

SENATE No. 2378

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

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

9 SECTION 2. Said section 1 of said chapter 82A, as so appearing, is hereby
10 further 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
13 further amended by striking out, in lines 21 to 23, inclusive, the words “licensed operators of
14 hoisting equipment, police department officials, fire department officials and building officials”

15 and inserting in place thereof the following words:- affected public and private sector employers
16 and employees.

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

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

23 SECTION 6. Said section 2 of said chapter 82A, as so appearing, is hereby
24 further amended by striking out the third sentence and inserting in place thereof the following
25 sentence:- No person shall, except in an emergency, make a trench or contract for the making of
26 a trench in or on a public way or public property unless a permit has been obtained from the
27 appropriately designated board or officer within the city, town or public agency that is authorized
28 to issue such 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
33 by 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
35 section 1, shall not leave any open trench unattended without first making reasonable efforts, as

36 defined in the relevant regulations, to eliminate any recognized safety hazard that may exist as a
37 result of leaving the open trench unattended.

38 SECTION 9. Said section 3 of said chapter 82A, as so appearing, is hereby
39 further 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
42 by striking out, in line 2, the words “which is narrow in relation to its length,”.