

IC 22-15-5

Chapter 5. Regulated Lifting Devices

IC 22-15-5-1

Installation or alteration permit; issuance; qualification of applicants

Sec. 1. (a) The division shall issue a regulated lifting device installation or alteration permit to an applicant who qualifies under this section.

(b) To qualify for a permit under this section, an applicant must meet the following requirements:

(1) Demonstrate through the submission of complete plans, including:

(A) copies of specifications and accurately scaled and fully dimensioned plans showing the location of the installation in relation to the plans and elevation of the building;

(B) plans showing the location of the machine room and the equipment to be installed, relocated, or altered;

(C) plans showing the structural supporting members, including foundations; and

(D) a specification of all materials employed and loads to be supported or conveyed;

that the installation or alteration covered by the application will comply with all applicable equipment laws. All plans and specifications must be sufficiently complete to illustrate all details of construction and design.

(2) Pay the fee set under IC 22-12-6-6(a)(7).

(3) Be the holder of a current elevator contractor license, if applicable, as set forth under IC 22-15-5-7.

(c) A copy of the permit shall be kept at the construction site at all times while the work is in progress.

(d) The regulated lifting device must be installed or altered in compliance with:

(1) applicable codes; and

(2) the details of the application, plans, specifications, and conditions of the permit.

(e) The regulated lifting device must be installed or altered under the direction and control of a licensed contractor. The elevator contractor does not have to be present at the site.

(f) The responsibilities of the division under this section may be carried out by a political subdivision that is approved by the commission under IC 22-13-2-10.

As added by P.L.245-1987, SEC.4. Amended by P.L.119-2002, SEC.12; P.L.1-2006, SEC.392.

IC 22-15-5-1.3

Sanctions

Sec. 1.3. A permit issued under section 1 of this chapter is subject

to sanctions as provided in IC 22-12-7-7 for any of the following reasons:

- (1) A false statement or misrepresentation of the material fact in the application, plan, or specification on which the permit was based.
- (2) The work being performed is not in compliance with the applicable code.
- (3) The work is not being performed in accordance with the details of the application, plans, specifications, or conditions of the permit.
- (4) The elevator contractor to whom the permit was issued is the subject of an order issued under IC 22-12-7-4 and IC 22-12-7-6.

As added by P.L.119-2002, SEC.13.

IC 22-15-5-1.5

Permit expiration

Sec. 1.5. A permit granted under section 1 of this chapter expires for the following reasons:

- (1) The work authorized by the permit has not begun within one (1) year after the date of issuance or within a shorter period if specified at the time of issuance of the permit.
- (2) The work authorized by the permit has been suspended or abandoned for at least one hundred eighty (180) days or a shorter period if specified at the time of the issuance of the permit.

As added by P.L.119-2002, SEC.14.

IC 22-15-5-2

Installation or alteration without a permit; offense; application of section

Sec. 2. (a) This section does not apply to minor construction that is exempted from this section under IC 22-13-4.

(b) This section applies to the following:

- (1) Each person who installs or alters a regulated lifting device, whether or not required to be licensed under IC 22-15-5-7, IC 22-15-5-8, IC 22-15-5-9, IC 22-15-5-10, IC 22-15-5-11, or IC 22-15-5-12. However, the installation, alteration, or maintenance of a regulated lifting device to which ASME A18.1 applies is not required to be performed by a mechanic licensed under IC 22-15-5-12 or by a contractor licensed under IC 22-15-5-7.
- (2) Each person who has control over the installation or alteration of a regulated lifting device.
- (3) Each person who has control over the place where the regulated lifting device is installed or altered.

(c) A person described in subsection (b) commits a Class C infraction if:

- (1) a regulated lifting device is installed or altered; and
- (2) no regulated lifting device installation or alteration permit issued under section 1 of this chapter covers the installation or alteration.

As added by P.L.245-1987, SEC.4. Amended by P.L.119-2002, SEC.15.

IC 22-15-5-3

Registration; qualification; required information

Sec. 3. (a) All regulated lifting devices shall be registered under this section.

(b) The division shall issue a registration for a regulated lifting device to an applicant who qualifies under this section.

(c) To register a regulated lifting device under this section, an applicant must submit, on a form approved by the division, the following information:

- (1) Type, rated load and speed, name of manufacturer, location, and the nature of the use of the regulated lifting device.
- (2) Any information required under the rules adopted by the commission.

