
SENATE BILL 5974

State of Washington

54th Legislature

1995 Regular Session

By Senators Prentice, Fairley, Pelz and Kohl; by request of Department of Labor & Industries

Read first time 02/20/95. Referred to Committee on Labor, Commerce & Trade.

1 AN ACT Relating to crane operators licensing; adding a new chapter
2 to Title 18 RCW; creating a new section; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** PURPOSE. In the interest of job safety and
5 to protect life, limb, and property, the legislature intends to
6 establish a licensing procedure for all crane and hoist operators
7 engaged in the construction industry so that only those persons who
8 demonstrate the knowledge and skill to operate cranes and hoists in a
9 safe manner will be licensed.

10 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
11 requires otherwise, the definitions in this section apply throughout
12 this chapter.

13 (1) "Crane" means a power driven hoisting engine that lifts and
14 rotates or moves a load horizontally, including a hydraulic crane and
15 a friction crane, derrick, gantry, or bridge crane.

16 (2) "Department" means the department of labor and industries.

17 (3) "Director" means the director of labor and industries or the
18 director's designee.

1 (4) "Person" includes one or more individuals, partnerships,
2 associations, organizations, corporations, cooperatives, legal
3 representatives, trustees and receivers, or any group of persons; it
4 includes any owner, lessee, proprietor, manager, agent, or employee,
5 whether one or more natural persons; and further includes any political
6 or civil subdivisions of the state and any agency or instrumentality of
7 the state or of any political or civil subdivision thereof.

8 NEW SECTION. **Sec. 3.** LICENSE REQUIRED. (1) A crane operator's
9 license is required for all crane operators who work in private or
10 public construction in the state of Washington. A person may not
11 operate a crane unless the person holds and is in immediate possession
12 of a valid crane operator's license.

13 (2) A person may not operate a crane or hoisting machine when used
14 in lowering or hoisting personnel on a construction project without a
15 license under this chapter.

16 (3) An employer may not direct, compel, or permit a person who does
17 not hold and possess a license of the class required under this chapter
18 to operate a crane or hoisting machine.

19 NEW SECTION. **Sec. 4.** EXEMPTIONS. Except as provided in section
20 3(2) of this act, the following hoisting machines do not require a
21 licensed operator: Jib hoists; overhead hoists with no bridge or
22 trolley; wrecker trucks; truck mounted cranes; and work platforms with
23 controls included in the basket.

24 NEW SECTION. **Sec. 5.** CLASSES OF LICENSES. There are three
25 classes of licenses as follows:

26 (1) Class I universal license including all types of cranes,
27 including tower cranes and hydraulic cranes of ninety-ton capacity or
28 more;

29 (2) Class II hydraulic crane license including all telescopic boom
30 cranes regardless of mounting or means of mobility;

31 (3) Class III restricted license including apprentices, trainees,
32 maintenance personnel, or oilers working under the direct supervision
33 of an operator holding a current license of the appropriate class.

1 NEW SECTION. **Sec. 6.** REQUIREMENTS FOR CLASS I AND II LICENSES.

2 (1) The department shall issue a license of the appropriate class, upon
3 application, to a person meeting the following requirements:

4 (a) Two thousand hours of crane operation experience, or one
5 thousand five hundred hours of crane operating experience and eighty
6 hours of crane training;

7 (b) Successful completion of a written examination;

8 (c) Successful completion of a practical or performance examination
9 on a crane of the appropriate class; and

10 (d) Proof of certification of a physical examination or waiver, as
11 required by 49 C.F.R. 391.41 through 391.49, including an eye
12 examination.

13 (2) Persons with two thousand hours or more of crane operation
14 experience or one thousand five hundred hours of crane operating
15 experience and eighty hours of crane education may apply for a
16 temporary license under this section within six months of the effective
17 date of this act. The temporary license will be valid for a period of
18 one year, during which time the person must satisfy the requirements of
19 this chapter.

20 (3) Licenses issued under this section must be renewed biennially
21 on the person's birth date. At the time of renewal, persons must
22 provide proof of certification of a physical examination or waiver, as
23 required by 49 C.F.R. 391.41 through 391.49, and such continuing
24 education requirements as may be adopted by the department.

25 NEW SECTION. **Sec. 7.** REQUIREMENTS FOR CLASS III LICENSE. (1) The

26 department shall issue a class III license, upon application, to a
27 person meeting the following requirements:

28 (a) Successful completion of a written examination; and

29 (b) Proof of certification of a physical examination, or waiver, as
30 referenced by 49 C.F.R. 391.41 through 391.49.

31 (2) Persons with less than two thousand hours of crane operation
32 experience or less than one thousand five hundred hours of crane
33 operation experience and eighty hours of crane education may apply for
34 a temporary license under this section within six months of the
35 effective date of this act. The temporary license will be valid for a
36 period of one year, during which time the person must satisfy the
37 requirements of this chapter.

