

HOUSE BILL NO. 1351

Introduced by

Representatives Hatlestad, Owens, Schmidt, Seibel, Silbernagel, Sukut

1 A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and
2 chapter 43-61 of the North Dakota Century Code, relating to criminal history background checks
3 and certification of crane operators; to amend and reenact paragraph 5 of subdivision a of
4 subsection 1 of section 43-51-01, relating to certification of crane operators; to provide for a
5 legislative management study; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota
8 Century Code is created and enacted as follows:

9 The secretary of state for applicants for registration under chapter 43-61, except
10 that criminal history record checks for applicants need not be made unless
11 required by the secretary of state.

12 **SECTION 2. AMENDMENT.** Paragraph 5 of subdivision a of subsection 1 of section
13 43-51-01 of the North Dakota Century Code is amended and reenacted as follows:

14 (5) Secretary of state with respect to contractor licensing and with respect to
15 crane operator and crane operator trainee registration;

16 **SECTION 3.** Chapter 43-61 of the North Dakota Century Code is created and enacted as
17 follows:

18 **43-61-01. Definitions.**

19 As used in this chapter:

20 1. "Crane" means a power-operated hoisting machine that has a power-operated winch,
21 load line and hook moving laterally by the rotation of the machine on a carrier or base
22 that has a manufacturer's rated maximum lifting capacity of at least two thousand
23 pounds [907 kilograms].

24 a. The term includes a:

- 1 (1) Derrick;
- 2 (2) Crawler crane;
- 3 (3) Wheel-mounted crane of both truck and self-propelled wheel type;
- 4 (4) Tower crane with a manufacturer's rated maximum lifting capacity of eleven
- 5 and twenty-three hundredths tons [10 metric tons];
- 6 (5) Locomotive crane; and
- 7 (6) Articulating crane, with or without a winch.

8 b. The term does not include:

- 9 (1) A crane or dragline used in coal mining operations;
- 10 (2) A forklift;
- 11 (3) A digger derrick truck;
- 12 (4) An aircraft;
- 13 (5) A bucket truck;
- 14 (6) A vehicle or machine that does not have a power-operated winch;
- 15 (7) A tow truck or wrecking crane when used for towing or vehicle recovery;
- 16 (8) A crane used in longshore operations or other intermodal operations; and
- 17 (9) A crane used in manufacturing applications.

18 2. "Crane operator" means an individual registered under this chapter as a crane

19 operator.

20 3. "Immediate supervision" means a crane operator is in the immediate area of the

21 trainee, with visual sighting distance and the ability to effectively communicate with the

22 trainee. A crane operator may not immediately supervise more than one trainee at the

23 same time.

24 4. "Registrar" means the secretary of state.

25 5. "Trainee" means an individual registered under this chapter as a crane operator

26 trainee.

27 **43-61-02. Registration required - Penalty.**

28 1. An individual may not operate a crane in this state unless that individual is a:

- 29 a. Trainee who is under the immediate supervision of a crane operator and is
- 30 operating within the scope of the supervising crane operator's and of the trainee's
- 31 registration; or

- 1 b. Crane operator operating within the scope of the operator's registration.
2 2. It is a class A misdemeanor for a person to willfully violate subsection 1.
3 3. In addition to the registration fee due under section 43-61-04, if an individual who
4 violates subsection 1 subsequently applies for registration under this chapter, following
5 written notice to the applicant of an intent to assess the penalty, the registrar may
6 assess a civil penalty against that applicant in an amount not to exceed three times
7 the amount of the registration or renewal fee.

8 **43-61-03. Registration requirements - Specialties - Renewal.**

- 9 1. A certificate of registration issued by the registrar under this chapter must designate
10 the crane operator's or trainee's specialty designation, if any. The registrar shall
11 require specialty designation for a crane operator or trainee to operate a tower crane,
12 lattice boom crawler, lattice boom truck, telescopic boom crane with a rotating control
13 station, or telescopic boom crane with a fixed control station.
14 2. In order to qualify for registration as a crane operator, an applicant:
15 a. Must be at least eighteen years of age;
16 b. Shall present satisfactory evidence the applicant possesses a current, accredited
17 certification issued by a certifying organization approved by the registrar;
18 c. Must have proof of having passed a registrar-approved physical examination
19 establishing the applicant is physically capable of operating a crane; and
20 d. If required by the registrar, shall submit to a statewide and nationwide criminal
21 history record check. All costs associated with obtaining a criminal history record
22 check are the responsibility of the applicant.
23 3. In order to qualify for registration as a trainee, an applicant:
24 a. Must be at least eighteen years of age;
25 b. Shall present satisfactory evidence of having passed a written examination
26 issued by a certifying organization approved by the registrar;
27 c. Must have proof of having passed a registrar-approved physical examination
28 establishing the applicant is physically capable of operating a crane; and
29 d. If required by the registrar, shall submit to a statewide and nationwide criminal
30 history record check. All costs associated with obtaining a criminal history record
31 check are the responsibility of the applicant.

- 1 4. In order to operate a crane, a trainee must be under the immediate supervision of a
2 crane operator and must be operating within the scope of the supervising crane
3 operator's and of the trainee's registration.
- 4 5. Registration under this chapter becomes invalid if the registrant's certification by the
5 organization approved by the registrar expires or otherwise becomes invalid.
- 6 6. Except for an initial registration, which may be valid for a shorter period of time, a
7 crane operator registration under this chapter is valid for two years. A crane operator
8 may renew the registration within sixty days before the expiration of the registration by
9 submitting to the registrar the necessary information and the renewal fee provided for
10 under section 43-61-04.
- 11 7. A trainee registration is limited to twelve months following the date the trainee received
12 notice of passage of the required written examination. Upon successful completion of
13 the required practical examination, the trainee may apply for registration as a crane
14 operator.

15 **43-61-04. Fees.**

- 16 1. Upon filing an application for registration under this chapter, the applicant shall pay the
17 registrar a fee in the amount established by the registrar, not to exceed three hundred
18 dollars.
- 19 2. Upon filing an application for renewal under this chapter, the applicant shall pay the
20 registrar a fee in the amount established by the registrar, not to exceed two hundred
21 dollars.
- 22 3. The registrar shall deposit in the secretary of state's operating fund all fees collected
23 by the registrar under this chapter.

24 **43-61-05. Registrar.**

25 The registrar:

- 26 1. Shall establish the forms for registration application and renewal as provided under
27 this chapter.
- 28 2. Shall set the amount of fees the registrar may charge under this chapter.
- 29 3. Shall establish which national certifying organization or organizations meet the
30 registrar's standards for registration. The certification must include a written
31 examination and a practical examination.

- 1 4. Shall maintain a list of crane operators and trainees registered under this chapter.
- 2 5. May deny an application for registration or renewal and may revoke a registration if the
- 3 applicant or registrant does not meet or continue to meet the requirements of this
- 4 section and any requirements the registrar establishes by rule.
- 5 6. May request the attorney general bring an action in district court to recover penalties
- 6 imposed under this chapter.

7 **SECTION 4. LEGISLATIVE MANAGEMENT STUDY.** During the 2015-16 interim, the
8 legislative management shall consider studying the feasibility and desirability of the state to
9 regulate professions relating to the energy sector which are currently unregulated at the state
10 level. This study may include consideration of whether it may be desirable for a single agency or
11 board to provide regulatory services for these professions. The legislative management shall
12 report its findings and recommendations, together with any legislation required to implement the
13 recommendations, to the sixty-fifth legislative assembly.