

Senate, No. 2564

[Senate, July 22, 2010 - Substituted by amendment by the Senate (Ways and Means) for Senate, No. 915.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT UPDATING 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.** Chapter 146 of the General Laws is hereby amended by striking out section
2 53, as appearing in the 2008 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 53. (a) No person shall operate derricks, cableways, machinery used for
5 discharging cargoes, temporary elevator cars used on excavation work or used for hoisting
6 building material, when the motive power to operate such machinery is mechanical and other
7 than steam, unless such person holds a license or temporary permit as provided in this section.
8 The owner or user of such hoisting machinery shall not operate, or cause to be operated, such

9 machinery, unless the person operating it is duly licensed or possesses a temporary permit. Any
10 operator of such hoisting machinery when it is being used exclusively for agricultural purposes
11 shall be exempt from this section.

12 (b) For licensing and temporary permitting purposes, the commissioner shall classify
13 hoisting machinery by categories, depending on size, weight, common usage, capacity, power
14 source or such other characteristics as the commissioner may find appropriate; provided,
15 however, that at least 1 category shall include cranes and other similar equipment and 1 category
16 shall include excavating equipment.

17 The commissioner shall adopt rules and regulations under chapter 30A, embodying the
18 classifications of hoisting machinery and establishing criteria and procedures for the issuance,
19 denial, renewal, suspension and revocation of licenses or temporary permits to operate hoisting
20 machinery; provided, however, that a final adjudication that there has been a violation of federal
21 or state occupational safety and health regulations or any other rule adopted by the department,
22 shall be cause for the denial, suspension or revocation of any license or temporary permit issued
23 under this section. Criteria for issuance of such license shall include, but not be limited to,
24 training and experience requirements appropriate to the categories of machinery for which the
25 license is intended. Criteria for issuance of such temporary permit shall include, but not be
26 limited to, training and experience requirements appropriate to the compact equipment for which
27 the permit is intended.

28 (c) Notwithstanding any other provisions of this chapter, actions taken or decisions
29 reached by the department or a representative of the department regarding the issuance, denial,
30 renewal, revocation or suspension of a license or temporary permit to operate hoisting

31 machinery, or appeals resulting from such an issuance, denial, renewal, revocation or suspension,
32 shall be taken or made on the basis of the rules and regulations adopted under this section.

33 (d) (1) In cases where a district engineering inspector finds that the immediate
34 suspension or revocation of a license to operate hoisting machinery is necessary for the
35 preservation of the public health or safety, the inspector may order such suspension or
36 revocation pending the outcome of a hearing, under the procedures set forth in the
37 regulations promulgated and adopted under this section.

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

43 (e) The following entities shall be exempt from this section: (1) a utility company which
44 has self propelled truck mounted cranes, derricks and similar hoisting equipment which is used
45 for the maintenance and construction of the equipment of such company; (2) a company which
46 operates hoisting equipment specifically limited to industrial lift trucks, fork lifts, overhead
47 cranes and other hoisting equipment, specifically authorized by the department and used
48 exclusively on company property; and (3) any company which has equipment such as cranes,
49 derricks and similar hoisting equipment used on only utility company property.

50 Such exemption shall only apply if a company has: (1) at least 1 supervisory employee on
51 site at all times of operation who holds a license issued by the department under this section and
52 is designated as the responsible person in charge of hoisting equipment during that period of

53 operation; (2) an inservice training program for employees approved by the department which
54 may be audited by the department; and (3) company licenses issued to each trained and certified
55 employee which shall contain a picture of the licensee, a list of the specific hoisting equipment
56 the licensee has been qualified to operate and the signature of the supervisor who holds a
57 department license.

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

62 **SECTION 2.** Said chapter 146 is hereby amended by striking out section 54, as so
63 appearing, and inserting in place thereof the following section:-

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

68 **SECTION 3.** Section 56 of said chapter 146, as so appearing, is hereby amended by
69 adding the following sentence:-

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

73 **SECTION 4.** Section 58 of said chapter 146, as so appearing, is hereby amended by
74 inserting after the word “examinations”, in line 1, the following words:-, except examinations for
75 temporary permits,

76 **SECTION 5.** Said chapter 146 is hereby amended by inserting, after section 65, the
77 following section:-

78 Section 65A. Whoever desires to act as an operator of compact hoisting machinery for
79 rent for which licensure is required under section 53 , on a temporary basis, shall apply to the
80 person or entity from which the machinery is to be rented for a temporary permit; provided,
81 however, that the person or entity renting such machinery shall have obtained authorization to
82 issue temporary permits from the commissioner. If the applicant meets the criteria for issuance
83 of a temporary permit established by the commissioner under said section 53, such applicant
84 shall then be required to pass an examination under the standards set in the regulations
85 promulgated under said section 53. If the applicant passes the examination, the applicant shall
86 be entitled to a temporary permit to operate hoisting machinery in the category or categories for
87 which the applicant has applied and been examined. No temporary permit may be renewed and
88 no person may be issued more than 1 temporary permit in any 45 day period. The commissioner
89 may periodically review the records of any person or entity that is authorized to issue temporary
90 permits to ensure compliance with this section and any regulation promulgated under said
91 section 53.