

Working State safety mandate little-known and less enforced

By L.M. SIXEL

TEXAS has had a law on the books since 1989 requiring cranes to have insulators that prevent deaths from contact with power lines.

But those who should know about the device, which could have prevented some of the state's 30 construction-related electrocutions in the past three years, don't.

Safety consultants, union officials and some operators of the machines contend that few of the cranes working in Texas have the protective device.

And government safety experts and agencies differ on which is responsible for the problem.

"They're very uncommon," said Tara Hart, chief executive officer of the Compliance Alliance in Houston, an occupational health and safety consulting company that specializes in the construction industry. Crane companies aren't even aware of the law, she said.

Even cranes used by city and county governments in Texas don't have the device on their equipment, said Hart, who said her company has about a thousand contractors across the United States as clients.

John Miles, an administrator for the Occupational Safety and Health Administration in the region that includes Texas, hasn't seen many either. Miles, who just recently became aware of the state law, said he believes a lot of cranes in Texas operate without the mandated insulators. Daniel McCoy, a crane operator in Houston with the International Union of Operating Engineers Local 450, said he's never operated a crane with an insulator in the 20 years he's been in the business. He's never even seen one, he said.

McCoy, who often works close to power

lines, said he has asked his supervisors about adding an insulator but was told to keep his mind on his work and not to worry about it.

E. Dale Wortham, president of the Harris County AFL-CIO and an electrician by trade, was surprised to learn such a law existed.

Wortham, who spends quite a bit of time visiting construction sites, can't recall seeing an insulator on a crane.

Joseph R. Alexander Jr., a lawyer with Mithoff & Jacks in Houston, said he believes that if the state-required insulator was on the crane that Rory Moore was using, the 21-year-old worker wouldn't have been killed when the crane he was using touched a live electric wire and sent 7,200 volts through his body.

"His death was clearly preventable," said Alexander, who sued United Crane, the company that owned and operated the crane used at the Cleveland construction site three years ago.

Moore's family settled the case for \$4.25 million.

Alexander said the company argued that a device designed to deflect electricity was built into the crane, but Alexander said it wasn't the protective equipment the state law requires, which can deflect up to 50,000 volts.

United Crane's lawyer, Walter Cicack of Adams & Reese in Houston, contends the crane had all the equipment required by state and federal laws.

It was a tragic accident caused by human error, said Cicack, including the one made by the operator who got too close to power lines.

Part of the problem is that, while the Legislature passed the law that carries a criminal penalty of up to one year in prison and a fine of up to \$1,000, no state

agency has the responsibility of enforcing it.

OSHA doesn't have jurisdiction over state laws -- it has its own rules requiring cranes to stay a certain distance from power lines -- but Miles said that since he became aware of the state regulation, he has asked his safety investigators to notify the Texas attorney general's office of violations.

But a call revealed that the agency doesn't believe it has the duty to investigate violations.

There's nothing in the statute that gives the attorney general authority over the law, spokesman Tom Kelley said. He suggested it may be the job of the Texas Department of Licensing and Regulation, which covers everything from career counselors to employee-leasing companies to the sport of boxing.

Spokesman Kevin Ketchum said that, while the agency regulates a variety of industries, crane operators are not on the list.

He suggested the Public Utility Commission.

No, said spokesman Terry Hadley, who did some research and found the PUC has no jurisdiction.

While everyone tosses the hot potato, Miles said OSHA has been meeting with industry groups and union representatives about establishing a federal standard on cranes and derricks that might require insulators.

And with a nationwide rule like that, the equipment would probably be installed by crane manufacturers when they're built, Hart said.

Miles said that the insulator seems like a good device that will save lives.

"And if it prevents one person from losing his life, it's great," he said.