

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 617 Session of
2005

INTRODUCED BY CIVERA, ADOLPH, MICOZZIE, BELFANTI, RAYMOND,
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YOUNGBLOOD, DENLINGER, GERBER AND GEORGE, FEBRUARY 16, 2005

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF
REPRESENTATIVES, AS AMENDED, JANUARY 24, 2006

AN ACT

1 Relating to crane operator licensure; establishing the State
2 Board of Crane Operators; conferring powers and imposing
3 duties; making an appropriation; and imposing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 ~~Section 1. Short title.~~

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7 ~~This act shall be known and may be cited as the Crane~~
8 ~~Operator Licensure Act.~~

9 ~~Section 2. Definitions.~~

10 ~~The following words and phrases when used in this act shall~~
11 ~~have the meanings given to them in this section unless the~~
12 ~~context clearly indicates otherwise:~~

13 ~~"Board." The State Board of Crane Operators.~~

14 ~~"Crane." A power operated hoisting machine that has a power~~
15 ~~operated winch, load line and boom moving laterally by the~~
16 ~~rotation of the machine on a carrier or base and has a~~

~~manufacturer rated lifting capacity of ten tons or more. The term shall not include a forklift, digger derrick truck, aircraft, bucket truck or any vehicle or machine not having a power operated winch and load line.~~

~~"Crane operator."—An individual duly licensed by the State Board of Crane Operators to engage in the operation of a crane.~~

~~"Crane operator trainee."—An individual who has not been issued a license under this act but who is authorized to perform the duties of a crane operator under the immediate supervision of a licensed crane operator.~~

~~"Crane related experience."—Operating, inspecting, training and maintenance experience which is acceptable to the State Board of Crane Operators.~~

~~"Department."—The Department of Labor and Industry of the Commonwealth.~~

~~"Immediate supervision."—Circumstances in which the supervising crane operator is in the immediate area of the trainee and within visual sighting distance and able to effectively communicate with the trainee. When performing direct supervision, the supervising crane operator shall have no other duties than to observe the operation of the crane by the trainee.~~

~~"Secretary."—The Secretary of Labor and Industry of the Commonwealth.~~

~~Section 3.—State Board of Crane Operators.~~

~~(a) Establishment.—The State Board of Crane Operators is hereby established as a departmental administrative board in the Department of Labor and Industry. The board shall consist of seven members who are residents of this Commonwealth, including the secretary or his designee, two members appointed by the~~

1 ~~Governor who shall be members of the public at large and four~~
2 ~~members appointed by the Governor who shall have been actively~~
3 ~~engaged in crane related operations in this Commonwealth for at~~
4 ~~least five years immediately preceding their appointment. The~~
5 ~~board shall meet within 30 days after the appointment of its new~~
6 ~~members and set up operating procedures and develop application~~
7 ~~forms for licensing crane operators. It shall be the~~
8 ~~responsibility of the board to circulate these forms and educate~~
9 ~~the public to the requirements of licensing in order to hold~~
10 ~~oneself out as a licensed crane operator within this~~
11 ~~Commonwealth.~~

12 ~~(b) Membership. Professional and public members shall be~~
13 ~~appointed by the Governor with the advice and consent of the~~
14 ~~Senate for terms of four years, except that of the members first~~
15 ~~appointed, three shall serve for terms of four years, two shall~~
16 ~~serve for terms of three years and one shall serve for a term of~~
17 ~~two years. The professional members of the board initially~~
18 ~~appointed pursuant to this subsection need not be licensed at~~
19 ~~the time of appointment but, at the time of appointment, must~~
20 ~~have satisfied the eligibility requirements for licensure as~~
21 ~~crane operators as provided in this act.~~

22 ~~(c) Term of office. Each board member shall continue in~~
23 ~~office until a successor is duly appointed and qualified but no~~
24 ~~longer than six months after the expiration of the term. In the~~
25 ~~event that a board member shall die, resign or otherwise become~~
26 ~~disqualified during the term of office, a successor shall be~~
27 ~~appointed in the same way and with the same qualifications as~~
28 ~~set forth in this section and shall hold office for the~~
29 ~~unexpired portion of the unexpired term.~~

30 ~~(d) Eligibility. No board member shall be eligible for~~

~~appointment to serve more than two consecutive four year terms.~~

~~(e) Forfeiture of membership. A board member who fails to attend three consecutive meetings shall forfeit his or her seat unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of a family member.~~

~~(f) Compensation. Each member of the board, except the secretary, shall receive per diem compensation at the rate of \$60 per diem when actually attending to the work of the board. Members shall also receive reasonable travel, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.~~

~~(g) Forfeiture. A public member who fails to attend two consecutive statutorily mandated training seminars in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, shall forfeit his or her seat unless the secretary, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.~~

~~(h) Quorum. A majority of the members of the board serving in accordance with law shall constitute a quorum for purposes of conducting the business of the board. Except for votes pertaining to temporary and automatic suspensions, a member may not be counted as part of a quorum or vote on any issue unless he or she is physically in attendance at the meeting.~~

~~(i) Meetings. The board shall meet at least four times a year in the city of Harrisburg.~~

~~(j) Notice. Reasonable notice of all meetings shall be given in conformity with the former act of July 3, 1986~~

~~(P.L.388, No.84), known as the Sunshine Act.~~

~~Section 4. Powers and functions of board.~~

~~The board shall have the power to do any of the following:~~

~~(1) Administer and enforce the provisions of this act.~~

~~(2) Issue and renew licenses to crane operators.~~

~~(3) Suspend, revoke or fail to renew the license of a crane operator.~~

~~(4) Adopt standards for certification that are consistent with applicable certification requirements of one or more established and nationally recognized crane operator certification programs recognized by the Federal Occupational Safety and Health Administration.~~

~~(5) Adopt and publish a code of ethics and standards of practice for licensed crane operators.~~

~~(6) Prescribe and charge reasonable fees to support program costs associated with examinations, licenses, renewals and other services performed pursuant to this act.~~

~~(7) Create any subcommittee the board deems necessary to assist in the performance of its duties.~~

~~(8) Implement a schedule establishing penalties for violations of this act or any regulations under this act.~~

~~Section 5. Licensure of crane operators.~~

~~(a) General rule. No person shall engage in the operation of a crane or offer himself for employment as a crane operator unless licensed as such under the provisions of this act.~~

~~(b) Specialties. A crane operator's license shall be valid only in conjunction with a current certification and only in the specialty or specialties for which the crane operator is certified. The specialties shall include tower crane lattice boom crawler, lattice boom truck, telescopic boom cranes with a~~

~~capacity of more than 17.5 tons and all rotating cab mounted machines, telescopic boom cranes with a capacity of less than 17.5 tons and all fixed cab mounted machines and such other specialties as may be designated by the board.~~

~~Section 6. Crane operator trainee.~~

~~For the purpose of obtaining at least 1,000 hours of crane related experience as required by section 7(3) (relating to eligibility for licensure as crane operator), an individual who has met the requirements of section 7(1) and (4) may perform the duties of a crane operator under the immediate supervision of a licensed crane operator.~~

~~Section 7. Eligibility for licensure as crane operator.~~

~~To be eligible for a license as a crane operator, an applicant shall fulfill the following requirements:~~

~~(1) Be at least 18 years of age.~~

~~(2) Receive certification from the National Commission for the Certification of Crane Operators or any other organization found by the board to offer an equivalent testing and certification program meeting the requirements of the American Society of Mechanical Engineers (ASME) B30.5 and the accreditation requirements of the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI).~~

~~(3) Have at least 1,000 hours of documented crane related experience.~~

~~(4) Be medically and physically capable of performing the responsibilities of operating a crane.~~

