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2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to crane operators

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 1 of section 482 of the general business law,  
2     as amended by section 18 of part CC of chapter 57 of the laws of 2009,  
3     is amended to read as follows:

4     1. No individual shall use lasers, operate a crane, act as a blaster  
5     or as a pyrotechnician without holding a valid certificate of competence  
6     issued by the commissioner of labor. PROVIDED THAT FOR CRANE OPERATORS,  
7     SUCH CERTIFICATION OF COMPETENCE SHALL BE AWARDED PURSUANT TO A CERTIF-  
8     ICATION PROCESS OF THE NATIONAL COMMISSION FOR THE CERTIFICATION OF  
9     CRANE OPERATORS OR ANY OTHER ORGANIZATION FOUND BY THE COMMISSIONER TO  
10    OFFER AN EQUIVALENT TESTING AND CERTIFICATION PROGRAM MEETING THE  
11    REQUIREMENTS OF THE APPROPRIATE AMERICAN SOCIETY OF MECHANICAL ENGINEERS  
12    ASME B30 STANDARD AND THE ACCREDITATION REQUIREMENTS OF THE NATIONAL  
13    COMMISSION FOR CERTIFYING AGENCIES OR THE AMERICAN NATIONAL STANDARDS  
14    INSTITUTE. SUCH CERTIFICATION SHALL BE VALID ONLY IN THE SPECIALTY OR  
15    SPECIALTIES FOR WHICH SUCH OPERATOR IS CERTIFIED.

16    S 2. Subdivision 2 of section 483 of the general business law, as  
17    amended by section 19 of part CC of chapter 57 of the laws of 2009, is  
18    amended to read as follows:

19    2. Such regulations may provide for examinations, categories of  
20    certificates, licenses, or registrations, age and experience require-  
21    ments, payment of fees, and may also provide for such limitations and  
22    exemptions as the commissioner finds necessary and proper. In the case  
23    of blasters and pyrotechnicians, such regulations may require finger-  
24    printing, and in the case of users of radioactive material, such regu-  
25    lations may require the posting of a bond or other security, AND IN THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 CASE OF CRANE OPERATORS, SUCH REGULATIONS SHALL INCLUDE, BUT NOT BE  
2 LIMITED TO, REQUIREMENTS THAT AN APPLICANT SHALL (A) HAVE RECEIVED  
3 CERTIFICATION FROM THE NATIONAL COMMISSION FOR THE CERTIFICATION OF  
4 CRANE OPERATORS OR ANY OTHER ORGANIZATION FOUND BY THE COMMISSIONER TO  
5 OFFER AN EQUIVALENT TESTING AND CERTIFICATION PROGRAM MEETING THE  
6 REQUIREMENTS OF THE APPROPRIATE AMERICAN SOCIETY OF MECHANICAL ENGINEERS  
7 ASME B30 STANDARD AND THE ACCREDITATION REQUIREMENTS OF THE NATIONAL  
8 COMMISSION FOR CERTIFYING AGENCIES, OR THE AMERICAN NATIONAL STANDARDS  
9 INSTITUTE; (B) HAVE A PRACTICAL KNOWLEDGE OF CRANE MAINTENANCE AND (C)  
10 MAINTAIN A CURRENT MEDICAL EXAMINER'S CERTIFICATION CARD. CERTIFICATION  
11 OF COMPETENCE SHALL BE VALID FOR A PERIOD OF FIVE YEARS; AFTER SUCH TIME  
12 SUCH CERTIFICATE SHALL BE RENEWED IF THE APPLICANT PROVIDES PROOF OF  
13 RECERTIFICATION PURSUANT TO THE PROCESS ADOPTED PURSUANT TO THIS SUBDI-  
14 VISION. ANY CERTIFICATE OF COMPETENCE ISSUED PURSUANT TO THIS ARTICLE  
15 PRIOR TO DECEMBER THIRTY-FIRST, TWO THOUSAND TEN SHALL REMAIN VALID  
16 UNTIL THE EARLIER OF THE FOLLOWING: (I) DECEMBER THIRTY-FIRST, TWO THOU-  
17 SAND THIRTEEN OR (II) THE EXPIRATION DATE OF THE CERTIFICATE OF COMPE-  
18 TENCE.

