

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SA
ROS

L.D. 210

Date: 6/10/21

(Filing No. H-543)

Minority

INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND
BUSINESS

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 145, L.D. 210, "An Act To Require
Crane Operators To Be Licensed"

Amend the bill by striking out everything after the enacting clause and inserting the
following:

'Sec. 1. 5 MRSA §12004-A, sub-§50 is enacted to read:

50.

State Board of Licensure for Crane Operators \$35/day 32 MRSA §18606

Sec. 2. 32 MRSA c. 147 is enacted to read:

CHAPTER 147

CRANE OPERATORS

§18601. Definitions

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

1. Board. "Board" means the State Board of Licensure for Crane Operators.

2. Commissioner. "Commissioner" means the Commissioner of Professional and
Financial Regulation.

3. Crane. "Crane" means a fixed or mobile machine used in construction for lifting,
lowering and horizontally moving a load, with the hoisting mechanism an integral part of
the machine, as described in 29 Code of Federal Regulations, Section 1926.1400 (2020).

4. Crane operator. "Crane operator" means a person who operates a crane.

COMMITTEE AMENDMENT

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

5. License. "License" means a license issued by the board granting a person the authority to act as a crane operator in this State.

6. Licensed crane operator. "Licensed crane operator" means a person licensed by the board to operate a crane pursuant to this chapter.

§18602. State Board of Licensure for Crane Operators

1. Creation; purpose. The State Board of Licensure for Crane Operators, as established by Title 5, section 12004-A, subsection 50, is responsible for the administration of this chapter.

2. Membership. The board consists of 7 members appointed by the Governor as follows:

- A. Five licensed crane operators who have been engaged in crane operation for at least 5 years immediately preceding appointment; and
- B. Two public members, as defined by Title 5, section 12004-A.

Each member of the board must be a citizen of the United States and a resident of this State.

3. Term; removal. Appointments to the board under subsection 2 are for 5-year terms and must comply with Title 10, section 8009. The Governor may remove a member of the board for cause.

4. Organization and meetings. The board shall meet at least once a year to conduct its business and to elect its officers. Additional meetings may be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. The board shall elect or annually appoint a chair and vice-chair. A quorum of the board is 4 members.

5. Compensation and expenses. Members of the board are entitled to compensation according to the provisions of Title 5, chapter 379. Clerical expenses may not be allowed any member of the board, except as provided in section 18603, subsection 1.

6. Powers and duties of the board. The board has the following powers and duties in addition to those otherwise set forth in this chapter:

- A. The duty to evaluate the qualifications of applicants for licensure under this chapter;
- B. The power to conduct an investigation on its own motion or on written complaint filed with the board regarding a licensee's potential noncompliance with or violation of this chapter or of any rules adopted by the board;
- C. The authority to adopt rules reasonably necessary for the proper performance of its duties and the administration of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;
- D. The authority to adopt rules establishing fees for the purposes authorized under this chapter. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A;
- E. The power to conduct hearings and to subpoena witnesses, records and documents to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise necessary to the fulfillment of the

1 board's responsibilities under this chapter. Hearings must be conducted in conformity
2 with Title 5, chapter 375, subchapter 4, as applicable;

3 F. The power to adopt and have an official seal; and

4 G. The power to enter into contracts to carry out the board's responsibilities under this
5 chapter.

6 **§18603. Recordkeeping and reporting**

7 **1. Receipts and disbursements.** The board shall receive and account for all funds
8 derived under this chapter and shall pay the money to the Treasurer of State who shall
9 deposit the money in a separate fund to be known as the Crane Operators Fund. The board
10 may make other expenditures from this fund, upon itemized vouchers approved by the chair
11 of the board, that in the opinion of the board are reasonably necessary for the proper
12 performance of its duties under this chapter.

13 **2. Records and reports.** The board shall keep such records and minutes as are
14 necessary to the ordinary dispatch of its functions. Not later than August 1st of each year,
15 the board shall submit to the commissioner a report of its transactions of the preceding
16 fiscal year ending June 30th and shall transmit to the commissioner a complete statement
17 of the receipts and expenditures of the board, attested by affidavits of the chair.

18 **§18604. Role of commissioner**

19 The commissioner shall act as a liaison between the board and the Governor. The
20 commissioner may not exercise or interfere with the exercise of discretionary, regulatory
21 or licensing authority granted by statute to the board. The commissioner may require the
22 board to be accessible to the public for complaints and questions during regular business
23 hours and to provide any information the commissioner requires in order to ensure that the
24 board is operating administratively within the requirements of this chapter.