As added by P.L.245-1987, SEC.4. Amended by P.L.119-2002, SEC.16; P.L.1-2006, SEC.393.

IC 22-15-5-4

Inspection program; initial operating certificate; renewal certificate; temporary permit

Sec. 4. (a) The division shall carry out a program for the periodic inspection of regulated lifting devices being operated in Indiana. A regulated lifting device may not be operated without an operating certificate that covers the operation of the regulated lifting device.

(b) A permit issued under this section expires on the earlier of:

- (1) one (1) year after issuance; or
- (2) when the regulated lifting device is altered.

(c) After a regulated lifting device has been installed or altered, an applicant shall apply for an initial operating certificate. The division shall issue an initial operating certificate for a regulated lifting device if:

- (1) the applicant demonstrates:
 - (A) through an acceptance inspection made by an elevator inspector licensed under IC 22-15-5-11 that the regulated lifting device covered by the application complies with the laws governing its construction, repair, maintenance, and operation; and
 - (B) that the applicant has paid the fee set under IC 22-12-6-6(a)(7); and
- (2) the division verifies, through an inspection, that the regulated lifting device complies with the laws governing the construction, repair, maintenance, and operation of the

regulated lifting device.

(d) The division shall issue a renewal operating certificate if the applicant:

(1) demonstrates through the completion of applicable safety tests that the regulated lifting device complies with the laws governing the construction, repair, maintenance, and operation of the regulated lifting device; and

(2) has paid the fee set under IC 22-12-6-6(a)(7).

(e) The division may issue a temporary operating permit to an applicant under this section who does not comply with subsection (c)(1)(A) for a new or altered regulated lifting device or subsection (d)(1) for an existing unaltered regulated lifting device. The applicant must pay the fee set under IC 22-12-6-6(a)(7) to qualify for the temporary operating permit. Except as provided in subsection (f), the permit, including all renewal periods, is limited to sixty (60) days.

(f) The division may renew a temporary operating permit issued under subsection (e) for thirty (30) day periods during the construction of a building if the regulated lifting device is used for the transportation of construction personnel, tools, and materials.

(g) The responsibilities of the division under this section may be carried out by a political subdivision that is approved by the commission under IC 22-13-2-10.

(h) A copy of the operating certificate shall be displayed in or on each regulated lifting device or in an associated machine room.

(i) A licensed elevator mechanic shall perform the maintenance on a regulated lifting device.

As added by P.L.245-1987, SEC.4. Amended by P.L.137-1990, SEC.1; P.L.119-2002, SEC.17; P.L.1-2006, SEC.394.

IC 22-15-5-5

Operation without a permit; offense; application of section

Sec. 5. (a) This section does not apply to a person who uses a regulated lifting device unless the person also has authority to:

(1) construct, repair, or maintain the regulated lifting device; or
(2) place the regulated lifting device out of service.

(b) This section applies to the following:

(1) Each person who operates a regulated lifting device.
(2) Each person who has control over the operation of a regulated lifting device.
(3) Each person who has control over the place where a regulated lifting device is operated.

(c) A person described in subsection (b) commits a Class C infraction if:

(1) a regulated lifting device is operated; and
(2) no regulated lifting device operating permit covers the operation.

As added by P.L.245-1987, SEC.4.

IC 22-15-5-6

Definitions

Sec. 6. (a) The following definitions apply to sections 7 through 16 of this chapter:

- (1) "Competency examination" means an examination that thoroughly tests the scope of the knowledge and skill of the applicant for the license.
- (2) "Elevator apprentice" means an individual who works under the direct supervision of a licensed elevator mechanic. The term includes an individual commonly known as an elevator helper while working under the direct supervision of a licensed elevator mechanic.
- (3) "Elevator contractor" means a person who alone or with other persons, constructs, repairs, alters, remodels, adds to, subtracts from, or improves a regulated lifting device and who is responsible for substantially all the regulated lifting devices within the entire project, or who fabricates elevator lifting devices substantially completed and ready for installation.
- (4) "Elevator inspector" means an individual who conducts the acceptance inspection of a regulated lifting device required by section 4(c)(1)(A) of this chapter.
- (5) "Elevator mechanic" means an individual who engages in the construction, reconstruction, alteration, maintenance, mechanical, or electrical work or adjustments of a regulated lifting device.
- (6) "License" means a certificate issued by the department that confers upon the holder the privilege to act as an elevator contractor, elevator inspector, or elevator mechanic.
- (7) "Licensing program" means the program for licensing elevator contractors, elevator inspectors, and elevator mechanics established under this section and sections 7 through 16 of this chapter.
- (8) "Municipality" has the meaning set forth in IC 36-1-2-11.
- (9) "Person" means:
 - (A) a natural person;
 - (B) the partners or members of a partnership or a limited partnership;
 - (C) a state educational institution; or
 - (D) a corporation or the officers, directors, and employees of the corporation.
- (10) "Practitioner" means a person that holds:
 - (A) an unlimited license;
 - (B) a limited or probationary license;
 - (C) a temporary license;
 - (D) an emergency license; or
 - (E) an inactive license.

