

1 AN ACT

2 RELATING TO CRANE OPERATORS; AMENDING THE HOISTING OPERATORS  
3 SAFETY ACT TO BE NAMED THE CRANE OPERATORS SAFETY ACT AND TO  
4 REFLECT UPDATED DEFINITIONS AND PRACTICES; PROVIDING AN  
5 EXEMPTION FOR PROPANE TANK INSTALLATION AND MAINTENANCE;  
6 MAKING CONFORMING AND TECHNICAL CHANGES.

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 SECTION 1. Section 60-15-1 NMSA 1978 (being Laws 1993,  
10 Chapter 183, Section 1, as amended) is amended to read:

11 "60-15-1. SHORT TITLE.--Chapter 60, Article 15 NMSA  
12 1978 may be cited as the "Crane Operators Safety Act".

13 SECTION 2. Section 60-15-2 NMSA 1978 (being Laws 1993,  
14 Chapter 183, Section 2) is amended to read:

15 "60-15-2. PURPOSE.--The purpose of the Crane Operators  
16 Safety Act is to promote the general welfare and protect the  
17 lives and property of the people of New Mexico by requiring  
18 persons operating cranes to be trained and licensed when  
19 employed in construction, demolition or excavation work."

20 SECTION 3. Section 60-15-3 NMSA 1978 (being Laws 1993,  
21 Chapter 183, Section 3, as amended) is amended to read:

22 "60-15-3. DEFINITIONS.--As used in the Crane Operators  
23 Safety Act:

24 A. "class I crane operator" means a person who is  
25 authorized to operate a crane of any size or weight;

1           B. "class II crane operator" means a person who is  
2 authorized to operate:

3           (1) a hydraulic crane of up to one hundred  
4 tons lifting capacity with a maximum boom length of one  
5 hundred fifty feet, regardless of mounting or means of  
6 mobility; and

7           (2) any other type or size of crane under  
8 the direct supervision of a class I crane operator;

9           C. "class III crane operator" means a person who  
10 is authorized to work as an apprentice, trainee or crane  
11 oiler or driver under the direct supervision of a class I or  
12 class II crane operator;

13           D. "council" means the crane operators licensure  
14 examining council;

15           E. "crane" means:

16           (1) a conventional crane;

17           (2) a tower crane;

18           (3) a hydraulic crane equipped with a winch,  
19 cable and hook with over one ton lifting capacity;

20           (4) a power-operated derrick; or

21           (5) a mobile, carrier-mounted, track or  
22 crawler type power-operated hoisting machine that is used to  
23 hoist, lower or horizontally and laterally move a suspended  
24 load by means of a winch, cable and hook but does not mean an  
25 excavator or forklift;

1 F. "department" means the regulation and licensing  
2 department;

3 G. "endorsement" means an authorization stamped on  
4 a class I crane operator's license indicating authorization  
5 to operate a conventional crane, a tower crane or a hydraulic  
6 crane of any size or weight;

7 H. "licensee" means a person licensed under the  
8 Crane Operators Safety Act;

9 I. "person" means an individual, firm,  
10 partnership, corporation, association or other organization  
11 or any combination thereof;

12 J. "seat time" means the actual hands-on operation  
13 of a crane by a class II crane operator while under the  
14 direct supervision of a licensed class I crane operator or  
15 the actual hands-on operation of a crane by a class III crane  
16 operator while under the direct supervision of a licensed  
17 class I or II crane operator; and

18 K. "superintendent" means the superintendent of  
19 regulation and licensing."

20 SECTION 4. Section 60-15-4 NMSA 1978 (being Laws 1993,  
21 Chapter 183, Section 4, as amended) is amended to read:

22 "60-15-4. LICENSE REQUIRED--EXEMPTIONS.--

23 A. No person shall operate a crane in  
24 construction, demolition or excavation work unless the person  
25 is licensed under the Crane Operators Safety Act or exempt

1 pursuant to Subsection D of this section.

2 B. Operating a crane without a license shall be  
3 considered unlicensed operation and shall subject the person  
4 who is operating the crane and the person's employer, or the  
5 employer's representative, to penalties as provided in the  
6 Crane Operators Safety Act.

7 C. The licensee and the licensee's employer shall  
8 be subject to applicable regulations controlling the use and  
9 operation of cranes as promulgated by the occupational safety  
10 and health administration, the mine safety and health  
11 administration or the American national standards institute.

