

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

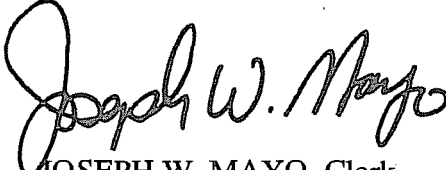
No. 1445

H.P. 1079

House of Representatives, May 5, 1993

An Act Relative to the Licensing and Training of Hoisting Engineers.

Reference to the Committee on Business Legislation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative COFFMAN of Old Town.
Cosponsored by Senators: HANDY of Androscoggin, LUTHER of Oxford.

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 26 MRSA c. 5, sub-c. III-B is enacted to read:

6 SUBCHAPTER III-B

8 HOISTING ENGINEERS

10 §361. Definitions

12 As used in this subchapter, unless the context otherwise
indicates, the following terms have the following meanings.

14 1. Department. "Department" means the Department of Labor.

16 2. Director. "Director" means the Director of the Bureau
of Labor Standards.

18 3. Hoisting machinery. "Hoisting machinery" means any of
20 the following when operated by motive power that is mechanical
22 and not steam: All cranes, derricks, stiff legs, Chicago booms,
24 gin poles, lattice booms, electric and air-powered hoisting
26 equipment, equipment with a telescoping boom and wire rope,
hydraulic telescoping booms or other hydraulic equipment designed
to hoist crawler excavators, rubber-tired excavators, combination
loader-backhoes, front-end loaders, drill rigs, pipeline
sidebooms and concrete pumps.

28 §362. License required

30 The following license requirements apply to hoisting
32 machinery operators.

34 1. License requirement. After January 1, 1995, a person
36 may not operate hoisting machinery in this State unless that
person holds a valid license issued under this subchapter for
38 that category of hoisting machinery. The owner of any hoisting
machinery may not cause that machinery to be operated unless the
40 operator holds a valid license under this subchapter for that
category of hoisting machinery.

42 2. License in possession. A hoisting machinery operator
44 must have a valid license issued under this subchapter in that
person's possession whenever operating hoisting machinery.

46 3. Photograph required. A license issued under this
48 subchapter must include a photograph of the licensee.

50 §363. Licensing procedure

52 Licenses issued under this subchapter are subject to the
following requirements.

2 1. Application. A person seeking a license under this
4 subchapter must submit an application furnished by the department
6 setting forth that person's experience and training for the
8 category for which that person is seeking licensure. An
 application fee must accompany the application. The application
 and accompanying fee entitle the applicant to one examination.

10 2. Examination. An applicant for a license under this
12 subchapter must take a written and practical examination
14 developed by the department for the category for which the
16 applicant is seeking licensure. These examinations must test the
 experience, knowledge of safety procedures and requirements and
 basic understanding of the machinery for the category of
 licensure the applicant is seeking.

18 3. Criteria and categories. By January 1, 1994, the
20 department shall develop categories for licensing hoisting
22 machinery operators within the State and set forth criteria for
24 issuing, revoking, suspending and renewing licenses. These
 criteria must be based on the protection of public health and
 safety. For licensing purposes the department shall provide that
 at least one category must include cranes and other similar
 equipment and one category must include excavating equipment.

26 4. Reexaminations. An applicant who does not successfully
28 complete the written or practical examination may reapply for
 licensure after 90 days.

30 5. License term. A license issued under this subchapter is
32 in effect for 2 years.

34 6. License renewal. A license may be renewed upon
36 application and after payment by the licensee of the fee
 specified under section 366. A license that has been expired for
 more than one year may not be renewed.

38 7. Lost or destroyed licenses. A licensee may apply to the
40 department for a replacement license if the licensee's license is
42 lost or destroyed. Any duplicate must be boldly marked as a
 duplicate. The department shall charge a fee for replacing the
 license.

44 8. Revoked or suspended licenses. A person whose license
46 has been suspended or revoked under section 365 may apply for a
48 new license after one year. To qualify for a license, the
 applicant must pass the written and practical examinations.

50 §364. Exemptions

52 Operators of hoisting machinery used under the following
 conditions are exempt from the requirements of this subchapter.

2 1. Farm machinery. The operation of hoisting machinery
4 used exclusively for agricultural purposes is exempt from the
6 requirements of this subchapter. For purposes of this
 subsection, "agricultural purposes" includes the production or
 harvest of food.

8 2. Public utility equipment. A public utility that has
10 self-propelled, truck-mounted cranes to construct or maintain its
 own equipment is exempt if the public utility has:

12 A. A supervisory employee licensed under this subchapter;

14 B. An in-service training program for its employees that is
16 certified by the department; and

18 C. Issued to each employee operating hoisting machinery a
20 company license with a picture of the licensee, a list of
22 the specific hoisting machinery that the licensee is
 qualified to operate and the signature of the supervisor who
 holds a license under this subchapter.

24 3. Other company. A company that is not a public utility
26 with hoisting machinery used only on property of a public utility
 is exempt provided the company meets the requirements set forth
 in subsection 2.

28 **§365. License suspension or revocation**

30 License, suspension or revocation is governed by the
32 provisions of this section.

34 1. License revocation. A violation of any state or federal
36 occupational safety and health rule or regulation or any other
38 rule adopted by the department is cause for the denial,
 suspension or revocation of any license issued under this
 subchapter.

40 2. Emergency revocation. If the director or the director's
42 agent finds that the immediate suspension or revocation of a
44 license to operate hoisting machinery is necessary for the
 preservation of the public health and safety, the director may
 order emergency revocation pending the outcome of a hearing held
 pursuant to subsection 3.

46 3. Appeals. Any licensee whose license has been suspended
48 or revoked by the department may request within 10 days of the
50 license revocation or suspension a hearing before a hearing
52 examiner appointed by the department to appeal the suspension or
 revocation. Within 30 days, the hearing examiner must weigh the
 facts of the case and issue a finding. This finding is final
 agency action.

