

State OSHA 10 laws

Prepared for ACCSH  
Meeting

July 2009

CT

**Sec. 31-53b. Construction safety and health course. Proof of completion required for employees on public building projects. Enforcement. Regulations.** (a) Each contract entered into on or after July 1, 2007, for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public building project by the state or any of its agents, or by any political subdivision of the state or any of its agents, where the total cost of all work to be performed by all contractors and subcontractors in connection with the contract is at least one hundred thousand dollars, shall contain a provision requiring that, not later than thirty days after the date such contract is awarded, each contractor furnish proof to the Labor Commissioner that all employees performing manual labor on or in such public building, pursuant to such contract, have completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, in the case of telecommunications employees, have completed at least ten hours of training in accordance with 29 CFR 1910.268.

(b) Any employee required to complete a construction safety and health course required under subsection (a) of this section who has not completed the course shall be subject to removal from the worksite if the employee does not provide documentation of having completed such course by the fifteenth day after the date the employee is found to be in noncompliance. The Labor Commissioner or said commissioner's designee shall enforce this section.

(c) Not later than January 1, 2007, the Labor Commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of subsections (a) and (b) of this section. Such regulations shall require that the ten-hour construction safety and health courses required under subsection (a) of this section be conducted in accordance with federal Occupational Safety and Health Administration Training Institute standards, or in accordance with 29 CFR 1910.268, as appropriate. The Labor Commissioner shall accept as sufficient proof of compliance with the provisions of subsection (a) or (b) of this section a student course completion card issued by the federal Occupational Safety and Health Administration Training Institute, or such other proof of compliance said commissioner deems appropriate, dated no earlier than five years before the commencement date of such public works project.

(d) For the purposes of this section, "public building" means a structure, paid for in whole or in part with state funds, within a roof and within exterior walls or fire walls, designed for the housing, shelter, enclosure and support or employment of people, animals or property of any kind, including, but not limited to, sewage treatment plants and water treatment plants. "Public building" does not include site work, roads or bridges, rail lines, parking lots or underground water, sewer or drainage systems including pump houses or other utility systems.

(P.A. 06-175, S. 1.)

## **An Act Concerning Construction Safety**

Sec. 31-53b. Construction safety and health course. Proof of completion required for employees on public building projects. Enforcement. Regulations.

(a) Each contract entered into on or after July 1, [2007] 2008, for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public [building] WORKS project by the state or any of its agents, or by any political subdivision of the state or any of its agents, where the total cost of all work to be performed by all contractors and subcontractors in connection with the contract is at least one hundred thousand dollars, shall contain a provision requiring that, not later than [thirty] FIFTEEN days [after the] PRIOR TO the date[ such contract is awarded] WORK COMMENCES ON SUCH PROJECT, each contractor furnish proof to the Labor Commissioner that [all employees performing manual labor] ANY PERSON PERFORMING THE WORK OF ANY MECHANIC, LABORER OR WORKER on or in such public [building] WORKS PROJECT, pursuant to such contract, [have] HAS completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, HAS COMPLETED A NEW MINER TRAINING PROGRAM APPROVED BY THE FEDERAL MINE SAFETY AND HEALTH ADMINISTRATION IN ACCORDANCE WITH 30CFR48 OR, in the case of telecommunications employees, [have] HAS completed at least ten hours of training in accordance with 29CFR1910.268.

(b) Any [employee] PERSON required to complete a COURSE OR PROGRAM [construction safety and health course] required under subsection (a) of this section who has not completed the course OR PROGRAM shall be subject to removal from the worksite if the [employee] PERSON does not provide documentation of having completed such course OR PROGRAM by the fifteenth day after the date the [employee] PERSON is found to be in noncompliance. The Labor Commissioner or said commissioner's designee shall enforce this section.

(c) Not later than January 1, [2007] 2009, the Labor Commissioner shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of subsections (a) and (b) of this section. Such regulations shall require that the ten-hour construction safety and health courses required under subsection (a) of this section be conducted in accordance with federal Occupational Safety and Health Administration Training Institute standards, OR IN ACCORDANCE WITH FEDERAL MINE SAFETY AND HEALTH ADMINISTRATION STANDARDS, OR IN ACCORDANCE WITH 29 CFR1910.268, AS APPROPRIATE. The Labor Commissioner shall accept as sufficient proof of compliance with the provisions of subsection (a) or (b) of this section a student course completion card issued by the federal Occupational Safety and Health Administration Training Institute, or such other proof of compliance said commissioner deems appropriate. [dated

no earlier than five years before the commencement date of such public works project]

(d) [ For purposes of this section, "public building" means a structure, paid for in whole or in part with state funds, within a roof and within exterior walls or fire walls, designed for the housing, shelter, enclosure and support and employment of people, animals or property of any kind, including, but not limited to, sewerage treatment plants and water treatment plants. "Public building" does not include site work, roads or bridges, rail lines, parking lots or underground water, sewer or drainage systems including pump houses or other utility systems.]

(NEW) This section shall not apply to employees of Public Service Companies as defined in section 16-1, of the Connecticut General Statutes or drivers of vehicles making deliveries to or

picking up from public works projects provided they perform no labor relating to the project other than the loading and unloading of their cargo.

RI

**Chapter 04-593**  
**2004 -- S 2447 SUBSTITUTE A AS AMENDED**  
**Enacted 07/30/04**

**A N A C T**  
**RELATING TO SAFETY AWARENESS**

**Introduced By:** Senators Ruggerio, Lanzi, Badeau, Paiva-Weed, and Pichardo

**Date Introduced:** February 11, 2004

It is enacted by the General Assembly as follows:

SECTION 1. Section 28-20-35 of the General Laws in Chapter 28-20 entitled "Division of Occupational Safety" is hereby repealed.

~~**28-20-35. Safety awareness program required.** -- (a) All contractors who bid on municipal and state construction projects with a total project cost of one hundred thousand dollars (\$100,000) or more, shall have an OSHA "ten hour construction safety program" for their on-site employees. The training program shall utilize instructors trained by the occupational safety and health administration, using an OSHA approved curriculum. Graduates shall receive a card from the U.S. department of labor occupational safety and health administration certifying the successful completion of the training course.~~

~~-(b) The director of the department of labor and training shall promulgate rules, regulations, and penalties to enforce the provisions of this section.~~

SECTION 2. Title 37 of the General Laws entitled "Public Property and Works" is hereby amended by adding thereto the following chapter:

**CHAPTER 23**

**SAFETY AWARENESS PROGRAMS**

**37-23-1. Safety awareness program required.** -- (a) All contractors performing work on municipal and state construction projects with a total project cost of one hundred thousand dollars (\$100,000) or more, shall have an OSHA "ten (10) hour construction safety program" for

their on-site employees. The training program shall utilize instructors trained by the occupational safety and health administration, using an OSHA approved curriculum. Graduates shall receive a card from the U.S. department of labor occupational safety and health administration certifying the successful completion of the training course.

(b) Every person shall have a card issued by the U.S. department of labor occupational safety and health administration certifying their successful completion of the OSHA ten (10) hour training program as required by RIGL section 37-23-1 on their person at all times while work is actually being performed on municipal and state construction projects. No person shall transfer their card certifying their successful completion of the OSHA ten (10) hour training program to another person. Failure to comply with this section shall subject the holder to penalties prescribed by the director of the department of labor and training.

(c) The director of the department of labor and training shall promulgate rules, regulations, and penalties to enforce the provisions of this section.

**37-23-2. Board of safety awareness created.** – There is hereby established, within the Division of Professional Regulation, a Board of Safety Awareness, hereinafter referred to as "the board", which shall at all times consist of nine (9) qualified electors of the state, all of whom shall have successfully completed the OSHA ten (10) hour construction safety program.

Annually, on or before January 31st, the director of labor and training shall appoint a member or members of the board to succeed the member or members whose term is at that time expiring who shall serve for three (3) years or until his/her successor is appointed and qualified. Any vacancy, which may occur in the board from any cause, shall be filled by the director for the remainder of the unexpired term. In the interest of maintaining consistency, the nine (9) members initially appointed to the Board of Safety Awareness will serve staggered term as follows: the three (3) officers will serve a three (3) year term; three (3) members will serve a two (2) year term; and three (3) members will serve a one (1) year term.

The board shall elect from its membership a chairperson, who shall have obtained at least a minimum of the thirty (30) hour construction safety program as it pertains to the construction sector under OSHA regulations 1926.

The board shall also elect from its membership a vice-chairperson and a secretary, both of whom shall have successfully competed at least a minimum of the thirty (30) hour construction



safety program as it pertains to the construction sector under OSHA regulations 1926.

The board shall advise and assist the division of professional regulation on promoting and promulgating such policies as may be necessary to improve safety on construction worksites subject to the approval of the director.

The board may recommend to the director of labor and training, the replacement of a member who misses three (3) consecutive regularly scheduled monthly meetings.

The final authority on all questions of procedure and parliamentary law not covered by the rules/bylaws of this board or by the Administrative Procedures Act of the State of Rhode Island shall be Robert's Rules of Order.

There shall be a chief investigator for the division who shall have obtained at least a minimum successful completion of the thirty (30) hour construction safety program as it pertains to the construction sector under OSHA regulations 1926. He or she shall be appointed by the director of labor and training, upon recommendation from the board of safety awareness, and the position shall be in the classified service.

