

# Attorney Weighs in on Elevator Safety Act

David Perecman (DP), founder and lead trial attorney at NYC-based The Perecman Firm, talks to your author (KW) about the potential legal implications of the recently passed New York State law.

by Kaija Wilkinson



David Perecman

**KW:** What potential legal implications will the Elevator Safety Act have, and for whom?

**DP:** I don't think the Elevator Safety Act will, in itself, have legal implications, in the sense that there are going to be lawsuits relating to failure to comply. However, if there is an elevator accident with injury, and the people involved in the construction, repair and design of the system are people who should have been licensed and aren't, that is certainly going to be presented as evidence by an attorney. This would help prove that, because a company's employees are not licensed, they're not qualified to do the work.

**KW:** So, essentially, anyone who wants to have staying power in the vertical-transportation industry is really going to have to comply. It sounds like if they don't, they're just going to go away.

**DP:** I agree. I think the whole point of the Elevator Safety Act is to raise the bar. When you create licensing requirements, there are going to be people who don't comply. But the hope is that most companies will comply, leading to work done on things as potentially dangerous as elevators being done by licensed, trained personnel. Frankly, it sounds like a no-brainer. You would think that anybody who works on an elevator — a piece of machinery that weighs thousands of pounds and is being lifted potentially hundreds of feet with people inside — should

be licensed. You need to be licensed to operate a motor vehicle. You certainly should be licensed to work on an elevator.



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**KW:** Does it surprise you that the state of New York was so late to get in on the game?

**DP:** Well, you know, Albany is Albany. There was pushback. People in the real estate world and others bucked this, because they never like change, and they never like increased regulation. At the end of the day, it'll take time. Everyone involved is going to have to work out the bumps and the knots. But, it will ferret itself out, and, in the long run, we'll have a safer world, and it'll cost everybody less. I was doing some reading about these US\$100 licensing fees being onerous on contracting companies. But are they really? Relative to the cost of the cabs, it's really not very much. Cabs cost thousands and thousands of dollars, and this is a US\$100 fee. It will depend on the size of your staff. If you have a thousand people working for you, that is a big, big staff, and it could have an impact. Still, the licensing fee is an infrequent cost and small compared to the cost of the cabs. A particular cab that was US\$10,000 is now US\$10,100. But it's safe. The person who puts it in knows what they're doing.

**KW:** Is it safe to say you will be ready when and if any lawsuits related the Elevator Safety Act present themselves?

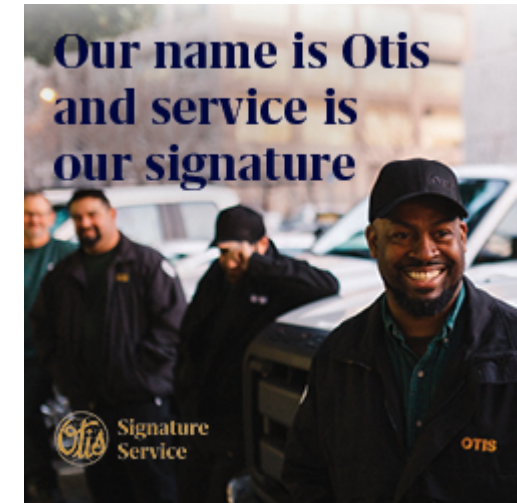
**DP:** Anytime new laws get passed that are related to worker, passenger or mechanical safety, sooner or later, somebody comes into your office to discuss an accident. If you haven't already thoroughly familiarized yourself with the relevant legislation, you make yourself familiar with it. But, at the end of the day, all lawsuits are different. They do not involve questions about whether someone is licensed, but whether they did what they were supposed to do. Think of it in these terms. Let's say somebody got rear-ended in a car accident, and they sued the driver of the car immediately behind them, and part of their proof was that person didn't have a license to operate a motor vehicle. But there was absolutely no proof they did anything wrong in the operation of the motor vehicle, since they, themselves, were hit from behind. Is it relevant they had no license? Not really. They shouldn't be on the road, but in terms of how the accident happened, the person who hit [the middle car] in the rear who happened to have a license is responsible. Having a license isn't going to win or lose the day, but if you did things that were wrong, and you weren't properly licensed, it's not going to look good for the company.

**KW:** What do you think will be the ultimate outcome of the Elevator Safety Act?

**DP:** It's going to raise the bar. Hopefully, what's going to happen is we're going to have fewer people injured as a result of elevator accidents. I will have a couple fewer cases, but there will be fewer people who are hurting. That's great; that's what we want. Anyone who is reputable and good in this industry would say the same thing.

**KW:** What is your overall assessment?

**DP:** I'm happy it happened, but sorry it is delayed (for two years). That, again, was a political compromise. Hopefully, all the parties involved will be reasonable with each other and try and work things out and make it a safer world for everybody.



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## About the Elevator Safety Act

New York Governor Andrew Cuomo's eight-year road to becoming law, finally becomes effective in roughly two years, what it will mean for elevator mechanics to possess a Certified Elevator Technician certification by the International Association of Elevator Contractors or an equivalent recognized by the NYC Commissioner of the Department of Buildings or the New York State Department of Labor. The law will bring New York, and NYC, arguably the elevator capital of the world, in line with 30 other states that have enacted similar laws.



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