SENATE DOCKET, NO. 2109 FILED ON: 9/23/2011

SENATE . . . . . No. 2061

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to enhance community safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard T. Moore	☐ *[District]* ☐
John V. Fernandes	*10th Worcester*
Bruce E. Tarr	☐ *[District]* ☐
George N. Peterson, Jr.	*9th Worcester*
Steven A. Baddour	☐ *[District]* ☐
James E. Timilty	☐ *[District]* ☐
Bradley H. Jones, Jr.	*20th Middlesex*
Michael O. Moore	☐ *[District]* ☐

Elizabeth A. Poirier	*14th Bristol*
Robert L. Hedlund	*[District]*
Michael R. Knapik	*[District]*
Richard J. Ross	*Norfolk, Bristol, and Middlesex*
Anne M. Gobi	*5th Worcester*
Bradford Hill	*4th Essex*
Michael J. Rodrigues	*[District]*
Chris Walsh	*6th Middlesex*
Linda Campbell	*15th Essex*
James R. Miceli	*19th Middlesex*
John P. Fresolo	*16th Worcester*
Joyce A. Spiliotis	*12th Essex*
Steven L. Levy	*4th Middlesex*
Kimberly N. Ferguson	*1st Worcester*
Steven S. Howitt	*4th Bristol*
Shaunna O'Connell	*3rd Bristol*
Peter J. Durant	*6th Worcester*
Geoff Diehl	*7th Plymouth*
George T. Ross	*2nd Bristol*
Viriato Manuel deMacedo	*1st Plymouth*
Paul K. Frost	*7th Worcester*
Donald F. Humason, Jr.	*4th Hampden*
Kevin J. Kuros	*8th Worcester*
Angelo L. D'Emilia	*8th Plymouth*
Ryan C. Fattman	*18th Worcester*
Richard Bastien	*2nd Worcester*
Edward F. Coppinger	*10th Suffolk*
James J. Dwyer	*30th Middlesex*
Susan Williams Gifford	*2nd Plymouth*
Randy Hunt	*5th Barnstable*
Paul Adams	*17th Essex*
Daniel B. Winslow	*9th Norfolk*
F. Jay Barrows	*1st Bristol*

Matthew A. Beaton	*11th Worcester*
Donald H. Wong	*9th Essex*
Marc T. Lombardo	*22nd Middlesex*
Stephen L. DiNatale	*3rd Worcester*
James T. Welch	☐ *[District]* ☐
Nick Collins	*4th Suffolk*
Sheila C. Harrington	*1st Middlesex*
James J. Lyons, Jr.	*18th Essex*
Todd M. Smola	*1st Hampden*
David T. Vieira	*3rd Barnstable*
Robert M. Koczera	*11th Bristol*

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SENATE . . . . . No. 2061

By Mr. Moore, a petition (accompanied by bill, Senate, No.) of Richard T. Moore, John V. Fernandes, Bruce E. Tarr, George N. Peterson, Jr. and other members of the General Court for legislation to enhance community safety. The Judiciary.

The Commonwealth of Massachusetts

An Act to enhance community safety.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect our communities and confront the strains placed on personal, municipal, and statewide finances as a result of illegal immigration, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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

SECTION 1. Clause (1) of subsection (c) of section 29F of chapter 29 of the general laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following subclause:-

(x) a violation of the federal law prohibiting the employment of unauthorized aliens; or.

SECTION 2. The general laws are hereby amended by inserting after chapter 30B the following:-

"Chapter 30C. PUBLIC CONTRACT INTEGRITY

Section 1. For the purposes of this chapter, the following terms shall be defined as follows:

"Public employer": any department, agency, or public instrumentality of the commonwealth and any person, corporation, partnership, sole proprietorship, joint venture, or other business entity providing goods or services to any department, agency or public instrumentality of the commonwealth, including but not limited to the Massachusetts Turnpike Authority, Massachusetts Water Resources Authority, Massachusetts Port Authority, and the Massachusetts Bay Transportation Authority.

17 "Work authorization program": any of the electronic verification of work
18 authorization programs operated by the United States Department of Homeland Security or any
19 equivalent work authorization program operated by the United States Department of Homeland
20 Security, the United States Department of Labor, the Social Security Administration, other
21 federal agency, or any private verification system authorized by the director of the department of
22 labor to verify information of newly hired employees, pursuant to the Immigration Reform and
23 Control Act of 1986 (IRCA) and its progeny.

