

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 280*

Short Title: Boiler/Elevator Inspection.

(Public)

Sponsors: Representatives Bowen, Edwards, Huffman and Tallent.

Referred to: Commerce.

February 20, 1989

A BILL TO BE ENTITLED

AN ACT TO TRANSFER REGULATION OF BOILERS AND INSPECTION OF ELEVATORS, AMUSEMENT DEVICES AND PASSENGER TRAMWAYS FROM THE DEPARTMENT OF LABOR TO THE BUILDING CODE COUNCIL OF THE DEPARTMENT OF INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. Article 7A of Chapter 95 of the General Statutes is recodified as Article 2D of Chapter 58 of the General Statutes and reads as rewritten:

"ARTICLE 7A-2D.

"UNIFORM BOILER AND PRESSURE VESSEL ACT.

"§ 95 ♦ This Article shall be known as the Uniform Boiler and Pressure Vessel Act of North Carolina.

"§ 95o As used in this Article, unless a different meaning is plainly required by the context:

(a) ~~The term 'board' shall mean the North Carolina Board of Boiler and Pressure Vessel Rules;~~

(b) (1) The term 'boiler' shall mean means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. This term 'boiler' shall also include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves;

- 1 (e) (2) The term 'Commissioner' ~~shall mean~~ means the North
2 Carolina Commissioner of ~~Labor Insurance~~;
- 3 (d) (3) The term 'Director' ~~shall mean~~ means the individual appointed
4 by the Commissioner to hold the office of Director of the ~~Boiler and~~
5 ~~Pressure Vessel Engineering~~ Division within the Department of
6 ~~Labor, Insurance~~;
- 7 (e) (4) The term 'inspection certificate' shall mean certification by
8 the Director that a boiler or pressure vessel is in compliance with the
9 rules ~~and regulations~~ adopted under this Article;
- 10 (f) (5) The term 'inspector's commission' shall mean a written
11 authorization by the Commissioner for a person who has met the
12 qualifications set out in this Article to conduct inspections of boilers
13 and pressure vessels;
- 14 (g) (6) The term 'pressure vessel' shall mean a vessel in which the
15 pressure is obtained from an indirect source or by the application of
16 heat from an indirect source or a direct source, other than those
17 included within the term 'boiler.'

18 "§ 95—(a) ~~This Article shall apply~~ applies to all boilers and pressure vessels
19 constructed, used, or designed for operation in this State including all
20 new and existing installations which are operated in connection with
21 business buildings, institutional buildings, industrial buildings, assembly
22 buildings, educational buildings, public residential buildings, recreation
23 buildings, other public buildings, and water supplies. This Article shall
24 also apply to boilers and hot water supply tanks, and heaters located in
25 hotels, motels, tourist courts, camps, cottages, resort lodges, and similar
26 places whenever the owner or operator advertises in any manner for
27 transit patronage, or solicits such business for temporary abode by
28 transit patrons.

- 29 (b) This Article shall not apply to:
- 30 (1) Boilers and pressure vessels owned ~~and/or~~ or operated by the federal
31 government;
- 32 (2) Pressure vessels used for transportation or storage of compressed gases
33 when constructed in compliance with the specifications of the U.S.
34 Department of Transportation and when charged with gas marked,
35 maintained, and periodically requalified for use, as required by
36 appropriate regulations of the U.S. Department of Transportation;
- 37 (3) ~~To portable~~ Portable boilers and pressure vessels used for agricultural
38 purposes only or for pumping or drilling in an open field for water, gas
39 or coal, gold, talc or other minerals and metals;
- 40 (4) Boilers and pressure vessels which are located in private residences or
41 in apartment houses of less than six families;
- 42 (5) Pressure vessels used for transportation or storage of liquified
43 petroleum gas;

- 1 (6) Air tanks located on vehicles licensed under the rules and regulations
2 of other state authorities operating under rules and regulations
3 substantially similar to those of this State and used for carrying
4 passengers or freight within interstate commerce;
- 5 (7) Air tanks installed on right-of-way of railroads and used directly in the
6 operation of trains;
- 7 (8) Pressure vessels that do not exceed five cubic feet in volume and 250
8 PSIG pressure; or one and one-half cubic feet in volume and 600 PSIG
9 pressure; or an inside diameter of six inches with no limitations on
10 pressure;
- 11 (9) Pressure vessels operating at a working pressure not exceeding 15
12 PSIG pressure;
- 13 (10) Pressure vessels with a nominal water capacity of 120 gallons or less
14 and containing water under pressure at ambient temperature, including
15 those containing air, the compression of which serves as a cushion;
- 16 (11) Boilers and pressure vessels on railroad steam locomotives that are
17 subject to federal safety regulations;
- 18 (c) The construction and inspection requirements established by the Department
19 of ~~Labor~~-Insurance shall not apply to hot water supply boilers which are directly fired
20 with oil, gas or electricity, or hot water supply tanks heated by steam or any other
21 indirect means, which do not exceed any of the following limitations:
- 22 (1) Heat input of 200,000 BTU HR;
- 23 (2) Water temperature of 200 degrees F;
- 24 (3) Nominal water capacity of 120 gallons;
- 25 provided that they are equipped with ASME Code and National Board certified safety
26 relief valves.
- 27 (d) The construction requirements established by the Department of ~~Labor~~
28 Insurance shall not apply to pressure vessels installed in this State prior to December 31,
29 1981, that:
- 30 (1) Are of one-piece, forged construction and have no weldments;
- 31 (2) Are constructed before January 1, 1981, and operating or could be
32 operated, under the laws of any state that has adopted one or more
33 sections of the ASME Code;
- 34 (3) Are transferred into this State without a change of ownership; and
- 35 (4) Are determined by the Director to be constructed under standards
36 substantially equivalent to those established by the department at the
37 time of transfer;
- 38 provided that they are equipped with ASME Code and National Board certified safety
39 relief valves.
- 40 (e) The construction requirements established by the Department of ~~Labor~~
41 Insurance shall not apply to pressure vessels installed in this State prior to December 31,
42 1984, that:
- 43 (1) Are manufactured from gray iron casting material, as specified by the
44 American Society for Testing and Materials, (ASTM) 48- 60T/30;

- 1 (2) Are constructed before December 31, 1967, and operating or could be
 2 operated, under the laws of any state or Canadian Province that has
 3 adopted one or more sections of the ASME Boiler and Pressure Vessel
 4 Code;
 5 (3) Are transferred into this State without a change of ownership; and
 6 (4) Are determined by the Director to be constructed under standards
 7 substantially equivalent to those established by the department at the
 8 time of transfer;

9 provided that they are equipped with ASME Code and National Board certified safety
 10 relief valves.

11 **"§ 95y Building Code Council.**

12 (a) ~~The Commissioner of Labor Building Code Council is hereby charged,~~
 13 ~~directed, and empowered:~~ shall:

14 (1) ~~To adopt,~~ Adopt, modify or revoke rules and regulations governing the
 15 construction, operation and use of boilers and pressure vessels,
 16 including, where necessary, requirements for fencing to prevent
 17 unauthorized persons from coming in contact with boilers and pressure
 18 vessels or the systems they are connected to;

19 ~~(11)~~ (2) ~~To establish~~ Establish reasonable fees for the inspection and
 20 issuance of inspection certificates for boilers and pressure vessels;
 21 and

22 ~~(12)~~ (3) ~~To establish~~ Establish reasonable fees for the examination
 23 and certification of inspectors;

24 (b) The Commissioner shall:

25 ~~(2)~~ ~~To supervise~~ (1) Supervise the office of the Director of ~~Boiler and~~
 26 ~~Pressure Vessel~~ the Engineering Division;

27 ~~(3)~~ ~~To enforce~~ (2) Enforce rules and regulations adopted under authority of
 28 this Article;

29 ~~(4)~~ ~~To inspect~~ (3) Inspect boilers and pressure vessels covered under this
 30 Article;

31 ~~(5)~~ ~~To issue~~ (4) Issue inspection certificates to those boilers and pressure
 32 vessels found in compliance with this Article;

33 ~~(6)~~ ~~To enjoin~~ (5) Enjoin violations of this Article in the civil and criminal
 34 courts of this State;

35 ~~(7)~~ ~~To keep~~ (6) Keep adequate records of the type, dimensions, age,
 36 conditions, pressure allowed upon, location and date of the last
 37 inspection of all boilers and pressure vessels to which this Article
 38 applies;

39 ~~(8)~~ ~~To require~~ (7) Require such periodic reports from inspectors, owners,
 40 and operators of boilers and pressure vessels as he deems appropriate
 41 in carrying out the purposes of this Article;

42 ~~(9)~~ ~~To have~~ (8) Have free access, without notice, to any location in this
 43 State, during reasonable hours, where a boiler or pressure vessel is
 44 being built, installed, or operated for the purpose of ascertaining

1 whether such boiler or pressure vessel is built, installed or operated in
2 accordance with the provisions of this Article; and

3 (10) ~~To investigate~~ (9) Investigate serious accidents involving boilers and
4 pressure vessels to determine the causes of such accident(s), and he
5 shall have full subpoena powers in conducting said ~~investigation;~~
6 investigation.

7 (13) ~~To appoint qualified individuals to the Board of Boiler and Pressure~~
8 ~~Vessel Rules.~~

9 **"§ 95 ~~Vessels~~ Engineering Division created; powers and duties.**

10 There is hereby created the office of Director of the ~~Boiler and Pressure Vessel~~
11 Engineering Division within the North Carolina Department of ~~Labor.~~ Insurance. The
12 person holding this office shall assist the Commissioner in carrying out the provisions
13 of this Article ~~in accordance with the provisions of Chapter 126 of the General Statutes.~~ The
14 ~~Director is charged with the responsibility and shall administer for the administration of this~~
15 ~~Article on a day-to-day basis.~~

16 The Director shall be primarily responsible for the inspection of boilers and pressure
17 vessels subject to this Article and for the issuance of inspection certificates for those
18 boilers and pressure vessels found suitable. He shall also be responsible for the
19 collection of fees for the inspection of boilers and pressure vessels and transmitting the
20 same to the State Treasurer, where they shall be held in a special account to cover the
21 operating expenses of the Division.

