

SENATE No. 1190

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to workplace safety and disclosure of violations.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/28/2021</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>3/15/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>4/1/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>4/1/2021</i>

SENATE No. 1190

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 1190) of Paul R. Feeney, Michelle M. DuBois, Brendan P. Crighton, Sal N. DiDomenico and others for legislation relative to workplace safety and disclosure of violations. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1071 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to workplace safety and disclosure of violations.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 30B of the General Laws is hereby amended by inserting after
2 section 4 the following section:-

3 Section 4A. (a) For procurement contracts for supplies and services, including
4 construction, that are estimated to cost more than \$50,000, each awarding authority shall ensure
5 that solicitations or invitations for bids require that the offeror represent, to the best of the
6 offeror's knowledge and belief, whether there has been any Occupational Safety and Health
7 Administration citation, notice, decision, or civil judgment rendered against the company, as a
8 sole proprietorship, limited partnership, and/or limited liability partnership/corporation and/or
9 any affiliated business or subsidiary of which the applicant is owner, manager, officer, and/or
10 director within the preceding 4-year period for a violation of the federal Occupational Safety and

11 Health Act of 1970, 29 U.S.C sections 651 to 678, including any settlement agreement and
12 documentation verifying if hazards identified have been corrected.

13 (b) An awarding authority, prior to making an award, shall, as part of responsibility
14 determination, provide an offeror with an opportunity to disclose any steps taken to correct any
15 violations of or improve compliance with said federal Occupational Safety and Health Act of
16 1970, including any settlement agreement and documentation verifying if hazards identified have
17 been corrected.

18 (c) An awarding authority shall consider the information provided pursuant to
19 subsections (a) and (b) in determining whether an offeror is a responsible source.

20 (d) For any subcontract where the estimated value of the supplies and services required
21 exceeds \$50,000, an awarding authority shall require that, at the time of execution of the
22 contract, a contractor represents to the contracting agency that the contractor will require each
23 subcontractor to disclose to the awarding authority a citation, notice, decision or civil judgment,
24 rendered against the subcontractor within the preceding 4-year period for a violation of said
25 federal Occupational Safety and Health Act of 1970, said 29 U.S.C sections 651 to 678,
26 including any settlement agreement and documentation verifying if hazards identified have been
27 corrected, and to provide to the awarding authority updated information every 6 months.

28 (e) As appropriate, an awarding authority shall refer matters related to information
29 provided pursuant to subsections (a), (b) and (d) of this section to the appropriate agency.

30 (f) During the performance of the contract, each awarding authority shall require that
31 every 6 months contractors subject to this section update the information provided pursuant to
32 subsection (a).

33 (g) If information regarding a citation, notice, decision or civil judgment, rendered
34 against the offeror within the preceding 4-year period for any violations of said federal
35 Occupational Safety and Health Act of 1970, said 29 U.S.C sections 651 to 678, including any
36 settlement agreements and documentation verifying if hazards identified have corrected, or
37 similar information is obtained through other sources, an awarding authority may request a copy
38 of a citation and evidence of abatement of a hazard, and refer the offeror to appropriate agencies
39 if a hazard has not been abated.

40 (h) An awarding authority shall require that if information regarding a citation, notice,
41 decision or civil judgment, rendered against a contractor's subcontractor within the preceding 4-
42 year period for any violations of said federal Occupational Safety and Health Act of 1970, said
43 29 U.S.C sections 651 to 678 is brought to the attention of the contractor or similar information
44 is obtained through other sources, then the contractor shall inform the awarding authority and the
45 awarding authority may request a copy of a citation and evidence of abatement of a hazard, and
46 refer the subcontractor to appropriate agencies if a hazard has not been abated.

47 (i) As appropriate, awarding authorities shall send information provided pursuant to
48 subsection (a) and subsection (d) of this section to the appropriate agency.

49 (j) Nothing in this section shall preclude the exercise or enforcement of any lawful rights
50 or remedies.

51 SECTION 2. Section 2 of chapter 82A of the General Laws, as appearing in the 2014
52 Official Edition, is hereby amended by inserting after the fourth sentence the following
53 sentence:- A person making application for a trench excavation permit shall disclose in writing:

54 (a) Any citation, notice, decision or civil judgment rendered against the company, as a sole

55 proprietorship, limited partnership, and/or limited liability partnership/corporation and/or any
56 affiliated business or subsidiary of which the applicant is owner, manager, officer, and/or
57 director within the preceding 4-year period for a violation of the federal Occupational Safety and
58 Health Act of 1970, 29 U.S.C sections 651 to 678, including any settlement agreement and
59 documentation verifying if hazards identified have been corrected; and

60 (b) (i) any prior suspension or revocation of a trench excavation permit held by
61 applicant; (ii) any assessment of fines in relation to a trench excavation permit held by applicant;
62 (iii) any prior immediate shutdown of a trench site by state or local authorities in relation to a
63 trench excavation permit held by applicant; and (iv) the date of each incident.