

CHAPTER 171

AN ACT providing for the licensure of certain crane operators and supplementing Title 45 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.45:26-1 Short title.

1. This act shall be known and may be cited as the "Licensing of Crane Operators Act."

C.45:26-2 Definitions relative to crane operators.

2. As used in this act:

"Board" means the Crane Operators License Advisory Board established pursuant to section 3 of this act.

"Certification" means certification from the National Commission for the Certification of Crane Operators or any other organization found by the board to offer an equivalent testing and certification program meeting the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies.

"Commissioner" means the Commissioner of Labor.

"Crane" means a power-operated hoisting machine used in construction, demolition or excavation work that has a power-operated winch, load line and boom moving laterally by the rotation of the machine on a carrier and has a manufacturer-rated lifting capacity of ten tons or more. It shall not include a forklift, digger derrick truck, aircraft, bucket truck, knuckle boom, trolley boom or any vehicle or machine not having a power-operated winch and load line.

"Crane operator" means an individual engaged in the operation of a crane.

"Crane related experience" means operating, inspecting, training and maintenance experience acceptable to the board.

"Practical examination" means an examination demonstrating the applicant's ability to safely operate a particular category or type of crane. Practical examinations shall be conducted for the following crane categories: the lattice boom crawler or truck cranes, telescopic boom cranes having a capacity of less than 17.5 tons, and the telescopic boom cranes having a capacity of more than 17.5 tons.

C.45:26-3 Crane Operators License Advisory Board.

3. a. There is created within the Department of Labor, a Crane Operators License Advisory Board. The board shall consist of seven members who are residents of the State, consisting of the commissioner or his designee, as the chairperson, serving ex-officio and representing the Department of Labor, a heavy highway, utility or transportation construction contractor representative, a building contractor representative and four licensed crane operators who have been actively engaged in crane related operations in this State for at least five years immediately preceding their appointment.

- b. For a period of one year after the effective date of this act, and notwithstanding any other provisions of this act to the contrary, the first four crane operators appointed as members of the board shall not be required, at the time of their first appointment, to be licensed under the provisions of this act as crane operators.

- c. The Governor shall appoint each board member for a term of three years, except that of the members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for terms of one year. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms, in addition to any unexpired term to which he has been appointed.

C.45:26-4 Reimbursement, facilities, personnel of board.

4. Members of the board shall be reimbursed for expenses and provided with office and meeting facilities and personnel required for the proper conduct of the board's business.

C.45:26-5 Meetings of board, elections, appointments.

5. The board shall annually elect from among its members a vice-chairperson and may appoint a secretary, who need not be a member of the board. The board shall meet at least twice a year and may hold additional meetings as necessary to discharge its duties.

C.45:26-6 Powers, duties of commissioner.

6. The commissioner shall have the following powers and duties:
- a. Administer and enforce the provisions of this act;
 - b. Issue and renew licenses to crane operators pursuant to the provisions of this act;
 - c. Suspend, revoke or fail to renew the license of a crane operator pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);
 - d. Adopt standards for certification that are consistent with applicable certification requirements of one or more established and nationally recognized crane operator certification programs recognized by the federal Occupational Safety and Health Administration;
 - e. Adopt and publish a code of ethics and standards of practice for licensed crane operators;
 - f. Prescribe and charge reasonable fees to support program costs associated with examinations, licenses, renewals and other services performed pursuant to this act;
 - g. Create any subcommittee the commissioner deems necessary to assist in the performance of his duties; and
 - h. Implement a schedule establishing penalties for violations of this act or any regulations hereunder.

C.45:26-7 Licensure of crane operators.

7. a. No person shall engage in the operation of a crane, offer himself for employment as a crane operator or otherwise act, attempt to act, present or represent himself as a crane operator unless licensed as such under the provisions of this act.
- b. A crane operator's license shall be valid only in conjunction with a current certification and only in the specialty or specialties for which the crane operator is certified. The specialties are lattice boom crawler crane, lattice boom truck crane, telescopic boom cranes with a capacity of more than 17.5 tons and telescopic boom cranes with a capacity of less than 17.5 tons.

C.45:26-8 Eligibility for licensure as crane operator.

8. To be eligible for a license as a crane operator, an applicant shall fulfill the following requirements:
- a. Be at least 18 years of age;
 - b. Receive certification from the National Commission for the Certification of Crane Operators or any other organization found by the board to offer an equivalent testing and certification program meeting the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies;
 - c. Have at least 1,000 hours of crane-related experience; and
 - d. Maintain a current medical examiner's certification card.

