



## Department of Licensing and Regulatory Affairs



[close print view](#)

### House Bill 4854 (As Introduced)

Contact: Office of Policy and Legislative Affairs  
Agency: Licensing and Regulatory Affairs

#### Analysis

**Topic:** Crane Operator Licensures  
**Sponsor:** Representative Mike Kowall  
**Committee:** Committee on Commerce  
**Date Introduced:** May 30, 2001  
**Date of Analysis:** July 31, 2001

**Position:** Opposed. The bill would create a commission, as well as other statutory requirements; CIS would consider supporting the bill if it simply required crane operators to have NCCCO certification.

**Background:** Accidents involving cranes can be costly in terms of serious injury, property damage, lost time, and litigation. Construction cranes have continued to evolve into more portable, powerful, and efficient pieces of equipment. They are used at almost every construction site. The greater complexity makes them increasingly less forgiving and heightens the level of operator training and skill necessary for safe operation.

Currently, R 408.41008a requires employers to:

"...assure that a prospective operator, before assignment as an operator of a crane, derrick, or excavation equipment, has been trained in all of the following areas:

- The capabilities of equipment and attachments.
- The purpose, use, and limitations of controls.
- How to make daily inspections.
- Practice in operating assigned equipment to perform the functions necessary for required jobs.
- Applicable state standards and company rules and regulations."

HB 4854 regulates persons engaged in the operation of cranes by:

- creating a board of operators
- providing for the licensing of operators
- establishing rule making authority for developing and adopting standards for operators
- establishes fees, remedies, penalties, and rules for crane operators

**Description of Bill:** HB 4854 contains the following provisions:

- The Board of Crane Operators is created, consisting of nine members appointed by the Governor. Board members shall meet quarterly and serve 4-year terms.
- The Board shall adopt standards and qualifications for licensure that are consistent with applicable certification requirements of 1 or more established and nationally recognized crane operator certification programs recognized by the federal Occupational Safety and Health Administration (OSHA) and otherwise acceptable to the Board. The Board shall adopt these qualifications by promulgation of rules.
- Until rules can be promulgated, interim national written and practical exams will be utilized. Nationally adopted physical qualifications will also be utilized in the interim.
- The license applicant must be of "good moral character" (defined by MCL 338.41-338.47).
- A person shall not attempt to act as a crane operator unless licensed under the act.
- Depending on the anticipated program costs as determined by the Board, crane operators could be charged up to \$100 per year for license fees (on a 5-year cycle).
- The Board shall provide for written, practical, or physical periodic reexaminations, if the Board deems it necessary for the protection of health, safety, and integrity of the program. Applicants must be given a minimum of 12 months notification of such periodic evaluations.
- The Department of Consumer and Industry Services shall enforce the act and shall hold administrative hearings. MDCIS will report investigation and hearing results to the Board. In addition to administrative penalties, violators may face a fine of not more than \$500 or imprisonment for not more than 90 days, or both. Violations may include fraud (in obtaining a license), fraud (in the performance of work), gross negligence, false advertising, incompetence, a violation of the act.
- The board may impose one or more of the following sanctions for violations: suspension, denial, revocation, limitation, and restitution.

**Arguments For:** Standardized assessment of the knowledge and skills required of crane operators can lead to accident reduction. Proper crane operator training and certification is important to help ensure cranes are operated in a manner that minimizes the potential for accidents that would result in serious injuries and/or fatalities. Automobile operators are licensed, and their licenses can be suspended if the operator is a threat to himself or others. Why not license the operators of large mobile equipment?

The bill does not conflict with the current safety provisions of MIOSHA's construction crane standard, but the bill does more specifically, address and incorporate the training requirements for crane operators, as outlined by the National Commission for the Certification of Crane Operators, which are adopted in the bill as interim Michigan standards. The newly established commission would be empowered to enhance the standards for Michigan crane operators, as the bill provides the mechanism for expansion of the standards in a way similar to the way building construction

codes are enhanced.

Although MIOSHA already requires employers to assure that their operators are qualified, licensing could provide additional assurance to the employer than an operator is qualified. Licensing, compared to certification, may also be preferred by unions, as a way of diverting the disciplinary functions away from the employer and onto the licensing authority.

**Arguments Against:** The MIOSHA construction crane standard currently addresses training and qualification requirements for crane operators. The current rules are generally performance-oriented instead of prescriptive and allow for flexibility in operator training.

NCCCO operator certification is already formally recognized by federal OSHA to demonstrate an acceptable level of operator training. MIOSHA could also formally recognize NCCCO certification via administrative directive, as OSHA did, or by changing the administrative rules. The bill itself could be modified to simply require all crane operators to have NCCCO certification (or a recognized equivalent) as a prerequisite for operating a crane in Michigan.

Adopting this bill in its current form would create an additional layer of licensing that may not be necessary, given the existing NCCCO certification national recognition. Moreover, MIOSHA standards, which supercede all other state law or rules when the issue is worker safety, are premised on the employer being responsible for the working conditions.

In 1999, 2 of 87 (2.2%) construction-related injuries occurred in the "material handling machinery" category. In 2000, 2 of 59 (3.2%) construction-related injuries occurred in the same category. Is there evidence to support that by having licensing in place, these rare incidents would be further diminished?

The construction business is a very mobile business, with many companies from other states working in Michigan. How would the bill address crane operators from other states working in Michigan?

The effective date of the bill will have to be modified since the target date has passed. An immediate or tight effective date may create a shortage of acceptable crane operators over the short term unless a reasonable period of transition is provided.

#### **Supporters/Opponents:**

- Operating Engineers Local 324 supports the bill and has endorsed national certification for some time. After initial resistance by some members, about 300 members are now certified with NCCCO.

- Associated Builders and Contractors (ABC) hasn't taken a position on the bill at this time. ABC supports further training to promote operator competency, but they are not sure this bill is the appropriate vehicle.

- Associated General Contractors - Michigan Chapter (AGC-MI) supports the concept of formally documenting training levels of its operators. They expressed concern, however, about the absence of a phase-in period or "grandfather" clause for existing operators.

- Michigan Road Builders Association MRBA) does not yet have an official position on the bill. MRBA does, however, recognize the benefits of operator training and NCCCO certification, as their members pay certified operators a premium of \$1.50 per hour.

- Waldbridge-Aldinger, Inc., a large general contractor, requires all of its operators to be NCCCO certified. On October 1, 2001, the same standards will apply to all subcontractors bidding on projects.

**Fiscal Information:** Section 17 (1) of the proposed bill gives the Board of Crane Operators authority to establish license fees which do not exceed \$100 for initial fees and per-year license fees. The fees raised through licensure are thought to be able to solely support the licensure program and quarterly Board meetings (2,000 operators x \$10 @ = maximum = \$200,000 per year).

**Economic Impact:** Depending on the anticipated program costs as determined by the Board, crane operators could be charged up to \$100 per year for license fees (on a 5-year license cycle).

**Administrative Rule Impact:** Section 9 (1) of the bill requires the Board of Crane Operators to establish crane operator qualifications by promulgation of rules. The new board is thereby given promulgation authority.

However, MIOSHA already has rule making authority to establish certification, rather than licensure, standards for crane operators.