There shall be a secretary for the safety awareness section who is in the classified service.

**37-23-3. Definitions.** – (a) "On-site Employee" may be regarded as any private person or entity bound by a contractual agreement to provide goods or services to a contractor/developer who must physically enter the place where work is being performed or business being conducted; provided, however, this chapter shall not apply to sales representatives, vendors, or to any person, entity or corporation who delivers building materials and supplies or customized products to a construction site.

(b) "Violator(s)" may include, but not be limited to, construction workers, contractors, project developers, site managers, and/or any other individual(s) working on a jobsite.

(c) "Division" shall mean the division of professional regulation within the department of labor and training.

(d) "Board" shall mean the board of safety awareness.

(e) Department shall mean Department of Labor and Training.

**37-23-4. Exemptions.** – The following individuals are exempt from the requirements of the OSHA ten (10) hour construction safety program:

(a) Law enforcement officers dealing with traffic control and/or jobsite security;

(b) All relevant federal, state and municipal government inspectors.

**37-23-5. Training program.** – The Board of Safety Awareness has endorsed the Occupational Safety and Health Administration's (OSHA) Outreach Training Program as the training program through which OSHA authorizes trainers to teach ten (10) hour and thirty (30) hour construction industry occupational safety and health standards, through which successful completion shall be documented.

**37-23-6. Work for which OSHA ten (10) hour construction safety program is required.** – No person, firm, entity, or corporation shall enter into, engage in, solicit, advertise, bid for, or work on municipal and/or state construction projects with a total project cost of one hundred thousand dollars (\$100,000) or more unless that person, firm, entity or corporation has an OSHA ten (10) hour construction safety program for their on-site employees.

**37-23-7. Inspection and right of entry.** – Authorized staff of the department shall have the right and authority to enter, during times at which work is actually being performed all municipal and state construction projects for the purpose of ascertaining compliance.

**37-23-8. Investigation and prosecution of violations.** – Authorized staff of the department shall enforce all provisions of law relative to the certification of the successful completion of the OSHA ten (10) hour construction safety program. Whenever a complaint is made to the director that the provisions of this chapter are being violated, the director may issue an order to cease and desist from said violation. The director shall thereupon order an administrative penalty on any person, firm, entity or corporation for any violation of the provisions of this chapter, in the amount of not less than two hundred fifty dollars (\$250) nor more than nine hundred and fifty dollars (\$950) per offense on each day in which a violation occurs, or the complaint may be dismissed in accordance with the recommendations.

**37-23-9. Subpoena of a witness.** – The department of labor and training shall have the power to subpoena and bring before it or the board of safety awareness any witness to give testimony either orally or by deposition, or both.

**37-23-10. Administration of oaths.** – The director of the department of labor and training and his/her designees shall have the authority to administer oaths to witnesses at a hearing, which the department has authorized by law to conduct, and any other oaths authorized or administered by the department.

**37-23-11. Appeals.** – Any person, firm, entity or corporation who has been assessed a penalty may appeal such to the director within twenty (20) days of receipt of the cease and desist order. The director of the department of labor and training shall refer said appeal to the board. The board, upon completion of any appeal held on a verified complaint, shall present to the director of labor and training, a written report of its findings and recommendations. The director may accept or reject, in whole or in part, the recommended order of the board. The order of the director is final, and a copy of the order shall be immediately served upon the person, firm, or corporation assessed.

**37-23-12. Penalties for nonpayment.** – Any person, firm, entity, or corporation who has violated chapter 23 of title 37, whether duly registered with the office of the secretary of state or not, and has been assessed a fine by the director of labor and training, is hereby required to submit penalties due to the department of labor and training, within thirty (30) days of notice of the penalty, or the director of labor and training shall have the power to institute injunction proceedings in superior court.

SECTION 3. This act shall take effect upon passage.

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LC00526/SUB A  
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NH

## CHAPTER 326

## HB 533 – FINAL VERSION

27Mar2007... 0688h

05/31/07 2015s

27Jun2007... 2321cofc

## 2007 SESSION

07-0581

05/10

HOUSE BILL **533**

AN ACT relative to Occupational Safety and Health Administration certification requirements for state contracts and establishing a commission to recommend a comprehensive program for increasing the use of passenger restraints in New Hampshire.

SPONSORS: Rep. DeJoie, Merr 11; Rep. Theberge, Coos 4; Rep. Clemons, Hills 24; Sen. Hassan, Dist 23; Sen. D'Allesandro, Dist 20; Sen. Gallus, Dist 1; Sen. Foster, Dist 13; Sen. DeVries, Dist 18

COMMITTEE: Labor, Industrial and Rehabilitative Services

## AMENDED ANALYSIS

This bill requires bidders on state and local building and public works contracts over \$100,000 to certify that the employees have completed an Occupational Safety and Health Administration construction safety program.

This bill also establishes a commission to recommend a comprehensive program for increasing the use of passenger restraints in New Hampshire.

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Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

27Mar2007... 0688h

05/31/07 2015s

27Jun2007... 2321cofc

07-0581

05/10

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Seven*

AN ACT relative to Occupational Safety and Health Administration certification requirements for state contracts and establishing a commission to recommend a comprehensive program for increasing the use

of passenger restraints in New Hampshire.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

326:1 New Section; Occupational Safety and Health Administration Certification. Amend RSA 277 by inserting after section 5 the following new section:

277:5-a Occupational Safety and Health Administration Certification.

I. Any person signing a contract to work on a construction, reconstruction, alteration, remodeling, installation, demolition, maintenance, or repair of any public work or building by a state agency, municipality, or instrumentality thereof, and with a total project cost of \$100,000 or more, shall have an Occupational Safety and Health Administration (OSHA) 10-hour construction safety program for their on-site employees. All employees are required to complete the program prior to beginning work. The training program shall utilize an OSHA-approved curriculum. Graduates shall receive a card from OSHA certifying the successful completion of the training program. This section shall apply to the construction, reconstruction, alteration, remodeling, installation, demolition, maintenance, or repair of any public work or building paid for in whole or in part with state funds.

II. Any employee required to complete the OSHA 10-hour construction safety program under this section who has not completed the program shall be subject to removal from the worksite if the employee does not provide documentation of having completed such program by the fifteenth day after the date the employee is found to be in noncompliance. Proof of such documentation provided by the employer shall constitute compliance with this section. The labor commissioner or commissioner's designee shall enforce this section.

III. The labor commissioner shall adopt rules under RSA 541-A relative to implementation and enforcement of this section. The commissioner may also assess a civil penalty of up to \$2,500; in addition, such an employer shall be assessed a civil penalty of \$100 per employee for each day of noncompliance. All funds collected under this section shall be deposited into the workers' compensation safety inspection fund established in RSA 281-A:64, IX. The labor commissioner shall appoint as many individuals as necessary to carry out the department's responsibilities under this section.

IV. The following individuals are exempt from the requirements of the OSHA 10-hour construction safety program:

(a) Law enforcement officers involved with traffic control or jobsite security.

(b) Flagging personnel who have completed the training required by the department of transportation.

(c) All relevant federal, state, and municipal government employees and inspectors.

(d) All individuals who are not considered to be on the site of work under the federal Davis-Bacon Act, including, but not limited to, construction and non-construction delivery personnel and non-trade personnel.

326:2 Safety Enhancement Program. Amend RSA 281-A:67, I to read:

I. There is hereby established a safety enhancement program to be administered by the commissioner. Such program shall include regional training and safety seminars open to all interested **employees and** employers.

326:3 Applicability. Sections 1 and 2 of this act shall apply to all contracts entered into on or after July 1, 2008.

326:4 Commission Established. There is established a commission to recommend a comprehensive program for increasing the use of passenger restraints in New Hampshire in order to reduce motor vehicle fatalities and serious injuries and the resulting costs.

326:5 Membership and Compensation.

I. The members of the commission shall be as follows:

- (a) Two members of the senate, appointed by the president of the senate.
- (b) Three members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The commissioner of the department of safety, or designee.
- (d) The commissioner of transportation, or designee.
- (e) One member of the automobile insurance industry, appointed by the insurance commissioner.
- (f) One member from the New Hampshire Medical Society, appointed by the society.
- (g) One member from the New Hampshire Emergency Nurses Association, appointed by such association.
- (h) One member from the New Hampshire Association of Emergency Medical Technicians, appointed by such association.
- (i) One representative of the New Hampshire Association of Fire Chiefs, appointed by such association.
- (j) One representative of the New Hampshire Association of Chiefs of Police, appointed by such association.
- (k) One member of the Brain Injury Association of New Hampshire, appointed by such association.
- (l) One member of the New Hampshire Civil Liberties Union, appointed by such organization.
- (m) One member of Safe Kids New Hampshire, appointed by such organization.
- (n) One member from the American Automobile Association, appointed by such association.
- (o) Two members of the public, one of whom shall have expertise in the field of public relations, appointed by the president of the senate.
- (p) Three members of the public, one of whom shall be a member of an organization that opposes mandatory seatbelts, appointed by the speaker of the house of representatives.
- (q) One member of the public, appointed by the governor.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

#### 326:6 Duties.

I. The commission shall:

- (a) Study the most effective strategies to increase the use of passenger restraints.
- (b) Analyze the insurance costs and economic benefits of increasing the use of passenger restraints.
- (c) Review the fatality and injury data regarding the health benefits of increased use of passenger restraints.
- (d) Identify public education strategies that would encourage voluntary use of passenger restraints.
- (e) Make recommendations for legislation to advance the goal of increasing the use of passenger restraints.

