

SB 2494

SD2 HD1

A BILL FOR AN ACT

RELATING TO ELEVATOR MECHANICS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that elevators are one of
2 the safest modes of transportation. There are an estimated
3 eighteen billion elevator trips taken per year in the United
4 States. With the continued vertical growth of urban Honolulu,
5 including some condominium developments that exceed forty
6 floors, it is important for Hawaii to ensure that state laws
7 governing repair and maintenance of elevators remain current.
8 The legislature notes that the elevator mechanics' statute,
9 chapter 448H, Hawaii Revised Statutes, has not been updated in
10 more than ten years.

11 The legislature further finds that, like many other
12 sectors, the elevator industry is undergoing rapid technological
13 advancements, which require elevator mechanics to expand their
14 knowledge and skills through training and education to ensure
15 that licensing standards and core competencies are met. Given
16 these technological advancements, it is necessary for elevator
17 mechanics to demonstrate core competencies when installing,



1 repairing, and maintaining all elevators, escalators, and other
2 vertical transportation.

3 The purpose of this Act is to strengthen regulatory
4 oversight of the licensed profession of elevator mechanics by
5 amending the permissible scope of work, apprenticeship and
6 licensing requirements, and remote interaction requirements.

7 SECTION 2. Chapter 448H, Hawaii Revised Statutes, is
8 amended by adding five new sections to be appropriately
9 designated and to read as follows:

10 "§448H-A Examination. Every applicant shall pass an
11 examination prescribed by the board for licensure. Every
12 applicant shall:

13 (1) Pass the examination with no less than seventy per
14 cent correct; and

15 (2) Not be allowed to review any of the applicant's failed
16 examinations.

17 §448H-B License renewals; continuing education. (a)
18 Licenses shall expire on June 30 of each even-numbered year.
19 Licensees seeking renewal shall pay all applicable fees and
20 complete the continuing education requirements pursuant to
21 subsection (b).



1 (b) Prior to each license renewal, all licensed elevator
2 mechanics shall complete:

3 (1) An educational course, approved by the board, of no
4 less than eight hours related to the elevator
5 industry; or

6 (2) A qualified elevator inspector continuing education
7 course of no less than eight hours offered by a
8 certifying organization accredited by the American
9 National Standards Institute.

10 (c) An elevator mechanic initially licensed within one
11 year prior to the applicable renewal date shall not be required
12 to complete the eight hours of continuing education to renew the
13 elevator mechanic's license.

14 (d) The board may conduct random audits to determine
15 compliance with the continuing education requirement. The board
16 shall provide written notice of an audit to a licensee randomly
17 selected for audit. Within sixty days of notification, the
18 licensee shall provide the board with documentation verifying
19 compliance with the continuing education requirement established
20 by this section.



1 §448H-C Elevator mechanics; scope of work. All
2 construction; reconstruction; alteration, including flooring;
3 and all elevator cab work, maintenance, repair, troubleshooting,
4 mechanical, or electrical work or adjustments, which includes
5 but is not limited to updating software, changing parameters,
6 resetting faults, and operation of all systems and functions, of
7 any conveyance shall be performed by a licensed elevator
8 mechanic.

9 Work on adjustment of the structure or facility, of which
10 the conveyance may be part or to which the conveyance may be
11 attached, including any construction; reconstruction;
12 alteration, including flooring; and all elevator cab work
13 necessary for proper completion of the work on the conveyance
14 shall be performed by a licensed elevator mechanic.

15 §448H-D Exemptions. Licensure as an elevator mechanic
16 shall not be required for:

17 (1) Dismantling or removing a conveyance; provided that
18 the conveyance is not reused and the building or
19 structure, as defined by its foundation outline, is
20 totally secure from public and unauthorized access and



1 the entire building is being completely demolished
2 down to and including the foundation; and
3 (2) Employees of an elevator contractor, duly licensed
4 under chapter 444, who enters into the contract to
5 install, repair, or remove the platform lift or
6 stairway lift within a private residence not
7 accessible to the general public or to other occupants
8 in the building.

9 §448H-E Remote interaction. Remote interaction of a
10 conveyance shall not be permitted without the express permission
11 of a licensed elevator mechanic who shall be physically present
12 at the conveyance; provided that this section shall not preclude
13 remote interaction with the conveyance from within the building
14 or complex in which the conveyance is located if the interaction
15 is for the sole purpose of securing, locking, or providing
16 private use of the conveyance."

17 SECTION 3. Section 448H-1, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By adding two new definitions to be appropriately
20 inserted and to read:



1 "Conveyance" means any elevator, dumbwaiter, stage lift,
2 mechanized parking garage elevator, escalator, moving walk or
3 ramp, or lift.

4 "Remote interaction" means an action to manipulate or
5 interact with the controls of a conveyance remotely, or from
6 within the building or complex in which the conveyance is
7 located."

8 2. By amending the definition of "apprentice elevator
9 mechanic" to read:

10 "Apprentice elevator mechanic" means any person who is
11 [in]:

12 (1) Enrolled in an apprenticeship program for the elevator
13 industry that is registered with the state
14 apprenticeship council or the Bureau of Apprenticeship
15 and Training, United States Department of Labor;

16 (2) Actively training to acquire the skill to become an
17 elevator mechanic; and [who is required]

18 (3) Required to work for [at least four years] no less
19 than four and one-half years full-time or its
20 equivalent, but no less than nine thousand hours,



1 under the supervision of an elevator mechanic duly
2 licensed under section 448H-6."

