



2009 SENATE BILL 665

April 5, 2010 - Introduced by Senators COGGS, WIRCH and HANSEN, cosponsored by Representatives PARISI and SINICKI. Referred to Committee on Labor, Elections and Urban Affairs.

1 **AN ACT** *to amend* 101.02 (20) (a) and 101.02 (21) (a); and *to create* 15.157 (16),
2 101.138 and 101.19 (1) (n) of the statutes; **relating to:** licensing of individuals
3 using cranes and heavy equipment, requiring the exercise of rule-making
4 authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

The Department of Commerce (Commerce) issues various licenses, permits, registrations, and other credentials to individuals engaged in the construction trades, such as to electricians and plumbers.

This bill requires Commerce to issue licenses for the operation of cranes and certain pieces of heavy equipment. The bill defines a piece of "heavy equipment" to be a piece of equipment that weighs at least 26,000 pounds and that is used to do certain construction activities. The bill requires that Commerce promulgate a rule that contains an initial listing of specific types of equipment for which a license is necessary (regulated heavy equipment). The bill establishes a crane and heavy equipment council which may recommend to Commerce specific types of equipment that may be added to the list or removed from the list by rule. Certain specific pieces of heavy equipment are exempt from regulation and may not be added to the list promulgated by Commerce.

The bill creates four different licenses: a crane operator license, a heavy equipment operator license, an apprentice crane operator license, and an apprentice heavy equipment operator license. For all four of these licenses, an individual must be at least 18 years old at the time the license is issued and may not have had any

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license or other permission to operate a crane or any piece of heavy equipment suspended or revoked by Commerce or by another comparable licensing agency.

For the crane operator license, an individual must have a specified amount of experience, have obtained certification from an accredited program that certifies crane operators, and have completed an apprenticeship program. In lieu of completing the apprenticeship program, the individual may meet this requirement by having at least 10,000 hours of experience on the day that the bill becomes law. For a license to operate regulated heavy equipment, the requirements are the same except the individual does not have to complete a program of certification. The crane operator and heavy equipment operator license are valid for five years and are renewable if the individual has operated cranes or regulated heavy equipment for at least 2,000 hours during the period of the license and has not had the license suspended or revoked and has not violated any law relating to the operation of cranes or heavy equipment.

For an apprentice crane operator license or apprentice heavy equipment operator license, the individual must have passed a written examination approved by Commerce and must be enrolled in a training program recognized by the U.S. Department of Labor. These two apprenticeship licenses are valid for three years.

The license requirement applies only to public works projects where prevailing wage requirements apply. Under the current prevailing wage law, certain laborers, workers, mechanics, and truck drivers employed on a state or local project of public works must be paid at the rate paid for a majority of the hours worked in the person's trade or occupation in the county in which the project is located, as determined by the Department of Workforce Development.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.157 (16) of the statutes is created to read:

2 15.157 **(16)** CRANE AND HEAVY EQUIPMENT COUNCIL. (a) There is created in the
3 department of commerce a crane and heavy equipment council consisting of the
4 following members appointed for 3-year terms:

5 1. Two members who represent an affiliation of local labor organizations whose
6 members are construction craft laborers working across the state.

7 2. Two members who represent a labor organization whose members are
8 engaged in the operation of cranes and of heavy equipment, each of whom is actively

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1 involved in providing, or in administering the provision of, skills improvement and
2 apprenticeship training programs.

3 3. One member representing an association that is involved in the building of
4 transportation systems across the state and whose membership includes employers
5 of operators of cranes and of heavy equipment.

6 (b) The council shall meet at least 2 times a year.

7 **SECTION 2.** 101.02 (20) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
8 is amended to read:

9 101.02 **(20)** (a) For purposes of this subsection, “license” means a license,
10 permit, or certificate of certification or registration issued by the department under
11 ss. 101.09 (3) (c), 101.122 (2) (c), 101.136, 101.138, 101.143 (2) (g), 101.147, 101.15
12 (2) (e), 101.16 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m),
13 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951,
14 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165,
15 145.17, 145.175, 145.18, or 167.10 (6m).