II. The commission may accept grants, donations, and other moneys from any source and may expend such moneys for the purposes of the commission.

326:7 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Eight members of the commission shall constitute a quorum.

326:8 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before July 31, 2008.

326:9 Effective Date.

I. Sections 1-3 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

Approved: July 16, 2007

Effective: I. Sections 1-3 shall take effect September 14, 2007.

II. Remainder shall take effect July 16, 2007.



NY



Tuesday, February 19, 2008

**Bill Text - A02721**

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S T A T E O F N E W Y O R K

2721--A

Cal. No. 671

2007-2008 Regular Sessions

I N A S S E M B L Y

January 18, 2007

Introduced by M. of A. JOHN, NOLAN, COLTON, PERALTA -- Multi-Sponsored by -- M. of A. BOYLAND, GALEF, GOTTFRIED, HEASTIE, LIFTON, V. LOPEZ, ORTIZ, PHEFFER, WEINSTEIN -- read once and referred to the Committee on Labor -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the labor law, in relation to providing that specifications and contracts for public work shall contain a provision that laborers, workers, and mechanics shall be certified as having completed a course in construction safety and health approved by OSHA that is at least ten hours in duration

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The labor law is amended by adding a new section 220-h to  
 2 read as follows:  
 3 S 220-H. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)  
 4 CONSTRUCTION SAFETY AND HEALTH COURSE. THE ADVERTISED SPECIFICATIONS FOR  
 5 EVERY CONTRACT FOR THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE AND/OR  
 6 REPAIR OF PUBLIC WORK TO WHICH THE STATE OR A MUNICIPALITY IS A PARTY,  
 7 WHERE THE TOTAL COST OF ALL WORK TO BE PERFORMED UNDER THE CONTRACT IS  
 8 AT LEAST TWO HUNDRED FIFTY THOUSAND DOLLARS, SHALL CONTAIN A PROVISION  
 9 REQUIRING THAT ALL LABORERS, WORKERS, AND MECHANICS EMPLOYED IN THE  
 10 PERFORMANCE OF THE CONTRACT ON THE PUBLIC WORK SITE, EITHER BY THE  
 11 CONTRACTOR, SUB-CONTRACTOR OR OTHER PERSON DOING OR CONTRACTING TO DO  
 12 THE WHOLE OR A PART OF THE WORK CONTEMPLATED BY THE CONTRACT, SHALL BE  
 13 CERTIFIED PRIOR TO PERFORMING ANY WORK ON THE PROJECT AS HAVING SUCCESS-  
 14 FULLY COMPLETED A COURSE IN CONSTRUCTION SAFETY AND HEALTH APPROVED BY  
 15 THE UNITED STATES DEPARTMENT OF LABOR'S OCCUPATIONAL SAFETY AND HEALTH  
 16 ADMINISTRATION THAT IS AT LEAST TEN HOURS IN DURATION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

LBD06636-03-7

1 S 2. The department of labor may promulgate rules and regulations  
2 necessary for the enforcement of the provisions of section one of this  
3 act.

4 S 3. This act shall take effect one year after it shall have become a  
5 law.

**Contact Webmaster**

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MA

# The General Laws of Massachusetts

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## PART I. ADMINISTRATION OF THE GOVERNMENT

### TITLE III. LAWS RELATING TO STATE OFFICERS

#### CHAPTER 30. GENERAL PROVISIONS RELATIVE TO STATE DEPARTMENTS, COMMISSIONS, OFFICERS AND EMPLOYEES

##### Chapter 30: Section 39S. Contracts for construction; requirements

Section 39S. (a) As used in this section the word "person" shall mean any natural person, joint venture, partnership corporation or other business or legal entity. Any person submitting a bid for, or signing a contract to work on, the construction, reconstruction, alteration, remodeling or repair of any public work by the commonwealth, or political subdivision thereof, or by any county, city, town, district, or housing authority, and estimated by the awarding authority to cost more than \$10,000, and any person submitting a bid for, or signing a contract to work on, the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency, estimated to cost more than \$10,000, shall certify on the bid, or contract, under penalties of perjury, as follows:

(1) that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (2) that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and (3) that all employees to be employed in the work subject to this bid have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration.

(b) Any employee found on a worksite subject to this section without documentation of successful completion of a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration shall be subject to immediate removal.

(c) The attorney general, or his designee, shall have the power to enforce this section including the power to institute and prosecute proceedings in the superior court to restrain the award of contracts and the performance of contracts in all cases where, after investigation of the facts, he has made a finding that the award or performance has resulted in violation, directly or indirectly, of subsection (b), and he shall not be required to pay to the clerk of the court an entry fee in connection with the institution of the proceeding.

# The General Laws of Massachusetts

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## PART I. ADMINISTRATION OF THE GOVERNMENT

### TITLE XXI. LABOR AND INDUSTRIES

#### CHAPTER 149. LABOR AND INDUSTRIES

##### FAIR COMPETITION FOR BIDDERS ON CONSTRUCTION, ETC., OF PUBLIC WORKS

#### Chapter 149: Section 44E. Filing of bids; forms; modular buildings

Section 44E. (1) Whenever general bids are invited for a contract subject to section 44A and whenever sub-bids are invited in connection with such a contract subject to subsection (1) of section 44F, the awarding authority shall prescribe 1 place for filing the general bids and 1 place for filing the sub-bids, which need not be the same place. Notwithstanding any general or special law, ordinance or by-law to the contrary, a bidder shall not be required to file a duplicate of his bid or sub-bid in any other place. For all projects where prequalification of general contractors is required, or where an awarding authority has elected to prequalify general contractors pursuant to subsection (a) of section 44D 1/2, an awarding authority shall request bids only from general contractors who have been so prequalified pursuant to subsections (a) to (j), inclusive, of section 44D 1/2. For all projects where prequalification of subcontractors is required, or where an awarding authority has elected to prequalify subcontractors pursuant to subsection (a) of section 44D 3/4, an awarding authority shall request bids only from subcontractors who have been so prequalified pursuant to subsections (a) to (j), inclusive, of section 44D 3/4.

(2) Every general bid submitted for a contract subject to section forty-four A shall be submitted on a form furnished by the awarding authority and containing the following provisions:

#### FORM FOR GENERAL BID

To the Awarding Authority:

A. The Undersigned proposes to furnish all labor and materials required for \_\_\_\_\_  
 in \_\_\_\_\_,

(project)

Massachusetts, in accordance with the accompanying plans and specifications prepared by \_\_\_\_\_  
 for \_\_\_\_\_

(name of architect or engineer)

the contract price specified below, subject to additions and deductions according to the terms of the specifications.

M.G.L. - Chapter 149, Section 44e

Page 2 of 6



B. This bid includes addenda numbered \_\_\_\_\_

C. The proposed contract price is \_\_\_\_\_

dollars (\$\_\_\_\_\_).

For alternate No. \_\_\_\_\_ Add \$ \_\_\_\_\_; Subtract \_\_\_\_\_

(Repeat preceding line for each alternate)

D. The subdivision of the proposed contract price is as follows:

Item 1. The work of the general contractor, being all work other than that covered by Item 2.  
\$ \_\_\_\_\_

Item 2. Sub-bids as follows:—



The undersigned agrees that each of the above named sub-bidders will be used for the work indicated at the amount stated, unless a substitution is made. The undersigned further agrees to pay the premiums for the performance and payment bonds furnished by sub-bidders as requested herein and that all of the cost of all such premiums is included in the amount set forth in Item 1 of this bid.

The undersigned agrees that if he is selected as general contractor, he will promptly confer with the awarding authority on the question of sub-bidders; and that the awarding authority may substitute for any sub-bid listed above a sub-bid filed with the awarding authority by another sub-bidder for the sub-trade against whose standing and ability the undersigned makes no objection; and that the undersigned will use all such finally selected sub-bidders at the amounts named in their respective sub-bids and be in every way as responsible for them and their work as if they had been originally named in this general bid, the total contract price being adjusted to conform thereto.

E. The undersigned agrees that, if he is selected as general contractor, he will within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the awarding authority, execute a contract in accordance with the terms of this bid and furnish a performance bond and also a labor and materials or payment bond, each of a surety company qualified to do business under the laws of the commonwealth and satisfactory to the awarding authority and each in the sum of the contract price, the premiums for which are to be paid by the general contractor and are included in the contract price.

The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work; that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and that he will comply fully with all laws and regulations applicable to awards made subject to section 44A.

The undersigned further certifies under the penalties of perjury that this bid is in all respects bona fide,

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fair and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the commonwealth under the provisions of section twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

Date \_\_\_\_\_

\_\_\_\_\_  
(Name of General Bidder)

By \_\_\_\_\_  
(Name of Person Signing Bid and Title)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(City and State)

(3) General bids shall be for the complete work as specified and shall include the names of sub-bidders and the amounts of their sub-bids; and the general contractor shall be selected on the basis of such general bids. Every general bid which is not accompanied by a bid deposit as prescribed by paragraph (2) of section forty-four B, or which otherwise does not conform with sections forty-four A to forty-four H, inclusive, or which is on a form not completely filled in, or which is incomplete, conditional or obscure, or which contains any addition not called for, shall be invalid; and the awarding authority shall reject every such bid. No such bid shall be rejected because of the failure to submit prices for, or information relating to, any item or items for which no specific space is provided in the bid form furnished by the awarding authority, but this sentence shall not be applicable to any failure to furnish prices or information required by this section.