3 3. By amending the definition of "elevator mechanic" to
4 read:

5 "Elevator mechanic" means any person who engages in the
6 construction, reconstruction, alteration, maintenance, repair,
7 troubleshooting, mechanical, or electrical work or adjustments,
8 which includes but is not limited to updating software, changing
9 parameters, resetting faults, and the operation of all systems
10 and functions, of any [~~elevator, dumbwaiter, stage lift,~~
11 ~~mechanized parking garage elevator, escalator, moving walk or~~
12 ~~ramp, lift]~~ conveyance, including any construction,
13 reconstruction, alteration, or adjustment of the structure or
14 facility of which the same may be a part or to which the same
15 may be attached, necessary for proper completion of the work on
16 the [~~elevator, dumbwaiter, stage lift, mechanized parking garage~~
17 ~~elevator, escalator, moving walk or ramp, or lift.] conveyance."~~

18 SECTION 4. Section 448H-5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§448H-5 Powers and duties of the board.** In addition to
21 any other powers and duties authorized by law, the board shall:



- 1 (1) Adopt rules in accordance with chapter 91 to carry out
2 the purposes of this chapter;
- 3 (2) Develop, apply, review, and upgrade appropriate
4 techniques, including examinations and investigations
5 for determining whether a person meets the
6 requirements of this chapter and standards to insure
7 that elevator mechanics will be persons qualified to
8 serve as such;
- 9 (3) Prescribe, at a minimum, that a nationally recognized
10 examination, augmented with locally developed
11 material, be used in testing for licensure [~~the~~
12 ~~passing grade for the examination to be not less than~~
13 ~~seventy per cent~~];
- 14 (4) Issue licenses to persons determined, after
15 application of those techniques, to have met the
16 required qualifications and revoke or suspend
17 licenses [~~7~~] previously issued by the board, pursuant
18 to hearings held in accordance with chapter 91, in any
19 case where the individual holding any license is
20 determined substantially to have failed to conform to



- 1 the required qualifications, this chapter, or the
2 rules of the board;
- 3 (5) Establish and carry out procedures designed to
4 [~~insure~~] ensure that persons licensed as elevator
5 mechanics [~~will~~], during any period they serve as
6 such, shall comply with the requirements of this
7 chapter, the rules of the board, and chapter 397 and
8 rules adopted thereunder;
- 9 (6) Receive, investigate, and take appropriate action with
10 respect to, any charge or complaint filed with the
11 board to the effect that any individual licensed as an
12 elevator mechanic has failed to comply with the
13 requirements of this chapter regarding any complaint
14 regarding job performance by mechanics, the rules of
15 the board, or chapter 397 and the rules adopted
16 thereunder;
- 17 [~~(7)~~] ~~Register apprentice elevator mechanics;~~
- 18 ~~(8)]~~ (7) Maintain a record of its proceedings;
- 19 [~~(9)]~~ (8) Assist and advise the department of labor and
20 industrial relations in the adoption of rules relating
21 to the conditions of work for elevator mechanics,



1 including requirements related to equipment or
2 facilities essential for the safe installation,
3 repair, maintenance, or alteration of any [~~elevator,~~
4 ~~dumbwaiter, escalator, moving walk or ramp, and lift,~~]
5 conveyance; and

6 [~~10~~] (9) Notify the department of labor and industrial
7 relations of any fact or situation that, in the
8 opinion of the board, constitutes a violation of
9 chapter 397 or of any rule adopted thereunder."

10 SECTION 5. Section 448H-6, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§448H-6 Qualifications for license.** No person shall be
13 licensed as an elevator mechanic unless the person has
14 satisfactorily passed the examination administered by the board
15 and [~~satisfactorily completed at least four years of training~~
16 ~~under the supervision of a licensed elevator mechanic.~~] has met
17 the following minimum qualifications:

18 (1) Obtained a certificate of completion from an
19 apprenticeship program for the elevator industry that
20 is registered with the state apprenticeship council or
21 the Bureau of Apprenticeship and Training, United



1 States Department of Labor, and is approved by the
2 board using standards similar to but no less stringent
3 than those set forth by the National Elevator Industry
4 Educational Program; and
5 (2) Satisfactorily completed no less than four and one-
6 half years of full-time work or its equivalent, but no
7 less than nine thousand hours, under the direct
8 supervision of an elevator mechanic duly licensed
9 under this section. The board, by rule, shall
10 establish the terms for the verification of time in
11 the industry."

12 SECTION 6. Section 448H-7, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§448H-7 Temporary permit.** The board may issue a
15 temporary permit to [any] the following:

16 (1) Any person who has qualified as an elevator mechanic
17 in another state with standards substantially equal to
18 those of this chapter and who possesses skills or
19 training not available in the State [~~; provided that~~
20 ~~the board shall not register any such person as an~~
21 ~~apprentice elevator mechanic]~~. The board [shall], by



1 ~~[rules and regulations,]~~ rule, shall establish the
2 terms of the temporary permit[-]; and
3 (2) An apprentice elevator mechanic who has a minimum of
4 three years of full-time work experience, but no less
5 than six thousand hours, under the direct supervision
6 of an elevator mechanic duly licensed under section
7 448H-6, if there is a shortage of elevator mechanics
8 in the State. The board, by rule, shall establish the
9 terms for the determination of a shortage of elevator
10 mechanics, the verification of time in the industry,
11 and the terms of the apprentice's temporary permit."