(b) The commission and the department shall establish a program

to license elevator contractors, elevator mechanics, and elevator inspectors.

(c) The department shall issue a license as an elevator contractor, an elevator mechanic, or an elevator inspector to a person who qualifies and complies with the provisions of the licensing program. A person who receives a license under this chapter is subject to the supervision and control of the department.

(d) The department may contract with public and private institutions, agencies, businesses, and organizations to implement all or part of its duties established under this chapter.

(e) The commission may adopt rules under IC 4-22-2 to implement the licensing program.

As added by P.L.119-2002, SEC.18. Amended by P.L.1-2006, SEC.395; P.L.2-2007, SEC.309.

IC 22-15-5-7

Elevator contractor license; requirements for license; invalid license

Sec. 7. (a) After May 1, 2003, an individual may not act as an elevator contractor unless the individual:

- (1) holds an elevator contractor license issued under this chapter; or
- (2) is an employee of a partnership, a limited partnership, a corporation, or a state educational institution that holds an elevator contractor license issued under this chapter.

(b) After May 1, 2003, a partnership, a limited partnership, a corporation, or a state educational institution may not act as an elevator contractor unless it holds an elevator contractor license issued under this chapter.

(c) An individual who is an applicant for an elevator contractor license shall:

- (1) hold a valid elevator contractor license issued by another state that has a licensing program that, as determined by the department or the commission, is equivalent to the elevator contractor licensing program established under this chapter; or
- (2) except as otherwise provided, satisfy both of the following requirements:
 - (A) Have at least five (5) years of documented work experience in the elevator industry in construction, maintenance, and service or repair in Indiana.
 - (B) Successfully complete a written competency examination approved by the commission.

An applicant for an elevator contractor license is entitled to a license without examination if the applicant applies for the license on or before May 1, 2003.

(d) A corporation or a state educational institution that is an applicant for an elevator contractor license must have at least one (1) officer or employee of the corporation or a state educational

institution that holds a valid elevator contractor license issued under this chapter. A license granted to a corporation or a state educational institution to act as an elevator contractor under this chapter becomes invalid when an officer or employee of the corporation or state educational institution no longer holds a valid elevator contractor license issued under this chapter.

(e) A partnership or limited partnership that is an applicant for an elevator contractor license must have at least one (1) partner or general partner that holds a valid elevator contractor license issued under this chapter. A license granted to a partnership or limited partnership to act as an elevator contractor under this chapter becomes invalid when the partner of a partnership or general partner of a limited partnership named in the application no longer holds a valid elevator contractor license as provided by this chapter.

As added by P.L.119-2002, SEC.19. Amended by P.L.141-2003, SEC.13; P.L.2-2007, SEC.310.

IC 22-15-5-8

Initial license application; renewal license application

Sec. 8. (a) An applicant for an initial elevator contractor license must do the following:

- (1) Submit to the department an application on the form that the department provides.
- (2) Submit to the department any proof of eligibility the department requires.
- (3) Demonstrate proof of insurance as required by section 14 of this chapter.
- (4) Demonstrate proof of worker's compensation coverage under IC 22-3-2-5.
- (5) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application or applies to take the examination.
- (6) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(b) An applicant for a renewal elevator contractor license must do the following:

- (1) Submit an application on the form that the department provides.
- (2) Submit proof of completion of the continuing education required by section 15 of this chapter.
- (3) Demonstrate proof of insurance as required by section 14 of this chapter.
- (4) Demonstrate proof of worker's compensation coverage under IC 22-3-2-5.
- (5) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an

applicant submits an application.

