

HOUSE BILL No. 4854

May 30, 2001, Introduced by Reps. Kowall, Stewart, Rocca, Dennis, Faunce, Bernero, Cassis, Pappageorge, Bishop, Toy and Van Woerkom and referred to the Committee on Commerce.

A bill to regulate persons engaged in the operation of cranes; to create a board of crane operators; to provide for the licensing of crane operators; to provide for powers and duties for certain state agencies; to provide for the establishment of certain standards; to prescribe fees; to provide for the promulgation of rules; and to prescribe remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "crane operator licensure act".

3 Sec. 3. As used in this act:

4 (a) "Board" means the board of crane operators.

5 (b) "Crane" means a power-operated hoisting machine used in
6 construction, demolition, or excavation work that has a
7 power-operated winch, load line, and boom moving laterally by the
8 rotation of the machine on a carrier and has a manufacturer-rated

1 lifting capacity of 5 tons or more. Crane does not include a
2 forklift, digger derrick truck, aircraft, bucket truck, or any
3 vehicle or machine not having a power-operated winch and load
4 line.

5 (c) "Crane operator" means an individual engaged in the
6 operation of a crane.

7 (d) "Crane-related experience" means operating, inspection,
8 training, and maintenance experience acceptable to the board.

9 (e) "Department" means the department of consumer and indus-
10 try services.

11 (f) "Rule" means a rule promulgated under the administrative
12 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

13 Sec. 5. (1) There is created within the department a board
14 of crane operators consisting of 9 residents of the state to be
15 appointed by the governor with the advice and consent of the
16 senate. Appointed members shall be not less than 18 years of age
17 and qualified in their respective fields. Of the members first
18 appointed, 3 members shall have a term of 2 years, 3 members
19 shall have a term of 3 years, and 3 members shall have a term of
20 4 years. Appointed members of the board shall include the
21 following:

22 (a) At least 5 members that are crane operators. The ini-
23 tial members appointed under this subdivision shall be individu-
24 als required to be licensed under this act, have actively been
25 engaged as crane operators for at least 3 out of the 5 years
26 immediately preceding the date of appointment, and become

1 licensed under this act within 1 year after the effective date of
2 this act.

3 (b) The remaining members shall be members of the general
4 public. Of the initial membership of the board, at least
5 1 member of the general public shall serve for a term of
6 4 years.

7 (2) Except for the initial members, a member of the board
8 shall be appointed for a term of 4 years. A vacancy shall be
9 filled for the unexpired portion of the term. A member of the
10 board may be removed from office by the governor in accordance
11 with section 10 of article V of the state constitution of 1963.
12 A member of the board who has a pecuniary interest in a matter
13 shall disclose that interest before the board takes action in the
14 matter, which disclosure shall be made a matter of record in the
15 board's official proceedings. A member of the board shall not
16 serve more than 2 consecutive terms. Each member of the board
17 shall receive per diem compensation and actual expenses incurred
18 by the member in the performance of his or her duties as a member
19 of the board.

20 (3) Annually, the legislature shall fix the per diem compen-
21 sation of a member of the board. Travel or other expenses
22 incurred by a member of a board in the performance of an official
23 function shall be payable by the department pursuant to the stan-
24 dardized travel regulations of the department of management and
25 budget.

26 (4) The board shall hold an organizational meeting within 60
27 days after the effective date of this act. At the first meeting

1 of each year, the board shall elect from its membership a
2 chairperson, vice-chairperson, and secretary. The chairperson,
3 vice-chairperson, and secretary shall be elected from those mem-
4 bers appointed to the board by the governor.

5 Sec. 7. (1) The board shall hold regular quarterly
6 meetings. Special meetings may be held at the call of the chair-
7 person or 5 members of the board. Written notice of a special
8 meeting shall be mailed to each member not less than 12 days
9 before the date of the meeting.

10 (2) Six members of the board shall constitute a quorum for
11 the transaction of business. An approval, decision, or ruling of
12 the board shall not become effective unless approved by 2/3 of
13 the board members attending a meeting.

14 (3) The board may request a person to appear before the
15 board to advise the board regarding the implementation of this
16 act.

17 (4) The business which the board performs shall be conducted
18 at a public meeting of the board held in compliance with the open
19 meetings act, 1976 PA 267, MCL 15.261 to 15.275, and public
20 notice of the time, date, and place of the meeting shall be given
21 in the manner required by that act.

22 (5) A writing prepared, owned, used, in the possession of,
23 or retained by the board in the performance of an official func-
24 tion shall be made available to the public in compliance with the
25 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

26 Sec. 9. (1) The board shall adopt standards and
27 qualifications for licensure that are consistent with applicable

1 certification requirements of 1 or more established and
2 nationally recognized crane operator certification programs rec-
3 ognized by the federal occupational safety and health administra-
4 tion and otherwise acceptable to the board. These qualifications
5 shall include, but not be limited to, a minimum age of 18 years,
6 at least 1,000 hours of crane-related experience, a physical
7 examination or physician's certificate, a written examination,
8 and a practical examination. The standards shall include license
9 categories relative to crane types including at least lattice
10 boom truck, lattice boom crawler, large telescope, and small
11 telescope. The board shall adopt these qualifications by promul-
12 gation of rules. The board may amend or supplement the standards
13 and qualifications by adoption of those amendments or supple-
14 ments, by reference or otherwise, pursuant to rules.