~~Section 8. Application, fee, issuance of license.~~

~~Upon payment of a fee and the submission of a written application provided by the board, the board shall issue a crane~~

1 ~~operator license to any person who meets the eligibility~~
2 ~~requirements of section 7 (relating to eligibility for licensure~~
3 ~~as crane operator). Applicants who can show proof of~~
4 ~~certification pursuant to section 7(2) prior to the effective~~
5 ~~date of this act shall be exempt from the requirements of~~
6 ~~section 7(3), provided that such certification is active on the~~
7 ~~effective date of this act.~~

8 ~~Section 9. Fees established by rule; use.~~

9 ~~(a) Fees. The board shall by rule or regulation establish,~~
10 ~~prescribe or change the fees for licenses, renewals of licenses~~
11 ~~or other services provided by the board pursuant to the~~
12 ~~provisions of this act. Licenses shall be issued for a period of~~
13 ~~five years and may be renewed when the applicant provides proof~~
14 ~~that certification required pursuant to section 7(2) (relating~~
15 ~~to eligibility for licensure as crane operator) has been~~
16 ~~maintained, except that the board may provide that those~~
17 ~~licenses first issued or renewed after the effective date of~~
18 ~~this act shall expire or become void on the expiration date of~~
19 ~~the certification.~~

20 ~~(b) Payment. All fees and any fines imposed by the board~~
21 ~~shall be paid to the department and shall be directly applied~~
22 ~~toward enforcement and administrative costs of the board.~~

23 ~~(c) Insufficient revenues. If the revenues generated by~~
24 ~~fees, fines and civil penalties imposed in accordance with the~~
25 ~~provisions of this act are not sufficient to match expenditures~~
26 ~~over a two year period, the board shall increase those fees by~~
27 ~~regulation, subject to review in accordance with the act of June~~
28 ~~25, 1982 (P.L.633, No.181), known as the Regulatory Review Act,~~
29 ~~such that the projected revenues will meet or exceed projected~~
30 ~~expenditures.~~

~~Section 10. Refusal, suspension or revocation of license.~~

~~(a) General rule. The board shall refuse to issue a license to any person and, after notice and hearing in accordance with rules and regulations, may suspend or revoke the license of any person who has done any of the following:~~

~~(1) Attempted to or obtained licensure by fraud or misrepresentation.~~

~~(2) Fraudulently or deceitfully performed work for which a license is required under this act.~~

~~(3) Within the prior 24 months been convicted of a felony in a Federal court or in the courts of this Commonwealth or any other state, territory or country. Conviction, as used in this paragraph, shall include a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere.~~

~~(4) Habitually indulged in the use of narcotics or other habit forming drugs or excessively indulged in the use of alcoholic liquors.~~

~~(5) Committed an act of gross negligence.~~

~~(6) Falsely advertised.~~

~~(7) Acted in a manner which demonstrates incompetence.~~

~~(8) Caused or contributed in a negligent manner conduct that directly or indirectly resulted in an injury to a person or damage to property.~~

~~(9) Had his or her license to operate a crane revoked or suspended or had other disciplinary action taken or had his or her application for a license refused, revoked or suspended by the proper licensing authority of another state, territory or country.~~

~~(10) Made misleading, deceptive, untrue or fraudulent~~

~~representations in violation of this act or otherwise in the
practice of the profession.~~

~~(b) Appeal. All actions of the board shall be taken subject
to the right of notice, hearing and adjudication and the right
of appeal therefrom in accordance with 2 Pa.C.S. (relating to
administrative law and procedure).~~

~~(c) Reinstatement. Unless ordered to do so by a court, the
board shall not reinstate the license of a person to operate a
crane which has been revoked, and such person shall be required
to apply for a license after a five year period if he or she
desires to operate a crane at any time after such revocation.~~

~~Section 11. Reporting of multiple licensure.~~

~~Any licensee of the board who is also licensed to practice in
any other state, territory or country shall report this
information to the board on the license renewal application. Any
disciplinary action taken in any other state, territory or
country shall be reported to the board on the license renewal
application or within 90 days of disposition, whichever is
sooner. Multiple licensure shall be noted by the board on the
licensee's record, and such state, territory or country shall be
notified by the board of any disciplinary actions taken against
the licensee in this Commonwealth.~~

~~Section 12. Surrender of suspended or revoked license.~~

~~The board shall require a person whose license has been
suspended or revoked to return the license in such manner as the
board directs. Failure to do so shall constitute a misdemeanor
of the third degree.~~

~~Section 13. Penalties.~~

~~(a) Criminal penalties. A person who violates this act
commits a misdemeanor of the third degree and shall, upon~~

~~conviction, be sentenced to pay a fine of up to \$1,000 or to imprisonment for not more than 90 days, or both.~~

~~(b) Civil penalty. In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law or by a vote of the majority of the duly qualified and confirmed membership or a minimum of three members, whichever is greater, may levy a civil penalty of up to \$1,000 on any current licensee who violates any provision of this act or on any person who holds himself or herself out as a licensed crane operator without being so licensed pursuant to this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in 2 Pa.C.S. (relating to administrative law and procedure).~~

~~(c) Unlicensed operation. Other than for training purposes, it shall be a violation of this act for any person to direct or require an individual to operate a crane without the license required under this act.~~

~~(d) Disposition. All fines and civil penalties imposed in accordance with this section shall be paid to the department.~~

~~Section 14. Subpoenas.~~

~~(a) Power to issue. The board shall have the authority to issue subpoenas, upon application of an attorney responsible for representing the Commonwealth in disciplinary matters before the board, for the purpose of investigating alleged violations of the disciplinary provisions administered by the board. The board shall have the power to subpoena witnesses, to administer oaths, to examine witnesses and to take such testimony or compel the production of such books, records, papers and documents as it~~

~~may deem necessary or proper in and pertinent to any proceeding, investigation or hearing held or had by it. The court may impose such limitations on the scope of the subpoena as are necessary to prevent unnecessary intrusion into client confidential information. The board is authorized to apply to Commonwealth Court to enforce its subpoenas.~~

~~(b) Notification of board. An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall notify the board immediately upon receiving notification of an alleged violation of this act. The board shall maintain current records of all reports of alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.~~

~~Section 15. Unlawful practice.~~

~~(a) Prohibition. It shall be unlawful for any person to hold himself or herself out as a licensed crane operator without possessing a valid, unexpired, unrevoked and unsuspended license issued under this act.~~

~~(b) Injunction. Unlawful practice may be enjoined by the courts upon petition of the secretary or the board. In any proceeding under this section, it shall not be necessary to show that any person is individually injured by the actions complained of. If the court finds that the respondent has violated this section, it shall enjoin him or her from so practicing until he or she has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit.~~

~~(c) Remedy cumulative. The injunctive remedy provided in this section shall be in addition to any other civil or criminal prosecution and punishment.~~

1 ~~Section 16. Appropriation.~~

2 ~~The sum of \$85,000 or as much thereof as may be necessary is~~
3 ~~hereby appropriated from the General Fund to the Department of~~
4 ~~Labor and Industry for the payment of costs of processing~~
5 ~~licenses and renewals, for the operation of the board and for~~
6 ~~other general costs of operations relating to this act. The~~
7 ~~appropriation granted shall be repaid by the board within three~~
8 ~~years of the beginning of issuance of licenses by the board.~~

9 ~~Section 17. Severability.~~

10 ~~The provisions of this act are severable. If any provision of~~
11 ~~this act or its application to any person or circumstance is~~
12 ~~held invalid, the invalidity shall not affect other provisions~~
13 ~~or applications of this act which can be given effect without~~
14 ~~the invalid provision or application.~~

15 ~~Section 18. Effective date.~~

16 ~~This act shall take effect as follows:~~

17 ~~(1) Sections 5 and 15 shall take effect in 18 months.~~

18 ~~(2) The remainder of this act shall take effect in 60~~
19 ~~days.~~

20 CHAPTER 1

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21 PRELIMINARY PROVISIONS

22 SECTION 101. SHORT TITLE.

23 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE CRANE
24 OPERATOR LICENSURE ACT.

