevator contractor on behalf of the owner to the Elevator Safety Section on a form approved by the Elevator Safety Section.

(B) The application shall be accompanied by the following:

(i) Detailed plans and specifications as required by 20 CAR § 881-111 or 20 CAR § 881-112;

(ii) A fee of one hundred dollars ($100); and

(iii) Citation to the specific standard or standards from which a variance is sought.

(2) Failure to submit the items required by subdivision (b)(1) of this section shall result in summary dismissal of the variance request or application.

(3)(A) The Elevator Safety Section shall review the application for variance and its attachments.

(B) The Elevator Safety Section may conduct an on-site inspection.

(C) The Elevator Safety Section shall prepare a staff report and recommendation which shall include a copy of any inspection report and copies or citations to any applicable ASME code standards.

(4)(A) The Elevator Safety Section shall notify the applicant for the variance of the date, time, and place of the hearing before the board on the application for a variance.

(B) Such notice shall include a copy of the staff report and recommendation.

(5)(A) After hearing, the board shall grant or deny the variance.

(B) The board may grant a variance conditioned upon the provision of alternate means of providing for public safety or may grant a variance for a limited time only.

(6)(A) If the board grants a variance, an order shall be issued by the board.

(B) Such an order shall reflect the following:

(i) The name of the petitioner;

(ii) The state number, or AS number, assigned by the Department of Labor and Licensing if it is an existing conveyance;

(iii) The type of equipment for which it is issued;

(iv) The owner or lessee on whose behalf the variance is sought;

(v) The location of the elevator, escalator, dumbwaiter or other conveyance; and

(vi) Any conditions imposed by the board.

(c) The owner or lessee shall maintain the variance order at the location of the conveyance and make it accessible to any licensed elevator inspector.

(d) **Specific petitions.**

(1) The board will not grant a variance to permit the operation of an elevator for use by individuals with physical disabilities or any other use except in compliance with the provisions of Part V, Limited-Use/Limited-Application Elevators, ASME A17.1, ~~2004~~ 2019 and ~~2005 Supplement and 2005 Addenda or~~ A18.1, ~~2005~~2020.

(2) The board will not grant a variance to permit the operation of a residential elevator in a nonresidential application.

(3)(A) The board recognizes that installation of a conveyance is expensive.

(B) Therefore, cost-savings alone is not evidence of an undue hardship.

20 CAR § 881-117. Civil fines and other enforcement.

(a) **Civil fines generally.**

(1) Arkansas Code § 20-24-103 provides that any person, owner, lessee, partnership, association, corporation, or inspector who violates any provision of Arkansas Code §§ 20-24-101 – 20-24-120 shall be subject to a civil fine of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) for each offense.

(2) Each day during which a violation continues shall be a separate offense.

(b) **Assessment of fines.**

(1)(A) The Elevator Safety Section will notify the person, owner, lessee, partnership, association, corporation, inspector, licensee, or permittee of any assessment of a civil fine or penalty.

(B) Notice shall be provided in the same manner as a notice of hearing provided for in Arkansas Code § 25-15-208 and 20 CAR § 881-109.

(2) The notice of a fine or penalty assessment shall include the following information:

(A) The nature of the violation or violations;

(B) The date or dates of the violation or violations;

(C) The amount of the civil penalty or fine; and

(D)(i) A statement that the civil fine or penalty will be final unless it is appealed to the Elevator Safety Board by making a written request to the board for a hearing within thirty (30) days of the notice of assessment.

(ii) Any hearing before the board will be conducted in accordance with Arkansas Code §§ 25-15-208 and 25-15-213 and 20 CAR § 881-109.

(3) In determining the amount of the fine or penalty, the Elevator Safety Section or the board may consider those factors listed in 20 CAR § 881-109(r).

(4) The Elevator Safety Section has the burden of proving the alleged facts and violations of law stated in the notice.

(5) No fine shall be assessed later than two (2) years from the date of the occurrence of the violation, unless such violation is continuing in nature.

(c) **Payment of fine.**

(1) If a fine or penalty has not been paid with sixty (60) days of the final administrative determination, the Director of ~~the Division of Labor~~ Code Enforcement may file a civil action in a court of competent jurisdiction to recover the fine or penalty.

(2)(A) No license or permit may be renewed by any licensee or permittee with an unpaid fine or penalty.

(B) Further, failure to pay a fine or penalty shall be cause for revocation of any license or permit.

(d) **Injunction.** In addition to other enforcement action, the director is authorized to petition a court of competent jurisdiction to enjoin or restrain violations of Arkansas Code § 20-24-101 et seq.

20 CAR § 881-118. Accessibility to the disabled.

(a)(1) In addition to the standards imposed by 20 CAR §§ 881-111 – 881-113, the Elevator Safety Board hereby adopts and incorporates herein the American National Standards Institute Standard for Buildings and Facilities - Providing Accessibility and Usability for Physically Handicapped People, ANSI A117.1, 2003.

(2) This section does not include any later amendments or editions of the standards incorporated by reference.

(3) Copies of these standards incorporated by reference can be viewed in the offices of the Division of Labor or can be obtained by contacting the following:

American National Standards Institute
25 West 43rd Street
New York, NY 10036
(212) 641-4980
www.ansi.org

(b) **Braille tags.**

(1) In all publicly owned buildings containing passenger elevators, braille tags shall be affixed on or immediately adjacent to all elevator pushbuttons, levers, or switches in order that blind persons may operate the elevators properly without assistance from sighted persons.

(2) "Publicly owned buildings" includes those buildings which are owned or operated by a municipal, county, or state government.

(3) This requirement does not apply to elevator pushbuttons located outside the elevator car and used to call the elevator for travel up or down.

20 CAR § 881-119. Other appeals.

As provided in Arkansas Code § 20-24-119:

(1) Any person aggrieved by an order or act of the Department of Labor and Licensing or its authorized representative under this part may, within fifteen (15) days after notice thereof, appeal from the order or act to the Elevator Safety Board which shall, within thirty (30) days thereafter, hold a hearing of which at least fifteen (15) days written notice shall be given to all interested parties;

(2) The board shall, within thirty (30) days after the hearing, issue an appropriate order modifying, approving, or disapproving the order or act;

(3) A copy of the order by the board shall be served upon all interested parties;

(4) Within thirty (30) days after any order or act of the board, any person aggrieved thereby may file a petition in the chancery court of the county in which the aggrieved person resides, for a review thereof; and

(5) The court shall summarily hear the petition and may make appropriate order or decree.

State of Arkansas *As Engrossed: S3/17/25 S3/20/25 S4/1/25*
95th General Assembly **A Bill**
Regular Session, 2025 SENATE BILL 439

By: Senator Irvin
By: Representative L. Johnson

For An Act To Be Entitled

AN ACT TO AMEND THE DUTIES OF THE SECRETARY OF THE *DEPARTMENT OF LABOR AND LICENSING; TO AMEND PORTIONS OF ARKANSAS CODE WHICH RESULTED FROM INITIATED ACT 1 OF 1914; AND FOR OTHER PURPOSES.*

Subtitle

TO AMEND THE DUTIES OF THE SECRETARY OF THE DEPARTMENT OF LABOR AND LICENSING; AND TO AMEND PORTIONS OF ARKANSAS CODE WHICH RESULTED FROM INITIATED ACT 1 OF 1914.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 8-7-1004(1), concerning the duties of public employees under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

(1) Post adequate notice, as provided by the ~~Director of the Division of Labor~~ Department of Labor and Licensing, at locations where notices are normally posted, informing public employees about their rights under this subchapter;

SECTION 2. Arkansas Code § 8-7-1006(e), concerning material safety data sheets under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

(e) A public employer, chemical manufacturer, or distributor shall provide a copy of a material safety data sheet to the ~~Director of the~~

~~Division of Labor~~ Department of Labor and Licensing upon request.

SECTION 3. Arkansas Code § 8-7-1007(b), concerning workplace chemical lists under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

(b) Each public employer shall update the workplace chemical list with the ~~Director of the Division of Labor~~ Department of Labor and Licensing as necessary, but in any case by July 1 of each year.

SECTION 4. Arkansas Code § 8-7-1008(b)(1), concerning employee information and training under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

(b)(1) The information and training program provided pursuant to this section shall be developed in accordance with rules to be promulgated by the ~~Director of the Division of Labor~~ Department of Labor and Licensing pursuant to § 8-7-1011.

SECTION 5. Arkansas Code § 8-7-1008(e) and (f), concerning employee information and training under the Public Employees' Chemical Right to Know Act, are amended to read as follows:

(e) The information and training program required under this section may be conducted with the assistance of the ~~director~~ department pursuant to § 8-7-1009.

(f) The ~~director~~ department shall have authority to promulgate rules in accordance with § 8-7-1011:

(1) To exempt public employers from providing the information and training otherwise required by this section to public employees with special skills and knowledge concerning hazardous chemicals, if such special skills and knowledge would make the information and training unnecessary; and

(2) To require public employers to provide refresher training for public employees in workplaces or in circumstances in which the ~~director~~ department reasonably determines such refresher training to be necessary and appropriate.

SECTION 6. Arkansas Code § 8-7-1009 is amended to read as follows:

8-7-1009. Outreach activities ~~of the director~~.

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall develop and give each public employer a suitable form of notice providing public employees with information regarding their rights under this subchapter.

(b) The ~~director~~ secretary or his or her designee shall develop and maintain a general information and training assistance program to aid public employers. The general information and training assistance program shall be made available to all public employers. As part of the general information and training assistance program, the ~~director~~ secretary or his or her designee may develop and distribute a supply of informational leaflets on public employers' duties, public employees' rights, and the effects of hazardous chemicals.

(c) The ~~director~~ secretary or his or her designee may contract with state universities or other public or private organizations to develop and implement the outreach program.

SECTION 7. Arkansas Code § 8-7-1010(b), concerning rights of public employees under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

(b) No public employer shall discharge or cause to be discharged or otherwise discipline or discriminate against a public employee because the public employee has requested information, filed a complaint, assisted an inspector of the ~~Director of the Division of Labor~~ Department of Labor and Licensing, or instituted or caused to be instituted any complaint or proceeding under or related to this subchapter or has testified or is about to testify in any such proceeding or has exercised any rights afforded by this subchapter on behalf of the public employee or other public employees, nor shall any pay, position, seniority, or other benefits to which the public employee may be entitled be lost because the public employee exercised rights afforded by this subchapter.

SECTION 8. Arkansas Code § 8-7-1011 is amended to read as follows:

8-7-1011. Rulemaking.

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may promulgate rules in accordance with the provisions of §§ 11-2-110, 11-2-112, and 11-2-113 to

implement the provisions of this subchapter. This authority shall include, but not be limited to, the authority to implement changes corresponding to future amendments to the Hazard Communication Standard to maintain consistency between this subchapter and the Hazard Communication Standard.

(b) The ~~director~~ secretary or his or her designee shall promulgate rules requiring public employers to carry out information and training programs for their public employees and specifying the minimum content of education and training programs as provided in § 8-7-1008.

SECTION 9. Arkansas Code § 8-7-1012(a)(4), concerning trade secrets under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

(4) The specific chemical identity is made available to health professionals, employees, and their designated representatives under the same conditions as are set out in the Hazard Communication Standard, 29 C.F.R. § 1910.1200(i)(2)-(7), provided, the information disclosable to the United States Occupational Safety and Health Administration under the Hazard Communication Standard shall also be disclosable to the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

SECTION 10. Arkansas Code § 8-7-1012(b), concerning trade secrets under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

(b) The ~~director~~ secretary or his or her designee, upon his or her initiative or upon request by a public employee, designated representative, or public employer, shall request any or all of the data substantiating the trade secret claim to determine whether the claim is valid. The ~~director~~ secretary or his or her designee shall protect from disclosure all information coming into his or her possession that is marked as confidential and shall return all information so marked at the conclusion of his or her determination.

SECTION 11. Arkansas Code § 8-7-1013 is amended to read as follows:

8-7-1013. Complaints and investigations.

(a) Complaints received orally or in writing from public employees,

their designated representatives, or public employers related to alleged violations of this subchapter shall be investigated in a timely manner by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(b) Officers or duly designated representatives of the ~~director~~ secretary shall have the right of entry into any workplace or work area of a public employer during normal business hours to inspect and investigate complaints within reasonable limits and in a reasonable manner.

(c) The ~~director~~ secretary or his or her designee shall have the same powers, duties, and authority to administer and enforce the provisions of this subchapter as are contained in §§ 11-2-108, 11-2-115, 11-2-116, and 11-2-118. Provided, however, that if there is a conflict between the provisions of this subchapter and the provisions of §§ 11-2-108, 11-2-115, 11-2-116, and 11-2-118, the provisions of this subchapter shall prevail.

SECTION 12. Arkansas Code § 8-7-1014 is amended to read as follows:

8-7-1014. Enforcement.

(a) If the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee determines that a public employer has violated a provision of this subchapter, the ~~director~~ secretary or his or her designee shall issue an order to the official responsible for performing the duties required by this subchapter directing that official to cease and desist the act or omission constituting the violation. Such an order shall constitute prima facie evidence of a violation in any enforcement action filed pursuant to § 8-7-1015.

(b) If the ~~director~~ secretary or his or her designee determines that a public employer has violated § 8-7-1008 relating to public employee information and training and within sixty (60) days of issuance of a cease and desist order the public employer has not remedied the violation, the ~~director~~ secretary or his or her designee may conduct a program or programs to remedy the violation and require such public employer to reimburse the ~~director~~ secretary or his or her designee for the cost of doing so.

(c) Violation of this subchapter by a public employer shall be cause for adverse personnel action against the supervisor or supervisors responsible for the violation, including, but not limited to, suspension, demotion, withholding of annual career service recognition payments, or, in

the case of serious and repeated violations, termination. Issuance of a cease and desist order by the ~~director~~ secretary or his or her designee shall not be a prerequisite for such adverse personnel action, but such action shall only be taken in accordance with the civil service laws and rules.

SECTION 13. Arkansas Code § 8-7-1015(a), concerning a cause of action under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

(a) Any citizen denied the rights granted to him or her by this subchapter may commence a civil action against a public employer or responsible official of a public employer in the Pulaski County Circuit Court or the circuit court of the residence of the aggrieved party, if an agency of the state is involved, or any of the circuit courts of the appropriate judicial districts when any other public employer is involved. Issuance of a cease and desist order by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall not be a prerequisite to the commencement of such an action.

SECTION 14. Arkansas Code § 11-2-104(a), concerning penalties related to the Division of Labor, is amended to read as follows:

(a) Any employer or owner who violates or fails or refuses to comply with any provision of this subchapter, any lawful order of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, or any judgment or decree made by any court in connection with the provisions of this subchapter for which no penalty has been otherwise provided shall be guilty of a ~~misdemeanor~~ violation.

SECTION 15. Arkansas Code § 11-2-105(a), concerning enforcement related to the Division of Labor, is amended to read as follows:

(a)(1) It shall be the duty of the Attorney General and the several prosecuting attorneys, upon request of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, or any of his or her authorized representatives, to prosecute any violation of the law that is the duty of the ~~director~~ secretary or his or her designee to enforce.

(2) The ~~director~~ secretary or his or her designee may, upon his

or her own motion, bring all necessary suits and institute such prosecutions as may be necessary to properly enforce this subchapter, and he or she shall not be required to give bond for cost or make appeal bonds.

SECTION 16. Arkansas Code § 11-2-107 is repealed.

~~11-2-107. Appointment of director.~~

~~(a) The Governor shall appoint the Director of the Division of Labor, subject to confirmation by the Senate.~~

~~(b)(1) The director shall serve at the pleasure of the Governor.~~

~~(2) The director shall report to the Secretary of the Department of Labor and Licensing.~~

~~(3) The director shall be a person who, on account of his or her previous vocation, employment, or affiliation can be classed as a representative of employees.~~

~~(c) The director shall give a bond in the sum of two thousand dollars ($2,000) with sureties to be approved by the Secretary of the Department of Labor and Licensing, conditioned for the faithful discharge of the duties of his or her office.~~

~~(d) The director shall also take the oath of office prescribed by the Arkansas Constitution.~~

~~(e) The director shall provide himself or herself with a suitable seal, which shall be judicially noticed.~~

SECTION 17. Arkansas Code § 11-2-108 is amended to read as follows:

11-2-108. ~~Director —~~ Powers and duties generally.

In addition to such other duties and powers as may be conferred upon him or her by law, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall have the power, jurisdiction, and authority:

(1) To enforce all labor laws in the State of Arkansas, the enforcement of which is not otherwise specifically provided for;

(2) To administer and enforce all laws, rules, and regulations that are the duty of the ~~Division of Labor~~ Department of Labor and Licensing to administer and enforce;

(3) To direct, except as otherwise provided, make, or cause to be made all necessary inspections to see that all laws and rules made

pursuant thereto that the division has the duty, power, and authority to enforce are promptly and effectively carried out; and

(4) To make investigations, collect and compile statistical information, and report upon conditions of labor generally and upon all matters relating to the enforcement and effect of the provisions of this subchapter and of the rules issued under this subchapter.

SECTION 18. Arkansas Code § 11-2-109 is amended to read as follows:

11-2-109. ~~Director —~~ Intervention in and arbitration of labor disputes.

(a) In addition to such other duties and powers as may be conferred upon him or her by law, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall have the power, jurisdiction, and authority:

(1)(A) To intervene or authorize his or her representative to intervene in any labor dispute in a strictly conciliatory or mediatory capacity whenever he or she is extended a written invitation to do so by either party to the controversy.

(B) However, the Division of Labor may proffer its services to both parties when a work stoppage is threatened and neither party requests intervention;

(2) To do all in his or her power to promote the voluntary arbitration of disputes between employers and employees and to avoid the necessity of resorting to lockouts, boycotts, blacklists, discriminations, and legal proceedings in matters of employment.

(b)(1) In pursuance of his or her duty, whenever both sides to any controversy agree to voluntary arbitration, the ~~director~~ secretary or his or her designee may appoint temporary boards of arbitration, prescribe rules of procedure for the arbitration boards, conduct investigations and hearings, publish reports and advertisements, and do all things convenient and necessary to accomplish the purposes of this subchapter.

(2) Members of the boards of arbitration may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c)(1) The Secretary of the Department of Labor and Licensing may designate an employee of the division to act as chief mediator and may detail other employees or persons not in the division from time to time to act as

his or her assistants for the purpose of executing these provisions.

(2) Employees of the division shall serve on temporary boards without extra compensation.

SECTION 19. Arkansas Code § 11-2-110 is amended to read as follows:

11-2-110. ~~Director —~~ Rulemaking authority.

(a) In addition to such other powers and duties as may be conferred upon him or her by law, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall have the power to make, modify, and repeal reasonable rules for the prevention of accidents or industrial or occupational diseases in every employment or place of employment and to make, modify, and repeal reasonable rules for the construction, repair, and maintenance of places of employment, places of public assembly, and public buildings which shall render them safe.

(b) The ~~director~~ secretary or his or her designee shall have the power to make, modify, or repeal such rules, or changes in rules, as he or she may deem necessary to carry out the provisions of this subchapter.

(c) The ~~director~~ secretary or his or her designee may appoint committees composed of employers, employees, and experts to suggest rules or changes therein.

(d) The rules of the ~~director~~ secretary or his or her designee shall have the force and effect of law and shall be enforced by the ~~director~~ secretary or his or her designee in the same manner as the provisions of this subchapter.

SECTION 20. Arkansas Code § 11-2-112 is amended to read as follows:

11-2-112. Promulgation of rules.

(a) Before any rule is adopted, amended, or repealed, there shall be a public hearing thereon, notice of which shall be published at least once and not less than ten (10) days prior to the public hearing in such newspaper as the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may prescribe.

(b)(1) All rules and all amendments and repeals thereof shall, unless otherwise prescribed by the ~~director~~ secretary or his or her designee, take effect thirty (30) days after the first publication thereof, and certified copies shall be filed in the office of the Secretary of State.

(2) Every rule adopted and every amendment or repeal shall be published in such manner as the ~~director~~ secretary or his or her designee may determine, and the ~~director~~ secretary or his or her designee shall deliver a copy to every person making application therefor. The ~~director~~ secretary or his or her designee shall include the text of each rule or amendment in an appendix to the annual report of the Division of Labor next following the adoption or amendment of the rule.

SECTION 21. Arkansas Code § 11-2-113 is amended to read as follows:

11-2-113. Variation of rule due to difficulties or hardship.

(a) If there shall be practical difficulties or unnecessary hardships in carrying out a rule of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, the ~~director~~ secretary or his or her designee may, after public hearing, make a variation from such requirement if the spirit of the rule and law shall be observed.

(b) Any person affected by the rule, or his or her agent, may petition the ~~director~~ secretary or his or her designee for a variation, stating the grounds therefor.

(c) The ~~director~~ secretary or his or her designee shall fix a day for a hearing on the petition and give reasonable notice to the petitioner.

(d) A properly indexed record of all variations made shall be kept in the office of the Division of Labor and open to public inspection.

SECTION 22. Arkansas Code § 11-2-114 is amended to read as follows:

11-2-114. Judicial review of rules.

(a)(1) Any person aggrieved by a rule of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee made pursuant to § 11-2-112 may commence an action in the Pulaski County Circuit Court against the Division of Labor, as defendant, to set aside the rule on the ground that it is unlawful or unreasonable.

(2) The action and the pleadings shall be governed by the laws and rules of practice applicable to other civil actions in the court.

(3) Any action brought under this section shall be commenced within thirty (30) days from the effective date of the rule.

(b)(1) All rules of the ~~director~~ secretary or his or her designee shall be prima facie lawful and reasonable and shall not be held invalid

because of any technical defect, provided there is substantial compliance with the provisions of this subchapter.