12 SECTION 7. Section 448H-8, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§448H-8 Fees.** Application, examination, license,
15 temporary permit, and biennial renewal fees shall be as provided
16 in rules adopted by the director of commerce and consumer
17 affairs pursuant to chapter 91. A fee is required for each
18 reexamination. Application fees are not refundable.

19 ~~[Licenses shall expire on June 30 of each even numbered~~
20 ~~year.] "~~



1 SECTION 8. In codifying the new sections added by section
2 2 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 9. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 10. This Act shall take effect on January 1, 2050;
8 provided that section 448H-B, Hawaii Revised Statutes, as added
9 by section 2 of this Act, and section 5 of this Act, shall take
10 effect on January 1, 2050.



Report Title:

Elevator Mechanics; Apprenticeship; Licensure; Continuing Education; Requirements; Scope of Work

Description:

Updates requirements for apprenticeship and licensure of elevator mechanics, including examination, license renewal, continuing education, scope of work, exemptions, remote interaction, and qualifications for licensure. Clarifies powers and duties of the Elevator Mechanics Licensing Board and requirements for temporary permits. (SB2494 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



**PRESENTATION OF THE
ELEVATOR MECHANICS LICENSING BOARD**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, March 20, 2018
2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 2494, S.D. 2, H.D. 1, RELATING TO ELEVATOR
MECHANICS.**

TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Kedin Kleinhans, and I am the Executive Officer of the Elevator Mechanics Licensing Board (“Board”). Thank you for the opportunity to testify in support of S.B. 2494, S.D. 2, H.D. 1, Relating to Elevator Mechanics

This measure updates the requirements for apprenticeship and licensure of elevator mechanics, including examination, license renewal, continuing education, scope of work, exemptions, remote interaction, and qualifications for licensure. This measure also clarifies the powers and duties of the Board and requirements for temporary permits.

Regarding Hawaii Revised Statutes (“HRS”) section 448H-D(2) (Exemptions), the Board recommends amending page 5, line 3 to read, “Employees of a contractor duly licensed” The C-16 elevator contractor license classification is intended for work on all types of conveyances, and small businesses that wish to solely engage in the lift industry may have difficulty in obtaining that license classification. This amendment would alleviate the burden small businesses might have in obtaining licensure, while ensuring they are properly insured and bonded.

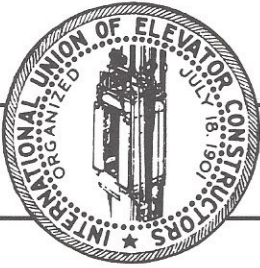
Regarding the definition of “apprentice elevator mechanic” on page 6, the Board recommends amending lines 13-14 to read “ . . . registered with a state apprenticeship council”. The Board recommends this same amendment to HRS section 448H-6(1) on page 10, line 20. As currently drafted, this measure could be construed as requiring an

apprentice elevator mechanic seeking licensure to attend the apprenticeship program registered with the Hawaii apprenticeship council, which would preclude qualified out-of-state applicants from obtaining a license.

The Board respectfully suggests "direct" be added before "supervision" on page 7, line 1 to accurately reflect the on-the-job-learning process of apprenticeships.

Should this bill pass through the Committee, the Board respectfully requests a delayed implementation date of July 1, 2020, to sections 2 and 5 of this measure to help facilitate the transition.

Thank you for the opportunity to testify in support of S.B. 2494, S.D. 2, H.D. 1.



LOCAL UNION NO. 126



OF THE

International Union of Elevator Constructors

AFFILIATED WITH THE AFL-CIO

SUITE 215, 707 ALAKEA STREET • HONOLULU, HI 96813 • TELEPHONE (808) 536-8653 • FAX (808) 537-3779

The Twenty-Ninth Legislature
Regular Session of 2018
Hawaii State House of Representatives
Committee on Consumer Protection and Commerce

Tuesday, March 20, 2018
2:00 PM, Conference Room 329

SB 2494, SD2, HD1 – Relating to Elevator Mechanics

The Honorable Roy M. Takumi, Chair, Linda Ichiyama, Vice-Chair, and Esteemed Members of the House Committee on Consumer Protection and Commerce

SB2494, SD2, HD1 proposes to amend the current statutes that govern the licensing of elevator mechanics within the State of Hawaii. It has been numerous years since the statute has been updated and during this same period technology has advanced exponentially. In order for elevator mechanics to keep pace with this technology they must show and exhibit continued competence in their craft. Not only does this hone the skillset of the elevator mechanic but it will necessitate the elevator mechanic to stay current with the latest codes and technology.

The International Union of Elevator Constructors, Local 126 represents the men and women installing, repairing, and maintaining all elevators, escalators, and other vertical transportation in the State of Hawaii. The Elevator Constructor is a highly skilled craft with some of the most stringent and extensive education within the elevator industry and the construction industry as a whole. However, the current State of Hawaii licensing requirements does not coincide with the standards and the level of technology that are currently being introduced and installed.

The proposed amendments to HRS 448H are meant to strengthen the licensing law and would help to discourage unlicensed activity by adding continued competency, increasing and defining the qualifications to become licensed, adding a 9000 hour on the job training requirement which, will remove the task of apprenticeship registration by the DCCA, better defining an elevator mechanic's scope of work, and better defining the powers and duties of the elevator mechanic's licensing board.

The National Elevator Industry, Inc. (NEII) and its members has made claims that the current proposed amendments to HRS 448H are against the current collective bargaining agreement (CBA) with the International Union of Elevator Constructors, is damaging to their member's business models and practices, and also asserts that it will actually compromise the safety of elevators and escalators.