25 SECTION 102. DEFINITIONS.

26 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
27 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
28 CONTEXT CLEARLY INDICATES OTHERWISE:

29 "BOARD." THE STATE BOARD OF CRANE OPERATORS.

30 "CERTIFICATION" OR "CERTIFIED." CERTIFICATION FROM THE

1 NATIONAL COMMISSION FOR THE CERTIFICATION OF CRANE OPERATORS OR
2 ANOTHER ORGANIZATION FOUND BY THE STATE BOARD OF CRANE OPERATORS
3 TO OFFER AN EQUIVALENT TESTING AND CERTIFICATION PROGRAM MEETING
4 THE REQUIREMENTS OF THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS
5 ASME B30.5 AND THE ACCREDITATION REQUIREMENTS OF THE NATIONAL
6 COMMISSION FOR CERTIFYING AGENCIES OR THE AMERICAN NATIONAL
7 STANDARDS INSTITUTE.

8 "COMMISSIONER." THE COMMISSIONER OF PROFESSIONAL AND
9 OCCUPATIONAL AFFAIRS WITHIN THE DEPARTMENT OF STATE.

10 "CONVICTION." INCLUDES A JUDGMENT, AN ADMISSION OF GUILT OR
11 A PLEA OF NOLO CONTENDERE.

12 "CRANE." A POWER-OPERATED HOISTING MACHINE THAT HAS A POWER-
13 OPERATED WINCH, LOAD LINE AND BOOM MOVING Laterally BY THE
14 ROTATION OF THE MACHINE ON A CARRIER OR BASE WHICH HAS A
15 MANUFACTURER'S RATED MAXIMUM LIFTING CAPACITY OF TEN TONS OR
16 MORE. THE TERM INCLUDES A TOWER CRANE, DERRICK, CRAWLER CRANE
17 AND WHEEL-MOUNTED CRANE OF BOTH TRUCK AND SELF-PROPELLED WHEEL
18 TYPE. THE TERM DOES NOT INCLUDE A FORKLIFT, DIGGER DERRICK
19 TRUCK, AIRCRAFT, BUCKET TRUCK, VEHICLE OR MACHINE NOT HAVING A
20 POWER-OPERATED WINCH AND LOAD LINE OR CRANE USED IN LONGSHORE
21 OPERATIONS.

22 "CRANE OPERATOR." AN INDIVIDUAL LICENSED BY THE STATE BOARD
23 OF CRANE OPERATORS TO OPERATE A CRANE.

24 "DEPARTMENT." THE DEPARTMENT OF STATE OF THE COMMONWEALTH.

25 "IMMEDIATE SUPERVISION." CIRCUMSTANCES IN WHICH THE CRANE
26 OPERATOR IS IN THE IMMEDIATE AREA OF THE TRAINEE, WITHIN VISUAL
27 SIGHTING DISTANCE AND ABLE TO EFFECTIVELY COMMUNICATE WITH THE
28 TRAINEE.

29 "TRAINEE." AN INDIVIDUAL WHO HAS NOT BEEN ISSUED A LICENSE
30 UNDER THIS ACT BUT WHO IS AUTHORIZED TO OPERATE A CRANE AS SET

1 FORTH IN THIS ACT WHEN UNDER THE IMMEDIATE SUPERVISION OF A
2 CRANE OPERATOR.

3 CHAPTER 3

4 STATE BOARD OF CRANE OPERATORS

5 SECTION 301. BOARD.

6 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED THE STATE
7 BOARD OF CRANE OPERATORS WITHIN THE DEPARTMENT.

8 (B) COMPOSITION.--THE BOARD SHALL CONSIST OF THE FOLLOWING:

9 (1) THE COMMISSIONER.

10 (2) TWO PUBLIC MEMBERS.

11 (3) FOUR PROFESSIONAL MEMBERS. PROFESSIONAL MEMBERS
12 SHALL HAVE BEEN ACTIVELY ENGAGED IN CRANE-RELATED OPERATIONS
13 IN THIS COMMONWEALTH FOR AT LEAST FIVE YEARS IMMEDIATELY
14 PRECEDING APPOINTMENT. EXCEPT AS SET FORTH IN SUBSECTION (F),
15 PROFESSIONAL MEMBERS SHALL BE LICENSED UNDER THIS ACT AS
16 CRANE OPERATORS.

17 (C) MEETING.--THE BOARD SHALL MEET WITHIN 30 DAYS AFTER THE
18 APPOINTMENT OF ITS FIRST MEMBERS AND SHALL:

19 (1) SET UP OPERATING PROCEDURES.

20 (2) DEVELOP APPLICATION FORMS FOR LICENSURE.

21 (3) CIRCULATE APPLICATION FORMS.

22 (4) EDUCATE THE PUBLIC REGARDING THE REQUIREMENTS OF
23 BEING LICENSED TO OPERATE A CRANE AND TO HOLD ONESELF OUT AS
24 A CRANE OPERATOR IN THIS COMMONWEALTH.

25 (D) TERM OF MEMBERSHIP.--PROFESSIONAL AND PUBLIC MEMBERS
26 SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT
27 OF THE SENATE. PROFESSIONAL AND PUBLIC MEMBERS SHALL BE CITIZENS
28 OF THE UNITED STATES AND RESIDENTS OF THIS COMMONWEALTH. EXCEPT
29 AS PROVIDED IN SUBSECTION (E), PROFESSIONAL AND PUBLIC MEMBERS
30 SHALL SERVE A TERM OF FOUR YEARS, OR UNTIL A SUCCESSOR HAS BEEN

1 APPOINTED AND QUALIFIED BUT IN NO EVENT LONGER THAN SIX MONTHS
2 BEYOND THE FOUR-YEAR PERIOD. IN THE EVENT THAT A MEMBER DIES OR
3 RESIGNS OR OTHERWISE IS DISQUALIFIED DURING THE TERM OF OFFICE,
4 A SUCCESSOR SHALL BE APPOINTED IN THE SAME WAY AND WITH THE SAME
5 QUALIFICATIONS AND SHALL HOLD OFFICE FOR AN UNEXPIRED TERM. A
6 PROFESSIONAL OR PUBLIC MEMBER SHALL NOT BE ELIGIBLE TO HOLD MORE
7 THAN TWO CONSECUTIVE TERMS.

8 (E) FIRST APPOINTMENTS.--FOR PROFESSIONAL AND PUBLIC MEMBERS
9 FIRST APPOINTED TO THE BOARD PURSUANT TO THIS ACT, THE TERM OF
10 OFFICE SHALL BE AS FOLLOWS:

11 (1) THREE MEMBERS SHALL SERVE FOR A TERM OF FOUR YEARS.

12 (2) TWO MEMBERS SHALL SERVE FOR A TERM OF THREE YEARS.

13 (3) ONE MEMBER SHALL SERVE FOR A TERM OF TWO YEARS.

14 (F) PROFESSIONAL MEMBERS AND FIRST APPOINTMENTS.--A
15 PROFESSIONAL MEMBER FIRST APPOINTED TO THE BOARD PURSUANT TO
16 THIS ACT NEED NOT BE LICENSED AT THE TIME OF APPOINTMENT BUT AT
17 THE TIME OF APPOINTMENT MUST HAVE SATISFIED ELIGIBILITY
18 REQUIREMENTS FOR LICENSURE, INCLUDING HOLDING CURRENT
19 CERTIFICATION, AS A CRANE OPERATOR AS PROVIDED IN THIS ACT.