(2) All rules shall be conclusively presumed to be lawful and reasonable if the action is not commenced within thirty (30) days from the date of the rule as provided in this section.

SECTION 23. Arkansas Code § 11-2-115 is amended to read as follows:

11-2-115. Employer records — Inspection.

(a)(1) Every employer or owner shall furnish to the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee any information that the ~~director~~ secretary or his or her designee is authorized to require and shall make true and specific answers to all questions, whether submitted orally or in writing, authorized to be put to the employer or owner.

(2)(A) Every employer shall keep a true and accurate record of the name, address, and occupation of each person employed by the employer, of the daily and weekly hours worked by each person, and of the wages paid each pay period to each person.

(B) The records shall be kept on file for at least one (1) year after the date of the record.

(C) No employer shall make or cause to be made any false entries in any record.

(b) The ~~director~~ secretary and any authorized representative of the Division of Labor shall, for the purpose of examination, have access to and the right to copy from any book, account, record, payroll, paper, or documents relating to the employment of workers.

SECTION 24. Arkansas Code § 11-2-116 is amended to read as follows:

11-2-116. Entry and inspection of workplace, etc.

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing and his or her authorized representatives shall have the power and authority to enter any place of employment, place of public assembly, or public building for the purpose of collecting facts and statistics relating to the employment of workers and of making inspections for the proper enforcement of all labor laws of the state.

(b) No employer or owner shall refuse to admit the ~~director~~ secretary

or his or her authorized representatives to his or her place of employment, public building, or place of public assembly.

SECTION 25. Arkansas Code § 11-2-117(c), concerning safe places of employment under the Division of Labor, is amended to read as follows:

(c)(1) If the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her authorized representative finds that any machine, tool, or equipment, or any part thereof, is in a dangerous condition, is not properly guarded, or is dangerously placed, he or she shall attach to the machine, tool, or equipment a notice warning all persons against its use and setting out in complete detail the conditions that render the machine, tool, or equipment unfit for service.

(2) The machine, tool, or equipment shall not be used until it is made safe, the required safeguards or safety appliances or devices as set forth in the certificate attached thereto have been fully corrected, and notice of the correction is sent to the Division of Labor by registered mail, accompanied by a certificate from a competent mechanic certifying correction of the defects.

SECTION 26. Arkansas Code § 11-2-118 is amended to read as follows:

11-2-118. Oaths, certifications, subpoenas, etc. — Enforcement by contempt.

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing and any officer of the ~~Division of Labor~~ Department of Labor and Licensing designated by the ~~director~~ secretary, in the performance of any duty or the execution of any power prescribed by law, shall have the power to administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents, records, and testimony.

(b) In case of failure of any person to comply with any subpoena lawfully issued or on the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or the judge thereof, upon application of the ~~director~~ secretary or any officer or agent of the ~~division~~ department, to compel obedience by attachment proceedings for

contempt, as in the case of disobedience of the requirements of a subpoena issued for the court or a refusal to testify therein.

SECTION 27. Arkansas Code § 11-2-119 is amended to read as follows:

11-2-119. False statements made under oath deemed perjury.

Any employer or owner who shall knowingly testify falsely, under oath, or shall knowingly make, give, or produce any false statements or false evidence, under oath, to the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her authorized representatives shall be deemed guilty of perjury.

SECTION 28. Arkansas Code § 11-2-120 is repealed.

~~11-2-120. Annual report.~~

~~(a) The Director of the Division of Labor shall annually, on or before January 1, file with the Secretary of the Department of Labor and Licensing a report covering the activities of the Division of Labor, accompanied by recommendations with reference to such changes in the law, applying to and affecting industrial and labor conditions, as the director may deem advisable.~~

~~(b) The report of the director shall be printed and distributed in such manner as the secretary shall authorize.~~

SECTION 29. Arkansas Code § 11-2-121(a), concerning agreements with government agencies and the Division of Labor, is amended to read as follows:

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee is authorized to enter into agreements with the United States Government and any and all other state governments for assistance and cooperation in enforcing and implementing state and federal laws and projects in fields related to the ~~Division of Labor~~ Department of Labor and Licensing.

SECTION 30. Arkansas Code § 11-2-122(b) concerning required disclosures by an employer of the benefits available to their employees, is amended to read as follows:

(b) The notification shall be made at such time and in such manner as prescribed by rules promulgated by the ~~Director of the Division of Labor~~

Secretary of the Department of Labor and Licensing or his or her designee.

SECTION 31. Arkansas Code § 11-2-204(a), concerning records and confidential information under the Arkansas Mediation and Conciliation Service Nondisclosure Act, is amended to read as follows:

(a) All files, reports, letters, memoranda, minutes, documents, or other papers in the official custody of the Arkansas Mediation and Conciliation Service or any of its employees, or any other information, whether written or not, obtained in the course of any employee's official duties, relating to or acquired in its or their official activities under the labor laws of the state or the rules lawfully promulgated by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, are confidential.

SECTION 32. Arkansas Code § 11-2-205(b)(2), concerning compliance with subpoenas under the Arkansas Mediation and Conciliation Service Nondisclosure Act, is amended to read as follows:

(b)(2) Immediately upon receipt of the subpoena, the mediator or former mediator or employee should contact the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, who shall immediately notify the staff attorneys of the Department of Labor and Licensing ~~of the state~~ to ensure that the procedures set forth in this subchapter will be followed. The ~~director~~ secretary or his or her designee then shall instruct the staff attorneys to appear in behalf of the mediator and protect the ~~service~~ Arkansas Mediation and Conciliation Service from any disclosure that violates the provisions contained in this subchapter.

SECTION 33. Arkansas Code § 11-2-206(a)(1), concerning judicial review under the Arkansas Mediation and Conciliation Service Nondisclosure Act, is amended to read as follows:

(a)(1) The mediator or the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing on his or her behalf or the Attorney General on his or her behalf may obtain a review of the order requiring him or her to testify.

SECTION 34. Arkansas Code § 11-3-203(c), concerning the prohibition on requirements for a medical examination as a condition by any employer, is amended to read as follows:

(c) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall administer and enforce this section, including without limitation, by:

(1) Adopting administrative rules; and

(2) Demanding payment and seeking recovery in a court of competent jurisdiction for charges, fees, wage deductions, or other payments made by employees as a result of an employer's violation of this section.

SECTION 35. Arkansas Code § 11-4-203(9), concerning the definition of "wage" in the minimum wage law, is amended to read as follows:

(9) "Wage" means compensation due to an employee by reason of his or her employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by this subchapter or by rules of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee under this subchapter.

SECTION 36. Arkansas Code § 11-4-206 is amended to read as follows:

11-4-206. Penalties.

(a)(1) Any employer who willfully hinders or delays the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her authorized representative in the performance of his or her duties in the enforcement of this subchapter, willfully refuses to admit the ~~director~~ secretary or his or her authorized representative to any place of employment, willfully fails to make, keep, and preserve any records as required under the provisions of this subchapter, willfully falsifies any such record, willfully refuses to make the record accessible to the ~~director~~ secretary or his or her authorized representative upon demand, willfully refuses to furnish a sworn statement of the record or any other information required for the proper enforcement of this subchapter to the ~~director~~ secretary or his or her authorized representative upon demand, willfully fails to post a summary of this subchapter or a copy of any applicable rules as required by § 11-4-216, pays or agrees to pay minimum wages at a rate less

than the rate applicable under this subchapter, or otherwise willfully violates any provision of this subchapter or of any rule issued under this subchapter shall be deemed in violation of this subchapter and shall be subject to a civil penalty of not less than fifty dollars ($50.00) and not more than one thousand dollars ($1,000) for each violation.

(2) For the purposes of this subsection, each violation shall constitute a separate offense.

(b) Any employer who willfully discharges or in any other manner willfully discriminates against any employee because the employee has made any complaint to his or her employer or to the ~~director~~ secretary or his or her authorized representative that he or she has not been paid minimum wages in accordance with the provisions of this subchapter or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this subchapter or because the employee has testified or is about to testify in any such proceeding shall be deemed in violation of this subchapter and shall be subject to a civil penalty of not less than fifty dollars ($50.00) and not more than one thousand dollars ($1,000) for each violation.

(c) For the purposes of this section, each day that the violation continues shall constitute a separate offense.

(d) The ~~director~~ secretary or his or her designee shall determine the amount of the penalty and shall consider the appropriateness of the penalty to the size of the business and the gravity of the violation.

(e) The determination by the ~~director~~ secretary or his or her designee shall be final unless within fifteen (15) days after receipt of notice thereof by certified mail the person, firm, corporation, partnership, or association charged with the violation notifies the ~~director~~ secretary or his or her designee in writing that he or she contests the proposed penalty. In the event that a penalty is contested, a final determination shall be made pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(f) Upon a final administrative determination, the amount of the penalty may be recovered in a civil action brought by the ~~director~~ secretary or his or her designee in a court of competent jurisdiction without paying costs or giving bond for costs.

(g) Sums collected under this section shall be paid into the Department of Labor and Licensing Special Fund.

(h) Assessment of a civil penalty by the ~~director~~ secretary or his or her designee shall be made no later than three (3) years after the date of the occurrence of the violation.

(i) In addition to the civil penalty provided by this section, the ~~director~~ secretary or his or her designee is authorized to petition any court of competent jurisdiction, without paying costs or giving bond for costs, to enjoin or restrain any person, firm, corporation, partnership, or association who violates the provisions of this subchapter or any rule issued thereunder.

SECTION 37. Arkansas Code § 11-4-209 is amended to read as follows:

11-4-209. ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing — Powers and duties.

(a) For any occupation, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing shall make and revise such administrative rules, including definitions of terms, as he or she may deem appropriate to carry out the purposes of this subchapter or necessary to prevent the circumvention or evasion thereof and to safeguard the minimum wage rates established.

(b) The rules may include, but are not limited to, rules governing:

(1) Outside or commission salespersons;

(2) Learners and apprentices, their number, proportion, and length of service;

(3) Part-time pay, bonuses, and fringe benefits;

(4) Special pay for special or extra work;

(5) Permitted charges to employees or allowances for board, lodging, apparel, or other facilities or services customarily furnished by employers to employees;

(6) Allowances for gratuities; and

(7) Allowances for other special conditions or circumstances which may be usual in a particular employer-employee relationship.

(c) Rules shall be promulgated pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) The ~~director~~ secretary or his or her authorized representatives shall:

(1) Have authority to enter and inspect the place of business or employment of any employer in the state for the purpose of:

(A) Examining and inspecting any or all books, registers, payrolls, and other records of any employer that in any way relate to or have a bearing upon the question of wages, hours, and other conditions of employment of any employees;

(B) Copying any or all of the books, registers, payrolls, and other records as he or she may deem necessary or appropriate; and

(C) Questioning employees for the purpose of ascertaining whether the provisions of this subchapter and rules issued under this subchapter have been and are being complied with;

(2) Have authority to require from the employer full and correct statements in writing, including sworn statements, with respect to wages, hours, names, addresses, and such information pertaining to his or her employees as the ~~director~~ secretary or his or her authorized representative may deem necessary or appropriate;

(3) Publish all rules promulgated pursuant to this subchapter; and

(4) Otherwise implement and enforce the provisions of this subchapter and the rules issued under this subchapter.

SECTION 38. Arkansas Code § 11-4-211(g), concerning overtime under the minimum wage law, is amended to read as follows:

(g) By rule, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may authorize employment in excess of the standard set by subsection (a) of this section or may authorize the calculation of overtime on a basis other than the regular rate of pay required by subsection (a) of this section for employment:

(1) Necessitating irregular hours of work;

(2) At a piece rate;

(3) Paying on a commission basis in a retail or service establishment;

(4) In a hospital or enterprise engaged in the care of the sick, the aged, or individuals with mental illness;

(5) By an independently-owned-and-controlled local enterprise engaged in the wholesale or bulk distribution of petroleum products; and

(6) Under a collective bargaining agreement.

SECTION 39. Arkansas Code § 11-4-212(b), concerning allowance for gratuities under the minimum wage law, is amended to read as follows:

(b) In determining whether an employee received in gratuities the amount claimed, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may require the employee to show to the satisfaction of the ~~director~~ secretary or his or her designee that the actual amount of gratuities received by him or her during any work week was less than the amount determined by the employer as the amount by which the wage paid the employee was deemed to be increased under this section.

SECTION 40. Arkansas Code § 11-4-214 is amended to read as follows:

11-4-214. Temporary special exemptions — Definition.

(a) Any individual affected by lack of skill, age, or disability in a way that his or her earning capacity is impaired shall be granted a temporary special exemption license or permit authorizing the employment of the individual at wages lower than the minimum prescribed in this subchapter until such time as the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall hold a hearing and prescribe rules regarding exemption of these individuals as authorized in this section.

(b)(1) The ~~director~~ secretary or his or her designee may provide by rule, after notice and public hearing at which any person may be heard, for the employment in any occupation of individuals whose earning capacity is impaired by age or disability at wages lower than the minimum wage rate provided in § 11-4-210 as he or she may find appropriate to prevent curtailment of opportunities for employment, to avoid undue hardship, and to safeguard the minimum wage rate under this subchapter.

(2) In addition, the ~~director~~ secretary or his or her designee, by rule or special order, may provide for the employment of individuals whose earning capacity is impaired by age or disability in work activities centers under special certificates at wages that are less than the minimum prescribed in § 11-4-210 that the ~~director~~ secretary or his or her designee determines constitutes equitable compensation for the clients in work activities centers.

(c) For the purposes of this section, the term “work activities

centers" shall mean centers planned and designed exclusively to provide therapeutic activities for clients with disabilities whose physical and mental impairment is so severe as to make their productivity capacities inconsequential.

SECTION 41. Arkansas Code § 11-4-215 is amended to read as follows:

11-4-215. Learners, apprentices, and full-time students.

(a) For any occupation, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may provide, by rule, after a public hearing at which any person may be heard, for the employment in the occupation of learners, apprentices, and full-time students at wages lower than the minimum wage rate provided in § 11-4-210(b) as he or she may find appropriate to prevent curtailment of opportunities for employment and to safeguard the minimum wage rate under this subchapter.

(b) No employee shall be employed at wages fixed pursuant to this section, except under special license issued under applicable rules of the ~~director~~ secretary or his or her designee.

SECTION 42. Arkansas Code § 11-4-216 is amended to read as follows:

11-4-216. Posting of law.

(a) Every employer subject to any provisions of this subchapter or of any rules issued under this subchapter shall keep a summary of this subchapter, approved by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, and copies of any applicable rules issued under this subchapter, or a summary of the rules approved by the ~~director~~ secretary or his or her designee, posted in a conspicuous and accessible place in or about the premises wherein any person subject thereto is employed.

(b) Employers shall be furnished copies of the summaries of this statute and rules by the ~~director~~ secretary or his or her designee on request without charge.

SECTION 43. Arkansas Code § 11-4-217 is amended to read as follows:

11-4-217. Records kept by employer.

(a) Every employer subject to any provision of this subchapter or of any rule issued under this subchapter shall make and keep for a period of not

less than three (3) years in or about the premises wherein any employee is employed a record of the name, address, and occupation of each of his or her employees, the rate of pay, the amount paid each pay period to each employee, and such other information as the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall prescribe by rule as necessary or appropriate for the enforcement of the provisions of this subchapter or of the rules under this subchapter.

(b) The records shall be open for inspection or transcription by the ~~director~~ secretary or his or her authorized representative at any reasonable time.

(c) Every employer shall furnish to the ~~director~~ secretary or to his or her authorized representative on demand a sworn statement of the records and information upon forms prescribed or approved by the ~~director~~ secretary.

SECTION 44. Arkansas Code § 11-4-218(d), concerning the recovery of wages under the minimum wage law, is amended to read as follows:

(d)(1) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall have the authority to fully enforce this subchapter by instituting legal action to recover any wages that he or she determines to be due to employees under this subchapter.

(2) No legal action shall be brought by the ~~director~~ secretary or his or her designee until after notice and opportunity for hearing pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and entry of a final administrative order.

(3)(A) Following any appeals taken pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the ~~director~~ secretary or his or her designee shall be entitled to enforce his or her final administrative order in any court of competent jurisdiction without paying costs or giving bond for costs.

(B) The ~~director's~~ secretary's or his or her designee's findings of fact shall be conclusive in any such proceeding.

SECTION 45. Arkansas Code § 11-4-218(e)(2), concerning employee complaints under the minimum wage law, is amended to read as follows:

(e)(2) If the employee brings an action under this subsection, then

any complaint before the ~~director~~ secretary or his or her designee by the employee on the same matter shall be dismissed with respect to that employee.

SECTION 46. Arkansas Code § 11-4-219 is amended to read as follows:

11-4-219. Judicial review.

(a) Any interested person in any occupation for which any administrative rule has been issued under the provisions of this subchapter who may be aggrieved by any rule may obtain a review thereof in the circuit court of the county of the residence of the aggrieved party by filing in the court within twenty (20) days after the date of publication of the rule a written petition praying that the rule be modified or set aside.

(b) A copy of the petition shall be served upon the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing.

(c)(1) The court shall review the record of the proceedings before the ~~director~~ secretary, and the ~~director's~~ secretary's findings of fact shall be affirmed if supported by substantial evidence. The court shall determine whether the rule is in accordance with law.

(2) If the court determines that the rule is not in accordance with law, it shall remand the case to the ~~director~~ secretary with directions to modify or revoke the rule.

(d)(1) If application is made to the court for leave to adduce additional evidence by any aggrieved party, the party shall show to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence before the ~~director~~ secretary.

(2) If the court finds that the evidence is material and that reasonable grounds exist for failure of the aggrieved party to adduce the evidence in prior proceedings, the court shall remand the case to the ~~director~~ secretary with directions that the additional evidence be taken before the ~~director~~ secretary.

(3) The ~~director~~ secretary may modify his or her findings and conclusions, in whole or in part, by reason of the additional evidence.

(e) Hearings in the circuit court on all appeals taken under the provisions of this subchapter shall take precedence over all matters except matters of the same character. The jurisdiction of the court shall be exclusive, and its judgment and decree shall be final, except that it shall

be subject to review by the Supreme Court.

(f)(1) The commencement of proceedings under subsections (a)-(d) of this section, unless specifically ordered by the court, shall not operate as a stay of an administrative rule issued under the provisions of this subchapter.

(2) The court shall not grant any stay of an administrative rule unless the person complaining of the rule shall file an amount in the court, undertaking with a surety satisfactory to the court, for payment to the employees affected by the rule in the event that the rule is affirmed. The surety shall be in an amount by which the compensation the employees are entitled to receive under the rule exceeds the compensation they actually receive while the stay is in effect.

SECTION 47. Arkansas Code § 11-4-220 is amended to read as follows:

11-4-220. Person entitled to file a claim.

(a) Any employee covered by this subchapter may file a claim with the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee charging that an employer has violated § 11-4-210 or § 11-4-211 as to any employee or other person.

(b) The ~~director~~ secretary or his or her designee shall promptly investigate each claim.

(c) The name of any employee identified in a claim shall be kept confidential until the ~~director~~ secretary or his or her designee issues an administrative complaint or the ~~director~~ secretary or his or her designee is ordered to release the information by order of a court of competent jurisdiction.

SECTION 48. Arkansas Code § 11-4-303 is amended to read as follows:

11-4-303. ~~Director of the Division of Labor~~ Authority to conduct hearing.

(a) Upon application of either employer or employee, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or any person authorized by the ~~director~~ secretary shall have authority to inquire into, hear, and decide disputes arising from wages earned and shall allow or reject any deduction from wages.

(b) Upon motion of either employer or employee, the amount found to be

due may be paid in the presence of the ~~director~~ secretary or person designated by him or her, and after final hearing by the ~~director~~ secretary or person appointed by him or her, he or she shall file in the office of the Division of Labor a copy of findings and facts and his or her award.

(c) The amount of the award of the ~~director~~ secretary or his or her designee shall be presumed to be the amount of wages, if any, due and unpaid to the employee.

SECTION 49. Arkansas Code § 11-4-304 is amended to read as follows:

11-4-304. Judicial review.

(a) If either employer or employee shall fail or refuse to accept the findings of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, then either shall have the right to proceed at law as provided.

(b) If the claim is meritorious, and if within the discretion of the ~~director~~ secretary or his or her designee the claimant's lack of financial ability entitles him or her to the services of the Division of Labor, the ~~director~~ secretary or his or her designee in the name of the State of Arkansas, for the benefit of the claimant, may institute action in any court of competent jurisdiction, without paying costs or giving bond for costs, and shall be entitled to all remedies available to litigants in the prosecution of actions and their enforcement, if successful.

(c) Nothing in this section shall be construed so as to relieve an unsuccessful defendant from paying costs.

SECTION 50. Arkansas Code § 11-4-306 is amended to read as follows:

11-4-306. Fees prohibited.

The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or any person designated by him or her shall not charge or be permitted to accept any fees or remuneration whatsoever from any person for the performance of any duties under this subchapter.

SECTION 51. Arkansas Code § 11-4-608 is amended to read as follows:

11-4-608. Penalties for violation of this section, §§ 11-4-607, and 11-4-609 — 11-4-612.

Any employer who violates any provision of this section, §§ 11-4-607,

and 11-4-609 — 11-4-612, or who discharges or in any other manner discriminates against any employee because the employee has made a complaint to his or her employer, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing, or any other person, has instituted or caused to be instituted any proceedings under or related to this section, §§ 11-4-607, and 11-4-609 — 11-4-612, or has testified or is about to testify in any such proceeding shall be fined not more than five hundred dollars ($500) nor imprisoned more than one (1) year, or both.

SECTION 52. Arkansas Code § 11-4-609 is amended to read as follows:

11-4-609. Administration of this section, §§ 11-4-607 and 11-4-608, and 11-4-610 — 11-4-612.

