

**Assembly Bill No. 3258**

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Passed the Assembly August 27, 2024

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*Chief Clerk of the Assembly*

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Passed the Senate August 26, 2024

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2024, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 7851, 7852, 7853, 7855, 7856, 7872, and 7873 of the Labor Code, relating to safety in employment.

## LEGISLATIVE COUNSEL'S DIGEST

AB 3258, Bryan. Refinery and chemical plants.

Existing law, the California Refinery and Chemical Plant Worker Safety Act of 1990, requires the Occupational Safety and Health Standards Board to adopt process safety management standards for refineries, chemical plants, and other manufacturing facilities, as prescribed. Existing law requires a petroleum refinery employer to submit an annual schedule of planned turnarounds, as defined, for all affected units for the following calendar year and to provide prescribed access onsite and to related documentation. Existing law also establishes requirements for Division of Occupational Safety and Health access to, and disclosure of, trade secrets, as defined, including information relating to planned turnarounds of petroleum refinery employers.

This bill would remove references in existing law to petroleum refineries and petroleum refinery employers and, instead, refer to refineries and refinery employers. The bill would define “refinery” to mean an establishment that produces gasoline, diesel fuel, aviation fuel, or biofuel, as defined, through the processing of crude oil or alternative feedstock. The bill would, by January 1, 2026, require the division to propose, and the board to consider for adoption, regulations that implement this part for refineries.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7851 of the Labor Code is amended to read:

7851. The Legislature finds and declares that because of the potentially hazardous nature of handling large quantities of chemicals and recent disasters involving chemical handling in other states, a greater state effort is required to ensure worker safety. The Legislature also recognizes that a key element for ensuring workplace safety is adequate employee training. The

potential consequences of explosions, fires, and releases of dangerous chemicals may be catastrophic. Thus, immediate and comprehensive government action must be taken to ensure that workers in refineries, chemical plants, and other related facilities are thoroughly trained and that adequate process safety management practices are implemented.

SEC. 2. Section 7852 of the Labor Code is amended to read:

7852. (a) It is the intent of the Legislature, in enacting this part, that the Occupational Safety and Health Standards Board and the Division of Occupational Safety and Health promote worker safety through implementation of training and process safety management practices in refineries and chemical plants and other facilities deemed appropriate.

(b) To the maximum extent practicable, the board and the division shall minimize duplications with other state statutory programs and business reporting requirements when developing standards pursuant to Chapter 2 (commencing with Section 7855).

(c) It is further the intent of the Legislature, in enacting this part, that in the interest of promoting worker safety, standards be adopted by March 31, 2014.

SEC. 3. Section 7853 of the Labor Code is amended to read:

7853. For the purposes of this part:

(a) “Biofuel” means biodiesel, renewable diesel, renewable aviation fuel, or other liquid products derived from alternative feedstock if the alternative feedstock is refined through coprocessing or at a refinery that was converted from petroleum to alternative feedstock.

(b) “Process safety management” means the application of management programs, which are not limited to engineering guidelines, when dealing with the risks associated with handling or working near hazardous chemicals. Process safety management is intended to prevent or minimize the consequences of catastrophic releases of acutely hazardous, flammable, or explosive chemicals.

(c) “Refinery” means an establishment that produces gasoline, diesel fuel, aviation fuel, or biofuel through the processing of crude oil or alternative feedstock.

SEC. 4. Section 7855 of the Labor Code is amended to read:

7855. The purpose of this chapter is to prevent or minimize the consequences of catastrophic releases of toxic, flammable, or explosive chemicals. The establishment of process safety

management standards are intended to eliminate, to a substantial degree, the risks to which workers are exposed in refineries, chemical plants, and other related manufacturing facilities.

SEC. 5. Section 7856 of the Labor Code is amended to read:

7856. (a) By March 31, 2014, the board shall adopt process safety management standards for refineries, chemical plants, and other manufacturing facilities, as specified in Codes 28 (Chemical and Allied Products) and 29 (Petroleum Refining and Related Industries) of the Manual of Standard Industrial Classification Codes, published by the United States Office of Management and Budget, 1987 Edition, that handle regulated substances as defined in subdivision (i) of Section 25532 of the Health and Safety Code and pose a significant likelihood of accident risk, as determined by the board. Alternately, upon making a finding that there is a significant likelihood of risk to employees at a facility not included in Codes 28 and 29 resulting from the presence of acutely hazardous materials or explosives as identified in Part 172 (commencing with Section 172.1) of Title 49 of the Code of Federal Regulations, the board may require that these facilities be subject to the jurisdiction of the standards provided for in this section. When adopting these standards, the board shall give priority to facilities and areas of facilities where the potential is greatest for preventing severe or catastrophic accidents because of the size or nature of the process or business. The standards adopted pursuant to this section shall require that injury prevention programs of employers subject to this part and implemented pursuant to Section 6401.7 include the requirements of this part.

(b) By January 1, 2026, the division shall propose, and the board shall consider for adoption, regulations that implement this part for refineries.

SEC. 6. Section 7872 of the Labor Code is amended to read:

7872. (a) As used in this section and in Section 7873, “turnaround” means a planned, periodic shutdown, total or partial, of a refinery process unit or plant to perform maintenance, overhaul, and repair operations and to inspect, test, and replace process materials and equipment. “Turnaround” does not include unplanned shutdowns that occur due to emergencies or other unexpected maintenance matters in a process unit or plant. “Turnaround” also does not include routine maintenance, where routine maintenance consists of regular, periodic maintenance on

one or more pieces of equipment at a refinery process unit or plant that may require shutdown of that equipment.

(b) Every September 15, every refinery employer shall submit to the division a full schedule of planned turnarounds for all affected units for the following calendar year.