16 **SECTION 3.** 101.02 (21) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
17 is amended to read:

18 101.02 **(21)** (a) In this subsection, “license” means a license, permit, or
19 certificate of certification or registration issued by the department under s. 101.09
20 (3) (c), 101.122 (2) (c), 101.136, 101.138, 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16
21 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2), 101.653, 101.73 (5) or
22 (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.985 (1) to (3),
23 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18, or
24 167.10 (6m).

25 **SECTION 4.** 101.138 of the statutes is created to read:

SENATE BILL 665**SECTION 4****1 101.138 Regulation of crane and heavy equipment operators. (1)**

2 DEFINITIONS. In this section:

3 (a) “Crane” means any power-operated hoisting machine that can lift, rotate,
4 or move a suspended load horizontally or vertically, including a derrick, a jib hoist,
5 and a gantry and any other type of power-operated hoisting machine designated by
6 rule by the department.

7 (b) “Heavy equipment” means a piece of equipment that is not a crane, that has
8 a dry weight, as determined by the manufacturer of the equipment, of 26,000 pounds
9 or more, and that is used to move, compact, break, place, or grade construction
10 materials, earth, or other heavy materials, that is used to clear or grade land, that
11 is used to excavate or dig earth or other heavy materials, or that is used to drive
12 vertically into the earth.

13 (c) “Local governmental unit” means a political subdivision of this state, a
14 special purpose district in this state, an agency or corporation of a political
15 subdivision or special purpose district, or a combination or subunit of any of the
16 foregoing.

17 (d) “Operate” means to operate, assemble, maintain, or disassemble.

18 (e) “Public works project” means a work project that is subject to an agreement
19 under which the state or a local governmental unit is a party.

20 (f) “Regulated heavy equipment” means the types of heavy equipment that are
21 designated by rule by the department under sub. (10) (b).

22 **(2) LICENSES REQUIRED.** (a) Beginning on the first day of the 24th month
23 beginning after the effective date of this paragraph [LRB inserts date], no
24 individual may operate a crane for construction, renovation, grading, or demolition
25 purposes unless the individual holds a valid license issued under sub. (4) or (6). If

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1 an individual holds an apprentice license issued under sub. (6), he or she may not
2 operate the crane unless he or she is being supervised by another individual who
3 holds a valid crane operator license issued under sub. (4).

4 (b) Beginning on the first day of the 24th month beginning after the effective
5 date of this paragraph [LRB inserts date], no individual may operate a piece of
6 regulated heavy equipment for construction, renovation, grading, or demolition
7 purposes unless the individual holds a valid license issued under sub. (7) or (8). If
8 an individual holds an apprentice license issued under sub. (8), he or she may not
9 operate the piece of regulated heavy equipment unless he or she is being supervised
10 by another individual who holds a valid heavy equipment operator license issued
11 under sub. (7).

12 (c) The licensing requirements under this section apply only to individuals
13 operating cranes or regulated heavy equipment as part of public works projects to
14 which s. 66.0903, 103.49, or 103.50 applies.

15 **(3) EXEMPTIONS TO LICENSING REQUIREMENT.** Subsection (2) does not apply when
16 an individual is operating any of the following:

17 (a) An electric line truck.

18 (b) A piece of heavy equipment used for servicing existing equipment or
19 structures located in a gas or electric utility right-of-way.

20 (c) A piece of heavy equipment used for tunneling horizontally underground.

21 (d) A piece of heavy equipment used to remove snow.

22 (e) A forklift or telehandler.

23 (f) A piece of heavy equipment that is used to construct an open-trench,
24 closed-loop well system to obtain geothermal energy if the installation and grouting

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1 of the horizontal piping of the systems is placed at a depth that does not exceed 20
2 feet.

3 (4) LICENSING QUALIFICATIONS; CRANE OPERATORS. The department shall issue a
4 crane operator license to each individual who meets all of the following
5 requirements:

6 (a) The individual is at least 18 years old.

7 (b) The individual has either of the following:

8 1. At least 2,000 hours of verifiable experience in operating a crane in the
9 5-year period immediately preceding his or her application.

10 2. At least 10,000 hours of verifiable experience in operating cranes in his or
11 her lifetime.

