



Mass**COSH**

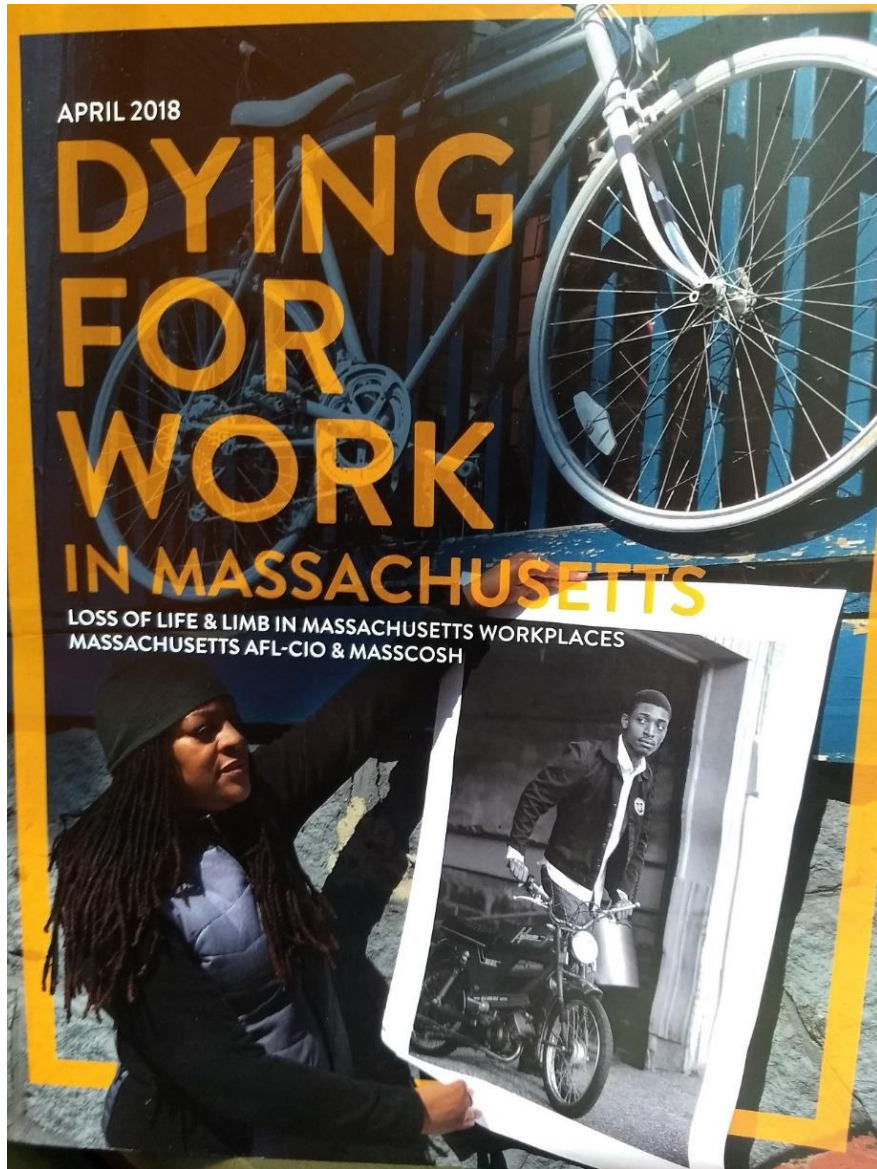
PUBLIC SECTOR WORKER HEALTH AND SAFETY IN MASSACHUSETTS

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Some Background

- In 1970, Congress passed the federal Occupational Safety and Health Act (OSHA) creates a comprehensive worker protection standards. All private sector employees were covered.
- In MA, public Sector employees (outside the Executive Branch) were provided some protection by MGL 149 Section 6 which predated OSHA, so the State did not adopt OSHA standards or create a “State Plan.”
- Executive Order 511 signed on April 27, 2009 set up Occupational Health and Safety Advisory Committee to help State agencies build the capacity to achieve compliance with OSHA level protections. In July 2014, MGL 149 Section 6 ½ was passed to give DLS the authority to provide support and enforcement and DLS promulgated 454 CMR 25 – regulations that set OSHA level protections as the standard for all Executive Sate employees. These regulations went into effect on March 24, 2015.
- 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 – defined public sector to include municipalities, counties, quasi-public entities, public colleges and universities, etc. – and set OSHA as the minimum standard. Regulations are being drafted. Law goes into effect 2/1/19.