22 **"§ 95 ~~Rules created; appointment, terms, compensation and duties.~~ Additional**
23 **duties of Building Code Council.**

24 (a) ~~There is hereby created the North Carolina Board of Boiler and Pressure~~
25 ~~Vessels Rules consisting of nine members appointed by the Commissioner, of which~~
26 ~~three shall be appointed for a term of one year, three for a term of two years, one for a~~
27 ~~term of three years, one for a term of four years, and one for a term of five years. At the~~
28 ~~expiration of their respective terms of office, their successors shall be appointed for~~
29 ~~terms of five years each. Of these nine appointed members, one shall be a representative~~
30 ~~of the owners and users of steam boilers within this State, one a representative of boiler~~
31 ~~manufacturers within this State, one a representative of boilermakers within this State~~
32 ~~who has had not less than five years' practical experience as a boilermaker, one shall be~~
33 ~~a representative of the owners or users of pressure vessels within the State, one shall be~~
34 ~~a representative of the pressure vessel manufacturers within the State, one a~~
35 ~~representative of a boiler inspection and insurance company authorized to insure boilers~~
36 ~~and pressure vessels within the State, one a representative of the operating steam~~
37 ~~engineers in this State, one a contractor holding a Group I North Carolina Heating~~
38 ~~License, and one a mechanical engineer on the faculty of a recognized engineering~~
39 ~~college or a licensed professional engineer having boiler and pressure vessel experience.~~
40 ~~The Commissioner of Labor shall serve as chairman.~~

41 (b) ~~The Board shall meet at least twice annually and~~ The Building Code Council shall be
42 responsible for:

43 (1) ~~Studying and proposing rules and regulations, for adoption, modification or~~
44 ~~revocation by the Commissioner,~~ proposing, and adopting rules

1 governing the construction, installation, inspection, repair, alteration,
2 use and operation of boilers and pressure vessels in this State. The
3 rules ~~and regulations~~ so formulated shall conform as nearly as possible
4 to the standards of the American Society of Mechanical Engineers and
5 amendments and interpretations thereto made and approved by the
6 council of the Society.

7 (2) Devise and administer examinations to applicants seeking a certificate
8 of competency as inspectors of boilers and pressure vessels in this
9 State.

10 (3) Issue, suspend, or revoke inspector's commission to inspectors of
11 boilers and pressure vessels within this State.

12 ~~(e) The members of the Board shall serve without salary but shall be paid a~~
13 ~~subsistence and travel allowance as established in accordance with Chapter 138 of the~~
14 ~~General Statutes.~~

15 **"§ 95—construction, operation and use of boilers and pressure vessels.**

16 ~~The Commissioner, after consultation with the Board,~~ The Building Code Council may
17 adopt, modify or revoke such rules ~~and regulations~~ governing the construction,
18 installation, repair, alteration, inspection, use and operation of boilers and pressure
19 vessels as ~~he~~ it deems appropriate to insure the safe operation and avoidance of injury to
20 person or property from boilers and pressure vessels. The rules ~~and regulations~~ will
21 conform as nearly as possible to the standards of the American Society of Mechanical
22 Engineers and amendments and interpretations thereto, but to avoid unnecessary
23 hardships that would result from requiring replacement of existing non-code tanks that
24 meet minimum safety requirements where there is no danger to persons, such rules ~~and~~
25 ~~regulations~~ shall vary for hydropneumatic pressure vessels installed or operated by a
26 community water system prior to January 1, 1986.

27 The procedure for the adoption, modification or revocation of such rules ~~and~~
28 ~~regulations~~ shall be the same as that contained within the Administrative Procedure Act
29 of North Carolina as the same appears in Chapter ~~150A-150B~~ of the General Statutes.

30 **"§ 95—qualifications; examinations; certificates of competency; inspector's**
31 **commission.**

32 (a) There shall be three types of inspectors authorized to conduct inspections and
33 report their findings to the Director under this Article:

34 (1) Boiler and Pressure Vessel Inspector. – Shall be a qualified individual
35 appointed by the Commissioner, to assist in conducting inspections
36 under this Article and report on the suitability of boilers and pressure
37 vessels so inspected;

38 (2) Special Inspector. – Shall be a qualified individual regularly employed
39 by an insurance company authorized to insure in this State against
40 injury to person and/or property from explosions and accidents
41 involving boilers and pressure vessels;

42 (3) Owner-User Inspectors. – Shall be a qualified individual employed on
43 a full-time basis by a company operating boilers or pressure vessels for
44 its own use and not for resale, and maintains an established inspection

1 program for periodic inspection of boilers and pressure vessels owned
 2 or used by that company and where such inspection program is under
 3 the supervision of one or more engineers having qualifications
 4 satisfactory to the Commissioner.

5 (b) Inspector's Commission. – Any company authorized to insure in this State
 6 against loss to person or property as a result of an explosion or accident involving
 7 boilers and pressure vessels or operating boilers and/or pressure vessels for its own use
 8 and not for resale, may apply for the issuance of an inspector's commission for an
 9 individual within its employ who has a certificate of competency.

10 A commission authorizes an inspector to make inspections on boilers and pressure
 11 vessels and report on the suitability of said boilers and pressure vessels to the Director.
 12 Those inspectors holding commissions as special inspectors shall be limited to making
 13 inspections on boilers and pressure vessels insured by their employer. Owner-user
 14 inspectors shall be limited to conducting inspections on boilers and pressure vessels
 15 operated by their respective employers.

16 (c) Qualifications for Certificates of Competency. – To be entitled to a certificate
 17 of competency, as one of the ~~above-type~~ of inspectors listed in subsection (a) of this
 18 section, an individual must:

- 19 (1) Have passed an examination provided and administered by the ~~Board;~~
 20 Building Code Council; or
- 21 (2) Have passed an examination and been certified in a state having rules
 22 and regulations substantially similar to those effective within North
 23 Carolina; or
- 24 (3) Hold a certificate of competency of the National Board of Boiler and
 25 Pressure Vessel Inspectors; and
- 26 (4) Continue in the employ of the company requesting the certificate of
 27 competency from the Board.

28 "**§ 95—(a) All boilers and pressure vessels subject to the provisions of this Article**
 29 **shall be inspected by an authorized inspector, as set out in G.S. ~~95-69.15,~~**
 30 **58-27.47, at such intervals and by such methods as the ~~Commissioner~~**
 31 **Building Code Council may from time to time prescribe by**
 32 **regulation**. In determining the frequency with which various
 33 categories of boiler and pressure vessels shall be inspected, the
 34 ~~Commissioner~~ **Building Code Council** shall give due consideration the
 35 hazard involved and need for protection of the public. Methods of
 36 inspection must provide an adequate procedure to insure the safety of
 37 individuals likely to be injured by an explosion or accident involving a
 38 boiler or pressure vessel.

39 (b) Upon completion of an inspection the authorized inspector shall file a report
 40 on the suitability of the boiler or pressure vessel inspected with the Director. The
 41 inspector shall attach the fee paid for the inspection to his report.

42 (c) Upon receipt of the inspector's report and fee, the Director shall determine
 43 whether or not a boiler or pressure vessel is in compliance with the rules ~~and regulations~~
 44 adopted under this Article. If the Director determines it is in compliance he shall issue

1 an inspection certificate authorizing use of the boiler or pressure vessel. When the
 2 Director determines a boiler or pressure vessel is not in compliance, he shall so notify
 3 the owner or user within 10 working days. No boiler or pressure vessel may be operated
 4 without an inspection certificate, except pressure vessels being operated under owner-
 5 user provision where administrative procedures of equal safety and competency have
 6 been approved by the Board and Commissioner. No more than 60 days grace period
 7 may be granted beyond the certificate expiration date. An individual whose boiler or
 8 pressure vessel is found in noncompliance may appeal that determination to the
 9 Commissioner within 30 days after notification of the decision is received.

10 **"§ 95-69.17. ~~58-27.49.~~ Administrative and judicial review of decisions.**

11 (a) A final decision to suspend or revoke an inspector's commission or inspection
 12 certificate shall be made in accordance with Chapter 150B of the General Statutes.

13 (b) A final decision to deny an application for a certificate of competency or to
 14 refuse to issue or renew an inspection certificate shall be made in accordance with
 15 Chapter 150B of the General Statutes. In a contested case under this subsection, the
 16 decision of the ~~Board~~ Building Code Council or Director shall not be stayed pending
 17 administrative review.

18 (c) Article 4 of Chapter 150B of the General Statutes governs judicial review of a
 19 final decision in a contested case.

20 **"§ 95-misrepresentation as inspector.**

21 It shall be unlawful for any person, firm, partnership, association or corporation to
 22 operate or use any boiler or pressure vessel in this State, and to which this Article
 23 applies, without a valid inspection certificate issued by the North Carolina Department
 24 of ~~Labor~~ Insurance. Any person, firm, partnership, association or corporation found to be
 25 operating or using a boiler or pressure vessel without a valid inspection certificate shall
 26 be guilty of a misdemeanor and upon conviction be subject to a fine of one thousand
 27 dollars (\$1,000) or imprisonment for 30 days, or both in the discretion of the court.

28 Any person who knowingly and willfully misrepresents himself as an authorized
 29 inspector in North Carolina, shall be guilty of a misdemeanor and upon conviction
 30 thereof be fined up to one thousand dollars (\$1,000) or imprisonment for six months, or
 31 both in the discretion of the court."