1 (3) Licenses issued under this section must be renewed biennially
2 on the person's birth date. At the time of renewal, persons must
3 provide proof of certification of a physical examination or waiver, as
4 required by 49 C.F.R. 391.41 through 391.49, and such continuing
5 education requirements as may be adopted by the department.

6 NEW SECTION. **Sec. 8.** EXAMINATIONS. In consultation with the
7 construction industry, both management and labor representatives, the
8 department shall prepare examinations to be administered to applicants
9 for licenses.

10 (1) The written examinations must be constructed to determine
11 whether the applicant possesses varied general knowledge of the
12 technical information and practical procedures that are identified with
13 the status of the appropriate class of operator and must test knowledge
14 of safe personnel hoisting procedures.

15 (2) The practical examinations must be constructed to determine
16 whether the applicant possesses sufficient skills and training to
17 operate machinery in the applicable class.

18 (3) The department may enter into a contract with an approved
19 testing agency to develop, administer, and score operator licensure
20 examinations. If the department enters into a contract under this
21 subsection, the department must approve the examination and the testing
22 and scoring procedures before the examination may be administered to
23 applicants.

24 NEW SECTION. **Sec. 9.** FEES. The department shall charge fees for
25 issuance, renewal, and reinstatement of all licenses and examinations.

26 The fees must cover the full cost of issuing the licenses, devising
27 and administering the examinations, and administering and enforcing
28 this chapter.

29 NEW SECTION. **Sec. 10.** CRANE OPERATORS ADMINISTRATION ACCOUNT.

30 The crane operators administration account is created in the state
31 treasury. All receipts from the administration or enforcement of this
32 chapter shall be deposited into the account. Moneys in the account may
33 be spent only after appropriation. Expenditures from the account may
34 be used only for administration, investigation, and enforcement
35 proceedings under this chapter.

1 NEW SECTION. **Sec. 11.** AUTHORITY OF DIRECTOR. The director may:

2 (1) Adopt, amend, and rescind such rules, in accordance with
3 chapters 34.05 and 49.17 RCW, as are deemed necessary to carry out this
4 chapter;

5 (2) Investigate all violations as defined in this chapter and hold
6 hearings as provided in this chapter;

7 (3) Issue subpoenas and administer oaths in connection with an
8 investigation, hearing, or proceeding held under this chapter;

9 (4) Take or cause depositions to be taken and use other discovery
10 procedures as needed in an investigation, hearing, or proceeding held
11 under this chapter;

12 (5) Compel attendance of witnesses at hearings;

13 (6) In the course of investigating a complaint, conduct practice
14 reviews;

15 (7) Take emergency action ordering summary suspension of a license,
16 or restriction or limitation of the licensee's practice pending
17 proceedings by the disciplining authority;

18 (8) Use the office of administrative hearings as authorized in
19 chapter 34.12 RCW to conduct hearings. However, the director or the
20 director's designee shall make the final decision in the hearing;

21 (9) Enter into contracts for professional services determined to be
22 necessary for adequate enforcement of this chapter;

23 (10) Deny, suspend, revoke, or reinstate a license or impose
24 sanctions against a license applicant or license holder for failure of
25 the holder to comply with any requirement of this chapter;

26 (11) Employ such investigative, administrative, and clerical staff
27 as are necessary for the enforcement of this chapter; and

28 (12) Convene settlement conferences for the purpose of expediting
29 the compliance process.

30 NEW SECTION. **Sec. 12.** RECIPROCITY. The director may, upon

31 payment by the applicant of the appropriate fees, grant a license
32 without examination to an applicant who is a registered crane operator
33 in another state whose requirements for registration are substantially
34 equivalent to the requirements of this state and that extends the same
35 privileges of reciprocity to crane operators registered in this state.

36 NEW SECTION. **Sec. 13.** VIOLATIONS--RESTRAINING ORDERS--

37 INJUNCTIONS. (1) If, upon inspection or investigation, the director or

1 authorized compliance inspector reasonably believes that a person has
2 failed to comply with this chapter or the rules adopted under this
3 chapter, the director shall issue an order immediately restraining
4 further construction work at the job site by the person. The order
5 must describe the specific violation that necessitated issuance of the
6 restraining order. The person to whom the restraining order is
7 directed may request a hearing before an administrative law judge under
8 chapter 34.05 RCW. A request for hearing must not stay the effect of
9 the restraining order.