12 (c) The individual has obtained certification from a program of certification of
13 crane operators that is accredited by the National Commission for Certifying
14 Agencies or from an equivalent accrediting body approved by the department. The
15 certification process shall require passing both a written and practical examination.

16 (d) The individual has either of the following:

17 1. Proof that he or she has successfully completed an apprenticeship program
18 in the operation of cranes that is recognized by the U.S. department of labor.

19 2. At least 10,000 hours of verifiable experience in operating a crane, on or
20 before the first day of the 24th month beginning after the effective date of this
21 subdivision [LRB inserts date].

22 (e) The individual does not have a license, certification, or other permission to
23 operate a crane or heavy equipment issued by the department or by a comparable
24 licensing agency in another jurisdiction that is suspended or revoked at the time of
25 application.

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1 **(5) LICENSING QUALIFICATIONS; TOWER CRANE OPERATORS.** The department shall
2 issue a tower crane operator endorsement to each individual who applies for the
3 endorsement if at least 500 of the hours that are verified as experience under sub.
4 (4) (b) 1. or 2. or (d) 2. or (9) (b) 1. are verified as experience related to operating a
5 tower crane.

6 **(6) LICENSING QUALIFICATIONS; APPRENTICE CRANE OPERATORS.** The department
7 shall issue an apprentice crane operator license to each individual who meets all of
8 the following requirements:

9 (a) The individual is at least 18 years old.

10 (b) The individual has passed a written examination approved by department
11 and is enrolled in a training program recognized by the U.S. department of labor.

12 (c) The individual does not have a license, certification, or other permission to
13 operate a crane or heavy equipment issued by the department or by a comparable
14 licensing agency in another jurisdiction that is suspended or revoked at the time of
15 application.

16 **(7) LICENSING QUALIFICATIONS; HEAVY EQUIPMENT OPERATORS.** The department
17 shall issue a heavy equipment license to each individual who meets all of the
18 following requirements:

19 (a) The individual is at least 18 years old.

20 (b) The individual has either of the following:

21 1. At least 2,000 hours of verifiable experience in operating heavy equipment
22 in the 5-year period immediately preceding his or her application.

23 2. At least 10,000 hours of verifiable experience in operating heavy equipment
24 in his or her lifetime.

25 (c) The individual has either of the following:

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1 1. Proof that he or she has successfully completed an apprenticeship program
2 in the operation of heavy equipment that is recognized by the U.S. department of
3 labor.

4 2. At least 10,000 hours of verifiable experience in operating heavy equipment
5 on or before the first day of the 24th month beginning after the effective date of this
6 subdivision [LRB inserts date].

7 (d) The individual does not have a license, certification, or other permission to
8 operate a crane or heavy equipment issued by the department or by a comparable
9 licensing agency in another jurisdiction that is suspended or revoked at the time of
10 application.

11 **(8) LICENSING QUALIFICATIONS; APPRENTICE HEAVY EQUIPMENT OPERATORS.** The
12 department shall issue an apprentice heavy equipment operator license to each
13 individual who meets all of the following requirements:

14 (a) The individual is at least 18 years old.

15 (b) The individual has passed a written examination approved by department
16 and is enrolled in a training program recognized by the U.S. department of labor.

17 (c) The individual does not have a license, certification, or other permission to
18 operate a crane or heavy equipment issued by the department or by a comparable
19 licensing agency in another jurisdiction that is suspended or revoked at the time of
20 application.

21 **(9) PERIOD OF VALIDITY; RENEWALS.** (a) A license issued under sub. (4) or (7) shall
22 be valid for a period of 5 years. A license issued under sub. (6) or (8) shall be valid
23 for a period of 3 years.

24 (b) The department shall renew a crane operator license if all of the following
25 apply:

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1 1. The holder of the license has at least 2,000 hours of verifiable experience in
2 operating a crane in the 5-year period immediately preceding his or her application
3 for renewal.

4 2. The holder's license issued under sub. (4) has not been suspended or revoked.

5 3. The holder of the license has not violated any provision under this section,
6 or rules promulgated under this section.

