

LICENSE CRANE OPERATORS

House Bill 4854

Sponsor: Rep. Mike Kowall

Committee: Commerce

Complete to 1-28-02

A SUMMARY OF HOUSE BILL 4854 AS INTRODUCED 5-30-01

The bill would create the Crane Operator Licensure Act. The bill would require the licensure of crane operators by the Department of Consumer and Industry Services; create a nine-member board of crane operators, which would be required to adopt standards and qualifications for licensure; and provide a set of interim standards for use until the board had established its own. The bill carries an effective date of July 1, 2001

The term "crane" would refer to a power-operated hoisting machine used in construction, demolition, or excavation work that has a power-operated winch, load line, and boom moving laterally by the rotation of the machine on a carrier and has a manufacturer-rated lifting capacity of five tons or more. The term would not apply to a forklift, digger derrick truck, aircraft, bucket truck, or any vehicle or machine not having a power-operated winch and load line.

Under the bill, a person could not act or attempt to act as a crane operator unless licensed. Licenses would be issued for five years and would expire on August 31. A license would have to be renewed by October 31 or be voided. A person whose license had been voided would have to apply for reinstatement, but a person who applied for reinstatement within five years of having a license voided would not be subject to reexamination. The initial license fee and per-year license fee amounts would be set by the board of crane operators (although neither could exceed \$100). A person who applied for licensure at a time outside the licensure period would pay a pro rated fee.

Standards for licensure. The board of crane operators would be required to adopt standards and qualifications for licensure consistent with applicable certification requirements of one or more established and nationally recognized crane operator certification programs recognized by the federal Occupational Health and Safety Administration and otherwise acceptable to the board. The qualifications would have to include a minimum age of 18; at least 1,000 hours of crane-related experience; a physical examination or physician's certificate; a written examination; and a practical examination. The standards would have to include license categories relative to crane types, including at least lattice boom truck, lattice boom crawler, large telescope, and small telescope. The board would adopt the qualifications by promulgating rules and could amend or supplement the standards or qualifications by adoption of those amendments or supplements, by reference or otherwise, pursuant to rules. An applicant would not be considered eligible for licensure unless he or she was of good moral character as defined under Public Act 381 of 1974. The board could also provide for periodic written, practical, or physical reexaminations if it considered them necessary for the protection of the health, safety, and welfare of the general public, as well as for the maintenance of the integrity of the act's

House Bill 4854 (1-28-02)

regulatory purposes. The board could not impose a reexamination requirement without 12 month's prior written notice to current licensees.

Interim Standards. Beginning on the effective date of the bill and until the board promulgated standards, certain standards would be adopted as interim standards. These would be the standards of the National Commission for the Certification of Crane Operators, 2000, of Fairfax, Va. In addition, the standards would have to include written and practical examinations that met the requirements of the American National Standard Institute (ANSI)/American Society of Mechanical Engineers (ASME) B30.5-1999 and OSHA and that complied with standards for educational and psychological tests developed by the joint committee of the American Educational Research Association. The standards also would have to include physical qualifications specified in the ASME standard cited earlier, unless it could be demonstrated in a manner acceptable to the board that failure to meet the qualifications would not affect safe crane operation.

Board of crane operators. The board would be created within the Department of Consumer and Industry Services and would consist of nine state residents appointed by the governor, with the advice and consent of the Senate. At least five board members would have to be crane operators who had been actively engaged as operators in three of the past five years, and those members would have to be licensed under the new act within one year after it took effect. The remaining board members would be members of the general public. Board members would serve four-year terms (although the initial members would serve staggered terms) and could serve no more than two terms consecutively.

The board would have to hold an organizational meeting within 60 days after the bill took effect. At the first meeting of each year, the board would elect a chairperson, vice-chairperson, and secretary. The board would be required to hold regular quarterly meetings. Special meetings could be held at the call of the chair or at the call of five board members. Six members of the board would constitute a quorum and an approval, decision, or ruling would not be effective unless approved by two-thirds of the board members attending a meeting. The board would be subject to the Open Meetings Act and the Freedom of Information Act. A board member would have to disclose any pecuniary interest in a matter before the board took action on it. Board members would receive per diem compensation (established by the legislature) and actual expenses for performing board duties.

Investigations/Penalties. The board could revoke, suspend, limit, or deny a license, or require restitution only after affording a licensee an opportunity for a hearing under the Administrative Procedures Act. The Department of Consumer and Industry Services could investigate the activities of a crane operator, hold hearings, administer oaths, and order relevant testimony be taken. It would have to report findings to the board of crane operators. The board could take action if it found that any of the following existed: the practice of fraud or deceit in obtaining a license; the practice of fraud or deceit in the performance of work for which a license was required; an act of gross negligence; the practice of false advertising; an act demonstrating incompetence; or a violation of the new act or a rule promulgated under the new act. In such cases, the board could impose a suspension, a denial, a revocation, or a limitation of a license, or could require that restitution be made (or some combination of those sanctions). If restitution

was ordered, the department and board could suspend a license until restitution was made. In addition, a person who violated the act would be guilty of a misdemeanor, punishable by a fine of not more than \$500 or imprisonment for not more than 90 days, or both.

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.