S T A T E O F N E W Y O R K

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:

Section 1. Subdivision 1 of section 482 of the general business law, as amended by section 2 of part B of chapter 58 of the laws of 2006, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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