The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall have the power and it shall be his or her duty to carry out and administer the provisions of this section, §§ 11-4-607, 11-4-608, and 11-4-610 — 11-4-612.

SECTION 53. Arkansas Code § 11-4-611(b)(4), concerning actions to collect unpaid wages under the laws concerning wage discrimination, is amended to read as follows:

(b)(4) At the request of any employee paid less than the wage to which he or she is entitled under this section, §§ 11-4-607 — 11-4-610, and 11-4-612, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may take an assignment of the wage claim in trust for the employee and shall bring any legal action necessary to collect the claim. The ~~director~~ secretary or his or her designee shall not be required to pay any court costs in connection with the action.

SECTION 54. Arkansas Code § 11-5-101(c), concerning suitable temperature, humidity, and air space required under the laws concerning working conditions, is amended to read as follows:

(c) In every room, apartment, or building used as a factory, mill, workshop, mercantile establishment, laundry, or other place of employment, sufficient air space shall be provided for every employee which in the judgment of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or of his or her deputies and inspectors is sufficient

for the employees' health and welfare.

SECTION 55. Arkansas Code § 11-5-107(a), concerning inspections of a working place under the laws concerning working conditions, is amended to read as follows:

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or any of his or her deputies or inspectors shall have the right to enter any factory, mill, workshop, mercantile establishment, laundry, or other establishment where three (3) or more persons are employed for the purpose of making inspections and enforcing the provisions of this section, §§ 11-5-101 — 11-5-106, and 11-5-108 — 11-5-111.

SECTION 56. Arkansas Code § 11-5-108(a), concerning the issuance of an order to correct conditions under the laws concerning working conditions, is amended to read as follows:

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or any of his or her deputies or inspectors may issue a written order to the owner, manager, superintendent, or other person in control or management of the place or establishment for the correction of any condition caused or permitted in or about the place or establishment in violation of any of the requirements of this section, §§ 11-5-101 — 11-5-107, and 11-5-109 — 11-5-111, or of any condition, practice, plan, or method used therein or thereabouts in supposed compliance with any requirement of this section, §§ 11-5-101 — 11-5-107, and 11-5-109 — 11-5-111 but which are found to be inadequate or insufficient, in any respect, to comply therewith, and shall state in the order how the conditions, practices, plans, or methods, in any case, shall be corrected and the time within which they shall be corrected, a reasonable time being given in the order therefor.

SECTION 57. Arkansas Code § 11-5-109(b)(1), concerning an order to correct conditions under the laws concerning working conditions, is amended to read as follows:

(b)(1) The owner or owners, manager, superintendent, or other person in control or management of any place or establishment covered by this chapter, and directly affected by any finding or order provided for in §§ 11-5-107 and 11-5-108, may, within fifteen (15) days from the date of the

delivery to him, her, or them of a copy of the order as provided for in §§ 11-5-107 and 11-5-108, file a petition setting forth the particular cause of objection to the order and findings in a court of competent jurisdiction against the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

SECTION 58. Arkansas Code § 11-5-110 is amended to read as follows:

11-5-110. Order to correct conditions — Penalties for noncompliance.

(a) Upon the failure or refusal of the owner, manager, superintendent, or other person in control or management of a place or establishment, to comply with an order issued pursuant to § 11-5-108 within the time therein specified, unless it has been attacked and suspended or set aside as provided for in § 11-5-109, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her deputy or inspectors shall have full authority and power to close the place or establishment, or any part of it that may be in an unsanitary or dangerous condition or contain immoral influences in violation of any requirement of this section or §§ 11-5-101 — 11-5-109 or order, until such time as the condition, practice, or method is corrected.

(b) Any person in control or management of any establishment included in § 11-5-109 who shall fail or refuse to comply with any written order issued to the person by the ~~director~~ secretary or any of his or her deputies or inspectors, for the correction of any condition caused or permitted therein which endangers the health of the employees therein or which does not comply with the law governing those establishments, shall be punished as provided in § 11-5-111.

SECTION 59. Arkansas Code § 11-5-112(b)(1), concerning separate facilities for males and females required under the laws concerning working conditions, is amended to read as follows:

(b)(1) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall enforce the provisions of this section and shall give notice in writing to employers violating it.

SECTION 60. Arkansas Code § 11-5-307(a), concerning notification for

working near high voltage lines, is amended to read as follows:

(a)(1) When any person, firm, or corporation desires to temporarily carry on any function, activity, work, or operation in closer proximity to any energized overhead electrical line or conductor than permitted by this subchapter, the person or persons responsible for the work to be done shall promptly notify the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee and the operator or owner of the electrical lines in writing of the work to be performed and make appropriate arrangements with the operator of the electrical lines before proceeding with any work which would impair the clearances required by this subchapter.

(2) The written notice shall be given to the owner or operator of the electrical lines by submitting notification to the manager of the nearest local office of the operator or owner of the electrical lines with a copy forwarded to the ~~director~~ secretary or his or her designee.

SECTION 61. Arkansas Code § 11-5-308(c)(4), concerning prohibited acts for work near high voltage lines, is amended to read as follows:

(c)(4) In addition to the requirements of subdivisions (c)(1)(A) and (B) of this section, there shall be installed an insulated cage-type guard or protective device, approved by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, about the boom or arm of all equipment, except backhoes or dippers. Where the equipment includes a lifting hook device also approved by the ~~director~~ secretary or his or her designee, all lifting lines shall be equipped with insulator links on the lift hook connection.

SECTION 62. Arkansas Code § 11-6-103, resulting from Initiated Act 1 of 1914, is amended to read as follows:

11-6-103. Penalty — Disposition of fines — Definition.

(a)(1) Any person, firm, corporation, partnership, association, parent, guardian, or custodian who employs or permits or suffers any child to be employed or to work in violation of this subchapter or §§ 11-12-101 — 11-12-105, or any rules issued thereunder, shall be subject to a civil penalty of not less than one hundred dollars ($100) and not more than five thousand dollars ($5,000) for each violation.

(2) Each day the violation continues shall with respect to each child so employed or permitted work constitute a separate offense.

(b) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall determine the amount of such penalty and shall consider the appropriateness of such penalty to the size of the business and the gravity of the violation.

(c) The determination by the ~~director~~ secretary or his or her designee shall be final unless within fifteen (15) days after receipt of notice thereof by certified mail, the person, firm, corporation, partnership, or association charged with the violation notifies the ~~director~~ secretary or his or her designee in writing that he or she contests the proposed penalty. In the event that penalty is contested, a final determination shall be made pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) The amount of penalty when finally determined may be recovered in a civil action brought by the ~~director~~ secretary or his or her designee in a court of competent jurisdiction, without paying costs or giving bond for costs.

(e) Sums collected under this section shall be paid into the Department of Labor and Licensing Special Fund.

(f) Assessment of a civil penalty by the ~~director~~ secretary or his or her designee shall be made no later than three (3) years from the date of the occurrence of the violation.

(g) In addition to the civil penalty provided by this section, the ~~director~~ secretary or his or her designee is authorized to petition any court of competent jurisdiction, without paying costs or giving bond for costs, to enjoin or restrain any person, firm, corporation, partnership, or association who violates the provisions of this subchapter or §§ 11-12-101 — 11-12-105, or any rule issued thereunder.

(h)(1) In addition to the civil penalties provided for in subsection (a) of this section, an employer who knowingly violates this subchapter is, upon conviction, guilty of a Class C misdemeanor.

(2) Upon a second or subsequent conviction, the employer is guilty of a Class B misdemeanor.

(i)(1) In addition to the civil penalties provided for in subsection (a) of this section and the criminal penalties provided for in subsection (h) of this section, an employer who knowingly violates this subchapter and the

violation results in a serious physical injury to or death of a minor is, upon conviction, guilty of a Class A misdemeanor.

(2) Upon a second or subsequent conviction, the employer is guilty of a Class C felony.

(j) An employer that willfully engages in any of the following actions is in violation of this subchapter and subject to a civil penalty of not less than one hundred dollars ($100) and not more than five thousand dollars ($5,000) for each violation:

(1) Hinders or delays the ~~director~~ secretary or his or her authorized representative in the performance of his or her duties in the enforcement of this subchapter; and

(2) Falsifies records related to child labor.

(k) As used in this section, "employer" means every person, firm, corporation, partnership, stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee.

SECTION 63. Arkansas Code § 11-6-107(b)(1), resulting from Initiated Act 1 of 1914, concerning prohibitions against certain kinds and places of work for children under sixteen years, is amended to read as follows:

(b)(1) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may, from time to time after a hearing duly had, determine what other occupations are sufficiently dangerous to the life or limb or injurious to the health or morals of children under sixteen (16) years to justify their exclusion therefrom. No child under sixteen (16) years of age shall be employed or permitted to work in any occupation thus determined to be dangerous or injurious.

SECTION 64. Arkansas Code § 11-6-111, resulting from Initiated Act 1 of 1914, is amended to read as follows:

11-6-111. Inspection of workplace — Prosecution of violators.

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall have the right to enter any building or premises for the purpose of inspection to ascertain whether any child is employed or permitted to work in violation of the provisions of

this subchapter.

(b)(1) It shall be the duty of the ~~director~~ secretary or his or her designee to enforce and administer the provisions of this subchapter.

(2) The ~~director~~ secretary or his or her designee is authorized to adopt rules for the enforcement and administration of this subchapter.

(3) The ~~director~~ secretary or his or her designee may revoke an employment certificate for cause.

SECTION 65. Arkansas Code § 11-6-115(a), concerning the definition of "domestic labor" pertaining to child labor, is amended to read as follows:

(a) As used in this section, “domestic labor” means any occasional, irregular, or incidental work related to and in or around private residences, including, but not limited to babysitting, pet sitting, similar household chores, and manual yard work. This definition specifically excludes industrial homework, work for a third party such as a sitting service, and any activity determined by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee to be hazardous pursuant to the provisions of § 11-6-107(b).

SECTION 66. Arkansas Code § 11-7-402 is amended to read as follows:

11-7-402. ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing — Power to administer oaths.

(a) To more effectively carry out the intentions and purposes of this section and §§ 11-7-409 — 11-7-414, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may administer oaths to all persons who are applicants, or who may vouch, in any manner, for the previous service or qualifications of an applicant to obtain for him or her a certificate under this section and §§ 11-7-409 — 11-7-414.

(b) A person who falsely testifies or swears to any matter material to the examination or to the service or qualification of an applicant is guilty of perjury.

SECTION 67. Arkansas Code § 11-7-404(a)(1), concerning certificates pertaining to the regulation of mines, is amended to read as follows:

(a)(1) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall grant

certificates after examination by the Division of Labor or a determination by the division that the testing requirements have been satisfied in another jurisdiction.

SECTION 68. Arkansas Code § 11-7-404(b)(3)(A), concerning emergencies pertaining to the regulation of mines, is amended to read as follows:

(3)(A) In case of emergency, a mine owner, with consent of the ~~director~~ secretary or his or her designee, may employ a trustworthy or experienced man or woman who does not possess a certificate, for a period of not more than thirty (30) days as mine foreman or fire boss.

SECTION 69. Arkansas Code § 11-7-405 is amended to read as follows:

11-7-405. Fire bosses, mine foremen, etc. — Duplicate certificate.

In case of loss or destruction of a certificate, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, upon satisfactory proof of the loss or destruction, may issue a duplicate on the payment of the sum of one dollar ($1.00).

SECTION 70. Arkansas Code § 11-7-406 is amended to read as follows:

11-7-406. Fire bosses, mine foremen, etc. — Revocation of certificate.

(a) All certificates issued pursuant to this subchapter may be revoked by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee after a hearing upon due notice to the holder of the certificate and upon written charges preferred by the ~~director~~ secretary or by some interested person for violation of this section and §§ 11-7-403 — 11-7-405 and 11-7-407.

(b)(1) A complaint may be filed against the holder of a certificate for intoxication, mental disabilities, neglect of duty, or other sufficient cause.

(2) The holder of the certificate so cancelled shall have the right to appear before the ~~director~~ secretary or his or her designee after the expiration of three (3) months and be reexamined if he or she shall first satisfy the ~~director~~ secretary or his or her designee that the incapacity complained of has ceased to exist.

SECTION 71. Arkansas Code § 11-7-410(a), concerning coal miners

pertaining to the regulation of mines, is amended to read as follows:

(a) It shall be unlawful for any person to work as a coal miner in any coal mine in this state without first having a certificate of qualification and competency to do so from the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, nor shall any person, firm, or corporation employ as a coal miner in his or her coal mine in the State of Arkansas any person who does not hold a certificate, nor shall any mine foreman, overseer, or superintendent permit or suffer any person to be employed under him or her, or in any coal mine under his or her charge or supervision, as a coal miner in this state, except as provided in this act, who does not hold a certificate of qualification.

SECTION 72. Arkansas Code § 11-7-411 is amended to read as follows:

11-7-411. Coal miners — Examination qualifications — Certificates.

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall hold sufficient examinations each year in places to be determined by the ~~director~~ secretary or his or her designee, which, in his or her opinion, will be most convenient to applicants desiring to engage in the business of coal mining.

(b) All examinations held by the ~~director~~ secretary or his or her designee shall be conducted in the English language and shall be of a practical nature, so as to determine the competency and qualifications of each applicant.

(c) The ~~director~~ secretary or his or her designee shall:

(1) Examine under oath all persons who apply for certificates, except those regularly employed in the State of Arkansas and exempted under § 11-7-409, as to their previous experience as coal miners; and

(2)(A) Grant certificates of competency and qualification to such applicants as the ~~director~~ secretary or his or her designee finds to be qualified.

(B) The certificate, when so issued, entitles the holder to be employed as, and to do the work of, a coal miner in this state.

(d)(1) A certificate of competency and qualification shall not be issued or delivered to any person under this act, unless:

(A) He or she first produces evidence of having had not less than two (2) years of practical experience working as a coal miner or

working with a coal miner; and

(B) He or she is competent to mine coal in the coal mines of this state.

(2) In no case shall the applicant be deemed competent or qualified under this act unless he or she appears in person before the ~~director~~ secretary or his or her designee and orally answers correctly at least twelve (12) practical questions propounded to him or her by the ~~director~~ secretary or his or her designee pertaining to requirements and qualifications of a practical coal miner.

(e) The ~~director~~ secretary or his or her designee shall keep an accurate record of proceedings and meetings and in the record shall show a correct detailed account of the examination of each applicant with the questions asked and his or her answers, and the ~~director~~ secretary or his or her designee shall keep the records open for the inspection of the parties in interest.

(f) A miner's certificate granted under this act is not transferable, and any effort to transfer the certificate shall be deemed a violation of this act.

(g) The certificate shall be issued and signed by the ~~director~~ secretary or his or her designee.

(h)(1) Each applicant for the certificate provided for under this section shall pay a fee of fifty cents (50¢) to the ~~director~~ secretary or his or her designee at the time of making application and, if successful in the examination, shall pay an additional fee of fifty cents (50¢) for the certificate.

(2) All fees collected from applicants shall be paid into the Coal Mine Examining Fund and paid out of the fund as other moneys are paid out.

SECTION 73. Arkansas Code § 11-7-412(a), concerning temporary permits for coal miners pertaining to the regulation of mines, is amended to read as follows:

(a) A person making application for a coal miner's certificate of competency and qualification shall be granted a temporary permit to work until such time as an examination is held by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her

designee and if, in the judgment of the ~~director~~ secretary or his or her designee, he or she is so qualified.

SECTION 74. Arkansas Code § 11-7-414 is amended to read as follows:

11-7-414. Coal miners — Duplicate certificate — Revocation of certificate.

The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall possess powers to issue duplicate certificates and revoke certificates in all cases as provided in §§ 11-7-405 and 11-7-406.

SECTION 75. Arkansas Code § 11-10-718(b)(1)(B)(ii), concerning liens under the Division of Workforce Services Law, is amended to read as follows:

(ii) All liens issued under this chapter by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall remain in full force and effect and shall be fully enforceable by the Director of the Division of Workforce Services.

SECTION 76. Arkansas Code § 11-11-101 is amended to read as follows:

11-11-101. Recruitment of labor by foreign labor agents.

(a) No foreign labor agent, labor bureau or employment agency, or any other person shall enter this state and attempt to hire, induce, or take from this state any labor, singularly or in groups, for any purpose, whether or not a fee or charge is extracted from the worker, without first applying to the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee for a license to do so and filing with the ~~director~~ secretary or his or her designee:

(1) A statement as to where the labor is to be taken, for what purpose, for what length of time, and whether transportation is to be paid to and from the destination, if temporary;

(2) A statement of the financial standing of the employer desiring the labor;

(3) An affidavit of authority to represent the employer in this state; and

(4) Whatever other information the ~~director~~ secretary or his or

her designee may require.

(b)(1) The ~~director~~ secretary or his or her designee shall determine whether the person desiring the labor from this state is a labor agent, labor bureau, or employment agency and, if so, whether the applicant is qualified to be licensed under the laws of this state and according to the provisions of this section.

(2) The ~~director~~ secretary or his or her designee, after the investigation, may refuse to license or register the applicant until the applicant has complied with the provisions of this section.

(3) The applicant shall, in the event of unfavorable action by the ~~director~~ secretary or his or her designee, have the right of appeal to the proper court.

(c) This section is cumulative to all existing laws affecting the hiring or employment of labor.

SECTION 77. Arkansas Code § 11-11-203 is amended to read as follows:

11-11-203. Penalty.

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall have authority to impose a fine of not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500) for violation of the provisions of this subchapter by an employment agency or its employees or agents.

(b) The ~~director~~ secretary or his or her designee shall notify the employment agency in writing of the reasons for imposition of a fine and at that time shall make available to the employment agency a signed written statement by any individual having filed a complaint with the ~~director~~ secretary or his or her designee relative to the matter for which a fine has been imposed by the ~~director~~ secretary or his or her designee.

(c) The agency shall have the right to a hearing before the ~~director~~ secretary or his or her designee and the right to judicial review provided by § 11-11-223 with respect to the fine.

SECTION 78. Arkansas Code § 11-11-204 is amended to read as follows:

11-11-204. ~~Director and division~~ Division of Labor — Powers and duties.

(a) It shall be the duty of the Division of Labor, and it shall have

the power, jurisdiction, and authority to administer and enforce the provisions of this subchapter.

(b) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her duly authorized agent shall have the power, jurisdiction, and authority to issue licenses to employment agencies, agency managers, and counselors and to refuse to issue, revoke, or suspend the licenses when, after due investigation, and in compliance with the procedures set forth in §§ 11-11-221 and 11-11-222, the ~~director~~ secretary or his or her duly authorized agent finds that the applicant is for good and sufficient cause unfit to be an employment agent, agency manager, or counselor within the meaning of this subchapter or any rules or orders lawfully promulgated under this subchapter.

(c)(1) Complaints against any person, employment agent, agency manager, or counselor may be made to the division orally or in writing.

(2) The ~~director~~ secretary or his or her duly authorized agent shall have the power to compel attendance of witnesses by issuance of subpoenas, administer oaths, direct production of documents and records, and direct taking of testimony and evidence concerning all matters within the jurisdiction of the division.

(3) The ~~director~~ secretary or his or her duly authorized agent may order testimony to be taken by deposition in any proceeding pending before the division at any stage of the proceeding.

(4) The ~~director~~ secretary or his or her duly authorized agent shall at all reasonable times have access to, for the purpose of examination and copying, the books, records, papers, and documents of any person being investigated or proceeded against under the provisions of this subchapter, so long as the books, records, papers, or documents sought to be inspected or copied are reasonably related to the investigation or proceeding being conducted by the ~~director~~ secretary or his or her duly authorized agent.

(5) The ~~director~~ secretary or his or her authorized agent shall, upon application of any party to proceedings before the ~~director~~ secretary or his or her duly authorized agent, issue to the party subpoenas requiring the attendance and testimony of witnesses or the production of any books, records, papers, or documents reasonably related to issues involved in proceedings before the ~~director~~ secretary or his or her duly authorized agent or an investigation conducted by the ~~director~~ secretary or his or her duly

authorized agent.

(6) If any person in proceedings before the ~~director~~ secretary or his or her duly authorized agent or in investigations conducted by the ~~director~~ secretary or his or her duly authorized agent disobeys or resists any lawful order or process issued by the ~~director~~ secretary or his or her authorized agents, or fails to produce, after being lawfully directed to do so, any book, paper, record, or document, or refuses to appear and testify after being subpoenaed to do so, the ~~director~~ secretary or his or her duly authorized agent shall certify the facts to any court of competent jurisdiction in the state or to the Pulaski County Circuit Court.

(7) The court shall have authority to conduct hearings and punish any person for failure or refusal to testify or produce books, papers, documents, or records subpoenaed or ordered by the ~~director~~ secretary or his or her duly authorized agent as though the conduct constituted contempt of court.

(8) Witnesses summoned by the ~~director~~ secretary or his or her authorized agent shall be paid the same fees and mileage paid to witnesses in the courts of this state.

(d)(1) The ~~director~~ secretary or his or her duly authorized agent may prescribe such rules for the conduct of the business of private employment agencies as necessary to implement this subchapter.

(2) These rules shall have the force and effect of law and shall be enforced by the ~~director~~ secretary or his or her duly authorized agent in the same manner as the provisions of this subchapter.

(3) Adoption of rules pursuant to this subsection shall be carried out in compliance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e) The division shall have authority to investigate employment agents, agency managers, and counselors. The division shall have the right to examine records required by law to be kept and maintained by employment agents, agency managers, and counselors and to examine the offices where the business is or shall be conducted by them.

(f) The division may seek to recover in a court of competent jurisdiction fees charged or collected in violation of this subchapter.