24 Section 2. No public employer shall enter into a contract for the provision of
25 goods or services within the commonwealth unless the contractor registers and participates in a
26 work authorization program to verify information of all new employees and certifies to that
27 effect in writing to the director of the department of labor.

28 Section 3. No contractor or subcontractor who enters a contract with a public
29 employer shall enter into such a contract or subcontract in connection with the provision of
30 goods or services in the commonwealth unless the contractor or subcontractor registers and
31 participates in a work authorization program to verify information of all employees and certifies
32 to that effect in writing to the director of the department of labor.

33 Section 4. Sections 2 and 3 of this chapter shall apply as follows:

34 (A) On or after September 1, 2012, with respect to public employers, contractors,
35 or subcontractors of 500 or more employees;

36 (B) On or after September 1, 2013, with respect to public employers, contractors,
37 or subcontractors of 100 or more employees; and

38 (C) On or after September 1, 2014, with respect to all public employers,
39 contractors, or subcontractors.

40 Section 5. The provisions of this chapter shall be enforced without regard to race,
41 religion, gender, ethnicity, or national origin.

42 Section 6. Except as provided in section 4 of this chapter, the director of the
43 department of labor shall prescribe forms and promulgate rules and regulations deemed
44 necessary in order to administer and effectuate the provisions of this chapter.

45 Section 7. The Attorney General, in consultation with the Inspector General, shall
46 develop and promulgate regulations for the purpose of ensuring that any person receiving funds
47 pursuant to a contract awarded subject to the provisions of chapter 30B and section 44A of
48 chapter 149 of the general laws is in compliance with federal laws pertaining to immigration and
49 citizenship, including but not limited to 42 U.S.C. 1436(a). Such regulations shall include but not
50 be limited to the ascertaining and verification of immigration and/or citizenship status through a

51 work authorization program maintained by the United States Department of Homeland Security
52 or its substantial equivalent.

53 Section 8. No contract shall be awarded by or to a public employer, and no public
54 funds shall be expended in accordance with such a contract, unless the public employer named in
55 the contract complies with the regulations prescribed in this chapter.

56 Section 9. No funds shall be expended in accordance with a contract awarded by
57 or to a public employer which will result in the payment of any kind to a person not in
58 compliance with any and all federal laws pertaining to immigration and citizenship, including but
59 not limited to 42 U.S.C. 1436(a)."

60 Section 10. The auditor is hereby authorized to conduct random audits to ensure
61 compliance with the provisions of this chapter.

62 SECTION 3. The first paragraph of section 2 of chapter 90 of the general laws, as
63 so appearing, is hereby amended by striking out the second and third sentences and inserting in
64 place thereof the following:-

65 "If the owner is a corporation or business entity, the application shall contain the
66 name of the corporation or business entity, the full address, including the street, city or town,
67 state and zip code, the federal tax identification number or employer identification number if a
68 corporation and the social security number if the business entity is a sole proprietorship and does
69 not have a federal tax identification number. If the applicant is a natural person, the application
70 shall contain his name, full residential address, date of birth, license number or identification
71 card number issued by the registrar and such other particulars as the registrar may require.
72 Except as otherwise provided in this chapter or in regulations adopted by the registrar, no
73 registration shall be issued for a motor vehicle or trailer owned or leased by a natural person
74 unless one of its registering owners or lessees holds a valid license, social security card issued by
75 Social Security Administration, or other proof of legal presence. The registrar shall provide by
76 regulation for exemptions for out-of-state students, military personnel, senior citizens and
77 disabled persons."

78 SECTION 4. Said section 2 of said chapter 90 is hereby further amended by
79 inserting after the word "statement", in line 13, as so appearing, the word "signed".

80 SECTION 5. Said section 2 of said chapter 90 is hereby further amended by
81 striking, in lines 21 through 23, inclusive, as so appearing, the words "register in a book or upon
82 suitable index cards to be kept for the purpose the motor vehicle or trailer described in the
83 application, giving to the vehicle" and inserting in place thereof the following:- "keep a record
84 of motor vehicles and trailers that satisfy the application requirements, assign to each motor
85 vehicle and trailer."

