

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Department of Labor and Training

DIVISION: Professional Regulation

RULE IDENTIFIER: ERLID 758

REGULATION TITLE: Safety Awareness Program

RULEMAKING ACTION: Direct Final

Direct Final: If no formal objection is received on or before **April 2, 2018**, the Department of Labor and Training will file the repeal without opportunity for public comment.

TYPE OF FILING: Repeal

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public notice date of: March 2, 2018.

Comment period ends: April 2, 2018.

SUMMARY OF PROPOSED RULE: The purpose of this rulemaking action is to repeal the regulation, "Safety Awareness Program" identified by ERLID 758. The contents of the regulation do not correspond to any statutory provisions. There is no statutory authority supporting the enforcement of this regulation.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **April 2, 2018** to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: Sean M. Fontes, Executive Counsel, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920

Email Address: sean.fontes@dlt.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Mailing Address: Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI, 02920.

FOR FUTHER INFORMATION CONTACT:

Sean M. Fontes, Executive Counsel, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920, 462-8890, sean.fontes@dlt.ri.gov

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

This proposed repeal will result in little to no small business economic impact.

Authority for This Rulemaking: R.I. Gen. Laws § 28-20-35 (repealed).

Regulatory Findings:

In the development of the proposed adoption consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Repeal:

The Department of Labor and Training proposes to repeal the rule as follows below:

BOARD OF SAFETY AWARENESS

RULES AND REGULATIONS

RULE 1. There is hereby established, within the Department of Labor and Training, 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 terms 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 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 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.

RULE 2. Definitions:

"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 that must physically enter the place where work is being performed or business being conducted.

~~"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.~~

~~RULE 3. 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 government employees.~~

~~**RULE 4.** 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.~~

~~**RULE 5. 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 (\$100,000.00) dollars or more unless that person, firm, entity or corporation has an OSHA ten (10) hour construction safety program for their on-site employees.~~

~~**RULE 6. 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 on municipal and state construction projects for the purpose of ascertaining compliance.~~

~~**RULE 7. 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 and impose penalties against the violator(s).~~

~~**RULE 8. 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.~~

~~**RULE 9. Administration of oaths.**—The Director of the Department of Labor and Training and his/her designee shall have the power 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.~~

~~**RULE 10. Recommendations of board.**—Order of the director. —The board, upon the completion of any hearing held on a verified complaint, shall present to the director of labor and training a written report of its findings and recommendations. 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 (\$250.00) nor more than nine hundred and fifty dollars (\$950.00) per offense on each day in which a violation occurs, or the complaint may be dismissed in accordance with the recommendations.~~

~~**RULE 11. Appeals.**—Any person, firm, entity or corporation who has been assessed a penalty may appeal such to the director within 20 days of receipt of the board's decision. The director may review the evidence and/or order a hearing on the appeal. The decision of the director is final.~~

~~**RULE 12.** Every person shall have a card certifying their successful completion of the OSHA 10—hour training program as required by RIGL 28-20-35 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 10-hour training program to another person. Failure to comply with this rule shall subject the holder to penalties prescribed by the director of the department of labor and training.~~

~~**RULE 13. Penalties for nonpayment.**—Any person, firm, entity, or corporation who has violated chapter 20 of title 28, whether duly registered with the office of the secretary of state or not, and has been levied 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.~~

~~Adopted by the Board of Safety Awareness as formal and official rules and regulations pursuant to R.I.G.L. 28-20-35 and 42-35-3.~~

~~Approved, as required by R.I.G.L. 28-20-35:~~

~~Dr. Lee H. Arnold,
Director of Labor and Training~~