SECTION 79. Arkansas Code § 11-11-208(b)(2), concerning the license

required for a private employment agency, is amended to read as follows:

(2) In addition to the penalties described in subdivision (b)(1) of this section, upon petition of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, any court in the state having the statutory power to enjoin or restrain shall have jurisdiction to restrain and enjoin any person who engages in the business of or acts as an employment agent, agency manager, or counselor without having first procured a license for so engaging or acting.

SECTION 80. Arkansas Code § 11-11-209 is amended to read as follows:

11-11-209. Certificate of exemption required for certain organizations.

(a) Bona fide nursing schools, nurses' registries, management consulting firms, business schools, vocational schools whose primary function and purpose is training and education, and resume services shall obtain from the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee a certificate of exemption from the requirements of this subchapter.

(b) In connection with issuance of a certificate of exemption and with respect to an organization's continued eligibility for a previously issued certificate of exemption, the ~~director~~ secretary or his or her designee shall have those investigative powers conferred by § 11-11-204.

SECTION 81. Arkansas Code § 11-11-210(b), concerning an application for an employment counselor license, is amended to read as follows:

(b)(1) Every applicant for an initial license for employment counselor shall file with the Division of Labor a written application on a form prescribed and furnished by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(2) The applicant shall file at least two (2) letters of character reference from persons of reputed business or professional integrity.

(3) This application shall contain information prescribed by the ~~director~~ secretary or his or her designee.

SECTION 82. Arkansas Code § 11-11-211 is amended to read as follows:

11-11-211. Agency manager license — Application — Qualifications.

(a) To be eligible to apply for a license to act as an agency manager, the applicant shall be:

(1) A citizen of the United States;

(2) ~~Of good moral character;~~

~~(3)~~ At least twenty-one (21) years of age;

~~(4)~~(3) A person whose license has not been revoked within two (2) years from the date of the application;

~~(5)~~(4) A person who has completed the twelfth grade, except that the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may establish proof necessary to him or her that the applicant is possessed of a twelfth-grade education in terms of intellectual competency, judgment, and achievement; and

~~(6)~~(5) A person who demonstrates business integrity, financial responsibility, and judgment.

(b)(1) Every applicant for an initial license for agency manager shall file with the Division of Labor a written application on a form prescribed and furnished by the ~~director~~ secretary or his or her designee.

(2) The applicant shall file at least two (2) letters of character reference from persons of reputed business or professional integrity.

(3) This application shall contain information prescribed by the ~~director~~ secretary or his or her designee.

SECTION 83. Arkansas Code § 11-11-212 is amended to read as follows:

11-11-212. Employment agency license — Application — Qualifications.

(a) To be eligible to apply for a license to operate an employment agency, the applicant shall be:

(1) A citizen of the United States;

(2) ~~Of good moral character;~~

~~(3)~~ At least twenty-one (21) years of age;

~~(4)~~(3) A person whose license has not been revoked within two (2) years from the date of the application;

~~(5)~~(4) A person who has completed the twelfth grade, except that the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may establish proof necessary to him or

her that the applicant is possessed of a twelfth-grade education in terms of intellectual competency, judgment, and achievement; and

~~(6)~~(5) A person who demonstrates business integrity, financial responsibility, and judgment.

(b)(1) Every applicant for an initial employment agency license and every applicant for a renewal license shall file with the ~~Director of the Division of Labor~~ secretary or his or her designee a completed application on a form prescribed and furnished by the ~~Director of the Division of Labor~~ secretary or his or her designee.

(2)(A) The application shall be signed by the applicant and sworn to before anyone qualified by law to administer oaths.

(B) If the applicant is a corporation, the application shall state the names and home addresses of all shareholders, officers, and directors of the corporation and shall be signed and sworn to by the president, treasurer, and secretary thereof.

(C) If the applicant is a partnership, the application shall state the names and home addresses of all partners therein and shall be signed and sworn to by all of them.

(3) The applicant shall file at least two (2) letters of character reference from persons of reputed business or professional integrity.

(4) This application shall also contain such other information as the ~~Director of the Division of Labor~~ secretary or his or her designee may prescribe.

SECTION 84. Arkansas Code § 11-11-213 is amended to read as follows:

11-11-213. Employment agency license — Bond required — Action on the bond.

(a)(1) Every application for issuance or renewal of an employment agency's license shall be accompanied by a bond in the sum of five thousand dollars ($5,000) with a duly licensed surety company or companies authorized to do business in this state.

(2) The terms and conditions of the bond shall be approved by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(3) The bond shall be conditioned that the employment agency and

each member, employee, shareholder, director, or officer of a person, firm, partnership, corporation, or association operating as the employment agency will not violate the provisions of this subchapter or violate rules or orders lawfully promulgated by the ~~director~~ secretary or his or her designee or violate the terms of any contract made by the employment agent in the conduct of its business.

(b)(1) If any person shall be aggrieved by the misconduct of any licensee, that person may maintain an action in his or her own name upon the bond of the employment agency in any court of competent jurisdiction or in the Pulaski County Circuit Court.

(2)(A) All claims shall be assignable, and the assignee shall be entitled to the same remedies upon the bond of the licensee as the person aggrieved would have been entitled to if the claim had not been assigned.

(B) Any claim so assigned may be enforced in the name of the assignee.

(3) Any remedies given by this section shall not be exclusive of any other remedy that would otherwise exist.

(c) Action on the bond required by this section may be maintained by the ~~director~~ secretary or his or her designee in the name of the state in any court of competent jurisdiction or in the Pulaski County Circuit Court, for the benefit of any person or persons aggrieved by the misconduct of the licensee.

(d)(1) If any licensee fails to file a new bond with the Division of Labor within thirty (30) days after notice of cancellation by the surety of the bond required by this section, the license issued to the principal under the bond is suspended until such time as a new surety bond is filed with and approved by the ~~director~~ secretary or his or her designee.

(2) A person whose license is suspended pursuant to this subsection shall not carry on the business of an employment agency during the period of the suspension.

SECTION 85. Arkansas Code § 11-11-214 is amended to read as follows:

11-11-214. Investigation of license applicant ~~by director~~.

(a) Upon filing of an application for a license as provided in this subchapter, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall cause an investigation to

be made regarding the ~~character,~~ business integrity~~,~~ and financial responsibility of the license applicant.

(b) The ~~director~~ secretary or his or her designee shall also determine the suitability or unsuitability of the applicant's proposed office location.

(c) An application for an employment agency's, agency manager's, or employment counselor's license shall be rejected by the ~~director~~ secretary or his or her designee if it is found that any person named in the license application ~~is not of good moral character,~~ fails to possess business integrity~~,~~ or financial responsibility or if there is good and sufficient reason within the meaning and purpose of this subchapter for rejecting the application.

SECTION 86. Arkansas Code § 11-11-215(b) and (c), concerning the scope of an employment agency license, are amended to read as follows:

(b) No employment agent shall permit any person not mentioned in the license or license application to become a member, officer, director, shareholder, or partner in the conduct of the business of the employment agent unless written consent of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee and written consent of the surety on the bond required by this subchapter shall first be obtained.

(c) The location of an employment agency shall not be changed without written consent from the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee, and a new license application shall be required for any change of office location in excess of twenty-five (25) miles.

SECTION 87. Arkansas Code § 11-11-216(a)(1)(A), concerning the licensing examination for certain employment licenses, is amended to read as follows:

(a)(1)(A) Before the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee issues a license to an applicant for a permanent employment agent's, permanent agency manager's, or permanent counselor's license, the applicant shall be required to successfully complete a written examination prepared by the ~~director~~ secretary or his or her designee.

SECTION 88. Arkansas Code § 11-11-218 is amended to read as follows:

11-11-218. Temporary licenses.

(a)(1) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall have authority to issue a temporary license for operation of a private employment agency, which shall be valid for no more than ninety (90) days, upon submission by the applicant for the license of:

(A) A properly completed application form furnished and approved by the ~~director~~ secretary or his or her designee;

(B) Submission of evidence of the applicant's compliance with the bonding requirements of this subchapter; and

(C) Payment of a temporary license fee of one hundred dollars ($100).

(2) The temporary license may be issued only if, after investigation, it reasonably appears that the applicant will meet the qualifications for a permanent private employment agency license.

(b)(1) The ~~director~~ secretary or his or her designee shall have authority to issue temporary licenses for agency managers and employment counselors, which shall be valid for no more than ninety (90) days, upon submission by the applicant for such license of:

(A) A properly completed application form, furnished and approved by the ~~director~~ secretary or his or her designee; and

(B) Payment of a temporary license fee of ten dollars ($10.00).

(2) The temporary licenses for agency managers and employment counselors may be issued only if, after investigation, it reasonably appears that the applicant will meet the qualifications for a permanent license as agency manager or employment counselor.

(3) Temporary licenses issued to agency managers and employment counselors are nontransferable and are automatically rescinded upon suspension or termination of the employment of the agency manager or employment counselor.

(4) The ~~director~~ secretary or his or her designee shall approve or reject an application for a temporary agency manager's license or temporary employment counselor's license within five (5) days after receipt

of a properly completed application for the license.

SECTION 89. Arkansas Code § 11-11-219(b), concerning the renewal of licenses pertaining to private employment agencies, is amended to read as follows:

(b) Applications for renewal of all licenses provided by this subchapter must be filed with the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee no later than thirty (30) days prior to expiration of the license.

SECTION 90. Arkansas Code § 11-11-220(a)(2), concerning the cessation of a private employment agency business by licensee, is amended to read as follows:

(2)(A) When one (1) or more individuals, on the basis of whose qualifications an agency license has been obtained, ceases to be connected with the licensed business for any reason whatsoever, the agency business may be carried on for a temporary period not to exceed thirty (30) days, under such terms and conditions as the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall provide by rule for the orderly closing of the business or the replacement and qualification of a new member, partner, or corporate officer, director, or shareholder.

(B) The agency's authorization to continue to do business under this subchapter beyond the thirty-day period provided in this subdivision (a)(2) shall be contingent upon approval by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee of any new member, principal, partner, officer, director, or shareholder.

SECTION 91. Arkansas Code § 11-11-221 is amended to read as follows:

11-11-221. Issuance, refusal, suspension, or revocation of license — Grounds.

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall issue a license as an employment agent, agency manager, or counselor to any person who qualifies for the license under the terms of this subchapter.

(b) The ~~director~~ secretary or his or her designee may, in addition, refuse to issue a license to any person or may suspend or revoke the license of any employment agent, agency manager, or employment counselor or impose administrative fines as provided for in § 11-11-203 when the ~~director~~ secretary or his or her designee finds that any of the following conditions exist:

(1) That the employment agent, agency manager, or counselor has violated any of the provisions of this subchapter;

(2) That the employment agent, agency manager, or counselor has violated any of the rules or other orders lawfully promulgated by the ~~director~~ secretary or his or her designee;

(3) That the employment agent, agency manager, or counselor has violated the conditions of the bond required by § 11-11-213;

(4) That the person, employment agent, agency manager, or employment counselor has engaged in a fraudulent, deceptive, or dishonest practice;

(5) That the person, employment agent, agency manager, or employment counselor has been legally adjudicated incompetent; or

(6) That the applicant is for good and sufficient cause unfit to be an employment agent, agency manager, or employment counselor within the meaning of this subchapter or of any of the rules or orders lawfully promulgated by the ~~director~~ secretary or his or her designee.

(c) This section and § 11-11-222 shall not be construed to relieve any person from civil liability or from criminal prosecution under the provisions of this subchapter or under other laws of this state.

SECTION 92. Arkansas Code § 11-11-222 is amended to read as follows:

11-11-222. Refusal, suspension, or revocation of license — Notice of hearing.

(a)(1) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may not refuse to issue a license or suspend or revoke a license unless it furnishes the person, employment agent, agency manager, or employment counselor with a written statement of the charges against him or her and affords him or her an opportunity to be heard on the charges.

(2) At the time that written charges are furnished to an

employment agency, the ~~director~~ secretary or his or her designee shall make available to the agency a signed written statement by any individual having filed a complaint with the ~~director~~ secretary or his or her designee relative to the matter for which charges have been filed by the ~~director~~ secretary or his or her designee.

(3) The agency shall be given at least twenty (20) days' written notice of the date and time of the hearing. The notice shall conform to the standards for notices set forth in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(4) The notice shall be sent by certified mail, return receipt requested, to the address of the person as shown on his or her application for license, or it may be served in the manner in which a summons is served in civil cases commenced in the circuit courts of this state.

(b)(1) At the time and place fixed for the hearing, the ~~director~~ secretary or his or her designee shall hold the hearing and thereafter make his or her order either dismissing the charges or refusing, suspending, or revoking the license.

(2)(A) At the hearing, the accused shall have the right to appear personally and by counsel and to cross-examine witnesses against him or her.

(B)(i) He or she shall be allowed to produce evidence and witnesses in his or her defense and shall have the right to have witnesses subpoenaed.

(ii) The subpoenas shall be issued by the ~~director~~ secretary or his or her designee.

(c)(1) A stenographic record of all proceedings shall be made, and a transcript of the proceedings shall be made if desired by the Division of Labor or by the accused.

(2) The transcript shall be paid for by the party ordering it.

SECTION 93. Arkansas Code § 11-11-223 is amended to read as follows:

11-11-223. Judicial review of ~~director's~~ administrative orders.

(a) If the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee refuses to grant a license, suspends or revokes a license that has been granted, or imposes an administrative fine as provided in §§ 11-11-213, 11-11-221, and 11-11-222,

the person adversely affected or aggrieved by the order of the ~~director~~ secretary or his or her designee issued pursuant to the provisions of §§ 11-11-221 and 11-11-222 may obtain a review of the order.

(b) The order may be brought in the circuit court in the judicial district in which the violation is alleged to have occurred, where the employment agent, manager, or counselor worked, or in the Pulaski County Circuit Court or, if the aggrieved person is a nonresident of the state, in the Pulaski County Circuit Court.

(c)(1) The review may be obtained by filing in the court within thirty (30) days following the issuance of the order a written petition praying that the order be modified or set aside.

(2)(A) A copy of the petition shall be forthwith transmitted by the clerk of the court to the ~~Division of Labor~~ secretary or his or her designee.

(B) Thereupon, the ~~division~~ secretary or his or her designee shall file in the court the record of proceedings before the division.

(d) Upon the filing, the court shall have jurisdiction of the proceedings and of the questions determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in the record a decree affirming, modifying, or setting aside, in whole or in part, the order of the ~~director~~ secretary or his or her designee and enforcing the same to the extent that the order is affirmed.

(e) Commencement of proceedings under this section shall not, unless ordered by the court, operate as a stay of the order of the ~~director~~ secretary or his or her designee.

(f)(1) No objection which has not been urged before the ~~director~~ secretary or his or her designee shall be considered by the court.

(2) The findings of the ~~director~~ secretary or his or her designee with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(g)(1) If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the ~~director~~

secretary or his or her designee, the court may order the additional evidence to be taken before the ~~director~~ secretary or his or her designee and made a part of the record.

(2)(A) The ~~director~~ secretary or his or her designee may modify his or her findings as to the facts or make new findings, by reason of additional evidence so taken and filed, and the ~~director~~ secretary or his or her designee shall file the modified or new findings with the court.

(B) The findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(h) Upon the filing of the record with it, the jurisdiction of the court shall be exclusive, and its judgment and decree shall be final, except that it shall be subject to review by the Supreme Court.

(i)(1) The ~~division~~ secretary or his or her designee shall certify the record of its proceedings if the party commencing the proceedings shall pay to it the cost of preparing and certifying the records, including the recording and transcribing of all testimony introduced in the proceedings.

(2) If payment of the costs of preparing and certifying the records, including the recording and transcribing of all testimony introduced in the proceedings, is not made by the party commencing the proceedings for review within ten (10) days after notice from the ~~division~~ secretary or his or her designee of the cost of preparing and certifying the record, the circuit court in which the proceeding is pending, on motion of the ~~director~~ secretary or his or her designee, shall dismiss the petition.

SECTION 94. Arkansas Code § 11-11-227(c)(1), concerning fee restrictions and requirements pertaining to private employment agencies, is amended to read as follows:

(c)(1) When a dispute concerning a fee exists, the Division of Labor may conduct an investigation to determine all of the facts concerning the dispute. Thereafter, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall issue a decision and order resolving the dispute.

SECTION 95. Arkansas Code §11-12-104(b), concerning restrictions on the employment of children in the entertainment industry, is amended to read as

follows:

(b) No child under sixteen (16) years of age may be employed in the entertainment industry:

(1) In a role or in an environment deemed to be hazardous or detrimental to the health, morals, education, or welfare of the child as determined by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee;

(2) When the child is required to use a dressing room that is simultaneously occupied by an adult or by other children of the opposite sex;

(3) When the child is not provided with a suitable place to rest or play;

(4) When the parent or guardian of the child is prevented from being present at the scene of employment during all the times the child is working;

(5) When the parent or guardian of the child is prevented from being within sight and sound of the child; and

(6) Without a permit issued by the ~~director~~ secretary or his or her designee and the written consent of the child's parent or guardian for the issuance of the permit.

SECTION 96. Arkansas Code § 11-12-105 is amended to read as follows:

11-12-105. Implementation and enforcement.

The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing shall have the authority to:

(1) Promulgate rules for the implementation of this chapter;

(2) Suspend or revoke a permit for the employment of a child in the entertainment industry for cause;

(3) Enter or authorize his or her representative to enter and inspect any place of employment where children work, rest, or play; and

(4) Otherwise enforce and implement the provisions of this chapter.

SECTION 97. Arkansas Code § 11-14-112 is amended to read as follows:

11-14-112. Rating plans based on drug-free workplace program participation.

The Insurance Commissioner shall approve rating plans for workers'

compensation insurance that give specific identifiable consideration in the setting of rates to employers that implement a drug-free workplace program pursuant to rules adopted by the Workers' Health and Safety Division. The plans ~~must take effect January 1, 2000,~~ must be actuarially sound~~,~~ and must state the savings anticipated to result from the drug testing. The credit shall be at least five percent (5%) unless the Insurance Commissioner determines that five percent (5%) is actuarially unsound. The Insurance Commissioner is also authorized to develop a schedule of premium credits for workers' compensation insurance for employers who have safety programs that attain certain criteria for safety programs. The Insurance Commissioner shall consult with the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee in setting such criteria.

SECTION 98. Arkansas Code § 17-28-103 is amended to read as follows:

17-28-103. Disposition of funds.

All funds received by the Board of Electrical Examiners of the State of Arkansas under the provisions of this chapter shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor and Licensing Special Fund, there to be used by the ~~Division of Labor~~ Department of Labor and Licensing in carrying out the functions, powers, and duties as set out in this chapter and to defray the costs of the maintenance, operation, and improvements required by the ~~division~~ department in carrying out the functions, powers, and duties otherwise imposed by law on the ~~division~~ department or the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

SECTION 99. Arkansas Code § 20-23-103 is amended to read as follows:

20-23-103. Enforcement.

(a) The criminal penalties provided by this chapter shall be enforced by the prosecuting attorney of each judicial district. The administrative penalties provided by this chapter shall be imposed pursuant to rules of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(b) The ~~director~~ secretary or his or her designee may collect an administrative penalty imposed pursuant to this chapter in a civil action in

a court of competent jurisdiction, and he or she shall not be required to pay costs or to enter a bond for payment of costs.

SECTION 100. Arkansas Code § 20-23-104(a), concerning continuous monitoring pertaining to boiler safety, is amended to read as follows:

(a)(1) All boilers subject to the provisions of this chapter shall be continuously monitored by mechanical and electronic devices approved by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(2) When a plant is in operation or when any public building is occupied, the boilers shall be under regular attendance by a boiler operator unless otherwise exempt.

SECTION 101. Arkansas Code § 20-23-105 is amended to read as follows:

20-23-105. Disposition of funds.

(a) All money received under this chapter shall be paid to the Treasurer of State, who shall place this money to the credit of the Department of Labor and Licensing Special Fund, there to be used by the Department of Labor and Licensing in carrying out the functions, powers, and duties as set out in this chapter and to defray the costs of the maintenance, operation, and improvements required by the department in carrying out the functions, powers, and duties otherwise imposed by law on the department or the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(b) The ~~director~~ secretary or his or her designee may issue vouchers for salaries and expenses of the Boiler Inspection Division when proper appropriation has been made for the expenditures.

SECTION 102. Arkansas Code § 20-23-202(a) and (b), concerning boiler inspectors pertaining to boiler safety, are amended to read as follows:

(a)(1) When the office of Chief Inspector of the Boiler Inspection Division becomes vacant, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall employ a citizen of the State of Arkansas to be chief inspector.

(2) The chief inspector shall have at the time of employment not less than ten (10) years' experience in the construction, maintenance,

installation, and repair or inspection of high pressure boilers and unfired pressure vessels.

(b)(1)(A) The ~~director~~ secretary or his or her designee is authorized and empowered to employ a technical assistant and deputy inspectors of boilers.

(B) Inspectors of steam boilers and unfired pressure vessels shall have had at the time of employment not less than five (5) years' experience in the construction, maintenance, installation, and repair of high pressure boilers and unfired pressure vessels or possess a currently valid commission from the National Board of Boiler and Pressure Vessel Inspectors.

(C)(i) Inspectors of steam boilers and unfired pressure vessels also shall have passed a written examination.

(ii) The examination shall conform to standards not exceeding those prescribed by the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers.

(iii) The examination shall test the inspector's knowledge of the construction, installation, maintenance, and repair of boilers and their appurtenances.

(2) The ~~director~~ secretary or his or her designee is also empowered to employ clerical and administrative employees, as well as other inspectors, as necessary to perform the work of the Boiler Inspection Division.

(3) The salaries are to be approved by the General Assembly.