32 Sec. 2. Article 14 of Chapter 95 of the General Statutes is recodified as
 33 Article 2E of Chapter 58 of the General Statutes and reads as rewritten:

34 **"ARTICLE 14-2E.**

35 **"INSPECTION SERVICE FEES.**

36 **"§ 95-equipment inspection fees.**

37 The Department of ~~Labor~~ Insurance shall assess and collect the following inspection
 38 service fees for the installation and alteration of elevators, escalators, dumbwaiters that
 39 are not installed or altered in restaurants, and special equipment based on the cost of
 40 installation or alteration:

Cost of Installation or Alteration	Unit Fee
\$0 - \$ 10,000	\$ 80
10,001- 30,000	120
30,001- 50,000	170

1 50,001- 80,000 215
 2 80,001- 100,000 235
 3 Over 100,000 285

4 An additional fee of seventy-five dollars (\$75.00) shall be assessed for each follow-up
 5 inspection of a new installation required subsequent to the original inspection.

6 The Department of ~~Labor~~-Insurance shall assess and collect a fee of ten dollars
 7 (\$10.00) for the periodic inspection of special equipment and shall assess and collect the
 8 following fees for the periodic inspection of elevators, escalators, and dumbwaiters:

9 Number of Building Floors
 10 1-5 Floors \$13
 11 6-10 Floors 20
 12 11-15 Floors 35
 13 16-Floors and over 45

14 **§ 95 railroad inspection fees.**

15 The Department of ~~Labor~~-Insurance shall assess and collect the following inspection
 16 service fees for annual inspections for each location within the State of amusement
 17 devices, aerial passenger tramways, and inclined railroads:

18 Type Inspection Unit Fee
 19 Amusement Devices \$ 12
 20 Gondolas, Chairlifts,
 21 and Inclined Railroads 137
 22 J- or T-Bars 62
 23 Rope Tows 31

24 **"§-95.certificates of safe operation.**

25 The assessment of the fees pursuant to this Article shall be made against the owner
 26 or operator of such equipment and shall be collected at the time of inspection.
 27 Certificates of safe operation shall be withheld by the Department of ~~Labor~~-Insurance
 28 until such time as the assessed fees are collected.

29 **"§ 95—All fees collected by the Department of ~~Labor~~-Insurance pursuant to this**
 30 **Article shall be deposited with the State Treasurer and shall be used**
 31 **exclusively for inspection purposes of the equipment referenced in this**
 32 **Article."**

33 Sec. 3. G.S. 143-151.8(a)(3) reads as rewritten:

34 "(3) 'Code enforcement' means the examination and approval of plans and
 35 specifications, or the inspection of the manner of construction, workmanship, and
 36 materials for construction of buildings and structures and components thereof as an
 37 employee of the State or local government, ~~except an employee of the State Department of~~
 38 ~~Labor engaged in the administration and enforcement of those sections of the Code which~~
 39 ~~pertain to boilers and elevators,~~ to assure compliance with the State Building Code and
 40 related local building rules."

41 Sec. 4. G.S. 143-138(b) reads as rewritten:

42 "(b) Contents of the Code. – The North Carolina State Building Code, as adopted
 43 by the Building Code Council, may include reasonable and suitable classifications of
 44 buildings and structures, both as to use and occupancy; general building restrictions as

1 to location, height, and floor areas; rules for the lighting and ventilation of buildings and
2 structures; requirements concerning means of egress from buildings and structures;
3 requirements concerning means of ingress in buildings and structures; regulations
4 governing construction and precautions to be taken during construction; regulations as
5 to permissible materials, loads, and stresses; regulations of chimneys, heating
6 appliances, elevators, and other facilities connected with the buildings and structures;
7 regulations governing plumbing, heating, air conditioning for the purpose of comfort
8 cooling by the lowering of temperature, and electrical systems; and such other
9 reasonable rules ~~and regulations~~—pertaining to the construction of buildings and
10 structures and the installation of particular facilities therein as may be found reasonably
11 necessary for the protection of the occupants of the building or structure, its neighbors,
12 and members of the public at large.

13 The Code may contain provisions regulating every type of building or structure,
14 wherever it might be situated in the State.

15 Provided further, that nothing in this Article shall be construed to make any building
16 regulations applicable to farm buildings located outside the building-regulation
17 jurisdiction of any municipality.

18 Provided further, that no building permit shall be required under the Code or any
19 local variance thereof approved under subsection (e) for any construction, installation,
20 repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any
21 single family residence or farm building unless the work involves: the addition, repair,
22 or replacement of load bearing structures; the addition (excluding replacement of same
23 size and capacity) or change in the design of plumbing; the addition, replacement or
24 change in the design of heating, air conditioning, or electrical wiring, devices,
25 appliances, or equipment, the use of materials not permitted by the North Carolina
26 Uniform Residential Building Code; or the addition (excluding replacement of like
27 grade of fire resistance) of roofing.

28 Provided further, that no building permit shall be required under such Code from any
29 State agency for the construction of any building or structure, the total cost of which is
30 less than twenty thousand dollars (\$20,000), except public or institutional buildings.

31 For the information of users thereof, the Code shall include as appendices

- 32 (1) Any boiler ~~regulations~~-rules adopted by the Board of Boiler Rules prior
33 to July 1, 1989, or by the Building Code Council on or after that date,
- 34 (2) Any elevator ~~regulations~~-rules relating to safe operation adopted by the
35 Commissioner of Labor prior to July 1, 1989, or by the Building Code
36 Council on or after that date and
- 37 (3) ‘Any ~~regulations~~-rules relating to sanitation adopted by the Department
38 of Human Resources which the Building Code Council believes
39 pertinent.

40 In addition, the Code may include references to such other ~~regulations~~-rules of special
41 types, such as those of the Medical Care Commission and the Department of Public
42 Instruction as may be useful to persons using the Code. No ~~regulations~~-rules issued by
43 other agencies than the Building Code Council shall be construed as a part of the Code,

1 nor supersede that Code, it being intended that they be presented with the Code for
2 information only.

3 Nothing in this Article shall extend to or be construed as being applicable to the
4 regulation of the design, construction, location, installation, or operation of (1)
5 equipment for storing, handling, transporting, and utilizing liquefied
6 petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, or
7 (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S.
8 62-3, or an electric or telephone membership corporation, including without limitation
9 poles, towers, and other structures supporting electric or communication lines.

10 In addition, the Code may contain regulations concerning minimum efficiency
11 requirements for replacement water heaters, which shall consider reasonable availability
12 from manufacturers to meet installation space requirements."

13 Sec. 5. Article 14A of Chapter 95 of the General Statutes is recodified as
14 Article 2F of Chapter 58 of the General Statutes and reads as rewritten:

15 **"ARTICLE 14A-2F.**

16 **"ELEVATOR SAFETY ACT OF NORTH CAROLINA.**

17 "§ 95♦ (a) **This Article shall be known as the Elevator Safety Act of North**
18 **Carolina.**

19 (b) The General Assembly finds that the use of unsafe and defective lifting
20 devices imposes a substantial probability of serious and preventable injury to employees
21 and the public exposed to unsafe conditions and that prevention of these injuries and
22 protection of employees and the public from unsafe conditions is in the best interests
23 and welfare of the people of the State.

24 "§ 95n **This Article shall govern the design, construction, installation, plans review,**
25 **testing, inspection, certification, operation, use, maintenance, alteration,**
26 **relocation and investigation of accidents involving:**

- 27 (1) Elevators, dumbwaiters, escalators, and moving walks;
- 28 (2) Personnel hoists;
- 29 (3) Inclined stairway chair lifts;
- 30 (4) Inclined and vertical wheelchair lifts;
- 31 (5) Manlifts; and
- 32 (6) Special equipment.

33 This Article shall not apply to devices and equipment located and operated in a
34 single family residence, to conveyors and related equipment within the scope of the
35 American National Standard Safety Standard for Conveyors and Related Equipment
36 (ANSI/ASME B20.1) constructed, installed and used exclusively for the movement of
37 materials, or to mining equipment specifically covered by the Federal Mine Safety and
38 Health Act or the Mine Safety and Health Act of North Carolina or the rules and
39 regulations adopted pursuant thereto.

40 "§ 95—**As used in this Article, unless a different meaning is plainly required by the**
41 **context:**

- 42 (a) (1) The term 'Commissioner' shall mean the North Carolina
43 Commissioner of ~~Labor~~ Insurance or his authorized representative.

- 1 ~~(b)~~ (2) The term 'Director' shall mean the Director of the ~~Elevator~~
2 ~~and Amusement Device Engineering~~ Division of the North Carolina
3 Department of ~~Labor~~Insurance.
- 4 ~~(c)~~ (3) The term 'dumbwaiter' shall mean a hoisting and lowering
5 mechanism equipped with a car or platform which moves in guides
6 in a substantially vertical direction, the floor area of which does not
7 exceed nine square feet, the total inside height of which, whether or
8 not provided with fixed or removable shelves, does not exceed four
9 feet, the capacity of which does not exceed 500 pounds, and which is
10 used exclusively for carrying materials.
- 11 ~~(d)~~ (4) The term 'elevator' shall mean a hoisting and lowering
12 mechanism equipped with a car or platform which moves in guides,
13 and which serves two or more floors of a building or structure.
- 14 ~~(e)~~ (5) The term 'escalator' shall mean a power driven, inclined
15 continuous stairway used for raising and lowering passengers.
- 16 ~~(f)~~ (6) The term 'inclined stairway chair lift' shall mean a hoisting
17 and lowering mechanism with one or more chairs or a platform for
18 one or more wheelchairs installed on a stairway for the purpose of
19 transporting a physically disabled person.
- 20 ~~(g)~~ (7) The term 'inclined or vertical wheelchair lift' shall mean a
21 powered platform-elevating device used to transport a physically
22 disabled person in a wheelchair.
- 23 ~~(h)~~ (8) The term 'manlift' shall mean platforms or brackets and
24 accompanying handholds, mounted on, or attached to, an endless
25 belt operating vertically in one direction only and being supported
26 by, and driven through, pulleys at the top and bottom and intended
27 primarily for the conveyance of persons.
- 28 ~~(i)~~ (9) The term 'moving walk' shall mean a type of passenger
29 carrying device on which passengers stand or walk and in which the
30 passenger carrying surface remains parallel to its direction of motion
31 and is uninterrupted.
- 32 ~~(j)~~ (10) The term 'operator' shall mean any person having direct
33 control over the operation of any covered device or equipment.
- 34 ~~(k)~~ (11) The term 'owner' shall mean any person or authorized agent
35 of such person who owns a device or equipment subject to
36 regulation under this Article, or in the event the device or equipment
37 is leased, the lessee. The term 'owner' also shall include the State of
38 North Carolina or any political subdivision thereof or any unit of
39 local government.
- 40 ~~(l)~~ (12) The term 'person' shall mean any individual, association,
41 partnership, firm, corporation, private organization, or the State of
42 North Carolina or any political subdivision thereof or any unit of
43 local government.