20 (G) QUORUM.--A MAJORITY OF THE MEMBERS OF THE BOARD SHALL
21 CONSTITUTE A QUORUM. EXCEPT FOR TEMPORARY AND AUTOMATIC
22 SUSPENSIONS UNDER SECTION 705, A MEMBER MAY NOT BE COUNTED AS
23 PART OF A QUORUM OR VOTE ON ANY ISSUE, UNLESS THE MEMBER IS
24 PHYSICALLY IN ATTENDANCE AT THE MEETING.

25 (H) CHAIRPERSON.--THE BOARD SHALL SELECT ANNUALLY A
26 CHAIRPERSON FROM AMONG ITS MEMBERS. THE BOARD, WITH THE APPROVAL
27 OF THE COMMISSIONER, SHALL SELECT AND FIX THE COMPENSATION OF AN
28 EXECUTIVE SECRETARY WHO SHALL BE RESPONSIBLE FOR THE DAY-TO-DAY
29 OPERATION OF THE BOARD AND ADMINISTRATION OF THE BOARD'S
30 ACTIVITIES.

1 (I) EXPENSES.--WITH THE EXCEPTION OF THE COMMISSIONER, EACH
2 MEMBER OF THE BOARD SHALL RECEIVE \$60 PER DIEM WHEN ACTUALLY
3 ATTENDING TO THE WORK OF THE BOARD. A MEMBER SHALL ALSO RECEIVE
4 THE AMOUNT OF REASONABLE TRAVELING, HOTEL AND OTHER NECESSARY
5 EXPENSES INCURRED IN THE PERFORMANCE OF THE MEMBER'S DUTIES IN
6 ACCORDANCE WITH COMMONWEALTH REGULATIONS.

7 (J) FORFEITURE.--A PROFESSIONAL OR PUBLIC MEMBER WHO FAILS
8 TO ATTEND THREE CONSECUTIVE MEETINGS SHALL FORFEIT THE MEMBER'S
9 SEAT UNLESS THE COMMISSIONER, UPON WRITTEN REQUEST FROM THE
10 MEMBER, FINDS THAT THE MEMBER SHOULD BE EXCUSED FROM A MEETING
11 BECAUSE OF ILLNESS OR THE DEATH OF A FAMILY MEMBER.

12 (K) TRAINING SEMINARS.--A PUBLIC MEMBER WHO FAILS TO ATTEND
13 TWO CONSECUTIVE STATUTORILY MANDATED TRAINING SEMINARS IN
14 ACCORDANCE WITH SECTION 813(E) OF THE ACT OF APRIL 9, 1929
15 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929,
16 SHALL FORFEIT THE MEMBER'S SEAT UNLESS THE COMMISSIONER, UPON
17 WRITTEN REQUEST FROM THE PUBLIC MEMBER, FINDS THAT THE PUBLIC
18 MEMBER SHOULD BE EXCUSED FROM A MEETING BECAUSE OF ILLNESS OR
19 THE DEATH OF A FAMILY MEMBER.

20 (L) FREQUENCY OF MEETINGS.--THE BOARD SHALL MEET AT LEAST
21 FOUR TIMES A YEAR IN THE CITY OF HARRISBURG AND AT SUCH
22 ADDITIONAL TIMES AS MAY BE NECESSARY TO CONDUCT THE BUSINESS OF
23 THE BOARD.

24 SECTION 302. POWERS AND DUTIES OF BOARD.

25 THE BOARD SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

26 (1) TO PROVIDE FOR AND REGULATE THE LICENSING OF
27 INDIVIDUALS ENGAGED IN OPERATING A CRANE.

28 (2) TO ISSUE LICENSES, RENEW LICENSES, REINSTATE
29 LICENSES, FAIL TO RENEW, SUSPEND AND REVOKE LICENSES AS
30 PROVIDED IN THIS ACT.

1 (3) TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS
2 ACT.

3 (4) TO INVESTIGATE APPLICATIONS FOR LICENSURE AND TO
4 DETERMINE THE ELIGIBILITY OF AN INDIVIDUAL APPLYING FOR
5 LICENSURE.

6 (5) TO PROMULGATE AND ENFORCE REGULATIONS, NOT
7 INCONSISTENT WITH THIS ACT, AS NECESSARY ONLY TO CARRY INTO
8 EFFECT THE PROVISIONS OF THIS ACT. THIS PARAGRAPH INCLUDES
9 THE SETTING OF FEES AND THE ADOPTION OF STANDARDS FOR
10 CERTIFICATION OF CRANE OPERATORS. REGULATIONS SHALL BE
11 ADOPTED IN CONFORMITY WITH THE PROVISIONS OF THE ACT OF JULY
12 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH
13 DOCUMENTS LAW, AND THE ACT OF JUNE 25, 1982 (P.L.633,
14 NO.181), KNOWN AS THE REGULATORY REVIEW ACT.

15 (6) TO KEEP MINUTES AND RECORDS OF ALL ITS TRANSACTIONS
16 AND PROCEEDINGS.

17 (7) TO SUBMIT ANNUALLY TO THE DEPARTMENT AN ESTIMATE OF
18 FINANCIAL REQUIREMENTS OF THE BOARD FOR ITS ADMINISTRATIVE,
19 LEGAL AND OTHER EXPENSES.

20 (8) TO SUBMIT ANNUALLY A REPORT TO THE CONSUMER
21 PROTECTION AND PROFESSIONAL LICENSURE COMMITTEE OF THE SENATE
22 AND THE PROFESSIONAL LICENSURE COMMITTEE OF THE HOUSE OF
23 REPRESENTATIVES. THE REPORT SHALL INCLUDE A DESCRIPTION OF
24 THE TYPES OF COMPLAINTS RECEIVED, STATUS OF CASES, THE ACTION
25 WHICH HAS BEEN TAKEN AND THE LENGTH OF TIME FROM INITIAL
26 COMPLAINT TO FINAL RESOLUTION.

27 (9) TO SUBMIT ANNUALLY TO THE APPROPRIATIONS COMMITTEE
28 OF THE SENATE AND THE APPROPRIATIONS COMMITTEE OF THE HOUSE
29 OF REPRESENTATIVES, 15 DAYS AFTER THE GOVERNOR HAS SUBMITTED
30 A BUDGET TO THE GENERAL ASSEMBLY, A COPY OF THE BUDGET

1 REQUEST FOR THE UPCOMING FISCAL YEAR WHICH THE BOARD
2 PREVIOUSLY SUBMITTED TO THE DEPARTMENT.

3 CHAPTER 5

4 LICENSURE

5 SECTION 501. LICENSURE.

6 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (C), AN
7 INDIVIDUAL MAY NOT OPERATE A CRANE, OFFER HIMSELF FOR EMPLOYMENT
8 AS AN INDIVIDUAL WHO MAY OPERATE A CRANE OR HOLD HIMSELF OUT AS
9 A CRANE OPERATOR UNLESS LICENSED BY THE BOARD.

10 (B) BUSINESS ENTITIES.--EXCEPT AS PROVIDED IN SUBSECTION
11 (C), AN INDIVIDUAL, CORPORATION, PARTNERSHIP, FIRM OR OTHER
12 ENTITY SHALL NOT EMPLOY AN INDIVIDUAL TO OPERATE A CRANE OR
13 ALLOW OR DIRECT AN INDIVIDUAL TO OPERATE A CRANE UNLESS THE
14 INDIVIDUAL IS LICENSED UNDER THIS ACT.

