

HOUSE No. 4050

Being the text of Sections 8 and 101 contained in the engrossed Bill making appropriations for the fiscal year 2024 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4040), which had been returned by Her Excellency the Governor with recommendation of amendment (for message, see Attachment C of House, No. 4055). August 9, 2023.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to requiring the Highway Division of the Massachusetts Department of Transportation to establish a department and licensure process to oversee quarries producing concrete aggregate.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to require the Highway Division of the Massachusetts Department of Transportation to establish a department and licensure process to oversee quarries producing concrete aggregate, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 6C of the General Laws is hereby amended by adding the
2 following section:-

3 Section 79. (a) For the purposes of this section, the following words shall, unless the
4 context clearly requires otherwise, have the following meanings:

5 “Aggregate”, granular materials such as gravel, sand and crushed rock that may be used
6 individually or are combined for a particular purpose.

7 “Certified professional geologist”, a professional geologist certified by the American
8 Institute of Professional Geologists.

9 “Concrete aggregate”, natural sand, natural gravel or crushed aggregate products
10 produced from ledge rock.

11 “Licensed professional geologist”, a professional geologist certified by: (i) examination
12 through the National Association of State Boards of Geology; or (ii) a state’s licensing authority
13 that follows the national standards of the National Association of State Boards of Geology’s
14 licensing program or its equivalent.

15 (b) Any person seeking to mine, expand, excavate or otherwise operate a quarry, sand
16 and gravel operation or any other aggregate source for the purpose of producing concrete
17 aggregate for sale or use in foundations, structural elements or infrastructure, including, but not
18 limited to, roadways and bridges, shall submit to the department and the state geologist an
19 application for a license to conduct such activity.

20 Each license application shall consist of: (i) a description of the geographic location of
21 the aggregate source; (ii) an operations plan, including, but not limited to, mining, processing,
22 storage and quality control methods; (iii) a geological source report, consistent with subsection
23 (c); and (iv) the results of aggregate testing for the presence of pyrite and pyrrhotite, consistent
24 with subsection (d). Each license application shall be accompanied by a fee as established by the
25 department. Fees received by the department under this section shall be used to implement this
26 section; provided, however, that any surplus fee receipts shall be deposited into the General
27 Fund.

28 (c) An applicant under this section shall prepare a geological source report as required
29 under subsection (b). Such report shall be prepared by a certified professional geologist, licensed
30 professional geologist or an equivalent acceptable to the state geologist in a form and manner
31 prescribed by the department, developed in consultation with the state geologist, a representative
32 nominated by the Massachusetts Aggregate & Asphalt Pavement Association, Inc. and a
33 representative nominated by the Massachusetts Concrete & Aggregate Producers Association,
34 Inc., and shall include, but shall not be limited to: (i) a description of the characteristics of the
35 aggregate to be excavated at the aggregate source location; (ii) a description of the products to be
36 produced at such location; and (iii) a copy of the results of an inspection of face material and
37 geologic log analysis, which shall be conducted not more than 60 days prior to the date of the
38 report. A geological source report prepared under this subsection shall be valid for a period of 1
39 year from the date of preparation.

40 (d) Aggregate testing to identify the presence of pyrite and pyrrhotite required under
41 subsection (b) shall include, but shall not be limited to, a total sulfur test to measure total sulfur
42 content in a representative sample. Aggregate testing shall be performed by an accredited
43 laboratory in accordance with applicable standards established by American Society of Testing
44 and Materials International or alternate standards to be determined by the department in
45 consultation with the state geologist.

46 (e) The secretary or a designee, in consultation with the state geologist, shall review each
47 license application submitted pursuant to this section and notify each applicant whether the
48 license has been approved and any applicable conditions of operation. If the application is
49 denied, the notification shall include the reason for denial. A license granted under this section
50 shall be valid for 1 year from the date of approval; provided, however, that a license may be

51 renewed after it expires. The department shall state the aggregate testing requirements
52 established under subsection (d) in the license application; provided, however, that the state
53 geologist may request additional testing or information during the review of a license
54 application. The department may modify testing requirements and application criteria at its
55 discretion.

56 The department may issue a license valid for more than 1 year to an applicant that has
57 submitted geological source reports and been approved for a license for 5 consecutive years;
58 provided, however, that the licensee shall be required to submit annual geologic source reports as
59 a condition for receiving such license.

60 (f) A person owning or operating an aggregate source, subject to licensure pursuant to
61 this section, shall maintain all records relevant to such licensure and operation, including, but not
62 limited to, a record of sale for all aggregate, for not less than 30 years.

63 (g) A person owning or operating a concrete production facility for the purpose of
64 producing concrete for sale or use in foundations, structural elements or infrastructure, including,
65 but not limited to, roadways and bridges, and who is in receipt of aggregate material from a
66 source licensed pursuant to this section, shall maintain a record of the aggregate used in
67 individual concrete batches for not less than 30 years.

68 (h) The department, in consultation with the state geologist, shall maintain all data
69 collected under this section.

70 (i) Nothing in this section shall affect the operations of quarries producing aggregate for
71 purposes other than those described in subsection (b).

72 (j) The department, in consultation with the state geologist, shall promulgate regulations
73 to implement this section.

74 SECTION 2. Section 79 of chapter 6C of the General Laws, inserted by section 1, shall
75 take effect on December 31, 2023; provided, however, that entities licensed to operate a quarry
76 or sand and gravel operation in the commonwealth before the effective date of this act that are
77 affected by said section 79 of said chapter 6C shall meet the requirements of said section 79 of
78 said chapter 6C not later than December 31, 2023; and provided further, that any work conducted
79 by such an entity prior to December 31, 2023 shall comply with existing regulations.