

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 10

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DATE
01/04/2023

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Introduction and first reading
Referred to Labor

OFFICIAL STATUS

1.1 A bill for an act
 1.2 relating to labor and industry; providing for use of skilled and trained contractor
 1.3 workforces at petroleum refineries; amending Minnesota Statutes 2022, section
 1.4 177.27, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter
 1.5 181.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 177.27, subdivision 4, is amended to read:

1.8 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
 1.9 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
 1.10 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,
 1.11 subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, and 181.987, or with any rule
 1.12 promulgated under section 177.28. The commissioner shall issue an order requiring an
 1.13 employer to comply with sections 177.41 to 177.435 or 181.987 if the violation is repeated.
 1.14 For purposes of this subdivision only, a violation is repeated if at any time during the two
 1.15 years that preceded the date of violation, the commissioner issued an order to the employer
 1.16 for violation of sections 177.41 to 177.435 or 181.987 and the order is final or the
 1.17 commissioner and the employer have entered into a settlement agreement that required the
 1.18 employer to pay back wages that were required by sections 177.41 to 177.435. The
 1.19 department shall serve the order upon the employer or the employer's authorized
 1.20 representative in person or by certified mail at the employer's place of business. An employer
 1.21 who wishes to contest the order must file written notice of objection to the order with the
 1.22 commissioner within 15 calendar days after being served with the order. A contested case
 1.23 proceeding must then be held in accordance with sections 14.57 to 14.69. If, within 15

2.1 calendar days after being served with the order, the employer fails to file a written notice
2.2 of objection with the commissioner, the order becomes a final order of the commissioner.

2.3 **EFFECTIVE DATE.** This section is effective October 15, 2023.

2.4 Sec. 2. **[181.987] USE OF SKILLED AND TRAINED CONTRACTOR**
2.5 **WORKFORCES AT PETROLEUM REFINERIES.**

2.6 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
2.7 the meanings given.

2.8 (b) "Contractor" means a vendor that enters into or seeks to enter into a contract with
2.9 an owner or operator of a petroleum refinery to perform construction, alteration, demolition,
2.10 installation, repair, maintenance, or hazardous material handling work at the site of the
2.11 petroleum refinery. Contractor includes all contractors or subcontractors of any tier
2.12 performing work as described in this paragraph at the site of the petroleum refinery.
2.13 Contractor does not include employees of the owner or operator of a petroleum refinery.

2.14 (c) "Registered apprenticeship program" means an apprenticeship program providing
2.15 to each trainee combined classroom and on-the-job training under the direct and close
2.16 supervision of a highly skilled worker in an occupation recognized as an apprenticeable
2.17 occupation registered with the Department of Labor and Industry under chapter 178 or with
2.18 the United States Department of Labor Office of Apprenticeship or a recognized state
2.19 apprenticeship agency under Code of Federal Regulations, title 29, parts 29 and 30.

2.20 (d) "Skilled and trained workforce" means a workforce in which each employee of the
2.21 contractor or subcontractor of any tier working at the site of the petroleum refinery meets
2.22 one of the following criteria:

2.23 (1) are currently registered as apprentices in a registered apprenticeship program in the
2.24 applicable trade;

2.25 (2) have graduated from a registered apprenticeship program in the applicable trade; or

2.26 (3) have completed all of the classroom training and work hour requirements needed to
2.27 graduate from the registered apprenticeship program their employer participates in.

2.28 (e) "Petroleum refinery" means a facility engaged in producing and storing gasoline,
2.29 kerosene, distillate fuel oils, residual fuel oil, lubricants, or other products through distillation
2.30 of petroleum or through redistillation, cracking, or reforming of unfinished petroleum
2.31 derivatives. Petroleum refinery includes fluid catalytic cracking unit catalyst regenerators,

3.1 fluid catalytic cracking unit incinerator-waste heat boilers, fuel gas combustion devices,
3.2 and indirect heating equipment associated with the refinery.

3.3 (f) "Apprenticeable occupation" means any trade, form of employment, or occupation
3.4 approved for apprenticeship by the commissioner of labor and industry or the United States
3.5 Secretary of Labor.

3.6 (g) "OEM" means original equipment manufacturer and refers to organizations that
3.7 manufacture or fabricate equipment for sale directly to purchasers or other resellers.

3.8 Subd. 2. Use of contractors by owner, operator; requirement. (a) An owner or operator
3.9 of a petroleum refinery shall, when contracting with contractors for the performance of
3.10 construction, alteration, demolition, installation, repair, maintenance, or hazardous material
3.11 handling work at the site of the petroleum refinery, require that the contractors performing
3.12 that work, and any subcontractors of any tier, use a skilled and trained workforce when
3.13 performing all work at the site of the petroleum refinery.

3.14 (b) The requirement under this subdivision applies only when each contractor and
3.15 subcontractor of any tier is performing work at the site of the petroleum refinery.

3.16 (c) The requirement under this subdivision does not apply to contractors or subcontractors
3.17 hired to perform OEM work to comply with equipment warranty requirements.

3.18 (d) A contractor's workforce must meet the requirements of subdivision 1, paragraph
3.19 (d) according to the following schedule:

3.20 (1) 65 percent by October 15, 2023;

3.21 (2) 75 percent by October 15, 2024; and

3.22 (3) 85 percent by October 15, 2025.

3.23 (e) An owner or operator, or contractor or subcontractor of an owner or operator, is
3.24 exempt from this section if:

3.25 (1) the owner or operator or contractor or subcontractor has entered into a project labor
3.26 agreement or collectively bargained maintenance agreement with a labor organization with
3.27 a registered apprenticeship program; and

3.28 (2) all contracted work at the petroleum refinery that is subject to this section is also
3.29 subject to a project labor agreement or collectively bargained maintenance agreement.

3.30 Subd. 3. Penalties. The Division of Labor Standards shall receive complaints of violations
3.31 of this section. The commissioner of labor and industry shall fine an owner, operator,
3.32 contractor, or subcontractor of any tier not less than \$5,000 nor more than \$10,000 for each

4.1 violation of the requirements in this section. Each shift on which a violation of this section
4.2 occurs shall be considered a separate violation. This penalty is in addition to any penalties
4.3 provided under section 177.27, subdivision 7. In determining the amount of a civil penalty
4.4 under this subdivision, the appropriateness of the penalty to the size of the violator's business
4.5 and the gravity of the violation shall be considered.

4.6 Subd. 4. **Civil actions.** A person injured by a violation of this section may bring a civil
4.7 action for damages against an owner or operator of a petroleum refinery. The court may
4.8 award to a prevailing plaintiff under this subdivision damages, attorney fees, costs,
4.9 disbursements, and any other appropriate relief as otherwise provided by law.

4.10 **EFFECTIVE DATE.** This section is effective October 15, 2023.