SECTION 103. Arkansas Code § 20-23-203(c), concerning a chief inspector's duty to inspect and enforce pertaining to boiler safety, is amended to read as follows:

(c)(1) The chief inspector shall enforce the laws of the state governing the use of boilers and unfired pressure vessels. He or she shall examine into and report to the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee the causes of boiler explosions which occur within the state.

(2) He or she shall keep in his or her office a complete and accurate record of the names of all owners or operators of boilers inspected by the Boiler Inspection Division, together with the location, make, type,

dimensions, age, condition, pressure allowed upon, and date of the last inspection of all boilers and shall make an annual report thereon to the ~~director~~ secretary or his or her designee.

SECTION 104. Arkansas Code § 20-23-301 is amended to read as follows:

20-23-301. Certificate of inspection required — Application of rules and standards — Penalties.

(a)(1) No owner or user of a boiler or pressure vessel or engineer or fireman in charge of a boiler or pressure vessel shall operate or allow the boiler or pressure vessel to be operated without a certificate of inspection issued by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee or shall allow a greater pressure in the boiler or pressure vessel than is allowed by the certificate of inspection.

(2)(A) All boilers and pressure vessels installed or in operation in this state shall conform to those rules and standards that shall from time to time be adopted by the Boiler Inspection Division with the approval of the ~~director~~ secretary or his or her designee.

(B) The rules and standards shall not exceed those set out in the several sections of the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers and shall have the force of law immediately upon their approval by the ~~director~~ secretary or his or her designee.

(3) No person shall operate or cause to be operated any boiler or unfired pressure vessel on which the certificate of inspection has been suspended or the operation of which has been forbidden by an inspector as provided in §§ 20-23-203, 20-23-306, 20-23-310, 20-23-401, and 20-23-402.

(4)(A) All pressure piping installed in this state shall conform to those rules and standards that shall from time to time be adopted by the Boiler Inspection Division with the approval of the ~~director~~ secretary or his or her designee.

(B) The rules and standards shall not exceed those set out in the American Society of Mechanical Engineers Code for Pressure Piping, Power Piping Code, B31.1.

(b) Any person violating this section shall be subject to an administrative fine of not less than twenty-five dollars ($25.00) nor more

than one thousand dollars ($1,000).

SECTION 105. Arkansas Code § 20-23-306(a)(1), concerning the issuance of a certificate of inspection to a boiler or pressure vessel owner, is amended to read as follows:

(a)(1) Upon receipt by the Boiler Inspection Division of an annual or biennial certificate report of inspection from a state inspector or from an inspector employed by an insurance company that a boiler or pressure vessel is in safe working condition with the required fittings, valves, and appliances properly installed and set, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall issue to the owner of the boiler or pressure vessel a certificate of inspection.

SECTION 106. Arkansas Code § 20-23-311(b), concerning boiler inspection fees, is amended to read as follows:

(b) The rates in subsection (a) of this section may be reduced by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee at the beginning of any fiscal year if the rates produce a greater amount of revenue than is required to defray the cost of operation of the Boiler Inspection Division.

SECTION 107. Arkansas Code § 20-23-311(d), concerning failure to pay a boiler inspection fee, is amended to read as follows:

(d) If the owner, user, or agent of the owner shall fail to pay any inspection fee under this section within thirty (30) days, a civil money penalty equal to the amount of the unpaid fee shall attach to the outstanding amount of the fee, and the ~~director~~ secretary or his or her designee shall be empowered to collect this penalty in addition to the amount of the fee.

SECTION 108. Arkansas Code § 20-23-312(a)(1), concerning the collection of boiler inspection fees, is amended to read as follows:

(a)(1) In addition to other remedies provided for by this chapter, if after the making of any inspection or accrual of any charge or penalty required or authorized by this chapter, the fee, penalty, or charge is not paid within thirty (30) days after demand upon whoever is liable therefor,

the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may employ an attorney, who is empowered without payment of costs or giving of bond for costs to institute suit in the name of the State of Arkansas in any court of competent jurisdiction to collect the fees, penalties, costs, and charges.

SECTION 109. Arkansas Code § 20-23-314(b)(1), concerning pressure piping inspections, is amended to read as follows:

(b)(1) Upon completion of the installation of any pressure piping, a final inspection shall be made, and the inspector shall complete a final inspection report on a form approved by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

SECTION 110. Arkansas Code § 20-23-407 is amended to read as follows:

20-23-407. Owner or user inspector programs.

(a) Any owner or user of a steam boiler or pressure vessel subject to this chapter may perform any inspections required by this chapter on such vessels owned or operated by the owner or user if the owner or user meets the requirements prescribed by rule of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(b) The ~~director~~ secretary or his or her designee shall set out requirements for the certification of owner or user inspectors and certification of owner or user inspection programs by rule and shall have full authority to promulgate and enforce those rules.

(c)(1)(A) After notice and opportunity for hearing, any owner or user who is found to have violated rules prescribed by the ~~director~~ secretary or his or her designee pursuant to this subchapter shall be assessed a civil monetary penalty of not less than one hundred dollars ($100) or more than five thousand dollars ($5,000).

(B) Each day that a violation continues shall be considered a separate violation.

(2) The ~~director~~ secretary or his or her designee may bring a civil action in a court of competent jurisdiction to recover the amount of any civil monetary penalties.

(d) In addition to civil monetary penalties, any owner or user who is found to be in violation of this section shall be guilty of a Class A

misdemeanor.

SECTION 111. Arkansas Code § 20-27-901(2)(A), concerning definitions pertaining to safety glazing materials, is amended to read as follows:

(2)(A) "Hazardous locations" means those areas in residential, commercial, and public buildings where the use of other than safety glazing materials would constitute a hazard as the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may determine after notice and hearings as are now required by law.

SECTION 112. Arkansas Code § 20-27-1102 is amended to read as follows:

20-27-1102. Rules — Enforcement — Administration.

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall promulgate rules to establish minimum standards for the qualifications of those individuals performing blasting in Arkansas.

(b) The ~~director~~ secretary or his or her designee shall implement, enforce, and administer this subchapter and the rules adopted pursuant to this subchapter.

(c) Rules under this section shall be adopted pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d)(1) The ~~director~~ secretary or his or her designee may establish by rule fees for certifying individuals as qualified to perform blasting in Arkansas.

(2) The fees shall not exceed the sum of thirty dollars ($30.00) per applicant.

SECTION 113. Arkansas Code § 20-27-1303 is amended to read as follows:

20-27-1303. Blasting Standards.

(a) Blasting shall be conducted to prevent injury to persons, damage to public or private property, adverse impact on any underground mine, and change in the course, channel, or availability of surface or ground water outside the mine's perimeter.

(b)(1) In blasting operations, airblast shall not exceed the maximum limits set forth in 30 C.F.R. § 816.67(b), at the location of any structure, residence, public building, school, church, or commercial or institutional

building outside the perimeter of a mine and owned or leased by a person other than the mine owner or operator.

(2)(A) If necessary to prevent damage, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may require lower maximum allowable airblast levels than those specified in subdivision (b)(1) of this section for use in the vicinity of a specific blasting operation.

(B) Such an action shall only be taken following consultation with whatever expert or experts the ~~director~~ secretary or his or her designee deems appropriate.

(3)(A) The ~~director~~ secretary or his or her designee may require airblast measurement of any or all blasts and may specify the locations at which such measurements are taken.

(B) The measuring system shall have an upper-end flat frequency response of at least two hundred hertz (200 Hz). The measuring system shall also have a low-end frequency response of two hertz (2 Hz) and be within minus three decibels (-3 dB) at two hertz (2 Hz).

(c)(1) Flyrock from blasting operations, traveling in the air or along the ground, should not be cast from the mine site.

(2) In the event that flyrock is cast from the mine site, the owner or operator and contractor shall be liable and responsible for any damages, including cleanup and removal of the flyrock.

(d)(1)(A) In blasting operations, ground vibration shall not exceed the maximum limits established in accordance with either the maximum peak particle velocity limits contained in 30 C.F.R. § 816.67(d)(2), or the scaled-distance equation established at 30 C.F.R. § 816.67(d)(3), at the location of any structure, residence, public building, school, church, or commercial or institutional building outside the perimeter of a mine and owned or leased by a person other than the mine owner or operator.

(B) If a seismographic record for a blast exists or is required, the maximum limit for ground vibration shall be the peak particle velocity limits contained in 30 C.F.R. § 816.67(d)(2), at any structure, residence, public building, school, church, or commercial or institutional building.

(2)(A) If necessary to prevent damage, the ~~director~~ secretary or his or her designee may require lower maximum allowable ground vibration

levels than those specified in subdivision (d)(1) of this section for use in the vicinity of a specific blasting operation.

(B) Such action shall only be taken following consultation with whatever expert or experts the ~~director~~ secretary or his or her designee deems appropriate.

(3) The ~~director~~ secretary or his or her designee may require an owner or operator to conduct seismic monitoring of any blasts or may specify the location at which the measurements are taken and the degree of detail necessary in the measurement.

(e)(1) The maximum limits for airblast and ground vibration as specified in subdivisions (b)(1) and (d)(1) of this section shall be construed as the threshold below which blasting damage is unlikely to occur. However, the ~~director~~ secretary or his or her designee shall have the authority to promulgate rules requiring more or less restrictive limits, as appropriate.

(2) Such an action shall only be taken following consultation with whatever expert or experts the ~~director~~ secretary or his or her designee deems appropriate.

(f)(1) If a pit or quarry is closer than three hundred feet (300′) from any public highway, road, or street, no blasting shall be conducted without the prior written approval of the ~~director~~ secretary or his or her designee.

(2) Notwithstanding subdivision (f)(1) of this section, any quarry or pit in existence on July 1, 1995, shall be allowed to continue operations without obtaining the written approval of the ~~director~~ secretary or his or her designee.

(g)(1) All blasting operations shall be conducted between sunrise and sunset, unless extraordinary circumstances arise which would necessitate conducting a blast outside these hours.

(2) Such circumstances shall be documented in the blast records required by § 20-27-1305.

(h)(1) Before the firing of a blast, the owner or operator or contractor shall follow a definite plan of warning signals that can be clearly seen or heard by anyone in the blasting area.

(2) The owner or operator shall inform all employees at the operation as to the established procedure.

SECTION 114. Arkansas Code § 20-27-1304 is amended to read as follows:

20-27-1304. Notice of blasting operations.

(a)(1) Any owner or operator and contractor conducting blasting operations in this state on July 1, 1995, shall notify the ~~Director of the Department of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee of each site or location on which blasting operations are conducted.

(2) Such notice shall be filed with the Department of Labor and Licensing no later than October 1, 1995.

(b) Any owner or operator and contractor which, after July 1, 1995, begins blasting at a new site or location, or at a site on which no blasting has occurred for a period of six (6) consecutive months, shall notify the ~~director~~ secretary or his or her designee of its operation at least twenty-four (24) hours in advance of the initial blast.

(c) The notice required by subsections (a) and (b) of this section shall be on a form approved by the ~~director~~ secretary or his or her designee and shall include, but not be limited to, the following information:

(1) The name, address, and telephone number of the mine owner or operator;

(2) The name, address, and telephone number of the operator or contractor performing the blast;

(3) The location of the quarry site or open pit mine; and

(4) The location where the records of the blasting operations are to be maintained.

(d) All owners and operators and contractors shall notify the ~~director~~ secretary or his or her designee in writing of any change of address or location.

SECTION 115. Arkansas Code § 20-27-1306(b), concerning insurance under the Arkansas Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

(b) Proof of such coverage shall be made available to the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her authorized representative upon request.

SECTION 116. Arkansas Code § 20-27-1307(b), concerning exemptions

under the Arkansas Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

(b) Notwithstanding subsection (a) of this section, the authority of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall not be restricted with respect to:

(1) Mines or quarries which were in existence and operation on July 1, 1995, but which change owners or operators after July 1, 1995; or

(2) New or existing mines or quarries which were not in operation on July 1, 1995.

SECTION 117. Arkansas Code § 20-27-1308 is amended to read as follows:

20-27-1308. ~~Director —~~ Powers and duties generally.

(a) In addition to other powers and authority provided by law, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her authorized representative shall have the following authority:

(1) To promulgate rules for the administration and enforcement of this subchapter after public hearing and opportunity for public comment;

(2) To establish by rule standards for the performance of blasting operations at mines after public hearing and opportunity for public comment;

(3) To investigate as to any violation of this subchapter or any rule or order issued under this subchapter;

(4) To administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses and the production of all records and other evidence relative to any matter under investigation or hearing;

(5) To enter and inspect during normal business hours any mine, any place of business of a mine owner or operator, or any place of business of any contractor engaged in blasting operations at any mine for the purpose of ascertaining compliance with this subchapter and any rule or order issued under this subchapter. This right of entry includes the right to examine, inspect, and copy any appropriate records and to question any employees;

(6) To issue cease and desist orders, as well as orders directing that affirmative measures be taken to comply with this subchapter and any rule issued under this subchapter;

(7) To require, at his or her discretion, a mine owner or operator or contractor to offer a pre-blast survey of all buildings or structures up to a radius of one-half (½) of a mile of the perimeter of the mine before the initiation of blasting or the continuation of blasting under such terms and conditions as may be established by order of the ~~director~~ secretary or his or her designee;

(8) To require, at his or her discretion, a mine owner or operator or contractor to develop and submit a blasting plan for approval;

(9) To require, at his or her discretion, a mine owner or operator or contractor to monitor and measure air blasts or ground vibration, or both, under such terms and conditions as may be established by order of the ~~director~~ secretary or his or her designee or to conduct such monitoring and measuring through his or her authorized representative;

(10) To issue a variance from any specific requirement of this subchapter or any rule issued under this subchapter, provided that literal compliance would constitute an undue hardship and that reasonable safety of persons and property is secured;

(11) To certify to official acts;

(12) To assess civil penalties as provided in § 20-27-1313; and

(13) To enforce generally this subchapter and the rules and orders issued under this subchapter.

(b) In determining whether to order a pre-blast survey or whether to order monitoring and measurement of air blasts and ground vibration, the ~~director~~ secretary or his or her designee may consider the nature of any written complaints made against that owner or operator or contractor or any written complaints about that specific mine location, as well as the number and frequency of such complaints.

(c) In case of failure of any person to comply with any subpoena lawfully issued under this section or upon the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it shall be the duty of any circuit court or judge thereof, upon application of the Division of Labor, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal to testify therein.

SECTION 118. Arkansas Code § 20-27-1309(a), concerning hearings under

the Arkansas Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

(a) All hearings conducted by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee and all orders, notices, and assessments shall conform to the requirements of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 119. Arkansas Code § 20-27-1309(c)(1), concerning administrative orders under the Arkansas Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

(c)(1) Any administrative order issued by the ~~director~~ secretary or his or her designee shall be final, unless within twenty (20) days after service of notice thereof, the person charged with the violation or any complainant entitled to such notice notifies the ~~director~~ secretary or his or her designee in writing that the order is contested.

SECTION 120. Arkansas Code § 20-27-1310(a), concerning cooperation with State Fire Marshal under the Arkansas Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall consult the State Fire Marshal regarding the adoption of any rules.

SECTION 121. Arkansas Code § 20-27-1311(b), concerning orders under the Arkansas Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

(b) All orders entered, permits granted, and pending legal proceedings instituted by any person, public or private, relating to subjects embraced within this subchapter shall remain unimpaired and in full force and effect until superseded by actions taken by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee under this subchapter.

SECTION 122. Arkansas Code § 20-27-1313 is amended to read as follows:

20-27-1313. Civil penalties.

(a)(1) Any person who violates any provision of this subchapter or who

violates any rule or order issued under this subchapter may be assessed an administrative civil penalty by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee in an amount not to exceed ten thousand dollars ($10,000) per violation.

(2) Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.

(b)(1) Assessment of a civil penalty by the ~~director~~ secretary or his or her designee shall be made no later than three (3) years from the date of the occurrence of the violation.

(2)(A) In his or her discretion, the ~~director~~ secretary or his or her designee may accept payment of assessed civil penalties in installments.

(B) The assessment by the ~~director~~ secretary or his or her designee shall be final, unless, within twenty (20) days after service of notice thereof by certified mail, the person charged with the violation or any complainant entitled to such notice notifies the ~~director~~ secretary or his or her designee in writing that the proposed assessment is contested.

(C) If an assessment is contested, a final administrative determination shall be made pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c) When finally determined, the amount of any assessment may be recovered in a civil action brought by the ~~director~~ secretary or his or her designee in a court of competent jurisdiction without paying costs or giving bond for costs.

(d)(1) Sums collected as reimbursement for expenses, costs, and damages to the Division of Labor shall be deposited into the operating fund of the division.

(2) Sums collected as civil penalties shall be deposited into the General Revenue Fund Account of the State Apportionment Fund.

(e) Notice of any assessment by the ~~director~~ secretary or his or her designee shall be served on any person who has made a written complaint within the past three (3) years to the division regarding the blasting operations of the person charged with the violation.

SECTION 123. Arkansas Code § 20-27-1314 is amended to read as follows:

20-27-1314. Restraint

In addition to the civil penalty provided in § 20-27-1313, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may petition any court of competent jurisdiction without paying costs or giving bond for costs to:

(1)(A) Enjoin or restrain any violation of or compel compliance with this subchapter and any rules or orders issued under this subchapter.

(B) In situations in which there is an imminent threat to public or worker safety or to property, the ~~director~~ secretary or his or her designee may seek a temporary restraining order for the cessation of any blasting;

(2) Affirmatively order that such remedial measures be taken as may be necessary or appropriate to implement or effectuate the purposes and intent of this subchapter; and

(3) Recover all costs, expenses, and damages to the Division of Labor and any other agency or subdivision of the state in enforcing or effectuating this subchapter.

SECTION 124. Arkansas Code § 20-31-105(c), concerning compliance with the Arkansas Electrical Code Authority Act, is amended to read as follows:

(c) In addition to the penalties in subsection (b) of this section, the ~~Director of the Department of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee is authorized:

(1) To petition any court of competent jurisdiction to enjoin or restrain any person or electrician who does any construction, installation, and maintenance of electrical facilities or performs electrical work without an exemption or who otherwise violates this chapter; and

(2) To seek the suspension or revocation by the Board of Electrical Examiners of the State of Arkansas of any "electrical contractor", a "master electrician", a "journeyman electrician", or an "industrial maintenance electrician" licensed under § 17-28-101 et seq. who is found to be in violation of this chapter.

SECTION 125. Arkansas Code § 23-89-504 is amended to read as follows:

23-89-504. Safety inspection and insurance required — Enforcement — Violations.

(a) It is unlawful for any person or entity to operate an amusement

attraction or amusement ride unless the person or entity maintains liability insurance in the minimum amount required by this subchapter at all times during the operation of the amusement attraction or amusement ride in the state and unless the person has a current safety inspection report made at the time of set-up of the amusement attraction or amusement ride, but before use by the public.

(b)(1) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may conduct examinations and investigations into the affairs of any person or entity subject to the provisions of this subchapter for the purpose of determining compliance with the provisions of this subchapter.

(2) The ~~Director of the Division of Labor~~ secretary or his or her designee shall administer and enforce the provisions of this subchapter.

(3) The ~~Director of the Division of Labor~~ secretary or his or her designee shall promulgate rules for the proper administration and enforcement of this subchapter, including rules establishing minimum safety requirements for the operation and maintenance of amusement rides and amusement attractions.

(4) The ~~Director of the Division of Labor~~ secretary or his or her designee shall employ amusement ride inspectors certified by the National Association of Amusement Ride Safety Officials.

(c) If the ~~Director of the Division of Labor~~ secretary or his or her designee finds that an operator or owner has failed to comply with the provisions of this subchapter, he or she may order the operator or owner to immediately cease operating the amusement attraction or amusement ride and may impose upon the operator or owner an administrative penalty of not more than ten thousand dollars ($10,000).

(d)(1) If the ~~Director of the Division of Labor~~ secretary or his or her designee finds that an operator or owner failed to comply with the provisions of this subchapter, he or she shall so inform the prosecuting attorney in whose district any purported violation may have occurred.

(2)(A) Upon conviction, the operator or owner shall be guilty of a Class A misdemeanor.

(B) Upon conviction of a knowing violation, the operator or owner shall be guilty of a Class D felony.

(3) Each day of violation shall constitute a separate offense.

(e) The ~~Director of the Division of Labor~~ secretary or his or her designee shall have authority to bring a civil action in any court of competent jurisdiction, without payment of costs or giving bond for costs, to recover any administrative penalty imposed pursuant to this subchapter or to recover any delinquent fees owed pursuant to this subchapter.

(f) The ~~Director of the Division of Labor~~ secretary or his or her designee and his or her deputies, assistants, examiners, and employees and the Director of the Division of Arkansas State Police and his or her deputies, officers, assistants, and employees and any public law enforcement officer shall not be liable for any damages occurring as a result of the implementation of this subchapter.

SECTION 126. Arkansas Code § 23-89-505(c), concerning notice of amusement ride operations required under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

(c)(1) Any person or entity intending to operate an amusement attraction or amusement ride in this state shall notify the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee of such intent and shall notify the ~~director~~ secretary or his or her designee of the location, dates, and times of intended operation.

(2) The notice must be made to the ~~director~~ secretary or his or her designee four (4) days prior to intended operation, excluding Saturdays, Sundays, or any legal holidays.

SECTION 127. Arkansas Code § 23-89-505(d), concerning safety inspections, notice, and insurance required under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

(d) Any person or entity failing to comply with subsection (c) of this section shall be subject to an administrative penalty issued by the ~~director~~ secretary or his or her designee of no more than five thousand dollars ($5,000) in addition to other penalties, both administrative and criminal, contained in this subchapter.

SECTION 128. Arkansas Code § 23-89-506 is amended to read as follows:

23-89-506. Inspections and fees.