(c) At the request of the division, at least 60 days prior to the shutdown of a process unit or plant as part of a planned turnaround, a refinery employer shall provide access onsite and allow the division to review the following documentation for the process unit or plant scheduled to be shut down for that turnaround:

(1) All corrosion reports and risk-based inspection reports generated since the last turnaround.

(2) Process hazard analyses generated since the last turnaround.

(3) Boiler permit schedules.

(4) All management of change records related to repairs, design modifications, and process changes implemented since the last turnaround or scheduled to be completed in the planned turnaround referenced in this subdivision and identified in subdivision (b).

(5) Work orders scheduled to be completed in the planned turnaround referenced in this subdivision and identified in subdivision (b).

(6) All temporary repairs made since the last turnaround, including, but not limited to, clamps and encapsulations. As used in this section, “temporary repairs” means repairs made to piping systems in order to restore sufficient integrity to continue safe operation until permanent repairs can be scheduled.

(7) Notification and description of all repairs, design modifications, or process changes described in a corrosion report, risk-based inspection report, process hazard analysis, boiler permit schedule, management of change record, work order, or other document listed in paragraphs (1) to (6), inclusive, that the refinery employer has deferred to a subsequent operational period or turnaround.

(d) The division may request additional information as necessary to perform its responsibilities in this part pursuant to Section 6314.

(e) At the request of the division, at least 30 days before the shutdown of a process unit or plant as part of a planned turnaround, a refinery employer shall provide access onsite and allow the division to review any changes to the information or documents

reviewed by the division pursuant to subdivision (c) and relevant supporting documents.

(f) At the division's request, a refinery employer shall provide the division with physical copies, or, at the division's discretion, electronic copies if available, of the documentation reviewed by the division pursuant to subdivisions (c), (d), and (e).

(g) By agreement with a refinery employer, the division may modify the reporting period as to any individual item of information.

(h) This section is not intended to limit or increase the division's authority in Part 1 (commencing with Section 6300) to prohibit use of a place of employment, machine, device, apparatus, or equipment or any part thereof that constitutes an imminent hazard to employees.

(i) The Legislature finds and declares that the purpose of this section is to improve the ability of the state to conduct inspections of refining operations.

SEC. 7. Section 7873 of the Labor Code is amended to read:

7873. (a) As used in this section, "trade secret" means a trade secret as defined in subdivision (f) of Section 7924.510 of the Government Code or Section 1061 of the Evidence Code, and shall include the schedule submitted to the division pursuant to subdivision (b) of Section 7872 of this code, and the scheduling, duration, layout, configuration, and type of work to be performed during a turnaround. Upon completion of a turnaround, the scheduling and duration of that turnaround shall no longer be considered a trade secret. The wages, hours, benefits, job classifications, and training standards for employees performing work for refinery employers is not a trade secret.

(b) (1) If a refinery employer believes that information submitted to the division pursuant to Section 7872 may involve the release of a trade secret, the refinery employer shall nevertheless provide this information to the division. The refinery employer, at the time of submission, may identify all or a portion of the information submitted to the division as trade secret and, to the extent feasible, segregate records designated as trade secret from the other records.

(2) Subject to subdivisions (c), (d), and (g), the division shall not release to the public any information designated as a trade secret by the refinery employer pursuant to paragraph (1).

(c) (1) Upon the receipt of a request for the release of information to the public that includes information that the refinery employer has notified the division is a trade secret pursuant to paragraph (1) of subdivision (b), the division shall notify the refinery employer in writing of the request by certified mail, return receipt requested.

(2) The division shall release the requested information to the public, unless both of the following occur:

(A) Within 30 days of receipt of the notice of the request for information, the refinery employer files an action in an appropriate court for a declaratory judgment that the information is subject to protection as a trade secret, as defined in subdivision (a), and promptly notifies the division of that action.

(B) Within 120 days of receipt of the notice of the request for information, the refinery employer obtains an order prohibiting disclosure of the information to the public and promptly notifies the division of that action.

(3) This subdivision shall not be construed to allow a refinery employer to refuse to disclose the information required pursuant to this section to the division.

(d) Except as provided in subdivision (c), any information that has been designated as a trade secret by a refinery employer shall not be released to any member of the public, except that the information may be disclosed to other officers or employees of the division when relevant in any proceeding of the division.

(e) (1) The refinery employer filing an action pursuant to paragraph (2) of subdivision (c) shall provide notice of the action to the person requesting the release of the information at the same time that the defendant in the action is served.

(2) A person who has requested the release of information that includes information that the refinery employer has notified the division is a trade secret pursuant to paragraph (1) of subdivision (b) may intervene in an action by the refinery employer filed pursuant to paragraph (2) of subdivision (c). The court shall permit that person to intervene.

(f) The public agency shall not bear the court costs for any party named in litigation filed pursuant to this section.

(g) This section shall not be construed to prohibit the exchange of trade secrets between local, state, or federal public agencies or

state officials when those trade secrets are relevant and reasonably necessary to the exercise of their authority.

(h) If the person requesting the release of information identified by a refinery employer as a trade secret files an action against the division to order disclosure of that information, the division shall promptly notify the refinery employer in writing of the action by certified mail, return receipt requested. The refinery employer may intervene in an action filed by the person requesting the release of trade secrets identified by the refinery employer. The court shall permit the refinery employer to intervene.

(i) An officer or employee of the division who, by virtue of that employment or official position, has possession of, or has access to, trade secret information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to a person that the officer or employee knows is not entitled to receive it, is guilty of a misdemeanor. A contractor with the division and an employee of the contractor, who has been furnished information as authorized by this section, shall be considered an employee of the division for purposes of this section.







Approved \_\_\_\_\_, 2024

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*Governor*