



Town of Sturbridge

James J. Malloy, Town Administrator
Email: jmalloy@town.sturbridge.ma.us

#0323

October 23, 2003

RECEIVED

OCT 28 2003

OFFICE OF STATE AUDITOR
DIVISION OF LOCAL MANDATES

Thomas F. Collins, Director
Division of Local Mandates
State Auditor's Office
10 West Street, 6th Floor
Boston, MA 02111

RE: Division of Industrial Accidents – MGL Ch. 152, §25A

Dear Mr. Collins:

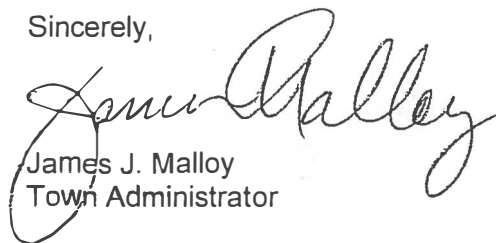
Attached please find a letter received September 26, 2003 from the Chief Counsel of the Division of Industrial Accidents indicating that municipal governments are required to enforce MGL Ch. 152, § 25A.

Given that municipal governments issue thousands of permits and licenses each year, the additional administrative burden and costs associated with implementing this requirement constitutes an unfunded mandate under MGL Ch. 29, § 27C. On behalf of the Town of Sturbridge and all other municipal governments in the Commonwealth, I am formally requesting that the Division of Local Mandates review this law to determine whether it is indeed an unfunded mandate.

Information from the state's website indicates that the Division of Industrial Accident's budget has increased by 8.3% (\$1.4 million) over the past two fiscal years. This additional burden is being placed on communities such as Sturbridge that experienced a 21.7% (\$486,855) reduction in State Aid during the same period which makes this legal requirement especially difficult to comply with.

On behalf of the Town of Sturbridge, I appreciate your review of this request.

Sincerely,



James J. Malloy
Town Administrator

Cc: Sturbridge Board of Selectmen
Senator Stephen Brewer
Representative Reed Hillman



The Commonwealth of Massachusetts
Department of Industrial Accidents

600 Washington Street
Boston, Massachusetts 02111

MITT ROMNEY

Governor

KERRY HEALEY

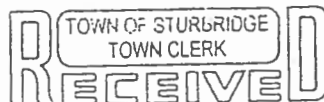
Lieutenant Governor

Town Clerk

Town of Sturbridge

308 Main Street

Sturbridge, MA 01566



SEP 26 2003

JANE C. EDMONDS

Director of Labor and Workforce Development

ANGELO R. BUONOPANE

Commissioner

September 25, 2003

RE: Requirement of all parties seeking permits and licenses under M.G.L. c. 152

Dear Sir or Madam,

Pursuant to M.G.L. c. 152, §25A, all employers conducting business in the Commonwealth of Massachusetts must carry a valid workers' compensation policy at all times. Please be advised that no business or organization may be issued a license and/or permit, as required by local by-law or ordinance, without providing proof of workers' compensation coverage. Proof of coverage should be verified by contacting the insurance carrier directly or the Department of Industrial Accidents (DIA), Office of Insurance at 800-323-3249.

Should any party seeking a permit declare that they are not required to carry workers' compensation insurance, they must sign a sworn affidavit that no such coverage is required per the above mentioned statute. Attached please find a copy of the DIA Workers' Compensation Insurance Affidavit. A copy of the signed affidavit must be sent to the DIA at the above address. We request that you disseminated this letter to all offices, boards and commissions within your municipality that have the authority to issue any licenses or permits.

Sincerely,

Gregory J. White
Chief Legal Counsel



The Commonwealth of Massachusetts
Department of Industrial Accidents
Office of Investigations
600 Washington Street
Boston, Mass. 02111

Workers' Compensation Insurance Affidavit: Building/Plumbing/Electrical Contractors

Applicant Information:

Please PRINT legibly

name: _____

address: _____

city: _____

state: _____

zip: _____

phone #: _____

work site location (full address): _____

☐ I am a homeowner performing all work myself.