General bids shall be publicly opened and read by the awarding authority forthwith after the time limit for filing thereof.

The bid price shall be the price set forth in a clearly designated place on the bid form for that purpose. No general bid shall be rejected (1) because the sum of the prices for all work of the general contractor and sub-bids does not equal the general bid price set forth on the bid form for that purpose or (2) because of error in setting forth the name, the sub-bid price of a sub-bidder, or the total sub-bids as long as the sub-bidder or sub-bidders designated are clearly identifiable, or (3) because the plans and specifications do not accompany the bid or are not submitted with the bid.

(4) A public agency may procure modular buildings in accordance with the provisions of this section.

The provisions of sections twenty-six to twenty-seven G, inclusive, shall not apply to the manufacture of modular buildings procured pursuant to this section, but shall apply to all work ordinarily and customarily performed on modular buildings at building sites, including, but not limited to, construction of foundations, attachment to external utilities, and installation and assembly of modular unit, including any assembly performed at any site in the commonwealth other than a place of manufacture. All applicable provisions of building codes and other laws shall apply thereto.



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The procurement of a modular building shall be deemed a building project for purposes of section thirty-nine A of chapter seven. The division of capital asset management and maintenance shall exercise control and supervision of the procurement of modular buildings by state agencies to the extent provided by sections forty A and forty B of chapter seven.

An awarding authority shall not procure a modular building to replace another modular building unless it has first certified that such replacement is necessary, cost-effective over the long term, and not detrimental to the public policy and interest and has set forth, in writing, a detailed explanation of its reasons for such certification.

When an awarding authority procures modular buildings as authorized by this section the awarding authority shall solicit competitive sealed proposals through a request for proposals which shall include:

- (1) the time and date for receipt of proposals, the address of the office to which the proposals are to be delivered, and the maximum time for proposal acceptance by the awarding authority;
- (2) the purchase description and all evaluation criteria that will be utilized;
- (3) all contractual terms and conditions applicable to the procurement; provided, however, that the contract may incorporate by reference a plan submitted by the selected offeror for providing the modular buildings;
- (4) a notice that every proposal shall be accompanied by a copy of an appropriate certificate of eligibility issued by the commissioner pursuant to section forty-four D, together with an update statement; and
- (5) except where the request for proposals calls for manufacture or delivery to the building site, a notice that every proposal shall be accompanied by a certification that the offeror is able to furnish labor that can work in concert with all other elements of labor employed or to be employed at the site of installation.

The request for proposals may incorporate documents by reference; provided, however, that the request for proposals specifies where prospective offerors may obtain such documents. The request for proposals shall provide for the separate submission of price, and shall indicate when and how the offerors shall submit the price. The awarding authority shall make copies of the request for proposals available to all persons on an equal basis.

Public notice of the request for proposals for modular buildings shall be published in accordance with the provisions of section forty-four J.

The awarding authority shall not open the proposals publicly, but shall open them in the presence of one or more witnesses at the time specified in the request for proposals. Notwithstanding the provisions of section seven of chapter four, until the completion of the evaluation, or until the time for acceptance specified in the request for proposals, whichever occurs earlier, the contents of the proposals shall remain confidential and shall not be disclosed to competing offerors. At the opening of proposals the awarding authority shall prepare a register of proposals. The register of proposals shall be open for public inspection. The awarding authority may open the price proposals at a later time, and shall open the price proposals so as to avoid disclosure to the individuals evaluating the proposals on the basis of criteria other than price.

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The awarding authority shall designate the individual or individuals responsible for the evaluation of the proposals on the basis of criteria other than price. The designated individuals shall prepare their evaluations based solely on the criteria set forth in the request for proposals. Such criteria shall include all standards by which acceptability will be determined as to quality, workmanship, results of inspections and tests, and suitability for a particular purpose, and shall also include all other measures that will be utilized. The evaluations shall specify in writing:

- (1) for each evaluation criterion, a rating of each proposal as highly advantageous, advantageous, not advantageous, or unacceptable and the reasons for such rating;
- (2) a composite rating for each proposal and the reasons for such rating;
- (3) recommendations for revisions, if any, to each proposed plan for providing the modular buildings which should be obtained by negotiation prior to awarding the contract to the offeror of the proposal; and
- (4) whether the modular buildings were manufactured within the commonwealth and whether such modular buildings were manufactured within the United States but outside the commonwealth.

The awarding authority shall unconditionally accept a proposal except as provided by this paragraph. An offeror may correct, modify or withdraw a proposal by written notice received in the office designated in the request for proposals prior to the time and date set for the opening of proposals. After such opening, an offeror may not change the price or any other provisions of the proposal in a manner prejudicial to the interest of the awarding authority or fair competition. The awarding authority shall waive minor informalities or allow the offeror to correct them. If a mistake and the intended offer are clearly evident on the face of the document, the awarding authority shall correct the mistake to reflect the intended correct offer and so notify the offeror in writing, and the offeror may not withdraw the offer. The awarding authority may permit an offeror to withdraw an offer if a mistake is clearly evident on the face of the document but the intended correct offer is not similarly evident.

Taking into consideration price and the evaluation criteria set forth in the request for proposals, the awarding authority shall determine the most advantageous proposal from a responsible, responsive, and eligible offeror. In determining the most advantageous proposal, the awarding authority shall give preference, other considerations being equal, in the following order: (a) modular buildings manufactured within the commonwealth; and (b) modular buildings manufactured outside of the commonwealth but within the United States. The awarding authority may condition an award on successful negotiation of any revisions recommended in the evaluation and shall explain in writing the reasons for omitting any such revisions from the contract. The awarding authority shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The parties may extend the time for acceptance by mutual agreement.

If the awarding authority awards the contract to an offeror who did not submit the lowest price, the awarding authority shall explain the reasons for the award in writing, specifying in reasonable detail the basis for determining that the quality of modular buildings under the contract will not exceed the awarding authority's actual needs or that the anticipated performance of the selected offeror justifies the additional cost, and shall maintain such explanation in its files for at least six years from the date of final payment under the contract.

Prior to execution of a contract pursuant to this section, the selected offeror shall furnish to the awarding authority a payment bond and a performance bond of a surety company qualified to issue bonds in the

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commonwealth and satisfactory to the awarding authority each in the sum of the contract price.

# The General Laws of Massachusetts

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## PART I. ADMINISTRATION OF THE GOVERNMENT

### TITLE XXI. LABOR AND INDUSTRIES

#### CHAPTER 149. LABOR AND INDUSTRIES

##### FAIR COMPETITION FOR BIDDERS ON CONSTRUCTION, ETC., OF PUBLIC WORKS

#### Chapter 149: Section 44F. Plans and specifications; sub-bids; form; contents

Section 44F. (1)(a) Every contract subject to section forty-four A shall include specifications and, if deemed necessary or convenient by the awarding authority, plans, detailing all labor and materials to be furnished thereunder. Such specifications shall have a separate section for each of the following classes of work if in the estimate of the awarding authority such class of work will exceed \$20,000: (a) roofing and flashing; (b) metal windows; (c) waterproofing, damp-proofing and caulking; (d) miscellaneous and ornamental iron; (e) lathing and plastering; (f) acoustical tile; (g) marble; (h) tile; (i) terrazzo; (j) resilient floors; (k) glass and glazing; (l) painting; (m) plumbing; (n) heating, ventilating and air-conditioning; (o) electrical work, including direct electrical radiation for heating; (p) elevators; (q) masonry work; and (r) any other class of work for which the awarding authority deems it necessary or convenient to receive sub-bids, provided that the awarding authority may, in addition, receive a combined sub-bid on the marble, tile and terrazzo work, but in that event, the marble, tile and terrazzo work shall each be a class of work for which the sub-bidder must list the information in a clearly designated place on the bid form for that purpose. Each separate section in the specifications prescribed or provided for by this paragraph shall state the time limit for filing sub-bids with the awarding authority, shall specify by number each sheet of plans showing work to be done by the subcontractor under such section, and shall require the subcontractor to install all materials to be furnished by him under such section other than materials which in the opinion of the awarding authority it is not customary under then current trade practices for such subcontractor to install and the installation of which is expressly required by another section of the specifications. Each class of work set forth in a separate section of the specifications pursuant to this section shall be a sub-trade designated in the appropriate category of the general bid form and shall be the matter of subcontract made on the basis of sub-bids in accordance with the procedure set forth in sections forty-four F(1)—(5).

Each separate section of the specifications required by the provisions of this section shall contain a paragraph describing by class of work and by reference to paragraph numbers in that section, each class of work, if any, requiring labor and materials which, in the opinion of the awarding authority based upon an investigation of the work involved, is customarily performed in that sub-trade under subcontract with a sub-bidder for that sub-trade, and which is estimated by the awarding authority to cost in excess of ten thousand dollars, and only each class of work so described shall be a class of work for which sub-bidder for that sub-trade must list the information required in the appropriate place designated on the bid form for that purpose.

Every contract subject to section forty-four A shall include specifications for the installation of weather protection and shall require that the general contractor shall install the same and that he shall furnish adequate heat in the area so protected during the months of November through March. Standards for

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such specifications shall be established by the commissioner of planning and operations in the executive office for administration and finance.

