

## CHAPTER 640

(Senate Bill 991)

AN ACT concerning

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

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

BY adding to

Article – Business Occupations and Professions

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

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

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

### **Article – Business Occupations and Professions**

#### **TITLE 9.5. CRANE OPERATORS.**

##### **9.5–101.**

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

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

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

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

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

(3) **“CRANE” DOES NOT INCLUDE:**

- (I) AIRCRAFT;
- (II) A BUCKET TRUCK;
- (III) A DIGGER DERRICK TRUCK;
- (IV) A FORK LIFT;
- (V) A KNUCKLE BOOM;
- (VI) A TROLLEY BOOM; ~~OR~~
- (VII) A HYDRAULIC CRANE;
- (VIII) A POWER-OPERATED DERRICK; OR

~~(VII)~~ (IX) A PUBLIC UTILITY COMPANY LINE TRUCK USED BY A PUBLIC UTILITY COMPANY IN THE CONSTRUCTION OR MAINTENANCE OF ITS TRANSMISSION AND DISTRIBUTION LINES.

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

(F) (1) **“OPERATE A CRANE” MEANS TO USE MECHANISMS INSIDE A CRANE TO GUIDE THE MACHINE IN:**

(I) **THE LIFTING, MOVING, POSITIONING, AND PLACING OF LARGE AND HEAVY OBJECTS, EARTH, OR OTHER MATERIALS; OR**

(II) **THE DRIVING OF LARGE OBJECTS OR MATERIALS INTO THE GROUND.**

(2) **“OPERATE A CRANE” INCLUDES:**

(I) **THE INSPECTION OF A CRANE;**

(II) **ASSISTING IN THE ERECTION, ADDING TO, OR DISMANTLING OF A CRANE; AND**

(III) **THE PERFORMANCE OF ROUTINE MAINTENANCE ON A CRANE.**

(3) **“OPERATE A CRANE” DOES NOT INCLUDE THE MOVEMENT OF A CRANE ON A STATE HIGHWAY FROM ONE LOCATION TO ANOTHER LOCATION.**

**9.5-102.**

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

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

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

**9.5-103.**

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

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

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

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

**9.5-104.**

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

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

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

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

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

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

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

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

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

**9.5-105.**

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

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

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

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

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

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

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

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

**9.5-106.**

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

**9.5-107.**

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

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that enactment of the requirement that a person hold a Certificate of Competence to operate a crane in this State be in addition to and compatible with any federal and State law regulating crane operators, the operation of cranes, and the movement of cranes along highways and should not be used in any manner to rescind

Federal Motor Carrier Safety Regulations adopted by the State or any other State or local law or regulation regarding the movement of oversize or overweight vehicles on State highways.

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

**Approved by the Governor, May 19, 2009.**