7 (c) The department shall renew a heavy equipment operator license if all of the
8 following apply:

9 1. The holder of the license has at least 2,000 hours of verifiable experience in
10 operating regulated heavy equipment in the 5-year period immediately preceding
11 his or her application for renewal.

12 2. The holder's license issued under sub. (7) has not been suspended or revoked.

13 3. The holder of the license has not violated any provision under this section,
14 or rules promulgated under this section.

15 **(10) RULES.** (a) The department shall promulgate rules that do all of the
16 following:

17 1. Establish criteria for purposes of approving accrediting bodies under sub. (4)
18 (c).

19 2. Establish procedures and requirements for verifying hours under sub. (11).

20 3. Establish requirements for written examinations approved by the
21 department under subs. (6) (b) and (8) (b).

22 4. Establish standards for suspending and revoking licenses issued under this
23 section.

24 (b) 1. The department shall promulgate a rule that establishes a listing of
25 specific types of heavy equipment that are regulated under this section.

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1 2. The crane and heavy equipment council may recommend to the department
2 to include in the listing under subd. 1. or to remove from the listing specific types of
3 heavy equipment. Upon receipt of a recommendation concerning a type of heavy
4 equipment from the council, the department may adopt the recommendation and
5 promulgate a rule that implements the recommendation.

6 **(11) CALCULATION OF VERIFIABLE HOURS.** (a) For purposes of subs. (4) (b) 1. and
7 2. and (d) 2. and (9) (b) 1., any of the following hours shall be counted as hours for
8 meeting requirements for a crane operator license issued under sub. (4):

9 1. Hours spent operating a crane.

10 2. Hours spent in an apprenticeship program in the operation of cranes that
11 is recognized by the U.S. department of labor under sub. (4) (d) 1. or a training
12 program recognized by the U.S. department of labor under sub. (6) (b).

13 3. Hours spent directly supervising or directing the lifting, rotating, hoisting,
14 or other movement operations of a crane by another individual.

15 (b) For purposes of sub. (7) (b) 1. and 2. and (c) 2. and (9) (c) 1., any of the
16 following hours shall be counted as hours for meeting requirements for a heavy
17 equipment license issued under sub. (7):

18 1. Hours spent operating a piece of heavy equipment.

19 2. Hours spent in an apprenticeship program in the operation of heavy
20 equipment that is recognized by the U.S. department of labor under sub. (7) (c) 1. or
21 in a training program recognized by the U.S. department of labor under sub. (8) (b).

22 3. Hours spent directly supervising or directing the operation of a piece of heavy
23 equipment by another individual.

24 **(12) APPLICATION AND EXAMINATION PROCEDURES.** (a) An individual shall apply
25 for a license under this section by submitting an application on a form provided by

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1 the department together with the applicable fee established under s. 101.19 (1) (n).

2 The fee shall be nonrefundable.

3 (b) The department may charge a fee for administering the examinations
4 specified under subs. (6) (b) and (8) (b). If the department decides to charge a fee, it
5 shall establish, by rule, the amount of the fee. The fee shall, as closely as possible,
6 equal the cost of administering such an examination and shall be nonrefundable.

7 The department may contract with joint apprenticeship committees, as defined in 29
8 CFR 29.2, to administer these examinations.

9 **(13) DISCLOSURES; POSTING.** (a) Each contract for a public works project shall
10 contain a statement setting forth the requirements of this section. The department
11 shall promulgate a rule that contains the required wording for the statement.

12 (b) At each work site of a public works project, the department shall post copies
13 of the license issued under this section of each individual who is working at that work
14 site. The notice shall be posted in at least one conspicuous and easily accessible place
15 on the work site and shall remain posted during the full time any individual is
16 employed at the work site.

17 **(14) OVERSIGHT.** The department shall conduct periodic reviews of any program
18 of certification or accrediting body under sub. (4) (c) or any program or other entity
19 administering examinations under sub. (6) (b) or (8) (b) to monitor and ensure
20 compliance with the rules established under sub. (10) (a) 1. and 3. The department
21 may cease to use any program of certification under sub. (4) (c) or any program or
22 other entity administering examination under sub. (6) (b) or (8) (b) if it determines
23 that the program or entity is not in compliance with the applicable rules.

