
ENGROSSED SUBSTITUTE HOUSE BILL 1817

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Sells, Chapman, Gregerson, Ormsby, and Morgan)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to ensuring for a skilled and trained workforce
2 in high hazard facilities; adding a new chapter to Title 49 RCW;
3 prescribing penalties; providing an effective date; and providing an
4 expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

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

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

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

1 cleaning; refinery byproduct separation and recovery; inspection
2 services not related to construction; and work performed that is not
3 in an apprenticeable occupation.

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

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

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

11 (a) All the workers are either registered apprentices or skilled
12 journeypersons; and

13 (b) The workforce meets the apprenticeship graduation and
14 approved advanced safety training requirements established in section
15 3 of this act.

16 (7) "Skilled journeyperson" means a worker who meets all of the
17 following criteria:

18 (a) The worker either graduated from an apprenticeship program
19 for the applicable occupation that was approved by the Washington
20 state apprenticeship and training council according to chapter 49.04
21 RCW, or has at least as many hours of on-the-job experience in the
22 applicable occupation that would be required to graduate from an
23 apprenticeship program approved by the Washington state
24 apprenticeship and training council according to chapter 49.04 RCW;
25 and

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

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

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

1 NEW SECTION. **Sec. 2.** (1) An owner or operator of a stationary
2 source that is engaged in activities described in code 324110 or
3 325110 of the North American industry classification system, when
4 contracting for the performance of construction, alteration,
5 demolition, installation, repair, or maintenance work at the
6 stationary source, shall require that its contractors and any
7 subcontractors use a skilled and trained workforce to perform all
8 onsite work within an apprenticeable occupation in the building and
9 construction trades. This section shall not apply to oil and gas
10 extraction operations.

11 (2)(a) The department in consultation with the Washington state
12 apprenticeship and training council shall approve a curriculum of in-
13 person classroom and laboratory instruction for approved advanced
14 safety training for workers at high hazard facilities.

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

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

22 (d) The department may accept a certificate or other
23 documentation issued by another state if the department finds that
24 the curriculum and documentation of the other state meets the
25 requirements of this subsection.

26 (3) This section applies to work performed under contracts
27 awarded, contract extensions, and contract renewals occurring on or
28 after the effective date of this section. This section shall also
29 apply to work performed under a contract awarded before the effective
30 date of this section if the work is performed more than one year
31 after the effective date of this section.

32 (4) This section does not apply to:

33 (a) The employees of the owner or operator of the stationary
34 source, nor does it prevent the owner or operator of the stationary
35 source from using its own employees to perform any work that has not
36 been assigned to contractors while the employees of the contractor
37 are present and working;

38 (b) A contractor who has requested qualified workers from the
39 local hiring halls or apprenticeship programs that dispatch workers
40 in the apprenticeable occupation and who, due to workforce shortages,

1 is unable to obtain sufficient qualified workers within forty-eight
2 hours of the request, Saturdays, Sundays, and holidays excepted; and

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

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 4.** (1) Failure to comply with the skilled and
2 trained workforce requirements of this chapter, except the
3 requirement that a worker be paid at a rate commensurate with wages
4 typically paid for the occupation, constitutes a violation of chapter
5 49.17 RCW.

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

8 NEW SECTION. **Sec. 5.** (1) The department in consultation with
9 the Washington state apprenticeship and training council shall
10 prioritize consideration of new apprenticeship programs for workers
11 in high hazard facilities. The Washington state apprenticeship and
12 training council shall issue a decision within six months of the
13 acceptance of a completed application for consideration of a new
14 state registered apprenticeship program for workers in high hazard
15 facilities.

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

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

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

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

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