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## Labor & Workplace Standards Committee

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### HB 1817

**Brief Description:** Ensuring for a skilled and trained workforce in high hazard facilities.

**Sponsors:** Representatives Sells, Chapman, Gregerson, Ormsby and Morgan.

#### Brief Summary of Bill

- Requires owners and operators of facilities engaged in petroleum refining or petrochemical manufacturing to require their contractors and subcontractors to use a skilled and trained workforce to perform onsite work.
- Defines a skilled and trained workforce as a workforce where all the workers are registered apprentices or skilled journeypersons and the workforce meets certain apprenticeship graduation requirements.
- Requires workers to complete advanced safety training for workers at high hazard facilities.

**Hearing Date:** 2/5/19

**Staff:** Joan Elgee (786-7106).

#### Background:

Apprenticeship programs enable individuals to learn trades and occupations through on-the-job training and related supplemental instruction. The Washington State Apprenticeship Training Council (WSATC) within the Department of Labor and Industries (Department) establishes standards for apprenticeship programs. Standards set by the WSATC address the allowable ratios of apprentice to journey-level workers and the type of work apprentices may do. An employer may partner with an approved apprenticeship program or develop its own, subject to approval by the WSATC.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Under the Washington Industrial Safety and Health Act (WISHA), the Department may inspect and investigate work places to determine if the workplace is in compliance with safety and health standards. If the Department believes that an employer has committed a violation, the Department must issue a citation. Penalties are based on the gravity of the violation, adjusted by the employer's inspection history, the size of the workforce, and other factors. Maximum penalties are specified in statute for various types of violations, and a minimum penalty is specified for willful violations.

If the employer fails to pay an employee wages owed, under the Wage Payment Act the employee may file a wage complaint with the Department or bring a civil action in court. If the employee files an administrative wage complaint, the Department must investigate. If the Department determines that the employer's wage violation was willful, the Department may, under certain circumstances, order the employer to pay a civil penalty. The civil penalty for a willful violation is a minimum of \$1,000 or an amount equal to 10 percent of the total amount of unpaid wages, whichever is greater.

North American Industrial Classification System (NAICS) codes identify and classify entities based on their primary business activity. Businesses in NAICS code 324110 are primarily engaged in refining crude petroleum, and businesses in NAICS code 325110 are primarily engaged in manufacturing acyclic hydrocarbons or cyclic aromatic hydrocarbons or both from refined petroleum or liquid hydrocarbons (petrochemicals).

The prevailing wage is the wage paid on public works in each trade or occupation and is established by the industrial statistician at the Department under standards in law.

### **Summary of Bill:**

An owner or operator of a stationary source that is engaged in petroleum refining or petrochemical manufacturing must require its contractors and subcontractors to use a skilled and trained workforce to perform onsite work in an occupation for which an apprenticeship program has been approved by the WSATC, when contracting for the construction, alteration, installation, repair, or maintenance of the stationary source.

A skilled and trained workforce means all the workers are either registered apprentices or skilled journeypersons, and the following percentages of the skilled journeypersons are apprenticeship graduates:

- by 2020, at least 30 percent;
- by 2021, at least 45 percent; and
- by 2022, at least 60 percent.

In addition, by 2022, all workers must have completed within the last two years at least 20 hours of approved advanced safety training for workers at high hazard facilities.

A skilled journeyperson means the worker:

- has either graduated from an apprenticeship program for the applicable occupation or has at least as many hours of on-the-job experience as would be required to graduate;
- 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

- has completed within the prior two calendar years at least 20 hours of approved advanced safety training for workers at high hazard facilities.

The skilled and trained workforce requirements apply to each contractor's and subcontractor's on-site workforce. The requirements of the bill do not apply to:

- oil and gas extraction operations;
- employees of the owner or operator of the stationary source, nor does the bill prevent an owner or operator from using its own employees to perform any work that not been assigned to contractors while the employees of the contractor are present and working;
- contractors that are unable to obtain sufficient qualified workers within 48 hours after requesting qualified workers from local hiring halls or apprenticeship programs due to workforce shortages; and
- emergencies that make compliance impracticable because they require immediate action to prevent harm to public health, safety, or to the environment.

The Department must approve a curriculum of in-person classroom and laboratory instruction for approved advanced safety training at high hazard facilities. The training may be provided by a registered apprentice program approved by the supervisor of apprenticeship.

The penalties under the WISHA apply to the failure to comply with the skilled and trained workforce requirement. The penalties under the Wage Payment Act apply to the failure to comply with the prevailing hourly wage requirements.

The requirements apply to work performed under contracts awarded, extended, or renewed on or after the effective date, as well as work under a contract awarded before the effective date if the work is performed more than one year after the effective date.

**Appropriation:** None.

**Fiscal Note:** Requested on February 1, 2019.

**Effective Date:** The bill takes effect on January 1, 2020.