25 The board shall submit to the commissioner its budgetary requirements in the same
26 manner as is provided in Title 5, section 1665. The budget submitted by the board to the
27 commissioner must be sufficient to enable the board to comply with this chapter.

28 **§18605. License required**

29 Beginning January 1, 2023, a person may not act as a crane operator without a license
30 issued under this chapter or during any period in which that person's license has expired or
31 has been suspended or revoked. A person who is being trained in crane operation on or
32 after January 1, 2023, in accordance with standards established under 29 Code of Federal
33 Regulations, Section 1926.1427, may operate a crane without a license as part of the
34 person's training.

35 **§18606. Licensing qualifications**

36 **1. General requirements.** Application for licensure as a crane operator must be made
37 on a form prescribed and furnished by the board and contain statements made under oath
38 showing the following:

39 A. Current licensure as a crane operator in another state or territory of the United
40 States; or

ROS

1 B. Current certification by an independent organization accredited by the American
2 National Standards Institute or successor organization for the certification of crane
3 operators.

4 2. Fee. Applicants for licensure under this section shall pay a fee, as established by
5 the board by rule under section 18602, subsection 6, paragraph D.

6 3. Roster of licensed crane operators. The board shall maintain a roster of all active
7 licensed crane operators on its publicly accessible website. Copies of the roster must be
8 made available upon request for such fees as the board may authorize in its rules.

9 **§18607. License revocation and reissuance**

10 1. Violations; grounds for revocation. The board may suspend, revoke or refuse to
11 renew the license of a crane operator pursuant to Title 5, section 1004. The board may
12 refuse to issue or renew, or the District Court, pursuant to Title 4, chapter 5, may revoke,
13 suspend or refuse to renew, the license of a crane operator who is found guilty of:

14 A. The practice of any fraud or deceit in obtaining a license as a crane operator;

15 B. Any gross negligence, incompetence or misconduct in operating cranes; or

16 C. Violating any provision of this chapter or any rule of the board.

17 2. Complaints. Any person may register a complaint of fraud, deceit, gross
18 negligence, incompetence or misconduct against any licensed crane operator. A complaint
19 must be in writing, signed by the individual making the complaint and filed with the board.

20 3. Reissuance; replacement. The board may reissue a license to a crane operator
21 whose license or certificate has been revoked if 4 or more members of the board vote in
22 favor of that reissuance. The board may issue a new license to replace any license or
23 certificate revoked, lost, destroyed or mutilated, subject to the rules of the board and
24 payment of a fee established by the board.

25 **§18608. License expiration and renewal**

26 1. Expiration and renewals generally. A crane operator license expires on the last
27 day of December of each odd-numbered year and a person may not operate a crane with an
28 expired license. The board shall notify every person licensed under this chapter of the date
29 of the expiration of that person's license and the amount of the fee that is required for its
30 renewal. A license may be renewed up to 90 days after the date of its expiration upon
31 payment of a late fee established by rule by the board in addition to the renewal fee. A
32 person who submits an application for renewal more than 90 days after the license renewal
33 date is subject to all requirements governing new applicants under this chapter, except that
34 the board may, giving due consideration to the protection of the public, waive any
35 additional qualifications if the renewal application is made within 3 years from the date of
36 the expiration, the applicant has held a license for at least 10 years and the applicant has
37 never been subject to discipline in this or any other jurisdiction.

38 2. Exemptions from expiration and renewal fees. Notwithstanding any other
39 provision of this chapter, the board shall waive examination and payment of renewal fees
40 if a renewal application is made within 90 days after separation from the United States
41 Armed Forces, under conditions other than dishonorable, by a person who failed to renew
42 the person's license because the person was on active duty in the United States Armed
43 Forces and the person submits satisfactory evidence to the board.

R05

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

3. Required hearing. The board may not refuse to renew a license for any reason other than failure to pay a required fee unless it has afforded the licensed crane operator notice of an opportunity for an adjudicatory hearing pursuant to Title 5, chapter 375. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than a failure to pay a required fee if the board receives the written request within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the right to request a hearing.

Sec. 3. Initial appointments to the State Board of Licensure for Crane Operators. The initial 5 members of the State Board of Licensure for Crane Operators established by the Maine Revised Statutes, Title 5, section 12004-A, subsection 50 may be appointed without holding a license pursuant to Title 32, section 18605 if the appointee holds a current license as a crane operator in good standing in another state or territory of the United States or holds a current certification by an independent organization accredited by the American National Standards Institute for the certification of crane operators.

