

SENATE, No. 4167

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED NOVEMBER 7, 2019

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Concerns a skilled and trained workforce in work by contractors in certain industries.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning a skilled and trained workforce in construction
2 work by contractors in certain high-risk chemical manufacturing
3 and processing facilities and supplementing article 2B of chapter
4 11 of Title 34 of the Revised Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. The Legislature finds and declares that:

10 a. The use of unskilled and untrained workers at chemical
11 manufacturing and processing facilities that generate, store, treat,
12 handle, refine, process, and transport hazardous materials is a risk
13 to public health and safety, and the risk to public health and safety
14 is particularly high when workers are employed by outside
15 contractors because they generally are less familiar with the
16 operations of the facility and its emergency plans and the owner or
17 operator of the facility has less incentive to invest in their training.

18 b. Requiring that workers employed by outside contractors at
19 these facilities be paid at least at a rate equivalent to the prevailing
20 journeyperson wage for their occupations, or be registered in
21 approved apprenticeship programs, is necessary to provide an
22 economic incentive for employers to use only the most skilled
23 workers to perform work that poses a risk to public health and
24 safety. The wage scale is also necessary to provide an economic
25 incentive for the workers to obtain the mandatory advanced safety
26 training required by section 3 of P.L. , c. (C.) (pending before
27 the Legislature as this bill).

28 c. Requiring that apprentices be registered in approved
29 advanced safety training is necessary to ensure that these workers
30 are receiving the proper training and on-the-job supervision and that
31 the programs are subject to proper oversight.

32 d. The requirement that at least 60 percent of the
33 journeypersons working for a contractor be graduates of an
34 approved apprenticeship program is necessary to ensure that the
35 majority of the journeypersons will have had appropriate classroom
36 and laboratory instruction for their occupations. A phase-in for this
37 requirement will avoid disruption of the industry.

38
39 2. As used in this act:

40 "Apprenticeship program" means a registered apprenticeship
41 program providing to each trainee combined classroom and on-the-
42 job training under the direct and close supervision of a highly
43 skilled worker in an occupation recognized as an apprenticeable
44 trade, registered by the Office of Apprenticeship of the U.S.
45 Department of Labor.

46 "Approved advanced safety training for workers at high hazard
47 facilities" means a curriculum approved by the State Office of
48 Apprenticeship pursuant to section 4 of this act.

1 “Labor organization” means an organization which represents,
2 for purposes of collective bargaining, employees of contractors or
3 subcontractors engaged in contracting subject to the provisions of
4 subsection a. of section 3 of P.L. , c. (C.) (pending before the
5 Legislature as this bill), and has the present ability to refer, provide
6 or represent sufficient number of qualified employees to perform
7 the contracted work in a manner consistent with the provisions of
8 P.L. , c. (C.) (pending before the Legislature as this bill) and
9 a plan mutually agreed upon by the labor organization and the
10 owner or operator.

11 “Prevailing hourly wage rate” means the prevailing hourly wage
12 rate set for the applicable occupation and geographic area pursuant
13 to the "New Jersey Prevailing Wage Act," P.L.1963, c.150
14 (C.34:11-56.25 et seq.).

15 “Registered apprentice” means an apprentice registered in an
16 apprenticeship program who is performing work covered by the
17 standards of that apprenticeship program and receiving the
18 supervision required by the standards of that apprenticeship
19 program.

20 “Skilled journeyman” means a worker who:

21 a. Has either graduated from an apprenticeship program for the
22 applicable occupation, or has at least as many hours of on-the-job
23 experience in the applicable occupation as would be required to
24 graduate from an apprenticeship program for the applicable
25 occupation; and

26 b. Has completed within the prior two calendar years at least
27 20 hours of approved advanced safety training for workers at high
28 hazard facilities, including approved advanced safety training that
29 occurred in an approved apprenticeship program. This requirement
30 shall apply only to work performed on or after January 1, 2025.

31 “Skilled and trained workforce” means a workforce that meets
32 all of the following criteria:

33 a. All the workers shall, as of January 1, 2021, be paid the
34 applicable prevailing hourly wage rate, and shall be either
35 registered apprentices or skilled journeymen; and

36 b. All the workers have, as of January 1, 2025, completed
37 within the prior two calendar years at least 20 hours of approved
38 advanced safety training for workers at high hazard facilities.

39 c. (1) As of January 1, 2021, at least 30 percent of the skilled
40 journeymen shall be graduates of an apprenticeship program for
41 the applicable occupation.

42 (2) As of January 1, 2022, at least 45 percent of the skilled
43 journeymen shall be graduates of an apprenticeship program for
44 the applicable occupation.

45 (3) As of January 1, 2023, at least 60 percent of the skilled
46 journeymen shall be graduates of an apprenticeship program for
47 the applicable occupation,

1 (4) As of January 1, 2025, all of the workers shall have
2 completed within the prior two calendar years at least 20 hours of
3 approved advanced safety training for workers at high hazard
4 facilities,

5 except that the requirements of this subsection c. shall not apply
6 to the extent that the contractor requests qualified workers from a
7 labor organization that refers or provides qualified workers, but the
8 organization is unable to refer or provide sufficient qualified
9 workers within 48 hours of the request, Saturdays, Sundays, and
10 Holidays excepted, and shall not apply to the extent that compliance
11 is impracticable because an emergency requires immediate action to
12 prevent harm to public health or safety or to the environment, but
13 the criteria shall again apply as soon as the emergency is over or it
14 becomes practicable for contractors to obtain a qualified workforce.

