STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

HOUSE BILL 2079 By: Wesselhoft

AS INTRODUCED

An Act relating to professions and occupations; creating the Crane Operators License and Safety Act; providing for legislative findings; defining terms; requiring license to operate certain cranes; providing exceptions; providing qualifications for license; providing qualifications for trainee license; providing for application of license; providing for testing; providing for renewal of license; providing military exemption; creating the Crane Operators Licensing Revolving Fund; providing for fees; creating the Crane Operators Licensing Board; providing for disciplinary actions; providing for assembly and disassembly of cranes; providing for penalties; directing the Board to adopt certain rules; providing for OSHA compliance; directing the Department of Labor to conduct certain inspections; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4101 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Crane Operators License and Safety Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4102 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that in order to promote job safety and to protect life, limb, and property, the operation of crane and hoisting equipment is a matter of public interest. It is further declared to be a matter of public interest that the operation of cranes and hoisting equipment used in the performance of construction, renovation, and demolition should merit and receive the confidence of the public and the State of Oklahoma should license persons who operate or assist in the operation of crane and hoisting equipment.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4103 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Crane Operators License and Safety Act:

1. "Articulating crane" or "knuckle-boom crane" means a crane on which the boom consists of a series of folding, pin-connected structural members, typically manipulated to extend or retract by power;

2. "Board" means the Crane Operators Licensing Board;

3. "Boom" means an inclined spar, strut, or other long structural member which supports the upper hoisting tackle on a crane or derrick. Typically, the length and vertical angle of the boom can be varied to achieve increased height or increased height and reach when lifting loads. Booms can usually be grouped into general

categories of hydraulically extendible, cantilevered type, latticed section, cable-supported type or articulating type. On tower cranes, if the principle horizontal structure is fixed, it is referred to as a jib; if it is moveable up and down, it is referred to as a boom;

4. "Crane" means any hoisting equipment that can lift, rotate, or move a suspended load in excess of two thousand (2,000) pounds horizontally or vertically, including without limitation hydraulic cranes, friction cranes, derricks, jib hoists, gantry, bridge cranes, floating cranes of any kind, articulating or knuckle-boom, crawler cranes, mobile cranes such as wheel-mounted, rough-terrain, all-terrain, truck-mounted, carry-deck, mini-cranes, and tower cranes;

5. "Department" means the Department of Labor;

6. "Derrick" means an apparatus consisting of a mast or equivalent member held at the head by guys or braces, with or without a boom for use with a hoisting mechanism and operating ropes;

7. "Electric line truck" means a truck used to transport workers, tools, and materials and to serve as a traveling workshop for electric power line construction and maintenance work. Electric line trucks are sometimes equipped with a boom and auxiliary equipment for setting poles, digging holes, and elevating material or workers, including service trucks with mobile lifting devices designed specifically for use in the power line and electric service industries, such as digger derricks, when used for auguring holes to set power and utility poles

or handling associated materials to be installed or removed from utility poles;

8. "Hoist" means and includes without limitation a material hoist (construction elevator), air rugger (one drum), multi-drum hoist, overhead hoist, sideboom, A-frame boom truck, or behind the cab truck-mounted boom;

9. "Long boom" means a boom of a crane with or without any jib or extension that exceeds one hundred (100) feet when the crane is in operation;

10. "Luffing jib" means an attachment to the main boom of a crane that can be raised or lowered independently of the main boom to change the horizontal reach of the crane;

11. "Mini-crane" means a small self-propelled crane designed to lift, rotate, or move a suspended load in excess of five hundred (500) pounds horizontally or vertically by using cables that run unencumbered over the boom or jib sheave;

12. ”Overhead crane" means overhead or bridge cranes, semi-gantry, cantilever gantry, wall cranes, storage bridge cranes, launching gantry cranes, and similar equipment, irrespective of whether it travels on tracks, wheels, or other means;

13. "Person" means an individual, partnership, corporation, business trust, limited liability company, or other legal entity;

14. "Qualified person" means a person who, by possession of a recognized degree, certificate, or professional standing or who, by

extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project. Qualified person includes crane operator, flagger, and rigger pursuant to the Crane Operators License and Safety Act;

15. "Commissioner" means the Commissioner of Labor;

16. "Technician" means a crane manufacturer's trained representative or a person trained by a crane manufacturer for that type of crane;

