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**SENATE BILL 5698**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Keiser, Takko, Salomon, Hobbs, Palumbo, Mullet, Saldaña, and Conway

AN ACT Relating to ensuring for a skilled and trained workforce in high hazard facilities; adding a new chapter to Title 49 RCW; prescribing penalties; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds:

(1) Work at petrochemical facilities is some of the most dangerous work in this state both for workers and the general public. In 2010, Washington experienced one of its worst industrial accidents in history at a petrochemical facility in Anacortes where seven workers lost their lives. As a result of this disaster the department has been actively engaged in rule making to improve its process safety management rules using recent law changes in California as the model. However, this model also includes a critical element that is beyond the statutory jurisdiction of the Washington industrial safety and health act, chapter 49.17 RCW, relating to ensuring for a skilled and trained workforce. It is this skilled and trained workforce component that is critical to provide a greater degree of certainty that we will not have another catastrophic accident of this magnitude in this state.

(2) The use of unskilled and untrained workers at chemical manufacturing and processing facilities that generate, store, treat, handle, refine, process, and transport hazardous materials is a risk to public health and safety, and the risk to public health and safety is particularly high when workers are employed by outside contractors because they generally will be less familiar with the operations of the facility and its emergency plans and the owner or operator of the facility will have less incentive to invest in their training.

(3) Requiring that workers employed by outside contractors at these facilities be paid at least at a rate equivalent to the prevailing journeyperson wage for the occupation under chapter 39.12 RCW, or be registered in an approved apprenticeship program under chapter 49.04 RCW, is necessary to provide an economic incentive for employers to use only the most skilled workers to perform work that poses a risk to public health and safety. The wage scale is also necessary to provide an economic incentive for the workers to obtain the mandatory advanced safety training required under this chapter.

(4) Requiring that apprentices be registered in programs approved by the Washington state apprenticeship and training council is necessary to ensure that these workers are receiving the proper training and on-the-job supervision and that the programs are subject to proper oversight.

(5) Requiring that at least sixty percent of the journeypersons working for a contractor be graduates of an approved apprenticeship program is necessary to ensure that the majority of the journeypersons will have had appropriate classroom and laboratory instruction for their occupations. A phase in for this requirement will avoid disruption of the industry.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Apprenticeable occupation" means an occupation for which an apprenticeship program has been approved by the Washington state apprenticeship and training council pursuant to chapter 49.04 RCW.

(2) "Department" means the department of labor and industries.

(3) "Prevailing hourly wage rate" has the meaning provided for "prevailing rate of wage" in RCW 39.12.010.

(4) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW.

(5) "Skilled and trained workforce" means a workforce that meets both of the following criteria:

(a) All the workers are either registered apprentices or skilled journeypersons; and

(b) The workforce meets the apprenticeship graduation requirements established in section 4 of this act.

(6) "Skilled journeyperson" means a worker who meets all of the following criteria:

(a) The worker either graduated from an apprenticeship program for the applicable occupation that was approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW, or has at least as many hours of on-the-job experience in the applicable occupation that would be required to graduate from an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW;

(b) The worker is being paid at least a rate equivalent to the prevailing hourly wage rate for a journeyperson in the applicable occupation and geographic area; and

(c) The worker has completed within the prior two calendar years at least twenty hours of approved advanced safety training for workers at high hazard facilities.

NEW SECTION. **Sec.**  (1) An owner or operator of a stationary source that is engaged in activities described in code 324110 or 325110 of the North American industry classification system, when contracting for the performance of construction, alteration, demolition, installation, repair, or maintenance work at the stationary source, shall require that its contractors and any subcontractors use a skilled and trained workforce to perform all onsite work within an apprenticeable occupation in the building and construction trades. This section shall not apply to oil and gas extraction operations.

(2) The department in consultation with the Washington state apprenticeship and training council shall approve a curriculum of in-person classroom and laboratory instruction for approved advanced safety training for workers at high hazard facilities. That safety training may be provided by a registered apprenticeship program approved by the department's supervisor of apprenticeship. The supervisor of apprenticeship in coordination with the assistant director for the department's division of occupational safety and health, must periodically review and revise the curriculum to reflect current best practices. Upon receipt of certification from the apprenticeship program, the supervisor of apprenticeship must issue a certificate to a worker who completes the approved curriculum.

(3) This section applies to work performed under contracts awarded, contract extensions, and contract renewals occurring on or after the effective date of this section. This section shall also apply to work performed under a contract awarded before the effective date of this section if the work is performed more than one year after the effective date of this section.

(4) This section does not apply to:

(a) The employees of the owner or operator of the stationary source, nor does it prevent the owner or operator of the stationary source from using its own employees to perform any work that has not been assigned to contractors while the employees of the contractor are present and working;

(b) A contractor who has requested qualified workers from the local hiring halls or apprenticeship programs that dispatch workers in the apprenticeable occupation and who, due to workforce shortages, is unable to obtain sufficient qualified workers within forty-eight hours of the request, Saturdays, Sundays, and holidays excepted; and

(c) Emergencies that make compliance impracticable because they require immediate action to prevent harm to public health or safety or to the environment. This section applies as soon as the emergency is over or it becomes practicable for contractors to obtain a qualified workforce.

(5) The requirements under subsection (1) of this section apply to each individual contractor's and subcontractor's on-site workforce.

NEW SECTION. **Sec.**  The following implementation schedule must be complied with to meet the requirements for a skilled and trained workforce:

(1) By January 1, 2020, at least thirty percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council under chapter 49.04 RCW;

(2) By January 1, 2021, at least forty-five percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council under chapter 49.04 RCW; and

(3) By January 1, 2022, at least sixty percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW and all workers must have completed within the past two calendar years at least twenty hours of approved advanced safety training for workers at high hazard facilities.

NEW SECTION. **Sec.**  (1) Failure to comply with the skilled and trained workforce requirements of this act constitutes a violation of RCW 49.17.180.

(2) Failure to comply with the prevailing hourly wage requirements of this act constitutes a violation of RCW 49.48.083.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. **Sec.**  This act takes effect January 1, 2020.

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