

5064

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

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 2 of part B of chapter 58 of the laws of 2006, is
3 amended to read as follows:
4 1. No individual shall use lasers, operate a crane or act as a blaster
5 without holding a valid certificate of competence issued by the commis-
6 sioner of labor. PROVIDED THAT FOR CRANE OPERATORS, SUCH CERTIFICATION
7 OF COMPETENCE SHALL BE AWARDED PURSUANT TO A CERTIFICATION PROCESS OF
8 THE NATIONAL COMMISSION FOR THE CERTIFICATION OF CRANE OPERATORS OR ANY
9 OTHER ORGANIZATION FOUND BY THE COMMISSIONER TO OFFER AN EQUIVALENT
10 TESTING AND CERTIFICATION PROGRAM MEETING THE REQUIREMENTS OF THE APPRO-
11 PRIATE AMERICAN SOCIETY OF MECHANICAL ENGINEERS ASME B30 STANDARD AND
12 THE ACCREDITATION REQUIREMENTS OF THE NATIONAL COMMISSION FOR CERTIFYING
13 AGENCIES OR THE AMERICAN NATIONAL STANDARDS INSTITUTE. SUCH CERTIF-
14 ICATION SHALL BE VALID ONLY IN THE SPECIALTY OR SPECIALTIES FOR WHICH
15 SUCH OPERATOR IS CERTIFIED.
16 S 2. Subdivision 1 of section 482 of the general business law, as
17 amended by section 18 of part CC of chapter 57 of the laws of 2009, is
18 amended to read as follows:
19 1. No individual shall use lasers, operate a crane, act as a blaster
20 or as a pyrotechnician without holding a valid certificate of competence
21 issued by the commissioner of labor. PROVIDED THAT FOR CRANE OPERATORS,
22 SUCH CERTIFICATION OF COMPETENCE SHALL BE AWARDED PURSUANT TO A CERTIF-
23 ICATION PROCESS OF THE NATIONAL COMMISSION FOR THE CERTIFICATION OF
24 CRANE OPERATORS OR ANY OTHER ORGANIZATION FOUND BY THE COMMISSIONER TO
25 OFFER AN EQUIVALENT TESTING AND CERTIFICATION PROGRAM MEETING THE
26 REQUIREMENTS OF THE APPROPRIATE AMERICAN SOCIETY OF MECHANICAL ENGINEERS

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

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1 ASME B30 STANDARD AND THE ACCREDITATION REQUIREMENTS OF THE NATIONAL
2 COMMISSION FOR CERTIFYING AGENCIES OR THE AMERICAN NATIONAL STANDARDS
3 INSTITUTE. SUCH CERTIFICATION SHALL BE VALID ONLY IN THE SPECIALTY OR
4 SPECIALTIES FOR WHICH SUCH OPERATOR IS CERTIFIED.

5 S 3. Subdivision 2 of section 483 of the general business law, as
6 amended by section 19 of part CC of chapter 57 of the laws of 2009, is
7 amended to read as follows:

8 2. Such regulations may provide for examinations, categories of
9 certificates, licenses, or registrations, age and experience require-
10 ments, payment of fees, and may also provide for such limitations and
11 exemptions as the commissioner finds necessary and proper. In the case
12 of blasters and pyrotechnicians, such regulations may require finger-
13 printing, and in the case of users of radioactive material, such regu-
14 lations may require the posting of a bond or other security, AND IN THE
15 CASE OF CRANE OPERATORS, SUCH REGULATIONS SHALL INCLUDE, BUT NOT BE
16 LIMITED TO, REQUIREMENTS THAT AN APPLICANT SHALL (A) HAVE RECEIVED
17 CERTIFICATION FROM THE NATIONAL COMMISSION FOR THE CERTIFICATION OF
18 CRANE OPERATORS OR ANY OTHER ORGANIZATION FOUND BY THE COMMISSIONER TO
19 OFFER AN EQUIVALENT TESTING AND CERTIFICATION PROGRAM MEETING THE
20 REQUIREMENTS OF THE APPROPRIATE AMERICAN SOCIETY OF MECHANICAL ENGINEERS
21 ASME B30 STANDARD AND THE ACCREDITATION REQUIREMENTS OF THE NATIONAL
22 COMMISSION FOR CERTIFYING AGENCIES, OR THE AMERICAN NATIONAL STANDARDS
23 INSTITUTE; (B) HAVE A PRACTICAL KNOWLEDGE OF CRANE MAINTENANCE AND (C)
24 MAINTAIN A CURRENT MEDICAL EXAMINER'S CERTIFICATION CARD. CERTIFICATION
25 OF COMPETENCE SHALL BE VALID FOR A PERIOD OF FIVE YEARS; AFTER SUCH TIME
26 SUCH CERTIFICATE SHALL BE RENEWED IF THE APPLICANT PROVIDES PROOF OF
27 RECERTIFICATION PURSUANT TO THE PROCESS ADOPTED PURSUANT TO THIS SUBDI-
28 VISION. ANY CERTIFICATE OF COMPETENCE ISSUED PURSUANT TO THIS ARTICLE
29 PRIOR TO DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHT SHALL REMAIN VALID
30 UNTIL THE EARLIER OF THE FOLLOWING: (I) DECEMBER THIRTY-FIRST, TWO THOU-
31 SAND ELEVEN OR (II) THE EXPIRATION DATE OF THE CERTIFICATE OF
32 COMPETENCE.