Project Type: ☐ New Construction ☐ Remodel

☐ I am a sole proprietor and have no one working in any capacity.

☐ Building Addition

☐ I am an employer providing workers' compensation for my employees working on this job.

company name: _____

address: _____

city: _____

phone #: _____

insurance co. _____

policy # _____

☐ I am a sole proprietor, general contractor, or homeowner (circle one) and have hired the contractors listed below who have the following workers' compensation policies:

company name: _____

address: _____

city: _____

phone #: _____

insurance co. _____

policy # _____

company name: _____

address: _____

city: _____

phone #: _____

insurance co. _____

policy # _____

Attach additional sheet if necessary

Failure to secure coverage as required under Section 25A of MGL 152 can lead to the imposition of criminal penalties of a fine up to \$1,500.00 and/or one years' imprisonment as well as civil penalties in the form of a STOP WORK ORDER and a fine of \$100.00 a day against me. I understand that a copy of this statement may be forwarded to the Office of Investigations of the DIA for coverage verification.

I do hereby certify under the pains and penalties of perjury that the information provided above is true and correct.

Signature _____

Date _____

Print name _____

Phone # _____

official use only do not write in this area to be completed by city or town official

city or town: _____ permit/license # _____

☐ check if immediate response is required

contact person: _____ phone #: _____
(revised Sept. 2003)

- ☐ Building Department
- ☐ Licensing Board
- ☐ Selectmen's Office
- ☐ Health Department
- ☐ Other _____

Information and Instructions

Massachusetts General Laws chapter 152 section 25 requires all employers to provide workers' compensation for their employees. As quoted from the "law", an *employee* is defined as every person in the service of another under any contract of hire, express or implied, oral or written.

An *employer* is defined as an individual, partnership, association, corporation or other legal entity, or any two or more of the foregoing engaged in a joint enterprise, and including the legal representatives of a deceased employer, or the receiver or trustee of an individual, partnership, association or other legal entity, employing employees. However the owner of a dwelling house having not more than three apartments and who resides therein, or the occupant of the dwelling house of another who employs persons to do maintenance, construction or repair work on such dwelling house or on the grounds or building appurtenant thereto shall not because of such employment be deemed to be an employer.

MGL chapter 152 section 25 also states that every state or local licensing agency shall withhold the issuance or renewal of a license or permit to operate a business or to construct buildings in the commonwealth for any applicant who has not produced acceptable evidence of compliance with the insurance coverage required. Additionally, neither the commonwealth nor any of its political subdivisions shall enter into any contract for the performance of public work until acceptable evidence of compliance with the insurance requirements of this chapter have been presented to the contracting authority.

Applicants

Please fill in the workers' compensation affidavit completely, by checking the box that applies to your situation. Please supply company name, address and phone numbers along with a certificate of insurance as all affidavits may be submitted to the Department of Industrial Accidents for confirmation of insurance coverage. Also be sure to sign and date the affidavit. The affidavit should be returned to the city or town that the application for the permit or license is being requested, not the Department of Industrial Accidents. Should you have any questions regarding the "law" or if you are required to obtain a workers' compensation policy, please call the Department at the number listed below.

City or Towns

Please be sure that the affidavit is complete and printed legibly. The Department has provided a space at the bottom of the affidavit for you to fill out in the event the Office of Investigations has to contact you regarding the applicant. Please be sure to fill in the permit/license number which will be used as a reference number. The affidavits may be returned to the Department by mail or FAX unless other arrangements have been made.

The Office of Investigations would like to thank you in advance for your cooperation and should you have any questions, please do not hesitate to give us a call.

The Department's address, telephone and fax number:

The Commonwealth Of Massachusetts
Department of Industrial Accidents
Office of Investigations
600 Washington Street
Boston, Ma 02111
fax #: (617) 727-7749
phone #: (617) 727-4900 ext. 406