

SENATE No. 1381

The Commonwealth of Massachusetts

PRESENTED BY:

Nick Collins

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 implementing the recommendations of the Walsh-Kennedy Commission Report.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|----------------------------|------------------------------------|------------------|
| <i>Nick Collins</i> | <i>First Suffolk</i> | |
| <i>Michael D. Brady</i> | <i>Second Plymouth and Bristol</i> | <i>1/24/2019</i> |
| <i>Patrick M. O'Connor</i> | <i>Plymouth and Norfolk</i> | <i>1/30/2019</i> |
| <i>Diana DiZoglio</i> | <i>First Essex</i> | <i>2/1/2019</i> |
| <i>James K. Hawkins</i> | <i>2nd Bristol</i> | <i>2/5/2019</i> |
| <i>Daniel J. Ryan</i> | <i>2nd Suffolk</i> | <i>3/28/2019</i> |

SENATE No. 1381

By Mr. Collins, a petition (accompanied by bill, Senate, No. 1381) of Nick Collins, Michael D. Brady, Patrick M. O'Connor, Diana DiZoglio and others for legislation to implement the recommendations of the Walsh-Kennedy Commission Report. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act implementing the recommendations of the Walsh-Kennedy Commission Report.

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. Notwithstanding and general or special law to the contrary, all certifications
2 and training programs for cutting, welding, and hot works processes shall be performed using the
3 existing National Fire Protection Association program or an equivalent program that includes a
4 thorough and accessible electronic database that can be used to check a worker's status, multi-
5 lingual in-class offerings, identity integrity safeguards, in-person original training, and
6 subsequent annual continued education program either online or in person.

7 SECTION 2. Section 1 of Chapter 148 of the Massachusetts General Laws is hereby
8 amended by inserting at the end thereof the following:-

9 "Criminal Negligence", Repeated, reckless, and knowing failure to comply with the
10 regulations contained in this chapter, and failure to perceive a substantial and unjustifiable risk
11 that a result would occur from said failure. The risk must be of such nature and degree that

12 failure to perceive it constitutes a gross deviation from the standard of care that a reasonable
13 person would observe in this situation."

14 SECTION 3. Section 34B of chapter 148 of the Massachusetts General Laws is hereby
15 amended by striking out the section in its entirety and inserting in place thereof the following:-

16 "SECTION 34B. Any person who wantonly or recklessly violates the state building code
17 or state fire code and thereby causes serious bodily injury to any person shall be punished by a
18 fine of not more than \$250,000 or by imprisonment in the state prison for not more than 5 years
19 or in a house of correction for not more than 2 1/2 years, or both.

20 Any person who wantonly or recklessly violates the state building code or state fire code
21 and thereby causes death to any person shall be punished by a fine of not more than \$500,000
22 and/or by imprisonment in the state prison for not more than 7 years or in a house of correction
23 for not more than 5 years, or both.

24 Any person found to have acted in accordance with the definition of criminal negligence
25 in section 1 of this chapter may be determined to be criminally liable for damage or death
26 stemming from repeated and reckless non-compliance with requirements set forth in this chapter.

27 For purposes of this section, "serious bodily injury" shall mean bodily injury that results
28 in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a
29 substantial risk of death.

30 SECTION 4. Section 34 of Chapter 148 is hereby amended by striking out the section in
31 its entirety and inserting in place thereof the following:

32 "Section 34. Except as otherwise provided, any person violating any provision of this
33 chapter shall be liable to a fine of one hundred dollars, or, in case of a continuing offence after
34 notice of such violation, to a fine of not more than one hundred dollars for every day during
35 which the violation continues, unless said violation pertains to cutting, welding, or hot works
36 processes. In the event of any person violating regulations regarding cutting, welding, or hot
37 works processes, said person shall be liable to the following punishments:

38 First offense: a fine of not more than \$1,000

39 Second offense: a fine of not more than \$2,000 and/or imprisonment in the house of
40 correction for up to a year, provided that the Judge shall have the authority to take into account
41 the size of the project on which the violation occurred and levy additional fines if the total cost
42 said project is such that the fine is inadequate to deter continued offenses.

43 Third and continuing offenses: a fine of not more than .025% of the total project value, or
44 \$10,000, whichever is greater, and/or imprisonment in the house of correction for up to 3 years."

45 SECTION 5. Notwithstanding any general or special law to the contrary, the Department
46 of Fire Safety shall, in consultation with the Department of Professional Licensure, or any other
47 executive agency or department it deems necessary, establish a system of public notification and
48 recording of non-compliance with regulations and statues pertaining to cutting, welding, and hot
49 works processes. Said system may include: quarterly publications, an online database, an
50 automated notification system to alert property owners, and/or communication with insurance
51 companies.