(2) Every sub-bid submitted in connection with a contract subject to section forty-four A for a sub-trade designated in item 2 of the general bid form pursuant to section forty-four E shall be submitted on a form furnished by the awarding authority and containing the following provisions:

FORM FOR SUB-BID

To all General Bidders Except those Excluded:

A. The undersigned proposes to furnish all labor and materials required for completing, in accordance with the hereinafter described plans, specifications and addenda, all the work specified in Section No. \_\_\_\_\_ of the specifications and in any plans specified in such section, prepared by

\_\_\_\_\_ for \_\_\_\_\_ in

(name of architect or engineer) \_\_\_\_\_ (project) \_\_\_\_\_, Massachusetts, for the contract

(city or town)

sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_).

For Alternate No. \_\_\_\_\_; Add \$ \_\_\_\_\_ Subtract \$ \_\_\_\_\_

[Repeat preceding line for each alternate]

B. This sub-bid includes addenda numbered \_\_\_\_\_

C. This sub-bid  may be used by any general bidder except:

\_\_\_\_\_  
\_\_\_\_\_

may only be used by the following general bidders:

\_\_\_\_\_  
\_\_\_\_\_

[To exclude general bidders, insert "X" in one box only and fill in blank following that box. Do not answer C if no general bidders are excluded.]

D. The undersigned agrees that, if he is selected as a sub-bidder, he will, within 5 days, Saturdays, Sundays and legal holidays excluded, after presentation of a subcontract by the general bidder selected as the general contractor, execute with such general bidder a subcontract in accordance with the terms of this sub-bid, and contingent upon the execution of the general contract, and, if requested so to do in the general bid by the general bidder, who shall pay the premiums therefor, or if prequalification is required pursuant to section 44D 3/4, furnish a performance and payment bond of a surety company qualified to

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(NA)

do business under the laws of the commonwealth and satisfactory to the awarding authority, in the full sum of the subcontract price.

E. The names of all persons, firms and corporations furnishing to the undersigned labor or labor and materials for the class or classes or part thereof of work for which the provisions of the section of the specifications for this sub-trade require a listing in this paragraph, including the undersigned if customarily furnished by persons on his own payroll and in the absence of a contrary provision in the specifications, the name of each such class of work or part thereto and the bid price for such class of work or part thereof are:



[Do not give bid price for any class or part thereof furnished by undersigned.]

F. The undersigned agrees that the above list of bids to the undersigned represents bona fide bids based on the hereinbefore described plans, specifications and addenda and that, if the undersigned is awarded the contract, they will be used for the work indicated at the amounts stated, if satisfactory to the awarding authority.

G. The undersigned further agrees to be bound to the general contractor by the terms of the hereinbefore described plans, specifications, including all general conditions stated therein, and addenda, and to assume toward him all the obligations and responsibilities that he, by those documents, assumes toward the owner.

H. The undersigned offers the following information as evidence of his qualifications to perform the work as bid upon according to all the requirements of the plans and specifications:—

- 1. Have been in business under present business name \_\_\_\_\_ years.
- 2. Ever failed to complete any work awarded? \_\_\_\_\_
- 3. List one or more recent buildings with names of the general contractor and architect on which you served as a sub-contractor for work of similar character as required for the above-named building.



4. Bank reference \_\_\_\_\_

I. The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work; that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and that he will comply fully with all laws and regulations applicable to awards of subcontracts subject to section 44F.

The undersigned further certifies under penalties of perjury that this sub-bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal

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entity. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the commonwealth under the provisions of section twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

Date \_\_\_\_\_

\_\_\_\_\_  
(Name of Sub-bidder)

By \_\_\_\_\_  
(Title and Name of Person Signing Bid)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(City and State)

(3) Every sub-bid in connection with a contract subject to section forty-four A for a sub-trade designated on the general bid form pursuant to section forty-four F(2) shall be for the complete work of the sub-trade as specified, and shall be filed with the awarding authority, in a sealed envelope, before twelve o'clock noon at least four days, Saturdays, Sundays and legal holidays excluded, before the day fixed by the awarding authority for the opening of general bids, and forthwith after the time limit for the filing thereof shall be publicly opened and read by the awarding authority, which, within two days thereafter, Saturdays, Sundays and legal holidays excluded, shall reject every sub-bid which is not accompanied by a bid deposit as prescribed in sub-section (2) of section forty-four B, or which otherwise does not conform with sections forty-four A to forty-four H, inclusive, or which is on a form not completely filled in, or which is incomplete, conditional or obscure, or which contains any addition not called for; provided, however, that the failure of the awarding authority to reject such a sub-bid within such period shall not validate such a sub-bid nor preclude the awarding authority from subsequently rejecting it. Not later than the second day, Saturdays, Sundays and legal holidays excluded, before the day fixed by the awarding authority for the opening of general bids, the awarding authority shall mail to every person on record as having taken a set of plans and specifications list of sub-bidders arranged by sub-trades and listing for each sub-trade the name, address and sub-bid price of every sub-bidder submitting a sub-bid thereon not rejected by the awarding authority and the general bidders excluded from using such sub-bid. A person shall not be named by a general bidder as a sub-bidder for a sub-trade on the general bid form unless such person is included for such sub-trade in said list. If a general bidder not excluded in said list from doing so names as a sub-bidder for a sub-trade on the general bid form a person included for such sub-trade in said list at the sub-bid price stated in said list, neither the general bid of such general bidder nor the general contract executed on the basis of such general bid shall be invalid or rejected because of the invalidity of such sub-bid, or because of error in said list, nor shall such general bid be rejected nor shall such general contract be invalid because of any invalid action taken by the awarding authority in connection with any sub-bid or sub-bids; but there shall be substitution of sub-bidders and adjustment of contract price as if paragraph (c) of section forty-four F(4) were applicable. No sub-bid shall be rejected because of the failure to submit prices for or information relating to, any item or items for which no space is provided in the sub-bid form furnished by the awarding authority; but this sentence shall not be applicable to any failure to furnish prices or information required by section forty-four F to be furnished in the Form for Sub-Bid.



Every sub-bidder duly filing a sub-bid with the awarding authority as aforesaid shall be bound thereby to every general bidder not excluded therein from the use thereof; and any variance from such sub-bid communicated to a general bidder shall be of no effect.

A performance and payment bond furnished by the subcontractor, either pursuant to the requirements of the prequalification process as established in section 44D 3/4 or at the request of a general contractor set forth in the general bid form, shall be for the benefit of the general contractor; shall secure the performance of the subcontract by the subcontractor; and shall indemnify and hold harmless the general contractor and the surety or sureties under the labor and materials or payment bond furnished by the general contractor to the awarding authority against (i) any and all loss and expense arising out of any and all claims in connection with the performance of the subcontract which would be required to be paid under the labor and materials or payment bond furnished by the general contractor to the awarding authority and (ii) attorneys' fees in the event that the subcontractor, after notice, fails to assume the defense of and defend such claims.

Each sub-bidder shall list in the sub-bid form the name and bid price of each person, firm or corporation performing each class of work or part thereof for which the section of the specifications for that sub-trade requires such listing; provided that, in the absence of a contrary provision in the specifications, any sub-bidder may, without listing any bid price, list his own name for any such class of work or part thereof and perform that work with persons on his own payroll, if such sub-bidder, after sub-bid opening, shows to the satisfaction of the awarding authority that he does customarily perform such class of work or the part thereof with employees on his own payroll who are mechanics or laborers as referred to in section twenty-six, and is qualified so to do.

If a sub-trade for which the awarding authority is required to take filed sub-bids constitutes the predominant work of the contract, the awarding authority may include that sub-trade work as part of the general bidder's work. The awarding authority shall award the general contract to the lowest responsible and eligible bidder who customarily performs that sub-trade with employees on his own payroll who are mechanics or laborers as referred to in said section twenty-six, except for any part of that sub-trade customarily performed by sub-contractors.

(4)(a)(1) If no sub-bid is filed for a sub-trade designated in the general bid form or if the only sub-bids which are filed are restricted to the use of one or more general bidders, the awarding authority may state, in an addendum issued with the list of sub-bidders required by subsection (3), that the general bidder shall include in the cost of his own work an amount to cover all the work required for any such sub-trade. The general contractor shall cause the work covered by such sub-trade to be done by a qualified and responsible sub-contractor, subject to the written approval of the awarding authority. If the awarding authority determines that any sub-contractor chosen by the general contractor under this section is not qualified or responsible, the general contractor shall obtain another sub-contractor who is satisfactory to the awarding authority with no adjustment in the general contractor's price.

(2) If a rejection of all sub-bids, other than as set forth above, for such a sub-trade occurs pursuant to subsection (1) of section forty-four E or subsection (3) of this section, the awarding authority shall state, in an addendum issued with the list of sub-bidders required by said subsection (3), the amount to be included by a general bidder on the general bid form for such sub-trade; and without in any way affecting other sub-bidders who have conformed to the prescribed bidding procedure, new sub-bids for such sub-trade shall be requested forthwith by written invitation to three or more qualified sub-bidders and shall be publicly opened and read by the awarding authority at a time and place to be specified in such invitation. The general contractor shall cause the work covered by such sub-trade to be done by the lowest responsible and eligible sub-bidder against whose standing and ability the general contractor makes no objection or, if there is no such sub-bidder, by such sub-contractor against whose standing and





ability the general contractor makes no objection and for such sum as the general contractor and the awarding authority may agree upon; and the contract price shall be adjusted by the difference between the sub-contract sum and the amount stated in the addendum. The general bidder shall include in the cost of his own work on the general bid form all expenses and profits on account of such adjustments.

