

SENATE BILL REPORT

SB 6171

As of January 27, 2020

Title: An act relating to the disassembly of tower cranes.

Brief Description: Concerning the disassembly of tower cranes.

Sponsors: Senators Keiser, Conway, Carlyle, Saldaña, Hasegawa, Pedersen, Frockt and Hunt.

Brief History:

Committee Activity: Labor & Commerce: 1/20/20.

Brief Summary of Bill

- Requires the Department of Labor and Industries to be present at every tower crane disassembly to ensure approved procedures are followed.
- Establishes a crane disassembly fee.
- Adds an additional civil penalty for a violation of the Washington Industrial Safety and Health Act during crane disassembly that causes a fatality.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Jarrett Sacks (786-7448)

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 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 (L&I) administers and enforces the Washington Industrial Safety and Health Act (WISHA). WISHA directs L&I to adopt rules governing safety and health standards for workplaces covered by 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 OSHA.

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.

Crane Safety. In 2007, legislation was enacted requiring L&I to establish, by rule, a crane certification program and qualified crane operator requirements. Crane owners must ensure cranes are inspected and load proof tested by a certified crane inspector at least annually and after any significant modification or repair of structural parts. Tower cranes and tower crane assembly parts must be inspected both prior to assembly and following erection of the tower crane. A certified crane inspector must notify L&I if the inspector finds the crane does not meet safety or health standards.

Operation of a crane by a non-qualified crane operator is prohibited. L&I establishes, by rule, the requirements to be a qualified crane operator. Qualified crane operators must have a valid crane operator certificate, for the type of crane being operated, issued by a crane operator testing organization which has an accredited program. The operator certification must include successful passing of a written and practical examination. Qualified crane operators must also have a certain number of hours of experience, which depends on the type of crane being operated, and pass a substance abuse test.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): The disassembly of a tower crane without L&I present to ensure approved tower crane disassembly procedures are followed by the employers and workers on the work site is prohibited. An assembly/disassembly director must provide 48 hours notice to L&I prior to the disassembly of the tower crane. A violation of the notification requirement or the requirement that L&I be present for crane disassembly is a willful violation of WISHA.

Any additional inspection personnel hired by L&I to comply with the bill must be assigned to the county in which the most tower cranes are assembled. However, L&I may temporarily assign the personnel to other counties.

The state and L&I are not liable for civil damages from any act or omission in ensuring approved tower crane disassembly procedures are followed by employers and workers. The bill does not relieve any employer of the duty to provide a safe and healthy workplace free from recognized hazards.

L&I may assess a fee, not to exceed \$1,000, paid by the crane user, for each disassembly under the crane user's control. Receipts from the fee are deposited into the accident account and must be used towards ensuring inspection personnel are onsite for every crane disassembly.

If an employer is found to have violated WISHA during the disassembly of a tower crane and the violation is the proximate cause of a fatality or fatalities, the employer is subject to an additional WISHA penalty of \$50,000.

Appropriation: None.

Fiscal Note: Requested on January 13, 2020.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute: PRO: Individuals in the industry have serious concerns that the bill is trying to address. The bill adds an additional fine for fatalities because the public needs to be protected. Tower cranes mostly exist in heavily populated areas. The crane accident in Seattle killed two members of the public. It is important to ensure the rules are being followed.

CON: The stakeholder process should be used to solve this issue. L&I has already opened up rulemaking and that is what should be used. The bill is a significant policy shift and stakeholders should be engaged. The bill does not allow for disassembly earlier due to emergencies. Not enough people are qualified in the state in order to implement the bill. These employees are hard to find. Bill is unclear on L&I's authority when they are on the site.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Chris McClain, Ironworkers Local 86 Business Manager.

CON: Christine Brewer, Associated General Contractors of Washington; Thom Sickelsteel, National Commission for the Certification of Crane Operators; Chris Smith, Morrow Cranes.

Persons Signed In To Testify But Not Testifying: PRO: R.Brad Solheim, citizen.