

HOUSE No. 5110

Sections 13 and 75 contained in the engrossed Bill making appropriations for the fiscal year 2023 (see House, No. 5050), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment E of House, No. 5132). July 28, 2022.

The Commonwealth of Massachusetts

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

An Act further regulating quarry activity.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulating quarry activity, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 21B of the General Laws is hereby amended by adding the
2 following section:-

3 Section 16. (a) For the purposes of this section, the following words shall have the
4 following meanings unless the context clearly requires otherwise:

5 “Aggregate”, granular materials such as gravel, sand and crushed rock that are combined
6 for a particular purpose.

7 “Certified geologist”, a professional geologist certified by the American Institute of
8 Professional Geologists.

9 “Concrete aggregate”, natural sand, natural gravel or crushed aggregate products
10 produced from ledge rock.

11 “State geologist”, the state geologist appointed pursuant to section 7B of chapter 21A.

12 (b) Any person seeking to mine, expand, excavate or otherwise operate a quarry for the
13 purpose of producing concrete aggregate for sale or use in foundations, structural elements or
14 infrastructure such as roadways and bridges shall submit to the commissioner and the state
15 geologist an application for a license to conduct such quarry activity.

16 Each license application shall consist of: (i) a description of the geographic location of
17 the quarry; (ii) a quarry operations plan including, but not limited to, mining, processing, storage
18 and quality control methods; (iii) a geological source report, consistent with subsection (c); and
19 (iv) the results of aggregate testing for the presence of pyrite or pyrrhotite, consistent with
20 subsection (d). Each license application shall be accompanied by a fee in an amount to be
21 determined by the commissioner. Fees received by the department under this section shall be
22 used to implement this section; provided, however, that any surplus fee receipts shall be
23 deposited into the General Fund.

24 (c) The geological source report required in subsection (b) shall be prepared by a
25 certified geologist in a form and manner prescribed by the commissioner, in consultation with
26 the state geologist and a representative nominated by the Massachusetts Concrete and Aggregate
27 Producers Association Inc., and shall include, but not be limited to: (i) a description of the
28 characteristics of the aggregate to be excavated at the subject quarry; (ii) a description of the
29 products to be produced by such quarry; (iii) a copy of the results of an inspection of face
30 material and geologic log analysis conducted not more than 60 days from the date of the report;

31 and (iv) petrographic analyses of grab or core samples representative of the material being
32 mined.

33 (d) Aggregate testing to identify the presence of pyrite or pyrrhotite required in
34 subsection (b) shall include, but not be limited to, a total sulfur test to measure total sulfur
35 content in a representative sample. Aggregate testing shall be performed by an accredited
36 laboratory in accordance with applicable standards established by American Society of Testing
37 and Materials international standards or alternate standards to be determined by the
38 commissioner in consultation with the state geologist.

39 (e) The commissioner or a designee, in consultation with the state geologist, shall review
40 each license application submitted pursuant to this section and notify each applicant whether the
41 license has been approved and any applicable conditions of operation. If the application is
42 denied, the notification shall include the reason for denial. A license granted under this section
43 shall be valid for 1 year from the date of approval; provided, however, that a geological source
44 report prepared under subsection (c) shall be valid for a period of 4 years from the date of
45 preparation; and provided further, that aggregate test results demonstrating a total sulfur content
46 of less than 0.1 per cent by mass shall be valid for a period of 4 years from the date of testing. A
47 license shall not be approved if the total sulfur content is not less than 1 per cent by mass. If the
48 total sulfur content is equal to or greater than 0.1 per cent by mass but not more than 1 per cent
49 by mass, the license shall be denied unless the state geologist, in the state geologist's sole
50 discretion, recommends approval to the commissioner consistent with applicable American
51 Society of Testing and Materials international standards. The state geologist may require
52 additional testing or information to justify an approval recommendation.

53 (f) A person owning or operating a quarry subject to licensure pursuant to this section
54 shall maintain all records relevant to such licensure and quarry operation including, but not
55 limited to, a record of the aggregate source in concrete batches, for not less than 30 years.

56 (g) The commissioner, in consultation with the state geologist, shall catalogue and
57 maintain the quarry data collected under this section.

58 (h) Nothing in this section shall prohibit a municipality from requiring permits for quarry
59 operation or excavation or from establishing pyrite and pyrrhotite presence restrictions that are
60 more stringent than those set forth in this section.

61 (i) Nothing in this section shall affect the operations of quarries producing aggregate for
62 purposes other than those described in subsection (b).

63 (j) The department, in consultation with the state geologist, shall promulgate regulations
64 to implement this section.

65 SECTION 2. The fourth paragraph of subsection (a) of said section 134 of said chapter
66 164, as so appearing, is hereby amended by striking out the last sentence.