



South Carolina
Department of Labor, Licensing and Regulation



Henry D. McMaster
Governor

Emily H. Farr
Director

110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
(803) 896-4390

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The Honorable Bruce W. Bannister
South Carolina House of Representatives
Legislative Oversight Committee
Economic Development, Transportation, and Natural Resources Subcommittee
Post Office Box 11867
Columbia, South Carolina 29211

Dear Chairman Bannister,

Thank you for the opportunity to provide additional information to the Economic Development, Transportation, and Natural Resources Subcommittee regarding the OSHA and Elevator and Amusement Rides Divisions of the Department of Labor, Licensing and Regulation. In response to your letter dated September 17, 2018, I provide the following response to the questions asked.

1. Is it the agency's practice to check out original copies of OSHA files to members of the public, as indicated in public testimony on September 10, 2018?

It is not the agency's policy to check out original copies of OSHA files to members of the public. If a member of the public would like a copy of an OSHA file, then that member can submit a FOIA request and copies of any information deemed releasable will be provided.

The public testimony provided on September 10, 2018, correctly stated an email was sent to Mr. Thomas requesting he return an original OSHA file that he had previously checked out; however, that email was sent in error as Mr. Thomas holds the identical first name as an actual OSHA employee who regularly checks out files to use in his course of work and for whom the email was intended. Once the error was discovered, staff emailed Mr. Thomas directly and instructed him to please disregard the email as it had been sent in error. Mr. Thomas did not confirm receipt or provide a response to that request. Mr. Thomas never had access to an original OSHA file.

2. In each of the last three fiscal years, what percentage of the agency's audits of special inspections of elevators and amusement rides revealed a problem?

Following the annual inspection of an elevator, the special inspector conducts a closing conference with the elevator owner to discuss his or her findings. After the inspection is completed, the agency receives an electronic copy of the inspection report. If the inspection report contains violations, the owner has 30 days to correct the issues. Once corrected, the owner is required to send a signed abatement form informing the agency that all violations are fixed. The agency will not issue an elevator certificate of operation until the abatement process is completed.

The Subcommittee asked the agency to identify the percentage of the audits of special inspectors that revealed "a problem." The range of issues an elevator or amusement ride may have falls into various categories - from non-serious to serious. When auditing a special inspector's work, a finding would be considered "a problem" if, in the course of his inspection, the inspector did not identify a code violation that has the potential for causing injury to the public. In fiscal years 2016, 2017, and 2018, our audits did not find violations that rose to this level. We did identify missed code violations that could become a safety risk if not corrected and required the elevator owners to address them. Examples include a burned-out light in an elevator, an inoperable alarm or telephone, housekeeping issues in the elevator pit (trash, water, or oil), annual testing of the elevator not conducted, missing maintenance logs, switches not labeled properly, missing signage, emergency evacuation plan not found, etc. In fiscal year 2016, LLR auditors identified code violations that could become a safety risk if not corrected in 28% of audits; in 2017, 32%; and in 2018, 33%. If a pattern of missing code violations is identified for a particular special inspector, an LLR auditor contacts the special inspector to discuss the missed violations.

Audits conducted of special inspectors of amusement rides reveal that code violations are missed in less than 3% of the audits. These missed code violations were not issues that would likely result in serious injury or death to a patron.

3. Is there a procedure for revoking a special inspector's license for cause? If so, please provide the following:

- a) A description of that procedure and the circumstances that might trigger a revocation;**
- b) The number of special inspectors that are currently licensed for elevators and amusement rides; and**
- c) The number of special inspector licenses that have been revoked in each of the last three fiscal years.**

Currently, the agency licenses 21 special inspectors who conduct inspections of elevators and 11 special inspectors who conduct amusement ride inspections. A special inspector's license would be revoked as a result of a substantiated, serious complaint filed with the agency against the special inspector. When a complaint is received, an investigation is conducted to determine if a special inspector violated any statute or regulation governing the industry. If a determination is made that a violation did occur, appropriate sanctions are determined which could include the revocation of the Special Inspector's license. In the last three fiscal years, the department has not received any complaints against an inspector and, as a result, has not revoked any special inspector licenses.

As set forth by regulation, the department is able to revoke or suspend a license for the following reasons:

- Repeated failure to identify and cite elevator/amusement ride safety code violations that are likely to cause serious injury or death to the riding public;

- Violation of Section 41-16-75 that prohibits a special inspector from performing inspections of elevators or amusement rides on which he or his employer has a current service or warranty contract;
- Failure to maintain professional certifications for conducting elevator or amusement ride inspections;
- Failure to maintain errors and omissions or approved general liability insurance, covering inspections of elevators and amusement rides in an amount of no less than \$500,000 per occurrence;
- Failure to complete an inspection form as prescribed by the Department of LLR;
- Using or disclosing information gained in the course of, or by reason of, his official position for any purpose other than making official inspections;
- Receiving compensation to influence his inspections;
- Using a false, fraudulent, or forged statement or document or committing a fraudulent, deceitful, or dishonest act or omitting a material fact in obtaining licensure as a special inspector;
- Having had a license to practice a regulated profession or occupation, including special inspector, in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;
- Intentionally or knowingly, directly or indirectly, violating or aiding and abetting in the violation or conspiracy to violate the South Carolina Elevator Code or Amusement Ride Safety Code;
- Intentionally using a fraudulent statement in a document connected with practice as a special inspector;
- Committing a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;
- Obtaining fees or assisting in obtaining fees under fraudulent circumstances;
- Lacking the professional or ethical competence to practice as a special inspector;
- Having been convicted or having pled guilty to or nolo contendere to a felony or a crime involving drugs or moral turpitude;
- Having practiced as a special inspector while under the influence of alcohol or drugs or having used alcohol or drugs to such a degree as to render him unfit to practice as a special inspector; and
- Having sustained a physical or mental disability which renders further practice dangerous to the public.

Please let me know if you have any additional questions.

Sincerely yours,



Emily H. Farr
Director