(6) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

As added by P.L.119-2002, SEC.20. Amended by P.L.1-2003, SEC.72.

IC 22-15-5-9

Required information for application; license expiration and renewal

Sec. 9. (a) An application for an elevator contractor license must contain the following information:

(1) If the applicant is an individual, the name, business address, telephone number, and electronic mail address of the applicant.

(2) If the applicant is a corporation or a state educational institution, the following:

(A) The name and address of the corporation.

(B) The name, business address, phone number, and electronic mail address of every officer or employee in the corporation who holds a valid elevator contractor license as provided by this chapter.

(C) The name and address of the resident agent of the corporation.

(3) If the applicant is a partnership or limited partnership, the following:

(A) The name and address of the partnership or limited partnership.

(B) The name, business address, phone number, and electronic mail address of every partner, for a partnership, or every general partner, for a limited partnership, who holds a valid elevator contractor license as provided by this chapter.

(4) Any other information the department requires.

(b) An initial elevator contractor license issued under this chapter expires on December 31 of the second year after it was issued.

(c) A renewal of an elevator contractor license is valid for two (2) years.

As added by P.L.119-2002, SEC.21. Amended by P.L.2-2007, SEC.311.

IC 22-15-5-10

License presentation upon request

Sec. 10. An individual engaged in the business of an elevator contractor shall carry:

(1) the individual's license; or

(2) a facsimile of the license of the partnership, corporation, or state educational institution by which the individual is employed;

and present the license for inspection by a representative of the

department upon request.

As added by P.L.119-2002, SEC.22. Amended by P.L.2-2007, SEC.312.

IC 22-15-5-11

Elevator inspector license; initial license requirements; renewal license; license expiration; invalid license

Sec. 11. (a) After May 1, 2003, an individual may not act as an elevator inspector unless the individual holds an elevator inspector license issued under this chapter.

(b) An individual who is an applicant for an elevator inspector license shall meet the standards set forth in American Society of Mechanical Engineers (ASME) American National Standard QEI-1 (Standard for the Qualification of Elevator Inspectors) or other nationally accepted standard qualifying authority that the commission has determined has equivalent requirements as ASME QEI-1 for obtaining and retaining certification.

(c) An applicant for an initial elevator inspector license must do the following:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit to the department any proof of eligibility the department requires.

(3) Demonstrate proof of insurance as required by section 14 of this chapter.

(4) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(d) An applicant for a renewal elevator inspector license shall:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit proof of completion of the continuing education required by section 15 of this chapter.

(3) Demonstrate proof of insurance as required by section 14 of this chapter.

(4) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) Affirm under penalty of perjury that all information

provided to the department is true to the best of the applicant's knowledge and belief.

(e) An initial elevator inspector license issued under this chapter expires on December 31 of the second year after the license was issued.

(f) A renewal of an elevator inspector license is valid for two (2) years.

(g) An individual who engages in the business of an elevator inspector shall carry the individual's license and present the license for inspection by a representative of the department upon request.

(h) If the QEI-1 certification or other certification standard approved by the commission that made the individual eligible for an inspector license under subsection (b):

(1) is terminated;

(2) expires; or

(3) becomes invalid for any other reason;

the elevator inspector's license immediately becomes invalid.

As added by P.L.119-2002, SEC.23. Amended by P.L.141-2003, SEC.14.

IC 22-15-5-12

Elevator mechanic license; eligibility criteria; initial license requirements; renewal license; license expiration

Sec. 12. (a) After May 1, 2003, an individual may not act as an elevator mechanic unless the individual holds an elevator mechanic license issued under this chapter. A license is not required for an elevator apprentice.

(b) An individual who is an applicant for an elevator mechanic license must meet one (1) of the following eligibility criteria:

(1) Hold an active elevator mechanic license issued by a state that has a licensing program that is at least equivalent to the elevator mechanic licensing program established under this chapter.

(2) Satisfy both of the following:

(A) Have at least one (1) of the following types of work experience or training:

(i) Have at least three (3) years of documented work experience in the elevator industry in construction, maintenance, and service or repair.

(ii) Have at least eighteen (18) months experience in the elevator industry in construction, maintenance, and service or repair and have at least three (3) years experience in a related field that is certified by a licensed elevator contractor.

(iii) Complete an apprenticeship program that is registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or a state apprenticeship program and that the commission

determines is at least equivalent to three (3) years of work experience in the elevator industry in construction, maintenance, and service or repair.

