

HOUSE BILL 1422

C2

9lr3147
CF SB 991

By: **Delegates McHale, Anderson, Barkley, Braveboy, Bromwell, Feldman, Glenn, Hammen, Harrison, Haynes, Healey, Hecht, Heller, Hixson, Hubbard, Hucker, Kirk, Krysiak, Lafferty, Love, Malone, Manno, Minnick, Mizeur, Montgomery, Murphy, Olszewski, Riley, Robinson, Schuler, Stukes, Tarrant, and Vaughn**

Introduced and read first time: February 25, 2009

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 9, 2009

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 4, 2009

CHAPTER _____

1 AN ACT concerning

2 **Business Occupations – Crane Operators – Certificate of Competence**

3 FOR the purpose of prohibiting a person from operating a crane in the State for
4 certain purposes unless the person holds a certain certificate; prohibiting a
5 person from authorizing the operation of a crane in the State for certain
6 purposes unless the crane operator holds a certain certificate; requiring a
7 person who holds a certain certificate to carry the certificate while operating a
8 crane, and to make the certificate available for inspection on request from
9 certain individuals; creating a certain evidentiary presumption related to the
10 certificate; requiring the Commissioner of Labor and Industry, or the
11 Commissioner's agent, ~~or a law enforcement officer~~ to take certain enforcement
12 action under certain circumstances; authorizing the Commissioner to bring a
13 certain action in a certain court under certain circumstances; establishing
14 certain appeal procedures; making a person who violates certain provisions
15 guilty of a misdemeanor subject, on conviction, to ~~certain penalties~~ a certain
16 penalty; requiring the Commissioner to adopt certain regulations; providing a
17 short title for this Act; declaring the intent of the General Assembly; defining
18 certain terms; and generally relating to the regulation of crane operators in the
19 State.

20 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Business Occupations and Professions
 2 Section 9.5–101 through 9.5–107 to be under the new title “Title 9.5. Crane
 3 Operators”
 4 Annotated Code of Maryland
 5 (2004 Replacement Volume and 2008 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Business Occupations and Professions**

9 **TITLE 9.5. CRANE OPERATORS.**

10 **9.5–101.**

11 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 12 INDICATED.

13 (B) “CERTIFICATE OF COMPETENCE” MEANS CERTIFICATION
 14 OBTAINED BY A PERSON THROUGH ANY ORGANIZATION ACCREDITED BY THE
 15 AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI), OR THE NATIONAL
 16 COMMISSION FOR CERTIFYING AGENCIES (NCCA) THAT STATES THE HOLDER
 17 OF THE CERTIFICATE ~~MEETS THE UNITED STATES OCCUPATIONAL SAFETY AND~~
 18 ~~HEALTH ADMINISTRATION’S REQUIREMENTS FOR OPERATING A CRANE~~
 19 DEMONSTRATES KNOWLEDGE OF AND TRAINING IN SAFE CRANE OPERATING
 20 PROCEDURES.

21 (C) “COMMISSIONER” MEANS THE COMMISSIONER OF LABOR AND
 22 INDUSTRY IN THE DIVISION OF LABOR AND INDUSTRY IN THE DEPARTMENT.

23 (D) (1) “CRANE” MEANS A ~~HOISTING MACHINE THAT HAS A~~
 24 ~~POWER-OPERATED WINCH, LOAD LINE, AND BOOM THAT MOVE Laterally BY~~
 25 ~~THE ROTATION OF THE MACHINE ON A CARRIER, AND THAT HAS A~~
 26 ~~MANUFACTURER-RATED LIFTING CAPACITY OF 10 TONS OR MORE MACHINE,~~
 27 FOR LIFTING, LOWERING, AND HORIZONTALLY MOVING A LOAD, THAT HAS A
 28 HOISTING MECHANISM THAT IS AN INTEGRAL PART OF THE MACHINE.

