

ESHB 1817 - S COMM AMD

By Committee on Labor & Commerce

ADOPTED AND ENGROSSED 4/10/19

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

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

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

10 (3) "On-site work" does not include ship and rail car support
11 activities; environmental inspection and testing; security guard
12 services; work which is performed by an original equipment
13 manufacturer for warranty, repair, or maintenance on the vendor's
14 equipment if required by the original equipment manufacturer's
15 warranty agreement between the original equipment manufacturer and
16 the owner; industrial cleaning not related to construction; safety
17 services requiring professional safety certification; nonconstruction
18 catalyst loading, regeneration, and removal; chemical purging and
19 cleaning; refinery byproduct separation and recovery; inspection
20 services not related to construction; and work performed that is not
21 in an apprenticeable occupation.

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

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

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

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

1 (b) The workforce meets the apprenticeship graduation and
2 approved advanced safety training requirements established in section
3 3 of this act.

4 (7) "Skilled journey person" means a worker who meets all of the
5 following criteria:

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

14 (b) The worker is being paid at least a rate commensurate with
15 the wages typically paid for the occupation in the applicable
16 geographic area, subject to the following provisions:

17 (i) The prevailing wage rate paid for a worker in the applicable
18 occupation and geographic area on public works projects may be used
19 to determine the appropriate rate of pay, however, this subsection
20 (7)(b) does not require a contractor to pay prevailing wage rates;
21 and

22 (ii) In no case may the worker be paid at a rate less than an
23 hourly rate consistent with the seventy-fifth percentile in the
24 applicable occupation and geographic area in the most recent
25 occupational employment statistics published by the employment
26 security department.

27 NEW SECTION. **Sec. 2.** (1) An owner or operator of a stationary
28 source that is engaged in activities described in code 324110 or
29 325110 of the North American industry classification system, when
30 contracting for the performance of construction, alteration,
31 demolition, installation, repair, or maintenance work at the
32 stationary source, shall require that its contractors and any
33 subcontractors use a skilled and trained workforce to perform all
34 onsite work within an apprenticeable occupation in the building and
35 construction trades. This section shall not apply to oil and gas
36 extraction operations.

37 (2)(a) The department in consultation with the Washington state
38 apprenticeship and training council shall approve a curriculum of in-

1 person classroom and laboratory instruction for approved advanced
2 safety training for workers at high hazard facilities.

3 (b) The safety training must be provided by a training provider,
4 which may include a registered apprenticeship program, approved by
5 the department. The department must periodically review and revise
6 the curriculum to reflect current best practices.

7 (c) Upon receipt of certification from the approved training
8 provider, the department must issue a certificate to a worker who
9 completes the approved curriculum.

10 (d) The department may accept a certificate or other
11 documentation issued by another state if the department finds that
12 the curriculum and documentation of the other state meets the
13 requirements of this subsection.

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

20 (4) This section does not apply to:

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

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

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

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

1 (6) The requirements of this section do not make the work
2 described in subsection (1) of this section a public work within the
3 meaning of RCW 39.04.010.

4 NEW SECTION. **Sec. 3.** The following implementation schedule must
5 be complied with to meet the requirements of section 2 of this act
6 for a skilled and trained workforce to perform all on-site work
7 within an apprenticeable occupation in the building and construction
8 trades:

9 (1)(a) By January 1, 2021, at least twenty percent of the skilled
10 journeypersons must be graduates of an apprenticeship program for the
11 applicable occupation approved by the Washington state apprenticeship
12 and training council under chapter 49.04 RCW;

13 (b) By January 1, 2022, at least thirty-five percent of the
14 skilled journeypersons must be graduates of an apprenticeship program
15 for the applicable occupation approved by the Washington state
16 apprenticeship and training council under chapter 49.04 RCW;

17 (c) By January 1, 2023, at least forty-five percent of the
18 skilled journeypersons must be graduates of an apprenticeship program
19 for the applicable occupation approved by the Washington state
20 apprenticeship and training council according to chapter 49.04 RCW;
21 and

22 (d) By January 1, 2024, at least sixty percent of the skilled
23 journeypersons must be graduates of an apprenticeship program for the
24 applicable occupation approved by the Washington state apprenticeship
25 and training council according to chapter 49.04 RCW; and

26 (2) By January 1, 2022, all workers in the skilled and trained
27 workforce must have completed within the past three calendar years at
28 least twenty hours of approved advanced safety training for workers
29 at high hazard facilities.

30 NEW SECTION. **Sec. 4.** (1) Failure to comply with the skilled and
31 trained workforce requirements of this chapter, except the
32 requirement that a worker be paid at a rate commensurate with wages
33 typically paid for the occupation, constitutes a violation of chapter
34 49.17 RCW.

35 (2) The wage rate requirement of section 1(7)(b) of this act
36 constitutes a wage payment requirement as defined in RCW 49.48.082.

1 NEW SECTION. **Sec. 5.** (1) The department in consultation with
2 the Washington state apprenticeship and training council shall
3 prioritize consideration of new apprenticeship programs for workers
4 in high hazard facilities. The Washington state apprenticeship and
5 training council shall issue a decision within six months of the
6 acceptance of a completed application for consideration of a new
7 state registered apprenticeship program for workers in high hazard
8 facilities.

9 (2) This section expires December 31, 2023.

10 NEW SECTION. **Sec. 6.** The department may adopt rules necessary
11 to implement this chapter.

12 NEW SECTION. **Sec. 7.** Sections 1 through 6 and 8 of this act
13 constitute a new chapter in Title 49 RCW.

14 NEW SECTION. **Sec. 8.** This act takes effect January 1, 2020."

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15 On page 1, line 2 of the title, after "facilities;" strike the
16 remainder of the title and insert "adding a new chapter to Title 49
17 RCW; prescribing penalties; providing an effective date; and
18 providing an expiration date."

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