17. "Tower crane" means any fixed jib, hammerhead, luffing boom, or self-erecting or pedestal crane that can lift, rotate, or move a suspended load in excess of one thousand (1,000) pounds horizontally or vertically;

18. “OSHA” means the Occupational Safety and Health Administration; and

19. “NCCCO” means the National Commission for the Certification of Crane Operators.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4104 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Beginning November 1, 2011, it shall be unlawful for a person to operate a power-driven crane, mini-crane, or hoist used in the performance of construction, renovation, or demolition without first obtaining a crane operator's license from the Department of

Labor. The Crane Operators License and Safety Act shall only apply to construction, renovation, or demolition projects for which a permit is required from a local, state, or federal government body, department, or agency before work may commence or any construction, renovation, or demolition projects of a public road.

B. Beginning January 1, 2011, it shall be unlawful for a person to assist in the operation of a power-driven crane or hoist used in the performance of construction, renovation, or demolition without first obtaining a crane operator trainee license from the Department.

C. Beginning January 1, 2011, it shall be unlawful for a person to provide hand or verbal signals to control crane operations without first receiving certification from the Department.

D. Beginning January 1, 2011, it shall be unlawful for a person to rig loads to be lifted by a crane without first receiving certification from the Department.

E. The provisions of the Crane Operators License and Safety Act shall not apply to operators of powered industrial forklift trucks, pallet trucks, rider trucks, fork trucks, lift trucks, or telehandlers.

F. The provisions of the Crane Operators License and Safety Act shall not apply to equipment involved in grading, drainage, field tile, or irrigation.

G. The provisions of the Crane Operators License and Safety Act shall not apply to activities connected with agriculture or farming, other than construction, renovation, and demolition.

H. The provisions of the Crane Operators License and Safety Act shall not apply to the operation of a crane or a hoist under the jurisdiction of the United States.

I. The provisions of the Crane Operators License and Safety Act shall not apply to the operation of a crane or hoist used in a manufacturing operation for purposes other than construction, renovation, or demolition.

J. The provisions of the Crane Operators License and Safety Act shall not apply to the operation of an electric line truck.

K. The provisions of the Crane Operators License and Safety Act shall not apply to equipment originally designed as a vehicle-mounted aerial device for lifting personnel and self-propelled elevating platforms.

L. The provisions of the Crane Operators License and Safety Act shall not apply to equipment that hoists by using a come-along or chainfall.

M. The provisions of the Crane Operators License and Safety Act shall not apply to a mechanic's truck with a hoisting device when used in activities related to equipment maintenance and repair.

N. The provisions of the Crane Operators License and Safety Act shall not apply to hydraulic jacking systems.

O. The provisions of the Crane Operators License and Safety Act shall not apply to automotive wreckers and tow trucks when used to clear wrecks and haul vehicles.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4105 of Title 59, unless there is created a duplication in numbering, reads as follows:

Beginning January 1, 2011, a person is qualified to obtain an original crane operator's license for the operation of cranes pursuant to the Crane Operators License and Safety Act if the person meets all of the following requirements:

1. Is at least twenty-one (21) years of age and has submitted a certified record showing at least two thousand (2,000) hours of crane operation or related experience in the five-year period preceding the application;

2. Has not violated any of the provisions of the Crane Operators License and Safety Act for which disciplinary action could be taken;

3. Has passed a written examination prescribed by the Crane Inspectors Licensing Board. The written examination shall also be offered in the Spanish language;

4. Has passed a practical examination prescribed by the Board;

5. Both the written and practical examinations shall comply with current OSHA rules;

6. Has taken and passed a United States Department of Transportation drug test in the ninety (90) days immediately preceding the application;

7. Possesses a current and valid United States Department of Transportation physical card; and

8. Does not have a crane operator's license or crane operator trainee license that is currently revoked or suspended by the Board or by the comparable licensing body in another jurisdiction.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4106 of Title 59, unless there is created a duplication in numbering, reads as follows:

A person is qualified to obtain a crane operator trainee license pursuant to the Crane Operators License and Safety Act if the person meets all of the following requirements:

1. Is at least eighteen (18) years of age;

2. Has passed a written examination in the English or Spanish language as prescribed by the Board;

3. Has not violated any of the provisions of the Crane Operators License and Safety Act for which disciplinary action could be taken;

4. Has taken and passed a United States Department of Transportation drug test in the ninety (90) days immediately preceding his or her application;

5. Possesses a current and valid United States Department of Transportation physical card; and

6. Does not have a crane operator's license or crane operator trainee license that is currently revoked or suspended by the Board or by a comparable licensing body in another jurisdiction.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4107 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Applications for original licenses shall be made to the Department in writing on forms prescribed by the Board and shall be accompanied by the required fee, which shall not be returnable. The application shall require the information that, in the judgment of the Board, will enable the Department to pass on the qualifications of the applicant for a license.