15 (C) TRAINEE.--FOR PURPOSES OF ACQUIRING THE EXPERIENCE
16 NECESSARY TO OBTAIN CERTIFICATION, A TRAINEE MAY OPERATE A CRANE
17 WHEN UNDER THE IMMEDIATE SUPERVISION OF A CRANE OPERATOR. IN
18 ORDER TO QUALIFY AS A TRAINEE UNDER THIS SUBSECTION, THE
19 INDIVIDUAL MUST BE 18 YEARS OF AGE OR OLDER AND HAVE
20 DEMONSTRATED, TO THE SATISFACTION OF THE ENTITY EMPLOYING THE
21 CRANE OPERATOR, THAT THE TRAINEE IS PHYSICALLY CAPABLE OF
22 OPERATING A CRANE.

23 (D) DUTY OF CRANE OPERATOR.--WHEN PROVIDING IMMEDIATE
24 SUPERVISION TO A TRAINEE PURSUANT TO SUBSECTION (C), THE CRANE
25 OPERATOR SHALL HAVE NO OTHER DUTIES.

26 (E) TITLE.--AN INDIVIDUAL WHO HOLDS A LICENSE AS A CRANE
27 OPERATOR OR IS MAINTAINED ON INACTIVE STATUS PURSUANT TO SECTION
28 504(B) SHALL HAVE THE RIGHT TO USE THE TITLE "LICENSED CRANE
29 OPERATOR" AND THE ABBREVIATION "L.C.O." NO OTHER INDIVIDUAL
30 SHALL USE THE TITLE "LICENSED CRANE OPERATOR" OR THE

1 ABBREVIATION "L.C.O." EXCEPT AS PROVIDED IN SUBSECTION (C), NO
2 INDIVIDUAL SHALL HOLD HIMSELF OUT AS BEING ABLE TO OPERATE A
3 CRANE OR BEING AUTHORIZED TO OPERATE A CRANE.

4 (F) ADDITIONAL REQUIREMENT.--A LICENSE TO OPERATE A CRANE
5 SHALL BE VALID ONLY IN CONJUNCTION WITH CERTIFICATION AND ONLY
6 IN THE SPECIALTY FOR WHICH THE CRANE OPERATOR IS CERTIFIED.

7 (G) SPECIALTIES.--THE BOARD SHALL ESTABLISH SPECIALTIES FOR
8 CERTIFICATION. SPECIALTIES SHALL INCLUDE:

- 9 (1) TOWER CRANE.
- 10 (2) LATTICE BOOM CRAWLER.
- 11 (3) LATTICE BOOM TRUCK.
- 12 (4) TELESCOPIC BOOM CRANE WITH A ROTATING CONTROL
13 STATION.
- 14 (5) TELESCOPIC BOOM CRANES WITH A FIXED CONTROL STATION.
- 15 (6) ANY OTHER SPECIALTY DEEMED APPROPRIATE BY THE BOARD.

16 SECTION 502. QUALIFICATIONS.

17 (A) GENERAL RULE.--TO BE ELIGIBLE TO APPLY FOR LICENSURE, AN
18 APPLICANT MUST FULFILL THE FOLLOWING REQUIREMENTS:

- 19 (1) BE OF GOOD MORAL CHARACTER.
- 20 (2) BE 18 YEARS OF AGE OR OLDER.
- 21 (3) HOLD CURRENT CERTIFICATION FROM THE NATIONAL
22 COMMISSION FOR THE CERTIFICATION OF CRANE OPERATORS OR
23 ANOTHER ORGANIZATION RECOGNIZED BY THE BOARD TO OFFER AN
24 EQUIVALENT PROGRAM AND TESTING AS THE NATIONAL COMMISSION FOR
25 THE CERTIFICATION OF CRANE OPERATORS. IN NO CASE SHALL THE
26 BOARD RECOGNIZE AN ORGANIZATION UNLESS THE ORGANIZATION MEETS
27 THE REQUIREMENTS OF THE AMERICAN SOCIETY OF MECHANICAL
28 ENGINEERS ASME B30.5 AND THE ACCREDITATION REQUIREMENTS OF
29 THE NATIONAL COMMISSION FOR CERTIFYING AGENCIES OR THE
30 AMERICAN NATIONAL STANDARDS INSTITUTE.

1 (4) PAY THE FEE SET BY THE BOARD.

2 (B) RENEWAL OF LICENSE.--IN THE CASE OF A LICENSEE APPLYING
3 FOR RENEWAL OF LICENSE WHERE CERTIFICATION WILL EXPIRE BEFORE
4 THE BIENNIAL RENEWAL CYCLE WILL EXPIRE, THE LICENSEE SHALL
5 SUBMIT EVIDENCE SATISFACTORY TO THE BOARD THAT THE LICENSEE HAS
6 RENEWED CERTIFICATION. FAILURE TO MAINTAIN CERTIFICATION OR TO
7 SUBMIT EVIDENCE OF RENEWAL OF CERTIFICATION SHALL SUBJECT THE
8 LICENSEE TO DISCIPLINARY ACTION. THE BOARD SHALL PROMULGATE
9 REGULATIONS SETTING FORTH THE EVIDENCE NECESSARY TO DEMONSTRATE
10 RENEWAL OF CERTIFICATION AS PROVIDED IN THIS SUBSECTION.

11 (C) CONVICTIONS PROHIBITED.--

12 (1) THE BOARD SHALL NOT ISSUE A LICENSE TO AN INDIVIDUAL
13 WHO HAS BEEN CONVICTED OF A FELONIOUS ACT PROHIBITED BY THE
14 ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
15 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR
16 CONVICTED OF A FELONY RELATING TO A CONTROLLED SUBSTANCE IN A
17 COURT OF LAW OF THE UNITED STATES OR ANY OTHER STATE,
18 TERRITORY OR COUNTRY UNLESS:

19 (I) AT LEAST TEN YEARS HAVE ELAPSED FROM THE DATE OF
20 CONVICTION;

21 (II) THE INDIVIDUAL SATISFACTORILY DEMONSTRATES TO
22 THE BOARD THAT THE INDIVIDUAL HAS MADE SIGNIFICANT
23 PROGRESS IN PERSONAL REHABILITATION SINCE THE CONVICTION
24 SUCH THAT LICENSURE OF THE INDIVIDUAL SHOULD NOT BE
25 EXPECTED TO CREATE A SUBSTANTIAL RISK OF HARM TO THE
26 HEALTH AND SAFETY OF CRANE OPERATORS, TRAINEES OR THE
27 PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL
28 VIOLATIONS; AND

29 (III) THE INDIVIDUAL OTHERWISE SATISFIES THE
30 QUALIFICATIONS PROVIDED IN THIS ACT.

(2) AN INDIVIDUAL'S STATEMENT ON THE APPLICATION
DECLARING THE ABSENCE OF A CONVICTION SHALL BE DEEMED
SATISFACTORY EVIDENCE OF THE ABSENCE OF A CONVICTION, UNLESS
THE BOARD HAS SOME EVIDENCE TO THE CONTRARY.

SECTION 503. CRANE OPERATORS IN OTHER STATES, TERRITORIES OR
DOMINION OF CANADA.

THE BOARD MAY ISSUE A LICENSE TO AN INDIVIDUAL WHO IS
LICENSED AS A CRANE OPERATOR IN ANY OTHER STATE OR TERRITORY OF
THE UNITED STATES OR THE DOMINION OF CANADA, IF ALL OF THE
FOLLOWING REQUIREMENTS ARE MET:

(1) THE INDIVIDUAL IS CURRENTLY CERTIFIED BY THE
NATIONAL COMMISSION FOR THE CERTIFICATION OF CRANE OPERATORS.

(2) THE INDIVIDUAL MEETS THE REQUIREMENTS AS TO
CHARACTER, AGE AND ABSENCE OF CONVICTIONS, AS SET FORTH IN
SECTION 502.

(3) THE INDIVIDUAL PAYS THE REQUIRED FEE.

SECTION 504. DURATION OF LICENSE.

