

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Mr. Brewer**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to changing the hoisting law.

PETITION OF:

NAME:

Mr. Brewer

DISTRICT/ADDRESS:

Worcester, Hampden, Hampshire and Franklin

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S01356 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
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### AN ACT RELATIVE TO CHANGING 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. Section 53 of Chapter 146 of the General Laws as appearing in the 2006 Official  
2 Edition is hereby amended by striking out the entire text and inserting in place therein the  
3 following new section:-

4 **Section 53. Necessity of licenses or temporary permits; classification of hoisting machinery;**  
5 **exemptions**

6 Section 53. (1) No person shall operate derricks, cableways, machinery used for discharging  
7 cargoes, temporary elevator cars used on excavation work or used for hoisting building material,  
8 when the motive power to operate such machinery is mechanical and other than steam, unless he  
9 holds a license or temporary permit as hereinafter provided. The owner or user of such hoisting  
10 machinery shall not operate, or cause to be operated, such machinery, unless the person  
11 operating it is duly licensed or possesses a temporary permit. Any operator of such hoisting  
12 machinery when it is being used exclusively for agricultural purposes shall be exempt from the  
13 provisions of this section.

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

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

30 (3) Notwithstanding any other provisions of this chapter, actions taken or decisions reached by  
31 the department or a representative thereof regarding the issuance, denial, renewal, revocation or  
32 suspension of a license or temporary permit to operate hoisting machinery, or appeals resulting  
33 therefrom, shall be taken or made on the basis of the rules and regulations adopted under the  
34 provisions of this section.

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

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

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

52 Such exemption shall only apply if a company has all of the following: (1) at least one  
53 supervisory employee on site at all times of operation who holds a license issued by the  
54 department in accordance with this section and is designated as the responsible person in charge  
55 of hoisting equipment during that period of operation; (2) an inservice training program for

56 employees approved by the department which may be audited by the department; and (3)  
57 company licenses issued to each trained and certified employee which shall contain a picture of  
58 the licensee, a list of the specific hoisting equipment the licensee has been qualified to operate,  
59 and the signature of the supervisor who holds a department license.

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

64 SECTION 2. Section 54 of Chapter 146 of the General Laws as appearing in the 2006 Official  
65 Edition is hereby amended by striking out the entire text and inserting in place therein the  
66 following new section:-

67 **Chapter 146: Section 54. Carrying license or temporary permit**

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

72 SECTION 3. Section 56 of Chapter 146 of the General Laws as appearing in the 2006 Official  
73 Edition is hereby amended by adding at the end thereof the following new sentence:-

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

77 SECTION 4. Section 58 of Chapter 146 of the General Laws as appearing in the 2006 Official  
78 Edition is hereby amended by inserting after the word examinations in line #1, the following  
79 clause:

80 , except those for temporary permits,

81 SECTION 5. Chapter 146 of the General Laws as appearing in the 2006 Official Edition is  
82 hereby amended by adding the following new section:-

83 **Chapter 146: Section 65A. Temporary Operation of hoisting machinery; temporary**  
84 **permit; application; examination**

85 Section 65A. Whoever desires to act as an operator of compact hoisting machinery for rent for  
86 which licensure pursuant to section fifty-three of chapter 146 of the general laws is required, on a  
87 temporary basis, shall apply to the person or entity from which the machinery is to be rented for  
88 a temporary permit. The person or entity renting such machinery shall obtain prior authorization  
89 to issue temporary permits from the commissioner. If the criteria for issuance of a temporary

90 permit established by the commissioner pursuant to section fifty-three are met by the applicant,  
91 such applicant shall then be required to pass an examination in accordance with the standards set  
92 in the regulations promulgated under the provisions of said section fifty-three. The passing of  
93 the examination shall entitle the applicant to a temporary permit to operate hoisting machinery in  
94 the category or categories for which they have applied and been examined. No temporary permit  
95 may be renewed and no person may be issued more than one temporary permit in any 45 day  
96 period. The commissioner may periodically review the records of any person or entity that is  
97 authorized to issue temporary permits to ensure compliance with this section and any regulation  
98 promulgated pursuant to section fifty-three.