1 ~~(m)~~ (13) The term 'personnel hoist' shall mean an elevator installed
2 inside or outside of buildings during construction, alteration or
3 demolition and used primarily to raise and lower workers and other
4 persons connected with or related to the building project.

5 ~~(n)~~ (14) The term 'special equipment' shall mean any permanently or
6 semi-permanently located device, manually or power-operated, used
7 for moving or lifting person or persons and materials but not
8 considered as an elevator, escalator, dumbwaiter, moving walk,
9 personnel hoist, inclined stairway chair lift, inclined or vertical
10 wheelchair lift, or manlift. Special equipment shall include, but not
11 be limited to, manhoists, lift bridges, elevators which are used only
12 for handling building materials and workmen during construction,
13 and stage and orchestra lifts.

14 "**§ 95-58-27.73. Engineering Division to administer.**

15 ~~There is hereby created an Elevator and Amusement Device Division within the~~
16 ~~Department of Labor. The Commissioner shall appoint a director of the Elevator and~~
17 ~~Amusement Device Division—~~The Director of the Engineering Division of the
18 ~~Department of Insurance~~ and such other employees as the Commissioner deems
19 necessary to assist the director ~~in administering shall administer~~ the provisions of this
20 Article.

21 "**§ 95h Building Code Council.**

22 ~~(a) The Commissioner of Labor is hereby empowered~~may:

- 23 ~~(1) To delegate~~Delegate to the Director of the ~~Elevator and Amusement~~
24 ~~Device~~Engineering Division such powers, duties and responsibilities
25 as the Commissioner determines will best serve the public interest in
26 the safe operation of lifting devices and equipment;
27 ~~(2) To supervise~~Supervise the Director of the ~~Elevator and Amusement~~
28 ~~Device~~Engineering Division;
29 ~~(4) To enforce~~ (3) Enforce rules and regulations—adopted under authority of
30 this Article;
31 ~~(5) To inspect~~ (4) Inspect and have tested for acceptance all new, altered or
32 relocated devices or equipment subject to the provisions of this
33 Article;
34 ~~(6) To make~~ (5) Make maintenance and periodic inspections and tests of
35 all devices and equipment subject to the provisions of this Article as
36 often as every six months;
37 ~~(7) To issue~~ (6) Issue certificates of operation which certify for use such
38 devices and equipment as are found to be in compliance with this
39 Article and the rules and regulations—promulgated thereunder;
40 ~~(8) To have~~ (7) Have free access, with or without notice, to the devices and
41 equipment subject to the provisions of this Article, during reasonable
42 hours, for purposes of inspection or testing;

- 1 ~~(9)~~ (8) Obtain an Administrative Search and Inspection Warrant
2 in accordance with the provisions of Article 4A of Chapter 15 of the
3 General Statutes;
- 4 ~~(10)~~ ~~To investigate~~ (9) Investigate accidents involving the devices and
5 equipment subject to the provisions of this Article to determine the
6 cause of such accident, and he shall have full subpoena powers in
7 conducting such investigation;
- 8 ~~(11)~~ ~~To institute~~ (10) Institute proceedings in the civil or criminal courts of
9 this State, when a provision of this Article or the rules ~~and regulations~~
10 promulgated thereunder has been violated;
- 11 ~~(12)~~ ~~To issue~~ (11) Issue a limited certificate of operation for any device or
12 equipment subject to the provisions of this Article to allow the
13 temporary or restricted use thereof;
- 14 ~~(14)~~ ~~To grant~~ (12) Grant exceptions from the requirements of the rules ~~and~~
15 ~~regulations~~ promulgated under authority of this Article and to permit
16 the use of other devices when such exceptions and uses will not expose
17 the public to an unsafe condition likely to result in serious personal
18 injury or property damage;
- 19 ~~(15)~~ ~~To require~~ (13) Require that a construction permit must be obtained
20 from the Commissioner before any device or equipment subject to the
21 provisions of this Article is installed, altered or moved from one place
22 to another and to require that the Commissioner must be supplied with
23 whatever plans, diagrams or other data he deems necessary to
24 determine whether or not the proposed construction is in compliance
25 with the provisions of this Article and the rules ~~and regulations~~
26 promulgated thereunder;
- 27 ~~(16)~~ ~~To prohibit~~ (14) Prohibit the use of any device or equipment subject to
28 the provisions of this Article which is found upon inspection to expose
29 the public to an unsafe condition likely to cause personal injury or
30 property damage. Such device or equipment shall be made operational
31 only upon the Commissioner's determination that such device or
32 equipment has been made safe;
- 33 ~~(17)~~ ~~To order~~ (15) Order the payment of all civil penalties provided by this
34 Article. Funds collected pursuant to a civil penalty order shall be
35 deposited with the State Treasurer;
- 36 ~~(18)~~ ~~To require~~ (16) Require that any device or equipment subject to the
37 provisions of this Article which has been out-of-service and not
38 continuously maintained for one or more years shall not be returned to
39 service without first complying with all rules ~~and regulations~~ governing
40 new installations; and
- 41 ~~(19)~~ ~~To coordinate~~ (17) Coordinate enforcement and inspection activity
42 relative to equipment, devices and operations covered by this Article in
43 order to minimize duplication of liability or regulatory responsibility
44 on the part of the employer or owner.

1 (b) The Building Code Council may:

- 2 (~~3~~) ~~To adopt, (1) Adopt~~ modify, or revoke such rules ~~and regulations~~—as are
 3 necessary for the purpose of carrying out the provisions of this Article
 4 including, but not limited to, those governing the design, construction,
 5 installation, plans review, testing, inspection, certification, operation,
 6 use, maintenance, alteration and relocation of devices and equipment
 7 subject to the provisions of this Article. The rules ~~and regulations~~
 8 promulgated pursuant to this rulemaking authority shall conform with
 9 good engineering practice as evidenced generally by the most recent
 10 editions of the American National Standard Safety Code for Elevators,
 11 Dumbwaiters, Escalators and Moving Walks, the National Electrical
 12 Code, the American National Standard Safety Requirements for
 13 Personnel Hoists, the American National Standard Safety Code for
 14 Manlifts, the American National Standard Safety Standard for
 15 Conveyors and Related Equipment and similar codes promulgated by
 16 agencies engaged in research concerning strength of material, safe
 17 design, and other factors bearing upon the safe operation of the devices
 18 and equipment subject to the provisions of this Article. The rules ~~and~~
 19 ~~regulations~~—may apply different standards to devices and equipment
 20 subject to this Article depending upon their date of installation. The
 21 rules ~~and regulations~~—for special equipment shall not adopt specifically
 22 any portion of the American National Standard Safety Code for
 23 Elevators, Dumbwaiters, Escalators and Moving Walks to inclined and
 24 vertical reciprocating conveyors; and
 25 (~~13~~) ~~To adopt, (2) Adopt~~ modify or revoke rules ~~and regulations~~—governing
 26 the qualifications of ~~inspectors~~; inspectors.

27 **"§ 95—appeal.**

28 (a) Whenever the Commissioner determines that a device or equipment is subject
 29 to the provisions of this Article, and that the operation of such device or equipment is
 30 exposing the public to an unsafe condition likely to result in serious personal injury or
 31 property damage, he may immediately order in writing that the use of the device or
 32 equipment be stopped or limited until such time as he determines that the device or
 33 equipment has been made safe for use by the public.

34 (b) Whenever the Commissioner determines that the provisions of this Article or
 35 the rules ~~and regulations~~—promulgated thereunder have not been complied with, he may
 36 refuse to issue or renew or may revoke, suspend or amend a certificate of operation.

37 (c) Whenever action is taken under this section, the affected party shall be given
 38 notice of the availability of an administrative hearing and of judicial review in
 39 accordance with Chapter 150B of the General Statutes, the Administrative Procedure
 40 Act.

41 **"§ 95♦not in accordance with Article or rules ~~and regulations~~; operation after**
 42 **refusal to issue or after revocation of certificate.**

43 (a) No person shall operate or permit to be operated or use any device or
 44 equipment subject to the provisions of this Article without a valid certificate of

1 operation unless the absence of a valid certificate is the result of the Commissioner's
2 failure to inspect such device.

3 (b) No person shall operate or permit to be operated or use any device or
4 equipment subject to the provisions of this Article otherwise than in accordance with
5 this Article and the rules ~~and regulations~~ promulgated thereunder.

6 (c) No person shall operate or permit to be operated or use any device or
7 equipment subject to the provisions of this Article after the Commissioner has refused
8 to issue or has revoked the certificate of operation for such device or equipment.