(A) DURATION OF LICENSE.--A LICENSE ISSUED PURSUANT TO THIS
ACT SHALL BE ON A BIENNIAL BASIS. THE BIENNIAL EXPIRATION DATE
SHALL BE ESTABLISHED BY REGULATION OF THE BOARD. APPLICATION FOR
RENEWAL OF A LICENSE SHALL BIENNIALY BE FORWARDED TO AN
INDIVIDUAL HOLDING A CURRENT LICENSE PRIOR TO THE EXPIRATION
DATE OF THE CURRENT RENEWAL BIENNIUM. THE APPLICATION FORM MUST
INDICATE WHETHER CERTIFICATION WILL EXPIRE BEFORE THE BIENNIAL
RENEWAL CYCLE WILL EXPIRE.

(B) INACTIVE STATUS.--AN INDIVIDUAL LICENSED UNDER THIS ACT
MAY REQUEST AN APPLICATION FOR INACTIVE STATUS. THE APPLICATION
FORM MAY BE COMPLETED AND RETURNED TO THE BOARD. UPON RECEIPT OF
AN APPLICATION, THE INDIVIDUAL SHALL BE MAINTAINED ON INACTIVE
STATUS WITHOUT FEE AND SHALL BE ENTITLED TO APPLY FOR A

1 THOSE FEES BY REGULATION SO THAT PROJECTED REVENUES WILL MEET OR
2 EXCEED PROJECTED EXPENDITURES.

3 (B) FEE INCREASE.--IF THE BUREAU OF PROFESSIONAL AND
4 OCCUPATIONAL AFFAIRS DETERMINES THAT THE FEES ESTABLISHED BY THE
5 BOARD UNDER SUBSECTION (A) ARE INADEQUATE TO MEET THE MINIMUM
6 ENFORCEMENT EFFORTS REQUIRED BY THIS ACT, THEN THE BUREAU, AFTER
7 CONSULTATION WITH THE BOARD AND SUBJECT TO THE REGULATORY REVIEW
8 ACT, SHALL INCREASE THE FEES BY REGULATION IN AN AMOUNT SUCH
9 THAT ADEQUATE REVENUES ARE RAISED TO MEET THE REQUIRED
10 ENFORCEMENT EFFORT.

11 (C) DEPOSIT OF FEES.--ALL FEES, FINES AND CIVIL PENALTIES
12 IMPOSED IN ACCORDANCE WITH THIS ACT SHALL BE PAID INTO THE
13 PROFESSIONAL LICENSURE AUGMENTATION ACCOUNT ESTABLISHED PURSUANT
14 TO, AND FOR USE IN ACCORDANCE WITH, THE ACT OF JULY 1, 1978
15 (P.L.700, NO.124), KNOWN AS THE BUREAU OF PROFESSIONAL AND
16 OCCUPATIONAL AFFAIRS FEE ACT.

17 (D) PERMITTED FEES.--THE BOARD MAY CHARGE A FEE, AS SET BY
18 THE BOARD BY REGULATION, FOR LICENSURE, FOR RENEWING LICENSURE
19 AND FOR OTHER SERVICES OF THE BOARD AS PERMITTED BY THIS ACT OR
20 BY REGULATION.

21 SECTION 702. VIOLATION OF ACT.

22 (A) GENERAL RULE.--AN INDIVIDUAL OR THE RESPONSIBLE OFFICERS
23 OR EMPLOYEES OF A CORPORATION, PARTNERSHIP, FIRM OR OTHER ENTITY
24 VIOLATING A PROVISION OF THIS ACT OR A REGULATION OF THE BOARD
25 COMMITS A MISDEMEANOR OF THE THIRD DEGREE AND SHALL, UPON
26 CONVICTION, BE SENTENCED TO PAY A FINE OF NOT MORE THAN \$1,000
27 OR TO IMPRISONMENT FOR NOT MORE THAN SIX MONTHS FOR THE FIRST
28 VIOLATION. FOR THE SECOND AND EACH SUBSEQUENT CONVICTION, THE
29 PERSON, UPON CONVICTION, SHALL BE SENTENCED TO PAY A FINE OF NOT
30 MORE THAN \$2,000 OR TO IMPRISONMENT FOR NOT LESS THAN SIX MONTHS

1 OR MORE THAN ONE YEAR, OR BOTH.

2 (B) CIVIL PENALTY.--IN ADDITION TO ANY OTHER CIVIL REMEDY OR
3 CRIMINAL PENALTY PROVIDED FOR IN THIS ACT, THE BOARD, BY A VOTE
4 OF THE MAJORITY OF THE MAXIMUM NUMBER OF THE AUTHORIZED
5 MEMBERSHIP OF THE BOARD AS PROVIDED BY LAW OR BY A VOTE OF THE
6 MAJORITY OF THE DULY QUALIFIED AND CONFIRMED MEMBERSHIP OR A
7 MINIMUM OF FIVE MEMBERS, WHICHEVER IS GREATER, MAY LEVY A CIVIL
8 PENALTY OF UP TO \$1,000 ON ANY OF THE FOLLOWING:

9 (1) A CRANE OPERATOR WHO VIOLATES A PROVISION OF THIS
10 ACT.

11 (2) AN INDIVIDUAL WHO OPERATES A CRANE IN VIOLATION OF
12 THIS ACT.

13 (3) AN INDIVIDUAL WHO HOLDS HIMSELF OUT AS A CRANE
14 OPERATOR WITHOUT BEING PROPERLY LICENSED AS PROVIDED IN THIS
15 ACT.

16 (4) THE RESPONSIBLE OFFICERS OR EMPLOYEES OF A
17 CORPORATION, PARTNERSHIP, FIRM OR OTHER ENTITY VIOLATING A
18 PROVISION OF THIS ACT.

19 (C) PROCEDURE.--THE BOARD SHALL LEVY THE CIVIL PENALTY SET
20 FORTH IN SUBSECTION (B) ONLY AFTER AFFORDING THE ACCUSED THE
21 OPPORTUNITY FOR A HEARING AS PROVIDED IN 2 PA.C.S. (RELATING TO
22 ADMINISTRATIVE LAW AND PROCEDURE).

23 SECTION 703. REFUSAL, SUSPENSION OR REVOCATION OF LICENSE.

24 (A) GENERAL RULE.--THE BOARD MAY REFUSE, SUSPEND OR REVOKE A
25 LICENSE IN A CASE WHERE THE BOARD FINDS:

26 (1) THE LICENSEE IS NEGLIGENT OR INCOMPETENT IN
27 OPERATING A CRANE.

28 (2) THE LICENSEE IS UNABLE TO OPERATE A CRANE WITH
29 REASONABLE SKILL AND SAFETY BY REASON OF MENTAL OR PHYSICAL
30 ILLNESS OR CONDITION OR PHYSIOLOGICAL OR PSYCHOLOGICAL

DEPENDENCE UPON ALCOHOL, HALLUCINOGENIC OR NARCOTIC DRUGS OR
OTHER DRUGS WHICH TEND TO IMPAIR JUDGMENT OR COORDINATION, SO
LONG AS SUCH DEPENDENCE SHALL CONTINUE. IN ENFORCING THIS
PARAGRAPH, THE BOARD SHALL, UPON PROBABLE CAUSE, HAVE
AUTHORITY TO COMPEL A LICENSEE TO SUBMIT TO A MENTAL OR
PHYSICAL EXAMINATION AS DESIGNATED BY THE BOARD. AFTER
NOTICE, HEARING, ADJUDICATION AND APPEAL FAILURE OF A
LICENSEE TO SUBMIT TO SUCH EXAMINATION WHEN DIRECTED SHALL
CONSTITUTE AN ADMISSION OF THE ALLEGATIONS UNLESS FAILURE IS
DUE TO CIRCUMSTANCES BEYOND THE LICENSEE'S CONTROL,
CONSEQUENT UPON WHICH A DEFAULT AND FINAL ORDER MAY BE
ENTERED WITHOUT THE TAKING OF TESTIMONY OR PRESENTATION OF
EVIDENCE. A LICENSEE AFFECTED UNDER THIS PARAGRAPH SHALL AT
REASONABLE INTERVALS BE AFFORDED THE OPPORTUNITY TO
DEMONSTRATE THAT THE LICENSEE CAN RESUME COMPETENT, SAFE AND
SKILLFUL OPERATION OF A CRANE.

