
**Labor & Workplace Standards
Committee**

HB 2022

Brief Description: Concerning construction crane safety.

Sponsors: Representatives Reed, Berry, Ryu, Ormsby, Reeves and Santos.

Brief Summary of Bill

- Requires a prime contractor to obtain a permit before performing any work involving the operation, assembly, disassembly, or reconfiguration of a tower crane.
- Establishes procedures and requirements for a valid permit, including requirements for safety conferences, inspections, and notifications.
- Creates criminal penalties for certain violations related to the operation, assembly, disassembly, and reconfiguration of a tower crane.
- Requires tower crane manufacturers and distributors to make available to the public certain information about tower cranes located in the state.
- Requires municipalities to align permit issuance for street closures and requires the prime contractor to provide certain notices when a tower crane over 36 feet is assembled, disassembled, or reconfigured on a job site within the municipality.

Hearing Date: 1/12/24

Staff: Trudes Tango (786-7384).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Washington Industrial Safety and Health Act.

Generally, workplace safety is governed by the federal Occupational Safety and Health Act (OSHA), which is administered by the Occupational Safety and Health Administration. Washington is a "state plan" state under federal OSHA. As a state plan state, Washington is authorized to assume responsibility for occupational safety and health in the state.

The Department of Labor and Industries (Department) administers and enforces the Washington Industrial Safety and Health Act (WISHA) and adopts rules governing safety and health standards for workplaces covered by the WISHA. To maintain its status as a state plan state, Washington's safety and health standards must be at least as effective as standards adopted or recognized under the OSHA.

Construction Crane Safety.

State law requires the Department to establish, by rule, a crane certification program and qualified crane operator requirements. Crane owners must ensure cranes are inspected and load proof tested by a certified crane inspector at least annually and after any significant modification or repair of structural parts. Tower cranes and tower crane assembly parts must be inspected both prior to assembly and following erection of the tower crane. A certified crane inspector must notify the Department if the inspector finds the crane does not meet safety or health standards.

Operation of a crane by a nonqualified crane operator is prohibited. The Department establishes, by rule, the requirements to be a qualified crane operator. Qualified crane operators must have a valid crane operator certificate, for the type of crane being operated, issued by a crane operator testing organization which has an accredited program. Qualified crane operators must also have a certain number of hours of experience, which depends on the type of crane being operated, and pass a substance abuse test.

Summary of Bill:

Permit Requirements.

The prime contractor must obtain a permit from the Department prior to performing or allowing the performance of any work involving the operation, assembly, disassembly, or reconfiguration of a tower crane. The Department may allow exceptions. The prime contractor must possess an active and unrestricted permit at all times a tower crane is present on a construction site.

Permit Application.

The application for a permit must include information needed to ensure safety and establish responsibility for the operation, assembly, disassembly, and reconfiguration of a tower crane, including the following information:

- name and Unified Business Identifier number;
- project site address;
- contact person's name and contact information for the overall project safety;
- names of the prime contractor, crane owner, crane users at the worksite, and

- assembly/disassembly director;
- prime contractor's contractor registration number;
- listing of all parties to be involved with the assembly, disassembly, and reconfiguration of the tower crane;
- beginning January 1, 2027, a copy of the assembly/disassembly director's national assembly/disassembly director certification from an approved national accrediting organization;
- number of employees for the applicant working at the worksite at the time of the permit application;
- anticipated start and end dates of the project;
- crane manufacturer and crane model;
- prime contractor's attestation that the prime contractor will: comply with all applicable OSHA standards and all manufacturer operation instructions and guidelines for the crane and/or written procedures from a registered professional structural engineer;
- prime contractor's certification that: (1) the prime contractor will comply with all applicable requirements of the WISHA and all applicable safety standards, and that the conditions, practices, means, methods, operations, or processes used or proposed to be used will be safe and healthful; (2) the prime contractor will post at the worksite the permit and the crane certification; and (3) all assembly, disassembly, and reconfigurations will be performed with a safety representative for the tower crane distributor or manufacturer present; and
- a written job plan.

Safety Permit Conference.

Before issuing a permit, the Department must complete a safety permit conference. The conference must require the presence of at least the following:

- permit applicant;
- assembly/disassembly director;
- safety representative for the tower crane distributor or manufacturer;
- representatives of the employees assembling, disassembling or reconfiguring the tower crane; and
- on public works projects, a representative of the governmental entity overseeing the project.

During the safety conference, the following must be evaluated:

- prior safety violations of the permit applicant and all entities required in the operation, assembly, disassembly, and reconfiguration of the tower crane;
- potential risks of the procedures and measures taken to minimize risks;
- written accident prevention programs;
- safety standards for tower cranes under the WISHA and applicable rules;
- written job plan; and
- written self-attestation of each crane operator's experience and qualifications, including a copy of the crane operator's license.

