

524 CMR 5.00: ELEVATOR CONTRACTORS

Section

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5.01: Scope and Applicability

Unless specified elsewhere in 524 CMR, the provisions of 524 CMR 5.00 shall govern the registration, duties, responsibilities, and discipline of elevator contractors as the term is defined in 524 CMR 3.00: *Elevator, Escalator, Dumbwaiters and Moving Walks: Definitions*. No person or entity shall employ a Massachusetts licensed elevator mechanic(s), or be issued a permit in accordance with 524 CMR 1.03: *Permits*, for purposes of performing installation, alteration, modification, maintenance, servicing, and/or repair of an elevator(s) without being registered with the Department of Public Safety, on behalf of the Board of Elevator Regulations, as an elevator contractor.

5.02: Registration

(1) An application for a registration as an elevator contractor shall be made in writing on a form provided by the Board of Elevator Regulations. No registration shall be issued unless the applicant has submitted a completed application evidencing all requirements of 524 CMR 5.00.

(2) An application for registration as an elevator contractor shall include:

(a) The official name of the elevator contractor, the permanent business address of the contractor, applicable contact information, and the name of a contact person(s) authorized to speak on behalf of the contractor.

(b) 1. For Corporations: an official document which lists the names and addresses of officers, directors, and major stockholders such as: a copy of the articles of incorporation, a current annual report as filed with the Secretary of the Commonwealth, a copy of the registration as a foreign corporation filed with the Secretary of the Commonwealth, or any other official documentation which lists the names and addresses of officers, directors, and major stockholders.

2. For Partnerships: either a copy of the current partnership agreement containing the requested information, or listing of the names and addresses of all partners on the application form.

3. For Applicants Using a DBA: a copy of the DBA certificate filed with a city or town pursuant to M.G.L. c. 110, § 5.

(c) The applicable registration fee as set in accordance with M.G.L. c. 7, § 3B.

(3) On behalf of the Board of Elevator Regulations, the Department of Public Safety shall issue a certificate evidencing such registration to applicants that meet the requirements of 524 CMR 5.00 and have successfully completed the application. All registrations issued pursuant to 524 CMR 5.00 shall be valid for two years from the date of issuance unless otherwise suspended or revoked by the Board of Elevator Regulations.

(4) The registrant shall have the responsibility of reporting any change of mailing address, email address, contact person, and/or change of circumstance to the Department of Public Safety. The information on file at the Board of Elevator Regulations shall be deemed accurate for purposes of notification unless changed by the registrant.

(5) The Department of Public Safety may require an applicant to appear in person to answer questions or provide documents in conjunction with an application for registration in addition to those required under 524 CMR 5.00.

(6) Any false statement in an application submitted to the Board of Elevator Regulations, or any action intended to subvert the intent of 524 CMR 5.00 may be deemed grounds for any of the following:

(a) denial of the application; or

(b) if the registration has already been issued, suspension or revocation of the registration.

5.03: Duties and Responsibilities

A registered elevator contractor shall have the following duties and responsibilities:

- (1) to ensure that every person who performs work on behalf of the contractor as an elevator constructor, maintenance person and repairman in the construction, maintenance, alteration, modification, servicing, or repair of elevators holds a license therefor granted by the Board of Elevator Examiners in accordance with M.G.L. c. 143, § 71C(1), or a temporary license therefor granted by the Commissioner of Public Safety in accordance with M.G.L. c. 143, § 71C(2), or is an elevator mechanic apprentice working under the direct and immediate field supervision of a licensed elevator mechanic.
- (2) to ensure that no work requiring a permit in accordance with 524 CMR is performed by any person working on behalf of the contractor prior to obtaining a permit.
- (3) to include its Board of Elevator Regulations issued elevator contractor registration number and the signature of an authorized individual on all applications and correspondence filed with the Board of Elevator Regulations.
- (4) to ensure that adequate and proper personnel timely appear for all annual tests, fire tests, and other inspections scheduled with the Board of Elevator Regulations.

5.04: Discipline

- (1) Complaints. Any person may file a complaint against a registered elevator contractor. All complaints relative to a registrant must be in writing on a form provided by the Board of Elevator Regulations. All complaints must be received by the Board of Elevator Regulations within one year of the date of the alleged wrongdoing. The Board of Elevator Regulations may itself initiate a complaint at any time.
- (2) Basis of Complaint. A complaint must allege wrongdoing by a registrant in the form of a violation of 524 CMR or M.G.L. c. 143.
- (3) Review and Investigation of Complaints. The Board of Elevator Regulations may, in its discretion, investigate a complaint to determine whether a hearing will be held.
- (4) Notice of Hearing. If the Board of Elevator Regulations determines that a hearing shall be held to resolve a complaint, reasonable notice shall be provided to the complainant and the registrant. Mailing of notice to the address on record with the Board of Elevator Regulations, and emailing the notice to the contact person identified by the registrant on the application for registration, shall be deemed satisfactory notice. The notice of hearing shall contain:
 - (a) The name of the complainant (if provided).
 - (b) The date, time and place of said hearing.
 - (c) The location of the incident giving rise to the complaint.
 - (d) A description of the situation giving rise to the complaint.
 - (e) A copy of the complaint filed with the Board of Elevator Regulations.
- (5) Hearing. Hearings convened pursuant to 524 CMR 5.00 shall be presided over by a Board of Elevator Regulations and conducted pursuant to 801 CMR 1.02: *Informal/Fair Hearing Rules* and M.G.L. c. 30A. Any party may be represented by legal counsel.

If an elevator contractor, or a designee, does not appear for the hearing, the hearing may proceed in their absence and a decision rendered based upon the evidence presented, but only after a finding is made that the registrant was provided notice as required by 524 CMR 5.04(4).
- (6) Subpoenas. The Board of Elevator Regulations may issue a subpoena in accordance with M.G.L. c. 30A, § 12 requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence or documents, relating to any matter in question in the proceeding.

5.04: continued

(7) Decisions and Discipline of Registrants. The Board of Elevator Regulations shall issue a written decision after the hearing in a reasonably prompt manner. If the Board of Elevator Regulations, acting on behalf of the Department of Public Safety, determines that a registrant has violated any provision of 524 CMR 5.03 or M.G.L. c. 143, they may suspend a registration for a fixed period of time, revoke a registration permanently, or issue a reprimand to the registrant. In reaching the decision the Board of Elevator Regulations shall consider any history of disciplinary issues, the severity of the offense, and any remedial action taken by the contractor. Further, the Board of Elevator Regulations may impose any terms and conditions upon a registrant which are reasonably calculated to ensure future compliance with 524 CMR and M.G.L. c. 143 by the registrant.

(8) Appeals. Any person aggrieved by a decision of the Board of Elevator Regulations may appeal such decision to the Board of Elevator Regulations in conformance with M.G.L. c. 143, § 70(b).

REGULATORY AUTHORITY

524 CMR 5.00: M.G.L. c. 143, §§ 68 and 69.

NON-TEXT PAGE