

# HOUSE . . . . . No. 3069

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By Mr. Bassett of Lynn, petition of Timothy A. Bassett and other members of the General Court and another relative to notifying employees involved with the removal, containment or encapsulation of asbestos. Commerce and Labor.

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## **The Commonwealth of Massachusetts**

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Petition signed by:

Timothy A. Bassett  
Robert D. Wetmore  
Paul J. Eustace  
Marie-Louise Kehoe  
James G. Collins  
William P. Nagle, Jr.  
Michael F. Flaherty  
John W. Olver  
Chester A. Suhoski  
George Bachrach

Gerald D'Amico  
Paul V. Doane  
Louis P. Bertonazzi  
Paul D. Harold  
Christopher J. Hodgkins  
Frances F. Alexander  
Sherwood Guernsey  
Vincent J. Piro  
Patricia McGovern

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**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Four.

AN ACT TO PROTECT WORKERS INVOLVED WITH REMOVAL, CONTAINMENT OR ENCAPSULATION OF ASBESTOS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 149 of the General Laws is hereby  
2 amended by adding after Section 6 the following new section: —  
3 *Section 6A.* The department, subject to the provisions of Sec-  
4 tions 10, 17 and 79 of this Chapter, shall monitor, inspect and  
5 investigate all work, including construction, demolition, altera-  
6 tion or repair, of any building or structure owned by the Com-  
7 monwealth or any of its political subdivisions or Authorities,  
8 where such work involves the use or handling of asbestos or  
9 material containing asbestos.

1 SECTION 2. Chapter 149 of the General Laws is hereby  
2 amended by adding after the last sentence of Section 44D the  
3 following: — “The prequalification statement for projects where  
4 any work involves the removal, containment or encapsulation of  
5 asbestos or material containing asbestos, must contain evidence of  
6 a current license issued under this chapter. Failure to furnish such  
7 evidence shall be considered a fatal defect in the application.”

1 SECTION 3. Section 44F of Chapter 149 of the General Laws  
2 as most recently amended by Chapter 579 of the Acts of 1980 is

3 hereby further amended by striking out clause "r" of subsection 1  
4 and inserting in place thereof the following clauses: —

5 (r) removal, containment or encapsulation of asbestos contain-  
6 ing materials; and

7 (s) any other class of work for which the awarding authority  
8 deems it necessary or convenient to receive sub-bids;

1 SECTION 4. Section 27D of Chapter 149 of the General Laws  
2 is hereby amended by inserting the following after 'and the paint-  
3 ing of public buildings, and public works;' "— removal, contain-  
4 ment or encapsulation of asbestos or material containing asbes-  
5 tos;"

1 SECTION 5. Chapter 149 of the General Laws is hereby  
2 amended by adding after Section 7 the following new section: —  
3 *Section 7A.* There shall be created within the department an  
4 Asbestos Control Board which shall have the authority to promul-  
5 gate, adopt and enforce rules and regulations relative to the pro-  
6 tection of the occupational health and safety of workers engaged in  
7 the use, handling, removal and disposal of asbestos or asbestos-  
8 containing materials including, but not limited to the construc-  
9 tion, demolition, alteration and repair of all public buildings and  
10 structures under the jurisdiction of any state, county or municipal  
11 awarding authority. The Asbestos Control Board shall make  
12 recommendations to the Commissioner of Public Safety concern-  
13 ing revisions to the State Building Code. The Commissioner of  
14 Public Safety shall promptly advise the Asbestos Control Board as  
15 to the disposition of such recommendations. The Board shall have  
16 the authority to license contractors, promulgate rules and regula-  
17 tions and enforce such rules and regulations as required in accord-  
18 ance with the provisions of Section 8 of Chapter 149. The Board  
19 shall consist of the Commissioner of Labor and Industries as  
20 Chairperson, the Commissioner of Public Health, or designee, the  
21 Commissioner of the Department of Environmental Quality  
22 Engineering, or designee, the Director of the Division of Occupa-  
23 tional Hygiene, or designee, and three members to be appointed by  
24 the Governor for a term of three years, these positions to expire on  
25 a rotating basis, and to include a building commissioner from a  
26 city or town of the Commonwealth, a member of the Massachu-

27 setts State Building and Construction Trades Council, AFL-CIO  
28 and a member of the Associated General Contractors of Massa-  
29 chusetts. The members of the Board will serve without compensa-  
30 tion but will be reimbursed for properly incurred expenses subject  
31 to existing state regulations.

1 SECTION 6. Chapter 149 of the General Laws is hereby amended  
2 by adding after Section 9 the following new section: —

3 *Section 9A.* No employee shall be discriminated against in any  
4 manner for filing a complaint with the department for refusing to  
5 work under conditions which are determined by the department to  
6 constitute a serious health or safety hazard as defined by the rules  
7 and regulations promulgated under Section 7A of this Chapter. If  
8 the Commissioner determines through an adjudicatory hearing  
9 pursuant to Chapter 30A of the General Laws that such discrimina-  
10 tion has occurred the Commissioner may take such remedial  
11 action as appropriate including the issuance of cease and desist  
12 orders and any appropriate civil remedies.

1 SECTION 7. Chapter 149 of the General Laws is hereby  
2 amended by adding after Section 6 the following new section: —

3 *Section 6B.* Whoever violates a non-serious hazard or work  
4 practice as defined in any rule or regulation promulgated under  
5 Section 7A, shall be fined not more than \$500 for each offense.  
6 Any person who willingly violates any rule, regulation or require-  
7 ment as established by the Asbestos Control Board or any other  
8 controlling department of the Commonwealth, may, by virtue of  
9 said violation cause a workplace where said violation exists to be  
10 closed, and, shall be punished by a fine of not more than \$5,000 for  
11 the first offense, \$10,000 for the second offense and if a license  
12 holder, revocation of license for a period not to exceed one year for  
13 third and subsequent offenses. In the enforcement of this section,  
14 the department may file a written complaint with the District  
15 Court in the jurisdiction in which the violation occurs.