(a)(1) The ~~Director of the Division of Labor~~ Secretary of the

Department of Labor and Licensing or his or her designee is authorized to inspect each person or entity to ensure compliance with this subchapter.

(2) Two (2) times per calendar year, the ~~director~~ secretary or his or her designee shall inspect all permanently placed operational amusement rides or amusement attractions located in this state being operated for profit or charity.

(3) All portable amusement rides or amusement attractions shall be inspected by the ~~director~~ secretary or his or her designee every time they are moved to a new location in Arkansas and before they are permitted to commence operation or open to the public.

(4)(A) Inflatable attractions, self-contained mobile playgrounds, artificial climbing walls, and other patron-propelled amusement rides or amusement attractions shall be inspected annually, unless a more frequent schedule of inspections is established by rules of the ~~director~~ secretary or his or her designee for certain types of inflatable attractions and self-contained mobile playgrounds.

(B) Self-contained mobile playgrounds, artificial climbing walls, and other patron-propelled amusement rides or amusement attractions shall be inspected pursuant to subdivision (a)(4)(A) of this section only if such playgrounds contain no mechanical or electrical parts, structures, or additions such as blowers or lights.

(C) The ~~director~~ secretary or his or her designee may determine by rule which other portable amusement ride or amusement attraction is sufficiently safe to justify inspection only one (1) time each six (6) months.

(b) The ~~director~~ secretary or his or her designee is authorized to make an inspection on an emergency basis when notification pursuant to this subchapter is made less than four (4) days, excluding Saturdays, Sundays, and legal holidays, prior to the date of the operation of the facility, if he or she determines that the owner or operator could not have reasonably known of the proposed operation prior to the four-day period and that the owner or operator meets all other requirements for operation in this state.

(c) If the ~~director~~ secretary or his or her designee or an authorized employee of the Division of Labor finds that any amusement ride or amusement attraction is defective in a manner affecting patron safety or unsafe, he or she shall attach to the amusement ride or amusement attraction a notice and

order prohibiting its use or operation. Operation of the amusement ride shall not resume until the unsafe or hazardous condition is corrected and the ~~director~~ Secretary or his or her authorized representative permits such an operation.

(d) Any inspector certified pursuant to the requirements of this subchapter who, upon inspection of an amusement ride or amusement attraction, finds the amusement ride or amusement attraction to be defective or unsafe shall immediately report the amusement ride or amusement attraction and its condition to the division.

(e) The ~~director~~ secretary or his or her designee shall charge a fee to be paid by the owner of any amusement ride or amusement attraction for all amusement ride safety inspections performed by any employee of the division. Such fees shall be as follows:

(1) For one (1) to five (5) amusement rides or amusement attractions, one hundred dollars ($100);

(2) For six (6) to fifteen (15) amusement rides or amusement attractions, two hundred dollars ($200);

(3) For sixteen (16) to twenty-five (25) amusement rides or amusement attractions, three hundred dollars ($300);

(4) For twenty-six (26) to thirty-five (35) amusement rides or amusement attractions, four hundred dollars ($400); and

(5) For thirty-six (36) and more amusement rides or amusement attractions, six hundred dollars ($600).

(f) The ~~director~~ secretary or his or her designee is authorized by rule to implement an inspection fee waiver program for the benefit of a county fair association, provided that:

(1) The county's population is under fifteen thousand (15,000) based on United States Bureau of the Census estimates as of July 1, 1999; and

(2) The county fair association can demonstrate that it would be unable to obtain a carnival for its county fair without such a waiver.

SECTION 129. Arkansas Code § 23-89-507 is amended to read as follows:

23-89-507. Inspection by insurance company — Change in coverage.

(a)(1) Except as provided in subdivision (a)(3) of this section, an insurance company insuring an operator of an amusement attraction or amusement ride as required in this subchapter shall inspect the amusement

attraction or amusement ride of the insured for safety at least one (1) time each calendar year.

(2) The operator shall maintain a copy of a report required under subdivision (a)(1) of this section at the site of operation of the amusement attraction or amusement ride, together with proof of insurance coverage.

(3) An insurance company insuring an inflatable attraction is not required to perform an inspection of the inflatable attraction.

(b) If any insurer insuring an operator shall cancel the coverage of the operator, the insurer shall notify the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee of the cancellation at least ten (10) days before the cancellation is effective.

(c) The insurer shall immediately notify the ~~director~~ secretary or his or her designee if the cancellation notice is rescinded or coverage is reinstated.

(d) If the insurer finds any amusement attraction or amusement ride to be unsafe or cancels the insurance coverage and so notifies the ~~director~~ secretary or his or her designee, then the ~~director~~ secretary or his or her designee shall immediately issue a cease and desist order preventing any operation until written documentation is provided to the ~~director~~ secretary or his or her designee that the amusement attraction or amusement ride has been made safe or insurance coverage has been obtained.

(e) Any insurance company or surplus lines insurer failing to comply with this section shall be subject to revocation of its certificate of authority or registration by the Insurance Commissioner, or in lieu of suspension or revocation, a fine assessed by the commissioner of not more than fifty thousand dollars ($50,000).

(f) Any employee or contractor of an insurer inspecting amusement rides in Arkansas shall be registered and certified by the Division of Labor pursuant to rule adopted by the ~~director~~ secretary or his or her designee.

SECTION 130. Arkansas Code § 23-89-508 is amended to read as follows:

23-89-508. Rules.

The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee is authorized to adopt appropriate rules to carry out the intent and purposes of this subchapter and to assure

its efficient and effective enforcement.

SECTION 131. Arkansas Code § 23-89-509 is amended to read as follows:

23-89-509. Cease and desist orders — Notice required.

(a)(1) Upon issuance of cease and desist orders pursuant to § 23-89-504 or § 23-89-507, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall promptly transmit his or her order to the Director of the Division of Arkansas State Police.

(2) Whenever possible, the ~~Director of the Division of Labor~~ secretary or his or her designee shall notify any applicable fair boards or sponsoring organizations in the respective districts or counties of this state where the amusement attractions or amusement rides are in operation or are scheduled to be in operation.

(3) The ~~Director of the Division of Labor~~ secretary or his or her designee shall promptly notify these parties when a cease and desist order has been rescinded upon proof of the operator's compliance with the provisions of this subchapter.

(b) Upon receipt of the ~~Director of the Division of Labor's~~ secretary or his or her designee's order to cease and desist operations pursuant to subsection (a) of this section, the Division of Arkansas State Police shall promptly serve the order on the operator and order the operator immediately to cease operation of all applicable amusement attractions or amusement rides in operation or scheduled to be in operation in those districts or counties until the cease and desist order has been rescinded.

SECTION 132. Arkansas Code § 23-89-515(b)(2), concerning nondestructive testing under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

(2) The professional engineer or other qualified individual shall be approved by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

SECTION 133. Arkansas Code § 23-89-516(a), concerning records under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

(a) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall keep records and statistics by year of serious injuries and fatalities resulting from amusement ride accidents. Such records and statistics shall specify the year of the accident, type of injury, type of amusement ride or amusement attraction involved, and cause of the accident.

SECTION 134. Arkansas Code § 23-89-516(b)(4), concerning accident reports under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

(4) All accident records for a period of one (1) year on premises, although such records shall be maintained and subject to being made available to the ~~director~~ secretary or his or her designee for a period of three (3) years;

SECTION 135. Arkansas Code § 23-89-518 is amended to read as follows:

23-89-518. Amusement Ride Safety Advisory Board — Creation — Duties.

(a)(1) There is created an Amusement Ride Safety Advisory Board.

(2)(A) The board shall be appointed by the Governor.

(B) The ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall be ex officio chair.

(C) The board shall consist of five (5) additional members:

(i) One (1) member of the board shall be the Secretary of the Department of Parks, Heritage, and Tourism or his or her designee;

(ii) One (1) member of the board shall represent owners or operators of amusement rides that are portable in nature;

(iii) One (1) member of the board shall represent owners or operators of permanently placed amusement rides;

(iv) One (1) member of the board shall represent fair managers in Arkansas; and

(v) One (1) member of the board shall represent the general public.

(3)(A) Except for the ~~director and the secretary~~ Secretary of

the Department of Labor and Licensing and the Secretary of the Department of Parks, Heritage, and Tourism, the terms of office of the members shall be for four (4) years or until a successor is appointed.

(B) No member of the board shall be appointed to serve more than two (2) consecutive full terms.

(C) At the time of appointment or reappointment, the Governor shall adjust the length of terms to ensure that the terms of board members are staggered so that, insofar as is possible, an equal number of members shall rotate each year.

(b) The duties of the board shall be:

(1) To assist the ~~director~~ Secretary of the Department of Labor and Licensing or his or her designee with the formulation of rules regarding the safe operation of amusement rides; and

(2) To give the Division of Labor such counsel and advice as will aid it in the proper enforcement and administration of the provisions of this subchapter.

(c) Except for the ex officio chair and the ~~secretary~~ Secretary of the Department of Parks, Heritage, and Tourism, the members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

SECTION 136. Arkansas Code § 25-43-1105(d), concerning the employment of a Director of the Division of Labor, is repealed.

~~(d) The secretary may employ a Director of the Division of Labor.~~

SECTION 137. Title 25, Chapter 43, Subchapter 11, is amended to add an additional section to read as follows:

25-43-1108. Secretary of the Department of Labor and Licensing — Authority.

(a) Notwithstanding any other provision of law concerning a board, commission, section, or division under the Department of Labor and Licensing, the Secretary of the Department of Labor and Licensing shall have the authority to:

(1) Hire and fire:

(A) The executive director of a board, commission, section, or division of the Department of Labor and Licensing; and

(B) An agent, employee, or independent contractor of a board, commission, section, or division under the Department of Labor and Licensing;

(2) Serve or designate an individual to serve on behalf of the secretary on any board, commission, section, or division for which the secretary or any other agent or employee of the Department of Labor and Licensing is designated to serve with the same rights, powers, and position; and

(3) Structure, restructure, or otherwise organize the staff and duties of each board, commission, section, or division of the Department of Labor and Licensing, including without limitation:

(A) Organizing the function and operation of the staff of a board, commission, section or division of the Department of Labor and Licensing;

(B) Assigning a position and duties to an employee; and

(C)(i) Transferring a position, employee, or job assignment on a permanent or temporary basis to enable the efficient operation of each board, commission, section, and division of the Department of Labor and Licensing upon the approval of the Legislative Council or, if the General Assembly is in regular session, fiscal session, or extraordinary session, the Joint Budget Committee.

(ii) The Department of Finance and Administration and the Department of Shared Administrative Services shall provide any assistance required to enable a position transfer under subdivision (a)(3)(C)(i) of this section.

(iii)(a) Determining the maximum number of employees and the maximum amount of appropriation of general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly and is usually accomplished by delineating the maximums in the appropriation act for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization Law.

(b) In light of subdivision (a)(3)(C)(i) of this section, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee or their cochairs as provided by this subdivision (a)(3)(C).

(c) The requirement of approval by the Legislative Council or Joint Budget Committee or their cochairs is not a severable part of this subdivision (a)(3)(C). If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this subdivision (a)(3)(C) is void.

(b) A provision of law existing on the effective date of this act shall be superseded by this section to the extent the provision states or implies the following:

(1) The authority of a board, commission, section, or division under the Department of Labor and Licensing supersedes the authority of the secretary to hire an executive director or any other agent, employee, or independent contractor of a board, commission, section, or division of the Department of Labor and Licensing;

(2) The role of the secretary is merely a consulting role; or

(3) An agent, employee, or independent contractor of the Department of Labor and Licensing serves at the pleasure of a person, a public official, or an entity other than the secretary.

/s/Irvin

APPROVED: 4/17/25

State of Arkansas *As Engrossed: S4/7/25*
95th General Assembly **A Bill**
Regular Session, 2025 SENATE BILL 627

By: Senators Irvin, *J. Bryant*
By: Representatives Wooldridge, Cozart, McGrew, Andrews

For An Act To Be Entitled

AN ACT TO ASSIST THE ADMINISTRATION OF THE CODE ENFORCEMENT SECTION OF THE DEPARTMENT OF LABOR AND LICENSING; TO REPEAL THE ELECTRICAL CONTRACTOR AND AIR CONDITIONING ELECTRICIAN LICENSES; TO TRANSFER AND UPGRADE THE CLASS C HVACR LICENSE; TO IMPROVE THE LICENSING OF APPRENTICE ELECTRICIANS; TO HELP THE ELEVATOR OWNERS SATISFY TESTING REQUIREMENTS; TO CLARIFY ANNUAL LICENSING RENEWAL PERIODS; TO AID IN THE ADMINISTRATION OF THE STATE'S ELECTRICIAN, HVACR, ELEVATOR, AND BOILER SAFETY LAWS; AND FOR OTHER PURPOSES.

Subtitle

TO ASSIST THE ADMINISTRATION OF THE CODE ENFORCEMENT SECTION OF THE DEPARTMENT OF LABOR AND LICENSING AND THE STATE'S ELECTRICIAN, HVACR, ELEVATOR, AND BOILER SAFETY LAWS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-28-101(1), concerning the definition of air conditioning electrician, is repealed.

~~(1) "Air conditioning electrician" means an individual who is limited to a license classification possessing the necessary qualifications, training, and technical knowledge for the installation, maintenance, and extension of electrical conductors and equipment solely for the purpose of~~

~~supplying heating and air conditioning and refrigeration units;~~

SECTION 2. Arkansas Code § 17-28-102(c)(1), concerning the construction and exemptions of line voltage power wiring, is amended to read as follows:

(c)(1) Any holder of a state-issued heating, ventilation, air conditioning, and refrigeration, or HVACR, license may run line voltage power wiring in compliance with the state electric code from a disconnect box to an outdoor HVACR unit within a distance not to exceed ~~ten (10')~~ seventy-five (75') feet from any point of the HVACR equipment without obtaining an electrician's license as required by this chapter.

SECTION 3. Arkansas Code § 17-28-203(a), concerning fees for the licensing examinations of electricians, is amended to read as follows:

(a) The Board of Electrical Examiners of the State of Arkansas is authorized to conduct examinations of persons applying for a license as a master electrician, journeyman electrician, industrial maintenance electrician, residential master electrician, ~~air conditioning electrician,~~ specialist sign electrician, or residential journeyman electrician. These persons shall pay fees established by the board, but in no event shall such examination fees exceed the following:

(1) Master electrician $100.00

(2) Journeyman electrician 100.00

(3) Industrial maintenance electrician 50.00

(4) Residential master electrician 100.00

(5) Residential journeyman electrician 100.00

~~(6) Air conditioning electrician ..... 100.00~~

~~(7)~~(6) Specialist sign electrician with parking lot endorsement 100.00

SECTION 4. Arkansas Code § 17-28-301 is amended to read as follows:

17-28-301. Electrician's license — Issuance and renewal — Fees.

(a) Individuals passing the master, journeyman, residential master, residential journeyman, ~~air conditioning electrician,~~ specialist sign electrician, or industrial maintenance electrician's examination as specified in § 17-28-203 shall be issued a license of the same class as that of the

examination upon payment of the following fees:

(1) Master electrician $50.00

(2) Journeyman electrician 25.00

(3) Industrial maintenance electrician 25.00

(4) Residential master electrician 50.00

(5) Residential journeyman electrician 25.00

~~(6) Air conditioning electrician ..... 25.00~~

~~(7)~~(6) Specialist sign electrician with parking lot endorsement ..... 25.00.

(b)(1) Licenses shall expire on the date indicated on the licenses.

(2) The license may be renewed for a period of one (1)~~, two (2), or three (3) years~~ year with the fee to be as follows:

(A) Master electrician ..... $50.00 per year

(B) Journeyman electrician ..... 25.00 per year

(C) Industrial maintenance electrician ..... 25.00 per year

(D) Residential master electrician ..... 50.00 per year

(E) Residential journeyman electrician ..... 25.00 per year

~~(F) Air conditioning electrician ..... 25.00 per year~~

~~(G)~~(F) Specialist sign electrician with parking lot endorsement ..... 25.00 per year.

(3) A licensee may renew his or her license ~~within thirty-six (36) months~~ following the expiration date on the license by paying:

(A) The renewal fee under subdivision (b)(2) of this section;

(B) A late fee equal to one (1) year of the renewal fee plus ten dollars ($10.00) for each calendar month between the expiration date indicated on the license and the date of application for renewal; and

(C) Any outstanding monetary civil penalty.

(4) If a licensee shall fail to renew his or her license within thirty-six (36) months after the expiration date on the license, the licensee may reinstate his or her license by retaking the examination required under § 17-28-203 and paying:

(A) The fees and any applicable penalty under subdivision (b)(3) of this section; and

(B) An additional penalty of one thousand dollars ($1,000).

(5)(A) The Board of Electrical Examiners of the State of Arkansas may, after hearing, deny renewal or reinstatement of a license for cause.

(B) The applicant for renewal or reinstatement of a license may obtain a temporary license to expire on the date of his or her hearing before the board.

(6) If a person simultaneously holds an electrical inspector license and a license as a master electrician or a journeyman electrician, the person, when renewing his or her master electrician or journeyman electrician license, shall be exempt from the:

(A) Renewal fee under this section; and

(B) Continuing education requirements for master electricians and journeyman electricians under § 17-28-311.

(c) The registration fee for an electrical apprentice shall be ten dollars ($10.00) annually. Apprentice registration certificates shall expire on the last day of the month, one (1) year following the date of original registration.

(d)(1) The board may issue a temporary license as a master electrician or journeyman electrician that is valid for no more than six (6) months and renewable one (1) time only for industry projects as defined in this chapter, upon submission by the applicant of the following:

(A) A temporary license fee in the amount established by subsection (a) of this section;

(B) A completed application on a form furnished and approved by the board; and

(C) Evidence that the applicant:

(i) Holds a current license of the same classification issued by another state; or

(ii) Meets the experience qualifications required under rules promulgated by the board for a temporary master electrician or a temporary journeyman electrician.

(2) The ~~Director of the Division of Occupational and~~

~~Professional Licensing Boards and Commissions~~ Department of Labor and Licensing may renew a temporary license as a master electrician or journeyman electrician issued by the board for more than one (1) additional period of six (6) months, if:

(A) The renewal is for work to be performed on a specific industry project as defined in this chapter;

(B) The ~~director~~ department determines that the additional renewal is necessary because:

(i) Actual construction will exceed one (1) year; and

(ii) An insufficient number of licensed electricians is available to perform the necessary work;

(C) The temporary license is restricted to the industry project for which it is issued; and

(D) A temporary license fee in the amount established in subsection (a) of this section is paid.

(3)(A) The board may issue and renew a temporary license as a master electrician or journeyman electrician for regularly scheduled or emergency maintenance work or shutdowns of not longer than six (6) weeks on industry projects as defined in this chapter.

(B) An applicant for a new or renewed temporary license under subdivision (d)(3)(A) of this section shall submit the same items as are required in subdivision (d)(1) of this section.

(e) A specialist sign electrician under § 17-28-101 shall qualify for an endorsement on his or her license authorizing the licensee to maintain and repair parking lot lights upon successfully passing a separate examination as approved by the board.

SECTION 5. Arkansas Code § 17-28-302 is repealed.

~~17-28-302. Electrical contractor license.~~

~~(a) Any person, member, or employee of a firm, partnership, or corporation desiring to engage in the business of electrical contractor may apply for and be issued a license upon satisfying the Board of Electrical Examiners of the State of Arkansas that he or she or it is either a master electrician or employs a master electrician as its superintendent or manager and shall pay a license fee in the amount of one hundred dollars ($100) per~~

~~year.~~

~~(b) Any electrical contractor having met the requirements of this chapter may work in any municipality in the state without further examinations after first showing evidence of state license as described in this chapter and paying such fees as required by the municipality in which the work is to be performed.~~

SECTION 6. Arkansas Code § 17-28-308 is amended to read as follows:

17-28-308. Electrical apprentices.

(a) Upon proper application and payment of the fee, the Board of Electrical Examiners of the State of Arkansas shall register as an electrical apprentice and issue a certificate of registration to any person who furnishes satisfactory proof that the applicant is enrolled in a school or training course for electrical apprentices certified by the United States Office of Apprenticeship.

(b) The board shall take such actions as are reasonably necessary or appropriate to supervise and enforce apprenticeship supervision ratios established by the board by rule.

(c) Notwithstanding the provisions of subsection (a) of this section, an apprentice who has successfully completed a certified school or training program and has been released for testing ~~may continue to renew his or her apprentice registration card, if otherwise qualified, without enrolling in a school or training program~~ shall test within one (1) year of release by the Office of Skills Development.

(d) Application for an initial certificate of registration and renewal of an electrical apprentice shall be the responsibility of the school or training course for electrical apprentices certified by the United States Office of Apprenticeship in which the electrical apprentice is enrolled.

(e) The school or training course for electrical apprentices certified by the United States Office of Apprenticeship in which the electrical apprentice is enrolled shall be responsible for documenting on-the-job training hours of apprentice electricians and submitting completion of hours to the board when releasing an apprentice electrician for testing.

SECTION 7. Arkansas Code § 17-28-309 is amended to read as follows:

17-28-309. Penalties.

(a) The ~~Director of the Division of Occupational and Professional Licensing Boards and Commissions~~ Secretary of the Department of Labor and Licensing or his or her designee is authorized to petition any court of competent jurisdiction to enjoin or restrain any person who performs electrical work without a license or who otherwise violates the provisions of this chapter.

(b)(1) A civil penalty may be assessed against any person, firm, or corporation by the ~~Division of Occupational and Professional Licensing Boards and Commissions~~ Department of Labor and Licensing ~~and subject to appeal and hearing before the Board of Electrical Examiners of the State of Arkansas~~ according to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., if it is determined that a person, firm, or corporation has violated any:

(A) Provision of this chapter;

(B) Provision of the Arkansas Electrical Code Authority Act, § 20-31-101 et seq.;

(C) Rule or order issued or promulgated by the board; ~~or~~

(D) Condition of a license, certificate, or registration issued by the board~~.~~; or

(E) Licensure eligibility concerning criminal records under § 17-3-102.

