



# INDUSTRY BULLETIN

## for Florida's Elevator Industry



**SUBJECT: Costly and/or Complex Violations**

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**This bulletin is provided to aid in compliance with Florida law, and is not intended as legal advice. While care has been taken to ensure its accuracy, in the event of any conflict, the actual statute or administrative rule will control.**

### BUREAU OF ELEVATOR SAFETY IMPLEMENTS ORDER TO CORRECT COMPLIANCE ALTERNATIVE

Section 399.105(4), Florida Statutes (F.S.), states "an elevator owner who fails to comply with an order to correct issued under section 399.061(4) within 30 days after its issuance is subject... to an administrative fine in an amount not to exceed \$1,000." While enforcement action for potentially costly and/or complex violations will not likely be undertaken for those unit owners actively and voluntarily pursuing compliance, that statutory option is reserved by the regulatory authority for use if necessary.

Although compliance is required by law, and proactive compliance is strongly encouraged, the Bureau of Elevator Safety recognizes that the considerable cost and time required to comply with certain violations may prohibit some elevator owners from complying within the 30 days allowed by statute. For this reason, an elevator owner may submit to the bureau a letter of intent to comply within 30 days of the date of issuance of an Order to Correct and a plan of corrective action (PCA) within 60 days of the date of issuance of an Order to Correct. The following minimum information must be included in the PCA:

- The corrections to be completed;
- Relevant dates, including a schedule for completion; and
- A copy of the executed contract, including who will perform the contracted work.

A PCA must be approved by the bureau or it will not be considered compliant with the statutory requirements. Improvements must be completed within 180 days of the issuance of an Order to Correct. Failure to complete the project according to the plan will be considered a failure to comply with an Order to Correct and may result in an administrative complaint and order to discontinue use of the elevator.

### NEW ASME CODE REQUIRES MODIFICATION OF SOME ELEVATORS

The Department of Community Affairs, Florida Building Commission, adopted the American Society of Mechanical Engineers (ASME) A17.1-2000 Code, effective October 1, 2005, replacing the 1996 edition. The adopted code contains safety provisions which require modifications to existing equipment when violations are cited. These modifications are included in ASME A17.1-2000, section 8.6.5.8, requiring that Hydraulic Cylinders installed below ground conform to section 3.18.3.4, providing for the cylinder design to include a safety bulkhead or conform to section 3.17.1 requiring the installation of safeties and conformance to section 3.23.1 for existing guide rails, guide rail supports and fastenings. The ASME Standards Committee considered these sections so important to life safety that corrective action is required for all existing single wall hydraulic cylinder elevators.

In section 399.001, F.S., the Florida Legislature stated the purpose of Chapter 399, the Elevator Safety Act, "is to provide for the safety of life and limb and to promote public safety awareness". When a new edition of the Florida Building Code requires modifying older elevators because aging equipment may pose a threat to public safety, the Bureau of Elevator Safety is compelled to follow the intent and letter of section 399.061(3), F.S., which requires that in the interest of public safety, the older and potentially hazardous elevator shall be brought into compliance with the newer code and that the bureau may seal the elevator or order discontinued use until the elevator has been satisfactorily repaired or replaced so that it may be operated in a safe manner. Because public safety is the paramount basis for the department's legislatively delegated regulatory authority, the bureau cannot provide an elevator owner with an exemption from a new code provision essential to the safe operation of the elevator.

Therefore, Florida Statutes require the single wall hydraulic cylinder safety provision of the ASME 17.1 2000 code be enforced as part of the annual elevator inspection. Non-compliance with this code requirement will be cited as a violation with an order to correct. This violation is an example of a potentially costly and/or complex violation eligible for a PCA.

**Extensive information regarding inspections, licensing and a number of forms is available on our website at [www.MyFlorida.com/dbpr](http://www.MyFlorida.com/dbpr) or by calling 850.487.1395.**

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