29 (2) “CRANE” INCLUDES TOWER CRANES, ~~HYDRAULIC CRANES,~~
 30 ~~AND POWER-OPERATED DERRICKS.~~

31 (3) “CRANE” DOES NOT INCLUDE:

32 (I) AIRCRAFT;

33 (II) A BUCKET TRUCK;

1 (III) A DIGGER DERRICK TRUCK;

2 (IV) A FORK LIFT;

3 (V) A KNUCKLE BOOM;

4 (VI) A TROLLEY BOOM; ~~OR~~

5 (VII) A HYDRAULIC CRANE;

6 (VIII) A POWER-OPERATED DERRICK; OR

7 ~~(VII)~~ (IX) A PUBLIC UTILITY COMPANY LINE TRUCK USED BY
8 A PUBLIC UTILITY COMPANY IN THE CONSTRUCTION OR MAINTENANCE OF ITS
9 TRANSMISSION AND DISTRIBUTION LINES.

10 (E) "CRANE OPERATOR" MEANS A PERSON WHO OPERATES A CRANE.

11 (F) (1) "OPERATE A CRANE" MEANS TO USE MECHANISMS INSIDE A
12 CRANE TO GUIDE THE MACHINE IN:

13 (I) THE LIFTING, MOVING, POSITIONING, AND PLACING OF
14 LARGE AND HEAVY OBJECTS, EARTH, OR OTHER MATERIALS; OR

15 (II) THE DRIVING OF LARGE OBJECTS OR MATERIALS INTO
16 THE GROUND.

17 (2) "OPERATE A CRANE" INCLUDES:

18 (I) THE INSPECTION OF A CRANE;

19 (II) ASSISTING IN THE ERECTION, ADDING TO, OR
20 DISMANTLING OF A CRANE; AND

21 (III) THE PERFORMANCE OF ROUTINE MAINTENANCE ON A
22 CRANE.

23 (3) "OPERATE A CRANE" DOES NOT INCLUDE THE MOVEMENT OF
24 A CRANE ON A STATE HIGHWAY FROM ONE LOCATION TO ANOTHER LOCATION.

25 **9.5-102.**

26 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON MAY NOT:

1 (1) OPERATE A CRANE IN THE STATE FOR THE PURPOSE OF
 2 CONSTRUCTION WORK OR DEMOLITION WORK UNLESS THE PERSON HOLDS A
 3 CERTIFICATE OF COMPETENCE; OR

4 (2) AUTHORIZE A PERSON TO OPERATE A CRANE IN THE STATE
 5 FOR THE PURPOSE OF CONSTRUCTION WORK OR DEMOLITION WORK UNLESS
 6 THE OPERATOR HOLDS A CERTIFICATE OF COMPETENCE.

7 **9.5-103.**

8 (A) A CRANE OPERATOR WHO HOLDS A CERTIFICATE OF COMPETENCE
 9 SHALL:

10 (1) CARRY THE CERTIFICATE OF COMPETENCE WHILE
 11 OPERATING A CRANE IN THE STATE; AND

12 (2) MAKE THE CERTIFICATE OF COMPETENCE AVAILABLE FOR
 13 INSPECTION ON REQUEST BY THE COMMISSIONER, AN AGENT OF THE
 14 COMMISSIONER, OR BY A LAW ENFORCEMENT OFFICER.

15 (B) THE FAILURE OF A CRANE OPERATOR TO MAKE THE CERTIFICATE
 16 OF COMPETENCE AVAILABLE FOR INSPECTION ON REQUEST AS REQUIRED
 17 UNDER PARAGRAPH (A)(2) OF THIS SUBSECTION SHALL BE PRESUMPTIVE
 18 EVIDENCE THAT THE CRANE OPERATOR DOES NOT HOLD A CERTIFICATE OF
 19 COMPETENCE.

20 **9.5-104.**

21 (A) IN ADDITION TO THE POWERS CONFERRED UNDER THIS TITLE, THE
 22 COMMISSIONER MAY USE ALL POWERS CONFERRED BY LAW TO THE
 23 COMMISSIONER TO IMPLEMENT AND ENFORCE THE PROVISIONS OF THIS TITLE.

