



**Ohio Senate Energy and Public Utilities Committee
The Honorable Bill Reineke, Chairman**

**Opponent Testimony
House Bill 205
Claire M. Linkhart | API Ohio
November 14, 2023**

Chairman Reineke Vice Chairman McColley, Ranking Member Smith, and members of the Ohio Senate Energy & Public Utilities Committee, thank you for the opportunity to provide opponent testimony on House Bill 205 (H.B. 205).

API Ohio is a state affiliate office of the American Petroleum Institute. The API is a national trade association that represents all segments of America's natural gas and oil industry, which supports more than 11 million U.S. jobs and is backed by a growing grassroots movement of millions of Americans. Our approximately 600 members produce, process, and distribute most of the nation's energy, and participate in API Energy Excellence®, which is accelerating environmental and safety progress by fostering new technologies and transparent reporting. Established in 1919 as a standards-setting organization, the API has developed more than 800 standards to enhance operational and environmental safety, efficiency, and sustainability.

As introduced, H.B. 205 creates a government mandated labor quota system that forces Ohio's petroleum refineries to hire only contractors and subcontractors from an apprenticeable occupation in the building and construction trades. H.B. 205 is essentially a reintroduction of House Bill 235 from the last General Assembly, with the addition of a requirement that all construction contractors "demonstrate fluency in spoken English," without any supporting details as to how this may be done and verified. If passed into law, this legislation would prohibit refineries from hiring individuals who they determine are best equipped to do the type of work required. H.B. 205 would jeopardize the safety of workers at Ohio's refineries and surrounding communities, while potentially decreasing productivity and adversely impacting the costs of manufacturing their products.

Unfortunately, H.B. 205 was rushed through the legislative process in the House, evading any sincere attempt to hear from both sides of the issue. In just under 24 hours, the bill was introduced and heard in a new House committee, different than the one that debated H.B. 235 last session; a second and third hearing immediately followed, and the bill was added to the House floor agenda before the hearing on the opponent side even occurred. Opponents were not even finished testifying by the time Session was set to begin, which meant that a proposed floor amendment was unable to be submitted by the required two-hour window. Forcing through a bill with such broad consequences is not only misguided, but dangerous. It is our hope that the Senate can take a much more deliberative approach.

During their testimony, proponents of H.B. 205 cited U.S Department of Labor statistics to reinforce their argument that the bill doesn't mandate "union" apprenticeship programs. They pointed to 163 non-union apprenticeship options within the state. Yet, crucially absent from their argument is the clarification of how many among those 163 programs would genuinely meet the requirements for contractors in heavy industrial settings like refineries. Notably, not one non-union contractor has come forward in support of H.B. 205 or its precursor, H.B. 235 from the prior session. The very examples presented by proponents to this committee as qualifying non-union construction contractors for Ohio refinery work stand in opposition to the bill, as highlighted in their previous testimony on this issue. This bill ties the hands of Ohio refiners on who they believe can best do the job required, regardless of the threat to safety.

API members are committed to protecting the health and safety of their workers and the communities in which they operate. To this end, the refining industry has made significant investments in programs, training, standards and practices, and equipment reliability that have led to occupational and process safety performance improvements. These investments continue as part of the industry's overall continuous improvement effort.

API member companies also must comply with federal, state and often local safety regulations. For U.S. refiners that includes, but is not limited to, the Occupational Safety and Health Administration (OSHA), U.S. EPA (Environmental Protection Agency), the U.S. Coast Guard Maritime Security (MARSEC) or U.S. Department of Transportation (DOT). In addition, API works with other groups such as the American Chemistry Council, American Fuel & Petrochemical Manufacturers and National Fire Protection Association on safety programs and standards, and other areas of common interest.

These efforts have proven effective in improving safety at refineries in the United States. In fact, refinery employees are more than six times less likely to be injured on the job than workers in the U.S. manufacturing sector overall, and the refining industry's rate has steadily declined over the past 28 years. The rate of job-related nonfatal injuries and illnesses has decreased from 3.6 per 100 full time workers in 1994 to 0.5 in 2021.¹² The API is proud of its membership's ongoing commitment to occupational and process safety performance and improvement.

The bill's true intent centers on creating a labor mandate that establishes a new classification system for workers on construction projects, including planned regulatory, or inspection/maintenance/reliability driven projects known as turnarounds, at Ohio refineries. As written, the bill creates a new government-imposed quota system requiring refiners to only hire those who have completed a certified apprenticeship program. Proponents have taken great pains to share that these programs can be union or nonunion, but the reality for the refining industry in Ohio is these programs appear to be exclusively union without any evidence to contrary. It also requires refiners to maintain onerous compliance reports - tantamount to state sanctioned harassment - with outrageously punitive \$10,000 per day, per employee fines should the mandates be violated.

Beyond the highly objectionable notion of a mandate – which we adamantly oppose – the stipulation to hire only workers who meet this new “eligibility requirement” at state refineries creates a series of potentially significant business challenges. Among them, an increase in project costs may result as the pool of eligible workers shrinks and the job bidding process is affected. Given the number of current and

¹ [IIF Home : U.S. Bureau of Labor Statistics \(bls.gov\)](https://www.bls.gov/)

² [Establishment Specific Injury and Illness Data \(Injury Tracking Application\) | Occupational Safety and Health Administration \(osha.gov\)](https://www.osha.gov/)

expected large construction projects in the state, the pool of eligible workers will only continue to decrease leaving few options for Ohio refiners.

Refiners require flexibility to hire the most qualified and experienced contractors for the highly specialized work within the refinery gate. Potential contractors are selected after a rigorous selection process that reviews their safety performance, management systems, and safety training programs. If these contractors are excluded, either by mandate or by changes to the bidding process, there is an increased likelihood that overall project costs and completion time would increase. Higher project costs can hurt the refining industries' competitiveness and future viability. However, our most significant concern is that any move away from hiring the most highly qualified and experienced contractors to complete the specific work that takes place in a refinery jeopardizes the health and safety of the refinery workers, potentially the contractors themselves and the surrounding communities.

Regardless of the size and scope of any construction project, Ohio's refiners' top priority is safely completed work. Whether choosing from a pool of apprenticeship-trained contractors, nonapprenticeship trained contractors, union workers or nonunion workers, Ohio's refiners need the flexibility to find and hire the most qualified to ensure their facilities are as safe as possible, and that everyone goes home to their families as healthy as when they came to work.

As written, however, H.B. 205 will forcefully insert the heavy hand of government into this process and mandate which workers can be hired at Ohio's refineries. Additionally, while the practices outlined in this bill currently only target Ohio's refining industry, similar legislation in other states has expanded beyond the legislation's initial target to encompass other industries such as petrochemical and agricultural sectors.

In closing, API Ohio opposes the employer mandates and the onerous reporting requirements in H.B. 205. The bill will jeopardize the safety of workers at Ohio's refineries, and the surrounding communities, while posing very serious challenges to the economic viability of the plants. H.B. 205 will eliminate the flexibility that Ohio refiners have relied on to protect their facilities. For the reasons provided, we respectfully ask the committee to oppose H.B. 205.

Thank you for allowing API Ohio the opportunity to present our opponent testimony on H.B. 205 and for the committee's consideration of our position on this legislation.