19 S 3. Section 483 of the general business law is amended by adding a  
20 new subdivision 5 to read as follows:

21 5. THE CRANE OPERATING EXAMINING BOARD CREATED PURSUANT TO THIS  
22 SECTION SHALL CONSIST OF SEVEN MEMBERS, APPOINTED BY THE GOVERNOR, WHO  
23 ARE RESIDENTS OF THE STATE, CONSISTING OF THE COMMISSIONER OF LABOR OR  
24 HIS OR HER DESIGNEE, AS THE CHAIRPERSON; ONE PERSON REPRESENTING THE  
25 HEAVY HIGHWAY UTILITY OR TRANSPORTATION CONTRACTING INDUSTRY WHOSE BUSI-  
26 NESS ENTERPRISE OR EMPLOYER EMPLOYS CRANE OPERATORS; AND ONE PERSON  
27 REPRESENTING THE BUILDING CONTRACTING INDUSTRY WHOSE BUSINESS ENTERPRISE  
28 OR EMPLOYER EMPLOYS CRANE OPERATORS. AT LEAST THREE MEMBERS OF THE BOARD  
29 SHALL BE LICENSED CRANE OPERATORS WHO HAVE BEEN ACTIVELY ENGAGED IN  
30 CRANE RELATED OPERATIONS IN THIS STATE FOR AT LEAST FIVE YEARS IMME-  
31 DIATELY PRECEDING THEIR APPOINTMENT. NO MORE THAN TWO OF SUCH MEMBERS  
32 SHALL BE MEMBERS OF A UNION. THE GOVERNOR SHALL APPOINT EACH BOARD  
33 MEMBER FOR A TERM OF THREE YEARS, EXCEPT THAT OF THE MEMBERS FIRST  
34 APPOINTED, TWO SHALL SERVE FOR TERMS OF THREE YEARS, TWO SHALL SERVE FOR  
35 TERMS OF TWO YEARS AND TWO SHALL SERVE TERMS OF ONE YEAR. EACH MEMBER  
36 SHALL HOLD OFFICE UNTIL HIS OR HER SUCCESSOR HAS BEEN QUALIFIED. ANY  
37 VACANCY IN THE MEMBERSHIP OF THE BOARD SHALL BE FILLED FOR THE UNEXPIRED  
38 TERM IN THE MANNER PROVIDED FOR THE ORIGINAL APPOINTMENT. NO MEMBER OF  
39 THE BOARD MAY SERVE MORE THAN TWO SUCCESSIVE TERMS, IN ADDITION TO ANY  
40 UNEXPIRED TERM TO WHICH HE OR SHE HAS BEEN APPOINTED. THE TERMS OF THE  
41 MEMBERS OF THE BOARD AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE  
42 DEEMED EXPIRED AS OF DECEMBER THIRTY-FIRST, TWO THOUSAND TEN; PROVIDED,  
43 HOWEVER, THAT SUCH MEMBERS MAY BE REAPPOINTED PURSUANT TO THIS SUBDIVI-  
44 SION. THOSE MEMBERS WHICH ADMINISTER AND OVERSEE EXAMINATIONS PURSUANT  
45 TO THIS SECTION SHALL NOT BE PERMITTED TO HEAR APPEALS OF THE DENIAL OF  
46 CERTIFICATION.

47 S 4. Paragraph a of subdivision 1 of section 483 of the general busi-  
48 ness law, as amended by section 19 of part CC of chapter 57 of the laws  
49 of 2009, is amended to read as follows:

50 a. The commissioner of labor is hereby authorized and directed to  
51 prescribe such rules and regulations as may be necessary and proper for  
52 the administration and enforcement of this article with respect to  
53 lasers, crane operators, blasters and pyrotechnicians. PROVIDED THAT IN  
54 THE CASE OF CRANE OPERATORS, THE COMMISSIONER MAY REFUSE TO GRANT OR MAY  
55 SUSPEND OR REVOKE A CRANE OPERATOR'S LICENSE UPON PROOF TO THE SATISFAC-  
56 TION OF THE COMMISSIONER THAT THE HOLDER THEREOF HAS (A) OBTAINED A

1 CERTIFICATION OR LICENSE BY FRAUD OR DECEIT; (B) FRAUDULENTLY OR DECEIT-  
2 FULLY PERFORMED WORK FOR WHICH A LICENSE IS REQUIRED UNDER THIS ARTICLE;  
3 (C) COMMITTED AN ACT OF GROSS NEGLIGENCE; (D) FALSELY ADVERTISED; (E)  
4 ACTED IN A MANNER WHICH DEMONSTRATES INCOMPETENCE OR (F) CAUSED OR  
5 CONTRIBUTED IN ANY MANNER THAT DIRECTLY OR INDIRECTLY RESULTED IN AN  
6 INJURY TO A PERSON OR DAMAGE TO PROPERTY.

7 S 5. This act shall take effect immediately.