24 (B) (1) ~~THE COMMISSIONER, OR AN AGENT OF THE COMMISSIONER,~~
 25 ~~OR A LAW ENFORCEMENT OFFICER~~ WHO HAS REASON TO BELIEVE THAT A
 26 PERSON IS OR HAS BEEN OPERATING A CRANE IN THE STATE WITHOUT A VALID
 27 CERTIFICATE OF COMPETENCE SHALL:

28 ~~(1)~~ REQUIRE THE CRANE OPERATOR TO PROVIDE PROOF THAT
 29 THE CRANE OPERATOR HOLDS A CERTIFICATE OF COMPETENCE₂.

30 (2) ~~ISSUE A CITATION IF A CRANE OPERATOR FAILS TO PROVIDE~~
 31 PROOF OF A VALID CERTIFICATE OF COMPETENCE UNDER PARAGRAPH (1) OF
 32 THIS SUBSECTION, THE COMMISSIONER OR THE AGENT OF THE COMMISSIONER
 33 SHALL ISSUE A WRITTEN NOTICE TO THE PERSON FOR THAT:

1 (I) STATES THAT THERE HAS BEEN A VIOLATION OF THIS
 2 TITLE, OR REGULATIONS ADOPTED UNDER IT, IF ANY; AND

3 ~~(3) (II) REQUIRE~~ REQUIRES THE OPERATION OF THE CRANE TO
 4 CEASE UNLESS OPERATED BY A PERSON HOLDING A VALID CERTIFICATE OF
 5 COMPETENCE.

6 (3) IF A PERSON FAILS TO COMPLY WITH A WRITTEN NOTICE
 7 ISSUED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSIONER MAY
 8 BRING AN ACTION TO ENFORCE THE WRITTEN NOTICE IN THE COUNTY WHERE
 9 THE CRANE BEING OPERATED IS LOCATED OR IN THE CIRCUIT COURT OF
 10 BALTIMORE CITY.

11 (C) (1) A PERSON AGGRIEVED BY A DECISION OF THE
 12 COMMISSIONER UNDER THIS SECTION MAY APPEAL TO A COURT OF COMPETENT
 13 JURISDICTION IN ACCORDANCE WITH THE MARYLAND RULES.

14 (2) A DECISION OF THE COMMISSIONER MAY NOT BE STAYED BY
 15 THE FILING OF AN APPEAL UNDER THIS SUBSECTION.

16 **9.5-105.**

17 ~~(A)~~ A PERSON WHO VIOLATES THIS TITLE OR REGULATIONS ADOPTED
 18 UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
 19 SUBJECT TO:

20 ~~(1)~~ A FINE NOT EXCEEDING: \$1,000.

21 ~~(I) \$3,000 FOR A FIRST VIOLATION;~~

22 ~~(II) \$5,000 FOR A SECOND VIOLATION; OR~~

23 ~~(III) \$10,000 FOR A THIRD OR SUBSEQUENT VIOLATION;~~

24 ~~(2) IMPRISONMENT NOT EXCEEDING 30 DAYS; OR~~

25 ~~(3) BOTH A FINE AND IMPRISONMENT UNDER ITEMS (1) AND (2)~~
 26 ~~OF THIS SUBSECTION.~~

27 ~~(B) THE TOTAL AMOUNT OF FINES IMPOSED UNDER THIS SECTION MAY~~
 28 ~~NOT EXCEED \$50,000.~~

29 **9.5-106.**

1 THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT,
2 ADMINISTER, AND ENFORCE THIS TITLE.

3 9.5-107.

4 THIS TITLE SHALL BE KNOWN AS THE "MARYLAND SAFE CRANE
5 OPERATORS ACT".

6 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
7 General Assembly that enactment of the requirement that a person hold a Certificate
8 of Competence to operate a crane in this State be in addition to and compatible with
9 any federal and State law regulating crane operators, the operation of cranes, and the
10 movement of cranes along highways and should not be used in any manner to rescind
11 Federal Motor Carrier Safety Regulations adopted by the State or any other state or
12 local law or regulation regarding the movement of oversize or overweight vehicles on
13 State highways.

14 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.