12 D. The Crane Operators Safety Act shall not apply  
13 to the operation of a crane used in construction, demolition  
14 or excavation associated with:

15 (1) natural gas gather lines;

16 (2) interstate transmission facilities and  
17 interstate natural gas facilities subject to the federal  
18 Natural Gas Pipeline Safety Act of 1968 and its amendments;

19 (3) interstate pipeline facilities and  
20 carbon dioxide pipeline facilities subject to the federal  
21 Hazardous Liquid Pipeline Safety Act of 1979;

22 (4) gas and oil pipeline facilities subject  
23 to the Pipeline Safety Act;

24 (5) mining, milling or smelting operations  
25 subject to mine safety and health administration regulations

1 or occupational safety and health administration regulations;

2 (6) prefabricated control rooms of natural  
3 gas, oil or carbon dioxide pipeline transmission facilities;

4 (7) oil and gas exploration, production or  
5 drilling;

6 (8) rural electric cooperative and electric,  
7 gas and water utility operations;

8 (9) commercial sign operations;

9 (10) the construction or operation of  
10 railroads;

11 (11) the installation and maintenance of  
12 telephone or television cable; or

13 (12) the installation and maintenance of  
14 propane tanks."

15 **SECTION 5.** Section 60-15-6 NMSA 1978 (being Laws 1993,  
16 Chapter 183, Section 6) is amended to read:

17 "60-15-6. ADMINISTRATION OF ACT.--

18 A. The department shall enforce and administer the  
19 provisions of the Crane Operators Safety Act.

20 B. The department shall adopt rules to carry out  
21 the provisions of the Crane Operators Safety Act and to meet  
22 the occupational safety and health administration crane  
23 certification requirements."

24 **SECTION 6.** Section 60-15-7 NMSA 1978 (being Laws 1993,  
25 Chapter 183, Section 7, as amended) is amended to read:

1 "60-15-7. REQUIREMENTS FOR LICENSURE.--

2 A. The department shall issue a license for a  
3 class I crane operator with an endorsement to an applicant  
4 who files a completed application, accompanied by the  
5 required fees, and who submits satisfactory evidence that the  
6 applicant:

7 (1) is at least twenty-one years of age;

8 (2) has passed a written examination as  
9 prescribed by the department or has successfully completed an  
10 employer's in-house training program approved by the council;

11 (3) has had a physical examination,  
12 including substance abuse testing, within the twelve-month  
13 period preceding the date of application, showing that the  
14 applicant is in satisfactory physical condition for  
15 performing the functions of a class I crane operator; and

16 (4) within the past three years, has  
17 completed at least five hundred hours of seat time in the  
18 type of crane for which the applicant seeks a license and an  
19 endorsement and has successfully passed a practical  
20 examination administered by a council-approved examining  
21 vendor or completed an employer's in-house training course  
22 approved by the council in the type of crane for which the  
23 applicant seeks a license and an endorsement.

24 B. The department shall issue a license for a  
25 class II crane operator to an applicant who files a completed

1 application, accompanied by the required fees, and who  
2 submits satisfactory evidence that the applicant:

3 (1) is at least eighteen years of age;

4 (2) has passed a written examination  
5 prescribed by the department or has successfully completed an  
6 employer's in-house training course approved by the council;

7 (3) has had a physical examination,  
8 including substance abuse testing, within the twelve-month  
9 period preceding the date of application, showing that the  
10 applicant is in satisfactory physical condition for  
11 performing the functions of a class II crane operator; and

12 (4) within the past three years, has  
13 completed at least five hundred hours of seat time in the  
14 actual operation of hydraulic cranes with over ten tons and  
15 up to one hundred tons lifting capacity with a maximum boom  
16 length of one hundred fifty feet, regardless of mounting or  
17 means of mobility, and has successfully passed a practical  
18 examination administered by a council-approved examining  
19 vendor or has completed an employer's in-house training  
20 course approved by the council in the type of crane for which  
21 the applicant seeks a license.

22 C. A class II crane operator who seeks to become  
23 licensed as a class I crane operator shall keep a log book of  
24 the class II crane operator's seat time and must accumulate  
25 fifty hours of seat time under the direct supervision of a

1 class I crane operator.

2 D. The department shall issue a license for a  
3 class III crane operator to an applicant who files a  
4 completed application, accompanied by the required fees, and  
5 who submits satisfactory evidence that the applicant:

6 (1) is at least eighteen years of age;

7 (2) has passed an examination prescribed by  
8 the department; and

9 (3) has had a physical examination,  
10 including substance abuse testing, within the twelve-month  
11 period preceding the date of application, showing that the  
12 applicant is in satisfactory physical condition for  
13 performing the functions of a class III crane operator.

14 E. A class III crane operator who seeks to become  
15 licensed as a class I or class II crane operator shall keep a  
16 log book of the class III crane operator's seat time within  
17 the past three years and must accumulate five hundred hours  
18 of seat time under the direct supervision of a class I or  
19 class II crane operator who is properly licensed in the kind  
20 of crane being operated.

