

HOUSE No. 4811

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 25, 2018.

The committee on Ways and Means, to whom was referred the Bill relative to workplace safety (House, No. 4219), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4811).

For the committee,

JEFFREY SÁNCHEZ.

HOUSE No. 4811

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 supplies 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 any Occupational Safety and Health
7 Administration citation, notice, decision or civil judgment rendered against the offeror within the
8 preceding 4-year period for a violation of the federal Occupational Safety and Health Act of
9 1970, 29 U.S.C sections 651 to 678, including any non-confidential settlement agreement and
10 documentation verifying if hazards 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 the federal Occupational Safety and Health Act of

14 1970, 29 U.S.C sections 651 to 678, including any non-confidential settlement agreement and
15 documentation verifying if hazards identified have 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.

18 (d) For any subcontract where the estimated value of the supplies and services required
19 exceeds \$50,000, a procurement officer shall require that, at the time of execution of the
20 contract, a contractor represents to the contracting agency that the contractor will require each
21 subcontractor to disclose to the procurement officer a citation, notice, decision or civil judgment,
22 rendered against the subcontractor within the preceding 4-year period for a violation of the
23 federal Occupational Safety and Health Act of 1970, 29 U.S.C sections 651 to 678, including any
24 non-confidential settlement agreement and documentation verifying if hazards identified have
25 been corrected, and to provide to the procurement officer updated information every 6 months.

26 (e) During the performance of the contract, each procurement officer shall require that
27 every 6 months contractors subject to this section update the information provided pursuant to
28 subsection (a).

29 (f) As appropriate, a procurement officer shall refer matters related to information
30 provided pursuant to subsections (a), (b), (d) and (e) to the appropriate agency.

31 (g) If information regarding a citation, notice, decision or civil judgment rendered
32 against the offeror within the preceding 4-year period for any violations of the federal
33 Occupational Safety and Health Act of 1970, 29 U.S.C sections 651 to 678, is brought to the
34 attention of a procurement officer, the procurement officer 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) procurement officer 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 the federal Occupational Safety and Health Act of 1970, 29 U.S.C sections 651 to 678, is brought to the attention of the contractor, then the contractor shall inform the procurement officer and the procurement officer 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) 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 is hereby amended by inserting after the fourth sentence, as appearing in the 2016 Official Edition, 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 applicant within the preceding 4-year period for a violation of the federal Occupational Safety and Health Act of 1970, 29 U.S.C sections 651 to 678, including any non-confidential settlement agreement and documentation verifying if hazards identified have been corrected; and (b) (i) any prior suspension or revocation of a trench excavation permit held by the applicant; (ii) any assessment of fines in relation to a trench excavation permit held by the applicant; (iii) any prior immediate shutdown of a trench site by state or local authorities in relation to a trench excavation permit held by the applicant; and (iv) the date of each incident.