9 **"§ 950 No person shall operate, permit to be operated or use any device or**
10 **equipment subject to the provisions of this Article if such person knows**
11 **or reasonably should know that such operation or use will expose the**
12 **public to an unsafe condition which is likely to result in personal injury**
13 **or property damage.**

14 **"§ 95t (a) The owner of any device or equipment regulated under the provisions of**
15 **this Article, or his authorized agent, shall within 24 hours notify the**
16 **Commissioner of each and every occurrence involving such device or**
17 **equipment when:**

18 (1) The occurrence results in death or injury requiring medical treatment,
19 other than first aid, by a physician. First aid means the one time
20 treatment or observation of scratches, cuts not requiring stitches,
21 burns, splinters and contusions or a diagnostic procedure, including
22 examination and x-rays, which does not ordinarily require medical
23 treatment even though provided by a physician or other licensed
24 personnel; or

25 (2) The occurrence results in damage to the device indicating a substantial
26 defect in design, mechanics, structure or equipment, affecting the
27 future safe operation of the device. No reporting is required in the case
28 of normal wear and tear.

29 (b) The Commissioner, without delay, after notification and determination that an
30 occurrence involving injury or damage as specified in subsection (a) has occurred, shall
31 make a complete and thorough investigation of the occurrence. The report of the
32 investigation shall be placed on file in the office of the division and shall give in detail
33 all facts and information available. The owner may submit for inclusion in the file
34 results of investigations independent of the department's investigation.

35 (c) No person, following an occurrence as specified in subsection (a), shall
36 operate, attempt to operate, use or move or attempt to move such device or equipment,
37 or part thereof, without the approval of the Commissioner, unless so as to prevent injury
38 to any person or persons.

39 (d) No person, following an occurrence as specified in subsection (a), shall
40 remove or attempt to remove from the premises any damaged or undamaged part of
41 such device or equipment or repair or attempt to repair any damaged part necessary to a
42 complete and thorough investigation. The department must initiate its investigation
43 within 24 hours of being notified.

1 "§ 95ü (a) Any person who violates G.S. ~~95-110.7(a)~~ 58-27.76(a) or (b) (Operation
2 without certificate; operation not in accordance with Article or rules and
3 regulations) shall be subject to a civil penalty not to exceed two hundred
4 fifty dollars (\$250.00) for each day each device or equipment is so
5 operated or used.

6 (b) Any person who violates G.S. ~~95-110.7(e)~~ 58-27.86(c) (Operation after refusal
7 to issue or after revocation of certificate) or G.S. ~~95-110.9(e)~~ 58-27.78(c) (Reports
8 required) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00)
9 for each day any such device or equipment is operated or used.

10 (c) Any person who violates the provisions of G.S. ~~95-110.9(d)~~ 58-27.78(d)
11 (Reports required) shall be subject to a civil penalty not to exceed five hundred dollars
12 (\$500.00).

13 (d) In determining the amount of any penalty ordered under authority of this
14 section, the Commissioner shall give due consideration to the appropriateness of the
15 penalty with respect to the size of the business of the person being charged, the gravity
16 of the violation, the good faith of the person and the record of previous violations.

17 (e) The determination of the amount of the penalty by the Commissioner shall be
18 final, unless within 15 days after receipt of notice thereof by certified mail the person
19 charged with the violation takes exception to the determination in which event the final
20 determination of the penalty shall be made in an administrative proceeding and in a
21 judicial proceeding pursuant to Chapter 150B of the General Statutes, the
22 Administrative Procedure Act.

23 (f) The Commissioner may file in the office of the clerk of the superior court of
24 the county wherein the person, against whom a civil penalty has been ordered, resides,
25 or if a corporation is involved, in the county wherein the corporation maintains its
26 principal place of business, or in the county wherein the violation occurred, a certified
27 copy of a final order of the Commissioner unappealed from, or of a final order of the
28 Commissioner affirmed upon appeal. Whereupon, the clerk of said court shall enter
29 judgment in accordance therewith and notify the parties. Such judgment shall have the
30 same effect, and all proceedings in relation thereto shall thereafter be the same, as
31 though said judgment had been rendered in a suit duly heard and determined by the
32 superior court of the General Court of Justice.

33 "§ 95h (a) Any person who violates G.S. ~~95-110.8~~ 58-27.77 (Operation of unsafe
34 device or equipment) shall be guilty of a misdemeanor and upon
35 conviction thereof shall be fined one thousand dollars (\$1,000), or
36 imprisoned for a period of six months, or both, in the discretion of the
37 court.

38 (b) Any person misrepresenting himself as an authorized inspector administering
39 or enforcing the provisions of this Article or the rules and regulations—promulgated
40 thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be fined
41 one thousand dollars (\$1,000), or imprisoned for a period of six months, or both, in the
42 discretion of the court.

43 (c) Any person knowingly making a material and false statement, representation
44 or certification in any application, record, report, plan or any other document filed or

1 required to be maintained pursuant to this Article or the rules ~~and regulations~~
2 promulgated thereunder shall be fined a maximum of five thousand dollars (\$5,000), or
3 imprisoned for not more than six months, or both, in the discretion of the court.

4 **"§ 95s It shall be the duty of the Attorney General of North Carolina, when**
5 **requested, to represent the Department of Labor Insurance in actions or**
6 **proceedings in connection with this Article or the rules ~~and regulations~~**
7 **promulgated thereunder.**

8 **"§ 95uhealth federal- State programs.**

9 Consistent with the requirements and conditions provided in this Article and the
10 rules ~~and regulations~~ promulgated thereunder, the State, upon recommendation of the
11 Commissioner of ~~Labor~~, may enter into agreements or arrangements with appropriate
12 federal agencies for the purpose of administering the enforcement of federal statutes and
13 rules ~~and regulations~~ governing devices and equipment subject to the provisions of this
14 Article.

15 **"§ 95u All information reported to or otherwise obtained by the Commissioner or**
16 **his agents or representatives in connection with any inspection or**
17 **proceeding under this Article or the rules ~~and regulations~~ promulgated**
18 **thereunder which contains or might reveal a trade secret shall be**
19 **considered confidential, except as to carrying out this Article and the**
20 **rules ~~and regulations~~ promulgated thereunder, or when it is relevant in**
21 **any proceeding under the same. In any such proceeding the**
22 **Commissioner or the court shall issue such orders as may be appropriate**
23 **to protect the confidentiality of trade secrets.**

24 **"§ 95lregulations and severability.**

25 This Article and the rules ~~and regulations~~ promulgated thereunder shall receive a
26 liberal construction to the end that the welfare of the people may be protected. If any
27 provisions of either or the application thereof to any person or circumstances is held to
28 be invalid, such invalidity shall not affect those provisions or applications which can be
29 given effect without the invalid provision or application, and to that end the provisions
30 of this Article are severable."

31 Sec. 6. Article 14B of Chapter 95 of the General Statutes is recodified as
32 Article 2G of Chapter 58 of the General Statutes and reads as rewritten:

33 **"ARTICLE 14B-2G.**

34 **"AMUSEMENT DEVICE SAFETY ACT OF NORTH CAROLINA.**

35 **"§ 95m (a) This Article shall be known as the 'Amusement Device Safety Act of**
36 **North Carolina'.**

37 (b) The General Assembly finds that although most amusement devices are free
38 from defect and operated in a safe manner, those which are not impose a substantial
39 probability of serious and preventable injury to the public. Protection of the public from
40 exposure to such unsafe conditions and the prevention of injuries is in the best interest
41 and welfare of the people of the State.

42 (c) It is the intent of this Article that amusement devices shall be designed,
43 constructed, assembled or disassembled, maintained, and operated so as to prevent
44 injuries.

1 "§ 95—(a) This Article shall govern the design, construction, installation, plans
 2 review, testing, inspection, certification, operation, use, maintenance,
 3 alteration, relocation and investigation of accidents involving amusement
 4 devices.

5 (b) This Article shall not apply to any single passenger coin- operated device,
 6 manually, mechanically, or electrically operated which customarily is placed, singly or
 7 in groups, in a public location and which does not normally require the supervision or
 8 services of an operator.

9 "§ 950 As used in this Article, unless a different meaning is plainly required by the
 10 context:

11 (a) (1) The term 'amusement device' shall mean any device or
 12 attraction that carries or conveys or permits persons to walk along,
 13 around or over a fixed or restricted route or course or within a
 14 defined area including the entrances and exits thereto, for the
 15 purpose of giving such persons amusement, pleasure, thrills or
 16 excitement. The term shall include but not be limited to roller
 17 coasters, Ferris wheels, merry-go-rounds, glasshouses, waterslides,
 18 and walk-through dark houses.

19 (b) (2) The term 'amusement park' shall mean any tract or area used
 20 principally as a permanent location for amusement devices.

21 (c) (3) The term 'Commissioner' shall mean the North Carolina
 22 Commissioner of ~~Labor-Insurance~~ or his authorized representative.

23 (d) (4) The term 'Director' shall mean the Director of the ~~Elevator~~
 24 ~~and Amusement Device Engineering~~ Division of the North Carolina
 25 Department of ~~Labor-Insurance~~.

26 (e) (5) The term 'operator' shall mean any person having direct
 27 control of the operation of an amusement device.

28 (f) (6) The term 'owner' shall mean any person or authorized agent
 29 of such person who owns an amusement device or in the event such
 30 device is leased, the lessee. The term 'owner' also shall include the
 31 State of North Carolina or any political subdivision thereof or any
 32 unit of local government.

33 (g) (7) The term 'person' shall mean any individual, association,
 34 partnership, firm, corporation, private organization, or the State of
 35 North Carolina or any political subdivision thereof or any unit of
 36 local government.

37 (h) (8) The term 'waterslide' shall mean a stationary amusement
 38 device that provides a descending ride on a flowing water film
 39 through a trough or tube or on an inclined plane into a pool of water.
 40 This term does not include devices where the vertical distance
 41 between the highest and the lowest points does not exceed 15 feet.

