

SENATE BILL REPORT

SB 5900

As of January 11, 2024

Title: An act relating to construction crane safety.

Brief Description: Concerning construction crane safety.

Sponsors: Senators Frame, Keiser, Nobles, Saldaña and Valdez.

Brief History:

Committee Activity: Labor & Commerce: 1/11/24.

Brief Summary of Bill

- Requires a prime contractor to obtain a permit from the Department of Labor and Industries (L&I) before performing any work involving the operation, assembly, disassembly, or reconfiguration of a tower crane and requires a safety permit conference prior to permit issuance.
- Establishes the circumstances under which L&I must deny, suspend, or revoke a permit and establishes appeal procedures for appealing L&I decisions.
- Requires notification to L&I in advance of any assembly, disassembly, or reconfiguration of a tower crane and requires L&I to inspect permitted activities.
- Establishes a misdemeanor criminal penalty for certain violations related to the supervision and procedures of assembly, disassembly, and reconfiguration of tower cranes.
- Requires tower crane manufacturers and distributors to make available to the public certain information about tower cranes located in the state.
- Requires municipalities to align permit issuance for street closures and requires the prime contractor to provide certain notices when a tower crane over 36 feet is assembled, disassembled, or reconfigured on a

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jobsite within the municipality.

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. 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 Bill: Permitting. The 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 to the permit requirement. The prime contractor must possess an active and unrestricted permit at all times a tower crane is present on a construction worksite and no tower crane may be operated, assembled, disassembled or reconfigured without a valid permit.

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:

- name and unified business identifier number;
- contact person's name and contact information for overall project safety;
- name of the crane owner;
- name of crane users at the worksite;
- contractor registration number of the prime contractor;
- listing of all parties to be involved with the assembly, disassembly, and reconfigurations of the tower crane;
- beginning January 1, 2027, a copy of the assembly/disassembly director's national certification from an approved national accrediting organization;
- number of employees for the applicant working at the worksite at the time of permit application;
- project anticipated start and end dates;
- crane manufacturer and model;
- an attestation from the prime contractor that they will comply with occupational safety and health standards and all manufacturer operation instructions and guidelines, or guidelines from a registered professional structural engineer;
- certification from the prime contractor that they will comply with all applicable WISHA requirements and that they will post the permit at the worksite;
- a written job plan as required under current law; and
- a certification from the prime contractor that all assembly, disassembly, and reconfigurations will be performed with a safety representative for the tower crane distributor or manufacturer present.

Prior to issuing a permit, L&I must complete a safety permit conference to ensure all parties are aware of the requirements and responsibilities under the permit. The conference must include the permit applicant, assembly/disassembly director, safety representative for the tower crane distributor or manufacturer, representatives of the employees conducting the assembly, disassembly, or reconfiguration of the tower crane and, if the project is a public works projects, representatives of the governmental entity overseeing the project. At a minimum, the following items must be evaluated:

- previous history of safety and health violations, including those violations under other business identities during the previous seven-year period, for the permit applicant and all entities required in the operation, assembly, disassembly, and reconfiguration of the tower crane;
- potential risks of the procedures and specific measures to be taken to minimize the risks;
- written accident prevention programs of the permit applicant and all entities involved in the operation, assembly, disassembly, and reconfiguration of the tower crane;
- applicable tower crane requirements under WISHA and L&I rule;
- the permit applicant's written job plan as required under current law; and
- a written self-attestation of each crane operator's experience and qualifications in the

assembly, disassembly, and reconfiguration of the tower crane being assembled, disassembled, or reconfigured, including an attached copy of the crane operator's license.

Permit holders must notify L&I if there is any change to any crane user or assembly/disassembly director. Permit holders must also notify L&I in advance of any assembly, disassembly, or reconfiguration of the tower crane and receive confirmation from L&I prior to proceeding.

L&I must inspect permitted activities including once a tower crane is assembled or reconfigured. L&I may inspect permitted activities at any time. Deficiencies that directly affect the structural integrity of a tower crane must be addressed immediately to ensure the health and safety of worksite personnel and the public, and deficiencies that directly affect the safe operation of a tower crane must be corrected. The tower crane may not be operated until deficiencies are corrected.

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

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

Procedures for L&I denying, suspending, or revoking a permit are established.

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 an assembly/disassembly director;
- any person to act as an assembly/disassembly director of a tower crane when the person fails to meet all qualifications for the role of assembly/disassembly director as set by L&I; or
- a tower crane to be assembled, disassembled, or reconfigured not in accordance with manufacturer operation instructions and guidelines or written procedures from a registered professional structural engineer.

