



AGC MAINE

THE CONSTRUCTION ASSOCIATION

May 12, 2023

Senator Curry
Representative Roberts
Members of the Joint Standing Committee on Energy, Utilities, and Technology
100 State House Station Augusta, Maine 04333

RE: *AGC Maine's Opposition to LD 1709: "An Act to Establish a Baseline of Consistency and Safety for the Operation of Construction Cranes and Elevators"*

My name is Matt Marks, I am a Principal at Cornerstone Government Affairs, and submitting this on behalf of my client, AGC Maine. Prior to the adoption of the National Crane Standards, AGC Maine and its members were in discussion with state officials, labor, and others to determine a path forward on crane safety. Our goal was to establish education and testing standards to ensure the safe operation of cranes. While we were meeting it was announced the new national standards would be moving ahead. The federal requirements to certify crane operators were entered into the Federal Register in November 2018. It was long overdue, and quickly embraced by Maine's leading commercial contractors.

AGC Maine supports the existing mandatory federal certification of crane operators. OSHA regulation 29 CFR 1926 1400 Subpart CC, specifies all crane operators in construction must be nationally certified and must be re-tested every 5 years. Well before the new standard, Maine companies that already embraced the certification process continued with their own individual programs and through associations like AGC Maine. For perspective, below are the dates of the rollout:

- **November 10, 2018**—Crane operators must be *certified*. Certifications may be by type alone and must be issued by an accredited certifying body such as NCCCO.
- **February 7, 2019**—Employers must *evaluate* their crane operators according to specified criteria and a stipulated process.
- **April 15, 2019**—Employers must ensure all *documentation* relating to their evaluations is current.

Many firms were already working with one of the approved certification agencies, the National Commission for the Certification of Crane Operators (NCCCO). Cianbro, for example, has been working with NCCCO since 1997. Twelve years ago, along with other Maine-based contractors, they assisted AGC Maine with a program that could serve both large and small contractors, members and non-members with the classroom, written test, and practical test program.

NCCCO has been the gold standard in certification with rigorous inspections of the testing process, third-party requirements for written test oversight, and constant updating to ensure the integrity of the

system. This bill creates an additional, unnecessary requirement that doesn't address field compliance, which is enforced by OSHA in the private sector.

AGC America developed a revised book in 2010 titled, *AGC's Professional Mobile Crane Operations Program*. We've been using this manual in conjunction with our NCCCO training program to help with our classroom training of existing and new operators. This program covers rules and regulations, site review and set-up, operations, conditions affecting operations, basic rigging and wire rope, maintenance and inspection, load charts, and crane types.



NCCCO requires a written and practical test; both are issued for each different type of crane the operator is seeking a credential. AGC Maine does not conduct the written test; an independent third-party firm manages the testing. The practical exam is conducted in a closed course where the operator must carefully move through a timed obstacle course. Both tests are subject to audit.



Additionally, OSHA has existing requirements for the safe operation of equipment included in the standard:

"OSHA standard subpart c (general safety conditions) 1926.20 (b)(4) states The employer shall permit only those employees qualified by training or experience to operate equipment and machinery."

OSHA also requires that the employer instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to their work environment to control or eliminate any hazards or other exposure to illness or injury. (29 CFR 1926.21(b)(2))

According to the report issued by the Department of Professional and Financial Regulations in 2020, the number of operators estimated in 2018 in Maine ranged from 287-383, and 386 operators that reside in Maine are NCCCO certified. Maine's rate of certification proves the serious attention to safety and regulatory compliance. I should note, NCCER crane certification, while less utilized in Maine, is another option.

AGC Maine created a general education course to share the federal crane standards with general contractors who might not operate or have direct ownership of cranes but employ subcontractors to operate on their job site. The purpose of the training is to understand compliance and the process for our testing and ongoing education for operators.

Thank you for considering my comments, I will be available at the work session.

Sincerely,

Matt Marks
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