

OSHA Safety for Public Sector

Highlights of Updated Law M.G.L. c149 §6 ½

March 9, 2018

On March 9, 2018 Governor Baker signed a bill that amends M.G.L. chapter 149 §6 ½. The law was updated to clarify employee safety requirements in public sector workplaces, and is enforced by the Department of Labor Standards (DLS).

Highlights:

- Clarifies that the definition of public sector workplace includes counties, municipalities, all state agencies, quasi-public independent entities, courts, bureaus, commissions, divisions or authorities of the commonwealth, political subdivisions, and public colleges and universities.
- Clarifies that public sector employers are required to provide methods to reduce work-related injury and illness, which meet the minimum requirements provided under OSHA.

Why the Law Was Updated

- The original law, M.G.L. chapter 149 §6 ½ did not contain the phrasing for OSHA compliance because it was written before 1970, when OSHA was enacted.

How Safety Requirements are Enforced

- DLS conducts safety and health inspections of public sector workplaces. Federal OSHA inspectors will not inspect public sector employers. The updated law clarifies the public sector employer's obligations and does not change current DLS procedures.

How Workplaces are Selected for Inspection

DLS prioritizes inspections in the following order. DLS makes an appointment for all inspections, with the exception of "Imminent" inspections.

- **Imminent Hazard:** DLS inspectors stop at active trenches, aerial lift operations, and roofing to ensure safety equipment and procedures are used.
- **Accident Investigation:** DLS inspects workplaces in response to a worker injury. Examples of recent inspections include amputation, electric shock, fall from ladder, broken leg, crushed hand, trench collapse, and flash fire.
- **Voluntary:** An employer can request a voluntary safety and health audit.
- **Complaint:** DLS responds to complaints about workplace safety conditions. Examples of complaints include ladder handling, lack of respirators, and facility maintenance.
- **Planned Programmed Inspection:** DLS conducts a representative number of inspections in workplaces expected to contain machinery or other hazards. Examples of recent inspections include wastewater treatment plants, drinking water plants, highway departments, municipal electric power, school kitchens, and crossing guard locations.

Frequent Discussions:

- 1. The amended law does not replace OSHA.** OSHA continues to have jurisdiction for private sector employers.
- 2. Massachusetts requirements are as strict as OSHA.** No stricter or more lenient.
- 3. The effective date is February 1, 2019.** However, the original Mass General Laws are still in effect. DLS will continue to conduct safety and health inspections in the interim, and will conduct outreach to familiarize employers with their responsibilities.
- 4. Massachusetts may pursue becoming an OSHA State Plan State.** An OSHA State Plan is a program that is approved, partially funded, and audited by OSHA. In order to become an official State Plan, DLS must submit an application to federal OSHA. There are currently five states that have a State Plan which covers public sector workplaces only, and use federal OSHA for private sector: Connecticut; Illinois; Maine; New Jersey; and New York. Whether or not Massachusetts is an OSHA State Plan does not affect the authority of DLS to enforce workplace standards at least as stringent as OSHA.
- 5. Public sector employers may get fined.** DLS has the authority to issue fines. The enforcement approach used by DLS is to issue an order for corrective action to employers for a first offense. When corrective actions are completed within the timeframe specified, a fine is not issued.
- 6. When to notify DLS about an injury -** Contact DLS within 24 hours if an accident causes a death, amputation, loss of an eye, loss of consciousness, or inpatient hospitalization at 508-616-0461 or safepublicworkplace@state.ma.us. For these and all other injuries, continue to follow your current workers' compensation procedures and file First Reports with the Department of Industrial Accidents.
- 7. When to keep an OSHA 300 Log -** Complete an OSHA 300 Log if you receive a letter from the Bureau of Labor Statistics requesting a copy of your log. Complete an OSHA 300 Log if requested by a DLS inspector. Do not enter your logs on the osha.gov website. More details to follow in 2019.
- 8. Training requirements are job specific.** Safety training depends on the tasks and equipment handled by employees, such as aerial lifts, trenches, ladders, or chainsaws. For a summary, see the DLS website at www.mass.gov/dols/wshp and <https://www.osha.gov/Publications/osha2254.pdf>.
- 9. OSHA 10 training is not required.** OSHA 10 training is not required of all employees under updated MGL c149 §6 ½. However, there is a public bidding law that requires OSHA 10 training on publicly bid construction projects over \$10,000. Provide this training if that law applies to your workers.
- 10. Requirements for a private contractor performing work on public property are the same as before.** Private sector employers are required to comply with OSHA standards. An enforcement inspection can be conducted by federal OSHA inspectors.
- 11. DLS provides tools to help prepare for compliance.** Self-audit checklists are available for public workplaces. See www.mass.gov/dols/wshp