42 "§ 95—(a) The Commissioner of Labor is hereby empowered may:

43 (1) ~~To delegate~~ (1) Delegate to the Director of the ~~Elevator and Amusement~~
 44 ~~Device Engineering~~ Division such powers, duties and responsibilities

- 1 as the Commissioner determines will best serve the public interest in
2 the safe operation of amusement devices;
- 3 ~~(2) To supervise~~ (2) Supervise the Director of the ~~Elevator and Amusement~~
4 ~~Device-Engineering~~ Division;
- 5 ~~(4) To enforce~~ (3) Enforce rules and regulations adopted under authority of
6 this Article;
- 7 ~~(5) To inspect~~ (4) Inspect and have tested for acceptance all new and
8 relocated devices subject to the provisions of this Article. Relocated
9 amusement devices shall be inspected upon reassembly at each new
10 location within this State; provided that the Commissioner may
11 provide for less frequent inspections when he determines that the
12 device is of such a type and its use is of such a nature that inspection
13 less often than upon each reassembly would not expose the public to
14 an unsafe condition likely to result in serious personal injury or
15 property damage;
- 16 ~~(6) To inspect~~ (5) Inspect amusement devices which have been
17 substantially rebuilt or substantially modified so as to change the
18 original action, structure or capacity of the device;
- 19 ~~(7) To make~~ (6) Make maintenance and periodic inspections and tests of
20 all devices subject to the provisions of this Article. Devices located in
21 amusement parks shall be inspected at least once annually;
- 22 ~~(8) To issue~~ (7) Issue certificates of operation which certify for use such
23 devices as are found to be in compliance with this Article and the rules
24 and regulations promulgated thereunder;
- 25 ~~(9) To have~~ (8) Have reasonable access, with or without notice, to the
26 devices subject to the provisions of this Article during reasonable
27 hours, for purposes of inspection or testing;
- 28 ~~(10) To obtain~~ (9) Obtain an Administrative Search and Inspection Warrant
29 in accordance with the provisions of Article 4A of Chapter 15 of the
30 General Statutes;
- 31 ~~(11) To investigate~~ (10) Investigate accidents involving devices subject to
32 the provisions of this Article to determine the cause of such accident,
33 and he shall have full subpoena powers in conducting such
34 investigation;
- 35 ~~(12) To institute~~ (11) Institute proceedings in the civil courts of this State,
36 when a provision of this Article or the rules and regulations
37 promulgated thereunder has been violated;
- 38 ~~(14) To grant~~ (12) Grant exceptions from the requirements of the rules and
39 regulations promulgated under authority of this Article and to permit
40 the use of other devices when such exceptions and uses will not expose
41 the public to an unsafe condition likely to result in serious personal
42 injury or property damage;
- 43 ~~(15) To require~~ (13) Require that before any device subject to the provisions
44 of this Article is erected in this State, or before any additions or

alterations which substantially change such device are made, or before the physical spacing between such devices is changed, the owner or his authorized agent shall file with the Commissioner a written notice of his intention to do so and the type of device involved. Should circumstances necessitate, the Commissioner may require that such owner or his authorized agent furnish a copy of the plans, diagrams, specifications or stress analyses of such device before the inspection of same. When such plans, diagrams, specifications or stress analyses are requested by the Commissioner, he shall review them within 10 days of receipt, and upon approval, he shall authorize the device for use by the public;

(16) ~~To prohibit~~ (14) Prohibit the use of any device subject to the provisions of this Article which is found upon inspection to expose the public to an unsafe condition likely to cause personal injury or property damage. Such device shall be made operational only upon the Commissioner's determination that such device has been made safe;

(17) ~~To order~~ (15) Order the payment of all civil penalties provided by this Article. Funds collected pursuant to a civil penalty order shall be deposited with the State Treasurer; and

(18) ~~To coordinate~~ (16) Coordinate enforcement and inspection activity relative to equipment, devices and operations covered by this Article in order to minimize duplication of liability or regulatory responsibility on the part of the employer or owner.

(b) The Building Code Council may:

(3) ~~To adopt,~~ (1) Adopt modify, or revoke such rules ~~and regulations~~—as are necessary for the purpose of carrying out the provisions of this Article including, but not limited to, those governing the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration and relocation of devices subject to the provisions of this Article. The rules ~~and regulations~~—promulgated pursuant to this rulemaking authority shall conform with good engineering and safety standards, formulas and practices; and

(13) ~~To adopt,~~ (2) Adopt modify or revoke rules ~~and regulations~~—governing the qualifications of ~~inspectors;~~ inspectors.

"§ 95-revocation of certificate of operation.

(a) An owner of a device subject to the provisions of this Article, or his authorized agent, is hereby required to make a pre-opening inspection and test of such device, prior to admitting the public, each day such device is intended to be used.

(b) An owner of a device subject to the provisions of this Article, or his authorized agent, is hereby required to maintain for at least 30 days a signed record of the required pre-opening inspection and test and such other pertinent information as the Commissioner may require by rule ~~or regulation.~~

(c) The Commissioner is hereby empowered to revoke the certificate of operation for any device regulated by this Article upon failure by the owner or his authorized

1 agent to make the required pre-opening inspection and test or to maintain the required
2 record.

3 **"§-95. (a) Whenever the Commissioner determines that a device is subject to the**
4 **provisions of this Article and the operation of such device is exposing the**
5 **public to an unsafe condition likely to result in serious personal injury or**
6 **property damage, he immediately may order in writing that the use of**
7 **the device be stopped or limited until such time as he determines that the**
8 **device has been made safe for use by the public.**

9 (b) Whenever the Commissioner determines that the provisions of this Article or
10 the rules ~~and regulations~~ promulgated thereunder have not been complied with, he may
11 refuse to issue or renew or may revoke, suspend or amend a certificate of operation.

12 (c) Whenever action is taken under this section, the affected party shall be given
13 notice of the availability of an administrative hearing and of judicial review in
14 accordance with Chapter 150B of the General Statutes, the Administrative Procedure
15 Act.

16 **"§ 95♦not in accordance with Article or rules ~~and regulations~~; operation after**
17 **refusal to issue or after revocation of certificate.**

18 (a) No person shall operate or permit to be operated or use any device subject to
19 the provisions of this Article without a valid certificate of operation.

20 (b) No person shall operate or permit to be operated or use any device subject to
21 the provisions of this Article otherwise than in accordance with this Article and the rules
22 ~~and regulations~~ promulgated thereunder.

23 (c) No person shall operate or permit to be operated or use any device subject to
24 the provisions of this Article after the Commissioner has refused to issue or has revoked
25 the certificate of operation for such device.

26 **"§ 95r No person shall operate for the public or permit the operation for the public**
27 **any device subject to the provisions of this Article after initial assembly**
28 **or after reassembly at any location within this State without first**
29 **notifying the Commissioner of the intention to operate for the public.**
30 **Written notice of a planned schedule of operation or use shall be received**
31 **at least five days prior to the first planned date of operation or use.**
32 **Notice of unscheduled use shall be given immediately to the**
33 **Commissioner by telephone or telegraph.**

34 **"§ 95t No person shall operate, permit to be operated or use any device subject to**
35 **the provisions of this Article if such person knows or reasonably should**
36 **know that such operation or use will expose the public to an unsafe**
37 **condition which is likely to result in personal injury or property damage.**

38 **"§ 95n (a) The owner of any device regulated under the provisions of this Article,**
39 **or his authorized agent, shall within 24 hours, notify the Commissioner**
40 **of each and every occurrence involving such device when:**

41 (1) The occurrence results in death or injury requiring medical treatment,
42 other than first aid, by a physician. First aid means the one time
43 treatment or observation of scratches, cuts not requiring stitches,
44 burns, splinters and contusions or a diagnostic procedure, including

1 examination and x-rays, which does not ordinarily require medical
2 treatment even though provided by a physician or other licensed
3 personnel; or

- 4 (2) The occurrence results in damage to the device indicating a substantial
5 defect in design, mechanics, structure or equipment, affecting the
6 future safe operation of the device. No reporting is required in the case
7 of normal wear and tear.

8 (b) The Commissioner, without delay, after notification and determination that an
9 occurrence involving injury or damage as specified in subsection (a) has occurred, shall
10 make a complete and thorough investigation of the occurrence. The report of the
11 investigation shall be placed on file in the office of the division and shall give in detail
12 all facts and information available. The owner may submit for inclusion in the file
13 results of investigations independent of the department's investigation.

14 (c) No person, following an occurrence as specified in subsection (a), shall
15 operate, attempt to operate, use or move or attempt to move such device or part thereof,
16 without the approval of the Commissioner, unless so as to prevent injury to any person
17 or persons.

18 (d) No person, following an occurrence as specified in subsection (a), shall
19 remove or attempt to remove from the premises any damaged or undamaged part of
20 such device or repair or attempt to repair any damaged part necessary to a complete and
21 thorough investigation. The department must initiate its investigation within 24 hours of
22 being notified.

23 **"§ 95i Any operator of a device subject to the provisions of this Article shall be at
24 least 18 years of age. An operator shall operate no more than one device
25 at any given time. An operator shall be in attendance at all times the
26 device is in operation.**

27 **"§ 95t (a) No owner shall operate a device subject to the provisions of this Article,
28 unless at the time, there is in existence a contract of insurance providing
29 coverage of not less than one million dollars (\$1,000,000) per occurrence
30 against liability for injury to persons or property arising out of the
31 operation or use of such device or there is in existence a contract of
32 insurance providing coverage of not less than five hundred thousand
33 dollars (\$500,000) per occurrence against liability for injury to persons
34 or property arising out of the operation or use of the amusement devices
35 if the annual gross volume of the devices does not exceed two hundred
36 seventy-five thousand dollars (\$275,000); provided waterslides shall not
37 be required to be insured as herein provided for an amount in excess of
38 one hundred thousand dollars (\$100,000) per occurrence. The insurance
39 contract to be provided must be by any insurer or surety that is
40 acceptable to the ~~North Carolina Insurance Commissioner~~ and authorized
41 to transact business in this State.**

42 (b) No certificate of operation shall be issued by the Commissioner until such
43 time as the owner or his authorized agent provides proof of the required contract of
44 insurance.