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1 **(15) ENFORCEMENT.** (a) On its own motion or upon a complaint filed by any
2 individual, the department shall issue an order or commence a civil action to enforce
3 this section.

4 (b) Whoever violates sub. (2) (a) or (b) shall be fined not more than \$1,000 for
5 the first violation, not more than \$3,000 for a 2nd violation, and not more than \$5,000
6 for each subsequent violation. Each day of continued violation constitutes a separate
7 violation.

8 **SECTION 5.** 101.19 (1) (n) of the statutes is created to read:

9 101.19 **(1)** (n) Issuing licenses and administering examinations to crane
10 operators and heavy equipment operators under s. 101.138.

11 **SECTION 6. Nonstatutory provisions.**

12 (1) RULES; INITIAL LISTING.

13 (a) In this subsection, “regulated heavy equipment” has the meaning given in
14 section 101.138 (1) (f) of the statutes, as created by this act.

15 (b) The initial listing of types of regulated heavy equipment that is required to
16 be established by rule under section 101.38 (10) (b) 1. of the statutes, as created by
17 this act, shall consist of, and shall be limited to, all of the following:

- 18 1. Caisson rigs.
- 19 2. Pile drivers.
- 20 3. Pile extractors.
- 21 4. Dredges.
- 22 5. Excavators.
- 23 6. Power shovels.
- 24 7. Tractor loader backhoes.
- 25 8. Concrete breakers.

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- 1 9. Subgraders.
- 2 10. Concrete grinding and planing machines.
- 3 11. Slipform curb and gutter machines.
- 4 12. Shoulder wideners.
- 5 13. Milling machines.
- 6 14. Planers.
- 7 15. Scarifiers.
- 8 16. Graders.
- 9 17. Scrapers.
- 10 18. Bulldozers.
- 11 19. Pushers.
- 12 20. Endloaders.
- 13 21. Side boom tractors.
- 14 22. Off-road material haulers.
- 15 23. Straddle carriers.
- 16 24. Rollers.
- 17 25. Compactors.
- 18 26. Shouldering machines.
- 19 27. Self-propelled chip spreaders.
- 20 28. Backfillers.
- 21 29. Portable crusher screens.
- 22 30. Rock breakers.
- 23 (2) RULES; SUBMISSION OF INITIAL LISTING. No later than the first day of the 3rd
- 24 month beginning after the effective date of this subsection, the department of
- 25 commerce shall submit in proposed form the rules being promulgated under section

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1 101.138 (10) (b) 1. of the statutes, as created by this act, and SECTION 6 (1) to the
2 legislative council staff under section 227.15 (1) of the statutes.

3 (3) RULES; SUBMISSION OF OTHER RULES. No later than the first day of the 9th
4 month beginning after the effective date of this subsection, the department of
5 commerce shall submit in proposed form the rules being promulgated under section
6 101.138 (10) (a) of the statutes, as created by this act, to the legislative council staff
7 under section 227.15 (1) of the statutes.

8 (4) ECONOMIC IMPACT REPORT. Notwithstanding section 227.137 (2) of the
9 statutes, the secretary of administration may not require the department of
10 commerce to prepare an economic impact report for the rules being promulgated
11 under section 101.138 (10) (a) and (b) 1. of the statutes, as created by this act, and
12 under subsection (1).

13 (5) COUNCIL. Notwithstanding the length of terms of the members of the crane
14 and heavy equipment council under section 15.157 (16) (a) 1. to 3. of the statutes, as
15 created by this act, the initial members shall be appointed for the following terms:

16 (a) Two members for a term that expires on July 1, 2012.

17 (b) Two members for a term that expires on July 1, 2013.

18 (c) One member for a term that expires on July 1, 2014.

19 **SECTION 7. Initial applicability.**

20 (1) This act first applies to proposals for public works projects, as defined in
21 section 101.138 (1) (e), as created by this act, that are submitted to local
22 governmental units, as defined in section 101.138 (1) (c) of the statutes, as created
23 by this act, for approval on the effective date of this subsection.

24

(END)