

**CRANE SAFETY AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gene Davis**

House Sponsor: James A. Dunnigan

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**LONG TITLE**

**General Description:**

This bill modifies provisions of the Utah Construction Trades Licensing Act dealing with the definition of a crane operator and the penalties for unlawful conduct provisions of the act.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of a crane operator as related to the description of the type of crane used on a commercial construction project for which the crane operator must be certified to operate;
- ▶ provides penalties for a violation of the crane operator's certification provision in the Utah Construction Trades Licensing Act; and
- ▶ makes certain technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2007.

**Utah Code Sections Affected:**

AMENDS:

**58-55-503**, as last amended by Chapter 45, Laws of Utah 2004

**58-55-504 (Effective 07/01/07)**, as enacted by Chapter 124, Laws of Utah 2006



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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **58-55-503** is amended to read:

**58-55-503. Penalty for unlawful conduct -- Citations.**

(1) (a) ~~§~~ **(i)** ~~←§~~ [Any] A person who violates Subsection 58-55-308(2) [or], Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), or (15), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor. [Any]

~~§~~ **(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.** ~~←§~~

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

(2) [Any] A person who violates the provisions of Subsection 58-55-501(13) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft, as classified in Section 76-6-412.

(3) Grounds for immediate suspension of the licensee's license by the division and the commission include the issuance of a citation for violation of Subsection 58-55-308(2) [or], Section 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure, filing with the division current financial statements, notifying the division concerning loss of insurance coverage, or change in qualifier.

(4) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2) or Subsections 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), or Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63, Chapter 46b, Administrative Procedures Act.

59 (i) [~~Any~~] A person who is in violation of the provisions of Subsection 58-55-308(2)  
60 [~~or~~], Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), or (21), or Subsection  
61 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding  
62 of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection  
63 (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating  
64 Subsection 58-55-308(2) [~~or~~], Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), or  
65 (21), or Subsection 58-55-504(2).

66 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
67 58-55-401 may not be assessed through a citation.

68 (iii) (A) A person who receives a citation or is fined for violating Subsection  
69 58-55-501(21) may also be issued a cease and desist order from engaging in work to be  
70 performed by a contractor licensed under this chapter unless the person meets the continuing  
71 education requirement within 30 days after receipt of the citation or fine.

72 (B) The order, if issued, shall be removed upon the person's completion of the  
73 continuing education requirement.

74 (C) This Subsection (4)(a)(iii) is repealed effective July 1, 2010.

75 (b) (i) Each citation shall be in writing and describe with particularity the nature of the  
76 violation, including a reference to the provision of the chapter, rule, or order alleged to have  
77 been violated.

78 (ii) The citation shall clearly state that the recipient must notify the division in writing  
79 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
80 at a hearing conducted under Title 63, Chapter 46b, Administrative Procedures Act.

81 (iii) The citation shall clearly explain the consequences of failure to timely contest the  
82 citation or to make payment of any fines assessed by the citation within the time specified in  
83 the citation.

84 (c) Each citation issued under this section, or a copy of each citation, may be served  
85 upon [~~any~~] a person upon whom a summons may be served:

86 (i) in accordance with the Utah Rules of Civil Procedure;

87 (ii) personally or upon the person's agent by a division investigator or by [~~any~~] a person  
88 specially designated by the director; or

89 (iii) by mail.

90 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the  
91 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
92 final order of the division and is not subject to further agency review.

93 (ii) The period to contest a citation may be extended by the division for cause.

94 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation  
95 the license of a licensee who fails to comply with a citation after it becomes final.

96 (f) The failure of an applicant for licensure to comply with a citation after it becomes  
97 final is a ground for denial of license.

98 (g) No citation may be issued under this section after the expiration of six months  
99 following the occurrence of any violation.

100 (h) Fines shall be assessed by the director or the director's designee according to the  
101 following:

102 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

103 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

104 and

105 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to  
106 \$2,000 for each day of continued offense.

