

SENATE No. 2555

The Commonwealth of Massachusetts

—
**In the One Hundred and Ninety-Second General Court
(2021-2022)**
—

SENATE, October 14, 2021.

The committee on Public Safety and Homeland Security, to whom was referred the petition (accompanied by bill, Senate, No. 1554) of Nick Collins, Angelo J. Puppolo, Jr. and Michael O. Moore for legislation to implement the recommendations of the Walsh-Kennedy Commission Report, reports the accompanying bill (Senate, No. 2555).

For the committee,
Walter F. Timilty

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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 a
3 program approved by the State Fire Marshal that includes a thorough and accessible electronic
4 database that can be used to check a worker's status, multi-lingual in-class offerings, identity
5 integrity safeguards, in-person original training, and subsequent annual continued education
6 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:- "Criminal Negligence", Repeated,
9 reckless, and knowing failure to comply with the regulations contained in this chapter, and
10 failure to perceive a substantial and unjustifiable risk that a result would occur from said failure.
11 The risk must be of such nature and degree that failure to perceive it constitutes a gross deviation
12 from the standard of care that a reasonable person would observe in this situation."

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

15 Section 34B. Any person who wantonly or recklessly violates the state building code or
16 state fire code and thereby causes serious bodily injury to any person shall be punished by a fine
17 of not more than \$250,000 or by imprisonment in the state prison for not more than 5 years or in
18 a house of correction for not more than 2 1/2 years, or both. Any person who wantonly or
19 recklessly violates the state building code or state fire code and thereby causes death to any
20 person shall be punished by a fine of not more than \$500,000 and/or by imprisonment in the state
21 prison for not more than 7 years or in a house of correction for not more than 5 years, or both.
22 Any person found to have acted in accordance with the definition of criminal negligence in
23 section 1 of this chapter may be determined to be criminally liable for damage or death stemming
24 from repeated and reckless non-compliance with requirements set forth in this chapter. For
25 purposes of this section, "serious bodily injury" shall mean bodily injury that results in a
26 permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial
27 risk of death.

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

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

35 works processes, said person shall be liable to the following punishments: First offense: a fine of
36 not more than \$1,000 Second offense: a fine of not more than \$2,000 and/or imprisonment in the
37 house of correction for up to a year, provided that the Judge shall have the authority to take into
38 account the size of the project on which the violation occurred and levy additional fines if the
39 total cost said project is such that the fine is inadequate to deter continued offenses. Third and
40 continuing offenses: a fine of not more than .025% of the total project value, or \$10,000,
41 whichever is greater, and/or imprisonment in the house of correction for up to 3 years."

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