B. The Department may authorize the examination of applicants at any time and place that it may determine. The Department shall make reasonable efforts to provide testing sites reflecting the geographical distribution of the residences of the applicants. The Department may contract with joint apprenticeship and training committees operated under the federal Labor Management Relations Act and employ consultants and other entities for the purpose of conducting and administering written and practical exams of applicants. The Department may contract with private or public entities for conducting and administering written and practice exams of applicants in their employment. The examination of applicants shall be of a character to give a fair test of the qualifications of

the applicant to practice. The Department may employ consultants for the purpose of preparing and conducting examinations. The Department shall not give contractual preference to a union, but shall give consideration to all entities.

C. Applicants for examination shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination. If an applicant neglects, fails, or refuses to take an examination or fails to pass an examination for license pursuant to the Crane Operators License and Safety Act within one (1) year after filing the application for examination, the application is denied. However, the applicant may thereafter make a new application accompanied by the required fee.

D. Crane operator's licenses shall be valid for a period of five (5) years.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4108 of Title 59, unless there is created a duplication in numbering, reads as follows:

The license shall authorize an individual for the performance of work as a trainee crane operator under the direct supervision of a licensed crane operator.

1. While operating a crane or hoist pursuant to the Crane Operators License and Safety Act, a trainee shall be continuously supervised by a licensed crane operator.

2. The Board shall set up appropriate written and practical testing requirements for each type of license to be issued. The Board may add additional classifications of license by rule as necessary to meet the changing technologies in the crane, hoisting, and construction industries.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4109 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Department shall conduct examinations of applicants for crane operator's licenses and for crane operator trainee licenses.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4110 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. At the expiration of a crane operator's license, a licensee may apply for renewal of the crane operator's license. A person is qualified to renew a crane operator's license if the person meets all Department of Labor requirements.

B. Renewed crane operator's licenses shall be valid for a period of five (5) years after the date of issue.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4111 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Department shall reinstate a crane operator's license that expires while a licensee is in active military service of the United

States upon application to the Department by the licensee within two (2) years after termination of the military service, payment of the annual license fee, and submission of evidence of the military service. The license shall be reinstated without examination and without payment of the lapsed renewal fee.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4112 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Department of Labor to be designated the "Crane Operators Licensing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department of Labor from the fees imposed pursuant to Section 13 of this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Labor for the purpose of performing the duties under the Crane Operators License and Safety Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4113 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Department shall impose a fee of Sixty Dollars ($60.00) for an original license, certification, replacement license, or a renewal license. The Department shall also impose a fee sufficient to cover the cost of inspections for equipment that is subject to the provisions of the Crane Operators License and Safety Act.

B. All fees and fines received by the Department pursuant to this section shall be deposited into the Crane Operators Licensing Revolving Fund.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4114 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Crane Operators Licensing Board is created within the Department and shall consist of the Commissioner of Labor, who will be a nonvoting member, and the following members appointed by the Commissioner:

1. Three members of the Board shall be members of unions. These members shall serve a three-year term, except that of the initial members appointed, one shall be appointed for a term of one (1) year, one for a term of two (2) years, and one for a term of three (3) years;

2. Two members of the Board shall be representatives of the crane construction industry. These members shall serve a three-year term, except that the initial member shall be appointed for a term of two (2) years;

3. One member of the Board shall be a representative of the building and construction trades. This member shall serve a three-year term, except that the initial member shall be appointed for a term of two (2) years;

4. Three members of the Board shall be nonunion public members. These members shall serve three-year terms, except that of the initial members appointed, one shall be appointed for a term of three (3) years, one for a term of two (2) years, and one shall be appointed for a term of one (1) year;

5. One member of the Board shall be a representative of the safety industry. This member shall serve a three-year term; and

6. One member shall be appointed by the Speaker of the House of Representatives and one by the President Pro Tempore of the Senate.

