
Commerce & Labor Committee

HB 2171

Brief Description: Regarding crane safety.

Sponsors: 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.

Brief Summary of Bill

- Requires the Department of Labor and Industries (Department) to establish a crane certification program.
- Requires the Department to establish qualified crane operator requirements.
- Prohibits an employer or contractor from allowing a person who does not meet qualified crane operator requirements to operate a crane without direct supervision.

Hearing Date: 2/20/07

Staff: Sarah Beznoska (786-7109).

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 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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 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. A person seeking accreditation must file an application for accreditation with the Department and the Department approves or denies the application. Accreditation from the Department is valid for three years.

Federal Activity

Negotiated rule-making is a process authorized under the federal Negotiated Rule-making 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.

Decisions by a negotiated rule-making committee are made by consensus, which is defined as unanimous concurrence among the interests represented on a negotiated rule-making committee, unless the committee:

- agrees to define such term to mean a general but not unanimous concurrence; or
- agrees upon another specified definition.

To adopt rules proposed by a negotiated rule-making committee, a federal agency must engage in the official rule-making 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 Rule-making Committee" to participate in a negotiated rule-making process and 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 Rule-making Committee had reached a consensus on a proposal for new 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 of Bill:

The Department of Labor and Industries (Department) is required to establish 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 third-party crane inspectors;
- a process for certified third-party 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 third-party 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 third-party crane inspector both prior to assembly and following erection of the tower crane on a new site;
- a requirement that crane owners have an independent professional engineer review and approve the plans for any non-standard tower crane base prior to certification;
- notification to the Department if a crane does not meet safety and health standards; and
- a prohibition on certified third-party crane inspectors inspecting a crane in which the crane inspector or his or her employer has a direct or indirect financial interest.

Any crane operated in the state must have a valid certificate of operation issued by the Department posted in the operator's cab or station. Certificates of operation issued by the Department are valid for one year from the date of issuance.

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.

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 re-certification that enable the crane operator to re-certify at least every five years;
- the crane operator must have up to two thousand 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.

Procedures are created for allowing an operator who does not meet qualified crane operator requirements to operate a crane. A person who does not meet qualified crane operator requirements may operate a crane when:

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

When supervising an apprentice operator or trainee, the supervising qualified crane operator must:

- be an employee or agent of the employer of the apprentice operator or trainee;
- 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 qualified crane operator requirements.

Definition of Crane and Application of Requirements

"Crane" is generally defined as power-operated equipment used in construction that can hoist, lower, and horizontally move a suspended load.

Crane includes, but is not limited to: articulating cranes, such as knuckle-boom cranes; crawler cranes; floating cranes; cranes on barges; locomotive cranes; mobile cranes, such as wheel-mounted, rough-terrain, all-terrain, commercial truck mounted, and boom truck cranes;

multipurpose machines when configured to hoist and lower and horizontally move a suspended load by means of a winch or hook; industrial cranes, such as carry-deck cranes; dedicated pile drivers; service/mechanic trucks with a hoisting device; a crane on a monorail; tower cranes, such as fixed job, hammerhead boom, luffing boom, and self-erecting; pedestal cranes; portal cranes; overhead and gantry cranes; straddle cranes; side-boom tractors; derricks; and variations of such equipment.

A specific list of exemptions is created. The crane certification requirements and the crane operator requirements do not apply to:

- a crane while it has been converted or adapted for a non-hoisting or non-lifting use including, but not limited to, power shovels, excavators, and concrete pumps;
- power shovels, excavators, wheel loaders, backhoes, loader backhoes, and track loaders when used with or without chains, slings, or other rigging to lift suspended loads;
- automotive wreckers and tow trucks when used to clear wrecks and haul vehicles;
- service trucks with mobile lifting devices designed specifically for use in the power line and electric service industries, such as digger derricks (radial boom derricks), when used in the power line and electric service industries for auguring holes to set power and utility poles, or handling associated materials to be installed or removed from utility poles;
- equipment originally designed as vehicle-mounted aerial devices (for lifting personnel) and self-propelled elevating work platforms;
- hydraulic jacking systems, including telescopic/hydraulic gantries;
- stacker cranes;
- powered industrial trucks (forklifts);
- mechanic's truck with a hoisting device when used in activities related to equipment maintenance and repair;
- equipment that hoists by using a come-along or chainfall;
- dedicated drilling rigs;
- gin poles used for the erection of communication towers;
- tree trimming and tree removal work;
- anchor handling with a vessel or barge using an affixed A- frame; and
- roustabouts.

Rules Authority: The Department of Labor and Industries must adopt rules to implement the act, including specific rules for the crane certification program and qualified crane operator requirements.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2010.