15 “State Office of Apprenticeship” means the Office of
16 Apprenticeship in the State Department of Labor and Workforce
17 Development. “The State Office of Apprenticeship” does not mean
18 the Office of Apprenticeship in the United States Department of
19 Labor.

20
21 3. a. An owner or operator of a stationary source that is
22 engaged in activities described in Code 324110, 325110, 325180, or
23 325199 of the North American Industry Classification System, as
24 that code read on January 1, 2017, and has one or more covered
25 processes for which the owner or operator is required to prepare and
26 submit a Risk Management Plan, shall, when contracting with
27 outside contractors for the performance of construction, alteration,
28 demolition, installation, repair, or maintenance work at the
29 stationary source, require that the contractors performing the work,
30 and any subcontractors of the contractors, use a skilled and trained
31 workforce to perform all onsite work which is in an apprenticeable
32 occupation in the building and construction trades. The
33 requirement to use a skilled and trained workforce shall apply to the
34 onsite workforce of each contractor and subcontractor.

35 b. This section shall not apply to:

36 (1) Oil and gas extraction operations, and shall not apply to any
37 contract awarded before January 1, 2021, unless the contract is
38 extended or renewed after that date, and shall not apply to the
39 employees of the owner or operator of the stationary source, or
40 prevent the owner or operator of the stationary source from using its
41 own employees to perform any work that has not been assigned to
42 contractors while the employees of the contractor are present and
43 working; or

44 (2) Any owner or operator, or contractor or subcontractor of the
45 owner or operator, who has entered into a project labor agreement
46 with labor organizations with registered apprenticeship programs, if
47 all contracted work at the facility or site subject to the provisions of

1 this section is also subject to the provisions of the project labor
2 agreement.

3
4 4. The State Office of Apprenticeship, in consultation with the
5 Department of Environmental Protection and the Commission on
6 Higher Education, shall approve a curriculum of in-person
7 classroom and laboratory instruction for approved advanced safety
8 training for workers at high hazard facilities. That safety training
9 shall be included in any apprenticeship program for apprentices
10 who will work for contractors or subcontractor at a stationary
11 source subject to the provisions of this act, and shall be made
12 available for employees of the contractors or subcontractors who
13 had become skilled journeypersons before the training was included
14 in their apprenticeship program.

15
16 5. For the purpose of implementing the provisions of sections 1
17 through 4 of P.L. , c. (C.) (pending before the Legislature as
18 this bill), the Commissioner of Labor and Workforce Development
19 shall, and a worker employed in the performance of work subject to
20 this act, the employer of the worker, or any designated
21 representative of the worker or employer may, exercise all rights,
22 powers or duties granted or imposed upon them by P.L.1963, c.150
23 (C.34:11-56.25 et seq.).

24
25 6. This act shall take effect on the 120th day following
26 enactment.

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STATEMENT

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31 This bill requires that an owner or operator of a stationary source
32 in certain high-risk chemical manufacturing and processing
33 industries, when contracting with outside contractors for the
34 performance of construction, alteration, demolition, installation,
35 repair, or maintenance work at the stationary source, must require
36 that the contractors and subcontractors performing the work use a
37 skilled and trained workforce to perform all onsite work which is in
38 an apprenticeable occupation in the building and construction
39 trades.

40 The industries subject to the requirements of the bill are certain
41 chemical manufacturing and processing industries which are
42 described in Code 324110, 325110, 325180, or 325199 of the North
43 American Industry Classification System, which include facilities
44 with one or more covered processes for which the owner or operator
45 is required to prepare and submit a Risk Management Plan.

46 A “skilled and trained workforce” is required to meet the
47 following criteria:

- 1 1. All the workers are, as of January 1, 2021, paid the
2 applicable prevailing hourly wage rate, and are either registered
3 apprentices or skilled journeypersons; and
 - 4 2. As of January 1, 2021, at least 30 percent of the skilled
5 journeypersons are graduates of a registered apprenticeship program
6 for the applicable.
 - 7 3. As of January 1, 2022, at least 45 percent of the skilled
8 journeypersons are graduates of an approved apprenticeship
9 program.
 - 10 4. As of January 1, 2023, at least 60 percent of the skilled
11 journeypersons are graduates of an approved apprenticeship
12 program.
 - 13 5. All the workers have, as of January 1, 2025, completed
14 within the prior two calendar years at least 20 hours of approved
15 advanced safety training for workers at high hazard facilities.
- 16 The requirements regarding the percentage of journeypersons
17 who must be graduates of apprenticeship programs do not apply to
18 the extent that the contractor requests, but cannot obtain qualified
19 workers from a labor organization, or the extent that compliance is
20 impracticable in certain emergency situations.
- 21 A “skilled journeyperson” is defined as a worker who meets all
22 of the following criteria:
- 23 1. The worker either graduated from an approved
24 apprenticeship program for the applicable occupation or has at least
25 as many hours of on-the-job experience in the applicable occupation
26 that would be required to graduate from an apprenticeship program
27 for the applicable occupation; and
 - 28 2. As of January 1, 2025, the worker has completed within the
29 prior two calendar years at least 20 hours of approved advanced
30 safety training for workers at high hazard facilities.