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2009-2010 Regular Sessions

I N   A S S E M B L Y

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Introduced by M. of A. TOWNSEND, BACALLES, CALHOUN, CORWIN, TOBACCO,  
SALADINO -- Multi-Sponsored by -- M. of A. BURLING, FINCH, McDONOUGH  
-- read once and referred to the Committee on Labor

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

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

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

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

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

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

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

1 DEEMED EXPIRED AS OF DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHT;  
2 PROVIDED, HOWEVER, THAT SUCH MEMBERS MAY BE REAPPOINTED PURSUANT TO THIS  
3 SUBDIVISION. THOSE MEMBERS WHICH ADMINISTER AND OVERSEE EXAMINATIONS  
4 PURSUANT TO THIS SECTION SHALL NOT BE PERMITTED TO HEAR APPEALS OF THE  
5 DENIAL OF CERTIFICATION.

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

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

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