HB 2710

By Committee on Energy, Utilities and Telecommunications

2-14

AN ACT concerning labor; relating to petrochemical manufacturing facilities and petroleum refineries; requiring a skilled and trained workforce; contracting requirements, exceptions; legislative findings; unlawful act and penalty.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The legislature finds and declares that:

1. Work performed at petrochemical manufacturing facilities and petroleum refineries is some of the most dangerous work in the nation for both employees and the public. Since 2010, there has been an increase in incidents with near catastrophic results. In an attempt to ensure a safer environment for all, the legislature finds that the enclosed safety measures will lead to an overall decrease in accidents that result in injury to persons, loss of life and property. A skilled and trained workforce component is critical to provide a greater degree of certainty that the state of Kansas will not have any future catastrophic accidents;

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;

3. requiring workers employed at these facilities be registered in, or graduates of, an approved apprenticeship program 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;

4. requiring apprentices be registered in programs approved by the United States department of labor 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; and

5. requiring at least 60% 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 and that a phase-in of this requirement will avoid disruption of the industry.

(b) As used in this section:

1. "Apprenticeable occupation" means an occupation for which there is a federally registered apprenticeship program;
(2) "federally registered apprenticeship program" means an apprenticeship program registered with and approved by the United States department of labor;

(3) "graduate of a federally registered apprenticeship program" means a worker who has completed a federally registered apprenticeship program;

(4) "registered apprentice" means a worker registered in a federally registered apprenticeship program who is performing work covered by the standards of that apprenticeship program and receiving the supervision required by such standards;

(5) "skilled journeyperson" means a worker who either graduated from a federally registered apprenticeship program for the applicable occupation or has at least as many hours of on-the-job experience in the applicable occupation that would be required to graduate from a federally registered apprenticeship program;

(6) "skilled and trained workforce" means a workforce that meets all of the following criteria:
   (A) All workers are either registered apprentices or skilled journeypersons;
   (B) (i) as of January 1, 2021, at least 30% of the skilled journeypersons must be graduates of a federally registered apprenticeship program for the applicable occupation;
      (ii) as of January 1, 2022, at least 45% of the skilled journeypersons must be graduates of a federally registered apprenticeship program for the applicable occupation;
      (iii) as of January 1, 2023, at least 60% of the skilled journeypersons must be graduates of a federally registered apprenticeship program for the applicable occupation;
   (C) as of January 1, 2024, the worker has completed within the last two calendar years at least 20 hours of advanced safety training for workers at high-hazard facilities; and

(7) "stationary source" shall have the same meaning as it does under 42 U.S.C. § 7401 et seq.

(c) (1) An owner or operator of a stationary source that is identified as a code 324110 or 325110 business under the north American industry classification system, as that code read on January 1, 2019, and has one or more covered processes that is required to prepare and submit a risk management plan under 42 U.S.C. § 7401 et seq., shall require its contractors and any subcontractors of any tier use a skilled and trained workforce to perform all onsite work within an apprenticeable occupation when contracting for the performance of construction, alteration, demolition, installation, repair or maintenance work at the stationary source.
(2) In selecting a contractor, the owner or operator of a stationary source, and its agents and designees, shall obtain and evaluate information regarding such contractor's safety performance and programs and require that all contractors and subcontractors of any tier use a skilled and trained workforce pursuant to this section.

(3) This subsection applies to work performed under a contract awarded, contract extensions and contract renewals occurring on and after July 1, 2020. This section shall also apply to work performed under a contract awarded before July 1, 2020, if the work is performed more than one year after such date. The skilled and trained workforce required by this section shall apply to the onsite workforce for each individual contractor and subcontractor.

(4) This subsection shall not:
   (A) Apply to the employees of the owner or operator of the stationary source and shall not 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) apply when a contractor is unable to obtain sufficient qualified workers within 48 hours of the request, not including Saturdays, Sundays and holidays, due to workforce shortages, if such contractor has requested qualified workers from local hiring halls or apprenticeship programs that dispatch workers in the apprenticeable occupation;
   (C) make the construction, alteration, demolition, installation, repair or maintenance work at a stationary source that is subject to this section a public work;
   (D) apply to oil and gas extraction operations; or
   (E) apply when an emergency requires immediate action to prevent harm to public health or safety or to the environment and compliance is impracticable, but the requirements of this section shall apply as soon as the emergency is over or it becomes practicable for contractors to obtain a qualified workforce.

(5) A federally registered apprenticeship program may enroll applicants with relevant prior work experience at a stationary source that is subject to this section, in accordance with the approved apprenticeship standards of the program.

(d) Failure to comply with the skilled and trained workforce requirements of this section is a class A nonperson misdemeanor.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.