1 (c) The Commissioner shall have the right to request from the owner of a device
2 regulated by this Article, or his authorized agent, proof of the required contract of
3 insurance, and upon failure of the owner or his authorized agent to provide such proof,
4 the Commissioner shall have the right to prevent the commencement of or to stop the
5 operation of the device until such time as proof is provided.

6 (d) Operators of waterslides, as defined in G.S. ~~95-111.3(h)~~, ~~58-27.92(h)~~ shall
7 notify the Commissioner of all incidences of personal injury involving the waterslides,
8 as required by G.S. ~~95-111.10(a)~~ ~~58-27.99(a)~~.

9 "~~§-95~~ (a) **Any person who violates G.S. ~~95-111.7(a)~~ 58-27.96(a) or (b) (Operation**
10 **without certificate; operation not in accordance with Article or rules and**
11 **regulations) shall be subject to a civil penalty not to exceed two hundred**
12 **fifty dollars (\$250.00) for each day each device is so operated or used.**

13 (b) Any person who violates G.S. ~~95-111.7(e)~~ ~~58-27.96(c)~~ (Operation after refusal
14 to issue or after revocation of certificate) or G.S. ~~95-111.10(e)~~ ~~58-27.99(c)~~ (Reports
15 required) or G.S. ~~95-111.12~~ ~~58-27.101~~ (Liability insurance) shall be subject to a civil
16 penalty not to exceed five hundred dollars (\$500.00) for each day each device is so
17 operated or used.

18 (c) Any person who violates G.S. ~~95-111.8~~ ~~58-27.97~~ (Location notice) shall be
19 subject to a civil penalty not to exceed five hundred dollars (\$500.00) for each day any
20 device is operated or used without the location notice having been provided.

21 (d) Any person who violates the provisions of G.S. ~~95-111.10(d)~~ 58-27.99(d)
22 (Reports required) shall be subject to a civil penalty not to exceed five hundred dollars
23 (\$500.00).

24 (e) Any person who violates G.S. ~~95-111.9~~ ~~58-27.98~~ (Operation of unsafe device)
25 shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000).

26 (f) In determining the amount of any penalty ordered under authority of this
27 section, the Commissioner shall give due consideration to the appropriateness of the
28 penalty with respect to the size of the business of the person being charged, the gravity
29 of the violation, the good faith of the person and the record of previous violations.

30 (g) The determination of the amount of the penalty by the Commissioner shall be
31 final, unless within 15 days after receipt of notice thereof by certified mail, the person
32 charged with the violation takes exception to the determination, in which event final
33 determination of the penalty shall be made in an administrative proceeding and in a
34 judicial proceeding pursuant to Chapter 150B of the General Statutes, the
35 Administrative Procedure Act.

36 (h) The Commissioner may file in the office of the clerk of the superior court of
37 the county wherein the person, against whom a civil penalty has been ordered, resides,
38 or if a corporation is involved, in the county wherein the corporation maintains its
39 principal place of business, or in the county wherein the violation occurred, a certified
40 copy of a final order of the Commissioner unappealed from, or of a final order of the
41 Commissioner affirmed upon appeal. Whereupon, the clerk of said court shall enter
42 judgment in accordance therewith and notify the parties. Such judgment shall have the
43 same effect, and all proceedings in relation thereto shall thereafter be the same, as

1 though said judgment had been rendered in a suit duly heard and determined by the
2 superior court of the General Court of Justice.

3 **"§ 95-device.**

4 The owner or amusement device operator may deny any person entrance to an
5 amusement device if he or she believes such entry may jeopardize the safety of the
6 person desiring entry, riders or other persons.

7 **"§-95. It shall be the duty of the Attorney General of North Carolina, when
8 requested, to represent the Department of ~~Labor~~-Insurance in actions or
9 proceedings in connection with this Article or the rules and regulations
10 promulgated thereunder.**

11 **"§ 95ehealth federal- State programs.**

12 Consistent with the requirements and conditions provided in this Article and the
13 rules and regulations—promulgated thereunder, the State, upon recommendation of the
14 Commissioner of ~~Labor~~—may enter into agreements or arrangements with appropriate
15 federal agencies for the purpose of administering the enforcement of federal statutes and
16 rules and regulations—governing devices subject to the provisions of this Article.

17 **"§ 95e All information reported to or otherwise obtained by the Commissioner or
18 his agents or representatives in connection with any inspection or
19 proceeding under this Article or the rules and regulations—promulgated
20 thereunder which contains or might reveal a trade secret shall be
21 considered confidential, except as to carrying out this Article and the
22 rules and regulations—promulgated thereunder or when it is relevant in
23 any proceeding under the same. In any such proceeding the
24 Commissioner or the Court shall issue such orders as may be
25 appropriate to protect the confidentiality of trade secrets.**

26 **"§ 95iregulations and severability.**

27 This Article and the rules and regulations—promulgated thereunder shall receive a
28 liberal construction to the end that the welfare of the people may be protected. If any
29 provisions of either or the application thereof to any person or circumstances is held to
30 be invalid, such invalidity shall not affect those provisions or applications which can be
31 given effect without the invalid provision or application, and to that end the provisions
32 of this Article are severable."

33 Sec. 7. Article 15 of Chapter 95 of the General Statutes is recodified as
34 Article 2H of Chapter 58 of the General Statutes and reads as rewritten:

35 **"ARTICLE ~~15-~~2H.**

36 **"PASSENGER TRAMWAY SAFETY.**

37 **"§ 95—In order to safeguard life, health, property, and the welfare of this State, it
38 shall be the policy of the State of North Carolina to protect its citizens
39 and visitors from unnecessary mechanical hazards in the operation of ski
40 tows, lifts, tramways and related devices to insure that reasonable design
41 and construction are used, that accepted safety devices and sufficient
42 personnel are provided for, and that periodic inspections and
43 adjustments are made which are deemed essential to the safe operation
44 of ski tows, ski lifts and passenger tramways. The primary responsibility**

1 for design, construction, maintenance, and inspection rests with the
2 operators of such passenger tramway devices. The State, through the
3 Commissioner, ~~of Labor~~ shall register all ski lift devices and passenger
4 tramways and establish reasonable standards of design and operational
5 practices, and cause to be made such inspections as may be necessary in
6 carrying out this policy.

7 "§ 95a Each word or term defined in this Article has the meaning indicated in this
8 section, unless a different meaning is plainly required by the context.

9 (1) 'Commissioner' means the Commissioner of ~~Labor~~ Insurance of the
10 State of North Carolina.

11 (2) 'Industry' means activities of all those persons in the State who own,
12 manage, or direct the operation of passenger tramways.

13 (3) 'Operator' means any person, firm, corporation, or organization which
14 owns, manages, or directs the operation of a passenger tramway.
15 'Operator' may apply to the State or any political subdivision or
16 instrumentality thereof.

17 (4) 'Passenger tramway' means a device used to transport passengers
18 uphill on skis, or in cars on tracks, or suspended in the air by the use of
19 steel cables, chains or belts, or by ropes, and usually supported by
20 trestles or towers with one or more spans. 'Passenger tramway' shall
21 include the following devices:

22 a. 'Chairlift,' a type of transportation on which passengers are
23 carried on chairs suspended in the air and attached to a moving
24 cable, chain or link belt supported by trestles or towers with one
25 or more spans, or similar devices;

26 b. 'J bar, T bar or platter pull,' so-called and similar types of
27 devices or means of transportation which pull skiers riding on
28 skis by means of an attachment to a main overhead cable
29 supported by trestles or towers with one or more spans;

30 c. 'Multicar aerial passenger tramway,' a device used to transport
31 passengers in several open or in closed cars attached to, and
32 suspended from, a moving wire rope or attached to a moving
33 wire rope and supported on a standing wire rope, or similar
34 device;

35 d. 'Rope tow,' a type of transportation which pulls the skiers,
36 riding on skis as the skier grasps the rope manually, or similar
37 devices;

38 e. 'Skimobile,' a device in which a passenger car running on steel
39 or wooden tracks is attached to and pulled by a steel cable, or
40 similar device;

41 f. 'Two-car aerial passenger tramway,' a device used to transport
42 passengers in two open or enclosed cars attached to, and
43 suspended from, a moving wire rope or attached to a moving

1 wire rope and supported on a standing wire rope or similar
2 device.

3 "§ 95—No passenger tramway shall be operated in this State unless it has been
4 registered by the Commissioner ~~of Labor~~. On or before November 1 in
5 each year, every operator of a passenger tramway shall apply to the
6 Commissioner ~~of Labor~~, on forms prepared by said Commissioner, for
7 registration of the passenger tramway which such operator owns or
8 manages, or the operation of which he directs. The application shall
9 contain such information as the Commissioner may reasonably require
10 in order for him to determine whether the passenger tramway sought to
11 be registered by such operator comply with the intent of this Article and
12 the rules ~~and regulations~~—promulgated by the Commissioner as
13 hereinafter provided.

