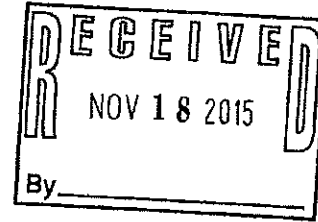


Commonwealth of Massachusetts  
Department of Public Safety-Hoisting Division  
Attn: Ms. Theresa LePore  
1 Ashburton Place, Room 1301  
Boston, MA 02108



November 14, 2015

Dear Ms. LePore,

I would like to thank the Department of Public safety for the opportunity to attend the Hoisting Engineers meeting on October 26, 2015. My name is William Linskey, Sr., I have included a copy of my resume to demonstrate my qualifications as pertaining to these matters. I would like to take this opportunity to formally address some of the key topics.

**1. "Appointing a board of overseers, as other licensed disciplines have."**

Any Board created must be comprised of members from both Union and Non-Union affiliation to accurately represent all Hoisting Operators. All Board members should be experienced in Operating Hoisting Equipment. Therefore, any regulations would be pertinent and necessary to maintaining safety while operating equipment.

**2. Municipalities being exempt from Continuing Education Requirements of 520 CMR 6.04, due to existing training programs for employees.**

*520 CMR 6.00: HOISTING MACHINERY*

*Scope:*

*520 CMR 6.00 is promulgated by the Department of Public Safety pursuant to authority granted by M.G.L. c. 146, §53. The purpose of 520 CMR 6.00 is to establish reasonable requirements to protect the public safety of the citizens of the Commonwealth from the hazards inherent in the operation of Hoisting Machinery by establishing the minimum standards necessary to obtain a Hoisting Machinery operator's License or Temporary Permit and the minimum safety standards to be followed during the operation of Hoisting Machinery. 520 CMR 6.00 shall apply to:*

*520 CMR 6.04 states, "All Hoisting License holders must complete continuing education requirements..."*

The sole purpose of 520 CMR 6.00 is to protect the citizens of the Commonwealth. All operators in control of hoisting equipment, regardless of employer or location, should be held to the same standards. No educational exemptions should be made when the safety of the citizens of the Commonwealth is of concern. Please also be advised that many municipal employees do not solely operate equipment for the city/town. Many municipal employees also own/operate their own heavy equipment or work for other private companies.

**3. Structure of Continuing Education Requirements: Core Class + Focused hours for each restriction.**

I support the proposition to move to a Core Class Plus Focused Hours for each Restriction. No licensee who maintains a hoisting license in all 4 Restrictions should be required to attend 4 separate courses that all cover the same curriculum. It should be noted that curriculum to cover inclusively: MGL 146, MGL82 s40, MGL 82A, MGL164 s76D, 520 CMR 6.00, 520 CMR 14.00, 220 CMR 14.00 and 220 CMR 99.00 requires approximately 2-3 hours to present. Should the Department implement the "Core Class" it is imperative that at least 2 hours be allowed for the above mentioned curriculum to ensure the information is covered in its entirety. Due to the complexity of the information included in the Core class, the Department may want to consider requiring it be offered in a classroom setting only to ensure that everyone gains a clear understanding of the laws & regulations.

**4. Looking into ways to Streamline Licenses.**

The Department needs to utilize technology to improve efficiency and decrease the time that it takes to issue a new hoisting license or renew an existing license. Hoisting Operator candidates have had to wait months, after submitting an application, to be provided with a testing date. Other licensing boards such as Plumbing and Gasfitters have implemented computerized testing which has improved their process and shortened wait times for prospective licensees. In some cases it is a matter of employment and differential in pay grade. It is unfair for a person who is a qualified operator to wait months to obtain a license.

**5. Length of wait time between Testing for those who do not obtain a score 70%.**

Currently applicants are required to wait 90 days before submitting to retake the exam. With delays previously discussed, this delay could extend their wait time an additional 6 months. It should be considered to reduce the wait period to 30 days which offers sufficient time to review the information and prepare to retake the exam.

**6. Require OSHA 10 to apply for a Hoisting License.**

There are multiple categories of OSHA 10 cards, such as: Marine, Industrial and Construction.

Curriculum for OSHA 10 for Construction Outreach Training is as follows:

**Mandatory 7 Hours**

- 2 hours Introduction to OSHA
- 4 hours Focus for Hazards (Falls, Electrocutation, Struck By, & Caught In Between)
- ½ hour Personal Protective Equipment
- ½ hour Health Hazards

**Elective 2 Hours**

- Cranes & Derricks
- Excavation
- Material Handling Storage
- Scaffolds
- Stairways & Ladders
- Tools Power/Hand

**Optional 1 Hour**

- Other Construction Hazards

Given the list of subjects a candidate could have been issued a 10 hour OSHA card with no training related to Operation of Hoisting Equipment. If an OSHA 10 card is to be made a prerequisite to obtain a Hoisting License, it should be ensured that the OSHA10 curriculum included Hoisting Equipment training.

## 7. Eliminating the Requirement to Communicate in English.

### 520 CMR 6.02(3)(a)(1)(b)

*b. the ability to comprehend and interpret all Placards, operation manuals, safety codes and other information pertinent to safe hoisting operations in the English language;*

### 520 CMR 6.02(3)(b)(4)

*(b) Practical Examination:*

*Applicants taking the practical examination must demonstrate knowledge of the following:*

*(4) The ability to communicate in English;*

The requirement to comprehend and communicate in English is an important safety measure. Jobsites are dangerous environments where the ability to facilitate clear communication is imperative to the safety of all present. The inherent dangers which accompany the act of rigging and hoisting require a standardized means of communication to ensure rapid comprehension in emergency situations.

