

**HOUSE . . . . . No. 01560**

---

---

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 passage of the accompanying bill:

An Act relative to administration of the trench safety law.

\_\_\_\_\_  
PETITION OF:

NAME: \_\_\_\_\_

| DISTRICT/ADDRESS: \_\_\_\_\_

# HOUSE . . . . . No. 01560

By Mr. Stephen Kulik of Worthington, petition (accompanied by bill, House, No. 01560) of [petitioners] relative to administration of the trench safety law. Joint Committee on 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:*

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

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

9 (b) Said owner and/or excavator shall be liable for any costs or expenses associated with the  
10 enforcement of the law, including but not limited to attorney’s fees, staff time, site related costs,  
11 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 claims,  
25 injury or damage arising from non-compliance with his law by any owner or excavator for  
26 enforcing said law. The owner/excavator shall remain responsible for complying with the law  
27 and for any violations thereunder.