

SENATE No. 915

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to changing the hoisting law..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 53 of Chapter 146 of the General Laws as appearing in the 2006
2 Official Edition is hereby amended by striking out the entire text and inserting in place therein
3 the following new section:-

4 Section 53. Necessity of licenses or temporary permits; classification of hoisting
5 machinery; exemptions

6 Section 53. (1) No person shall operate derricks, cableways, machinery used for
7 discharging cargoes, temporary elevator cars used on excavation work or used for hoisting
8 building material, when the motive power to operate such machinery is mechanical and other
9 than steam, unless he holds a license or temporary permit as hereinafter provided. The owner or
10 user of such hoisting machinery shall not operate, or cause to be operated, such machinery,
11 unless the person operating it is duly licensed or possesses a temporary permit. Any operator of
12 such hoisting machinery when it is being used exclusively for agricultural purposes shall be
13 exempt from the provisions of this section.

14 (2) For licensing and temporary permitting purposes, the commissioner shall classify
15 hoisting machinery by categories, depending on size, weight, common usage, capacity, power
16 source or such other characteristics as he may find appropriate; provided, however, that at least
17 one category shall include cranes and other similar equipment, and one category shall include
18 excavating equipment.

19 The commissioner shall adopt rules and regulations under the provisions of chapter thirty
20 A, embodying the classifications of hoisting machinery and establishing criteria and procedures
21 for the issuance, denial, renewal, suspension and revocation of licenses or temporary permits to
22 operate hoisting machinery; provided, however, that a final adjudication that there has been a
23 violation of federal or state occupational safety and health regulations, or any other rule adopted
24 by the department, shall be cause for the denial, suspension or revocation of any license issued
25 under this section. Criteria for issuance of such license shall include, but not be limited to,
26 training and experience requirements appropriate to the categories of machinery for which the
27 license is intended. Criteria for issuance of such temporary permit shall include, but not be
28 limited to, training and experience requirements appropriate to the compact equipment for which
29 the permit is intended.

30 (3) Notwithstanding any other provisions of this chapter, actions taken or decisions
31 reached by the department or a representative thereof regarding the issuance, denial, renewal,
32 revocation or suspension of a license or temporary permit to operate hoisting machinery, or
33 appeals resulting therefrom, shall be taken or made on the basis of the rules and regulations
34 adopted under the provisions of this section.

(4) (a) In cases where a district engineering inspector finds that the immediate suspension or revocation of a license to operate hoisting machinery is necessary for the preservation of the public health or safety, he may order such suspension or revocation pending the outcome of a hearing, in accordance with the procedures set forth in the regulations promulgated and adopted under this section.

(b) In cases where a district engineering inspector or party issuing a temporary permit finds that the immediate suspension or revocation of a the temporary permit to operate hoisting machinery is necessary for the preservation of the public health or safety, they may order such suspension or revocation in accordance with the procedures set forth in the regulations promulgated and adopted under this section.

(5) The following entities shall be exempt from the provisions of this section: (a) a utility company which has self propelled truck mounted cranes, derricks and similar hoisting equipment which is used for the maintenance and construction of the equipment of such company, (b) a company which operates hoisting equipment specifically limited to industrial lift trucks, fork lifts, overhead cranes and other hoisting equipment, specifically authorized by the department and used exclusively on company property, or (c) any company which has equipment such as cranes, derricks and similar hoisting equipment used on only utility company property.

Such exemption shall only apply if a company has all of the following: (1) at least one supervisory employee on site at all times of operation who holds a license issued by the department in accordance with this section and is designated as the responsible person in charge of hoisting equipment during that period of operation; (2) an inservice training program for employees approved by the department which may be audited by the department; and (3)

company licenses issued to each trained and certified employee which shall contain a picture of the licensee, a list of the specific hoisting equipment the licensee has been qualified to operate, and the signature of the supervisor who holds a department license.

Any other company which has equipment such as cranes, derricks and similar hoisting equipment used only upon utility company property shall also be exempt from the provisions of this section; provided, however, that all of the requirements of the preceding paragraph have been complied with.

SECTION 2. Section 54 of Chapter 146 of the General Laws as appearing in the 2006 Official Edition is hereby amended by striking out the entire text and inserting in place therein the following new section:-

Chapter 146: Section 54. Carrying license or temporary permit

Section 54. A license or temporary permit to operate hoisting machinery shall be carried on the person of the operator or apprentice operator while operating such hoisting machinery. In the case of a temporary permit to operate compact hoisting equipment the operator must also carry a valid driver's license.

SECTION 3. Section 56 of Chapter 146 of the General Laws as appearing in the 2006 Official Edition is hereby amended by adding at the end thereof the following new sentence:-

The commissioner may authorize a person or entity offering the short term rental of compact hoisting equipment to examine applicants, and issue temporary permits according to regulations promulgated by the department.

SECTION 4. Section 58 of Chapter 146 of the General Laws as appearing in the 2006 Official Edition is hereby amended by inserting after the word examinations in line #1, the following clause:

, except those for temporary permits,

SECTION 5. Chapter 146 of the General Laws as appearing in the 2006 Official Edition is hereby amended by adding the following new section:-

Chapter 146: Section 65A. Temporary Operation of hoisting machinery; temporary permit; application; examination

Section 65A. Whoever desires to act as an operator of compact hoisting machinery for rent for which licensure pursuant to section fifty-three of chapter 146 of the general laws is required, on a temporary basis, shall apply to the person or entity from which the machinery is to be rented for a temporary permit. The person or entity renting such machinery shall obtain prior authorization to issue temporary permits from the commissioner. If the criteria for issuance of a temporary permit established by the commissioner pursuant to section fifty-three are met by the applicant, such applicant shall then be required to pass an examination in accordance with the standards set in the regulations promulgated under the provisions of said section fifty-three. The passing of the examination shall entitle the applicant to a temporary permit to operate hoisting machinery in the category or categories for which they have applied and been examined. No temporary permit may be renewed and no person may be issued more than one temporary permit in any 45 day period. The commissioner may periodically review the records of any person or entity that is authorized to issue temporary permits to ensure compliance with this section and any regulation promulgated pursuant to section fifty-three.