(2) For each violation, the penalty shall not exceed ~~the following:~~ one thousand dollars ($1,000) per day.

~~(A) Two hundred fifty dollars ($250) for a first offense;~~

~~(B) Seven hundred fifty dollars ($750) for a second offense; or~~

~~(C) One thousand dollars ($1,000) for a third offense.~~

(3) Each day of a continuing violation is a separate violation for purposes of penalty assessment.

(4)(A) Assessment of a civil penalty by the board shall be made no later than two (2) years after the date of the occurrence of the violation.

(B) No civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation.

(5) If any person, firm, or corporation against whom a civil penalty has been imposed fails to pay the penalty within sixty (60) days of

the board's decision, the ~~director~~ secretary or his or her designee may file an action in a court of competent jurisdiction to collect the civil penalty without paying costs or giving bond for costs.

(6) Any penalties collected under this section shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor and Licensing Special Fund, there to be used by the Department of Labor and Licensing in carrying out the functions, powers, and duties of this chapter.

SECTION 8. Arkansas Code § 17-28-310 is repealed.

~~17-28-310. Grandfather clause.~~

~~(a) Applicants for a license under this chapter shall be exempt from the examination requirement of § 17-28-203, provided that the applicant:~~

~~(1) Is qualified by experience requirements to take the examination for a particular license classification under the provisions of this chapter and the rules of the Board of Electrical Examiners of the State of Arkansas;~~

~~(2) Has not had a municipal electrician's license or a state electrician's license of any classification revoked or suspended for cause;~~

~~(3) Submits the appropriate fee; and~~

~~(4) Applies for a license before July 1, 1998.~~

~~(b) Notwithstanding any provision to the contrary, an applicant for a license under this section shall be exempt from the journeyman electrician examination requirement of § 17-28-203 if he or she has completed electrical apprenticeship training and education under a bona fide apprenticeship program registered with the United States Office of Apprenticeship and he or she meets the requirements of subdivisions (a)(2)-(4) of this section.~~

~~(c) An applicant for a specialist sign electrician license under this chapter shall be exempt from the examination requirement of § 17-28-203 if the applicant:~~

~~(1) Is qualified by experience requirements to take the examination for a particular license classification under this chapter and the rules of the board;~~

~~(2) Has not had a municipal electrician's license or a state electrician's license of any classification revoked or suspended for cause;~~

~~(3) Submits the appropriate fee; and~~

~~(4) Applies for the specialist sign electrician license before September 1, 2009.~~

SECTION 9. Arkansas Code § 17-28-311(a), concerning continuing education requirements for electrician licensees, is amended to read as follows:

(a) A journeyman electrician licensee, residential journeyman electrician licensee, ~~or~~ master electrician licensee, or residential master electrician licensee shall complete at least eight (8) hours of continuing education for ~~each~~ the current National Electrical Code cycle in the first year of each new code cycle before renewing his or her license.

SECTION 10. Arkansas Code § 17-33-101(8), concerning definitions pertaining to HVACR workers, is amended to read as follows:

(8) "HVACR gas fitting work" means gas fitting work for the purpose of supplying an HVACR system and shall be limited to installing ~~six feet (6')~~ seventy-five feet (75') or less final of gas piping connection to a heating unit from an existing, accessible manual safety shutoff gas cock, installing flue gas vents and combustion air for the HVACR system;

SECTION 11. Arkansas Code § 17-33-101(16)(A), concerning definitions pertaining to HVACR workers, is amended to read as follows:

(A) Does not hold a Class A, Class B, ~~Class C,~~ Class D, or Class E HVACR license;

SECTION 12. Arkansas Code § 17-33-103(b), concerning HVACR electrical work, is amended to read as follows:

(b) Any individual licensed or registered to perform HVACR work may perform electrical connections to heating and air conditioning units without obtaining any other license to perform the work, so long as the connection is made to a disconnecting means suitable in capacity for the equipment to be served and is provided by others within ~~ten feet (10')~~ seventy-five feet (75') of the unit.

SECTION 13. Arkansas Code § 17-33-105(a)(1)(A)(ii), concerning penalties, is amended to read as follows:

(ii) The penalty shall not exceed ~~two hundred fifty dollars ($250)~~ one thousand dollars ($1,000) for each violation per day, and each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments.

SECTION 14. Arkansas Code § 17-33-202(7), concerning the powers and duties of the HVACR Licensing Board, is amended to read as follows:

(7) Review applications for examination for a Class A, Class B, ~~Class C,~~ Class D, Class E, and Class L license;

SECTION 15. Arkansas Code § 17-33-202(9), concerning the powers and duties of the HVACR Licensing Board, is amended to read as follows:

(9) Establish by board rule a maximum of ~~four (4)~~ eight (8) hours per ~~year~~ International Mechanical Code cycle of continuing education if the board determines that a specific class of license requires continuing education;

SECTION 16. Arkansas Code § 17-33-204 is amended to read as follows:

17-33-204. Fees.

(a)(1) The HVACR Licensing Board shall adopt a fee schedule by rule ~~and regulation~~. The fee schedule may include, but is not limited to:

(A) Testing fees;

(B) License fees;

(C) Civil penalty fees;

(D) Registration fees;

(E) Inspection fees;

(F) ~~Fees for code books~~ Renewal fees;

(G) Late renewal fees; and

(H) Late penalty fees.

(2) The board may provide for a reduction in the fees of a person or partnership who holds one (1) or more licenses determined by the board to be HVACR-related and for which the board determines a reduction in fees should be allowed.

(b) Until a fee schedule is established by the board, the licensure and registration fees shall be as follows:

Class A License $200.00

Class B License 150.00
~~Class C License ..... 100.00~~
Class D License 150.00
Class E License 150.00
Class L License ..... No Charge
Registration Fee ..... 25.00.

(c) The fees established by the board for licensure and registration shall not exceed the amounts provided for in subsection (b) of this section.

SECTION 17. Arkansas Code § 17-33-303 is amended to read as follows:

17-33-303. Classes of licenses.

(a) Except as otherwise provided in this chapter, every individual who designs, installs, constructs, maintains, services, repairs, alters, or modifies any HVACR system or any portion of an HVACR system in the State of Arkansas shall obtain one (1) of the following classes of license and pay the fees prescribed by the HVACR Licensing Board;

(1) Class A — Entitles the licensee to perform HVACR work without limitation to BTUH or horsepower capacities;

(2) Class B — Entitles the licensee to perform HVACR work on air conditioning systems that develop a total of not more than ~~fifteen (15)~~ twenty-five (25) tons of cooling capacity per unit or one million (1,000,000) BTUH heating input per unit and refrigeration systems of fifteen horsepower (15 h.p.) or less per unit;

~~(3) Class C — Entitles the licensee who is in the business of servicing and repairing heating, ventilation, air conditioning, or refrigeration equipment for the public to service, repair, or replace components of HVACR equipment and to perform HVACR work on air conditioning systems that develop a total of not more than fifteen (15) tons of cooling capacity per unit or one million (1,000,000) BTUH heating input per unit and refrigeration systems of fifteen horsepower (15 h.p.) or less per unit. A Class C license holder shall not install any original HVACR equipment or replace any existing HVACR equipment;~~

~~(4)~~(3) Class D — Entitles the licensee to perform sheet metal work as it relates to ductwork for HVACR systems without regard to or limitation of horsepower of the system to which the duct connects. The licensee in this category is prohibited from the sale, installation, and

service of HVACR equipment and systems;

~~(5)~~(4) Class E — Entitles the licensee to perform refrigeration work as defined in § 17-33-101 without regard to or limitation of horsepower. The licensee in this category is prohibited from the sale, installation, and service of heating and air conditioning equipment used for the treatment of air for human comfort requirements; and

~~(6)~~(5) Class L — Entitles a licensee to apply for and obtain a restricted lifetime license without having to pay a license fee in any specific category of license as defined in this chapter. The applicant must be at least sixty-five (65) years of age and hold a current license in good standing with the board. The board shall promulgate rules to define the specific requirements of the lifetime license.

(b) The board shall promulgate rules necessary to carry out the provisions of this section.

(c)(1) An individual may perform HVACR work under a Class A, Class B, ~~Class C,~~ Class D, or Class E HVACR license holder by registering with the Department of Labor and Licensing.

(2) ~~The registrant shall pay an annual registration fee as required by the board.~~ Annual registration, including without limitation payment of the fee as required by the board, for the registrant shall be the responsibility of the HVACR license holder.

(3) All licensees are responsible for ensuring that all HVACR employees hold a current HVACR registration or HVACR license.

SECTION 18. Arkansas Code § 17-33-307 is amended to read as follows:

17-33-307. Grounds for suspension or revocation.

The HVACR Licensing Board, on its own motion, may make investigations and conduct hearings and, on its own motion or upon complaint in writing signed and verified by the complainant, suspend or revoke any license or registration if it finds that the holder of the license or registrant has:

(1) Made a material misstatement in the application for license or registration or renewal thereof;

(2) Demonstrated incompetency to act as a license holder or registrant according to rules and standards promulgated by the board; ~~or~~

(3) Violated any provisions of this chapter or any rule or order prescribed by the board~~.~~; or

(4) Pled guilty or nolo contendere to or been found guilty of any offense listed under § 17-3-102.

SECTION 19. Arkansas Code § 17-55-101(c)(2)(C), concerning the licensure of electrical inspectors, is amended to read as follows:

(C)(i) Proof of completion of at least ~~sixteen (16)~~ eight (8) hours of continuing education.

(ii) The board shall promulgate rules to set standards for continuing education for licensees under subdivision (c)(2)(C)(i) of this section. The rules shall include without limitation continuing education on the statewide standards for the construction, installation, and maintenance of electrical facilities and the performance of electrical work under § 20-31-104.

(iii) The ~~Division of Occupational and Professional Licensing Boards and Commissions~~ Department of Labor and Licensing may conduct or sponsor continuing education classes for electrical inspectors.

SECTION 20. Arkansas Code § 17-55-101(d)(2), concerning the licensure of electrical inspectors, is amended to read as follows:

(2)(A) A civil penalty may be assessed against an electrical inspector by the ~~Division of Occupational and Professional Licensing Boards and Commissions~~ Department of Labor and Licensing ~~and subject to appeal and hearing before the board according to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,~~ if it is determined that the electrical inspector has violated a:

(i) Provision of this chapter;

(ii) Rule or order issued or promulgated by the board; or

(iii) Condition of a license issued by the board, including without limitation a licensee having a criminal record as prohibited under § 17-3-102.

(B) For each violation, the civil penalty shall not exceed ~~the following:~~ one thousand dollars ($1,000) per day.

~~(i) Two hundred fifty dollars ($250) for a first offense;~~

~~(ii) Seven hundred fifty dollars ($750) for a second~~

~~offense; or~~

~~(iii) One thousand dollars ($1,000) for a third offense.~~

(C) Each day of a continuing violation is a separate violation for purposes of penalty assessment.

(D)(i) Assessment of a civil penalty by the board shall be made no later than two (2) years after the date of the occurrence of the violation.

(ii) A civil penalty shall not be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation.

(E) If an electrical inspector against whom a civil penalty has been imposed fails to pay the penalty within sixty (60) days of the board's decision, the ~~Director of the Division of Occupational and Professional Licensing Boards and Commissions~~ Secretary of the Department of Labor and Licensing or his or her designee may file an action in a court of competent jurisdiction to collect the civil penalty without paying costs or giving bond for costs.

(F) Any penalties collected under this section shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor and Licensing Special Fund, there to be used by the ~~Department of Labor and Licensing~~ department in carrying out the functions, powers, and duties of this chapter.

SECTION 21. Arkansas Code § 17-55-103 is repealed.

~~17-55-103. Persons employed as electrical inspectors as of August 16, 2013.~~

~~(a) A person employed as an electrical inspector as of August 16, 2013, shall be issued a temporary electrical inspector license upon submission of the following information to the Board of Electrical Examiners of the State of Arkansas:~~

~~(1) Proof of employment with the state or a political subdivision of the state as an electrical inspector in the State of Arkansas;~~

~~(2) Verification of work experience as required by rule of the board; and~~

~~(3) Payment of a license fee as required by rule of the board.~~

~~(b)(1) A temporary license issued under this section shall expire on January 1, 2014.~~

~~(2) A recipient of a temporary license shall be eligible to apply for an electrical inspector license under this chapter.~~

SECTION 22. Arkansas Code § 20-23-101(3), concerning definitions pertaining to boiler safety, is amended to read as follows:

(3) "Internal" and "external" inspection means a thorough and proper inspection as provided for in the rules by the Boiler Inspection ~~Division~~ Section;

SECTION 23. Arkansas Code § 20-23-103 is amended to read as follows:

20-23-103. Enforcement.

(a) The criminal penalties provided by this chapter shall be enforced by the prosecuting attorney of each judicial district. The administrative penalties provided by this chapter shall be imposed pursuant to rules of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(b) The ~~director~~ secretary or his or her designee may collect an administrative penalty imposed pursuant to this chapter in a civil action in a court of competent jurisdiction, and he or she shall not be required to pay costs or to enter a bond for payment of costs.

SECTION 24. Arkansas Code § 20-23-104 is amended to read as follows:

20-23-104. Periodic or regular attendance.

(a) All boilers subject to the provisions of this chapter shall be continuously monitored by mechanical and electronic devices approved by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee. When a plant is in operation or when any public building is occupied, the boilers shall be under regular attendance by a boiler operator unless otherwise exempt.

(b) Boilers that are manually operated shall be under constant attendance whenever they are in use for any purpose.

(c) All steam boilers fifty horsepower (50 hp) and over, as rated by the manufacturer in any location, and steam boilers used in hospitals, hotels, schools, theatres, and office buildings, but not limited to these

places, shall be under regular attendance by a licensed operator who holds a certificate of competency issued by the Boiler Inspection ~~Division~~ Section.

SECTION 25. Arkansas Code § 20-23-105 is amended to read as follows:

20-23-105. Disposition of funds.

~~(a)~~ All money received under this chapter shall be paid to the Treasurer of State, who shall place this money to the credit of the Department of Labor and Licensing Special Fund, there to be used by the Department of Labor and Licensing in carrying out the functions, powers, and duties as set out in this chapter and to defray the costs of the maintenance, operation, and improvements required by the department in carrying out the functions, powers, and duties otherwise imposed by law on the department or the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

~~(b) The director may issue vouchers for salaries and expenses of the Boiler Inspection Division when proper appropriation has been made for the expenditures.~~

SECTION 26. Arkansas Code § 20-23-202 is amended to read as follows:

20-23-202. Chief inspector, deputy inspector, etc.

(a)(1) When the office of Chief Inspector of the Boiler Inspection ~~Division~~ Section becomes vacant, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall employ a citizen of the State of Arkansas to be chief inspector.

(2) The chief inspector shall have at the time of employment not less than ~~ten (10)~~ five (5) years' experience in the construction, maintenance, installation, and repair or inspection of high pressure boilers and unfired pressure vessels.

(b)(1)(A) The ~~director~~ secretary or his or her designee is authorized and empowered to employ a technical assistant and deputy inspectors of boilers.

(B) Inspectors of steam boilers and unfired pressure vessels shall have had at the time of employment not less than ~~five (5)~~ three (3) years' experience in the construction, maintenance, installation, and repair of high pressure boilers and unfired pressure vessels or possess a currently valid commission from the National Board of Boiler and Pressure

Vessel Inspectors.

(C)(i) Inspectors of steam boilers and unfired pressure vessels also shall have passed a written examination.

(ii) The examination shall conform to standards not exceeding those prescribed by the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers.

(iii) The examination shall test the inspector's knowledge of the construction, installation, maintenance, and repair of boilers and their appurtenances.

(2) The ~~director~~ secretary or his or her designee is also empowered to employ clerical and administrative employees, as well as other inspectors, as necessary to perform the work of the Boiler Inspection ~~Division~~ Section.

(3) The salaries are to be approved by the General Assembly.

(c) The salaries of the employees of the Boiler Inspection ~~Division~~ Section, together with the necessary expenses of the Boiler Inspection ~~Division~~ Section, shall be paid out of the fees for which provision is made in this chapter.

SECTION 27. The introductory language of Arkansas Code § 20-23-203(a), concerning the duties of the Chief Inspector of the Boiler Inspection Division, is amended to read as follows:

(a) The Chief Inspector of the Boiler Inspection ~~Division~~ Section, either personally or by a deputy inspector, shall carefully:

SECTION 28. Arkansas Code § 20-23-203(c), concerning the duties of the Chief Inspector of the Boiler Inspection Division, is amended to read as follows:

(c)(1) The chief inspector shall enforce the laws of the state governing the use of boilers and unfired pressure vessels. He or she shall examine into and report to ~~Director of the Division of Labor~~ the Secretary of the Department of Labor and Licensing or his or her designee the causes of boiler explosions which occur within the state.

(2) He or she shall keep in his or her office a complete and accurate record of the names of all owners or operators of boilers inspected by the Boiler Inspection ~~Division~~ Section, together with the location, make,

type, dimensions, age, condition, pressure allowed upon, and date of the last inspection of all boilers and shall make an annual report thereon to the ~~director~~ secretary or his or her designee.

SECTION 29. Arkansas Code § 20-23-301 is amended to read as follows:

20-23-301. Certificate of inspection required — Application of rules and standards — Penalties.

(a)(1) No owner or user of a boiler or pressure vessel or engineer or fireman in charge of a boiler or pressure vessel shall operate or allow the boiler or pressure vessel to be operated without a certificate of inspection issued by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee or shall allow a greater pressure in the boiler or pressure vessel than is allowed by the certificate of inspection.

(2)(A) All boilers and pressure vessels installed or in operation in this state shall conform to those rules and standards that shall from time to time be adopted by the Boiler Inspection ~~Division~~ Section with the approval of the ~~director~~ secretary or his or her designee.

(B) The rules and standards shall not exceed those set out in the several sections of the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers and shall have the force of law immediately upon their approval by the ~~director~~ secretary or his or her designee.

(3) No person shall operate or cause to be operated any boiler or unfired pressure vessel on which the certificate of inspection has been suspended or the operation of which has been forbidden by an inspector as provided in §§ 20-23-203, 20-23-306, 20-23-310, 20-23-401, and 20-23-402.

(4) All pressure piping installed in this state shall conform to those rules and standards that shall from time to time be adopted by the Boiler Inspection ~~Division~~ Section with the approval of the ~~director~~ secretary or his or her designee. The rules and standards shall not exceed those set out in the American Society of Mechanical Engineers Code for Pressure Piping, Power Piping Code, B31.1.

(b) Any person violating this section shall be subject to an administrative fine of not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000).

SECTION 30. Arkansas Code § 20-23-302 is amended to read as follows:

20-23-302. Report by manufacturer, owner, and user.

(a) Every manufacturer, owner, or user of a boiler or unfired pressure vessel in use or to be used in any part of the state and subject to inspection by the Boiler Inspection ~~Division~~ Section, as provided by this chapter, shall report to the ~~division~~ Boiler Inspection Section the location of the boiler or unfired pressure vessel at such times and in such manner and form as may be determined by the rules of the ~~division~~ Boiler Inspection Section.

(b) Any owner, user, or agent of the owner of any boiler or unfired pressure vessel subject to inspection by the ~~division~~ Boiler Inspection Section, as provided in this chapter, who shall fail to report its location to the ~~division~~ Boiler Inspection Section shall be subject to an administrative fine of not less than one hundred dollars ($100).

SECTION 31. Arkansas Code § 20-23-304 is amended to read as follows:

20-23-304. Failure to make ready for inspection.

Any owner, user, or agent of the owner of any boiler subject to inspection by the Boiler Inspection ~~Division~~ Section who shall fail to have a boiler ready for inspection after due notice as provided in this chapter shall pay to the ~~division~~ Boiler Inspection Section the inspection fee provided by this subchapter and shall be subject to an administrative fine of any sum not less than ten dollars ($10.00).

SECTION 32. Arkansas Code § 20-23-305 is amended to read as follows:

20-23-305. Special inspection.

(a) If at any time the owner, user, or agent of the owner of any boiler within the state shall desire a special inspection of any boiler, it shall be made by the Boiler Inspection ~~Division~~ Section after due request thereof.

(b) The inspector making the inspection shall collect a fee of one hundred dollars ($100) ~~for each boiler together with his or her expenses from Little Rock to the place of inspection and return~~.

SECTION 33. Arkansas Code § 20-23-306 is amended to read as follows:

20-23-306. Issuance.

(a)(1) Upon receipt by the Boiler Inspection ~~Division~~ Section of an annual or biennial certificate report of inspection from a state inspector or from an inspector employed by an insurance company that a boiler or pressure vessel is in safe working condition with the required fittings, valves, and appliances properly installed and set, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee shall issue to the owner of the boiler or pressure vessel a certificate of inspection.

(2) The certificate of inspection shall be issued upon payment of a fee of fifteen dollars ($15.00) in cases of all boilers other than unfired pressure vessels and a fee of thirty dollars ($30.00) in cases of unfired pressure vessels.

(3) The certificate of inspection shall state the maximum pressure at which the boiler or pressure vessel may be operated as may be determined by the rules adopted by the Boiler Inspection ~~Division~~ Section, as provided in this chapter.

(b) Upon receipt of a certificate of inspection under subsection (a) of this section, unless the certificate of inspection is withdrawn or suspended, the owner or user may operate boilers:

(1) Other than unfired pressure vessels described in the certificate for one (1) year from the date of annual inspection plus any extension granted under § 20-23-203(a) of the time for the next annual inspection; and

(2) That are unfired pressure vessels for two (2) years from the date of biennial inspection.