15 (2) Beginning the effective date of this act and until such
16 time as the board promulgates a rule as described in
17 subsection (1), the standards, in existence on the effective date
18 of this act, of the national commission for the certification of
19 crane operators, 2000, of Fairfax, Virginia, along with the fol-
20 lowing, are adopted by reference as interim standards:

21 (a) Written and practical examinations that meet the
22 requirements of the American national standard institute
23 (ANSI)/American society of mechanical engineers (ASME) B30.5-1999
24 and federal occupational and safety health administration and
25 comply with the standards for educational and psychological tests
26 developed by the joint committee of the American educational
27 research association, Washington, D.C.

1 (b) Physical qualifications specified in the American
2 society of mechanical engineers (ASME) standard B30.5-1999,
3 section 5-3.1.2(a), unless it can be demonstrated in a manner
4 acceptable to the board that failure to meet the qualifications
5 will not affect safe crane operation.

6 Sec. 11. (1) Upon the filing of an application on a form
7 prescribed by the department and payment of the license fee pre-
8 scribed in section 17, the department shall determine the quali-
9 fications and competency of applicants seeking licensing for the
10 category for which the application is submitted and, except as
11 otherwise provided, shall issue licenses to qualified applicants
12 after payment of the appropriate license fee.

13 (2) An applicant is not considered eligible for licensure
14 unless the applicant is of good moral character, as defined and
15 determined under 1974 PA 381, MCL 338.41 to 338.47.

16 Sec. 13. A person shall not act or attempt to act as a
17 crane operator unless licensed under this act.

18 Sec. 15. (1) Beginning the effective date of this act and
19 until standards are adopted by the board under section 9(1), the
20 department shall issue a license as a crane operator in 1 or more
21 appropriate categories to an individual who applies to the
22 department and pays the appropriate license fee currently certi-
23 fied in an identical category by the national commission for the
24 certification of crane operators of Fairfax, Virginia, or any
25 substantially similar category or certification as determined
26 appropriate by the board.

1 (2) The department may license, without examination and upon
2 the payment of the license fee prescribed in section 17, an
3 applicant who is a legally authorized crane operator in another
4 state or country if the licensing requirements of the state or
5 country are considered by the board to be substantially equiva-
6 lent to the licensing requirements of this state and the state or
7 country observes reciprocity in regard to crane operators
8 licensed under this act.

9 (3) The holder of a license issued under this section may
10 renew the license pursuant to section 17.

11 Sec. 17. (1) Except as otherwise provided in this subsec-
12 tion and subsection (2), the initial and per-year fee for the
13 issuance of a crane operator's license shall be determined by
14 rules promulgated by the board. The board shall not establish
15 initial and per-year license fees under this subsection that
16 exceed \$100.00.

17 (2) A license issued under this act expires on August 31.
18 The department shall issue a 5-year license. A license expires
19 every fifth year after August 31 and is renewable not later than
20 October 31 upon application and payment of the 5-year license
21 fee. In the case of a person applying for an initial or rein-
22 statement license at a time other than between August 31 and
23 October 31 of the year in which the department issues renewal
24 licenses, the department shall compute and charge the license fee
25 on a yearly pro rata basis beginning in the year of the applica-
26 tion until the last year of the 5-year license cycle. All
27 licenses not renewed are void and may be reinstated only upon

1 application for reinstatement and the payment of the license
2 fee. A person who renews his or her license within 5 years after
3 the license is voided under this section is not subject to reex-
4 amination for the license.

5 (3) The board, in setting standards under section 9, shall
6 provide for written, practical, or physical periodic reexamina-
7 tions, if the board determines such reexaminations are necessary
8 for the protection of the health, safety, and welfare of the gen-
9 eral public as well as for maintenance of the integrity of the
10 regulatory purpose of this act. In such a case, the board shall
11 not impose a requirement for any reexamination without at least
12 12 months' prior written notice to all current licensees of such
13 a requirement.

14 Sec. 19. (1) The department may investigate the activities
15 of a licensee related to the licensee's activities as a crane
16 operator. The department may hold administrative hearings,
17 administer oaths, and order relevant testimony to be taken and
18 shall report its findings to the board. The board shall proceed
19 under section 23 if the board finds that any of the following
20 grounds exist:

21 (a) The practice of fraud or deceit in obtaining a license
22 under this act.

23 (b) The practice of fraud or deceit in the performance of
24 work for which a license is required under this act.

25 (c) An act of gross negligence.

26 (d) The practice of false advertising.

(e) An act which demonstrates incompetence.

(f) A violation of this act or rule promulgated under this act.

(2) A revocation, suspension, or other sanction set forth in subsection (1) or section 23 shall be imposed only after an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) An individual shall not act as a crane operator under a license that is suspended, revoked, or expired.

Sec. 21. In addition to the administrative penalties prescribed in section 19, a person who violates this act is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or imprisonment for not more than 90 days, or both.

Sec. 23. After finding the existence of 1 or more of the grounds for board action described in section 19(1) and after having provided an opportunity for an administrative hearing, the board shall impose 1 or more of the following sanctions on the license issued under this act for each violation:

(a) Suspension.

(b) Denial.

(c) Revocation.

(d) Limitation.

(e) A requirement that restitution be made.

1 Sec. 25. If restitution is required to be made under
2 section 23, the department and board may suspend the license of
3 the person required to make the restitution until restitution is
4 made.

5 Sec. 27. This act takes effect July 1, 2001.