21 F. A class III crane operator shall not operate a  
22 crane unless under the direct supervision of a class I or  
23 class II crane operator who is properly licensed in the type  
24 of crane being operated.

25 G. The department shall recognize an in-house



1 crane operator card issued to an applicant who:

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

3 (2) is participating in an in-house training  
4 course approved by the council; and

5 (3) has had a physical examination,  
6 including substance abuse testing, within the twelve-month  
7 period preceding the date of application, showing that the  
8 applicant is in satisfactory physical condition for  
9 performing the functions of a crane operator.

10 H. A person with an in-house crane operator card  
11 shall only operate a crane for the employer who provided the  
12 approved in-house training course. The employer of a person  
13 with an in-house crane operator card shall provide that  
14 operator with supervision and additional training by a class  
15 I or class II crane operator who is properly licensed in the  
16 type of crane being operated to ensure compliance and safe  
17 operation of the crane pursuant to the Crane Operators Safety  
18 Act.

19 I. An in-house crane operator card shall be valid  
20 for two years and is not subject to extension or renewal."

21 **SECTION 7.** Section 60-15-8 NMSA 1978 (being Laws 1993,  
22 Chapter 183, Section 8, as amended) is amended to read:

23 "60-15-8. LICENSE RENEWAL.--

24 A. A license issued pursuant to Section 60-15-7  
25 NMSA 1978 shall be valid for two years from the date of

1 issuance.

2 B. License renewal procedures shall be prescribed  
3 by the department by rule.

4 C. Any license not renewed by the expiration date  
5 shall be considered expired, and the licensee shall not  
6 operate a crane within the state until the license is  
7 renewed. Operating a crane with an expired license shall be  
8 considered unlicensed operation and shall subject the person  
9 who is operating the crane to the penalties as provided in  
10 the Crane Operators Safety Act.

11 D. The department shall adopt and promulgate rules  
12 for renewal of an expired license and may require the  
13 licensee to reapply as a new applicant."

14 **SECTION 8.** Section 60-15-11 NMSA 1978 (being Laws 1993,  
15 Chapter 183, Section 11, as amended) is amended to read:

16 "60-15-11. FINES--DENIAL, SUSPENSION OR REVOCATION OF  
17 LICENSE--STOP WORK ORDERS--INJUNCTIVE PROCEEDINGS--VIOLATIONS.--

18 A. Notwithstanding any other provision of the  
19 Crane Operators Safety Act, the department upon reasonable  
20 cause that a violation of the provisions of the Crane  
21 Operators Safety Act or a rule adopted pursuant to that act  
22 has occurred that creates a health or safety risk for the  
23 community, which requires immediate action, may issue a stop  
24 work order. At any time after service of the order to stop  
25 work, the person may request a prompt hearing to determine

1 whether a violation occurred. If a person fails to comply  
2 with a stop work order within twenty-four hours, the  
3 department may bring a suit for a temporary restraining order  
4 and for injunctive relief to prevent further violations.

5 B. Whenever the department possesses evidence that  
6 indicates a person has engaged in or intends to engage in an  
7 act or practice constituting a violation of the Crane  
8 Operators Safety Act or a rule adopted pursuant to that act,  
9 the department may seek temporarily or permanently to  
10 restrain or to enjoin the act or practice. The department  
11 shall not be required to post a bond when seeking a temporary  
12 or permanent injunction.

13 C. Unless otherwise provided in the Crane  
14 Operators Safety Act, it is a violation of that act for a  
15 person to:

16 (1) operate, or employ a person to operate,  
17 a crane in construction, demolition or excavation work  
18 without a valid license issued pursuant to the Crane  
19 Operators Safety Act;

20 (2) refuse to comply with a stop work order  
21 issued by the department;

22 (3) refuse or fail to comply with the  
23 provisions of the Crane Operators Safety Act or a rule  
24 adopted pursuant to that act;

25 (4) make a material misstatement in an

1 application for licensure;

2 (5) intentionally make a material  
3 misstatement to the department during an official  
4 investigation;

5 (6) aid or abet another in violating  
6 provisions of the Crane Operators Safety Act or a rule  
7 adopted pursuant to that act;

8 (7) alter or falsify a license issued by the  
9 department; or

10 (8) fail to furnish to the department, its  
11 investigators or its representatives information requested by  
12 the department in the course of an official investigation.

13 D. The department may deny, suspend or revoke a  
14 license for a violation of the rules adopted by the  
15 department pursuant to the Crane Operators Safety Act or for  
16 a violation of the provisions of that act.

17 E. Disciplinary proceedings may be instituted by  
18 sworn complaint by any person, including department staff or  
19 a member of the council, and shall conform with the  
20 provisions of the Uniform Licensing Act.

