

HOUSE BILL No. 2710

By Committee on Energy, Utilities and Telecommunications

2-14

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

5
6 *Be it enacted by the Legislature of the State of Kansas:*

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

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

17 (2) the use of unskilled and untrained workers at chemical
18 manufacturing and processing facilities that generate, store, treat, handle,
19 refine, process and transport hazardous materials is a risk to public health
20 and safety;

21 (3) requiring workers employed at these facilities be registered in, or
22 graduates of, an approved apprenticeship program is necessary to provide
23 an economic incentive for employers to use only the most skilled workers
24 to perform work that poses a risk to public health and safety;

25 (4) requiring apprentices be registered in programs approved by the
26 United States department of labor is necessary to ensure that these workers
27 are receiving the proper training and on-the-job supervision and that the
28 programs are subject to proper oversight; and

29 (5) requiring at least 60% of the journeypersons working for a
30 contractor be graduates of an approved apprenticeship program is
31 necessary to ensure that the majority of the journeypersons will have had
32 appropriate classroom and laboratory instruction for their occupations and
33 that a phase-in of this requirement will avoid disruption of the industry.

34 (b) As used in this section:

35 (1) "Apprenticeable occupation" means an occupation for which there
36 is a federally registered apprenticeship program;

1 (2) "federally registered apprenticeship program" means an
2 apprenticeship program registered with and approved by the United States
3 department of labor;

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

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

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

16 (6) "skilled and trained workforce" means a workforce that meets all
17 of the following criteria:

18 (A) All workers are either registered apprentices or skilled
19 journeymen;

20 (B) (i) as of January 1, 2021, at least 30% of the skilled
21 journeymen must be graduates of a federally registered apprenticeship
22 program for the applicable occupation;

23 (ii) as of January 1, 2022, at least 45% of the skilled journeymen
24 must be graduates of a federally registered apprenticeship program for the
25 applicable occupation;

26 (iii) as of January 1, 2023, at least 60% of the skilled journeymen
27 must be graduates of a federally registered apprenticeship program for the
28 applicable occupation; and

29 (C) as of January 1, 2024, the worker has completed within the last
30 two calendar years at least 20 hours of advanced safety training for
31 workers at high-hazard facilities; and

32 (7) "stationary source" shall have the same meaning as it does under
33 42 U.S.C. § 7401 et seq.

34 (c) (1) An owner or operator of a stationary source that is identified
35 as a code 324110 or 325110 business under the north American industry
36 classification system, as that code read on January 1, 2019, and has one or
37 more covered processes that is required to prepare and submit a risk
38 management plan under 42 U.S.C. § 7401 et seq., shall require its
39 contractors and any subcontractors of any tier use a skilled and trained
40 workforce to perform all onsite work within an apprenticeable occupation
41 when contracting for the performance of construction, alteration,
42 demolition, installation, repair or maintenance work at the stationary
43 source.

1 (2) In selecting a contractor, the owner or operator of a stationary
2 source, and its agents and designees, shall obtain and evaluate information
3 regarding such contractor's safety performance and programs and require
4 that all contractors and subcontractors of any tier use a skilled and trained
5 workforce pursuant to this section.

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

13 (4) This subsection shall not:

14 (A) Apply to the employees of the owner or operator of the stationary
15 source and shall not prevent the owner or operator of the stationary source
16 from using its own employees to perform any work that has not been
17 assigned to contractors while the employees of the contractor are present
18 and working;

19 (B) apply when a contractor is unable to obtain sufficient qualified
20 workers within 48 hours of the request, not including Saturdays, Sundays
21 and holidays, due to workforce shortages, if such contractor has requested
22 qualified workers from local hiring halls or apprenticeship programs that
23 dispatch workers in the apprenticeable occupation;

24 (C) make the construction, alteration, demolition, installation, repair
25 or maintenance work at a stationary source that is subject to this section a
26 public work;

27 (D) apply to oil and gas extraction operations; or

28 (E) apply when an emergency requires immediate action to prevent
29 harm to public health or safety or to the environment and compliance is
30 impracticable, but the requirements of this section shall apply as soon as
31 the emergency is over or it becomes practicable for contractors to obtain a
32 qualified workforce.

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

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

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