Local 126 has been working with the Department of Commerce and Consumer Affairs (DCCA) regarding these proposed amendments for close to a year and during these meetings the DCCA has always maintained that they apply equally to all potential and current licensees and not to favor one organization over another. The Attorney General and the Executive Officer of the Licensing Board made sure that every amendment was equitable for all individuals who work on elevators and escalators. It was always about what is best for the industry as a whole, not only for the IUEC or NEII. That is why the CBA argument is irrelevant and should have no bearing on the matter at hand. There is no preferential treatment, everyone would have to comply with the updated Licensing Law and it will apply to both Union and Non-Union elevator mechanics.

In further response to claims by NEII that these proposed amendments will adversely affect business and safety please let me point the Committee to a circular letter that was administered by the State of California, Department of Industrial Relations, Division of Occupational Safety and Health which I have attached to this testimony. Circular Letter E-10-06 dated May 27, 2011 clearly states that they recognize a clear hazard exists when it comes to "Remote Interaction" and took the appropriate measures to address the same concerns that we have in regard to this very same issue. The "Mechanics Scope of Work" addresses the issues in regard to "Remote Interaction". As you can see this letter is from 2011. Almost seven years have passed since the issuance of this letter and it has not adversely affected the businesses of KONE, Mitsubishi, Otis, Schindler, or ThyssenKrupp Elevator Companies. In fact, there is so much work on the west coast that there are manpower shortages. Nor has it compromised the safety to the riding public. NEII is fully aware of this letter yet they choose to look the other way because it does not conform to their business model.

Granted "Remote Monitoring", which is the ability to remotely diagnose a problem or monitor an elevator, can be beneficial at times. We recognize this and Local 126 is not opposed to it. However, the ability to remotely manipulate, move an elevator, change parameters, or reset faults removes the eyes and ears and more importantly the judgment of a duly licensed elevator mechanic. NEII claims that an engineer 5000 miles away is sufficient to repair an elevator. We disagree and argue that having a licensed mechanic on the job is the last line of defense to prevent something catastrophic from happening. We are not opposed to the licensed elevator mechanic working in conjunction with that same engineer to bring about a resolution to an elevator that may be out of service. NEII may claim that nothing in the past has happened to warrant this type of scrutiny and limitations but shouldn't we be looking to the future and at being proactive rather than reactive?

Last, we would like to request an amendment to the bill which would be to include "accessing the hoistway" within the first paragraph under the "Elevator mechanics; scope of work". The addition of this language would look to prevent non-licensed personnel from entering the hoistway which is a hazardous area and could lead to potentially life-threatening injuries or a fatality.

In closing, licensing is in place for the safety and protection of the consumer and strengthening the elevator mechanic's licensing laws can only serve to benefit our industry as a whole by raising the bar for elevator mechanics which in turn will provide a better and safer product to the riding public. When it comes to safety there is no compromise and for these reasons the International Union of Elevator Constructors, Local 126 is in **strong support** of SD 2494, SD2, HD1.

Respectfully submitted,



Marc Yamane

Business Representative

International Union of Elevator Constructors, Local 126

Department of Industrial Relations
Division of Occupational Safety and Health
ELEVATOR UNIT HQS
6980 Santa Teresa Boulevard, Suite 130
San Jose, CA 95119
Phone: 408.362.2120
Fax: 408.362.2131



May 27, 2011

CIRCULAR LETTER E-10-06

**TO: Installers, Manufacturers of Conveyances and Related Equipment and,
Other Interested Parties**

SUBJECT: Devices Which Remotely Interact With Conveyances

It has come to our attention that devices have been installed on conveyances which interact remotely to change parameters, check and reset faults, open and close doors and various other functions.

Section 7311.2(a) of the California Labor Code states in part: "Any person who, without supervision, erects, constructs, installs, alters, tests, maintains, services or repairs, removes, or dismantles any conveyance covered by this chapter, shall be certified as a certified competent conveyance mechanic by the division."

Devices which interact remotely with conveyances are not covered in Title 8 regulations. The California Labor Code Section 7318 allows the Division to promulgate special safety orders in the absence of regulations. The Division believes that a hazard can be created by the installation of these devices. Section 7311.2(a) precludes individuals who are not certified by the Division from interacting with the controls of a conveyance. The Division is issuing this special order to address this issue.

Pursuant to Sections 7305 and 7312 of the California Labor Code, the Division will remove from service any conveyance found operating with a device which can remotely effect a change in its controls.

Devices which monitor the operation of a conveyance remotely have been accepted, and will continue to be accepted.

Devices which monitor or interact with the controls of a conveyance from within the building or complex in conformance with the Elevator Safety Orders will continue to be accepted.

This circular does not preclude remote interactive diagnostics which requires a Certified Competent Conveyance Mechanic to physically grant permission to take control while in his or her presence.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

Honolulu Branch Office



March 20, 2018

Representative Roy Takumi, Chair
Representative Linda Ichiyama, Vice Chair
Committee on Consumer Protection & Commerce
Capitol, Room 329
Honolulu, HI 96813

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Mike.Nagao@kone.com

Re: Opposition to S.B. 2494

Dear Chairman Takumi, Vice Chairman Ichiyama and Members of the Committee:

KONE Inc. (KONE) appreciates the opportunity to submit comments and convey our company's strong opposition to S.B. 2494, a bill labeled to be related to elevator mechanic licensing, but really going far beyond licensure and minimum requirements. We urge your committee to oppose S.B. 2494 and avoid the legal, financial and business interruption issues that result if this bill is passed.