14 "§ 95â The Commissioner shall issue to the applying operator without delay a
15 registration certificate for each passenger tramway owned, managed, or
16 the operation of which is directed by such operator when the
17 Commissioner is satisfied:

- 18 (1) That the facts stated in the application are sufficient to enable the
19 Commissioner to fulfill his duties under this Article; and
- 20 (2) That each such passenger tramway sought to be registered complies
21 with the rules ~~and regulations~~—of the Commissioner promulgated
22 pursuant to the provisions of this Article.
- 23 (3) In order to satisfy himself that the conditions described in subdivisions
24 (1) and (2) of this section have been fulfilled, the Commissioner may
25 cause to be made such inspections hereinafter described as he may
26 reasonably deem necessary.
- 27 (4) When an operator installs a passenger tramway subsequent to
28 November 1, of any year, such operator shall file a supplemental
29 application for registration of such passenger tramway. Upon the
30 receipt of such supplemental application, the Commissioner shall
31 proceed immediately to initiate proceedings leading to the registration
32 or rejection of registration of such passenger tramway pursuant to the
33 provisions of this Article.
- 34 (5) Each registration shall expire on October 31, next following the day of
35 issue. Each operator shall cause the registration certificate for each
36 passenger tramway thus registered to be displayed prominently at the
37 place where passengers are loaded thereon.

38 "**§ 95 Building Code Council.**

39 (a) In addition to all other powers and duties conferred and imposed upon the
40 Commissioner by this Article, the Commissioner shall have and exercise the following
41 powers and duties:

- 42 (2) (1) To hold hearings and take evidence in all matters relating to the
43 exercise and performance of the powers and duties vested in the
44 Commissioner, subpoena witnesses, administer oaths, and compel the

1 testimony of witnesses and the production of books, papers and
2 records relevant to any inquiry;

3 (3) (2) To approve, deny, revoke, and renew the registrations provided for
4 in this Article and the procedures of the Commissioner with respect
5 thereto shall be as provided in this Article with respect to the issuance
6 of certificates or licenses;

7 (4) (3) To cause the prosecution and the institution of actions for
8 injunctions of all persons violating the provisions of this Article and to
9 incur the necessary expenses thereof;

10 (5) (4) To cause the seal of the Commissioner of Labor to be affixed to all
11 registrations issued by him, and to employ, within the funds available
12 to him, and prescribe the duties of all such personnel as the
13 Commissioner may deem necessary in the administration of this
14 Article.

15 (b) The Building Code Council shall ~~(1) To adopt~~ adopt and enforce reasonable
16 rules ~~and regulations~~—relating to public safety in the construction, operation, and
17 maintenance of passenger tramways. The rules ~~and regulations~~—authorized under this
18 section shall conform as nearly as possible to the standards contained for mechanical
19 engineering aerial passenger tramways safety code as adopted and used by the U.S.A.
20 Standards Institute, B77.1–1960, with addenda B77.1(a)–1963, and B77.1(b)–1965, and
21 as said safety code ~~from~~ for tramways may be amended from time to time, and in the
22 formulation of said ~~regulations~~ rules the Commissioner may use and adopt any other
23 safety code for tramways as issued by recognized scientific and mechanical societies.
24 The said ~~regulations~~ rules shall not be discriminatory in their application to operators of
25 passenger tramways, and the procedures of the ~~Commissioner~~ Building Code Council
26 and Commissioner shall be as provided in this Article.

27 "§ 95—**The Commissioner may cause to be made such inspections of the**
28 **construction, operation, and maintenance of passenger tramways as he**
29 **shall deem to be reasonably necessary. If, as the result of an inspection, it**
30 **is found that a violation of the Commissioner's rules ~~and regulations~~**
31 **exists, or a condition in passenger tramway construction, operation or**
32 **maintenance exists, which endangers safety of the public, an immediate**
33 **report shall be made to the Commissioner for appropriate investigation**
34 **and order.**

35 "§ 95o **When facts are presented to the Commissioner tending to show that an**
36 **unreasonable hazard exists in the continued operation of a passenger**
37 **tramway, and after such verification of said facts as is practical under**
38 **the circumstances and consistent with the public safety, the**
39 **Commissioner may by an emergency order require the operator of said**
40 **tramway forthwith to cease using the same for the transportation of**
41 **passengers. Such emergency order shall be in writing, signed by the**
42 **Commissioner, and notice thereof shall be served upon the operator or**
43 **his agent immediately in control of said passenger tramway by a true**
44 **copy of such order, with a return being made of such service and**

1 endorsed on the original order. Such emergency shutdown shall be
2 effective for a period not to exceed 48 hours from the time of service.
3 Immediately after the issuance of an emergency order, the Commissioner
4 shall conduct an investigation into the facts of the case and shall take
5 such action as may be appropriate and as provided by the provisions of
6 this Article.

7 **"§ 95h If, after investigation, the Commissioner finds that a violation of any of his**
8 **rules and regulations—exists, or that there is a condition in passenger**
9 **tramway construction, operation, or maintenance which endangers the**
10 **safety of the public, the Commissioner shall forthwith issue his written**
11 **order setting forth his findings, the corrective action to be taken, and**
12 **fixing a reasonable time for compliance therewith. The order shall be**
13 **sent to the affected operator by certified mail and shall become final**
14 **unless the operator contests the order by filing a petition for a contested**
15 **case under G.S. 150B-23 within 20 days after receiving the order. The**
16 **Commissioner shall have the power to institute injunctive proceedings in**
17 **any court of competent jurisdiction of the district court district as**
18 **defined in G.S. 7A-133 or superior court district or set of districts as**
19 **defined in G.S. 7A-41.1, as the case may be, in which the passenger**
20 **tramway is located for the purpose of restraining the operation of said**
21 **tramway or for compelling compliance with any lawful order of the**
22 **Commissioner. Judicial review of a final decision under this section may**
23 **be obtained under Article 4 of Chapter 150B of the General Statutes.**

24 **"§ 95—If any operator fails to comply with the lawful order of the Commissioner as**
25 **issued under this Article, and within the time fixed thereby, the**
26 **Commissioner may suspend the registration of the affected passenger**
27 **tramway for such time as he may consider necessary for the protection of**
28 **the safety of the public. Any operator who shall be convicted, or enter a**
29 **plea of guilty or nolo contendere, to operating a passenger tramway which**
30 **has not been registered by the Commissioner, or after its registration has**
31 **been suspended by the Commissioner, shall be guilty of a misdemeanor**
32 **and shall be punished by a fine of not more than fifty dollars (\$50.00) per**
33 **day for each day of the such illegal operations or by imprisonment in the**
34 **discretion of the court, or both such fine and imprisonment.**

35 **"§ 95a This Article shall take effect and become operative on July 30, 1969,**
36 **provided that the initial applications for registration of passenger**
37 **tramways shall be filed on or before November 1, 1969, and passenger**
38 **tramways in existence on November 1, 1969, may be operated without**
39 **registration until final action is taken by the Commissioner on the**
40 **application for registration thereof."**

41 Sec. 8. All statutory authority, powers, duties, and functions, records,
42 personnel, property, unexpended balances of appropriations, allocations or other funds,
43 including the functions of budgeting and purchasing of the Department of Labor,
44 pertaining to elevators, escalators, dumbwaiters, amusements, aerial tramways, and

1 inclined railroads, as provided in Chapter 95 of the General Statutes, are transferred to
2 the Department of Insurance as provided herein. As used in this section, "powers,
3 duties, and functions" include rulemaking, regulation, licensing, and promulgation of
4 rules, rates, regulations, and standards and the rendering of findings, orders, and
5 adjudications.

6 Any rules pertaining to the administration or enforcement of the matter
7 transferred by this section shall remain in effect until amended or repealed by the
8 Building Code Council.

9 Sec. 9. As provided by Section 91(b) of Chapter 864, Session Laws of 1987,
10 G.S. 95-111.12 as recodified as G.S. 58-27.101 by Section 6 of this act is amended
11 effective January 1, 1990, by deleting "one hundred thousand dollars (\$100,000)" and
12 substituting "three hundred thousand dollars (\$300,000)".

13 Sec. 10. G.S. 143-139 reads as rewritten:

14 **"§ 143-139. Enforcement of Building Code.**

15 (a) Procedural Requirements. – Subject to the provisions set forth herein, the
16 Building Code Council shall adopt such procedural requirements in the North Carolina
17 State Building Code as shall appear reasonably necessary for adequate enforcement of
18 the Code while safeguarding the rights of persons subject to the Code.

19 (b) General Building Regulations. – The Insurance Commissioner shall have
20 general supervision, through the Division of Engineering of the Department of
21 Insurance, of the administration and enforcement of all sections of the North Carolina
22 State Building Code pertaining to plumbing, electrical systems, general building
23 restrictions and regulations, heating and air conditioning, fire protection, and the
24 construction of buildings generally, ~~except those sections of the Code, the enforcement of~~
25 ~~which is specifically allocated to other agencies by subsections (c) and (d) below.~~ The
26 Insurance Commissioner, by means of the Division of Engineering, shall exercise his
27 duties in the enforcement of the North Carolina State Building Code (including local
28 building codes which have superseded the State Building Code in a particular political
29 subdivision pursuant to G.S. 143-138(e)) in cooperation with local officials and local
30 inspectors duly appointed by the governing body of any municipality or board of county
31 commissioners pursuant to Article 11, Chapter 160 of the General Statutes of North
32 Carolina, or G.S. 160-200(29), or G.S. 153-9(47) and (52), or any other applicable
33 statutory authority.

34 (c) Boilers. ~~The Bureau of Boiler Inspection of the Department of Labor shall~~
35 ~~have general supervision of the administration and enforcement of those sections of the~~
36 ~~North Carolina State Building Code which pertain to boilers of the types enumerated in~~
37 ~~Article 7 of Chapter 95 of the General Statutes.~~

38 (d) Elevators. ~~The Department of Labor shall have general supervision of the~~
39 ~~administration and enforcement of those sections of the North Carolina State Building~~
40 ~~Code which pertain to elevators, moving stairways, and amusement devices such as~~
41 ~~merry-go-rounds, roller coasters, Ferris wheels, etc."~~

42 Sec. 11. Prosecutions for offenses occurring before the effective date of this
43 act are not abated or affected by this act, and the statutes that would be applicable but
44 for this act remain applicable to those prosecutions.

1 Sec. 12. This act shall become effective July 1, 1989.