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# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



# ENROLLED

## House Bill No. 4004

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



Passed January 17, 2000

In Effect from Passage

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LEGISLATIVE SERVICES

**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,
- 2 and notwithstanding the provisions contained in subsection (b)
- 3 of this section, a person may not operate a crane with a lifting
- 4 capacity of five tons or more without certification issued under
- 5 this article.

6 (b) A person is not required to obtain certification under  
7 this article if the person:

8 (1) Is a member of the armed forces of the United States or  
9 an employee of the United States, when such member or  
10 employee is engaged in the work of a crane operator exclu-  
11 sively for such governmental unit; or

12 (2) Is primarily an operator of farm machinery who is  
13 performing the work of a crane operator as part of an agricul-  
14 tural operation; or

15 (3) Is operating a crane on an emergency basis; or

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

18 (5) Is under the direct supervision of a certified crane  
19 operator, and

20 (A) Who is enrolled in an industry recognized in-house  
21 training course based on the American national standards  
22 institute standards for crane operators and who is employed by  
23 the entity that either taught the training course or contracted to  
24 have the training course taught, all of which is approved by the  
25 commissioner; or

26 (B) Who is enrolled in an apprenticeship program or  
27 training program for crane operators approved by the United  
28 States department of labor, bureau of apprenticeship and  
29 training;

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

37 (7) Is an employee of a public utility operating a crane to  
38 perform work in connection with facilities used to provide a  
39 public service under the jurisdiction of the public service

40 commission, federal energy regulatory commission or federal  
41 communications commission; or

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

**§21-3D-3. Powers and duties of commissioner.**

1 The commissioner shall:

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

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

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

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

28 (b) Prescribe application forms for original and renewal  
29 certification;

30 (c) Set application fees in amounts that are reasonable and  
31 necessary to defray the costs of the administration of this article  
32 in an amount not to exceed seventy-five dollars per year;

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

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

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

42 (g) If requested by an individual who fails an examination,  
43 provide the person a written analysis of the person's perfor-  
44 mance on the examination;

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

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

1 (a) The commissioner shall certify an applicant who:

2 (1) Is at least eighteen years of age;

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

5 (3) Passes the written examination;

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

14 (5) Presents the original, or a photographic copy, of a  
15 physician's certificate that he or she is physically qualified to  
16 drive a commercial motor vehicle as required by 49 C.F.R.

17 §391.41 as of the effective date of this article, or an equivalent  
18 physician's certificate as approved by the commissioner; and

19 (6) Pays the application and examination fees.

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

23 (c) Notwithstanding any other provision of this section, the  
24 division of labor may issue a temporary certification, to expire  
25 on the first day of January, two thousand one, to an applicant  
26 who: (1) Documents at least two thousand hours of on-the-job  
27 experience during the preceding four years; (2) submits scores  
28 for the written examination; and (3) provides proof of atten-  
29 dance at an approved crane safety training course, in an  
30 application for certification filed not later than the first day of  
31 July, two thousand.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Martha Zuger Walker  
Chairman Senate Committee  
Member

Joe F. Smith  
Chairman House Committee

Originating in the House.

In effect from passage.

Harold H. Hines  
Clerk of the Senate

Gregory S. Day  
Clerk of the House of Delegates

Carl Ray Tomblin  
President of the Senate

Robert L. Byrd  
Speaker of the House of Delegates

The within approved this the 19th  
day of January, 2000.

Jeff Perdue  
Governor

PRESENTED TO THE

GOVERNOR

Date... 1/17/00

Time... 2:30 p