

HOUSE No. 3633

The Commonwealth of Massachusetts

PRESENTED BY:

Byron Rushing

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.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Carlos González</i>	<i>10th Hampden</i>

HOUSE No. 3633

By Mr. Rushing of Boston, a petition (accompanied by bill, House, No. 3633) of Byron Rushing, Denise Provost and Carlos Gonzalez relative to workplace safety, trench excavation permitting and further regulating the responsibilities of procurement officers. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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 supplied 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 an administrative merits determination,
7 arbitral award or decision, or civil judgment, rendered against the offeror within the preceding 4-
8 year period for a violation of the federal Occupational Safety and Health Act of 1970, 29 U.S.C
9 sections 651 to 678, including any settlement agreement and documentation verifying if hazards
10 identified have been corrected.

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

16 (c) A procurement officer shall consider the information provided pursuant to
17 subsections (a) and (b) in determining whether an offeror is a responsible source that has a
18 satisfactory record of integrity and business ethics.

19 (d) For any subcontract where the estimated value of the supplies and services required
20 exceeds \$50,000 and that is not for commercially available off-the-shelf items, a procurement
21 officer shall require that, at the time of execution of the contract, a contractor represents to the
22 contracting agency that the contractor will: (i) require each subcontractor to disclose an
23 administrative merits determination or civil judgment, rendered against the offeror within the
24 preceding 4-year period for a violation of said federal Occupational Safety and Health Act of
25 1970, said 29 U.S.C sections 651 to 678, including any settlement agreement and documentation
26 verifying if hazards identified have been corrected, and to provide updated information every 6
27 months; and (ii) prior awarding a subcontract, consider the information submitted by the
28 subcontractor pursuant to subclause (i) in determining whether a subcontractor is a responsible
29 source that has a satisfactory record of integrity and business ethics.

30 The contractor shall require that the subcontractor disclose an administrative merits
31 determination or civil judgment, rendered against the subcontractor within the preceding 4-year
32 period for any violation of said federal Occupational Safety and Health Act of 1970, said 29

33 U.S.C sections 651 to 678, including any settlement agreements and documentation verifying if
34 hazards identified have been corrected.

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

37 (f) During the performance of the contract, each contracting agency shall require that
38 every 6 months contractors subject to this section update the information provided pursuant to
39 subsection (a) and obtain the information required pursuant to subclause (i) of subsection (d) for
40 covered subcontracts.

41 (g) If information regarding an administrative merits determination or civil judgment,
42 rendered against the offeror within the preceding 4-year period for any violations of said federal
43 Occupational Safety and Health Act of 1970, said 29 U.S.C sections 651 to 678, including any
44 settlement agreements and documentation verifying if hazards identified have corrected, or
45 similar information is obtained through other sources, a procurement officer may request a copy
46 of citation and evidence of abatement of a hazard, and refer the offeror to appropriate agencies if
47 a hazard has not been abated.

48 (h) A procurement officer shall require that if information regarding violations of said
49 federal Occupational Safety and Health Act of 1970, said 29 U.S.C sections 651 to 678 by a
50 contractor's subcontractor is brought to the attention of the contractor or similar information is
51 obtained through other sources, then the contractor may request a copy of a citation and evidence
52 of abatement of a hazard, and refer the subcontractor to appropriate agencies if a hazard has not
53 been abated.

54 (i) As appropriate, procurement officers shall send information provided pursuant to
55 subsection (a) and subclause (i) of subsection (d) of this section to the appropriate agency.

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

58 SECTION 2. Section 2 of chapter 82A of the General Laws, as appearing in the 2014
59 Official Edition, is hereby amended by inserting after the fourth sentence the following
60 sentence:- A person making application for a trench excavation permit shall disclose in writing:
61 (i) any prior suspension or revocation of a trench excavation permit held by applicant; (ii) any
62 assessment of fines in relation to a trench excavation permit held by applicant; (iii) any prior
63 immediate shutdown of a trench site by state or local authorities in relation to a trench excavation
64 permit held by applicant; and (iv) the date of each incident.