

HOUSE BILL No. 4873

June 24, 2003, Introduced by Rep. Richardville and referred to the Committee on Regulatory Reform.

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 of 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
10 industry 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 initial
23 members appointed under this subdivision shall be individuals
24 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
27 licensed under this act within 1 year after the effective date of

1 this act.

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

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

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

25 (4) The board shall hold an organizational meeting within 60
26 days after the effective date of this act. At the first meeting
27 of each year, the board shall elect from its membership a

1 chairperson, vice-chairperson, and secretary. The chairperson,
2 vice-chairperson, and secretary shall be elected from those
3 members appointed to the board by the governor.

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

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

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

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

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

24 Sec. 9. (1) The board shall adopt standards and
25 qualifications for licensure that are consistent with applicable
26 certification requirements of 1 or more established and
27 nationally recognized crane operator certification programs

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

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

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

27 (b) Physical qualifications specified in the American

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

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

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

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

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

26 (2) The department may license, without examination and upon
27 the payment of the license fee prescribed in section 17, an

1 applicant who is a legally authorized crane operator in another
2 state or country if the licensing requirements of the state or
3 country are considered by the board to be substantially
4 equivalent to the licensing requirements of this state and the
5 state or country observes reciprocity in regard to crane
6 operators licensed under this act.

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

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

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

1 the license is voided under this section is not subject to
2 reexamination for the license.

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

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

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

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

23 (c) An act of gross negligence.

24 (d) The practice of false advertising.

25 (e) An act which demonstrates incompetence.

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

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

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

7 Sec. 21. In addition to the administrative penalties
8 prescribed in section 19, a person who violates this act is
9 guilty of a misdemeanor, punishable by a fine of not more than
10 \$500.00, or imprisonment for not more than 90 days, or both.

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

16 (a) Suspension.

17 (b) Denial.

18 (c) Revocation.

19 (d) Limitation.

20 (e) A requirement that restitution be made.

21 Sec. 25. If restitution is required to be made under
22 section 23, the department and board may suspend the license of
23 the person required to make the restitution until restitution is
24 made.

25 Sec. 27. This act takes effect July 1, 2004.