First and foremost, KONE is an active and integral member of the National Elevator Industry, Inc. (NEII) and fully supports the attached written statement submitted to your committee by NEII. These detailed comments outline the key concerns with S.B. 2494 and are consistent with our company position on these critical issues.

More specifically, KONE wants to be on the record opposing S.B. 2494 as it would be in conflict with and/or impose additional requirements than industry standards, the model elevator law developed by NEII and the International Union of Elevator Constructors (IUEC), the Collective Bargaining Agreement (CBA) between the companies and the IUEC, and the National Elevator Industry Education Program (NEIEP). As a result, the bill will negatively impact elevator industry business operations in Hawaii.

- **Scope of Work** – The language regarding elevator mechanics' scope of work is inconsistent with the industry's collective bargaining agreement (CBA), industry practices and the Model Elevator Law rev3 on which the Hawaii Elevator Act is based.

March 20, 2018

Representative Takumi, Chair
Representative Ichiyama, Vice Chair
Committee on Consumer Protection & Commerce
State Capitol, Room 329
Honolulu, HI 96813
Page 2 of 2

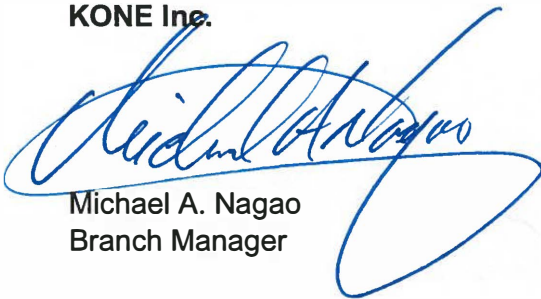
- Remote Interaction – The definition in S.B. 2494 (even as amended) is overly broad and would prevent the use of remote technologies that have been used safely for decades. And the requirement that an elevator mechanic be physically present at the conveyance and expressly permit the use of remote interaction technologies is unrealistic, costly, beyond the scope of our CBA and completely unjustified.
- Qualifications – NEIEP, which is a nationally recognized program and approved for use in Hawaii, already set the industry requirement to qualify for an elevator mechanics' license at 8,000 hours of on-the-job training (OJT). There is no reason, safety or otherwise, for Hawaii to require 1,000 hours of OJT above and beyond the industry standard. Not only will workers be delayed from sitting for the mechanics' exam, but they face six months or more of being paid 20% less than what they could earn as a mechanic.

KONE unites with NEII and our industry counterparts to oppose the requirements set forth in S.B. 2494. KONE is available to answer any questions or provide any assistance. We request that the Hawaii House Committee on Consumer Protection & Commerce reject this bill.

Thank you for your time and attention to this important industry issue.

Sincerely,

KONE Inc.



Michael A. Nagao
Branch Manager



Statement of
thyssenkrupp Elevator Corporation
in
OPPOSITION to S.B. 2494
House Committee on Consumer Protection & Commerce

Representative Roy Takumi, Chair
Representative Linda Ichiyama, Vice Chair
March 20, 2018

thyssenkrupp Elevator Corporation is one of the world's leading elevator companies. We design, build, install, upgrade and maintain smart and innovative mobility systems for a wide variety of applications in Hawaii and around the world.

Our company shares the Committee's goal to ensure that the elevator industry continues to exceed its high safety standards. However, we have grave concerns over S.B. 2494 and feel that, if enacted, it will set the state of Hawaii back several decades in terms of innovation, with no commensurate gain in safety, and raise the cost of elevator service and maintenance for Hawaii's business owners, including the state's vast tourism industry. Also, the legislation addresses training and workplace issues that have already been negotiated through the industry's Collective Bargaining Agreement (CBA) with the International Union of Elevator Constructors (IUEC), of which thyssenkrupp is a signatory.

Thank you for the opportunity to provide our expertise on elevator safety issues. We look forward to working with you to ensure the continued safety of our mechanics and the riding public.

Increase of Training Hours Unnecessary and Penalizes Assistant Mechanics

Safety has always been one of thyssenkrupp Elevator's primary goals. As such, we actively support stringent safety standards and licensing requirements to ensure our mechanics are able to meet the needs of Hawaii's building owners and the riding public. Currently, the IUEC program, administered through the National Elevator Industry Education Program (NEIEP), provides a minimum of 8,000 hours of on-the-job training (in addition to classroom training) through an apprenticeship program. By the time an individual has completed the requirements and passed the exam, they are highly skilled mechanics. There is no indication that our current mechanics are under-trained or that the requirement of an additional 1,000 hours would correlate to improved safety.

thyssenkrupp Elevator Corporation
2880 Ualena St., Honolulu, Hawaii 96819



Once an apprentice completes the minimum training requirements (established through the CBA), he/she is able to sit for the exam. By requiring an additional 1,000 hours of on-the-job training, you would impede them from becoming fully licensed mechanics and delay their 20 percent salary raise. You would also delay entry into the workforce of qualified mechanics, further exacerbating Hawaii's workforce shortage.

Remote Interaction Requirements Impede Innovation and Safety and Raise Costs

For the past several decades, thyssenkrupp Elevator - and our competitors - have been working to develop and improve technology to monitor and assess all of the elevator equipment we put into service. These technologies allow us to perform much more preventive and predictive maintenance. By learning from machine data as to when adjustments or replacements of parts are needed before their end of life, our elevators are more reliable with less down time and less emergency calls.