86 SECTION 6. Section 12 of chapter 90 of the general laws, as so appearing, is
87 hereby amended by striking subsections (a) and (b) in their entirety, and inserting in place
88 thereof the following:-

89 "(a) Whoever knowingly employs for hire as a motor vehicle operator any person
90 not licensed in accordance with this chapter shall be punished by a fine of not more than $1,000
91 or imprisonment for not more than 60 days or both such fine and imprisonment for a first
92 offense, or, for a second or subsequent offense by a fine of not less than $1,000 nor more than
93 $2,000 or imprisonment in the house of correction for not more than 2 ½ years, or both such fine
94 and imprisonment.

95 (b) Whoever knowingly permits a motor vehicle owned by him or under his
96 control to be operated by a person who is unlicensed or whose license has been suspended or
97 revoked shall be punished by a fine of not more than $1,000 or imprisonment for not more than
98 60 days or both such fine and imprisonment for a first offense, or, for a second or subsequent
99 offense by a fine of not less than $1,000 nor more than $2,000 or imprisonment in the house of
100 correction for not more than 2 ½ years, or both such fine and imprisonment."

101 SECTION 7. Section 20 of said chapter 90, as so appearing, is hereby amended
102 by striking out, in line 10, the words "of not less than $100 nor more than $1,000" and inserting
103 in place thereof the following:- "by a fine of not more than $500 for a first offense or by
104 imprisonment for not more than 10 days, or by both such fine and imprisonment, by a fine of not
105 less than $500 nor more than $1,000 or by imprisonment for not more than 30 days, or both such
106 fine and imprisonment, for a second offense, by a fine of not less than $1,000 nor more than
107 $2,000 or by imprisonment for not more than 60 days, or both such fine and imprisonment, for
108 any subsequent offense; provided however that when a person is brought before a district court
109 for the initial appearance the court shall ascertain the immigration status of the individual by
110 utilizing data available through the United States Department of Homeland Security, or any other
111 relevant federal agency;"

112 SECTION 8. Section 24 of chapter 90, as so appearing, is hereby amended by
113 inserting at the end thereof the following paragraph:-

114 "When any person charged with driving under the influence pursuant to this
115 section is confined, for any period, in any correctional institution, prison, or local or regional
116 holding facility in the commonwealth, the commissioner of the department of corrections, the
117 county sheriff, or the municipal police chief or other officer shall make a reasonable effort to
118 verify that the prisoner has been lawfully admitted to the United States and if lawfully admitted,
119 that such lawful status has not expired. If verification of lawful status cannot be made from
120 documents in the possession of the prisoner, verification shall be made within 48 hours through a
121 query to the Law Enforcement Support Center (LESC) of the United States Department of
122 Homeland Security or other office or agency designated for that purpose by the United States

123 Department of Homeland Security. If the prisoner is determined not to be lawfully admitted to
124 the United States the commissioner of the department of corrections, the county sheriff, the
125 municipal police chief or any other officer shall notify the United States Department of
126 Homeland Security. The secretary of the executive office of public safety shall prepare and issue
127 guidelines and procedures used to comply with the provisions of this paragraph."

128 SECTION 9. Section 24B of chapter 90 of the general laws is hereby amended by
129 adding, after the first paragraph, the following:-

130 "Whoever falsely makes, steals, alters, forges or counterfeits a learner's permit, a
131 license to operate motor vehicles or an identification card issued under section 8E with the intent
132 to distribute such learner's permit, license to operate motor vehicles or identification card or
133 assists another to do so shall be punished as follows: (i) for the above acts involving 1 to 5
134 documents, by a fine of not more than $2,500 or by imprisonment in state prison for not more
135 than 5 years or in a house of correction for not more than 2 ½ years, or both such fine and
136 imprisonment; (ii) for acts involving 5 to 10 documents, by a fine of not more than $5,000 or by
137 imprisonment in state prison for not more than 7 years or in a house of correction for not more
138 than 8 years, or both such fine and imprisonment; (iii) for acts involving more than 10
139 documents, by a fine of not more than $25,000 or by imprisonment in state prison for not more
140 than 15 years or for not more than 10 years in a house of correction, or both such fine and
141 imprisonment."

