

SENATE No. 2372

The Commonwealth of Massachusetts

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In the One Hundred and Ninety-First General Court
(2019-2020)
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Senate, October 17, 2019

The committee on Labor and Workforce Development, to whom was referred the petition (accompanied by bill, Senate, No. 1071) of Paul R. Feeney, Daniel J. Hunt, Sonia Chang-Diaz, Mike Connolly and other members of the General Court for legislation relative to workplace safety,- reports the accompanying bill (Senate, No. 2372).

For the committee,
Patricia D. Jehlen

The Commonwealth of Massachusetts

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An Act relative to workplace safety.

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 procurement officer 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) A procurement officer, 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) A procurement officer shall consider the information provided pursuant to subsections
19 (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, a procurement officer 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 procurement officer 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 procurement officer updated information every 6 months.

28 (e) During the performance of the contract, each procurement officer shall require that
29 every 6 months contractors subject to this section update the information provided pursuant to
30 subsection (a).

31 (f) As appropriate, a procurement officer shall refer matters related to information
32 provided pursuant to subsections (a), (b),(d) and (e) of this section to the appropriate agency.

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, a procurement officer 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) A procurement officer 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 procurement officer and
45 the procurement officer may request a copy of a citation and evidence of abatement of a hazard,
46 and refer the subcontractor to appropriate agencies if a hazard has not been abated.

47 (i) As appropriate, procurement officers 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 2018
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 applicant;
61 (ii) any assessment of fines in relation to a trench excavation permit held by applicant; (iii) any
62 prior immediate shutdown of a trench site by state or local authorities in relation to a trench
63 excavation permit held by applicant; and (iv) the date of each incident.