

SENATE BILL NO. 97

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Introduced: 2/4/09

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the licensing of crane operators; and providing for an effective**
2 **date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 18 is amended by adding a new chapter to read:

5 **Chapter 64. Crane Operation.**

6 **Sec. 18.64.010. Crane operator license required.** Except as otherwise
7 provided in this chapter, a person may not operate or allow another person to operate a
8 crane used in construction, excavation, or demolition in the state unless

9 (1) the person operating the crane holds a valid crane operator license
10 for that type of crane issued under AS 18.64.015; or

11 (2) the person operating the crane holds a valid crane operator trainee
12 license for that type of crane under AS 18.64.020 and is under the direct and
13 continuous supervision of a crane operator licensed to operate that type of crane under
14 AS 18.64.015.

1 **Sec. 18.64.015. Crane operator licenses.** (a) The department may issue a
2 crane operator license for a mobile, tower, or overhead crane to a person who pays the
3 applicable fee and who meets requirements established in this chapter and in
4 regulations adopted by the department under this chapter.

5 (b) The department may not issue a crane operator license under (a) of this
6 section to a person who does not hold a valid, current certification for the type of crane
7 the person is to operate, issued by the National Commission for the Certification of
8 Crane Operators, or another comparable certifying entity that is accredited by the
9 National Commission for Certifying Agencies and is approved by the department.

10 **Sec. 18.64.020. Crane operator trainee licenses.** (a) The department may
11 issue a crane operator trainee license for a mobile, tower, or overhead crane to a
12 person who pays the applicable fee and meets requirements established by the
13 department in regulations adopted under this chapter.

14 (b) A person holding a crane operator trainee license for a mobile, tower, or
15 overhead crane may not operate that type of crane except under the direct and
16 continuous supervision of a crane operator licensed to operate that type of crane under
17 AS 18.64.015. A crane operator licensee supervising a crane operator trainee may not
18 conduct any other duties other than the direct and continuous supervision of the crane
19 operator trainee while the crane operator trainee is operating a crane.

20 **Sec. 18.64.025. Fees.** The department shall establish by regulation reasonable
21 fees to cover the costs of administration and enforcement of this chapter. Fees
22 collected under this chapter shall be deposited into the building safety account created
23 under AS 44.31.025.

24 **Sec. 18.64.030. Duration of license.** (a) Unless revoked or suspended by the
25 department, a crane operator license is valid for the term of years specified by the
26 department, not to exceed five years. The department shall set the term of a crane
27 operator license issued under AS 18.64.015 to expire on the date of expiration of the
28 certification required under AS 18.64.015(b).

29 (b) Unless revoked or suspended by the department, a crane operator trainee
30 license is valid for the term of months specified by the department, not to exceed one
31 year.

1 (c) A crane operator license or crane operator trainee license may be denied,
2 revoked, or suspended if the department finds that the person applying for the license
3 or the licensee

4 (1) knowingly provided false information or omitted material
5 information from a license application;

6 (2) failed to report an accident as required under AS 18.64.035;

7 (3) operated or allowed a person to operate a crane in violation of this
8 chapter or a regulation adopted under this chapter;

9 (4) caused a crane accident or engaged in other conduct that, in the
10 judgment of the department, demonstrates that the person is unfit to operate a crane
11 safely; or

12 (5) has a medical condition that renders the person unfit to safely
13 operate a crane.

14 **Sec. 18.64.035. Reporting of crane accidents.** (a) A person licensed under
15 AS 18.64.015 or 18.64.020 shall report to the department a crane accident that is fatal,
16 results in the in-patient hospitalization of a person, or causes property damage in
17 excess of \$5,000 as soon as possible, but in no event longer than eight hours after the
18 accident.

19 (b) The report required under (a) of this section may be made by telephone,
20 facsimile transmission, electronic mail, or in person to the nearest office of the
21 division of labor standards and safety established under AS 23.10.075. The report
22 must state the name of the individual making the report, the name of the licensee
23 involved in the accident, the location of the accident, the date and time of the accident,
24 a contact person for the licensee and the telephone number of the contact person, a
25 brief description of the accident, the number of deaths or hospitalized persons, and the
26 extent of any injuries or property damage resulting from the accident. If the licensee is
27 unable, because of circumstances beyond the control of the licensee, to make the
28 report required under this section, the report may be made by a person on behalf of the
29 licensee. The notification required by this section is in addition to any notification
30 required of employers under AS 18.60.058.

31 **Sec. 18.64.040. Violations; penalties.** (a) A person violates the provisions of

1 this chapter if the person

2 (1) operates a mobile, tower, or overhead crane without a license for
3 that type of crane issued under AS 18.64.015 or 18.64.020, or allows a person to
4 operate a crane without a valid current license for that type of crane issued under
5 AS 18.64.015 or 18.64.020;

6 (2) allows a crane operator trainee to operate a crane without the direct
7 and continuous supervision of a crane operator licensed to operate that type of crane as
8 required under AS 18.64.020; or

9 (3) fails to report a crane accident as required under AS 18.64.035.

10 (b) Notwithstanding any other provision of law, upon finding that a person has
11 committed a violation of this chapter, the department may assess a civil penalty not to
12 exceed

13 (1) \$5,000 for each violation that is a first violation that does not result
14 in a death or serious injury;

15 (2) \$50,000 for each violation that is not a first violation or that results
16 in a death or serious injury.

17 (c) A person who knowingly violates (a) of this section is guilty of a class B
18 misdemeanor.

19 **Sec. 18.64.050. Powers of the department.** (a) The department shall adopt
20 regulations necessary to carry out the purposes of this chapter.