142 SECTION 10. Subsection (a) of section 24W of said chapter 90, as so appearing,
143 is hereby amended by inserting in line 9, after the words "section 13 ½ of chapter 265 or," the
144 following:- "any person convicted of operating a motor vehicle without having been issued a
145 license pursuant to section 20 of chapter 90, or"

146 SECTION 11. Section 1 of chapter 118 of the general laws, as so appearing, is
147 hereby amended by inserting at the end thereof the following paragraph:-

148 "Benefits for individuals over age 18 for any program established under this
149 chapter or which can be obtained only through an application for benefits under this chapter shall
150 be available only to otherwise eligible individuals who document their lawful presence in the
151 United States in accordance with federal requirements applicable to federal public benefits under
152 Title XIX and Title XXI of the Social Security Act, including the requirements or the waiver of
153 any requirements under section 1115 of the Social Security Act. The documentation
154 requirements shall apply regardless of whether those benefits are subject to federal funding."

155 SECTION 12. Section 32 of chapter 121B of the General Laws, as appearing in
156 the 2008 Official Edition, is hereby amended by adding the following paragraph:-

157 "An applicant for assisted housing under this chapter who is not eligible for
158 federal assisted housing under 42 U.S.C. section 1436a, and who is not a person legally residing

159 in the United States as provided in section 16D of chapter 118E shall not displace or be given
160 priority over any applicant who is so eligible."

161 SECTION 13. Chapter 149 of the general laws is hereby amended by striking
162 section 19C in its entirety and inserting in place thereof the following:-

163 Section 19C. (a) An employer shall not knowingly employ an unauthorized alien.
164 The term, unauthorized alien, shall mean an alien who does not have the legal right or
165 authorization under federal law to work in the United States as described in 8 U.S.C.
166 1324a(h)(3). If, in the case when an employer uses a contract, subcontract or other independent
167 contractor agreement to obtain the labor of an alien in the commonwealth, the employer
168 knowingly contracts with an unauthorized alien or with a person who employs or contracts with
169 an unauthorized alien to perform the labor, the employer violates this subsection.

170 (b) The attorney general shall prescribe a complaint form for a person to allege a
171 violation of subsection (a). The complainant shall not be required to list the complainant's social
172 security number on the complaint form or to have the complaint form notarized. Upon receipt of
173 a complaint that an employer allegedly knowingly employs an unauthorized alien, the attorney
174 general or district attorney shall investigate whether the employer has violated subsection (a). If
175 a complaint is received but is not submitted on said prescribed form, the attorney general or
176 district attorney may investigate whether the employer has violated subsection (a). This shall not
177 be construed to prohibit the filing of anonymous complaints that are not submitted on a
178 prescribed complaint form. The attorney general or district attorney shall not investigate
179 complaints that are based solely on race, color or national origin. A complaint that is submitted
180 to a district attorney shall be submitted to the district attorney in the county in which the alleged
181 unauthorized alien is or was employed by the employer. The county sheriff or any other local
182 law enforcement agency may assist in investigating a complaint. When investigating a
183 complaint, the attorney general or district attorney shall verify the work authorization of the
184 alleged unauthorized alien with the federal government pursuant to 8 U.S.C. 1373(c). A state,
185 county or local official shall not attempt independently to make a final determination on whether
186 an alien is authorized to work in the United States. An alien's immigration status or work
187 authorization status shall be verified with the federal government pursuant to 8 U.S.C. 1373(c).
188 Whoever knowingly files a false and frivolous complaint shall be punished by a fine of not more
189 than $500, or by imprisonment of not more than 30 days, or both such fine and imprisonment.

190 (c) If, after an investigation, the attorney general or district attorney determines
191 that the complaint is not false and frivolous:

192 (1) The attorney general or district attorney shall notify the United States
193 Immigration and Customs Enforcement of the presence of the unauthorized alien;

194 (2) The attorney general or district attorney shall notify the United States
195 Immigration and Customs Enforcement of the employer's alleged employment of unauthorized
196 workers;

197 (3) The attorney general or district attorney shall notify the Department of
198 Revenue of the employer's alleged employment of unauthorized workers;

199 (4) The attorney general or district attorney shall notify the local law
200 enforcement agency of the unauthorized alien;

201 (5) The attorney general shall notify the appropriate district attorney to
202 bring an action pursuant to subsection (d) if the complaint was originally filed with the attorney
203 general;

204 (d) An action for a violation of subsection (a) shall be brought against the
205 employer by the district attorney in the county where the unauthorized alien employee is or was
206 employed by the employer. A Level II violation shall be based only on an unauthorized alien
207 who is or was employed by the employer after an action has been brought for a violation of
208 subsection (a) or subsection (k). An employer shall not be subject to a Level II violation unless
209 is currently on probation for a Level I violation.