(B) Successfully complete a written competency examination approved by the commission.

(3) Successfully complete an elevator mechanic's program that consists of a combination of extensive training and a comprehensive examination that the commission has determined is at least equivalent to both the work experience required under subdivision (2)(A)(i) and the competency examination established under subdivision (2)(B).

(4) Furnish acceptable proof to the department of:

(A) at least three (3) years work experience in the elevator industry in construction, maintenance, service or repair; and

(B) current performance of the duties of an elevator mechanic in Indiana without direct supervision;

and apply for the license on or before May 1, 2003.

(c) An applicant for an initial elevator mechanic license must do the following:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, business address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit to the department any proof of eligibility the department requires.

(3) Pay the nonrefundable and nontransferable license fee established under IC 22-12-6-6.

(4) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(d) An applicant for a renewal elevator mechanic license must do the following:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, business address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit proof of completion of the continuing education required by section 15 of this chapter.

(3) Pay the nonrefundable and nontransferable license fee established under IC 22-12-6-6.

(4) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(e) An initial elevator mechanic license issued under this chapter expires on December 31 of the second year after the license was issued.

(f) A renewal of an elevator mechanic license is valid for two (2) years.

(g) An individual engaged in the business of an elevator mechanic shall carry the individual's license and present the license for inspection by a representative of the department upon request.

As added by P.L.119-2002, SEC.24. Amended by P.L.141-2003, SEC.15.

IC 22-15-5-13

Temporary elevator mechanic license; emergency elevator mechanic license

Sec. 13. (a) A temporary elevator mechanic license may be issued by the department upon receipt of the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) A certification by the licensed elevator contractor that the individual to receive the temporary license possesses sufficient documented experience and education to perform elevator construction, maintenance, or service and repair.

(4) A temporary mechanic license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) An affirmation under penalty of perjury made by both the individual who would receive the temporary license and the licensed elevator contractor that all information provided to the department is true to the best of their knowledge and belief.

(b) A temporary elevator mechanic license is valid for sixty (60) days after the date of issuance and is valid only for work performed for the licensed elevator contractor that has made the certifications under subsection (a).

(c) A temporary elevator mechanic license issued under this section may be renewed for two (2) subsequent sixty (60) day periods. To renew the license, the license holder must submit the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) A temporary mechanic license renewal fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(4) An affirmation by both the individual that would receive the temporary license and the licensed elevator contractor under penalty for perjury that all information provided to the

department is true to the best of their knowledge and belief.

(d) An emergency elevator mechanic license may be issued by the department upon receipt of the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators due to a disaster (as defined in IC 10-14-3-1).

(2) An application on the form that the department provides.

(3) A certification by the licensed elevator contractor that the individual to receive the temporary license possesses sufficient documented experience and education to perform elevator construction, maintenance, or service and repair.

(4) An emergency mechanic license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) An affirmation by both the individual that would receive the temporary license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

(e) An emergency elevator mechanic license is valid for sixty (60) days after the date of issuance and is valid only for work performed for the licensed elevator contractor that has made the certifications under subsection (d).

(f) An emergency elevator mechanic license issued under this section may be renewed for two (2) subsequent sixty (60) day periods. To renew the license, the license holder must submit the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) An emergency mechanic license renewal fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(4) An affirmation by both the individual who would receive the emergency license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

As added by P.L.119-2002, SEC.25. Amended by P.L.2-2003, SEC.61.

IC 22-15-5-14

Liability insurance requirement; exemptions; failure to file certificate of insurance

Sec. 14. (a) This section does not apply to the following:

(1) An individual employed by the following:

- (A) The state.
- (B) A county.
- (C) A municipality.
- (D) A state educational institution.

(2) A state educational institution.

(b) The department may not issue an elevator inspector or elevator contractor license until the applicant has filed with the department a certificate of insurance indicating that the applicant has liability insurance:

(1) in effect with an insurer that is authorized to write insurance in Indiana; and

(2) that provides general liability coverage to a limit of at least:

- (A) one million dollars (\$1,000,000) for the injury or death of any number of persons in any one (1) occurrence; and
- (B) five hundred thousand dollars (\$500,000) for property damage in any one (1) occurrence.

(c) An insurance policy required under this section may include a deductible clause if the clause provides that any settlement made by the insurance company with an injured person or a personal representative must be paid as though the deductible clause did not apply.