33 S 4. Section 483 of the general business law is amended by adding a
34 new subdivision 5 to read as follows:

35 5. THE CRANE OPERATING EXAMINING BOARD CREATED PURSUANT TO THIS
36 SECTION SHALL CONSIST OF SEVEN MEMBERS, APPOINTED BY THE GOVERNOR, WHO
37 ARE RESIDENTS OF THE STATE, CONSISTING OF THE COMMISSIONER OF LABOR OR
38 HIS OR HER DESIGNEE, AS THE CHAIRPERSON; ONE PERSON REPRESENTING THE
39 HEAVY HIGHWAY UTILITY OR TRANSPORTATION CONTRACTING INDUSTRY WHOSE BUSI-
40 NESS ENTERPRISE OR EMPLOYER EMPLOYS CRANE OPERATORS; AND ONE PERSON
41 REPRESENTING THE BUILDING CONTRACTING INDUSTRY WHOSE BUSINESS ENTERPRISE
42 OR EMPLOYER EMPLOYS CRANE OPERATORS. AT LEAST THREE MEMBERS OF THE BOARD
43 SHALL BE LICENSED CRANE OPERATORS WHO HAVE BEEN ACTIVELY ENGAGED IN
44 CRANE RELATED OPERATIONS IN THIS STATE FOR AT LEAST FIVE YEARS IMME-
45 DIATELY PRECEDING THEIR APPOINTMENT. NO MORE THAN TWO OF SUCH MEMBERS
46 SHALL BE MEMBERS OF A UNION. THE GOVERNOR SHALL APPOINT EACH BOARD
47 MEMBER FOR A TERM OF THREE YEARS, EXCEPT THAT OF THE MEMBERS FIRST
48 APPOINTED, TWO SHALL SERVE FOR TERMS OF THREE YEARS, TWO SHALL SERVE FOR
49 TERMS OF TWO YEARS AND TWO SHALL SERVE TERMS OF ONE YEAR. EACH MEMBER
50 SHALL HOLD OFFICE UNTIL HIS OR HER SUCCESSOR HAS BEEN QUALIFIED. ANY
51 VACANCY IN THE MEMBERSHIP OF THE BOARD SHALL BE FILLED FOR THE UNEXPIRED
52 TERM IN THE MANNER PROVIDED FOR THE ORIGINAL APPOINTMENT. NO MEMBER OF
53 THE BOARD MAY SERVE MORE THAN TWO SUCCESSIVE TERMS, IN ADDITION TO ANY
54 UNEXPIRED TERM TO WHICH HE OR SHE HAS BEEN APPOINTED. THE TERMS OF THE
55 MEMBERS OF THE BOARD AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE
56 DEEMED EXPIRED AS OF DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHT;

1 PROVIDED, HOWEVER, THAT SUCH MEMBERS MAY BE REAPPOINTED PURSUANT TO THIS
2 SUBDIVISION. THOSE MEMBERS WHICH ADMINISTER AND OVERSEE EXAMINATIONS
3 PURSUANT TO THIS SECTION SHALL NOT BE PERMITTED TO HEAR APPEALS OF THE
4 DENIAL OF CERTIFICATION.

5 S 5. Paragraph a of subdivision 1 of section 483 of the general busi-
6 ness law, as amended by section 19 of part CC of chapter 57 of the laws
7 of 2009, is amended to read as follows:

8 a. The commissioner of labor is hereby authorized and directed to
9 prescribe such rules and regulations as may be necessary and proper for
10 the administration and enforcement of this article with respect to
11 lasers, crane operators, blasters and pyrotechnicians. PROVIDED THAT IN
12 THE CASE OF CRANE OPERATORS, THE COMMISSIONER MAY REFUSE TO GRANT OR MAY
13 SUSPEND OR REVOKE A CRANE OPERATOR'S LICENSE UPON PROOF TO THE SATISFAC-
14 TION OF THE COMMISSIONER THAT THE HOLDER THEREOF HAS (A) OBTAINED A
15 CERTIFICATION OR LICENSE BY FRAUD OR DECEIT; (B) FRAUDULENTLY OR DECEIT-
16 FULLY PERFORMED WORK FOR WHICH A LICENSE IS REQUIRED UNDER THIS ARTICLE;
17 (C) COMMITTED AN ACT OF GROSS NEGLIGENCE; (D) FALSELY ADVERTISED; (E)
18 ACTED IN A MANNER WHICH DEMONSTRATES INCOMPETENCE OR (F) CAUSED OR
19 CONTRIBUTED IN ANY MANNER THAT DIRECTLY OR INDIRECTLY RESULTED IN AN
20 INJURY TO A PERSON OR DAMAGE TO PROPERTY.

21 S 6. This act shall take effect immediately, provided that section
22 two of this act shall take effect on the same date and in the same
23 manner as section 18 of part CC of chapter 57 of the laws of 2009, takes
24 effect.