(b) If, after the selection of the lowest responsible and eligible general bidder, it be decided to consider sub-bidders other than the ones named by such general bidder in his general bid, the awarding authority and such general bidder shall jointly consider all filed sub-bids not rejected under section forty-four F (3). Any agreement to substitute a sub-bid for the one named in the selected general bid shall result in an adjustment of the general bid price by the difference between the amount of the sub-bid originally named and the amount of the sub-bid substituted therefor. If by such substitutions the total adjusted general bid price of the general bidder first selected becomes greater than the original general bid price of the second lowest responsible and eligible general bidder, then the latter shall be selected and his sub-bidders similarly considered. If, by substitutions as hereinbefore provided, the total adjusted general bid price of the second selected general bidder becomes greater than the total adjusted general bid price of the general bidder first selected or greater than the original general bid price of the third lowest responsible and eligible general bidder, then the bidder having the lower of these two general bid prices shall be selected; provided, that if the third lowest responsible and eligible general bidder is selected, his sub-bidders shall be similarly considered. The general bidder finally selected by the aforementioned process of substitutions shall be the general bidder to whom the contract shall be awarded.

(c) If a selected sub-bidder fails, within 5 days, Saturdays, Sundays and legal holidays excluded, after presentation of a subcontract by the general bidder selected as the general contractor, to perform his agreement to execute a subcontract in the form hereinafter set forth with such general bidder, contingent upon the execution of the general contract, and, if required to do so pursuant to the prequalification process under section 44D 3/4 or if requested to do so by such general bidder in the general bid, to furnish a performance and payment bond as stated in his sub-bid such general bidder and the awarding authority shall select, from the other sub-bids duly filed with the awarding authority for such sub-trade and not rejected under section 44H the lowest responsible and eligible sub-bidder at the amount named in his sub-bid as so filed against whose standing and ability the general contractor makes no objection, and the contract price shall be adjusted by the difference between the amount of the sub-bid and the amount of the sub-bid of the delinquent sub-bidder.

The subcontract shall be in the following form:

SUBCONTRACT

THIS AGREEMENT MADE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, (insert year) by and between \_\_\_\_\_ a corporation organized and existing under the laws of \_\_\_\_\_ an individual doing business as \_\_\_\_\_ hereinafter called the "Contractor" and \_\_\_\_\_ a corporation organized and existing under the laws of \_\_\_\_\_ an individual doing business as \_\_\_\_\_ hereinafter called the "Subcontractor".

WITNESSETH that the Contractor and the Subcontractor for the considerations hereafter named, agree as follows:

1. The Subcontractor agrees to furnish all labor and materials required for the completion of all work specified in Section No. \_\_\_\_\_ of the specifications for \_\_\_\_\_ (Name of Sub-Trade) and the plans referred to therein and addenda No. \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ for the \_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_  
(complete title of the project and the project number taken from the title page of the specifications)  
all as prepared by \_\_\_\_\_

(Name of Architect or Engineer)

for the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) and the Contractor agrees to pay the Subcontractor said  
sum for said work. This price includes the following alternates (and other items set forth in the sub-bid):  
Alternate No(s). \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_

(a) The Subcontractor agrees to be bound to the Contractor by the terms of the hereinbefore described  
plans; specifications (including all general conditions stated therein) and addenda No. \_\_\_\_, and \_\_\_\_, and  
\_\_\_\_\_, and to assume to the Contractor all the obligations and responsibilities that the Contractor by those  
documents assumes to the

\_\_\_\_\_  
(Awarding Authority)

hereinafter called the "Awarding Authority", except to the extent that provisions contained therein are  
by their terms or by law applicable only to the Contractor.

(b) The Contractor agrees to be bound to the Subcontractor by the terms of the hereinbefore described  
documents and to assume to the Subcontractor all the obligations and responsibilities that the Awarding  
Authority by the terms of the hereinbefore described documents assumes to the Contractor, except to the  
extent that provisions contained therein are by their terms or by law applicable only to the Awarding  
Authority.

2. The Contractor agrees to begin, prosecute and complete the entire work specified by the Awarding  
Authority in an orderly manner so that the Subcontractor will be able to begin, prosecute and complete  
the work described in this subcontract; and, in consideration thereof, upon notice from the Contractor,  
either oral or in writing, the Subcontractor agrees to begin, prosecute and complete the work described  
in this Subcontract in an orderly manner and with due consideration to the date or time specified by the  
Awarding Authority for the completion of the entire work.

3. The Subcontractor agrees to furnish to the Contractor within a reasonable time after the execution of  
this subcontract, evidence of workers' compensation insurance as required by law and evidence of  
public liability and property damage insurance of the type and in limits required to be furnished to the  
Awarding Authority by the Contractor.

4. The Contractor agrees that no claim for services rendered or materials furnished by the Contractor to  
the Subcontractor shall be valid unless written notice thereof is given by the Contractor to the  
Subcontractor during the first ten (10) days of the calendar month following that in which the claim  
originated.

5. This agreement is contingent upon the execution of a general contract between the Contractor and the  
Awarding Authority for the complete work.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the date and year first

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above-written.

SEAL

ATTEST \_\_\_\_\_

(Name of Subcontractor)

By \_\_\_\_\_

SEAL

ATTEST \_\_\_\_\_

(Name of Contractor)

By \_\_\_\_\_

In the event that the contract between the general contractor and the awarding authority does not contain provisions granting to the awarding authority the right to terminate the general contract when the general contractor encounters financial difficulties or fails to make satisfactory progress, the general contractor may insert the following paragraph:

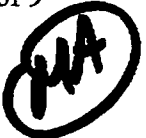
If the Subcontractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances or the instructions of the Contractor, or otherwise be guilty of a substantial violation of any provision of the contract, then the Contractor may, without prejudice to any other right or remedy and after giving the Subcontractor and his surety, if any, seven days' written notice, terminate the employment of the Subcontractor and take possession of the premises and of all materials, tools and appliances thereon and finish the work by whatever method he may deem expedient. In such case the Subcontractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work including compensation for additional architectural, managerial and administrative services, such excess shall be paid to the Subcontractor. If such expense shall exceed such unpaid balance, the Subcontractor shall pay the difference to the Contractor.

The contractor and subcontractor shall have the right to seek damages for breach of a subcontract without terminating the subcontract or ceasing performance thereunder.

All sub-bidders when finally selected shall be notified in writing of their selection within forty-eight hours thereafter by the general bidder.

In each case of substitution of a sub-bidder for a sub-bidder listed in the general bid of the selected general contractor, the selected general contractor may require the substituted sub-bidder to furnish a performance and payment bond, and the premiums for same shall be added to the general bidder's price for work to be performed by him except where the selected general contractor had indicated in his general bid that the original sub-bidder designated for that sub-trade, in which substitution was made, would be required to furnish such bond.

In the instances enumerated in paragraphs (1), (2) and (3) of this section, the general bidder's price for work to be performed by him shall also be adjusted by the amount of the change in the premium for the general contractor's performance bond and his labor and materials or payment bond caused by the



substitution.

(5) If a general bidder customarily performs, with employees on his own payroll who are mechanics or laborers as referred to in section twenty-six, a sub-trade for which the awarding authority invites sub-bids, he may submit a sub-bid for such sub-trade which shall be considered on a par with other sub-bids, and he shall also list under the appropriate sub-bid category in his general bid his own name and sub-bid price for such sub-trade. No such sub-bid shall be considered unless the general bidder can show (a) he does so customarily perform such sub-trade, and (b) he is qualified to do the sub-trade work.

In lieu of listing his name and sub-bid price in his general bid, such general bidder may list the name and amount of the lowest responsible and eligible sub-bidder for that sub-trade if (a) such sub-bidder's price is lower than his, (b) such sub-bid is available for his use; and (c) such sub-bid is not restricted to his use alone or to his use and that of another general bidder, or bidders.

MO

## Summary of the Truly Agreed Version of the Bill

CCS SS HCS HB 1549, 1771, 1395 & 2366 -- ILLEGAL ALIENS AND IMMIGRATION STATUS VERIFICATION

This bill changes the laws regarding illegal aliens and immigration status verification.

### ENFORCEMENT OF IMMIGRATION LAWS (Section 43.032, RSMo)

The Superintendent of the State Highway Patrol is required, subject to appropriations, to designate some or all members of the patrol to be trained in accordance with a memorandum of understanding between Missouri and the United States Department of Homeland Security concerning the enforcement of federal immigration laws during the course of their normal duties in Missouri.

### SANCTUARY POLICIES (Section 67.307)

Any county, city, town, or village is prohibited from enacting a sanctuary policy. Any municipality that enacts a sanctuary policy will be ineligible for money provided through grants administered by any state agency or department until the policy is repealed or is no longer in effect. Upon complaint by any state resident or before the provision or award of any funds or grants to any government entity, agency, or political subdivision, any member of the General Assembly may request that the Attorney General issue an opinion as to whether the government entity, agency, or political subdivision has a sanctuary policy. County and municipal law enforcement officers must be notified in writing of their duty to cooperate with state and federal agencies and officials regarding matters of immigration.