10 (2) In addition to and after having invoked the powers of restraint
11 vested in the director in subsection (1) of this section, the director,
12 through the attorney general, may petition the superior court of the
13 state of Washington to enjoin an activity in violation of this chapter.
14 A prima facie case for issuance of an injunction must be established by
15 affidavits and supporting documentation demonstrating that a
16 restraining order was served upon the contractor and that the
17 contractor continued to work after service of the order. Upon the
18 filing of the petition, the superior court may grant an injunction or
19 other appropriate relief, pending the outcome of enforcement
20 proceedings under this chapter, or enforce restraining orders issued by
21 the director. If the person fails to comply with a court order, the
22 director shall request the attorney general to petition the superior
23 court for an order holding the person in contempt of court and for any
24 other appropriate relief.

25 NEW SECTION. **Sec. 14.** VIOLATIONS--INVESTIGATIONS--EVIDENCE OF
26 COMPLIANCE. An authorized representative of the department may
27 investigate an alleged or apparent violation of this chapter. An
28 authorized representative of the department upon presentation of
29 credentials may inspect a site at which a person is operating a crane
30 for the purpose of determining whether that person has a license issued
31 by the department in accordance with this chapter. Upon request of the
32 authorized representative of the department, a person operating a crane
33 shall produce evidence that the person has a license issued by the
34 department in accordance with this chapter.

35 NEW SECTION. **Sec. 15.** NOTICE OF INFRACTION--SERVICE. The
36 department may issue a notice of infraction if the department
37 reasonably believes that a person required to have a license under this

1 chapter is unlicensed. The department's compliance inspectors shall
2 personally serve on the person named in the notice a notice of
3 infraction issued under this section or service may be made by
4 certified mail directed to the person named in the notice of
5 infraction. If the contractor named in the notice of infraction is a
6 firm or corporation, the notice may be personally served on any
7 employee of the firm or corporation. If a notice of infraction is
8 personally served upon an employee of a firm or corporation, the
9 department shall within four days of service send a copy of the notice
10 by certified mail to the contractor if the department is able to obtain
11 the contractor's address.

12 NEW SECTION. **Sec. 16.** NOTICE OF INFRACTION--FORM--CONTENTS. The
13 form of the notice of infraction issued under this chapter must include
14 the following:

15 (1) A statement that the notice represents a determination that the
16 infraction has been committed by the person named in the notice and
17 that the determination is final unless contested as provided in this
18 chapter;

19 (2) A statement of the specific violation that necessitated
20 issuance of the infraction;

21 (3) A statement of penalty involved if the infraction is
22 established;

23 (4) A statement of the options provided in this chapter for
24 responding to the notice and the procedures necessary to exercise these
25 options;

26 (5) A statement that at a hearing to contest the notice of
27 infraction the state has the burden of proving, by a preponderance of
28 evidence, that the infraction was committed, and a statement that the
29 person may subpoena witnesses, including the compliance inspector of
30 the department who issued and served the notice of infraction;

31 (6) A statement, that the person who has been served with the
32 notice of infraction must sign, that the person promises to respond to
33 the notice of infraction in one of the ways provided in this chapter;

34 (7) A statement that refusal to sign the infraction as directed in
35 subsection (6) of this section is a misdemeanor and may be punished by
36 a fine or imprisonment in jail;

1 (8) A statement that a person's failure to respond to a notice of
2 infraction as promised is a misdemeanor and may be punished by a fine
3 or imprisonment in jail; and

4 (9) A statement that an operator's failure to respond to a notice
5 of infraction as promised may result in suspension of the operator's
6 license.

7 NEW SECTION. **Sec. 17.** NOTICE OF INFRACTION--DETERMINATION
8 INFRACTION COMMITTED. Unless contested in accordance with this
9 chapter, the notice of infraction represents a determination that the
10 person to whom the notice was issued committed the infraction.

11 NEW SECTION. **Sec. 18.** NOTICE OF INFRACTION--CONTESTING
12 DETERMINATION--HEARING. An administrative law judge of the office of
13 administrative hearings shall hear and determine a violation designated
14 as an infraction under this chapter. If a party desires to contest the
15 notice of infraction, the party shall file a notice with the department
16 within twenty days of issuance of the infraction. The administrative
17 law judge shall conduct hearings in these cases at locations in the
18 county where the infraction occurred.

19 NEW SECTION. **Sec. 19.** NOTICE OF INFRACTION--RESPONSE--FAILURE TO
20 RESPOND, APPEAR, OR PAY MONETARY PENALTIES. (1) A person who is issued
21 a notice of infraction shall respond within twenty days of the date of
22 issuance of the notice of infraction.

23 (2) If the person named in the notice of infraction does not elect
24 to contest the notice of infraction, then the person shall pay to the
25 department, by check or money order, the amount of the penalty
26 prescribed for the infraction. When a response that does not contest
27 the notice of infraction is received by the department with the
28 appropriate penalty, the department shall make the appropriate entry in
29 its records.

30 (3) If the person named in the notice of infraction elected to
31 contest the notice of infraction, the person shall respond by filing an
32 answer of protest with the department specifying the grounds of
33 protest.