(c) Any owner or operator of a boiler or pressure vessel who is dissatisfied with the result of an inspection made by an inspector employed by an insurance company may appeal to the Chief Inspector of the Boiler Inspection ~~Division~~ Section, who shall cause a special investigation to be conducted and, upon the report of the inspection, shall render his or her decision, the decision to be final.

SECTION 34. Arkansas Code § 20-23-307 is amended to read as follows:

20-23-307. New boilers and unfired pressure vessels — Permit required.

(a) Every manufacturer, contractor, jobber, owner, or user of a boiler

or unfired pressure vessel or pressure piping system shall obtain a permit from the Boiler Inspection ~~Division~~ Section before any boiler or unfired pressure vessel or pressure piping system may be installed or moved and installed in the State of Arkansas.

(b) When new boilers or unfired pressure vessels are to be installed, the manufacturer's data report for each boiler and unfired pressure vessel shall be submitted with the application for installation.

(c) No boiler or unfired pressure vessel or pressure piping may be installed without approval from the ~~division~~ Boiler Inspection Section.

SECTION 35. Arkansas Code § 20-23-308 is amended to read as follows:

20-23-308. New boilers and unfired pressure vessels — Fees.

(a) The following fees shall be paid before permits may be issued for the installation of any boiler or unfired pressure vessel:

(1) Boilers:

(A) Up to ~~25~~ 200 horsepower, incl. ~~$15.00~~ $25.00

(B) ~~Over 25 horsepower to 50 horsepower, incl. 20.00~~

~~(C) Over 50 horsepower to 100 horsepower, incl. 25.00~~

~~(D) Over 100 horsepower to 200 horsepower, incl. 30.00~~

~~(E) Over 200 horsepower to 300 horsepower, incl. 50.00~~

~~(F) Over 300 horsepower to 400 horsepower, incl. 60.00~~

~~(G) Over 400 horsepower to 500 horsepower, incl. 70.00~~

~~(H)~~ Over ~~500~~ 200 horsepower ~~$95.00~~ $45.00

(2) Unfired pressure vessels, including hot water storage containers~~:~~ $30.00

~~(A) 500 gallons capacity or less $15.00~~

~~(B) 501 gallons capacity to 1,000 gallons capacity 20.00~~

~~(C) 1,001 gallons capacity to 5,000 gallons capacity 40.00~~

~~(D) 5,001 gallons capacity and over 50.00~~

(b) The fee paid for the issuance of a permit for the installation of pressure piping shall be one hundred dollars ($100).

SECTION 36. Arkansas Code § 20-23-310 is amended to read as follows:

20-23-310. Suspension.

(a)(1) The Chief Inspector of the Boiler Inspection ~~Division~~ Section or his or her authorized ~~representatives~~ representative may at any time

suspend an inspection certificate when in ~~their~~ his or her opinion the boiler or unfired pressure vessel for which it was issued cannot be operated without menace to the public safety or when the boiler or unfired pressure vessel is found not to comply with the rules provided in this subchapter.

(2) Any insurance company inspector or inspection service provider who has been issued an Arkansas commission and is inspecting boilers or pressure vessels in this state shall have corresponding powers with respect to operating certificates for boilers or pressure vessels insured by the company employing him or her.

(3) The suspension of an operating certificate shall continue in effect until the boiler or pressure vessel shall have been made to conform to the rules of the Boiler Inspection ~~Division~~ Section and until the operating certificate shall have been reinstated.

(b) Any inspector of the ~~division~~ Boiler Inspection Section or any commissioned inspector of any insurance company or inspection service provider who after inspection of a boiler or unfired pressure vessel shall find it unsafe for operation shall suspend its certificate of inspection and forbid its further use until it shall have been made to conform to the standards adopted by the ~~division~~ Boiler Inspection Section and until its certificate of inspection shall have been reinstated by an authorized inspector.

SECTION 37. Arkansas Code § 20-23-311 is amended to read as follows:

20-23-311. Inspection fees generally.

(a) Within thirty (30) days from the date of inspection, there shall be paid for the annual inspection of each boiler by the Boiler Inspection ~~Division~~ Section made according to the provisions of this chapter, the sum as follows:

(1) Boilers~~:~~ $25.00; and

~~(A) Up to and including 15 horsepower, incl. $10.00~~

~~(B) Over 15 horsepower to 50 horsepower, incl. 13.00~~

~~(C) Over 50 horsepower to 100 horsepower, incl. 18.00~~

~~(D) Over 100 horsepower to 150 horsepower, incl. 20.00~~

~~(E) Over 150 horsepower to 250 horsepower, incl. 23.00~~

~~(F) Over 250 horsepower to 500 horsepower, incl. 35.00~~

~~(G) Over 500 horsepower 50.00~~

~~(2) Shop inspections: per day, four hundred forty dollars ($440); per half day, two hundred and twenty dollars ($220); plus expenses, including mileage not to exceed the rate authorized by the General Assembly to employees of state agencies who furnish their own transportation, and meals and lodging in accordance with that approved by the General Assembly as a daily allowance; and~~

~~(3)~~ Unfired pressure vessels~~:~~ $15.00

~~(A) 150 gallons or less $9.00~~

~~(B) 151 gallons to 500 gallons 10.00~~

~~(C) 501 gallons to 1,000 gallons 11.00~~

~~(D) 1,001 gallons to 2,000 gallons 12.00~~

~~(E) 2,001 gallons to 3,000 gallons 13.00~~

~~(F) 3,001 gallons to 5,000 gallons 14.00~~

~~(G) 5,001 gallons and over 18.00~~

(b) The rates in subsection (a) of this section may be reduced by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee at the beginning of any fiscal year if the rates produce a greater amount of revenue than is required to defray the cost of operation of the Boiler Inspection ~~Division~~ Section.

(c) All inspection fees shall be paid by the owner, user, or agent of the owner, and the inspector may receive the fee and issue his or her receipt therefor.

(d) If the owner, user, or agent of the owner shall fail to pay any inspection fee under this section within thirty (30) days, a civil money penalty equal to the amount of the unpaid fee shall attach to the outstanding amount of the fee, and the ~~director~~ secretary or his or her designee shall be empowered to collect this penalty in addition to the amount of the fee.

SECTION 38. Arkansas Code § 20-23-312 is amended to read as follows:

20-23-312. Inspection fees — Collection.

(a)(1) In addition to other remedies provided for by this chapter, if after the making of any inspection or accrual of any charge or penalty required or authorized by this chapter, the fee, penalty, or charge is not paid within thirty (30) days after demand upon whoever is liable therefor, the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee may employ an attorney, who is empowered

without payment of costs or giving of bond for costs to institute suit in the name of the State of Arkansas in any court of competent jurisdiction to collect the fees, penalties, costs, and charges.

(2)(A) The court where suit is brought pursuant to subdivision (a)(1) of this section for collection of fees, penalties, and charges shall, without limitation, based on the actual amount of the judgment award an attorney's fee equal to the actual cost to the ~~Division of Labor~~ Department of Labor and Licensing or the Boiler Inspection ~~Division~~ Section for the regular hourly rate of pay of the attorney multiplied by the actual hours, including, but not limited to, travel time, litigation, and case review.

(B) Furthermore, the court shall award, without limitation, based on the actual amount of the judgment an amount equal to all costs incurred by the ~~Division of Labor~~ department or the Boiler Inspection ~~Division~~ Section, including, but not limited to, travel costs, witness fees, sheriff's service fees, or costs incurred pursuant to the collection of any judgment obtained by the ~~Division of Labor~~ department or the Boiler Inspection ~~Division~~ Section.

(b)(1) The plaintiff in the suits is given a lien upon the boiler and all parts, connections, and attachments thereto, whether attached to the land or not, to accrue the payment of the inspection fees for making the inspection.

(2) The lien shall attach to the property at the time of making the inspection and shall continue until all inspection fees are paid.

(3) The lien, when it so attaches, shall be held to be prior, paramount, and superior to the liens, claims, and demands of all persons whomsoever, whether owners, agents, mortgagees, trustees, and beneficiaries under trusts or owners whether prior in time or not.

SECTION 39. Arkansas Code § 20-23-314 is amended to read as follows:

20-23-314. Pressure piping inspections.

(a) The installation of pressure piping shall be periodically inspected during the course of the installation by an inspector commissioned pursuant to the provisions of § 20-23-401 in the manner and with the frequency prescribed by the rules of the Boiler Inspection ~~Division~~ Section.

(b)(1) Upon completion of the installation of any pressure piping, a final inspection shall be made, and the inspector shall complete a final

inspection report on a form approved by the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(2) A copy of the final inspection report shall be filed with the Boiler Inspection ~~Division~~ Section within thirty (30) days of completion of the installation.

(c) If the report required by subsection (b) of this section is not filed within thirty (30) days after completion of the installation, the Boiler Inspection ~~Division~~ Section shall designate an inspector in its employ to make the inspection and report required by subsection (b) of this section.

(d) The inspections and reports required by subsections (a) and (b) of this section may be made by an inspector in the employ of the Boiler Inspection ~~Division~~ Section.

(e) For each inspection made by an inspector employed by the Boiler Inspection ~~Division~~ Section and required by subsection (a), subsection (b), or subsection (c) of this section, the holder of the installation permit shall pay the Boiler Inspection ~~Division~~ Section an inspection fee in the amount of four hundred forty dollars ($440) per day or two hundred twenty dollars ($220) per half-day~~, plus expenses and mileage at the rates authorized for employees of the Division of Labor who furnish their own transportation~~.

(f) The inspections required by this section and the installation permit required for pressure piping by § 20-23-307 shall apply only to new installations and shall not be construed as requiring an inspection or an installation permit for maintenance, repair, or renovation of existing facilities.

SECTION 40. Arkansas Code § 20-23-401(a), concerning certificates of competency and commissions of inspectors of the Boiler Inspection Division, is amended to read as follows:

(a) Certificates of competency and commissions as inspectors of boilers shall be issued by the Boiler Inspection ~~Division~~ Section to persons in the employ of any company authorized to insure boilers against explosions in this state or by a qualified inspection service provider.

SECTION 41. Arkansas Code § 20-23-401(f)(1), concerning commissions issued relating to boiler safety, is amended to read as follows:

(f)(1) Any commission issued under this subchapter shall be immediately returned to the ~~division~~ Boiler Inspection Section when the inspector to whom it has been issued shall cease to be employed by the insurance company or inspection service provider employing him or her at the time the commission was issued.

SECTION 42. Arkansas Code § 20-23-402 is amended to read as follows:

20-23-402. Inspectors employed by insurance companies or private inspection service providers.

(a) Boiler inspectors employed by insurance companies or private inspection service providers which are authorized to insure boilers in this state shall hold certificates of competency issued by the Boiler Inspection ~~Division~~ Section as provided in this section and shall:

(1) Inspect internally and externally at least one (1) time annually or within the time granted under § 20-23-203(a) all high pressure steam boilers insured by their respective companies;

(2) Inspect externally one (1) time annually and internally one (1) time every three (3) years every low pressure steam heating boiler insured by their respective companies; and

(3) Inspect unfired pressure vessels biennially.

(b) The insured boilers shall be exempt from all inspections other than those of the respective insurance company inspectors unless there is some evidence that proper inspection is not being made.

(c) Within thirty (30) days following each internal inspection made by its inspectors, each insurance company shall file a copy of the internal inspection report and date of the inspection with the Boiler Inspection ~~Division~~ Section on forms approved by the ~~Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(d)(1) Each insurance company shall file a report annually of all boilers insured and inspected showing location, owner, state number, and date of last inspection.

(2) The report shall be filed not later than January 30 of each calendar year.

(e)(1) If annual reports are not filed with the Boiler Inspection ~~Division~~ Section by insurance companies who have insurance on boilers in the State of Arkansas within sixty (60) days from the date they are due

inspection, the Boiler Inspection ~~Division~~ Section shall make the required inspection.

(2) A special inspection fee of one hundred dollars ($100) for each boiler or unfired pressure vessel inspected, plus mileage and expenses from Little Rock to point of inspection and return not to exceed the current rate authorized by the General Assembly to employees of state agencies who furnish their own transportation, plus any meals and hotel bills incurred shall be charged to the insurance company insuring the boilers or unfired pressure vessels unless an extension of time is granted by the Chief Inspector of the Boiler Inspection ~~Division~~ Section.

(f) No operating certificate issued for an insured boiler inspected by an insurance company inspector shall be valid after the boiler for which it was issued shall cease to be insured by a company authorized by this state to carry the insurance.

SECTION 43. Arkansas Code § 20-23-404 is amended to read as follows:

20-23-404. Operators.

(a)(1) The Boiler Inspection ~~Division~~ Section or an authorized representative of the Boiler Inspection Section shall conduct examinations for each applicant seeking a boiler operator's license.

(2) The examination ~~may be either written or oral~~ shall be written.

(3) Each applicant shall pay a fee of twenty-five dollars ($25.00) for the examination and the first license.

(4) Each license shall be renewed annually. The annual fee shall be seventeen dollars ($17.00).

(5) Before the applicant may participate in an examination, he or she shall have had not less than six (6) months of on-the-job training. Proof of this on-the-job training shall be furnished to the ~~Division of Labor~~ Boiler Inspection Section by the employer before the examination.

~~(6) A restricted license may be issued to an applicant who has passed the examination required in this subsection but who has not met the requirements of subdivision (a)(5) of this section, provided that:~~

~~(A) The restricted license shall be effective for one (1) year from the date of issue; and~~

~~(B) The licensee is to work under the direction and~~

~~supervision of a regularly licensed boiler operator.~~

(b)(1) Any operator found operating a boiler without a certificate issued by the Boiler Inspection ~~Division~~ Section or operating a boiler knowing it to be defective shall have his or her license revoked at once.

(2) Any person found operating a boiler without an operator's license shall be subject to an administrative fine of not less than twenty-five dollars ($25.00) and not more than one hundred dollars ($100).

SECTION 44. Arkansas Code § 20-23-405 is amended to read as follows:

20-23-405. Sellers, installers, and repairers, and inspection service providers.

(a)(1) All persons, firms, or corporations engaged in the sale, ~~or~~ installation, or inspection services of boilers, unfired pressure vessels, hot water storage containers, or pressure piping in any location shall be licensed by the Boiler Inspection ~~Division~~ Section to perform the work.

(2) The annual license fee shall be seventy-five dollars ($75.00) per year, payable in advance on or before January 31 of each calendar year.

(b)(1) All persons, firms, or corporations engaged in the repair of boilers or unfired pressure vessels shall be licensed by the ~~division~~ Boiler Inspection Section.

(2) The annual license fee shall be seventy-five dollars ($75.00) annually, payable in advance on or before January 31 of each calendar year.

(c) Each person, firm, or corporation shall furnish evidence suitable to the ~~division~~ Boiler Inspection Section that the person, firm, or ~~coporation~~ corporation is qualified to perform the work.

(d) The license of any person, firm, or corporation may be revoked by the ~~division~~ Boiler Inspection Section upon proof that the person, firm, or corporation is not performing the work in compliance with this chapter and the rules as provided in this chapter.

(e) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000) or by imprisonment for not more than five (5) years or by both fine and imprisonment.

(f) The provisions of §§ 20-23-104, 20-23-307 — 20-23-309, 20-23-403, 20-23-404, and this section shall not apply to firms under the regulation of the United States Surface Transportation Board.

SECTION 45. Arkansas Code § 20-23-406 is amended to read as follows:

20-23-406. Restricted lifetime license — Certificate of competency and commission.

(a)(1)(A) Upon reaching sixty-five (65) years of age or any time thereafter, any person who has been a boiler inspector for no fewer than twelve (12) years may apply for a restricted lifetime boiler inspector's certificate of competency and commission.

(B) The certificate of competency and commission shall be issued upon satisfactory proof of age and upon payment of a fee prescribed by the ~~division~~ Boiler Inspection Section.

(2)(A) Upon reaching sixty-five (65) years of age or any time thereafter, any person who has been a boiler operator for no fewer than twelve (12) years may apply for a restricted lifetime boiler operator's license.

(B) The license shall be issued upon satisfactory proof of age and upon payment of a fee prescribed by the ~~division~~ Boiler Inspection Section.

(3)(A) Upon reaching sixty-five (65) years of age or any time thereafter, any person who has been engaged in the sale or installation of boilers, unfired pressure vessels, hot water storage containers, or pressure piping for no fewer than twelve (12) years may apply for a restricted lifetime license.

(B) The license shall be issued upon satisfactory proof of age and upon payment of a fee prescribed by the ~~division~~ Boiler Inspection Section.

(4)(A) Upon reaching sixty-five (65) years of age or any time thereafter, any person who has been engaged in the repair of boilers or unfired pressure vessels for no fewer than twelve (12) years may apply for a restricted lifetime license.

(B) The license shall be issued upon satisfactory proof of age and upon payment of a fee prescribed by the ~~division~~ Boiler Inspection Section.

(b) The ~~division~~ Boiler Inspection Section shall promulgate rules necessary to carry out the provisions of this section.

SECTION 46. Arkansas Code § 20-23-407 is amended to read as follows:

20-23-407. Owner or user inspection programs.

(a) Any owner or user of a steam boiler or pressure vessel subject to this chapter may perform any inspections required by this chapter on such vessels owned or operated by the owner or user if the owner or user meets the requirements prescribed by rule of the ~~Director of the Division of Labor~~ Secretary of the Department of Labor and Licensing or his or her designee.

(b) The ~~director~~ secretary or his or her designee shall set out requirements for the certification of owner or user inspectors and certification of owner or user inspection programs by rule and shall have full authority to promulgate and enforce those rules.

(c)(1)(A) After notice and opportunity for hearing, any owner or user who is found to have violated rules prescribed by the ~~director~~ secretary or his or her designee pursuant to this subchapter shall be assessed a civil monetary penalty of not less than one hundred dollars ($100) or more than five thousand dollars ($5,000).

(B) Each day that a violation continues shall be considered a separate violation.

(2) The ~~director~~ secretary or his or her designee may bring a civil action in a court of competent jurisdiction to recover the amount of any civil monetary penalties.

(d) In addition to civil monetary penalties, any owner or user who is found to be in violation of this section shall be guilty of a Class A misdemeanor.

SECTION 47. Arkansas Code § 20-24-106(a), concerning the powers and duties of the Elevator Safety Board, is amended to read as follows:

(a) It shall be the duty of the Elevator Safety Board to license elevator inspectors, elevator mechanics, elevator testing contractors, and elevator contractors as provided in this chapter and to revoke or suspend any such license for cause.

SECTION 48. The introductory language of Arkansas Code § 20-24-

108(c)(2), concerning application requirements, is amended to read as follows:

(2) To be eligible for an elevator contractor license or elevator testing contractor license, the applicant or licensee shall:

SECTION 49. Arkansas Code § 20-24-109 is amended to read as follows:

20-24-109. Application and examination for licenses — Issuance and renewal.

(a)(1) A written application for the examination and license for elevator inspector, elevator mechanic, elevator testing contractor, or elevator contractor shall be made upon a form to be supplied by the Elevator Safety Board upon request and shall be accompanied by a statement of the applicant's experience together with an examination fee not to exceed one hundred fifty dollars ($150).

(2) The examination shall be given not more than six (6) months from the date when the applicant makes the application.

(3)(A) If the applicant is qualified and successfully passes the applicable examination specified in this section, then upon payment of a license fee, he or she shall be entitled to~~:~~ a one-year license as an elevator inspector, elevator mechanic, elevator testing contractor, or elevator contractor.

~~(i) A one-year license as an elevator inspector or elevator contractor; or~~

~~(ii) A two-year license as an elevator mechanic.~~

(B) The license fee and the license renewal fee shall be established by the board, but in no event shall either fee exceed one thousand dollars ($1,000).

(4)(A) There shall be no limit to the number of times an applicant may seek a license as provided in this section, except that a rejected applicant may not make application within six (6) months from the date on which he or she is notified that he or she has failed to qualify.

(B) A license fee shall be paid for the initial examination and each subsequent examination.

(b) The board may license a person as an elevator inspector, elevator mechanic, elevator testing contractor, or elevator contractor without examination if he or she holds an equivalent license for a state or city that

has a standard of examination substantially equal to that provided for in § 20-24-108.

(c) The board shall renew a license after receiving:

(1) Payment of the license renewal fee; and

(2) Submission of proof that the licensee has satisfied the continuing education requirements established by rule of the board.

(d)(1) Whenever an emergency exists and the board determines that there are not enough licensed elevator mechanics to perform the work necessary to provide for the safety of life, limb, and property and to protect the public welfare, the board may waive the requirements of this chapter and issue an emergency elevator mechanic license that may be valid for no longer than thirty (30) days.

(2) Whenever the board determines that there are not enough licensed elevator mechanics available to perform work necessary for the completion of a project for which the ~~Division of Occupational and Professional Licensing Boards and Commissions~~ Department of Labor and Licensing has issued a permit under § 20-24-115(d), the board may waive the requirements of this chapter and issue a temporary elevator mechanic license that may be valid for no longer than thirty (30) days.

(3) The board may renew an emergency or temporary license if the circumstances justifying its original issuance continue.

SECTION 50. Arkansas Code § 20-24-110(c), concerning prohibited activities of elevator inspectors, is amended to read as follows:

(c) No elevator inspector shall recommend or refer one (1) of his or her clients or customers to a specific business, firm, or corporation which manufactures, installs, repairs, alters, tests, or services elevators, escalators, or dumbwaiters.

SECTION 51. DO NOT CODIFY. HVACR Class C license transfer.

As of September 1, 2025, all active and current Class C license holders will be Class B license holders and may perform all HVACR work previously permitted with a Class C license and that of a Class B license.

/s/Irvin

APPROVED: 4/17/25