HOUSE DOCKET, NO. 1278 FILED ON: 1/20/2011

HOUSE . . . . . No. 1560

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen Kulik

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 administration of the trench safety law.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stephen Kulik	*1st Franklin*

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HOUSE . . . . . No. 1560

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 1560) of Stephen Kulik relative to administration of the trench safety law. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to administration of the trench safety law.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 82A of General Laws is hereby amended by adding after section 2 the following:-

Section 2A. (a) Civil Action for Enforcement. In the event that the owner of the site or the excavator fail to comply with any order issued by an issuing authority and/or inspector from the Department of Public Safety or Division of Occupational Safety, or otherwise engages in or permits a violation of this chapter or the applicable regulations, the permitting authority and/or department and/or division may seek equitable relief in a court of competent jurisdiction, which shall include any division of the trial court.

(b) Said owner and/or excavator shall be liable for any costs or expenses associated with the enforcement of the law, including but not limited to attorney's fees, staff time, site related costs, and any filing fees and costs.

12 (c) By applying for a permit, the owner and/or excavator grant permission to the issuing
13 authority and/or the department to enter upon the subject property for the purposes of carrying
14 out this chapter and the regulations issued thereunder.

15 (d) Any expenses incurred by the municipality, issuing authority or department under this
16 chapter shall be due and payable to the municipality, issuing authority or department upon
17 notification to the owner and/or excavator by the entity incurring such expenses. If the owner
18 and/or excavator fails to promptly pay for same, the municipality, issuing authority or
19 department may recover the same in a civil action, as an award of costs in any criminal action or
20 by any other lawful means. The municipality or issuing authority may also assert and collect a
21 lien against said property under the procedures set forth in section fifty-eight of chapter forty of
22 the general laws, notwithstanding the lack of a vote of the city or town under said section if the
23 sum due is not paid.

24 (e) Neither the municipality, issuing authority nor the department shall be liable for any
25 claims, injury or damage arising from non-compliance with his law by any owner or excavator
26 for enforcing said law. The owner/excavator shall remain responsible for complying with the
27 law and for any violations thereunder.