

**MINUTES OF THE SENATE BUSINESS & LABOR
STANDING COMMITTEE
THURSDAY, JANUARY 26, 2006, 8:00 A.M.
ROOM W015, WEST OFFICE BUILDING
STATE CAPITOL COMPLEX**

Members Present: Sen. Scott K. Jenkins, Chair
Sen. Gene Davis
Sen. Parley G. Hellewell
Sen. John W. Hickman
Sen. Sheldon L. Killpack
Sen. L. Alma Mansell
Sen. Ed Mayne
Sen. Michael Waddoups

Member Excused: Sen. Thomas V. Hatch

Staff Present: Allison Morgan, Policy Analyst
Karen Allred, Committee Secretary

Public Speakers Present: Gordon Olsen, Utah Steel Erector's Association
Jim Wagstaff, Wagstaff Crane Service
Taz Besinger, CEO, Utah Home Builders Association
Ken Shulsen, Associated Builders and Contractors
Marcie Rogers, citizen
Vern Belcher, Owner, McQueen Crane Company
Mike Sutton, Western Steel Erectors
Luke Winters, Owner, Valley Crane and Rigging
Mark Shurtleff, Attorney General
Candace Daly, Consumer Data Industry Association
Craig Moody, Consumer Data Industry Association
Chris Kyler, CEO, Utah Association of Realtors
Craig Bickmore, Utah Auto Dealers Association
Jim Olsen, President, Utah Retail Merchants Association
Laura Polacheck, AARP Utah
Howard Headlee, Utah Bankers Association
Ed Leary, Commissioner, Department of Financial Institutions
Francine Giani, Executive Director, Department of Commerce

A list of visitors and a copy of handouts are filed with the committee minutes.

Chair Jenkins called the meeting to order at 8:05 a.m.

Approval of Minutes

MOTION: Sen. Davis moved to approve the minutes of the January 24, 2006 meeting.

The motion passed unanimously with Sens. Hickman, Killpack, Waddoups, and Mayne absent for the vote.

1. Licensure of Crane Operators (G. Davis)

Sen. Davis introduced the bill and the following amendments were distributed:

1. *Page 1, Line 26:*

26 58-55-303, as last amended by Chapter 198, Laws of Utah 2001 =
58-55-305, as last amended by Chapter 54, Laws of Utah 2005

2. *Page 19, Line 584 through Page 20, Line 586:*

584 (6) An individual seeking renewal of a crane operator's license issued under this
585 chapter shall provide documentation of the individual's current certification as a crane
 operator
586 by an entity referred to in Subsection 58-55-302(3)(j)(ii).

Section 5. Section 58-55-305 is amended to read:

58-55-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of the person's trust, office, or employment;

(b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and

- coal mining, quarries, sand and gravel excavations, well drilling, as defined in Subsection 73-3-24(3), hauling to and from construction sites, and lumbering;
- (c) public utilities operating under the rules of the Public Service Commission on construction work incidental to their own business;
- (d) sole owners of property engaged in building:
- (i) no more than one residential structure per year and no more than three residential structures per five years on their property for their own noncommercial, nonpublic use; except, a person other than the property owner or individuals described in Subsection (1)(e), who engages in building the structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or
- (ii) structures on their property for their own noncommercial, nonpublic use which are incidental to a residential structure on the property, including sheds, carports, or detached garages;
- (e) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:
- (A) works without compensation other than token compensation that is not considered salary or wages; and
- (B) works under the direction of the property owner who engages in building the structure;
- (ii) for purposes of this Subsection (1)(e), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:
- (A) minimal in value when compared with the fair market value of the services provided by the person;
- (B) not related to the fair market value of the services provided by the person; and
- (C) is incidental to providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;
- (f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real

property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

(g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;

(h) (i) a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than \$1,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work;

(ii) notwithstanding Subsection (1)(h)(i):

(A) work in the plumbing and electrical trades must be performed by a licensed electrician or plumber except as otherwise provided in this section;

(B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system must be performed by a person who has received certification under Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or 58-55-308(3); and

(C) installation, repair, or replacement of water-based fire protection systems must be performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;

(i) a person practicing a specialty contractor classification or construction trade which is not classified by rule by the director as significantly impacting the public's health, safety, and welfare;

(j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;

(k) (i) a person engaged in minor plumbing work incidental to the replacement or repair of a fixture or an appliance in a residential or small commercial building, or structure used for agricultural use, as defined in Section 58-56-4, provided that no modification is made to:

(A) existing culinary water, soil, waste, or vent piping; or

(B) a gas appliance or combustion system; and

(ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or an appliance is not included in the exemption provided under Subsection (1)(k)(i);

- (l) a person who ordinarily would be subject to the plumber licensure requirements under this chapter when installing or repairing a water conditioner or other water treatment apparatus if the conditioner or apparatus:
 - (i) meets the appropriate state construction codes or local plumbing standards; and
 - (ii) is installed or repaired under the direction of a person authorized to do the work under an appropriate specialty contractor license;
- (m) a person who ordinarily would be subject to the electrician licensure requirements under this chapter when employed by or under contract with:
 - (i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or
 - (ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;
- (n) a person involved in minor electrical work incidental to a mechanical or service installation;
- (o) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:
 - (i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and
 - (ii) a licensed contractor obtains the necessary building permits; ~~{and}~~
- (p) a delivery person when replacing any of the following existing equipment with a new gas appliance, provided there is an existing gas shutoff valve at the appliance:
 - (i) gas range;
 - (ii) gas dryer;
 - (iii) outdoor gas barbeque; or
 - (iv) outdoor gas patio heater ~~{-}~~ **; and**

(q) a person engaged in construction or operation incidental to petroleum refining, only with respect to the crane operator licensure requirements under Section 58-55-301.

(2) (a) A compliance agency as defined in Subsection 58-56-3(4) that issues a building permit to any person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the permit.

(b) The division shall evaluate the effectiveness of the notification requirement under Subsection (2)(a) and report its findings, including any recommendations for modification to or termination of the requirement, to the Legislature's Business and Labor Interim Committee prior to the 2008 General Session.

MOTION: Sen. Davis moved to adopt the amendments.

The motion passed unanimously with Sens. Hickman, Killpack, Waddoups and Mayne absent for the vote.

Gordon Olsen, Utah Steel Erector's Association answered questions from the committee and spoke in support of the bill.

Marcie Rogers, citizen; Vern Belcher, McQueen Crane; Mike Sutton, Western Steel Erectors; and Luke Winters, Owner, Valley Crane and Rigging, spoke in support of the bill.

Jim Wagstaff, Wagstaff Crane Service; Taz Besinger, CEO, Utah Home Builders Association; and Ken Shulsen, Associated Builders and Contractors, spoke in opposition to the bill.

MOTION: Sen. Mayne moved to pass the bill out favorably as amended.

The motion failed with Sens. Davis, Mansell, and Mayne voting in favor of the bill, and Sens. Jenkins, Hellewell, Hickman and Killpack voting in opposition, and Sen. Waddoups absent for the vote.

2. S.B. 71 Consumer Credit Protection (C. Walker)

Sen. Walker introduced the bill.

Mark Shurtleff, Attorney General; Chris Kyler, CEO, Utah Association of Realtors; Craig Bickmore, Utah Auto Dealers Association; Jim Olsen, President, Utah Retail Merchants Association; Laura Polacheck, AARP Utah; and Howard Headlee, Utah Bankers Association, spoke in support of the bill.

Candace Daly, Consumer Data Industry Association, and Craig Moody, Consumer Data Industry Association, expressed concerns about the bill.

MOTION: Sen. Mayne moved to pass the bill out favorably.

The motion passed with Sens. Hellewell, Hickman, Killpack, Waddoups and Mayne voting in favor of the bill, Sen. Jenkins voting in opposition, and Sens. Mansell and Davis absent for the vote.

3. S.B. 123 Utah Consumer Credit Code Amendments (P. Knudson)

Sen. Knudson introduced the bill.

Ed Leary, Commissioner, Department of Financial Institutions, clarified and spoke in support of the bill.

MOTION: Sen. Killpack moved to pass the bill out favorably.

The motion passed unanimously with Sens. Mansell and Davis absent for the vote.

4. S.B. 147 Division of Consumer Protection Amendments (D. Eastman)

Sen. Eastman introduced the bill.

Francine Giani, Exec. Dir., Dept. of Commerce, further clarified the bill.

MOTION: Sen. Hellewell moved to pass the bill out favorably.

The motion passed unanimously with Sens. Mansell and Davis absent for the vote.

MOTION: Sen. Waddoups moved to adjourn.

The motion passed unanimously, with Sens. Mansell and Davis absent for the vote.

Chair Jenkins adjourned the meeting at 9:45 a.m.

Sen. Scott K. Jenkins, Committee Chair