

# SENATE BILL 991

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9lr2736  
CF HB 1422

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By: **Senators Stone, Della, Kasemeyer, Kelley, Klausmeier, Robey, and Zirkin**

Introduced and read first time: February 25, 2009

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, March 5, 2009

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 2, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Business Occupations – Crane Operators – Certificate of Competence**

3 FOR the purpose of prohibiting a person from operating a crane in the State for  
4 certain purposes unless the person holds a certain certificate; prohibiting a  
5 person from authorizing the operation of a crane in the State for certain  
6 purposes unless the crane operator holds a certain certificate; requiring a  
7 person who holds a certain certificate to carry the certificate while operating a  
8 crane, and to make the certificate available for inspection on request from  
9 certain individuals; creating a certain evidentiary presumption related to the  
10 certificate; requiring the Commissioner of Labor and Industry, or the  
11 Commissioner's agent, ~~or a law enforcement officer~~ to take certain enforcement  
12 action under certain circumstances; authorizing the Commissioner to bring a  
13 certain action in a certain court under certain circumstances; establishing  
14 certain appeal procedures; making a person who violates certain provisions  
15 guilty of a misdemeanor subject, on conviction, to ~~certain penalties~~ a certain  
16 penalty; requiring the Commissioner to adopt certain regulations; providing a  
17 short title for this Act; declaring the intent of the General Assembly; defining  
18 certain terms; and generally relating to the regulation of crane operators in the  
19 State.

20 BY adding to

21 Article – Business Occupations and Professions

22 Section 9.5–101 through 9.5–107 to be under the new title “Title 9.5. Crane  
23 Operators”

24 Annotated Code of Maryland

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2004 Replacement Volume and 2008 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article – Business Occupations and Professions**

5 **TITLE 9.5. CRANE OPERATORS.**

6 **9.5–101.**

7 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
8 INDICATED.

9 (B) “CERTIFICATE OF COMPETENCE” MEANS CERTIFICATION  
10 OBTAINED BY A PERSON THROUGH ANY ORGANIZATION ACCREDITED BY THE  
11 AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI), OR THE NATIONAL  
12 COMMISSION FOR CERTIFYING AGENCIES (NCCA) THAT STATES THE HOLDER  
13 OF THE CERTIFICATE ~~MEETS THE UNITED STATES OCCUPATIONAL SAFETY AND~~  
14 ~~HEALTH ADMINISTRATION’S REQUIREMENTS FOR OPERATING A CRANE~~  
15 DEMONSTRATES KNOWLEDGE OF AND TRAINING IN SAFE CRANE OPERATING  
16 PROCEDURES.

17 (C) “COMMISSIONER” MEANS THE COMMISSIONER OF LABOR AND  
18 INDUSTRY IN THE DIVISION OF LABOR AND INDUSTRY IN THE DEPARTMENT.

19 (D) (1) “CRANE” MEANS A ~~HOISTING MACHINE THAT HAS A~~  
20 ~~POWER OPERATED WINCH, LOAD LINE, AND BOOM THAT MOVE Laterally BY~~  
21 ~~THE ROTATION OF THE MACHINE ON A CARRIER, AND THAT HAS A~~  
22 ~~MANUFACTURER RATED LIFTING CAPACITY OF 10 TONS OR MORE MACHINE~~  
23 FOR LIFTING, LOWERING, AND HORIZONTALLY MOVING A LOAD, THAT HAS A  
24 HOISTING MECHANISM THAT IS AN INTEGRAL PART OF THE MACHINE.

25 (2) “CRANE” INCLUDES TOWER CRANES, ~~HYDRAULIC CRANES,~~  
26 ~~AND POWER OPERATED DERRICKS.~~

27 (3) “CRANE” DOES NOT INCLUDE:

28 (I) AIRCRAFT;

29 (II) A BUCKET TRUCK;

30 (III) A DIGGER DERRICK TRUCK;

31 (IV) A FORK LIFT;

- 1 (V) A KNUCKLE BOOM;
- 2 (VI) A TROLLEY BOOM; ~~OR~~
- 3 (VII) A HYDRAULIC CRANE;
- 4 (VIII) A POWER-OPERATED DERRICK; OR
- 5 ~~(VII)~~ (IX) A PUBLIC UTILITY COMPANY LINE TRUCK USED BY
- 6 A PUBLIC UTILITY COMPANY IN THE CONSTRUCTION OR MAINTENANCE OF ITS
- 7 TRANSMISSION AND DISTRIBUTION LINES.

