

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **Senate Bill 68**

BY SENATOR SWOPE

[ Introduced January 9, 2019; Referred  
to the Committee on the Workforce; and then to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §21-3D-3 and §21-3D-4 of the Code of West Virginia, 1931, as  
2 amended, all relating generally to certification requirements of crane operators; providing  
3 that crane operators may be certified by additional nationally recognized accredited  
4 agencies; and changing the written exam requirements for Class A and Class B  
5 certifications.

*Be it enacted by the Legislature of West Virginia:*

### **ARTICLE 3D. CRANE OPERATOR CERTIFICATION ACT.**

#### **§21-3D-3. Powers and duties of commissioner.**

1 (a) The commissioner shall:

2 (1) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et*  
3 *seq.* of this code, which rules at the minimum must include provisions for:

4 (A) A Class A certification program for individuals who operate cranes or tower cranes in  
5 the State of West Virginia, which must require both a written examination and a practical  
6 demonstration, and which must be accredited by a nationally recognized accrediting agency,  
7 including, but not limited to, the American National Standards Institute's Personnel Certification  
8 Accreditation Program or the National Commission for Certifying Agencies;

9 (B) A Class B certification program for individuals who operate cranes or tower cranes in  
10 the State of West Virginia, which must require the successful completion of a training course;

11 (C) Certification categories including lattice boom truck cranes; lattice boom crawler  
12 cranes; fixed cab-telescoping boom cranes; swing cab-telescoping boom cranes; and tower  
13 cranes: *Provided,* That the holders of a certification for the large telescoping boom crane, upon  
14 application for recertification, will be provided with a one time election to either be certified as an  
15 operator of a fixed-cab or swing-cab telescoping boom crane, and that holders of a certification  
16 for the small telescoping boom crane, upon application for recertification, will be automatically  
17 certified as a fixed cab operator;

18 (D) Class A certification renewal requirements of individuals who operate cranes in the

19 State of West Virginia, that must include a written examination and a current physician's certificate  
20 at least every five years; and

21 (E) Class B certification renewal requirements of individuals who operate cranes in the  
22 State of West Virginia, that must include the successful completion of a training course approved  
23 by the commissioner;

24 (2) Prescribe application forms for original and renewal certification;

25 (3) Set application fees in amounts that are reasonable and necessary to defray the costs  
26 of the administration of this article in an amount not to exceed \$75 per year;

27 (4) Set examination and training course fees in an amount not to exceed the actual cost  
28 of the examination and the training course;

29 (5) Administer or cause to be administered the written examination, practical  
30 demonstrations, and the training course as required for certification;

31 (6) Determine the standards for acceptable performance on the written examination,  
32 practical demonstration, and the required training course: *Provided*, That the minimum standards  
33 must be consistent with national standards, current operating procedures, and technology and be  
34 transferable to other states where possible;

35 (7) Provide the option for applicants and crane operators to take examinations that meet  
36 or exceed requirements for national crane operator certification; and

37 (8) Take other action as necessary to enforce this article.

38 (b) The commissioner, or his or her designee, upon receipt of information that a person  
39 has engaged in or is engaging in an act that constitutes a violation of this article, may issue a  
40 notice to the person to cease and desist and may apply to the circuit court for an order enjoining  
41 the act. Upon a showing that the person has engaged in or is engaging in an act that constitutes  
42 a violation of this article, the court may order an injunction, restraining order, or other order as the  
43 court considers appropriate.

**§21-3D-4. Minimum certification requirements.**

1 (a) The commissioner shall certify an applicant who:

2 (1) Is at least 18 years of age;

3 (2) Meets the application requirements as prescribed by rule;

4 (3) Passes the written examination;

5 (4) Passes the practical demonstration: *Provided*, That the practical demonstration  
6 approved by the commissioner may be administered on-site by a qualified company  
7 representative;

8 (5) Presents the original, or a photographic copy, of a physician's certificate that he or she  
9 is physically qualified to drive a commercial motor vehicle as required by 49 C.F.R. §391.41, as  
10 of the effective date of this article or an equivalent physician's certificate as approved by the  
11 commissioner; and

12 (6) Pays the appropriate fees.

13 (b) Certification issued under this article is valid throughout the state and is not assignable  
14 or transferable, and is valid for one year from the date on which it was issued.

15 (c) Notwithstanding any other provision of this article to the contrary, the commissioner  
16 shall establish a dual classification system of certification as follows:

17 (1) Class A certification, which will provide eligibility for national certification, and for which  
18 the applicant must achieve a passing score of ~~seventy on the national commission for the~~  
19 ~~certification of crane operators written examination~~ on a nationally recognized crane operator  
20 crane testing organization's written exam;

21 (2) Class B certification, for which the commissioner may accept a lesser score on ~~the~~  
22 ~~national commission for the certification of crane operators written examination~~ a nationally  
23 recognized crane operator testing organization's written exam: *Provided*, That this score may not  
24 be less than 60 for Class B certification.

25 (d) On and after November 10, 2014:

26 (1) All individuals who operate cranes in the State of West Virginia which are governed by

27 the provisions of the Occupational Safety and Health Administration of the United States  
28 Department of Labor, 29 C.F.R §1926.1400, Subpart CC, are required to hold a Class A  
29 certification; and

30 (2) All individuals who operate cranes in the State of West Virginia which are not governed  
31 by any provision of the Occupational Safety and Health Administration of the United States  
32 Department of Labor are required to hold a Class B certification.

NOTE: The purpose of this bill is to permit crane operators be certified by additional nationally recognized accredited agencies. The bill changes the written exam requirements for Class A and Class B certifications.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.