(d) An insurance policy required under this section must provide by the policy's original terms or an endorsement that the insurer may not cancel the policy without:

(1) thirty (30) days written notice; and

(2) a complete report of the reasons for the cancellation to the division.

(e) An insurance policy required under this section must provide by the policy's original terms or an endorsement that the insurer shall report to the department within twenty-four (24) hours after the insurer pays a claim or reserves any amount to pay an anticipated claim that reduces the liability coverage below the amounts established in this section.

(f) If an insurance policy required under this section:

(1) is canceled during the policy's term;

(2) lapses for any reason; or

(3) has the policy's coverage fall below the required amount;

the license holder shall replace the policy with another policy that complies with this section.

(g) If a license holder fails to file a certificate of insurance for new or replacement insurance, the license holder:

(1) must cease all operations under the license immediately; and

(2) may not conduct further operations until the license holder receives the approval of the department to resume operations after the license holder complies with the requirements of this section.

As added by P.L.119-2002, SEC.26. Amended by P.L.1-2006, SEC.396; P.L.2-2007, SEC.313.

IC 22-15-5-15

Continuing education requirements; exemptions; temporary waiver

Sec. 15. (a) This section does not apply to a licensed elevator contractor that is not an individual.

(b) To renew a license issued under this licensing program, the license holder must satisfy the continuing education requirement and submit a proof of completion of training to the department.

(c) The continuing education requirement is at least eight (8) hours of instruction that must be attended and completed within one (1) year before a license renewal.

(d) The continuing education courses designed to ensure the continuing education of an individual holding a license regarding new and existing provisions of the rules of the commission may include:

- (1) programs sponsored by the commission;
- (2) trade association seminars;
- (3) labor training programs; or
- (4) joint labor management apprenticeship and journeyman upgrade training programs.

For an individual's completion of a continuing education course to satisfy the individual's continuing education requirement under this chapter, the continuing education provider, instructor and the curriculum must have been approved by the department.

(e) All instructors of continuing education courses must be approved by the department. If an instructor is approved by the department, has worked as an instructor teaching a curriculum approved by the department at any time within the year preceding the expiration date of the license, and submits proof of this work to the department, the instructor is exempt from the requirements of subsection (c).

(f) Continuing education providers shall keep uniform records of attendance at approved continuing education courses for at least ten (10) years on forms designed and distributed by the department.

(g) A license holder who is unable to complete the continuing education required under this chapter before the expiration of the individual's license due to temporary physical or mental disability may apply for a waiver from the department in accordance with the following:

- (1) A waiver application must be submitted to the department on a form established by the department.
- (2) A waiver application must be signed and accompanied by an affidavit signed by the physician of the applicant attesting to the applicant's temporary disability.

(h) After the cessation of the temporary disability, the applicant must submit to the department a certification from the same physician, if the physician is still the treating physician of the applicant, or from a subsequent treating physician attesting to the

termination of the temporary disability.

(i) Upon the submission of the certification under subsection (h), the department shall issue a temporary waiver of the continuing education requirement. A temporary waiver is valid for ninety (90) days after the date of issue and allows the individual to work as an elevator contractor, elevator inspector, or elevator mechanic without the completion of the continuing education requirement for ninety (90) days.

(j) A temporary waiver of the continuing education requirement may not be renewed.

As added by P.L.119-2002, SEC.27.

IC 22-15-5-16

Sanctions; disciplinary proceedings; license denial, suspension, and revocation; appeals; costs

Sec. 16. (a) A practitioner shall comply with the standards established under this licensing program. A practitioner is subject to the exercise of the disciplinary sanctions under subsection (b) if the department finds that a practitioner has:

- (1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;
- (2) engaged in fraud or material deception in the course of professional services or activities;
- (3) advertised services or goods in a false or misleading manner;
- (4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses provided under this chapter;
- (5) been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;
- (6) knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;
- (7) continued to practice although the practitioner has become unfit to practice due to:
 - (A) professional incompetence;
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
- (8) engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (9) allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or

- business's training, experience, or competence;
- (10) had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;
- (11) assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter;
- or
- (12) allowed a license issued by the department to be:
 - (A) used by another person; or
 - (B) displayed to the public when the license has expired, is inactive, is invalid, or has been revoked or suspended.

For purposes of subdivision (10), a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction.