There are clearly a wide array of tasks and qualifications to complete each task. Some of these are jobs for licensed mechanics, while others may be jobs for professional engineers or software developers, none of whom needs to be on site to collect and analyze the data. The over-simplified approach outlined in S.B. 2494 is misguided and dangerous. With no safety data to indicate that this would benefit the industry and the state's businesses, it is irresponsible to dictate these complex issues through the legislative process. This bill would set innovation back by twenty years to "fix" a nonexistent problem. Also, consumers would see higher costs if licensed mechanics were required in all instances.

Thank you again for the opportunity to submit our comments on S.B. 2494. Leif Kjongegaard is available to answer any questions you may have as the Committee works to address these important issues. He can be reached at 808-839-8122.

Best regards,

A handwritten signature in black ink, appearing to read "Leif Kjongegaard", written over a circular stamp or seal.

Leif Kjongegaard
Branch Manager, Honolulu Hawaii



Government Affairs Office

5537 SW Urish Road • Topeka Kansas 66610 • Office: 785.286.7599 • Cell: 785.580.5070

Statement of the National Elevator Industry, Inc. in OPPOSITION to S.B. 2494 Hawaii House Committee on Consumer Protection & Commerce

March 20, 2018

The National Elevator Industry Inc (“NEII”) is the premier trade association representing the interests of elevator manufacturers across the United States. NEII member companies, which include KONE, Mitsubishi, Otis, Schindler and thyssenkrupp, have significant operations across Hawaii and represent approximately 85 percent of the total industry work hours. NEII implores the Committee to reject S.B. 2492 due to its potentially crippling impact on the state of Hawaii, building owners and managers, Hawaii’s tourism industry and the elevator industry itself. In addition, this bill legislates issues already negotiated through the industry’s collective bargaining agreement with the International Union of Elevator Constructors (“IUEC”) and creates legal issues best addressed outside of the legislative process.

NEII submitted brief comments to this committee when it heard H.B. 1630, the House companion to S.B. 2494, on February 28, 2018. Since then, NEII has expanded its comments and submit the following for your consideration.

Safety for the riding public and industry personnel is the top priority for NEII and member companies. In pursuit of that goal, NEII supports licensing requirements, which set minimum standards for the training, education and proficiency of elevator mechanics. Around the country, NEII collaborates with labor to secure the adoption of standards that ensure elevator mechanics have the appropriate education and training required for complicated and technical equipment. In fact, the current law in Hawaii was developed with input from an industry coalition of NEII member companies, labor representatives and others, and is based on nationally developed industry standards and model legislation supported by both management and labor.

S.B. 2494, however, goes beyond the industry standards and circumvents well-established labor management law and the industry’s collective bargaining agreement. Without a clear validation and empirical data, there is no need to modify current law as proposed and risk negative impacts on Hawaii, its economy, businesses and consumers. In fact, industry data confirms that the current regulations are working. From 2005 through 2016, the OSHA Lost Time Incident Rate decreased by 69 percent and the OSHA Recordable Incident Rate decreased by 60 percent for NEII member companies.

S.B. 2494 Will Have a Negative Impact on Safety

The proposed legislation threatens to severely impede our members' ability to use remote interaction technology designed specifically to improve reliability and enhance safety for the people of Hawaii and industry workers. By making it difficult and costly to use this technology, Hawaii is rejecting innovation developed specifically to protect riders and elevator workers. This is not new technology; it has been in use – safely and effectively – for decades and continues to improve as technology advances. Remote interaction can protect the equipment, reduce the costs of maintenance and repairs, and correct issues that may otherwise result in equipment being taken out of service.

Senate Amendments Do NOT “fix” S.B.2494

The bill was modified during consideration in the Senate to remove references to “monitoring” and “diagnosing” as it related to the definition of remote interaction. Removing these terms may appear to address industry concerns raised previously but is a misleading action. S.B. 2494 would still prevent many forms of remote functionality that have been used since the 1980s.

The terms “interact” and “interaction” are overly broad and could restrict the use of a remote interface technology currently used on conveyances throughout Hawaii. This service is provided to customers 24/7 and delivers valuable data to ensure the safe operation of equipment and address issues in real time. S.B. 2494 not only impedes the application and use of this important safety tool in Hawaii, but directly conflicts with the fundamental right of the employer to manage its workforce, negotiate customer contracts and service equipment for its clients.

Elevator Industry has a Unique Labor-Management Agreement

The elevator industry is one of only a few unions to negotiate a national contract. The National Elevator Bargaining Association (“NEBA”) and the International Union of Elevator Constructors enter into a collective bargaining agreement (“CBA”) every five years on behalf of all signatory companies and a list of local unions, including Local #126 Honolulu Hawaii. As a result, the CBA applies nationwide. Unlike most unions, our industry does not negotiate with each local to set individual parameters for scope of work, wages, benefits, etc. The most recent CBA went into effect on July 9, 2017 and expires on July 8, 2022.

The CBA explicitly states that no local union listed as a party to the CBA (i.e., Local #126 Honolulu Hawaii) shall, through its by-laws, constitution, or otherwise, change any of the articles of the CBA or its intent unless a separate agreement is negotiated under specific parameters delineated in the CBA as well. NEII supports this process and encourages the legislature not to interfere.