Sec. 4. Transfer. Notwithstanding any provision of law to the contrary, the State Controller shall transfer \$489,879 from the unappropriated surplus of the General Fund to the Board of Licensure for Crane Operators, Other Special Revenue Funds account within the Department of Professional and Financial Regulation no later than October 1, 2021 to support the establishment and start-up costs of the State Board of Licensure for Crane Operators.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF
Administrative Services - Professional and Financial Regulation 0094**

Initiative: Allocates funds to update the agency licensing management system for the implementation of the licensure of crane operators and for ongoing maintenance and support.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$21,402	\$2,704
OTHER SPECIAL REVENUE FUNDS TOTAL	\$21,402	\$2,704

Board of Licensure for Crane Operators N388
Initiative: Allocates funds for one Office Specialist II position, one Senior Electrical Inspector position, 5 Electrical Inspector positions and one half-time Consumer Assistant and Hearing Coordinator and related All Other costs as well as per diem costs for 7 board members to establish and operate the State Board of Licensure for Crane Operators.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	7,500	7,500
Personal Services	\$506,297	\$706,535
All Other	\$159,312	\$159,937
OTHER SPECIAL REVENUE FUNDS TOTAL	\$665,609	\$866,472

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF DEPARTMENT TOTALS	2021-22	2022-23
OTHER SPECIAL REVENUE FUNDS	\$687,011	\$869,176
DEPARTMENT TOTAL - ALL FUNDS	\$687,011	\$869,176

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the minority report of the committee, strikes the bill, which is a concept draft. The amendment establishes a requirement and qualifications for licensure of crane operators. It establishes the State Board of Licensure for Crane Operators and tasks the board with administering licensure of crane operators. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 210

LR 1289(02)

An Act To Require Crane Operators To Be Licensed

Fiscal Note for Bill as Amended by Committee Amendment *A(H-543)*
 Committee: Innovation, Development, Economic Advancement and Business
 Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$489,879	\$0	\$0	\$0
Appropriations/Allocations				
Other Special Revenue Funds	\$687,011	\$869,176	\$917,655	\$957,610
Revenue				
Other Special Revenue Funds	\$233,172	\$1,622,625	\$1,850,400	\$0
Transfers				
General Fund	(\$489,879)	\$0	\$0	\$0
Other Special Revenue Funds	\$489,879	\$0	\$0	\$0

Fiscal Detail and Notes

This bill establishes the Board of Licensure for Crane Operators as a new board affiliated with the Department of Professional and Financial Regulation to provide regulatory oversight and licensing of crane operators and requires all crane operators to be licensed by January 1, 2023. This bill includes ongoing Other Special Revenue Funds allocations totaling \$687,011 in fiscal year 2021-22 and \$869,176 in fiscal year 2022-23 to a newly created Board of Licensure for Crane Operators program for the initial and ongoing costs of operating the board.

Of this amount, \$665,609 is allocated in fiscal year 2021-22 and \$866,472 is allocated in fiscal year 2022-23 for one Office Specialist II position, one Senior Electrical Inspector position, 5 Electrical Inspector positions, one half-time Consumer Assistant and Hearing Coordinator position and related All Other costs, as well as per diem costs for 7 board members, to establish and operate the new board. Additionally, \$21,402 and \$2,704 is allocated in fiscal years 2021-22 and 2022-23, respectively, to the Administrative Services Division (ASD) to update the Agency Licensing Management System for the licensure of crane operators and for ongoing maintenance and support. The board will need to transfer funds to the ASD to cover these costs along with an additional \$9,000 for other administrative support services that will be provided to the board.

This legislation requires crane operators to be licensed by January 1, 2023 and provides that licenses expire on the last day of December of each odd-numbered year. It requires the board to adopt rules establishing a fee for the application for licensure. This fiscal note assumes that licensing fees will be set at a level sufficient to support the costs of the board. However, because sufficient dedicated revenue from licensing fees will not be available to support the initial start-up costs, estimated to be \$489,879 for the first 6 months of operation, this bill includes language that requires the State controller to transfer that amount from the unappropriated surplus of the General Fund to the Board of Licensure for Crane Operators no later than October 1, 2021. This will be enough to carry the board until April 1, 2022 when the board will be ready to accept applications.

After the first year, application fees must produce 2 years of revenue due to licenses expiring at the end of each odd-numbered year. The department estimates the fee will need to be set at \$7,200 in order to cover the operating costs of the board. It is anticipated that approximately 32 of the 257 total crane operators in the State will need to apply for a license almost immediately to provide the board with the \$230,400 in dedicated revenue needed to cover expenses through the end of fiscal year 2022. If the remaining 225 operators apply for their initial licenses from July through December of 2022, additional revenue to the board will be \$1,620,000. Because licenses will expire in December 2023, revenue from license renewal is estimated to be \$1,850,400 in fiscal year 2023-24. Licenses will not be renewed again until December 2025.