## 8. Equipment Restrictions

The Department has changed the licensing requirements to operate certain pieces of equipment. Previously if a person was licensed to operate a piece of equipment, regardless of the attachment, unless said attachment possessed a drum and cable. Under the new regulations, unlicensed, untrained personnel are allowed to operate a skid-steer if using a broom attachment, auger attachment, or breaker attachment. The skid steer is one of the most dangerous pieces of heavy equipment on any jobsite due to its erratic movement and limited visibility. It is used in tight quarters that inhibit maneuverability of other types of equipment.

An operator of any type of power unit that is listed in 520 CMR 6.00 should be required to possess a license to operate the machine, regardless of the attachment. This will ensure the operator has a clear understand MGL 146 and 520 CMR 6.00 and is capable of maintaining a safe worksite.

## 9. New Ruling that Requires 1C License for Fork Attachment on Front End Loaders

### 520 CMR 6.01(2) Definitions

*Forklift. Any mobile power-propelled truck used to carry, push, pull, lift, stack or tier materials. Earth moving and over the road haulage trucks are not included in the definition. Equipment that was designed to move earth but has been modified to accept forks are also not included.*

The Department made a new requirement that if you put forks on a loader you are now required to have a 1C license. Their reasoning for this was a 1C is required to operate equipment with telescoping booms without wire ropes and forklifts. This piece of equipment does not have a telescoping boom it only lifts up and down. It is not considered a forklift by the Departments own definition. It is a requirement of OSHA Standards 1910.178 to train operators for each piece of equipment they are to operate. Included in these standards is operating a machine with forks attached.

Previously operators with a 2A license utilized the fork attachment to unload and stretch out pipe. Under the new restriction crews are now unloading pipe with an excavator and sling, which is burdensome and is dangerous due to minimal control over the load. I have discussed this topic at length with my peers, all have concurred that the previous regulation was more effective in maintaining safety and better facilitated staffing.

## 10. 3A License Includes Tower Cranes

Most 3A Licenses are being obtained to operate Overhead cranes. When training a candidate to test for a 3A license it includes tower cranes, to operate a Tower crane you are also required to have a 1A License. It would be better if Tower Cranes were a Class Restriction on their own due to the level of training required and significant safety concerns.

**11. Learning Permit/ "Seat Time"**

*MGL 146 s53 (b)*

*"Criteria for issuance of such license shall include, but not limited to, **training and experience requirements appropriate to the categories of machinery for which the license is intended**"*

*MGL 146 s53 (a)*

*"No person shall operate derricks, cableways, machinery used for discharging cargoes, temporary elevator cars used on excavation work or used for hoisting building material, when the motive power to operate such machinery is mechanical and other than steam,*

*MGL 146 s53 (a)*

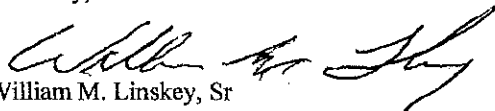
*"No person shall operate derricks, cableways, machinery used for discharging cargoes, temporary elevator cars used on excavation work or used for hoisting building material, when the motive power to operate such machinery is mechanical and other than steam, unless such person holds a license or temporary permit as provided in this section. The owner or user of such hoisting machinery shall not operate, or cause to be operated, such machinery, unless the person operating it is duly licensed or possesses a temporary permit. Any operator of such hoisting machinery when it is being used exclusively for agricultural purposes shall be exempt from this section"*

How does a person get experience? Under the current laws the only people who are allowed to obtain practical experience operating equipment are members of an apprenticeship program which is currently only offered to people with Union affiliation. The new regulations prohibit unlicensed personnel from operating any equipment, at any location, without first obtaining a Hoisting License. This is exposing the public to significant risk. Under the new regulations, people who have never operated equipment are being issued a license to legally operate a machine in public. In my experience as an employer, people are not always truthful regarding their experience or accurately conveying their abilities. I fear that some companies will not vet their newly hired operators. These inexperienced operators, although licensed, have never previously operated the equipment. A significant rise in worksite accidents and fatalities will be inevitable. Included in 520 CMR 6.04 (3)(a)(3) a practical exam in addition to the written exam may be required at the discretion of the Department. Considering the length of time it currently takes to obtain a license, and the exorbitant cost, it would be unreasonable to require a practical examination of all candidates.

All the labor reports forecast that all trades will soon experience a critical shortage of skilled workers. The Department must consider issuing "Learners Permits", allowing for on the job training to offset this shortage. Those with a Learners Permit would train under the direct supervision of a licensed and qualified operator for the piece of equipment being operated. This licensed supervisor would be required to sign off hours of operation to allow the candidate to apply for examination. This would allow a candidate to meet the requirements of MGL 146 §53 (b) to be trained and experienced for licensing. On the job training has worked for decades and produced qualified operators with a greater awareness of the worksite where they operate. On the job training coupled with the required OSHA training would improve the quality of future operators.

Thank you for your time and consideration, I hope that these points assist the Department in implementing changes to ensure the safety of our workforce. I have included my contact information if the DPS Hoisting Division want to speak further on these matters.

Sincerely,

  
William M. Linskey, Sr