210 (e) For any action in superior court under this section, the court shall expedite the
211 action, including assigning the hearing at the earliest practicable date.

212 (f) On a finding of a violation of subsection (a):

213 (1) For a Level I, or a violation which does not occur during a
214 probationary period ordered by the court, the court:

215 i. Shall order the employer to terminate the employment of all
216 unauthorized aliens; and

217 ii. Shall order the employer to be subject to a 3 year probationary
218 period for the business location where the unauthorized alien performed work. During the
219 probationary period the employer shall file quarterly reports with the district attorney of each
220 new employee who is hired by the employer at the business location where the unauthorized
221 alien performed work; and

222 iii. Shall order the employer to file a sworn affidavit with the
223 district attorney within 3 business days after the order is issued. The affidavit shall state that the
224 employer has terminated the employment of all unauthorized aliens in the commonwealth and
225 that the employer will not intentionally or knowingly employ an unauthorized alien in the
226 commonwealth. The court shall order the appropriate state agencies to suspend all licenses
227 subject to this clause that are held by the employer if the employer fails to file a sworn affidavit

228 with the district attorney within 3 business days after the order is issued. All licenses that are
229 suspended under this clause shall remain suspended until such time as the employer files a sworn
230 affidavit with the district attorney. Notwithstanding any general or special law to the contrary,
231 upon filing of the affidavit the suspended licenses shall be reinstated immediately by the
232 appropriate state agencies. For the purposes of this clause, the licenses that shall be subject to
233 suspension are all licenses that are held by the employer specific to the business location where
234 the unauthorized alien performed work. If the employer does not hold a license specific to the
235 business location where the unauthorized alien performed work, but a license is necessary to
236 operate the employer's business in general, the licenses that are subject to suspension are all
237 licenses that are held by the employer at the employer's primary place of business. Upon receipt
238 of the order, the appropriate state agencies shall immediately revoke the licenses. The court shall
239 send a copy of the court's order to the attorney general and the attorney general shall maintain
240 the copy pursuant to subsection (g); and

241 iv. May order the appropriate state agencies to suspend all licenses
242 described in clause (iii) that are held by the employer for a period not to exceed 10 business
243 days. The court shall base its decision to suspend on any evidence or information submitted to it
244 during the action for a violation and shall consider the following factors, if relevant:

245 a. Number of unauthorized aliens employed by the
246 employer;

247 b. Prior misconduct by the employer;

248 c. Degree of harm resulting from the violation;

249 d. Whether the employer made good faith efforts to comply
250 with any applicable requirements;

251 e. Duration of the violation;

252 f. Role of the directors, officers or principals of the
253 employer in the violation;

254 g. Other factors that the court deems appropriate.

255 (2) For a Level II violation, or a violation which occurs during a
256 probationary period ordered by the court, the court shall order the appropriate state agencies to
257 permanently revoke all licenses that are held by the employer specific to the business location
258 where the unauthorized alien performed work. If the employer does not hold a license specific to
259 the business location where the unauthorized alien performed work but a license is necessary to
260 operate the employer's business in general, the court shall order the appropriate state agencies to
261 permanently revoke all licenses that are held by the employer at the employer's primary place of

262 business. Upon receipt of the order, the appropriate state agencies shall immediately revoke the
263 licenses.

264 (g) The attorney general shall maintain copies of court orders that are received
265 pursuant to subsection (f) and shall maintain a database of the employers and business locations
266 that have a Level I of subsection (a) and make the court orders available on the attorney
267 general's website.