Why the new law?

Public employees repair our roads, remove our trash and recyclables, care for our disabled and provide needed services for residents of the Commonwealth. They are public works employees working at great heights and in deep holes. They are health care providers who lift 10,000 pounds each day as they care for patients. And they are maintenance workers who work with heavy machinery.

Each week, an average of 28 municipal workers suffer injuries serious enough to be out of work for five or more days, according to a conservative estimate from the Massachusetts Department of Industrial Accidents (DIA).

Between 2005 and 2017, 58 municipal workers lost their lives from traumatic injuries at work in Massachusetts – an average of almost 5 workers each year.

Public Sector OSHA Coalition



And thanks to the leadership of its sponsors Senator Marc Pacheco and Representative James J. O'Day and the chairs of the Labor and Workforce Development Committee Representative Paul Brodeur and Senator Jason Lewis

Massachusetts Coalition for Occupational Safety & Health (MassCOSH)

Massachusetts AFL-CIO

National Association of Government Employees - Service Employees International Union (NAGE-SEIU)

Massachusetts Organization of State Engineers and Scientists (MOSES)

American Federation of State, County and Municipal Employees Council 93

Service Employees International Union 888

Service Employees International Union 509

Teamsters Local 25

Massachusetts Teachers Association

American Federation of Teachers of Massachusetts

Massachusetts Nurses Association

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But won't this be expensive?!

The State Health Safety and Advisory Board investigated the cost of enacting OSHA measures for state employees versus the benefit before agreeing to support this law. Most steps needed to achieve OSHA level protections are not costly. They involve:

- Developing or simply following existing safety procedures
- Maintaining or repairing faulty equipment and/or training staff in following measures or using equipment.



But the savings are substantial: Government agencies collectively spend hundreds of millions of dollars (approximately \$500,000 for a small town to over \$1 million for a city) in workers compensation claims. After enacting basic safety steps within state agencies, the Commonwealth achieved a **12.2% decrease in Workers Compensation Claims**



What will the new law do in effect?

- Prevent illness, injury and death by expanding OSHA standards of protection to an additional **428,510 public sector workers**
- **Save the State dollars** in workers compensation and lost time costs
- Provide **equity** for public and private sector workers
- Make the state **eligible for federal matching grant dollars**



Employer responsibility for training:

- ✓ The employer must train the worker to recognize, abate (minimize), and prevent safety and health hazards in their workplaces.
- ✓ This must be done when you start a job, and when new equipment or chemicals are provided to perform your job.
- ✓ The employer must explain hazards of chemicals used and how they can affect one's health.

Employer responsibility for medical screening and recording injuries and illnesses:

- ✓ Provide medical examinations and training when required by OSHA standards such as blood lead testing or hearing tests when exposures are above a threshold
- ✓ Provide access to employee medical and exposure records
- ✓ Maintain records of injury, illness, etc.

What should a worker do if there are hazards?

- ✓ First, ask the employer to correct the unsafe working conditions (in writing and pictures if necessary)
- ✓ If ignored, workers can file a complaint with DLS. Can be done anonymously.
- ✓ If an inspection happens, workers can participate in DLS investigations and get information
- ✓ If an injury or illness occurs, report it to your employer.

You reported a health or safety hazard to your employer or DLS and were fired or suffered other retaliation. Is this okay?

No! Report this to DLS and your union representative immediately!

Under the law workers are protected from retaliation. In the OSHA standards, Section 11 (c), it says:

“A person may not discharge or in any manner retaliate against a worker because the worker exercised any right afforded by the OSH Act.”

OSHA General Duty Clause

29 United States Code sec. 654

(a) Each employer –

(1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

(2) shall comply with occupational safety and health standards promulgated under this Act.

(b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

Elements necessary to establish a violation of the General Duty Clause:

1. The employer failed to keep workplace free of hazard to which employees were exposed
2. The hazard is recognized by employer, employer's industry, or common sense
3. The hazard is causing or likely to cause death or serious physical harm
4. There is a feasible and effective method to correct the hazard
5. There is no existing OSHA standard or regulation for the hazard

Examples of hazards for which OSHA has cited employers under the General Duty Clause:

- Ergonomic hazards
- Workplace violence hazards
- Improper storage of highly reactive chemicals

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... WE WIN TOGETHER