# SENATE . . . . . No. 2378

The committee on Ways and Means to whom was referred the Senate Bill relative to trenches on private property (Senate, No. 1185), reports, recommending that the same ought to pass with and amendment, substituting a new draft entitled "An Act relative to trench safety" (Senate, No. 2378) (also based on Senate, No. 1253)

## The Commonwealth of Massachusetts

**In the Year Two Thousand Twelve**

An Act relative to trench safety.

*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. Section 1 of chapter 82A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the second and third sentences and inserting in place thereof the following 2 sentences:- The commissioner of public safety, in conjunction with the director of labor standards, or a designee, shall promulgate rules and regulations governing construction-related trenches and trench safety. The rules and regulations shall include means for protecting the general public from the hazards inherent in unattended trenches and a penalty structure for each violation of the proposed rules and regulations to be imposed by the department.

SECTION 2. Said section 1 of said chapter 82A, as so appearing, is hereby further amended by striking out, in line 18, and in lines 28 and 29, the words “and workforce development” and inserting in place thereof, in each instance, the following word:- standards.

12 SECTION 3. Said section 1 of said chapter 82A, as so appearing, is hereby further
13 amended by striking out, in lines 21 to 23, inclusive, the words “licensed operators of hoisting
14 equipment, police department officials, fire department officials and building officials” and
15 inserting in place thereof the following words:- affected public and private sector employers and
16 employees.

17 SECTION 4. Said section 1 of said chapter 82A, as so appearing, is hereby further
18 amended by striking out the last sentence.

19 SECTION 5. Section 2 of said chapter 82A, as so appearing, is hereby amended by
20 striking out the first sentence and inserting in place thereof the following sentence:- Each city,
21 town or public agency shall designate a board or officer to issue permits for the excavation of
22 trenches on public ways within that city or town.

23 SECTION 6. Said section 2 of said chapter 82A, as so appearing, is hereby further
24 amended by striking out the third sentence and inserting in place thereof the following sentence:-
25 No person shall, except in an emergency, make a trench or contract for the making of a trench in
26 or on a public way or public property unless a permit has been obtained from the appropriately
27 designated board or officer within the city, town or public agency that is authorized to issue such
28 permit.

29 SECTION 7. Said section 2 of said chapter 82A, as so appearing, is hereby further
30 amended by adding the following sentence:- The owner of private property shall install fencing
31 around an unattended trench on that property as provided in 520 CMR 14.04.

32 SECTION 8. Section 3 of said chapter 82A, as so appearing, is hereby amended by
33 striking out clause (2) and inserting in place thereof the following clause:-

34 (2) Trenches may pose a significant health and safety hazard. An excavator, pursuant to section
35 1, shall not leave any open trench unattended without first making reasonable efforts, as defined
36 in the relevant regulations, to eliminate any recognized safety hazard that may exist as a result of
37 leaving the open trench unattended.

38 SECTION 9. Said section 3 of said chapter 82A, as so appearing, is hereby further
39 amended by striking out, in lines 37 and 38, the words “on private property or proposed
40 excavation”.

41 SECTION 10. Section 4 of said chapter 82A, as so appearing, is hereby amended by
42 striking out, in line 2, the words “which is narrow in relation to its length,”.