Notifications and Inspections.

As a condition of a valid permit, the permit holder must notify the Department in advance of any assembly, disassembly, or reconfiguration of the tower crane in a time specified by the Department. The permit holder must receive the Department's confirmation to proceed. The permit holder's notification must include the type of work being performed and the names and contact numbers of all employers involved and their role in performing the work.

As part of the permit process, the Department must inspect permitted activities, including the tower crane once assembled or reconfigured. The Department may inspect permitted activities at any time. A permit holder may not operate the tower crane once assembled or reconfigured unless approved by the Department after initial inspection.

Tower cranes and parts must be inspected prior to and following every assembly, disassembly, and reconfiguration. Any issues identified must be logged with a mitigation plan. If the crane inspector is unable to certify, the procedure may not commence. Crane suppliers, rather than owners, must ensure that cranes are inspected and load proof tested.

Permit Denial, Suspension and Revocation.

The Department must deny a permit if:

- the application fails to include all required elements;
- the safety conference is not held in compliance with the requirements; or
- the permit applicant has a record of safety and health violations that indicate the applicant may not be maintaining a safe worksite or operation.

The Department must suspend or revoke a permit if the permit holder:

- fails to comply with any requirements or OSHA standards involving tower cranes;
- fails to notify the Department in advance as required;
- fails to ensure that a safety representative was present during assembly, disassembly, or reconfiguration;
- fails to immediately correct deficiencies directly affecting the structural integrity of the tower crane, or fails to correct deficiencies directly affecting the safe operation of the tower crane; or
- refuses the Department entry to a worksite that contains activity for which a permit is required.

Administrative procedures are established for appealing the denial, suspension, or revocation of a permit, including time lines for appeal and for the Department to issue a decision, the applicant's duty to notify employees of the hearing; and appeals to the Board of Industrial Insurance Appeals.

Criminal Penalties.

An employer is guilty of a misdemeanor if the employer:

- allows any person to engage in the assembly, disassembly, or reconfiguration of a tower crane without direct supervision by an assembly/disassembly director;

- allows any person to act as an assembly/disassembly director when the person fails to meet the qualifications; or
- allows a tower crane to be assembled, disassembled, or reconfigured not in accordance with manufacturer operation instructions or written procedures from a registered professional structural engineer.

Rulemaking.

The Department must adopt rules for tower crane assembly, disassembly, and reconfiguration. The rules must include, among other things:

- a process for determining when the Department will be present for the assembly, disassembly, and reconfiguration of a tower crane;
- requirements for the prime contractor to acknowledge safety orders and other materials;
- requirements for the prime contractor to ensure that a qualified safety representative will be present during assembly, disassembly, and reconfiguration;
- requirements for the presence of an assembly/disassembly director at every assembly, disassembly, and reconfiguration and requirements for qualifications of an assembly/disassembly director;
- conducting inspections;
- establishing maximum allowable wind speed for tower crane assembly, disassembly, and reconfiguration;
- requirements for a written job plan that addresses the requirements of the manufacturer's manual tailored to the site conditions;
- establishing effective stop work procedures that ensure the authority of any employee to refuse or delay tasks related to a tower crane that the employee believes could reasonably result in serious physical harm or death; and
- permitting fees sufficient to cover costs of administering the program.

Information from Manufacturers and Distributors.

Tower crane manufacturers and distributors must make certain information about their tower cranes available to the public, within a reasonable time and format as determined by the Department. The information must include operation instructions and guidelines for the safe use and maintenance of tower cranes in the state. The information must be written in English. Without exception, the tower crane manufacturer or distributor must provide these materials to any person requesting such information.

Street Closures and Notice.

When a worksite contains a tower crane that is over 36 feet, the municipality in which the tower crane is located must do the following before any assembly, disassembly, or reconfiguration occurs:

- align permit issuance for street closures with the definition of assembly/disassembly work zone; and
- require the permit holder to give notice to residents of buildings within the assembly/disassembly work zone.

Assembly/disassembly work zone means the total area that the crane and/or components or attachments could reach if the crane were to collapse. Height of the crane, length of boom, attachments, and loads, must all be considered to calculate the area.

Definitions.

Definitions are created for the following terms: "assembly, disassembly, and reconfiguration;" "crane owner;" "crane user;" "prime contractor;" and "reconfiguration." The prime contractor is the person or entity that has overall responsibility for the construction of the project, its planning, quality, and completion, and serves as the site supervisor.

Appropriation: None.

Fiscal Note: Requested on January 2, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.