Tower Crane Certification and Inspections. Tower cranes and assembly parts must be inspected by a certified crane inspector prior to and following every assembly, disassembly, and reconfiguration of a tower crane. Any issues identified throughout the procedure must

be logged with a mitigation plan. If the crane inspector is unable to certify, the procedure may not commence. References to crane owners are changed to crane suppliers.

The Department of Labor and Industries Rulemaking. L&I must adopt rules for tower crane assembly, disassembly, and reconfiguration, including:

- a process for determining when L&I will be present for the assembly, disassembly, and reconfiguration of a tower crane;
- requirements that the prime contractors of construction projects acknowledge all applicable safety orders, crane manufacturer operation instructions and guidelines, and recommended practices prior to the assembly, disassembly, and reconfiguration of a tower crane;
- requirements that the prime contractor of the construction project ensures a qualified safety representative of the distributor or manufacturer will be present during assembly, disassembly, and reconfiguration of a tower crane to assure such procedures are performed in accordance with manufacturer operation instructions and guidelines;
- requiring prime contractors of construction projects to follow crane manufacturer operation instructions and guidelines or alternate plans/instructions approved by a registered professional engineer when assembling, disassembling, and reconfiguring a tower crane;
- requiring the presence of an assembly/disassembly director at every tower crane assembly, disassembly, and reconfiguration to directly oversee all work performed. The assembly/disassembly director may not serve in any other capacity while directly supervising a tower crane assembly, disassembly, or reconfiguration procedure;
- conducting programmed inspections of workplaces that contain tower cranes;
- establishing requirements for the maximum allowable wind speed for tower crane assembly, disassembly, and reconfiguration;
- establishing requirements for a written job plan that addresses the requirements of the manufacturer's manual tailored to the site conditions where the tower crane will be installed, as appropriate for assembly, disassembly, and reconfiguration of a tower crane;
- establishing requirements that must be met to be considered a competent and qualified assembly/disassembly director;
- establishing effective stop work procedures that ensure the authority of any employee, including employees of contractors, to refuse or delay the performance of a task related to a tower crane the employee believes could reasonably result in serious physical harm or death. The rules must ensure that employees who exercise stop work authority are protected from intimidation, retaliation, or discrimination; and
- other rules necessary to implement the bill.

L&I must set fees for permits in an amount sufficient to cover the costs of administering the laws related to tower cranes.

Manufacturer Instructions and Guidelines. Tower crane manufacturers and distributors

must make available to the public all relevant manufacturer operation instructions and guidelines for the safe use and maintenance of all tower cranes located in the state. The prescribed information, format, and distribution channel must be determined by L&I. The materials must be written in English with customary grammar and punctuation and a tower crane manufacturer or distributor must provide the materials to any person upon request. Information must be provided within a reasonable time frame, as determined by L&I.

Street Closures and Notice. When a worksite contains a tower crane over 36 feet, the municipality in which the tower crane is located must, at a minimum, do the following before any assembly, disassembly, or reconfiguration of the tower crane:

- align permit issuance for street closures with the definition of assembly/disassembly work zone; and
- require the permit holder to give notice to residents of buildings within the assembly/disassembly work zone.

Appropriation: None.

Fiscal Note: Requested on January 3, 2024.

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: PRO: The tower crane collapse in 2019 killed four people, and the accident was preventable. Tower cranes often operate in the densest parts of the state. The bill is common sense laws to protect the public. The state has made investments and L&I has worked with stakeholders to examine our regulations and gaps in the regulations. The bill addresses some gaps and addresses issues outside of L&I's rulemaking authority. The bill establishes a permit program and ensures manufacturer instructions are at the worksite. The bill also allows workers to stop work for unsafe conditions and establishes a work zone for street closures.

CON: The bill may inadvertently pull in marine cranes and port operations. There are exemptions for marine cranes in parts of the bill, but not the whole bill, which could impact the supply chain and commerce.

OTHER: L&I took action after the crane collapse to ensure safety standards for cranes. The legislation may have unintended consequences on current rulemaking, which has been ongoing and has had input from various stakeholders. The providing of the operation manual and road closures are good changes. Some changes in the bill are unnecessary and should be left to the rulemaking. The bill does do things that L&I is unable to do with rulemaking, such as requiring permits and street closures.

Persons Testifying: PRO: Senator Noel Frame, Prime Sponsor; Heather Kurtenbach,

Ironworkers Local 86; Andrea and Henry Wang/Wong; William Singhose; Christopher Adams.

CON: Amber Carter, Columbia River Steamship Operators Assn..

OTHER: Josh Swanson, International Union of Operating Engineers, Local 302; Craig Blackwood, Department of Labor & Industries; Maggie Leland, Department of Labor & Industries; Tammy Fellin, Department of Labor & Industries; Jerry VanderWood, AGC of Washington.

Persons Signed In To Testify But Not Testifying: No one.