Collective Bargaining Rights Need to be Maintained

S.B. 2494 intrudes on the area of law left solely to federal labor policy and the parties' collective bargaining rights. The CBA specifically enumerates the details of the work to be performed exclusively by elevator mechanics, elevator helpers and elevator apprentices. Any change or expansion of worker duties in this draft bill such as those set forth in Section 448H-C regarding scope of work related to “electrical work or adjustments” and in Section 448H-E related to “remote interaction” should be left to the collective bargaining and arbitral processes pursuant to the CBA and not be the subject of state regulation.

Further, the CBA explicitly states that any difference or dispute regarding the application and construction of the agreement shall be referred to as a "grievance" and shall be resolved under specific arbitration procedures. The scope and duties of elevator mechanics, apprentices and helpers can be and has been the subject of collective bargaining negotiations between the IUEC (union) and NEBA (employer group) over many decades.

Although NEII recognizes the State of Hawaii's role in licensing, S.B. 2494 goes well beyond the purpose of the Act (establishing minimum standards and licensure requirements) by determining work jurisdiction, required job duties and the scope of work of elevator mechanics. The intended restrictions to remote interaction is unrelated to the regulatory oversight of a licensed mechanic and has already been fully delineated between the parties in their collective bargaining agreement.

The National Labor Relations Act, 29 U.S.C. §151 et seq. ("NLRA") preempts state regulation that conflicts with the federal system of collective bargaining between private sector unions and employers. Since collective bargaining is a protected right under Section 7 of the NLRA, the State's jurisdiction to act on S.B. 2494 as outlined is displaced.

The reason preemption is necessary in this instance is that Congress envisioned the NLRA regulating a uniform national labor policy. There is no compelling state interest in the regulation of the job duties and work jurisdiction of elevator mechanics in Hawaii that are expressly provided for in the parties' existing national collective bargaining agreement. The Supreme Court in Building Trades Council (San Diego) v. Garmon, 359 U.S. 236, 246 (1959) held:

The governing consideration is that to allow the State to control activities that are potentially subject to federal regulation involves too great a danger of conflict with national labor policy.

This Supreme Court holding has specific application to the attempts in the draft bill to modify scope of work, work jurisdiction, and the proposed direct involvement of mechanics in remote elevator "interaction."

S.B. 2494 Will Disrupt the Workforce and Have Significant Cost Impacts

The National Elevator Industry Education Program ("NEIEP") is recognized in the CBA as the industry authority on training and education. The NEIEP program has been collectively developed since 2002 and is supported by industry stakeholders, including the IUEC. Local representatives administer the NEIEP apprenticeship program, but do not have the unilateral authority to change it. Changes can be considered, negotiated and approved by the NEIEP Trustees (comprised of union and company representatives) and staff, and then disseminated to the Joint Apprenticeship Committee (again including union and company officials) across the country, including Hawaii.

NEIEP, through its Trustees, set 8,000 hours, which includes the initial 6-month probationary period, as the necessary amount of on-the-job training needed to be an elevator mechanic. All parties agree that 8,000 hours is both substantial and adequate to prepare apprentices for their work as an elevator industry mechanic and to ensure their safety as well as the safety of the riding public. The NEIEP program, curriculum and materials have been approved by the U.S.

Department of Labor or its state equivalent using this number. Currently, 33 states have elevator mechanic licensing programs based on the 8,000 training hours and at least four more are considering legislation to create a program using this standard. No justification has been put forth to demonstrate that an additional 1,000 hours of training is needed or supports any state, industry or business objective.

Personnel currently working in Hawaii who have completed the requisite program and are deemed qualified by NEIEP standards will be prevented from sitting for the mechanics' exam until an additional 1,000 OJT hours are obtained (see Article X of CBA). As a result, these workers will not be in the "correct" job and will delay the addition of full mechanics into the workforce. Hawaii is a remote market and already faces workforce challenges – additional strain on the number of mechanics could also delay construction, modernization and repair projects impacting development and tourism.

The costs associated with this bill will have a significant negative impact on both workers and businesses in Hawaii. Workers who are delayed in sitting for the mechanic's exam and moving up to the position of mechanic will not be paid the appropriate wage for their skills. Specifically, the salary for these workers will be 20 percent less than what they could earn as a mechanic.

For the business community, increased costs will be realized when licensed mechanics are required for work currently performed safely and more economically by a variety of personnel including engineers, building security or facility staff and/or other operational employees. In addition, Section 448H-E requires an elevator mechanic to be onsite for "remote interaction" to occur. Remote interaction can be utilized at any time, but it is unlikely businesses will opt to have a mechanic onsite 24 hours every day to give permission for its use.

Additional Concerns with S.B. 2494

- Expands the scope of work for mechanics beyond what is prescribed in any other state.
- Regulates "work done by others" that may not be under the elevator company contract.
- Reverses 35 years of industry practices and standards.
- Is not supported by safety data or other justification for the proposed changes to current law.
- Impedes workforce and contract management.

I am available to address any questions or provide additional information as needed. Please do not hesitate to contact me at 785-286-7599 or via e-mail at ajblankenbiller@neii.org. We also have local representatives from the NEII member companies and Capitol Consultants of Hawaii (CCH) available to assist the Committee as they work through these important issues. Ross Yamasaki (CCH) is our local point of contact and can be reached at 808-227-3650 or via email at ryamasaki808@gmail.com.

NEII is confident that once the House Committee on Labor & Public Employment reviews the information provided in this testimony and carefully considers the broad and potentially damaging impacts S.B. 2494 may have on the State of Hawaii, business owners, tourism, and the elevator industry, it can reach no other conclusion than to defeat S.B. 2494.