(b) The department may impose one (1) or more of the following sanctions if the department finds that a practitioner is subject to disciplinary sanctions under subsection (a):

- (1) Permanent revocation of a practitioner's license.
- (2) Suspension of a practitioner's license.
- (3) Censure of a practitioner.
- (4) Issuance of a letter of reprimand.
- (5) Assess a civil penalty against the practitioner in accordance with the following:
 - (A) The civil penalty may not be more than one thousand dollars (\$1,000) for each violation listed in subsection (a), except for a finding of incompetency due to a physical or mental disability.
 - (B) When imposing a civil penalty, the department shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the department, the department may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.
- (6) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the department upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the department;
 - (C) continue or renew professional education approved by the department until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
 - (D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

The department may withdraw or modify this probation if the department finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the department may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the department.

(d) The department may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The department may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a department order to submit to a physical or mental examination makes a practitioner liable to temporary suspension under subsection (j).

(f) Except as provided under subsection (g) or (h), a license may not be denied, revoked, or suspended because the applicant or holder has been convicted of an offense. The acts from which the applicant's or holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

(g) The department may deny, suspend, or revoke a license issued under this chapter if the individual who holds the license is convicted of any of the following:

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or IC 35-48-4-7(c) (for a crime committed after June 30, 2014).
- (5) Manufacture of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.5(b).

committed after June 30, 2014) under IC 35-48-4-8.3(b).

(8) Possession of marijuana, hash oil, hashish, or salvia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-11.

(9) Possession of a synthetic drug or synthetic drug lookalike substance as a:

(A) Class D felony for a crime committed before July 1, 2014, under:

(i) IC 35-48-4-11, before its amendment in 2013; or

(ii) IC 35-48-4-11.5; or

(B) Level 6 felony for a crime committed after June 30, 2014, under IC 35-48-4-11.5.

(10) Maintaining a common nuisance under IC 35-48-4-13 (repealed) or IC 35-45-1-5, if the common nuisance involves a controlled substance.

(11) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

(12) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(13) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.

(h) The department shall deny, revoke, or suspend a license issued under this chapter if the individual who holds the license is convicted of any of the following:

(1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.

(2) Dealing in methamphetamine under IC 35-48-4-1.1.

(3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.

(5) Dealing in a schedule V controlled substance under IC 35-48-4-4.

(6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

(7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

(8) Dealing in a counterfeit substance under IC 35-48-4-5.

(9) Dealing in marijuana, hash oil, hashish, or salvia as a felony under IC 35-48-4-10.

(10) Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b))

before its amendment in 2013).

(11) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(12) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.

(14) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

(i) A decision of the department under subsections (b) through (h) may be appealed to the commission under IC 4-21.5-3-7.

(j) The department may temporarily suspend a practitioner's license under IC 4-21.5-4 before a final adjudication or during the appeals process if the department finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice.

(k) On receipt of a complaint or an information alleging that a person licensed under this chapter has engaged in or is engaging in a practice that jeopardizes the public health, safety, or welfare, the department shall initiate an investigation against the person.

(l) Any complaint filed with the office of the attorney general alleging a violation of this licensing program shall be referred to the department for summary review and for its general information and any authorized action at the time of the filing.

(m) The department shall conduct a fact finding investigation as the department considers proper in relation to the complaint.

(n) The department may reinstate a license that has been suspended under this section if, after a hearing, the department is satisfied that the applicant is able to practice with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the department may impose disciplinary or corrective measures authorized under this chapter.

(o) The department may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

(p) The department shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the department's findings or orders.

(q) A practitioner may petition the department to accept the surrender of the practitioner's license instead of having a hearing before the commission. The practitioner may not surrender the practitioner's license without the written approval of the department, and the department may impose any conditions appropriate to the

surrender or reinstatement of a surrendered license.

(r) A practitioner who has been subjected to disciplinary sanctions may be required by the commission to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. The costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photo duplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.

As added by P.L.119-2002, SEC.28. Amended by P.L.151-2006, SEC.9; P.L.1-2007, SEC.161; P.L.138-2011, SEC.5; P.L.182-2011, SEC.5; P.L.78-2012, SEC.6; P.L.196-2013, SEC.7; P.L.158-2013, SEC.261; P.L.168-2014, SEC.33; P.L.238-2015, SEC.5; P.L.59-2016, SEC.5.