

# SENATE . . . . . No. 02378

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## The Commonwealth of Massachusetts

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SENATE, July 25, 2012

The committee on Ways and Means to whom was referred the Senate Bill relative to trenches on private property (Senate, No. 1185), reports, recommending that the same ought to pass with and amendment, substituting a new draft entitled "An Act relative to trench safety" (Senate, No. 2378) (also based on Senate, No. 1253)

For the committee,

STEPHEN M. BREWER.

The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve

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1           SECTION 1. Section 1 of chapter 82A of the General Laws, as appearing in the 2010  
2 Official Edition, is hereby amended by striking out the second and third sentences and inserting  
3 in place thereof the following 2 sentences:- The commissioner of public safety, in conjunction  
4 with the director of labor standards, or a designee, shall promulgate rules and regulations  
5 governing construction-related trenches and trench safety. The rules and regulations shall include  
6 means for protecting the general public from the hazards inherent in unattended trenches and a  
7 penalty structure for each violation of the proposed rules and regulations to be imposed by the  
8 department.

9           SECTION 2. Said section 1 of said chapter 82A, as so appearing, is hereby further  
10 amended by striking out, in line 18, and in lines 28 and 29, the words “and workforce  
11 development” and inserting in place thereof, in each instance, the following word:- standards.

12           SECTION 3. Said section 1 of said chapter 82A, as so appearing, is hereby further  
13 amended by striking out, in lines 21 to 23, inclusive, the words “licensed operators of hoisting  
14 equipment, police department officials, fire department officials and building officials” and  
15 inserting in place thereof the following words:- affected public and private sector employers and  
16 employees.

17 SECTION 4. Said section 1 of said chapter 82A, as so appearing, is hereby further  
18 amended by striking out the last sentence.

19 SECTION 5. Section 2 of said chapter 82A, as so appearing, is hereby amended by  
20 striking out the first sentence and inserting in place thereof the following sentence:- Each city,  
21 town or public agency shall designate a board or officer to issue permits for the excavation of  
22 trenches on public ways within that city or town.

23 SECTION 6. Said section 2 of said chapter 82A, as so appearing, is hereby further  
24 amended by striking out the third sentence and inserting in place thereof the following sentence:-  
25 No person shall, except in an emergency, make a trench or contract for the making of a trench in  
26 or on a public way or public property unless a permit has been obtained from the appropriately  
27 designated board or officer within the city, town or public agency that is authorized to issue such  
28 permit.

29 SECTION 7. Said section 2 of said chapter 82A, as so appearing, is hereby further  
30 amended by adding the following sentence:- The owner of private property shall install fencing  
31 around an unattended trench on that property as provided in 520 CMR 14.04.

32 SECTION 8. Section 3 of said chapter 82A, as so appearing, is hereby amended by  
33 striking out clause (2) and inserting in place thereof the following clause:-

34 (2) Trenches may pose a significant health and safety hazard. An excavator, pursuant to section  
35 1, shall not leave any open trench unattended without first making reasonable efforts, as defined  
36 in the relevant regulations, to eliminate any recognized safety hazard that may exist as a result of  
37 leaving the open trench unattended.

38           SECTION 9. Said section 3 of said chapter 82A, as so appearing, is hereby further  
39 amended by striking out, in lines 37 and 38, the words “on private property or proposed  
40 excavation”.

41           SECTION 10. Section 4 of said chapter 82A, as so appearing, is hereby amended by  
42 striking out, in line 2, the words “which is narrow in relation to its length.”.