21 F. The department may issue a citation and fine to  
22 an individual or business for violation of the provisions of  
23 the Crane Operators Safety Act. The amount of such fines and  
24 terms of such orders shall be established by the department  
25 by rule subject to the limitations of Section 60-15-13 NMSA

1 1978."

2 SECTION 9. Section 60-15-12 NMSA 1978 (being Laws 1993,  
3 Chapter 183, Section 12, as amended) is amended to read:

4 "60-15-12. LICENSURE DENIAL, SUSPENSION OR REVOCATION--  
5 HEARING--APPEALS.--The superintendent shall, before denying a  
6 license to an applicant, or revoking or suspending a license  
7 for a violation of any provision of the Crane Operators  
8 Safety Act, provide for a hearing pursuant to the provisions  
9 of the Uniform Licensing Act."

10 SECTION 10. Section 60-15-13 NMSA 1978 (being Laws  
11 1993, Chapter 183, Section 13, as amended) is amended to  
12 read:

13 "60-15-13. CIVIL AND ADMINISTRATIVE PENALTIES.--

14 A. A person who engages in unlicensed operation  
15 may be assessed an administrative penalty not to exceed one  
16 thousand dollars (\$1,000).

17 B. An employer, firm, partnership, corporation,  
18 association or other organization that knowingly violates the  
19 provisions of the Crane Operators Safety Act may be assessed  
20 an administrative penalty not to exceed five thousand dollars  
21 (\$5,000).

22 C. Any licensed crane operator who violates a  
23 provision of the Crane Operators Safety Act may be assessed  
24 an administrative penalty not to exceed five thousand dollars  
25 (\$5,000).

1           D. The department may bring an action in a court  
2 of competent jurisdiction to enforce the provisions of or to  
3 enjoin a person from violating the provisions of the Crane  
4 Operators Safety Act. If the court finds that a violation  
5 has occurred, the person who committed the violation shall be  
6 liable for the expenses incurred by the department in  
7 investigating and enforcing the provisions of that act plus  
8 reasonable attorney fees and costs associated with court  
9 action."

10           SECTION 11. Section 60-15-14 NMSA 1978 (being Laws  
11 1993, Chapter 183, Section 14, as amended) is amended to  
12 read:

13           "60-15-14. CRANE OPERATORS LICENSURE EXAMINING  
14 COUNCIL--APPOINTED.--

15           A. The "crane operators licensure examining  
16 council" is created. The members of the council shall serve  
17 at the pleasure of the superintendent. The superintendent  
18 shall appoint at least five members to the council with  
19 consideration given to geographical representation and  
20 proportional representation of operator, contractor, labor  
21 and public members. The members of the council shall include  
22 at least:

23                       (1) one class I crane operator;

24                       (2) one contractor, as defined by Section  
25 60-13-3 NMSA 1978, who employs at least one crane operator;

1 (3) one representative of organized labor;  
2 and

3 (4) two members from the public at large who  
4 are not licensed crane operators.

5 B. The duties of the council include:

6 (1) reviewing and approving the  
7 applications, qualifications and examinations of applicants  
8 for licensure as crane operators and recommending to the  
9 superintendent whether licensure should be granted based on  
10 their evaluation of the operating experience and competence  
11 of the applicants;

12 (2) reporting findings and recommendations  
13 from the hearings to the superintendent;

14 (3) proceeding according to regulations  
15 adopted by the department; and

16 (4) approving examinations and training  
17 programs that meet the requirements of the federal  
18 occupational safety and health administration, United States  
19 department of labor or occupational health and safety bureau  
20 of the department of environment."

21 **SECTION 12.** Section 60-15-15 NMSA 1978 (being Laws  
22 2005, Chapter 52, Section 4) is amended to read:

23 "60-15-15. CRANE OPERATORS SAFETY ACT FUND CREATED--  
24 PURPOSE--APPROPRIATION.--

25 A. The "Crane Operators Safety Act fund" is

1 created in the state treasury. The fund shall consist of  
2 legislative appropriations to the fund; fees charged by the  
3 department pursuant to the Crane Operators Safety Act; gifts,  
4 grants, donations and bequests to the fund; and income from  
5 investment of the fund. Money in the fund shall not revert  
6 to any other fund at the end of a fiscal year.

7 B. The fund shall be administered by the  
8 department, and money in the fund is appropriated to the  
9 department for the purpose of carrying out the provisions of  
10 the Crane Operators Safety Act. Expenditures from the fund  
11 shall be made on warrants drawn by the secretary of finance  
12 and administration pursuant to vouchers signed by the  
13 superintendent or the superintendent's authorized  
14 representative."

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