

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 2594

(SENATE AUTHORS: BIGHAM)

DATE
01/31/2022

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Introduction and first reading
Referred to Labor and Industry Policy

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to labor and industry; requiring use of skilled and trained contractor

1.3 workforces at petroleum refineries; imposing civil penalties; proposing coding for

1.4 new law in Minnesota Statutes, chapter 181.

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

1.6 Section 1. **[181.987] USE OF SKILLED AND TRAINED CONTRACTOR**

1.7 **WORKFORCES AT PETROLEUM REFINERIES.**

1.8 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have

1.9 the meanings given.

1.10 (b) "Contractor" means a vendor that enters into or seeks to enter into a contract with

1.11 an owner or operator of a petroleum refinery to perform construction, alteration, demolition,

1.12 installation, repair, maintenance, or hazardous material handling work at the site of the

1.13 petroleum refinery. Contractor includes all contractors or subcontractors of any tier

1.14 performing work as described in this paragraph at the site of the petroleum refinery.

1.15 Contractor does not include employees of the owner or operator of a petroleum refinery.

1.16 (c) "Registered apprenticeship program" means an apprenticeship program providing

1.17 to each trainee combined classroom and on-the-job training under the direct and close

1.18 supervision of a highly skilled worker in an occupation recognized as an apprenticeable

1.19 occupation registered with the Department of Labor and Industry under chapter 178 or with

1.20 the United States Department of Labor Office of Apprenticeship or a recognized state

1.21 apprenticeship agency under Code of Federal Regulations, title 29, parts 29 and 30.

(d) "Skilled and trained workforce" means a workforce in which the employees of the contractor or subcontractor of any tier working at the site of the petroleum refinery meet one of the following criteria:

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

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

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

(e) "Petroleum refinery" means a facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oil, lubricants, or other products through distillation of petroleum or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

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

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

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

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

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

Subd. 3. Skilled and trained workforce compliance thresholds; timeline. A contractor's workforce meets the requirements of this section if the following skilled and trained workforce percentage thresholds are achieved by the dates provided as follows:

(1) by October 15, 2022, 65 percent of the contractor's workforce working at the site of the petroleum refinery meets the definition of a skilled and trained workforce;

3.1 (2) by October 15, 2023, 75 percent of the contractor's workforce working at the site of
3.2 the petroleum refinery meets the definition of a skilled and trained workforce; and

3.3 (3) by October 15, 2024, 85 percent of the contractor's workforce working at the site of
3.4 the petroleum refinery meets the definition of a skilled and trained workforce.

3.5 Subd. 4. **Penalties.** The Division of Labor Standards shall receive complaints of violations
3.6 of this section. The commissioner of labor and industry shall fine an owner, operator,
3.7 contractor, or subcontractor of any tier not less than \$5,000 nor more than \$10,000 for each
3.8 violation of the requirements in this section. Each shift on which a violation of this section
3.9 occurs shall be considered a separate violation. This penalty is in addition to any penalties
3.10 provided under section 177.27, subdivision 7. In determining the amount of a civil penalty
3.11 under this subdivision, the appropriateness of the penalty to the size of the violator's business
3.12 and the gravity of the violation shall be considered.

3.13 Subd. 5. **Civil actions.** A person injured by a violation of this section may bring a civil
3.14 action for damages against an owner or operator of a petroleum refinery. The court may
3.15 award to a prevailing plaintiff under this subdivision damages, attorney fees, costs,
3.16 disbursements, and any other appropriate relief as otherwise provided by law.

3.17 **EFFECTIVE DATE.** This section is effective October 15, 2022.