



Rick Carfagna, Senior Vice President
Ohio Chamber of Commerce
Opponent Testimony - House Bill 205
November 14, 2023

Chairman Reineke, Vice Chair McColley, Ranking Member Smith, and members of the Senate Energy and Public Utilities Committee, thank you for the opportunity to provide testimony on House Bill 205 (HB 205). My name is Rick Carfagna, and I am Senior Vice President of Government Affairs for the Ohio Chamber of Commerce.

The Ohio Chamber is the state's leading business advocate, and we represent over 8,000 companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness, and growth for the benefit of all Ohioans. Along these lines, the Ohio Chamber opposes HB 205 because it makes Ohio less competitive, increases regulation and compliance costs, hinders productivity, and diminishes the contracting rights of businesses in Ohio.

Under this legislation, Ohio's oil refineries become less competitive with those in other states because it places additional regulations on them resulting in increased compliance costs. For example, HB 205 requires owners of oil refineries to assure their contractors comply with strict guidelines dictating the type of individuals who are permitted to work at their facilities. To adhere to this government regulation, these Ohio companies will have to dedicate resources to record the education status and employment history of every individual who performs any construction work at their facilities. Moreover, they will also need to store what will likely be voluminous records for a minimum of five years.

The compliance costs created by these burdensome regulations also extend to the contractors themselves since they are required to submit quarterly reports to the Ohio Department of Commerce, which makes public the payroll records for all individuals who perform construction services. Likewise, contractors are required to disclose the total number of class A journeypersons, class B journeypersons, and apprentices who perform construction services, including the percentage of the workforce that each classification of individual comprises on that project. These quarterly reporting requirements hinder the economic competitiveness of Ohio by subjecting employers to government regulations that drive up the cost of doing business in the Buckeye State.

HB 205 may also exacerbate Ohio's workforce shortages by limiting the pool of eligible individuals who can work at oil refineries in our state. Under HB 205, only individuals in registered apprenticeship programs and individuals who qualify as either a class A or class B journeyman are eligible to perform construction services at any oil refinery in the state. These government-imposed pre-qualifications will substantially reduce the labor market in this industry, adding yet another hurdle businesses must overcome to address their workforce challenges.

Another result of a limited labor market for oil refineries is the negative impact it could have on a refinery's productivity and the availability of gasoline in the United States. According to the U.S. Energy Information Administration, the United States had 29 million fewer barrels of gasoline in December 2021 – a major product produced at oil refineries – than it did before the pandemic. At the same time, gas prices have increased from \$2.46 in February 2020 to \$3.32 in January 2022 and recently were at \$3.40 as of November 6, 2023. These figures show policymakers should be seeking solutions that drive up the supply of gasoline, but unfortunately, HB 205 creates a new obstacle for American-produced gasoline by limiting who is eligible to work at Ohio's oil refineries.

HB 205 also restricts the fundamental right to contract for owners of oil refineries and the contractors who work at these facilities. As proposed by the legislation, impacted owners can only contract with a company that employs individuals who meet the strict worker proportionality requirements contained in the legislation. Likewise, contractors can only enter into employment agreements and hire individuals who meet certain training requirements. This statutory infringement on the freedom of contract negatively impacts these businesses because it can shrink the number of companies that a refinery may enter into an agreement with, and it dictates to contractors what type of individual they must hire if they want to provide construction services at oil refineries.

Moreover, HB 205 requires that the value of a contract and all payroll records of individuals providing construction services at refineries be disclosed to the Department of Commerce. Since there are no exclusions here from Ohio's public records laws, this renders the confidentiality provisions contained in many contracts ineffective. Any Ohioan – including a company's competitors – may file a public records request for the information contained in the reports required by the legislation.

Lastly, proponents of HB 205 have claimed this legislation seeks to make oil refineries safer, yet a plain reading of the legislation calls into question this motive. Under the legislation, it allows for the number of class B journeymen required to be employed by contractors at oil refineries to shrink from 35% to 20% over a two-year period. As defined by the bill, class B journeymen are the most experienced workers with at least 6,000 working hours performing construction services at oil refineries, so it is contradictory to claim a bill is about safety when it permits fewer experienced workers to perform construction services the longer

it is in effect. In its Labor Day weekend editorial, Cleveland.com stated **“HB 205, backed by the unionized building trades, would in effect incentivize the hiring of unionized maintenance contactors at several Ohio oil refineries”**. We concur, with the exception being that the 38 times “shall” is listed throughout HB 205, including “shall use only the following individuals”, “shall follow the following implementation schedule”, and “shall employ” are mandates rather than incentives.

The fact is Ohio’s refinery facilities have long been, and remain, highly regulated at the local, state, and federal levels. The industry has made significant investments in programs, training, standards and practices, and equipment reliability that have improved occupational and process safety performance. The U.S. Bureau of Labor Statistics reports the nonfatal workplace injury and illness incidence rates for Ohio’s petroleum refineries in 2021 amounted to 2.7 cases per 100 full-time workers. By contrast, forging and stamping was at 3.0 cases per 100, food manufacturing in Ohio was at 3.2 cases per 100, animal slaughtering and processing was at 3.4 cases per 100, and motor vehicle manufacturing was at 3.7 cases per 100.

In closing, the Ohio Chamber opposes HB 205 because its enactment will harm Ohio’s economic competitiveness, increase regulations on businesses, create higher compliance costs for Ohio’s oil refineries, and limit the contracting rights of Ohio companies. We agree with the recent November 2 editorial by the Toledo Blade titled *“Refinery safety union grab”*, which states **“Tying hands, adding costs while enabling the building trades union is not a wise decision”**.

Just as we previously announced to Ohio House members, should this legislation make its way to the Senate floor it will be a Key Vote for the Ohio Chamber and assigned a double weight given its significance on the business community.

Thank you for the opportunity to provide testimony today and I will be happy to answer any questions the committee may have.