

FINAL BILL REPORT

ESHB 2171

C 27 L 07

Synopsis as Enacted

Brief Description: Regarding crane safety.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Eddy, Conway, Campbell, Hankins, Sells, Ormsby, Moeller, Ericks, Roberts, Darneille, Hunt, Blake, Kessler, Rolfes, Flannigan, O'Brien, Hurst, Buri, Williams, Grant, Chandler, Hasegawa, Simpson, Santos, Barlow, Morrell, Fromhold, Priest, Lantz, Strow, B. Sullivan, Cody, Hinkle, Eickmeyer, Haigh, Anderson, Appleton, Kenney, Chase, McCoy, Walsh, Haler, Kelley, Springer, Newhouse, Dunshee, Linville, McIntire, Lovick, Sump, Kirby, Schual-Berke, Kagi, Quall, Ahern, Pettigrew, VanDeWege, Condotta, Green, Seaquist, Dickerson, P. Sullivan and Sommers).

House Committee on Commerce & Labor

Senate Committee on Labor, Commerce, Research & Development

Background:

Washington Industrial Safety and Health Act.

Generally, workplace safety is governed by the federal Occupational Safety and Health Act (OSHA). The federal Occupational Safety and Health Administration within the federal Department of Labor administers the OSHA. However, Washington is a "state plan state" under the federal OSHA. As a state plan state, Washington is authorized to assume responsibility for occupational safety and health in the state.

The Department of Labor and Industries (Department) administers and enforces the Washington Industrial Safety and Health Act (WISHA). The WISHA directs the Department to adopt rules governing safety and health standards for workplaces covered by the WISHA. To maintain its status as a state plan state, Washington's safety and health standards must be at least as effective as standards adopted or recognized under the OSHA.

State Crane Regulations.

Under the WISHA, the Department has adopted rules related to safety standards in construction work. These rules include rules related to cranes. Under Department rule, an employer is required to comply with manufacturer's specifications and limitations applicable to the operation of any and all cranes and derricks. If manufacturer's specifications are not available, limitations assigned to the equipment must be based on determinations of a qualified engineer.

In addition, an employer is required to designate a competent person to inspect all machinery and equipment prior to each use and periodically during use, to make sure it is in safe

operating condition. Any deficiencies must be repaired, or defective parts replaced, before continued use. A thorough, annual inspection by a competent person, or by a government or private agency recognized by the Department is also required. The employer must maintain a permanent record of the dates and results of all inspections.

"Competent person" is defined in rule as one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective action to eliminate them.

Under the WISHA, the Department also has created, by rule, a specific program for cranes used in the maritime industry. Under this program, the Department recognizes certain crane certifiers as accredited crane certifiers. Accredited crane certifiers are authorized to conduct certain tests, inspections, and examinations, and to issue corresponding certificates for cranes used in the maritime industry.

Federal Activity.

Negotiated rule-making is a process authorized under the federal Negotiated Rulemaking Act. Under the federal law, a federal agency is authorized to establish a negotiated rule-making committee when the agency determines that a negotiated rule-making committee can adequately represent the interests that will be significantly affected by a proposed rule and that it is feasible and appropriate in the particular rule-making. The federal agency chooses participants on the committee and committee meetings are announced and open to the public. To adopt rules proposed by a negotiated rule-making committee, a federal agency must engage in the official rulemaking process, including notice of proposed rule-making, opportunity for public comment, and promulgation of a final rule.

In June 2003, the federal Department of Labor established a Crane and Derrick Negotiated Rulemaking Committee to develop a proposal to use as the basis for a federal rule-making on new safety standards for cranes and derricks.

In 2004 the federal Department of Labor announced that the Crane and Derrick Negotiated Rulemaking Committee had reached a consensus on a proposal for new federal crane rules. The consensus document contains a variety of general safety standards related to cranes, including crane operator requirements. The consensus document does not address crane certification.

Summary:

The Department of Labor and Industries (Department) is required to establish, by rule, a crane certification program and qualified crane operator requirements.

Crane Certification.

The Department must establish, by rule, a crane certification program for cranes used in construction. In establishing rules, the Department must consult nationally recognized crane standards.

Minimum requirements for the crane certification program are created. The crane certification program must include:

- certification requirements for crane inspectors;
- a process for certified crane inspectors to issue temporary certificates of operation for a crane and the Department to issue a final certificate of operation for a crane;
- a requirement that cranes are inspected and load-proof tested by a certified crane inspector at least annually and after any significant modification or significant repairs of structural parts;
- a requirement that tower cranes and tower crane assembly parts are inspected by a certified crane inspector both prior to assembly and following erection of the tower crane on a new site;
- a requirement that, before installation of a nonstandard tower crane base, the engineering design of the nonstandard base must be reviewed and acknowledged as acceptable by an independent professional engineer;
- a requirement that notice be provided to the Department if a crane does not meet safety and health standards; and
- a requirement that inspection reports including all information and documentation obtained from a crane inspection be made available or provided to the Department by a certified crane inspector upon request.

Any crane operated in the state must have a valid temporary or final certificate of operation issued by the certified crane inspector or Department posted in the operator's cab or station. Certificates of operation issued by the Department under the crane certification program are valid for one year from the effective date of the temporary operating certificate issued by the certified crane inspector.

The crane certification program does not apply to maritime cranes regulated by the Department.

Crane Operators.

Generally, an employer or contractor must not allow a crane operator to operate a crane unless the crane operator is a qualified crane operator, as established by the Department in rule. Procedures are created, however, for allowing an operator who is not a qualified crane operator to operate with supervision.

The qualified crane operator standards established by the Department in rule must include the following minimum requirements:

- the crane operator must have a valid crane operator certificate for the type of crane to be operated, issued by a crane operator testing organization accredited by a nationally recognized accrediting agency and recognized by the Department. The organization must administer written and practical examinations and have procedures for recertification that enable the crane operator to recertify at least every five years;
- the crane operator must have up to 2000 hours of documented crane operation experience, based on the crane type and capacity as determined by the Department; and

- the crane operator must pass a substance abuse test conducted by a recognized laboratory service.

A person who does not meet qualified crane operator requirements may operate a crane when:

- the person has been provided with training prior to operating the crane that enables him or her to operate the crane safely;
- the person performs operating tasks that are within his or her ability, as determined by the supervising qualified crane operator; and
- the person is under the direct and continuous supervision of a qualified crane operator.

A supervising crane operator must:

- be an employee or agent of the employer;
- be familiar with the proper use of the crane's controls;
- perform no tasks that detract from the ability to supervise;
- be in direct line of sight and communicate verbally or by hand signals, for equipment other than tower cranes; and
- be in direct communication, for tower cranes.

The Department may recognize certification from another state or territory of the United States as equivalent to qualified crane operator requirements if the Department determines that the other jurisdiction's credentialing standards are substantially similar to the Department's qualified crane operator requirements.

Votes on Final Passage:

House	97	0
Senate	39	8

Effective: January 1, 2010