

## CHAPTER 65

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

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

C.34:11-56.72 Findings, declarations relative to a skilled and trained workforce in certain construction work.

1. The Legislature finds and declares that:

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

b. Requiring that workers employed by outside contractors at these facilities be paid at least at a rate equivalent to the prevailing journeyman wage for their occupations, or be registered in approved apprenticeship programs, is necessary to provide an economic incentive for employers to use only the most skilled workers to perform work that poses a risk to public health and safety. The wage scale is also necessary to provide an economic incentive for the workers to obtain the mandatory advanced safety training required by section 3 of P.L.2020, c.65 (C.34:11-56.74).

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

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

C.34:11-56.73 Definitions relative to a skilled and trained workforce in certain construction work.

2. As used in this act:

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

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

"Labor organization" means an organization which represents, for purposes of collective bargaining, employees of contractors or subcontractors engaged in contracting subject to the provisions of subsection a. of section 3 of P.L.2020, c.65 (C.34:11-56.74), and has the present ability to refer, provide or represent a sufficient number of qualified employees to perform the contracted work in a manner consistent with the provisions of P.L.2020, c.65 (C.34:11-56.72 et seq.) and a plan mutually agreed upon by the labor organization and the owner or operator.

“OEM” means original equipment manufacturer and refers to organizations who manufacture or fabricate equipment for sale directly to purchasers or other resellers.

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

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

“Skilled journeyman” means a worker who:

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

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

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

a. (1) All the workers shall, as of January 1, 2021, be paid at least 80 percent of the applicable prevailing hourly wage rate, and shall be either registered apprentices or skilled journeymen;

(2) All the workers shall, as of January 1, 2022, be paid at least 85 percent of the applicable prevailing hourly wage rate, and shall be either registered apprentices or skilled journeymen;

(3) All the workers shall, as of January 1, 2023, be paid at least 90 percent of the applicable prevailing hourly wage rate, and shall be either registered apprentices or skilled journeymen; and

(4) All the workers shall, as of January 1, 2024, be paid the applicable prevailing hourly wage rate, and shall be either registered apprentices or skilled journeymen.

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

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

(2) As of January 1, 2022, at least 40 percent of the skilled journeymen shall be graduates of an apprenticeship program for the applicable occupation.

(3) As of January 1, 2023, at least 50 percent of the skilled journeymen shall be graduates of an apprenticeship program for the applicable occupation.

(4) As of January 1, 2024, at least 60 percent of the skilled journeymen shall be graduates of an apprenticeship program for the applicable occupation.

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

except that the requirements of this subsection c. shall not apply to the extent that the contractor requests qualified workers from a labor organization that refers or provides qualified workers, but the organization is unable to refer or provide sufficient qualified workers within 48 hours of the request, Saturdays, Sundays, and Holidays excepted, and shall not apply to the extent that compliance is impracticable because an emergency requires

immediate action to prevent harm to public health or safety or to the environment, but the criteria shall again apply as soon as the emergency is over or it becomes practicable for contractors to obtain a qualified workforce.

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

C.34:11-56.74 Use of skilled and trained workforce by owner, operator; exemptions.

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

b. This section shall not apply to:

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

(2) Any owner or operator, or contractor or subcontractor of the owner or operator, who has entered into a project labor agreement or collectively bargained maintenance agreement with labor organizations with registered apprenticeship programs, if all contracted work at the facility or site subject to the provisions of this section is also subject to the provisions of the project labor agreement or collectively bargained maintenance agreement; or

(3) Contractors or subcontractors hired to perform OEM work for purposes of compliance with equipment warranty requirements.

C.34:11-56.75 Curriculum for approved advanced safety training.

4. The State Office of Apprenticeship, in consultation with the Department of Environmental Protection and the Commission on Higher Education, shall approve a curriculum of in-person classroom and laboratory instruction for approved advanced safety training for workers at high hazard facilities. That safety training shall be included in any apprenticeship program for apprentices who will work for contractors or subcontractors at a stationary source subject to the provisions of this act, and shall be made available for employees of the contractors or subcontractors who had become skilled journeypersons before the training was included in their apprenticeship program. The State Office of Apprenticeship shall be empowered to consider existing industry and trade safety programs for compatibility and fulfillment of requirements under this section.

C.34:11-56.76 Rights, powers, duties.

5. For the purpose of implementing the provisions of sections 1 through 4 of P.L.2020, c.65 (C.34:11-56.72 through C.34:11-56.75), the Commissioner of Labor and Workforce

Development shall, and a worker employed in the performance of work subject to this act, the employer of the worker, or any designated representative of the worker or employer may, exercise all rights, powers or duties granted or imposed upon them by P.L.1963, c.150 (C.34:11-56.25 et seq.).

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

Approved August 13, 2020.