

# SENATE BILL REPORT

## 2SHB 2022

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As Passed Senate - Amended, February 23, 2024

**Title:** An act relating to construction crane safety.

**Brief Description:** Concerning construction crane safety.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Reed, Berry, Ryu, Ormsby, Reeves and Santos).

**Brief History:** Passed House: 2/9/24, 77-20.

**Committee Activity:** Labor & Commerce: 2/15/24 [DP, w/oRec].

**Floor Activity:** Passed Senate - Amended: 2/23/24, 48-0.

### Brief Summary of Bill (As Amended by Senate)

- Requires a prime contractor to obtain a permit before performing any work involving the operation, assembly, disassembly, or reconfiguration of a tower crane.
- Establishes procedures and requirements for a valid permit, including requirements for safety conferences, inspections, and notifications.
- Creates criminal penalties for certain violations.
- Requires local governments to align permit issuance for street closures and provide certain notices when a tower crane is being assembled, disassembled, or reconfigured.
- Requires tower crane manufacturers and distributors to make available certain operational and safety information about tower cranes located in the state.

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## SENATE COMMITTEE ON LABOR & COMMERCE

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

**Majority Report:** Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Hansen and Stanford.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Braun, MacEwen and Schoesler.

**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. Washington is a state plan state under 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) and 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.

Crane Safety. State law requires 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. State law also specifies when apprentice crane operators and trainees may operate cranes.

**Summary of Amended Bill:** Permitting. L&I must establish, by rule, a permit for the performance of any work involving the operation, assembly, disassembly, or reconfiguration of a tower crane, which must, at a minimum:

- require a complete application;
- require a safety conference prior to issuance of the permit;
- require L&I to issue or deny the permit;
- allow L&I to suspend or revoke the permit;
- require L&I to provide written notice of a denial, suspension, or revocation of a permit and specifying the reason;

- allow appeals of permit denials, suspensions, or revocations;
- require advance notification to L&I of any assembly, disassembly, or reconfiguration of a tower crane and require confirmation from the department to proceed;
- allow L&I require additional information or updated safety conferences before issuing a confirmation to proceed;
- require L&I to inspect permitted activities for the tower crane once assembled, following any reconfiguration, or any other permitted activities; and
- require that if L&I identifies deficiencies that directly affect the structural integrity or safe operation of a tower crane, the deficiencies be addressed immediately, and the tower crane not be operated until the deficiencies are corrected.

Beginning January 1, 2026, a prime contractor must obtain a permit from L&I prior to performing, or allowing the performance of, any work involving the operation, assembly, disassembly, or reconfiguration of a tower crane. L&I may allow exceptions. The prime contractor must possess a permit at all times a tower crane is present on a construction worksite.

The application for a permit must include information needed to ensure safety and establish responsibility for the operation, assembly, disassembly, and reconfiguration of a tower crane, including information such as:

- the name of the assembly/disassembly director;
- beginning the later of January 1, 2027, or 12 months after an assembly/disassembly director program is approved by a nationally accredited organization recognized by L&I, a copy of the assembly/disassembly director's national assembly/disassembly director certification; and
- prime contractor's certification that all assembly, disassembly, and reconfigurations will be performed with a technical representative for the tower crane distributor or manufacturer present.

Before issuing a permit, L&I must complete a safety permit conference. L&I must establish the information and materials required to be submitted prior to the safety conference, the information and material required to be reviewed at the safety conference, and the required attendees at the safety conference.

During the safety conference, the following must be evaluated:

- potential risks of the procedures and measures taken to minimize risks;
- written accident prevention programs;
- the written job plan; and
- for each employee directly involved with the permitted work, review of their experience and qualifications.

L&I must issue a permit within five working days of the safety conference if the application materials and safety conference materials are complete. If either are incomplete, the prime contractor must be provided with a written list of the outstanding materials before leaving the conference. L&I must issue the permit within five working days of receiving

outstanding materials. L&I may issue conditional permits.

L&I must deny a permit if the permit applicant has a record of safety and health violations that indicate the applicant may not be maintaining a safe worksite or operation.

L&I must suspend or revoke a permit if the permit holder:

- fails to comply with any occupational safety and health standard or regulation involving tower cranes;
- fails to notify L&I in advance as required;
- fails to ensure that a technical representative was present during assembly, disassembly, or reconfiguration;
- fails to immediately correct deficiencies directly affecting the structural integrity of the tower crane, or fails to correct deficiencies directly affecting the safe operation of the tower crane; or
- refuses L&I entry to a worksite that contains activity for which a permit is required.

Administrative procedures are established for appealing the denial, suspension, or revocation of a permit.

Department of Labor and Industries Rulemaking. L&I must adopt rules, including:

- a process for determining when L&I will be present for the assembly, disassembly, and reconfiguration of a tower crane;
- requirements for the prime contractor to ensure that a qualified technical representative will be present during assembly, disassembly, and reconfiguration;
- requirements for the presence of an assembly/disassembly director at every assembly, disassembly, and reconfiguration and requirements for qualifications of an assembly/disassembly director;
- conducting inspections;
- establishing maximum allowable wind speed for tower crane assembly, disassembly, and reconfiguration;
- requirements for a written job plan; and
- establishing effective stop work procedures that ensure the authority of any employee to refuse or delay tasks related to a tower crane that the employee believes could reasonably result in serious physical harm or death.

L&I may adopt rules for permitting fees, and fees must be deposited in the industrial insurance trust funds.

Manufacturer Instructions and Guidelines. A tower crane manufacturer and distributor must provide all relevant operation instructions and guidelines for the safe use and maintenance of the manufacturer's or distributor's tower cranes located in the state to any person who requests access to the materials. L&I must determine the required information, format, and distribution channel of the materials. Information must be provided in a reasonable timeframe as determined by L&I.

Criminal Penalties. An employer is guilty of a misdemeanor if the employer:

- allows any person to engage in the assembly, disassembly, or reconfiguration of a tower crane without direct supervision by a qualified assembly/disassembly director; or
- allows a tower crane to be assembled, disassembled, or reconfigured not in accordance with manufacturer operation instructions or written procedures from a registered professional structural engineer.

Street Closures and Notice. When a worksite contains a tower crane, the local government in which the tower crane is located must do the following before any assembly, disassembly, or reconfiguration occurs:

- align permit issuance for street closures with the definition of assembly/disassembly work zone;
- issue street closure permits with consideration allowing for sufficient time to safely conduct assembly, disassembly, or reconfiguration; and
- develop permitting procedures that provide notice to residents and occupants of buildings within the assembly/disassembly work zone.

Assembly/disassembly work zone means the total area that the crane, or components or attachments, or both could reach if the crane were to collapse. Height of the crane, length of boom, attachments, and loads, must all be considered to calculate the area.

Maritime Cranes. The provisions of the bill do not apply to cranes used on marine vessels and at ports, terminals and marine facilities for maritime activities regulated by L&I.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The bill takes effect on January 1, 2025.

**Staff Summary of Public Testimony:** No public hearing was held.

**Persons Testifying:** N/A

**Persons Signed In To Testify But Not Testifying:** N/A