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HOUSE BILL 1817

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State of Washington

66th Legislature

2019 Regular Session

By Representatives Sells, Chapman, Gregerson, Ormsby, and Morgan

Read first time 01/31/19. Referred to Committee on Labor & Workplace Standards.

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

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

5 NEW SECTION. **Sec. 1.** The legislature finds:

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

20 (2) The use of unskilled and untrained workers at chemical  
21 manufacturing and processing facilities that generate, store, treat,

1 handle, refine, process, and transport hazardous materials is a risk  
2 to public health and safety, and the risk to public health and safety  
3 is particularly high when workers are employed by outside contractors  
4 because they generally will be less familiar with the operations of  
5 the facility and its emergency plans and the owner or operator of the  
6 facility will have less incentive to invest in their training.

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

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

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

27 NEW SECTION. **Sec. 2.** The definitions in this section apply  
28 throughout this chapter unless the context clearly requires  
29 otherwise.

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

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

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

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

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

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

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

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

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

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

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

22 NEW SECTION. **Sec. 3.** (1) An owner or operator of a stationary  
23 source that is engaged in activities described in code 324110 or  
24 325110 of the North American industry classification system, when  
25 contracting for the performance of construction, alteration,  
26 demolition, installation, repair, or maintenance work at the  
27 stationary source, shall require that its contractors and any  
28 subcontractors use a skilled and trained workforce to perform all  
29 onsite work within an apprenticeable occupation in the building and  
30 construction trades. This section shall not apply to oil and gas  
31 extraction operations.

32 (2) The department in consultation with the Washington state  
33 apprenticeship and training council shall approve a curriculum of in-  
34 person classroom and laboratory instruction for approved advanced  
35 safety training for workers at high hazard facilities. That safety  
36 training may be provided by a registered apprenticeship program  
37 approved by the department's supervisor of apprenticeship. The  
38 supervisor of apprenticeship in coordination with the assistant  
39 director for the department's division of occupational safety and

1 health, must periodically review and revise the curriculum to reflect  
2 current best practices. Upon receipt of certification from the  
3 apprenticeship program, the supervisor of apprenticeship must issue a  
4 certificate to a worker who completes the approved curriculum.

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

11 (4) This section does not apply to:

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

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

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

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

30 NEW SECTION. **Sec. 4.** The following implementation schedule must  
31 be complied with to meet the requirements for a skilled and trained  
32 workforce:

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

37 (2) By January 1, 2021, at least forty-five percent of the  
38 skilled journeypersons must be graduates of an apprenticeship program

1 for the applicable occupation approved by the Washington state  
2 apprenticeship and training council under chapter 49.04 RCW; and

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

10 NEW SECTION. **Sec. 5.** (1) Failure to comply with the skilled and  
11 trained workforce requirements of this act constitutes a violation of  
12 RCW 49.17.180.

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

15 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act  
16 constitute a new chapter in Title 49 RCW.

17 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2020.

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