Respectfully submitted,



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March 19, 2018

Chairman Roy Takumi
Vice Chair Linda Ichiyama
House Committee on Consumer Protection & Commerce
State Capitol, Room 329
Honolulu, Hawaii 96813

Re: Opposition to S.B. 2494

Aloha Chairman Takumi, Vice Chair Ichiyama and members of the committee:

On behalf of Otis Elevator, I would like to provide the House Committee on Consumer Protection & Commerce with comments opposing S.B. 2494, a bill relating to elevator mechanics. If enacted, S.B. 2494 will make the state's elevators less safe, raise costs for all businesses and building owners, and stifle future development projects in Hawaii.

First and foremost, safety is the number one priority of Otis Elevator. For that reason, we collaborated with labor, and several other industry partners, to establish the licensing requirements that are currently in place in Hawaii. Since their implementation, Hawaii has had a positive track record of safe and reliable equipment. We believe that there is no demonstrated need to overhaul the State's licensing requirements as prescribed in S.B. 2494.

Specifically, below are our three primary concerns with the bill:

S.B. 2494 Interferes with Collective Bargaining Law

By expanding the scope of work outlined in Sections 448H-D and 448H-E and by raising minimum requirements outlined in 448H-6, which are all issues specifically enumerated in the CBA, S.B. 2494 encroaches on the area of law left solely to federal labor policy and the parties' collective bargaining rights. Moreover, there is a grievance process to handle unresolved issues in the CBA and unless there is a compelling state interest, of which there is none in this circumstance, the Supreme Court has expressly disallowed states from interfering with bargaining agreements.

Remote Interactions Should Not Be Limited

S.B. 2494 makes it impossible to use longstanding remote safety technology, which for over 30 years has made conveyances safer for passengers and workers. Standard in most elevator sold today, remote technology serves several important functions that make elevators run more efficiently and protect passengers. If this valuable safety technology is abandoned, building owners would need to find new ways to operate their buildings without it and reverse longstanding industry practices.

Increasing Qualifications for Elevator Mechanics Should Not Exceed National Standard

Both labor and industry agree, through provisions in the CBA, that 8,000 hours "on-the-job-hours" is both substantial and adequate to prepare apprentices for their work as an elevator industry mechanic and to ensure their safety as well as the safety of the riding public. By requiring an additional 1,000 hours, S.B. 2494 negatively impacts the state's workforce in several ways. First, until mechanics can reach the extra hours of training, their pay scale is decreased. Second, it further delays apprentice mechanics from entering into the work force, which puts a massive strain on projecting future development. Third, higher requirements both dissuade able workers in Hawaii from joining the industry and forces them to seek work in other states where they can elevate to mechanic sooner.

Due to the potential safety risks, high costs and the enormous impact on the state's business environment the House Committee on Consumer Protection & Commerce should reject S.B. 2494. Please do not hesitate to contact us with any questions or to provide additional information.

Jason D. Barnes



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March 19, 2018

Representative Roy Takumi, Chair
Representative Linda Ichiyama, Vice Chair
Hawaii House Committee on Labor and Public Employment
State Capitol, Room 329
Honolulu, HI 96813

Re: Opposition to S.B. 2494

Dear Chairman Takumi, Vice Chairman Ichiyama and members of the committee:

Mitsubishi Electric US, INC Elevator and Escalator (Mitsubishi) appreciates the opportunity to submit comments related to our position on S.B. 2494. Our company is committed to exceeding the rigorous requirements of the building transportation industry, and as such, Mitsubishi finds S.B. 2494 to be problematic on several levels.

As a member of the National Elevator Industry, Inc. (NEII), Mitsubishi fully supports the comments submitted by NEII on behalf of the industry. It cannot be overstated that while Mitsubishi strongly supports licensing requirements, those listed in S.B. 2494 unnecessarily exceed the industry standard and deviate from the carefully negotiated collective bargaining agreement (CBA) between the elevator manufacturers and the International Union of Elevator Constructors (IUEC). We urge the Committee to honor the parameters in the nationally recognized CBA without changes to worker duties; this process has been in place for many decades.

With a significant business presence in Hawaii, Mitsubishi has strong concerns about the consequences of S.B. 2494 related to our operations in the state. The elevator industry relies on a highly trained and skilled workforce to maintain and repair our equipment and has trusted the National Elevator Industry Education Program (NEIEP) with providing the substantial training required to ensure safety in the field.

By adding requirements to the already comprehensive NEIEP training program recognized as the industry standard, S.B. 2494 will set the already strained elevator mechanic workforce further behind in Hawaii. When mechanics are forced to complete an additional 1,000 of on the job training, companies like ours will be challenged to complete new construction and modernization projects, and this says nothing of the hardships the industry will face in getting repairs performed.

Finally, the technology that S.B. 2494 seeks to eliminate has become standard in modern elevators to enhance the safety of the riding public as well as elevator workers for a generation. Remote technology is critical to the continued innovation of the industry, and if banned will create a wide number of problems in elevator safety and design for the state of Hawaii.

Mitsubishi stands united with NEII and our industry colleagues to oppose the licensing requirements set forth in S.B. 2494 in Hawaii. This bill will negatively impact the state's workforce, business environment and the safety of its citizens.

Our Mitsubishi representatives are available to answer questions or provide assistance.

We request that the Hawaii House Committee on Consumer Protection & Commerce defeat this bill. Thank you for your time and attention to this important industry issue.

Kyle Dong
Sales Manager