268 (h) When determining whether an employee is an unauthorized alien, the court
269 shall consider only the federal government's determination pursuant to 8 U.S.C. 1373(c). The
270 federal government's determination creates a rebuttable presumption of the employee's lawful
271 status. The court may take judicial notice of the federal government's determination and may
272 request the federal government to provide automated or testimonial verification pursuant to 8
273 U.S.C. 1373(c).

274 (i) For the purposes of this subsection, proof of verifying the employment
275 authorization of an employee through available federal resources creates a rebuttable
276 presumption that an employer did not knowingly employ an unauthorized alien.

277 (j) For the purposes of this subsection, an employer that establishes that it has
278 complied in good faith with the requirements of 8 U.S.C. 1324a(b) establishes an affirmative
279 defense that the employer did not knowingly employ an unauthorized alien. An employer is
280 considered to have complied with the requirements of 8 U.S.C. 1324a(b), notwithstanding an
281 isolated, sporadic or accidental technical or procedural failure to meet the requirements, if there
282 is a good faith attempt to comply with the requirements.

283 (k) An employer shall not intentionally employ an unauthorized alien. If, in the
284 case when an employer uses a contract, subcontract or other independent contractor agreement to
285 obtain the labor of an alien in the commonwealth, the employer intentionally contracts with an
286 unauthorized alien or with a person who employs or contracts with an unauthorized alien to
287 perform the labor, the employer violates this subsection.

288 (l) The attorney general shall prescribe a complaint form for a person to allege a
289 violation of subsection (k). The complainant shall not be required to list the complainant's social
290 security number on the complaint form or to have the complaint form notarized. Upon receipt of
291 a complaint that an employer allegedly intentionally employs an unauthorized alien, the attorney
292 general or district attorney shall investigate whether the employer has violated subsection (k). If
293 a complaint is received but is not submitted on said prescribed form, the attorney general or
294 district may investigate whether the employer has violated subsection (k). This shall not be
295 construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed
296 complaint form. The attorney general or district attorney shall not investigate complaints that are
297 based solely on race, color or national origin. A complaint that is submitted to a district attorney
298 shall be submitted to the district attorney in the county in which the alleged unauthorized alien is

299 or was employed by the employer. The county sheriff or any other local law enforcement
300 agency may assist in investigating a complaint. When investigating a complaint, the attorney
301 general or district attorney shall verify the work authorization of the alleged unauthorized alien
302 with the federal government pursuant to 8 U.S.C. 1373(c). A state, county or local official shall
303 not attempt independently to make a final determination on whether an alien is authorized to
304 work in the United States. An alien's immigration status or work authorization status shall be
305 verified with the federal government pursuant to 8 U.S.C. 1373(c). Whoever knowingly files a
306 false and frivolous complaint shall be punished by a fine of not more than $500, or by
307 imprisonment of not more than 30 days, or both such fine and imprisonment.

308 (m) If, after an investigation, the attorney general or district attorney determines
309 that the complaint is not false and frivolous:

310 (1) The attorney general or district attorney shall notify the United States
311 Immigration and Customs Enforcement of the presence of the unauthorized alien;

312 (2) The attorney general or district attorney shall notify the United States
313 Immigration and Customs Enforcement of the employer's alleged employment of unauthorized
314 workers;

315 (3) The attorney general or district attorney shall notify the Department of
316 Revenue of the employer's alleged employment of unauthorized workers;

317 (4) The attorney general or district attorney shall notify the local law
318 enforcement agency of the unauthorized alien;

319 (5) The attorney general shall notify the appropriate district attorney to
320 bring an action pursuant to subsection (n) if the complaint was originally filed with the attorney
321 general;

322 (n) An action for a violation of subsection (k) shall be brought against the
323 employer by the district attorney in the county where the unauthorized alien employee is or was
324 employed by the employer. A Level II violation shall be based only on an unauthorized alien
325 who is or was employed by the employer after an action has been brought for a violation of
326 subsection (k) or subsection (a).

327 (o) For any action in superior court under this section, the court shall expedite the
328 action, including assigning the hearing at the earliest practicable date.