### PUBLIC BENEFITS (Section 208.009)

Aliens unlawfully present in the United States are prohibited from receiving a state or local public benefit unless it is offered under 8 U.S.C. 1621(b). Documentary evidence accepted by the Department of Revenue for obtaining a driver's license will suffice as proof of citizenship, permanent residency, or lawful immigration status when applying for benefits. Individuals can temporarily receive state or local public benefits for up to 90 days while obtaining the necessary documentation or indefinitely if the applicant provides a copy of a completed birth certificate application which is pending. Nonprofit organizations regulated by the Internal Revenue Service are not required to enforce these restrictions, nor are they prohibited from providing aid.

Agencies administering state or local public benefits must assist in the procurement of the required documentation for those persons who will be temporarily receiving benefits after signing an affidavit attesting to their lawful presence in the United States.

### MISCLASSIFICATION OF EMPLOYEES (Sections 285.309 and 285.500 - 285.515)

Employers with five or more employees are required to file federal 1099-miscellaneous forms with the Department of Revenue within the same deadline as the filing of Missouri Form 99 miscellaneous forms. On or after the fifth violation, an employer will be fined up to \$200 for each additional violation.

Employers are prohibited from knowingly misclassifying a worker as an independent contractor by failing to claim the worker as an employee when the employer knows that the worker is an employee. The Attorney General is given certain investigative and prosecutorial powers regarding misclassification of workers. Anyone violating this provision will be subject to a fine of \$50 per day per misclassified worker up to \$50,000.

#### FEDERAL EMPLOYMENT AUTHORIZATION (Sections 285.525 - 285.555)

Business entities and employers are prohibited from knowingly employing, hiring, or continuing to employ illegal aliens to perform work in Missouri. Participation in a federal work authorization program which enables employers to electronically verify employment eligibility is required for all public employers and business entities receiving a state contract or grant in excess of \$5,000 or a state-administered tax credit, tax abatement, or loan from the state. Participation in a federal work authorization program is an affirmative defense to an allegation that a business entity knowingly hired an illegal alien.

A general contractor or subcontractor will not be held liable under the provisions prohibiting employment of illegal aliens, even if the general contractor's or subcontractor's direct subcontractor hires an illegal alien, if the contract binding the contractor and subcontractor states that the direct subcontractor is not knowingly in violation of the prohibition and will not violate the prohibition and the contractor or subcontractor receives a sworn affidavit under penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.

Failing to provide identity information on employees within 15 business days after receipt of the request by the Attorney General will result in the suspension of a company's applicable local licenses, permits, and exemptions until the information is supplied.

Knowingly employing an illegal alien will result in the suspension of a company's applicable local licenses, permits, and exemptions for 14 days. A second violation will result in suspension for a period of one year, and a third or subsequent violation will result in permanent suspension.

A violation of the prohibition against employing illegal aliens by a business entity awarded a state contract or grant or state-administered tax credit, tax abatement, or loan from the state will result in the termination of the contract and the suspension or debarment of the business entity from doing business in this state for a period of three years. A second or subsequent violation will result in the termination of the contract and the permanent suspension or debarment of the business entity from doing business in this state. The state may withhold up to 25% of the total amount due to the business entity upon termination of the contract.

Any person who files a frivolous complaint not shown by clear and convincing evidence to be valid will be liable for the actual, compensatory, and punitive damages to the alleged violator.

Only the federal government can determine whether a worker is an unauthorized alien.

The Attorney General must maintain a database documenting any business entity whose license, permit, or exemption has been suspended or whose state contract has been terminated.

Failure by a municipality or county to suspend any applicable license or permit of a violator as directed by the Attorney General within 15 business days after notification will be deemed a violation of Section 67.307 governing sanctuary cities and will subject the municipality or county to the specified penalties.

If the federal government discontinues or fails to authorize any work authorization program, Sections 285.525 - 285.555 will be reviewed by the General Assembly to determine if they need to be repealed.

#### OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) TRAINING (Section 292.675)

Contractors and subcontractors who contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within 60 days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body \$2,500 plus \$100 a day for each employee who is employed without training. Public bodies and contractors may withhold assessed penalties from the payment due to those contractors and subcontractors.

#### DRIVER'S LICENSES (Sections 302.063, 302.720, and 578.570)

The Department of Revenue is prohibited from issuing driver's licenses to illegal aliens and persons who cannot prove lawful presence in the United States. Missouri will not extend full faith and credit to out-of-state driver's licenses issued to illegal aliens.

The commercial driver's license written test must only be given in English. Translators will not be allowed for applicants taking the test.

Penalties for driver's license fraud are established. A person is prohibited from:

- (a) Assisting any person during a driver's license, nondriver's license, or instruction permit examination process when that person knows or recklessly disregards the truth that a fraud or deception is being committed;
- (b) Assisting any person in applying for a driver's license, nondriver's license, or instruction permit when that person knows or recklessly disregards the truth that the application contains or is substantiated with false or fraudulent information or documentation, conceals a material fact, or is otherwise fraudulent; or
- (c) Engaging in a conspiracy to commit any of the preceding acts or aiding or abetting in the commission of any of the acts.

Any person who violates a provision of the bill regarding driver's license fraud will be guilty of a class A misdemeanor.

#### BAIL (Section 544.470)

If a judge reasonably believes that a person is an illegal alien,



bail will be denied at least until the person can provide verification of lawful presence in the United States, at which time a judge must determine whether release on bail is otherwise warranted. If lawful presence verification cannot be provided, a person must be held in custody until discharged by due course of law.

#### TRANSPORTING ILLEGAL ALIENS (Section 577.722)

The crime of knowingly transporting an illegal alien in this state for the purpose of trafficking in violation of Sections 566.200 - 566.215, drug trafficking in violation of Sections 195.222 and 195.223, prostitution in violation of Chapter 567, or employment is created. Any person committing this crime will be guilty of a felony punishable with imprisonment for not less than one year, a fine of not less than \$1,000, or both.

#### IMMIGRATION STATUS VERIFICATION UPON ARREST (Section 577.900)

An arresting law enforcement agency is required to verify within 48 hours through the United States Department of Homeland Security the lawful immigration status of a person charged with a crime and held in confinement if verification cannot be made from documents in the possession of the prisoner or after a reasonable effort by the arresting agency. Upon verification that the prisoner is an illegal alien, the arresting agency must notify the federal department. Until August 28, 2009, this provision will only apply to officers employed by the State Highway Patrol, State Water Patrol, Capitol Police, State Fire Marshal's Office, and Division of Alcohol and Tobacco Control within the Department of Public Safety.

#### COMMUNICATION WITH FEDERAL OFFICIALS (Section 650.681)

No government entity or official or political subdivision can prohibit or restrict any other government entity or official from communicating or cooperating with federal officials on the immigration status of any person in this state. No person or agency can prohibit or restrict any public employee from communicating or cooperating with local, state, or federal officials on the immigration status of any person in this state.

Upon complaint by any state resident or before the provision or award of any funds or grants to any government agency or political subdivision, any member of the General Assembly may request that the Attorney General issue an opinion as to whether the government agency or political subdivision has policies prohibiting or restricting public officials or employees from communicating or cooperating with local, state, or federal officials on the immigration status of any person in this state.

The provisions regarding sanctuary policies, federal employment authorization, and communication with federal officials become effective January 1, 2009, and the provisions regarding OSHA training become effective August 28, 2009.

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[Missouri House of Representatives](#)  
94th General Assembly, 2nd Regular Session  
Last Updated October 15, 2008 at 3:10 pm

NV

CHAPTER.....

AN ACT relating to occupational safety; requiring employees on a construction site to receive certain health and safety training; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

**Section 10** of this bill requires: (1) supervisory employees working on a construction site to complete a specified 30-hour health and safety course not later than 15 days after being hired; and (2) all other construction workers working on the construction site to complete a specified 10-hour course not later than 15 days after being hired.

**Section 8** of this bill requires the Division of Industrial Relations of the Department of Business and Industry to adopt regulations approving courses which may be used to fulfill the requirements of **section 10**. **Section 8.5** of this bill requires providers of approved courses to display the card evidencing their authorization by the Occupational Safety and Health Administration of the United States Department of Labor to provide such a course at the location at which the course is being provided.

**Section 11** of this bill requires employers to suspend or terminate the employment of an employee on a construction site who fails to provide proof of obtaining the required training not later than 15 days after being hired. **Section 12** of this bill provides for administrative fines for employers who fail to suspend or terminate certain employees on a construction site after the 15-day period if those employees have not obtained the required training.