(3) THE LICENSEE HAS WILLFULLY OR REPEATEDLY VIOLATED
ANY OF THE PROVISIONS OF THIS ACT OR A REGULATION OF THE
BOARD.

(4) THE LICENSEE HAS COMMITTED FRAUD OR DECEIT IN:

(I) THE OPERATION OF A CRANE; OR

(II) SECURING LICENSURE OR CERTIFICATION.

(5) THE LICENSEE HAS BEEN CONVICTED OF A FELONY OR A
CRIME OF MORAL TURPITUDE, OR RECEIVED PROBATION WITHOUT
VERDICT, DISPOSITION IN LIEU OF TRIAL OR AN ACCELERATED
REHABILITATIVE DISPOSITION IN THE DISPOSITION OF FELONY
CHARGES IN THE COURTS OF THIS COMMONWEALTH, THE UNITED STATES
OR ANY OTHER STATE, TERRITORY, POSSESSION OF THE UNITED
STATES OR ANY OTHER COUNTRY.

(6) THE LICENSEE HAS HAD THE LICENSEE'S LICENSE

1 SUSPENDED OR REVOKED OR HAS RECEIVED OTHER DISCIPLINARY
2 ACTION BY THE PROPER LICENSING AUTHORITY IN ANOTHER STATE,
3 TERRITORY, POSSESSION OF THE UNITED STATES OR COUNTRY.

4 (7) WITH RESPECT TO THE OPERATION OF A CRANE, THE
5 LICENSEE HAS ACTED IN SUCH A MANNER AS TO PRESENT AN
6 IMMEDIATE AND CLEAR DANGER TO HEALTH, SAFETY OR PROPERTY.

7 (8) THE LICENSEE POSSESSED, USED, ACQUIRED OR
8 DISTRIBUTED A CONTROLLED SUBSTANCE.

9 (9) THE LICENSEE HAS BEEN FOUND GUILTY OF UNPROFESSIONAL
10 CONDUCT. UNPROFESSIONAL CONDUCT SHALL INCLUDE DEPARTURE FROM
11 OR FAILING TO CONFORM TO OPERATING PRACTICES OR PROFESSIONAL
12 STANDARDS EMBRACED BY THE CRANE OPERATING PROFESSION,
13 INCLUDING THOSE RECOGNIZED BY THE AMERICAN SOCIETY OF
14 MECHANICAL ENGINEERS ASME B30.5 AND AN AGENCY OF THE FEDERAL
15 GOVERNMENT. IN A PROCEEDING BASED ON THIS PARAGRAPH, ACTUAL
16 INJURY TO A PERSON OR DAMAGE TO PROPERTY NEED NOT BE
17 ESTABLISHED.

18 (10) THE LICENSEE FALSELY ADVERTISED OR MADE MISLEADING,
19 DECEPTIVE, UNTRUE OR FRAUDULENT MATERIAL REPRESENTATIONS
20 REGARDING LICENSURE, CERTIFICATION OR OPERATION OF A CRANE.

21 (B) ACTS AUTHORIZED.--WHEN THE BOARD FINDS THAT THE LICENSE
22 OF CRANE OPERATOR MAY BE REFUSED, REVOKED OR SUSPENDED PURSUANT
23 TO SUBSECTION (A), THE BOARD MAY:

24 (1) DENY THE APPLICATION FOR A LICENSE.

25 (2) ADMINISTER A PUBLIC REPRIMAND.

26 (3) REVOKE, SUSPEND, LIMIT OR OTHERWISE RESTRICT A
27 LICENSE.

28 (4) REQUIRE A LICENSEE TO SUBMIT TO THE CARE, COUNSELING
29 OR TREATMENT OF A PHYSICIAN OR A PSYCHOLOGIST DESIGNATED BY
30 THE BOARD.

1 (5) SUSPEND ENFORCEMENT OF ITS FINDING AND PLACE A
2 LICENSEE ON PROBATION WITH THE RIGHT TO VACATE THE
3 PROBATIONARY ORDER FOR NONCOMPLIANCE.

4 (6) RESTORE OR REISSUE, IN ITS DISCRETION, A SUSPENDED
5 LICENSE AND IMPOSE ANY DISCIPLINARY OR CORRECTIVE MEASURE
6 WHICH IT MIGHT ORIGINALLY HAVE IMPOSED.

7 SECTION 704. SUSPENSIONS AND REVOCATIONS.

8 A SUSPENSION OR REVOCATION SHALL BE MADE ONLY IN ACCORDANCE
9 WITH THE REGULATIONS OF THE BOARD AND ONLY BY MAJORITY VOTE OF
10 THE MEMBERS OF THE BOARD AFTER A FULL AND FAIR HEARING. AN
11 ACTION OF THE BOARD SHALL BE TAKEN SUBJECT TO THE RIGHT OF
12 NOTICE, HEARING AND ADJUDICATION, AND THE RIGHT OF APPEAL, IN
13 ACCORDANCE WITH 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW AND
14 PROCEDURE). THE BOARD, BY MAJORITY ACTION AND IN ACCORDANCE WITH
15 ITS REGULATIONS, MAY REISSUE A LICENSE WHICH HAS BEEN SUSPENDED.
16 IF A LICENSE HAS BEEN REVOKED, THE BOARD SHALL REISSUE A LICENSE
17 ONLY IN ACCORDANCE WITH SECTION 706.

18 SECTION 705. TEMPORARY AND AUTOMATIC SUSPENSIONS.

19 (A) GENERAL RULE.--A LICENSE ISSUED UNDER THIS ACT MAY BE
20 TEMPORARILY SUSPENDED UNDER CIRCUMSTANCES DETERMINED BY THE
21 BOARD TO BE AN IMMEDIATE AND CLEAR DANGER TO PUBLIC HEALTH OR
22 SAFETY. THE BOARD SHALL ISSUE AN ORDER TO THAT EFFECT WITHOUT A
23 HEARING, BUT UPON DUE NOTICE, TO THE LICENSEE CONCERNED AT THE
24 LICENSEE'S LAST KNOWN ADDRESS, WHICH SHALL INCLUDE A WRITTEN
25 STATEMENT OF ALL ALLEGATIONS AGAINST THE LICENSEE. THE
26 PROVISIONS OF SECTION 704 SHALL NOT APPLY TO TEMPORARY
27 SUSPENSION. THE BOARD SHALL COMMENCE FORMAL ACTION TO SUSPEND,
28 REVOKE OR RESTRICT THE LICENSE OF THE CRANE OPERATOR AS
29 OTHERWISE PROVIDED FOR IN THIS ACT. ALL ACTIONS SHALL BE TAKEN
30 PROMPTLY AND WITHOUT DELAY. WITHIN 30 DAYS FOLLOWING THE

1 ISSUANCE OF AN ORDER TEMPORARILY SUSPENDING A LICENSE, THE BOARD
2 SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PRELIMINARY HEARING TO
3 DETERMINE THAT THERE IS A PRIMA FACIE CASE SUPPORTING THE
4 SUSPENSION. THE CRANE OPERATOR WHOSE LICENSE HAS BEEN
5 TEMPORARILY SUSPENDED MAY BE PRESENT AT THE PRELIMINARY HEARING
6 AND MAY BE REPRESENTED BY COUNSEL, CROSS-EXAMINE WITNESSES,
7 INSPECT PHYSICAL EVIDENCE, CALL WITNESSES, OFFER EVIDENCE AND
8 TESTIMONY AND MAKE A RECORD OF THE PROCEEDINGS. IF IT IS
9 DETERMINED THAT THERE IS NOT A PRIMA FACIE CASE, THE SUSPENDED
10 LICENSE SHALL BE IMMEDIATELY RESTORED. THE TEMPORARY SUSPENSION
11 SHALL REMAIN IN EFFECT UNTIL VACATED BY THE BOARD, BUT IN NO
12 EVENT LONGER THAN 180 DAYS.