8 (E) “CRANE OPERATOR” MEANS A PERSON WHO OPERATES A CRANE.

9 (F) (1) “OPERATE A CRANE” MEANS TO USE MECHANISMS INSIDE A

10 CRANE TO GUIDE THE MACHINE IN:

11 (I) THE LIFTING, MOVING, POSITIONING, AND PLACING OF

12 LARGE AND HEAVY OBJECTS, EARTH, OR OTHER MATERIALS; OR

13 (II) THE DRIVING OF LARGE OBJECTS OR MATERIALS INTO

14 THE GROUND.

15 (2) “OPERATE A CRANE” INCLUDES:

16 (I) THE INSPECTION OF A CRANE;

17 (II) ASSISTING IN THE ERECTION, ADDING TO, OR

18 DISMANTLING OF A CRANE; AND

19 (III) THE PERFORMANCE OF ROUTINE MAINTENANCE ON A

20 CRANE.

21 (3) “OPERATE A CRANE” DOES NOT INCLUDE THE MOVEMENT OF

22 A CRANE ON A STATE HIGHWAY FROM ONE LOCATION TO ANOTHER LOCATION.

23 **9.5-102.**

24 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON MAY NOT:

- 25 (1) OPERATE A CRANE IN THE STATE FOR THE PURPOSE OF
- 26 CONSTRUCTION WORK OR DEMOLITION WORK UNLESS THE PERSON HOLDS A
- 27 CERTIFICATE OF COMPETENCE; OR

1           (2)    AUTHORIZE A PERSON TO OPERATE A CRANE IN THE STATE  
2 FOR THE PURPOSE OF CONSTRUCTION WORK OR DEMOLITION WORK UNLESS  
3 THE OPERATOR HOLDS A CERTIFICATE OF COMPETENCE.

4   **9.5-103.**

5           (A)   A CRANE OPERATOR WHO HOLDS A CERTIFICATE OF COMPETENCE  
6 SHALL:

7                   (1)   CARRY THE CERTIFICATE OF COMPETENCE WHILE  
8 OPERATING A CRANE IN THE STATE; AND

9                   (2)   MAKE THE CERTIFICATE OF COMPETENCE AVAILABLE FOR  
10 INSPECTION ON REQUEST BY THE COMMISSIONER, AN AGENT OF THE  
11 COMMISSIONER, OR BY A LAW ENFORCEMENT OFFICER.

12           (B)   THE FAILURE OF A CRANE OPERATOR TO MAKE THE CERTIFICATE  
13 OF COMPETENCE AVAILABLE FOR INSPECTION ON REQUEST AS REQUIRED  
14 UNDER PARAGRAPH (A)(2) OF THIS SUBSECTION SHALL BE PRESUMPTIVE  
15 EVIDENCE THAT THE CRANE OPERATOR DOES NOT HOLD A CERTIFICATE OF  
16 COMPETENCE.

17   **9.5-104.**

18           (A)   IN ADDITION TO THE POWERS CONFERRED UNDER THIS TITLE, THE  
19 COMMISSIONER MAY USE ALL POWERS CONFERRED BY LAW TO THE  
20 COMMISSIONER TO IMPLEMENT AND ENFORCE THE PROVISIONS OF THIS TITLE.