B. Each member shall have experience, knowledge, and expertise relating to the subject matter of the Crane Operators License and Safety Act.

C. Board members shall receive no compensation for their services on the Board, but may be reimbursed for their actual expenses in serving on the Board.

D. Five members of the Board shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

E. The Commissioner shall promptly appoint a person to fill any vacancy on the Board for the unexpired portion of the term.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4115 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Department may refuse to issue or renew or may revoke or suspend a license or place on probation, censure, or reprimand a licensee, for one or any combination of the following causes:

1. The practice of any fraud or deceit in obtaining or attempting to obtain a license;

2. Any gross negligence, incompetence, or misconduct in the operation of a crane or hoisting equipment while under the influence of alcohol or another drug;

3. Any gross negligence, incompetence, or misconduct as a trainee assisting in the operation of a crane or hoisting equipment while under the influence of alcohol or another drug;

4. The entry of any order by any circuit court establishing that a person holding a license pursuant to the Crane Operators License and Safety Act is a person subject to involuntary admission under the Mental Health Code. The person may have the license restored only upon the determination by the courts that the person has recovered from the mental illness that subjected the person to involuntary admission and upon the determination of the Board that

the license be restored. Where the circumstances so indicate, the Board may require an examination prior to restoring any license;

5. Failure to comply with any of the provisions of the Crane Operators License and Safety Act or any rules adopted by the Department pursuant to the Crane Operators License and Safety Act;

6. Revocation or suspension of a license as a crane or hoist operator or trainee in another jurisdiction; and

7. Failure within sixty (60) days to provide information requested by the Board as a result of a formal or informal complaint to the Department that would indicate a violation of the Crane Operators License and Safety Act.

B. The Board shall refuse to issue or renew and shall revoke the license of a licensee who has been determined by the Board to have a second violation of operating a crane without possessing a crane operator's license or a second violation of assisting in operating a crane without possessing a crane operator trainee license.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4116 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Department shall establish rules in compliance with current OSHA rules for the assembly and disassembly and operation of cranes regulated pursuant to the Crane Operators License and Safety Act, including the erecting, climbing, and dismantling of tower cranes,

except as otherwise set forth in the Crane Operators License and Safety Act. Oklahoma will comply with national OSHA requirements and any person operating a crane, rigging or signaling will be required to provide proof of certification with NCCCO.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4117 of Title 59, unless there is created a duplication in numbering, reads as follows:

All final administrative decisions of the Department shall be subject to judicial review. The proceedings for judicial review shall be commenced in the district court of the county in which the party applying for review resides.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4118 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Operating or assisting in the operation of a crane in this state or offering to operate, assist, or use or to advertise or otherwise represent to the public any title or description implying that the person is a crane or hoisting equipment operator or trainee by a person who does not possess a valid and current license under this act is declared to be against the public welfare and to constitute a public nuisance.

B. The Attorney General, the Commissioner of Labor, the district attorney for any county in the state, or any resident citizen may maintain an action in the name of the people of the

State of Oklahoma to perpetually enjoin any person from unlawfully operating as a crane or hoisting equipment operator or trainee and from committing or continuing any such unlawful act.

C. In all proceedings, the court, in its discretion, may apportion the costs among the parties interested in the suit, including the costs of filing the complaint, service of process, witness fees and expenses, court reporter charges, and reasonable attorney fees. This proceeding is in addition to and not in lieu of criminal prosecution.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4119 of Title 59, unless there is created a duplication in numbering, reads as follows:

Penalties for illegal operation of a crane in the State of Oklahoma will be determined by the Board under the Administrative Procedures Act.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4120 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Department shall exercise the powers and duties for the administration of licensing acts and shall exercise any other powers and duties invested by the Crane Operators License and Safety Act.

B. The Board may adopt rules consistent with the provisions of the Crane Operators License and Safety Act for the administration and

enforcement thereof and may prescribe forms that shall be issued in connection therewith.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4121 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any documents or records required to be kept pursuant to the Crane Operators License and Safety Act shall be made available to the Department or inspectors upon request.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4122 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Crane Operators License and Safety Act shall be construed to comply with the current requirements and regulations of the federal Occupational Safety and Health Administration in the licensing of crane operators by a governmental agency.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4123 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Department of Labor shall conduct random on-site inspections to ensure that a crane operator's license is current and valid.

SECTION 24. This act shall become effective November 1, 2009.

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