WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

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ENROLLED

House Bill No. 4004

(By Mr. Speaker, Mr. Kiss, and Delegates Douglas, Vamer, Martin, Stalnaker, Kuhn and Pettit)

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Passed January 17, 2000

In Effect from Passage
ENROLLED

H. B. 4004

(BY MR. SPEAKER, MR. KISS, AND DELEGATES DOUGLAS, VARNER, MARTIN, STALNAKER, KUHN AND PETTIT)

[Passed January 17, 2000; in effect from passage.]

AN ACT to amend and reenact sections two, three and four, article three-d, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, providing for a six-month extension in implementing crane operator certification; permitting temporary certification for an additional six-month period in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That sections two, three and four, article three-d, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3D. CRANE OPERATOR CERTIFICATION ACT.

§21-3D-2. Certification required; exemptions.

1 (a) Commencing with the first day of July, two thousand, and notwithstanding the provisions contained in subsection (b) of this section, a person may not operate a crane with a lifting capacity of five tons or more without certification issued under this article.
(b) A person is not required to obtain certification under this article if the person:

1. Is a member of the armed forces of the United States or an employee of the United States, when such member or employee is engaged in the work of a crane operator exclusively for such governmental unit; or

2. Is primarily an operator of farm machinery who is performing the work of a crane operator as part of an agricultural operation; or

3. Is operating a crane on an emergency basis; or

4. Is operating a crane for personal use and not for profit on the site of real property which the person owns or leases; or

5. Is under the direct supervision of a certified crane operator, and
   (A) Who is enrolled in an industry recognized in-house training course based on the American national standards institute standards for crane operators and who is employed by the entity that either taught the training course or contracted to have the training course taught, all of which is approved by the commissioner; or
   (B) Who is enrolled in an apprenticeship program or training program for crane operators approved by the United States department of labor, bureau of apprenticeship and training;

6. Is an employee of and operating a crane at the direction of any manufacturing plant or other industrial establishment, including any mill, factory, tannery, paper or pulp mill, mine, colliery, breaker or mineral processing operation, quarry, refinery or well, or is an employee of and operating a crane at the direction of the person, firm or corporation who owns or is operating such plant or establishment;

7. Is an employee of a public utility operating a crane to perform work in connection with facilities used to provide a public service under the jurisdiction of the public service
commission, federal energy regulatory commission or federal
communications commission; or

(8) Is operating timbering harvesting machinery associated
with the production of timber and the manufacturing of wood
products.


The commissioner shall:

(a) Propose rules for legislative approval in accordance
with the provisions of article three, chapter twenty-nine-a of
this code, no later than the first day of July, one thousand nine
hundred ninety-eight, which rules at the minimum shall include
provisions for:

(1) Certification of individuals who operate cranes in the
state of West Virginia, which certification process shall include
a written examination and a practical demonstration, and shall
utilize standards no less restrictive than those prescribed by the
American society of mechanical engineers/American national
standards institute safety code as of the effective date of this
article: Provided, That the rule governing the practical exami-
nation shall be a separate rule and shall provide for the imple-
mentation of the practical examination on or before the first day
of July, two thousand one;

(2) Certification categories that shall include lattice boom
truck cranes; lattice boom crawler cranes; small telescoping
boom cranes, with a lifting capacity of at least five tons but not
more than seventeen and one-half tons; and large telescopic
boom cranes, with a lifting capacity greater than seventeen and
two-half tons;

(3) Certification renewal requirements of individuals who
operate cranes in the state of West Virginia, that may not be
more restrictive than those prescribed for the individual’s initial
certification, but shall include a written examination and a
current physician’s certificate at least every five years;

(b) Prescribe application forms for original and renewal
certification;
(c) Set application fees in amounts that are reasonable and necessary to defray the costs of the administration of this article in an amount not to exceed seventy-five dollars per year;

(d) Set examination fees in an amount not to exceed the actual cost of the examination;

(e) Administer or cause to be administered the written examination and practical demonstrations as required for certification;

(f) Determine the standards for acceptable performance on the written examination and practical demonstration: Provided, That the minimum standards shall be consistent with national standards and transferable to other states where possible;

(g) If requested by an individual who fails an examination, provide the person a written analysis of the person’s performance on the examination;

(h) Take other action as necessary to enforce this article.

§21-3D-4. Minimum certification requirements.

(a) The commissioner shall certify an applicant who:

(1) Is at least eighteen years of age;

(2) Meets the application requirements as prescribed by rule;

(3) Passes the written examination;

(4) Passes the practical demonstration: Provided, That any person who documents at least two thousand hours of on-the-job experience operating a crane during the preceding four years next prior to filing for application is entitled to certification without a practical demonstration under this article if the person applies for certification no later than the first day of July, two thousand, meets all other requirements and pays applicable application and examination fees;

(5) Presents the original, or a photographic copy, of a physician’s certificate that he or she is physically qualified to drive a commercial motor vehicle as required by 49 C.F.R.
§391.41 as of the effective date of this article, or an equivalent
physician's certificate as approved by the commissioner; and

(6) Pays the application and examination fees.

(b) Certification issued under this article is valid throughout
the state and is not assignable or transferable, and is valid for
one year from the date on which it was issued.

(c) Notwithstanding any other provision of this section, the
division of labor may issue a temporary certification, to expire
on the first day of January, two thousand one, to an applicant
who: (1) Documents at least two thousand hours of on-the-job
experience during the preceding four years; (2) submits scores
for the written examination; and (3) provides proof of atten-
dance at an approved crane safety training course, in an
application for certification filed not later than the first day of
July, two thousand.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 19th day of , 2000.
PRESENTED TO THE
GOVERNOR
Date: 1/17/00
Time: 2:30p