107 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
108 Subsection (4)(i), an offense constitutes a second or subsequent offense if:

109 (A) the division previously issued a final order determining that a person committed a  
110 first or second offense in violation of Subsection 58-55-308(2) [or], Subsection 58-55-501(1),  
111 (2), (3), (9), (10), (12), (14), or (19), or Subsection 58-55-504(2); or

112 (B) (I) the division initiated an action for a first or second offense;

113 (II) no final order has been issued by the division in the action initiated under  
114 Subsection (4)(i)(i)(B)(I);

115 (III) the division determines during an investigation that occurred after the initiation of  
116 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent  
117 violation of the provisions of Subsection 58-55-308(2) [or], Subsection 58-55-501(1), (2), (3),  
118 (9), (10), (12), (14), or (19), or Subsection 58-55-504(2); and

119 (IV) after determining that the person committed a second or subsequent offense under  
120 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under

121 Subsection (4)(i)(i)(B)(I).

122 (ii) In issuing a final order for a second or subsequent offense under Subsection  
123 (4)(i)(i), the division shall comply with the requirements of this section.

124 (5) (a) ~~[Any]~~ A penalty imposed by the director under Subsection (4)(h) shall be  
125 deposited into the Commerce Service Fund. ~~[Any]~~

126 (b) A penalty which is not paid may be collected by the director by either referring the  
127 matter to a collection agency or bringing an action in the district court of the county in which  
128 the person against whom the penalty is imposed resides or in the county where the office of the  
129 director is located. ~~[Any]~~

130 (c) A county attorney or the attorney general of the state is to provide legal assistance  
131 and advice to the director in any action to collect the penalty.

132 (d) In ~~[any]~~ an action brought to enforce the provisions of this section, reasonable  
133 attorney's fees and costs shall be awarded.

134 Section 2. Section **58-55-504 (Effective 07/01/07)** is amended to read:

135 **58-55-504 (Effective 07/01/07). Crane operators -- Required certification --**  
136 **Penalty for violation.**

137 (1) As used in this section:

138 (a) "Commercial construction projects" means construction, alteration, repair,  
139 demolition, or excavation projects that do not involve:

140 (i) single family detached housing;

141 (ii) multifamily attached housing up to and including a fourplex; or

142 (iii) commercial construction of not more than two stories above ground.

143 (b) (i) "Crane operator" means an individual engaged in operating a crane, which for  
144 purposes of this section is a power-operated hoisting machine used in construction, demolition,  
145 or excavation work that has a power-operated winch, load-line, and boom moving laterally by  
146 the rotation of the machine ~~§→~~ [f] **on a carrier** [j] ~~←§~~ .

147 (ii) It does not include operating a fork lift, digger derrick truck, aircraft, bucket truck,  
148 knuckle boom, ~~§→~~ **side boom, mechanic's truck,** ~~←§~~ or a vehicle or machine not using a  
148a power-operated winch and load-line.

149 (2) (a) In order to operate a crane on commercial construction projects, an individual  
150 shall be certified as a crane operator by the National Commission for the Certification of Crane  
151 Operators or any other organization determined by the division to offer an equivalent testing

152 and certification program that meets the requirements of the American Society of Mechanical  
153 Engineers ASME B 30.5 and the accreditation requirements of the National Commission for  
154 Certifying Agencies.

155 (b) An individual who violates Subsection (2)(a) is guilty of a class A misdemeanor.

156 (3) ~~§~~ **→** [A person] An individual ~~←~~ **§** engaged in construction or operation incidental to  
156a petroleum refining **§** **→** or electrical utility construction or maintenance ~~←~~ **§** is  
157 exempt from the crane operator certification requirement of Subsection (2)(a).

158 [~~(4) An individual who violates Subsection (2) is guilty of a class A misdemeanor.~~]

159 Section 3. **Effective date.**

160 This bill takes effect on July 1, 2007.

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**Legislative Review Note**  
as of 2-1-07 9:04 AM

**Office of Legislative Research and General Counsel**

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**S.B. 255 - Crane Safety Amendments**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

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