21           (B)   (1)   THE COMMISSIONER, OR AN AGENT OF THE COMMISSIONER,  
22 ~~OR A LAW ENFORCEMENT OFFICER~~ WHO HAS REASON TO BELIEVE THAT A  
23 PERSON IS OR HAS BEEN OPERATING A CRANE IN THE STATE WITHOUT A VALID  
24 CERTIFICATE OF COMPETENCE SHALL:

25                   ~~(1)~~   REQUIRE THE CRANE OPERATOR TO PROVIDE PROOF THAT  
26 THE CRANE OPERATOR HOLDS A CERTIFICATE OF COMPETENCE.

27                   (2)   ISSUE A CITATION IF A CRANE OPERATOR FAILS TO PROVIDE  
28 PROOF OF A VALID CERTIFICATE OF COMPETENCE UNDER PARAGRAPH (1) OF  
29 THIS SUBSECTION, THE COMMISSIONER OR THE AGENT OF THE COMMISSIONER  
30 SHALL ISSUE A WRITTEN NOTICE TO THE PERSON FOR THAT:

31                           (I)   STATES THAT THERE HAS BEEN A VIOLATION OF THIS  
32 TITLE, OR REGULATIONS ADOPTED UNDER IT, IF ANY; AND

1           ~~(3)~~ (II) REQUIRE REQUIRES THE OPERATION OF THE CRANE TO  
 2 CEASE UNLESS OPERATED BY A PERSON HOLDING A VALID CERTIFICATE OF  
 3 COMPETENCE.

4           (3) IF A PERSON FAILS TO COMPLY WITH A WRITTEN NOTICE  
 5 ISSUED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSIONER MAY  
 6 BRING AN ACTION TO ENFORCE THE WRITTEN NOTICE IN THE COUNTY WHERE  
 7 THE CRANE BEING OPERATED IS LOCATED OR IN THE CIRCUIT COURT OF  
 8 BALTIMORE CITY.

9           (C) (1) A PERSON AGGRIEVED BY A DECISION OF THE  
 10 COMMISSIONER UNDER THIS SECTION MAY APPEAL TO A COURT OF COMPETENT  
 11 JURISDICTION IN ACCORDANCE WITH THE MARYLAND RULES.

12           (2) A DECISION OF THE COMMISSIONER MAY NOT BE STAYED BY  
 13 THE FILING OF AN APPEAL UNDER THIS SUBSECTION.

14 **9.5-105.**

15           ~~(A)~~ A PERSON WHO VIOLATES THIS TITLE OR REGULATIONS ADOPTED  
 16 UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS  
 17 SUBJECT TO:

18           ~~(1)~~ A FINE NOT EXCEEDING: \$1,000.

19           ~~(I)~~ ~~\$3,000 FOR A FIRST VIOLATION;~~

20           ~~(II)~~ ~~\$5,000 FOR A SECOND VIOLATION; OR~~

21           ~~(III)~~ ~~\$10,000 FOR A THIRD OR SUBSEQUENT VIOLATION;~~

22           ~~(2)~~ ~~IMPRISONMENT NOT EXCEEDING 30 DAYS; OR~~

23           ~~(3)~~ ~~BOTH A FINE AND IMPRISONMENT UNDER ITEMS (1) AND (2)~~  
 24 ~~OF THIS SUBSECTION.~~

25           ~~(B)~~ ~~THE TOTAL AMOUNT OF FINES IMPOSED UNDER THIS SECTION MAY~~  
 26 ~~NOT EXCEED \$50,000.~~

27 **9.5-106.**

28           THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT,  
 29 ADMINISTER, AND ENFORCE THIS TITLE.

30 **9.5-107.**

1           **THIS TITLE SHALL BE KNOWN AS THE “MARYLAND SAFE CRANE**  
2 **OPERATORS ACT”.**

3           SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the  
4 General Assembly that enactment of the requirement that a person hold a Certificate  
5 of Competence to operate a crane in this State be in addition to and compatible with  
6 any federal and State law regulating crane operators, the operation of cranes, and the  
7 movement of cranes along highways and should not be used in any manner to rescind  
8 Federal Motor Carrier Safety Regulations adopted by the State or any other State or  
9 local law or regulation regarding the movement of oversize or overweight vehicles on  
10 State highways.

11           SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
12 effect October 1, 2009.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.