**Section 15** of this bill: (1) allows employees to satisfy the requirements of **section 10** of this bill by completing an alternative course offered by their employer; (2) requires an employee that satisfies the requirements of **section 10** by completing an alternative course to take an approved course before January 1, 2011; and (3) requires an employer to maintain and make available to the Division of Industrial Relations a record of all employees that have completed an alternative course until a date to be established by the Division by regulation.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Construction site” means any location at which construction work is being commenced or is in progress.*

**Sec. 3.5. 1.** *“Construction worker” means a person who actually performs physical work at a construction site:*



*(a) That results in the construction, alteration or destruction involved in the construction project, including, without limitation, painting and decorating; or*

*(b) Who supervises any person engaged in work described in paragraph (a).*

*2. The term does not include a person to the extent that the person performs or supervises another person who performs work which is conducted:*

*(a) For the upkeep of an existing property for which a certificate of occupancy has been issued by the appropriate building inspector or other authority; and*

*(b) To prevent the property from degrading, to maintain the property in its original condition or to maintain the operational soundness of the property, including, without limitation, by repairing components of the property or by replacing components of the property with the same or similar components.*

**Sec. 4.** *“OSHA-10 course” means a 10-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.*

**Sec. 5.** *“OSHA-30 course” means a 30-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.*

**Sec. 6.** *“Supervisory employee” means any person having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee’s workday.*

**Sec. 6.5.** *The provisions of sections 2 to 12, inclusive, of this act do not apply to:*

- 1. The Department of Transportation; or*
- 2. An employee of the Department of Transportation while performing his duties as an employee of the Department.*

**Sec. 7.** *The Division may adopt such regulations as are necessary to carry out the provisions of sections 2 to 12, inclusive, of this act.*



**Sec. 8. 1.** *The Division shall, by regulation, approve OSHA-10 courses and OSHA-30 courses for the purposes of fulfilling the requirements of section 10 of this act.*

*2. The Division shall establish a registry to track the providers of courses approved pursuant to subsection 1.*

*3. The Division shall adopt regulations that set forth guidelines for job-specific training to qualify as continuing education for the purposes of section 10 of this act.*

**Sec. 8.5. 1.** *Each trainer shall display his trainer card in a conspicuous manner at each location where he provides an OSHA-10 course or OSHA-30 course.*

*2. No person other than a trainer may provide an OSHA-10 course or OSHA-30 course.*

*3. As used in this section:*

*(a) "Trainer" means a person who is currently authorized by the Occupational Safety and Health Administration of the United States Department of Labor as a trainer, including, without limitation, a person who has completed OSHA 500, the Trainer Course for the Construction Industry.*

*(b) "Trainer card" means the card issued upon completion of OSHA 500, the Trainer Course for the Construction Industry, which reflects the authorization of the holder by the Occupational Safety and Health Administration of the United States Department of Labor to provide OSHA-10 courses and OSHA-30 courses.*

**Sec. 9.** (Deleted by amendment.)

**Sec. 10. 1.** *Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must:*

*(a) Obtain a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act; or*

*(b) Complete an OSHA-10 alternative course which is offered by his employer.*

*2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must:*

*(a) Obtain a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act; or*

*(b) Complete an OSHA-30 alternative course which is offered by his employer.*

*3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:*



(a) *Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or*

(b) *Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:*

(1) *For a completion card issued for an OSHA-10 course, not less than 5 hours; or*

(2) *For a completion card issued for an OSHA-30 course, not less than 15 hours.*

4. *As used in this section:*

(a) *“OSHA-10 alternative course” means a 10-hour course offered to the employees of an employer that:*

(1) *Is approved by the safety committee of the employer established pursuant to NRS 618.383; and*

(2) *Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.*

(b) *“OSHA-30 alternative course” means a 30-hour course offered to the employees of an employer that:*

(1) *Is approved by the safety committee of the employer established pursuant to NRS 618.383; and*

(2) *Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.*

**Sec. 11.** *1. If a construction worker other than a supervisory employee fails to:*

(a) *Present his employer with a current and valid completion card for an OSHA-10 course; or*

(b) *Complete an OSHA-10 alternative course offered by his employer,*

*↪ not later than 15 days after being hired, his employer shall suspend or terminate his employment.*

*2. If a supervisory employee on a construction site fails to:*

(a) *Present his employer with a current and valid completion card for an OSHA-30 course; or*



*(b) Complete an OSHA-30 alternative course offered by his employer,*

*↳ not later than 15 days after being hired, his employer shall suspend or terminate his employment.*

*3. As used in this section:*

*(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:*

*(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and*

*(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.*

*(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:*

*(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and*

*(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.*

**Sec. 12. 1.** *If the Division finds that an employer has failed to suspend or terminate an employee as required by section 11 of this act, it shall:*

*(a) Upon the first violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than \$500.*

*(b) Upon the second violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than \$1,000.*

*(c) Upon the third and each subsequent violation, impose upon the employer the penalty provided in NRS 618.635 as if the employer had committed a willful violation.*

*2. For the purposes of this section, any number of violations discovered in a single day constitute a single violation.*

*3. Before a fine or any other penalty is imposed upon an employer pursuant to this section, the Division must follow the procedures set forth in this chapter for the issuance of a citation, including, without limitation, the procedures set forth in*



***NRS 618.475 for notice to the employer and an opportunity for the employer to contest the violation.***

**Sec. 13.** Section 10 of this act is hereby amended to read as follows:

Sec. 10. 1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must ~~[-~~

~~-(a) Obtain]~~ **obtain** a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act. ~~[-or~~

~~-(b) Complete an OSHA 10 alternative course which is offered by his employer.]~~

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must ~~[-~~

~~-(a) Obtain]~~ **obtain** a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act. ~~[-or~~

~~-(b) Complete an OSHA 30 alternative course which is offered by his employer.]~~

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

**Sec. 14.** Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. If a construction worker other than a supervisory employee fails to ~~[-~~

~~-(a) Present]~~ **present** his employer with a current and valid completion card for an OSHA-10 course ~~[-or~~

~~-(b) Complete an OSHA 10 alternative course offered by his employer,-~~

~~→]~~ not later than 15 days after being hired, his employer shall suspend or terminate his employment.





2. If a supervisory employee on a construction site fails to ~~[-~~

~~—(a) Present]~~ **present** his employer with a current and valid completion card for an OSHA-30 course ~~[- or-~~

~~—(b) Complete an OSHA-30 alternative course offered by his employer;~~

~~→]~~ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

~~[3.—As used in this section:~~

~~—(a) “OSHA 10 alternative course” means a 10 hour course offered to the employees of an employer that:~~

~~—(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~—(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA 10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~

~~—(b) “OSHA 30 alternative course” means a 30 hour course offered to the employees of an employer that:~~

~~—(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~—(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA 30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.]~~

**Sec. 15.** 1. Not later than January 1, 2011, an employee that satisfies the requirements of subsection 1 or 2 of section 10 of this act by completing an OSHA-10 alternative course or OSHA-30 alternative course, as defined in section 10 of this act, must complete an OSHA-10 course or OSHA-30 course, as defined in sections 4 and 5 of this act, as applicable, in order to continue to satisfy the requirements of subsection 1 or 2 of section 10 of this act.

2. An employer shall maintain a record of all employees that have completed an OSHA-10 alternative course or OSHA-30 alternative course offered by the employer and the date upon which the employee completed the course. The employer shall make the record available at all times for inspection by the Division of



Industrial Relations of the Department of Business and Industry and its authorized agents.

3. The Division of Industrial Relations shall, by regulation, establish the length of time that an employer must maintain the record described in subsection 2.

**Sec. 16.** 1. This section and sections 1 to 12, inclusive, and 15 of this act become effective on January 1, 2010.

2. Sections 13 and 14 of this act become effective on January 1, 2011.



NYC

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2008**

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**No. 41**

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Introduced by Council Members Dilan, Gerson, Comrie, Gentile, James, Koppell, Seabrook, Stewart, Weprin, Jackson, Dickens, White Jr., Gonzalez, Lappin, Sears, Garodnick and Vallone, Jr. (by request of the Mayor).

**A LOCAL LAW**

**To amend the administrative code of the city of New York in relation to enhanced site-specific safety plans.**

*Be it enacted by the Council as follows:*

Section 1. Items 18 and 19 of section 28-110.1 of the administrative code of the city of New York, as added by local law 33 of 2007, are amended to read as follows and section 28-110.1 is further amended by adding new items 20 and 21 to read as follows:

18. A copy of the proposed site safety manager or site safety coordinator certificate, as applicable, including the certificate for any alternate site safety manager or site safety coordinator; [and]

19. Such features requiring special sequencing in order to maintain safe conditions with a written description of those sequences[.];

*20. The site safety plan shall include a statement that prior to performing any work on the project all workers shall have successfully completed, within the previous five calendar years, a ten hour course approved by the United States Department of Labor Occupational Safety and Health Administration in construction industry safety and health, or by the commissioner covering substantially the same material. Successful completion of such training course shall be evidenced by (a) presentation of a bona fide course completion card, (b) copy of such card, (c) a training roster, attendance record or other documentation from the certified trainer pending the issuance of such card*

*or (d) other valid proof which may be approved by the commissioner. Such evidence shall be readily available to the commissioner upon request; and*

*21. A statement that all workers employed on the site will receive a site-specific safety orientation program. This program shall include a review of any hazardous activities of the job that are relevant to the tasks and activities to be performed. All workers must attend such a program no later than seven days after commencing their employment.*

§2. This local law shall take effect ninety days from enactment, except that the commissioner of buildings shall promulgate rules and take such other actions necessary for its implementation prior to such effective date.

The City of New York, Office of the City Clerk s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on August 14, 2008 and approved by the Mayor on September 3, 2008.

Michael McSweeney, First Deputy City Clerk  
Acting City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 041 of 2008, Council Int. No. 790-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on August 14, 2008:  
49 For, 0 Against, 0 Not Voting  
Was signed by the Mayor on September 3, 2008  
Was returned to the City Clerk on September 3, 2008.

Jeffrey D. Friedlander, Acting Corporation Counsel.