C.45:26-9 Application, fee, issuance of license.

9. Upon payment to the commissioner of a fee and the submission of a completed written application provided by the commissioner, the commissioner shall issue a crane operator license to any person who meets the eligibility requirements of section 8 of this act.

C.45:26-10 Fees established by rule; use.

10. a. The commissioner shall by rule or regulation establish, prescribe or change the fees for licenses, renewals of licenses or other services provided by the commissioner or the board pursuant to the provisions of this act. Licenses shall be issued for a period of five years and may be renewed when the applicant provides proof of re-certification, except that the board may, in order to stagger the expiration dates thereof, provide that those licenses first issued or renewed after the effective date of this act shall expire or become void on the expiration date of the certification.

b. Fees shall be established, prescribed or changed by the commissioner, in consultation with the board, to the extent necessary to defray all proper expenses incurred by the board, and any staff employed to administer this act, except that fees shall not be fixed at a level that will raise amounts in excess of the amount estimated to support the program costs.

c. All fees and any fines imposed by the commissioner shall be paid to the Department of Labor and shall be directly applied toward enforcement and administrative costs.

C.45:26-11 Refusal to grant, suspension, revocation of license.

11. In addition to the provisions of section 8 of P.L.1978, c.73 (C.45:1-21), the commissioner may refuse to grant or may suspend or revoke a crane operator's license upon proof to the satisfaction of the commissioner that the holder thereof has:

- a. Obtained a certification or license by fraud or deceit;
- b. Fraudulently or deceitfully performed work for which a license is required under this act;
- c. Committed an act of gross negligence;
- d. Falsely advertised;
- e. Acted in a manner which demonstrates incompetence; or
- f. Caused or contributed in any manner that directly or indirectly resulted in an injury to a person or damage to property.

Whenever the commissioner finds cause to refuse to grant, suspend or revoke a crane operator's license pursuant to this act or impose an administrative penalty, he shall notify the licensee of the reasons therefor, in writing, and provide opportunity for a hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.45:26-12 Licensed crane operator prohibited to practice as professional engineer.

12. No person licensed as a crane operator pursuant to this act shall engage in the practice of professional engineering, unless licensed as a professional engineer.

C.45:26-13 Enforcement, prosecution.

13. The commissioner shall enforce the provisions of this act, make complaints against persons violating its provisions, and prosecute violations of the same. The commissioner and any authorized person acting under him shall have the authority to enter and inspect any place or establishment covered by this act. If upon inspection the commissioner discovers a condition which exists in violation of the provisions of this act, he shall be authorized to order such violation to cease. The order shall state the items which are in violation of the provisions of the act, and shall provide a reasonable specified time within which the required action shall be taken by the person responsible. If the violation constitutes an imminent hazard and the commissioner's order is not obeyed, the commissioner may apply for an injunction in the Superior Court of New Jersey. Nothing in this act shall be deemed to prevent the commissioner from prosecuting any violation of this act, notwithstanding that the violations are corrected in accordance with his order.

C.45:26-14 Violations, penalties.

14. It shall be unlawful for any person, partnership, firm association or corporation, and any officer, agent or employee thereof, to violate or proximately contribute to the violation of any of the provisions of this act or of the regulations promulgated pursuant to this act. Any violation of this act by an employee, acting within the scope of his authority, of any person, partnership, firm, association, or corporation shall be deemed also to be the violation of such person, partnership, firm, association or corporation. Violations of the provisions of this act or rules and regulations promulgated pursuant to this act shall be punishable for the first offense by a penalty of not less than \$100 nor more than \$10,000 and for a second or subsequent offense by a penalty of not less than \$500 nor more than \$100,000. The penalties shall be collected in accordance with "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation consists of refusal to obey an order of the commissioner made under this act, each day during which the violation continues shall constitute a separate and distinct offense except during the time an appeal from that order may be taken or pending.

C.45:26-15 Settlement of claims.

15. The commissioner, in his discretion, is authorized and empowered to compromise and settle any claim for a penalty under this act for an amount that appears appropriate and equitable under all of the circumstances.

C.45:26-16 Deferral for holders of long boom licenses.

16. Crane operators, holding long boom licenses issued by the State as of the effective date of this act, shall not be required to be licensed pursuant to the provisions of this act until the expiration of their long boom licenses issued by this State.

C.45:26-17 Rules, regulations.

17. The commissioner, after consultation with the board, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

18. This act shall take effect on the first day of the seventh month following enactment.

Approved September 4, 2003.