34 (4) If a person issued a notice of infraction fails to respond
35 within twenty days, the citation becomes a final order. If the person
36 fails to respond within twenty days, the person is guilty of a

1 misdemeanor and must be prosecuted in the county in which the
2 infraction occurred. The department shall suspend an operator's
3 license if the operator fails to respond within twenty days.

4 (5) After final order has been issued by an administrative law
5 judge that an infraction has been committed, a person who fails to pay
6 within thirty days a monetary penalty that is not waived, reduced, or
7 suspended under this chapter and who fails to file an appeal under this
8 chapter is guilty of a misdemeanor and must be prosecuted in the county
9 in which the infraction occurred. The department shall suspend an
10 operator's license if the operator fails to pay within thirty days a
11 monetary penalty that is not waived, reduced, or suspended, and who
12 fails to file an appeal under this chapter.

13 (6) After final determination by an administrative law judge that
14 an infraction has been committed, the department shall suspend the
15 license of an operator who fails to pay within thirty days a monetary
16 penalty that is not waived, reduced, or suspended under this chapter
17 and who fails to file an appeal under this chapter. The department may
18 reinstate the operator's license upon certification that the operator
19 has paid the monetary penalty. The department may not renew the
20 license of an operator whose license was suspended under this section,
21 unless the operator provides certification that the operator has paid
22 the monetary penalty.

23 (7) A person who fails to pay a monetary penalty within thirty days
24 after exhausting appellate remedies under this chapter is guilty of a
25 misdemeanor and must be prosecuted in the county in which the
26 infraction occurred. The department shall suspend the license of an
27 operator who fails to pay a monetary penalty within thirty days after
28 exhausting appellate remedies under this chapter.

29 NEW SECTION. **Sec. 20.** NOTICE OF INFRACTION--FAILURE TO SIGN OR
30 RESPOND--MISDEMEANOR. It is a misdemeanor for a person who has been
31 personally served with a notice of infraction to:

- 32 (1) Refuse to sign a written promise to respond to the notice; or
33 (2) Willfully violate the written promise to respond to a notice of
34 infraction as provided in this chapter, regardless of the ultimate
35 disposition of the infraction.

36 NEW SECTION. **Sec. 21.** REPRESENTATION BY ATTORNEY--DEPARTMENT
37 REPRESENTED BY ATTORNEY GENERAL. A person subject to proceedings under

1 this chapter may appear or be represented by counsel. The attorney
2 general shall represent the department in administrative proceedings
3 and subsequent appeals under this chapter.

4 NEW SECTION. **Sec. 22.** INFRACTION--ADMINISTRATIVE HEARING--
5 PROCEDURE--APPEAL. (1) The administrative law judge shall conduct
6 notice of infraction cases under chapter 34.05 RCW.

7 (2) The burden of proof is on the department to establish the
8 commission of the infraction by a preponderance of the evidence. The
9 notice of infraction must be dismissed if the defendant establishes
10 that, at the time the notice was issued, the defendant was licensed by
11 the department.

12 (3) After consideration of the evidence and argument, the
13 administrative law judge shall determine whether the infraction was
14 committed. If it is established that the infraction was committed, an
15 order dismissing the notice must be entered in the record of the
16 proceedings. If it is not established that the infraction was
17 committed, the administrative law judge shall issue findings of fact
18 and conclusions of law in its decision and order determining whether
19 the infraction was committed.

20 (4) An appeal from the administrative law judge's determination or
21 order must be to the superior court. The decision of the superior
22 court is subject only to discretionary review under rule 2.3 of the
23 rules of appellate procedure.

24 NEW SECTION. **Sec. 23.** INFRACTION--DISMISSAL. The administrative
25 law judge shall dismiss the notice of infraction upon written
26 notification from the department that the person named in the notice of
27 infraction had complied with this chapter at the time the notice of
28 infraction was issued.

29 NEW SECTION. **Sec. 24.** INFRACTION--MONETARY PENALTY. (1) A person
30 found to have committed an infraction under this chapter must be
31 assessed a monetary penalty of at least two hundred dollars and at most
32 five thousand dollars.

33 (2) The administrative law judge may waive, reduce, or suspend the
34 monetary penalty imposed for the infraction only upon a showing of good
35 cause that the penalty would be unduly burdensome.

1 (3) Monetary penalties collected under this chapter must be
2 deposited in the crane operators administration account to help defray
3 the costs of conducting the administrative hearing.

4 NEW SECTION. **Sec. 25.** SEVERABILITY. If any provision of this act
5 or its application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 26.** CAPTIONS. Captions as used in this act
9 constitute no part of the law.

10 NEW SECTION. **Sec. 27.** LEGISLATIVE DIRECTIVE. Sections 1 through
11 24 of this act shall constitute a new chapter in Title 18 RCW.

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