13 (B) COMMITMENT OF CRANE OPERATOR.--A LICENSE ISSUED UNDER
14 THIS ACT SHALL AUTOMATICALLY BE SUSPENDED UPON THE LEGAL
15 COMMITMENT OF A CRANE OPERATOR TO AN INSTITUTION BECAUSE OF
16 MENTAL INCOMPETENCY FROM ANY CAUSE UPON FILING WITH THE BOARD A
17 CERTIFIED COPY OF SUCH COMMITMENT, CONVICTION OF A FELONY UNDER
18 THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
19 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR
20 CONVICTION OF AN OFFENSE UNDER THE LAWS OF ANOTHER JURISDICTION,
21 WHICH, IF COMMITTED IN PENNSYLVANIA, WOULD BE A FELONY UNDER THE
22 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. AUTOMATIC
23 SUSPENSION UNDER THIS SUBSECTION SHALL NOT BE STAYED PENDING AN
24 APPEAL OF A CONVICTION. RESTORATION OF THE LICENSE SHALL BE MADE
25 AS PROVIDED IN THE CASE OF REVOCATION OR SUSPENSION OF A
26 LICENSE.

27 SECTION 706. REINSTATEMENT OF LICENSE.

28 UNLESS ORDERED TO DO SO BY THE COMMONWEALTH COURT OR AN
29 APPEAL THEREFROM, THE BOARD SHALL NOT REINSTATE THE LICENSE OF
30 AN INDIVIDUAL WHICH HAS BEEN REVOKED. AN INDIVIDUAL WHOSE

1 LICENSE HAS BEEN REVOKED MAY REAPPLY FOR A LICENSE AFTER A
2 PERIOD OF AT LEAST FIVE YEARS, BUT MUST MEET ALL OF THE
3 LICENSING REQUIREMENTS OF THIS ACT.

4 SECTION 707. SURRENDER OF SUSPENDED OR REVOKED LICENSE.

5 THE BOARD SHALL REQUIRE AN INDIVIDUAL WHOSE LICENSE HAS BEEN
6 SUSPENDED OR REVOKED TO RETURN THE LICENSE IN SUCH MANNER AS THE
7 BOARD DIRECTS. FAILURE TO DO SO, UPON CONVICTION THEREOF, SHALL
8 BE A MISDEMEANOR OF THE THIRD DEGREE.

9 SECTION 708. INJUNCTION.

10 WHENEVER IN THE JUDGMENT OF THE BOARD A PERSON HAS ENGAGED IN
11 AN ACT OR PRACTICE WHICH CONSTITUTES OR WILL CONSTITUTE A
12 VIOLATION OF THIS ACT, THE BOARD OR ITS AGENTS MAY MAKE
13 APPLICATION TO THE APPROPRIATE COURT FOR AN ORDER ENJOINING SUCH
14 ACT OR PRACTICE AND, UPON A SHOWING BY THE BOARD THAT THE PERSON
15 HAS ENGAGED OR IS ABOUT TO ENGAGE IN SUCH ACT OR PRACTICE, AN
16 INJUNCTION, RESTRAINING ORDER OR SUCH ORDER AS MAY BE
17 APPROPRIATE SHALL BE GRANTED BY THE COURT. THE REMEDY BY
18 INJUNCTION IS IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL
19 PROSECUTION AND PUNISHMENT.

20 SECTION 709. SUBPOENAS AND OATHS.

21 (A) AUTHORITY GRANTED.--THE BOARD SHALL HAVE THE AUTHORITY
22 TO ISSUE SUBPOENAS, UPON APPLICATION OF AN ATTORNEY RESPONSIBLE
23 FOR REPRESENTING THE COMMONWEALTH IN DISCIPLINARY MATTERS BEFORE
24 THE BOARD, FOR THE PURPOSE OF INVESTIGATING ALLEGED VIOLATIONS
25 OF THE ACT OR REGULATION OF THE BOARD. THE BOARD SHALL HAVE THE
26 POWER TO SUBPOENA WITNESSES, TO ADMINISTER OATHS, TO EXAMINE
27 WITNESSES AND TO TAKE SUCH TESTIMONY OR COMPEL THE PRODUCTION OF
28 SUCH BOOKS, RECORDS, PAPERS AND DOCUMENTS AS IT MAY DEEM
29 NECESSARY OR PROPER IN AND PERTINENT TO ANY PROCEEDING,
30 INVESTIGATION OR HEARING HELD OR HAD BY THE BOARD. THE BOARD IS

1 AUTHORIZED TO APPLY TO THE COMMONWEALTH COURT TO ENFORCE ITS
2 SUBPOENAS. THE COURT MAY IMPOSE LIMITATIONS ON THE SCOPE OF THE
3 SUBPOENA AS IS NECESSARY TO PREVENT UNNECESSARY INTRUSION INTO
4 CLIENT CONFIDENTIAL INFORMATION.

5 (B) DISCIPLINARY MATTERS.--AN ATTORNEY RESPONSIBLE FOR
6 REPRESENTING THE COMMONWEALTH IN DISCIPLINARY MATTERS BEFORE THE
7 BOARD SHALL NOTIFY THE BOARD IMMEDIATELY UPON RECEIVING
8 NOTIFICATION OF AN ALLEGED VIOLATION OF THIS ACT OR A REGULATION
9 OF THE BOARD. THE BOARD SHALL MAINTAIN CURRENT RECORDS OF ALL
10 REPORTED ALLEGED VIOLATIONS AND PERIODICALLY REVIEW THE RECORDS
11 FOR THE PURPOSE OF DETERMINING THAT EACH ALLEGED VIOLATION HAS
12 BEEN RESOLVED IN A TIMELY MANNER.

13 CHAPTER 21

14 MISCELLANEOUS PROVISIONS

15 SECTION 2101. APPROPRIATION.

16 THE SUM OF \$85,000, OR AS MUCH THEREOF AS MAY BE NECESSARY,
17 IS HEREBY APPROPRIATED FROM THE PROFESSIONAL LICENSURE
18 AUGMENTATION ACCOUNT TO THE DEPARTMENT FOR THE PAYMENT OF COSTS
19 ASSOCIATED WITH PROCESSING LICENSES AND RENEWING LICENSES, FOR
20 THE OPERATION OF THE BOARD AND FOR OTHER COSTS ASSOCIATED WITH
21 THIS ACT. THE APPROPRIATION SHALL BE REPAID BY THE BOARD WITHIN
22 THREE YEARS OF THE BEGINNING OF ISSUANCE OF LICENSES BY THE
23 BOARD.

24 SECTION 2102. REGULATIONS.

25 WITHIN 18 MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE
26 BOARD SHALL PROMULGATE REGULATIONS TO CARRY OUT THIS ACT.

27 SECTION 2103. EFFECTIVE DATE.

28 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

29 (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

30 (2) SECTIONS 501, 503, 702 AND 706 SHALL TAKE EFFECT IN

1 24 MONTHS.

2 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
3 DAYS.