21 (b) The department may, on its own motion, conduct investigations, hold
22 hearings, make findings, and issue orders necessary to implement and enforce the
23 provisions of this chapter.

24 **Sec. 18.64.060. Notice and hearing.** (a) The department shall adopt
25 regulations under AS 44.62 (Administrative Procedure Act), consistent with due
26 process of law, that govern the practice, procedure, and conduct of all investigations,
27 hearings, and proceedings that the department holds under this chapter.

28 (b) The administrative adjudication procedures of AS 44.62 (Administrative
29 Procedure Act) do not apply to hearings under this chapter before the department,
30 except that the final administrative determination by the department is subject to
31 judicial review as provided in AS 44.62.560 and 44.62.570.

1 **Sec. 18.64.070. Procedure for civil penalties.** (a) The department shall
 2 provide to a person who the department finds has violated this chapter under
 3 AS 18.64.040(b) written notice of a civil penalty imposed under this chapter, a
 4 statement of the reason for the civil penalty, a copy of the applicable procedures, and
 5 notice of the opportunity to request a hearing through the commissioner. A request for
 6 a hearing must be in writing and clearly state the issues to be raised at the hearing.

7 (b) If a person who is provided written notice of a civil penalty under (a) of
 8 this section fails to request a hearing within 30 days after issuance of the notice, the
 9 right to a hearing is waived, and the violation or violations and any civil penalty
 10 identified in the notice become the final decision of the department and are not subject
 11 to judicial review.

12 (c) A hearing decision issued under this section is a final administrative
 13 decision of the department subject to review by a superior court under AS 44.62.560
 14 and 44.62.570.

15 **Sec. 18.64.080. Exemptions.** This chapter does not apply to

16 (1) an individual who has a valid certificate of fitness, as required by
 17 AS 18.62.010, performing electrical line work if

18 (A) the crane used has a manufacturer's rating capacity of less
 19 that 17.5 tons; and

20 (B) the individual has received at least 40 hours of training,
 21 approved by the department, relating to the operation of the crane;

22 (2) an officer or employee of the United States government operating a
 23 crane within the scope of the person's official duties;

24 (3) a member of a police or fire department operating a crane within
 25 the scope of the member's official duties;

26 (4) other persons as may be determined under regulation by the
 27 department.

28 **Sec. 18.64.099. Definitions.** In this chapter,

29 (1) "commissioner" means the commissioner of labor and workforce
 30 development;

31 (2) "construction, excavation, or demolition" means

1 (A) construction, excavation, demolition, erection, alteration,
 2 repair, removal, movement, or dismantling of buildings or other structures, and
 3 all related operations, except for operations related to a manufacturing facility
 4 or power house;

5 (B) construction, excavation, demolition, alteration, or repair of
 6 sewers, trenches, caisson, conduits, pipelines, or roads, and all related
 7 operations;

8 (3) "crane"

9 (A) means a machine, whether fixed or mobile, that has a
 10 power-operated winch, load line, and boom capable of moving laterally
 11 through rotation of the machine on a carrier, that has a manufacturer or
 12 professional engineer stamped rated weight lifting capacity greater than five
 13 tons, and that is used for lifting or lowering a load and moving the load
 14 horizontally;

15 (B) includes a hydraulic crane, crawler crane, wheel-mounted
 16 crane, truck crane, traveling crane, and gantry crane;

17 (C) does not include a fork lift, digger derrick truck, aircraft,
 18 bucket truck, knuckle boom, stacker, lift truck, power shovel, backhoe,
 19 dragline, excavator, front-end loader, bulldozer, derrick, power or chain hoist,
 20 or vehicle or machine not using a power-operated winch and load line;

21 (4) "department" means the Department of Labor and Workforce
 22 Development.

23 * **Sec. 2.** AS 44.31.025 is amended to read:

24 **Sec. 44.31.025. Building safety account.** The building safety account is
 25 created in the state treasury. The legislature may appropriate money from the account
 26 for necessary costs incurred by the Department of Labor and Workforce Development
 27 in the administration of AS 05.20, AS 18.60.180 - 18.60.395, 18.60.800 - 18.60.820,
 28 [AND] AS 18.62, and AS 18.64. Nothing in this section creates a dedicated fund or
 29 dedicates the money in the account for a specific purpose.

30 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 31 read:

1 TRANSITION: LICENSING OF CERTAIN CRANE OPERATORS BY PRIOR
2 EXPERIENCE. (a) Notwithstanding any contrary provisions of AS 18.64.010 - 18.64.099,
3 enacted by sec. 1 of this Act, a person who provides proof satisfactory to the Department of
4 Labor and Workforce Development that the person had at least 2,000 hours of employment as
5 the operator of a mobile, tower, or overhead crane, as defined by AS 18.64.099, enacted by
6 sec. 1 of this Act, before the effective date of sec. 1 of this Act, may qualify for a crane
7 operator license for that type of crane without meeting the certification requirements of
8 AS 18.64.015(b), as enacted by sec. 1 of this Act. A crane operator license for a type of crane
9 issued under this section may be renewed, notwithstanding the certification requirements of
10 AS 18.64.015(b).

11 (b) The Department of Labor and Workforce Development may not accept an
12 application for license by prior experience under this section more than one year after the
13 effective date of sec. 1 of this Act.

14 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 TRANSITION: REGULATIONS. The Department of Labor and Workforce
17 Development may proceed to adopt regulations necessary to implement the changes made by
18 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
19 before the effective date of the statutory change.

20 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

21 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect January 1, 2010.