

# HOUSE . . . . . No. 4219

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, May 10, 2018.

The committee on Labor and Workforce Development to whom was referred the 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, reports recommending that the accompanying bill (House, No. 4219) ought to pass.

For the committee,

PAUL BRODEUR.

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court  
(2017-2018)  
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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 awarding authority 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) An awarding authority, 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) An awarding authority shall consider the information provided pursuant to  
19 subsections (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, an awarding authority 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 awarding authority 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 awarding authority updated information every 6 months.

28  
29 (e) As appropriate, an awarding authority shall refer matters related to information  
30 provided pursuant to subsections (a), (b) and (d) of this section to the appropriate agency.

31 (f) During the performance of the contract, each awarding authority shall require that  
32 every 6 months contractors subject to this section update the information provided pursuant to  
33 subsection (a).

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

(h) An awarding authority shall require that if information regarding a citation, notice, decision or civil judgment, rendered against a contractor's subcontractor within the preceding 4-year period for any violations of said federal Occupational Safety and Health Act of 1970, said 29 U.S.C sections 651 to 678 is brought to the attention of the contractor or similar information is obtained through other sources, then the contractor shall inform the awarding authority and the awarding authority may request a copy of a citation and evidence of abatement of a hazard, and refer the subcontractor to appropriate agencies if a hazard has not been abated.

(i) As appropriate, awarding authorities shall send information provided pursuant to subsection (a) and subsection (d) of this section to the appropriate agency.

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

SECTION 2. Section 2 of chapter 82A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the fourth sentence the following sentence:- A person making application for a trench excavation permit shall disclose in writing:

(a) Any citation, notice, decision or civil judgment rendered against the company, as a sole

56 proprietorship, limited partnership, and/or limited liability partnership/corporation and/or any  
57 affiliated business or subsidiary of which the applicant is owner, manager, officer, and/or  
58 director within the preceding 4-year period for a violation of the federal Occupational Safety and  
59 Health Act of 1970, 29 U.S.C sections 651 to 678, including any settlement agreement and  
60 documentation verifying if hazards identified have been corrected; and

61 (b) (i) any prior suspension or revocation of a trench excavation permit held by  
62 applicant; (ii) any assessment of fines in relation to a trench excavation permit held by applicant;  
63 (iii) any prior immediate shutdown of a trench site by state or local authorities in relation to a  
64 trench excavation permit held by applicant; and (iv) the date of each incident.