329 (p) On a finding of a violation of subsection (k):

330 (1) For a Level I violation, or a violation which does not occur during a
331 probationary period ordered by the court, the court shall:

332 i. Order the employer to terminate the employment of all
333 unauthorized aliens; and

334 ii. Order the employer to be subject to a 5 year probationary period
335 for the business location where the unauthorized alien performed work. During the probationary
336 period the employer shall file quarterly reports with the district attorney of each new employee
337 who is hired by the employer at the business location where the unauthorized alien performed
338 work; and

339 iii. Order the employer to file a sworn affidavit with the district
340 attorney within 3 business days after the order is issued. The affidavit shall state that the
341 employer has terminated the employment of all unauthorized aliens in the commonwealth and
342 that the employer will not intentionally or knowingly employ an unauthorized alien in the
343 commonwealth. The court shall order the appropriate state agencies to suspend all licenses
344 subject to this clause that are held by the employer if the employer fails to file a sworn affidavit
345 with the district attorney within 3 business days after the order is issued. All licenses that are
346 suspended under this clause shall remain suspended until such time as the employer files a sworn
347 affidavit with the district attorney. Notwithstanding any general or special law to the contrary,
348 upon filing of the affidavit the suspended licenses shall be reinstated immediately by the
349 appropriate state agencies. For the purposes of this clause, the licenses that shall be subject to
350 suspension are all licenses that are held by the employer specific to the business location where
351 the unauthorized alien performed work. If the employer does not hold a license specific to the
352 business location where the unauthorized alien performed work, but a license is necessary to
353 operate the employer's business in general, the licenses that are subject to suspension are all
354 licenses that are held by the employer at the employer's primary place of business. Upon receipt
355 of the order, the appropriate state agencies shall immediately revoke the licenses. The court shall
356 send a copy of the court's order to the attorney general and the attorney general shall maintain
357 the copy pursuant to subsection (q).

358 iv. Order the appropriate state agencies to suspend all licenses
359 described in clause (iv) that are held by the employer for a period not to exceed 10 business days.
360 The court shall base its decision to suspend on any evidence or information submitted to it during
361 the action for a violation and shall consider the following factors, if relevant:

362 a. Number of unauthorized aliens employed by the
363 employer;

364 b. Prior misconduct by the employer;

365 c. Degree of harm resulting from the violation;

366 d. Whether the employer made good faith efforts to comply
367 with any applicable requirements;

368 e. Duration of the violation;

369 f. Role of the directors, officers or principals of the
370 employer in the violation;

371 g. Other factors that the court deems appropriate; and

372 (2) For a Level II violation, or a violation which occurs during a
373 probationary period ordered by the court, the court shall order the appropriate state agencies to
374 permanently revoke all licenses that are held by the employer specific to the business location
375 where the unauthorized alien performed work. If the employer does not hold a license specific to
376 the business location where the unauthorized alien performed work but a license is necessary to
377 operate the employer's business in general, the court shall order the appropriate state agencies to
378 permanently revoke all licenses that are held by the employer at the employer's primary place of
379 business. Upon receipt of the order, the appropriate state agencies shall immediately revoke the
380 licenses.

381 (q) The attorney general shall maintain copies of court orders that are received
382 pursuant to subsection (p) and shall maintain a database of the employers and business locations
383 that have a Level I violation of subsection (k) and make the court orders available on the attorney
384 general's website.

385 (r) When determining whether an employee is an unauthorized alien, the court
386 shall consider only the federal government's determination pursuant to 8 U.S.C. 1373(c). The
387 federal government's determination creates a rebuttable presumption of the employee's lawful
388 status. The court may take judicial notice of the federal government's determination and may
389 request the federal government to provide automated or testimonial verification pursuant to 8
390 U.S.C. 1373(c).

391 (s) For the purposes of this section, proof of verifying the employment
392 authorization of an employee through available federal resources creates a rebuttable
393 presumption that an employer did not knowingly employ an unauthorized alien.

394 (t) For the purposes of this section, an employer that establishes that it has
395 complied in good faith with the requirements of 8 U.S.C. 1324a(b) establishes an affirmative
396 defense that the employer did not knowingly employ an unauthorized alien. An employer is
397 considered to have complied with the requirements of 8 U.S.C. 1324a(b), notwithstanding an
398 isolated, sporadic or accidental technical or procedural failure to meet the requirements, if there
399 is a good faith attempt to comply with the requirements.

400 SECTION 14. The third paragraph of section 34B of chapter 138, as so
401 appearing, is hereby amended by inserting the following:- "Any person who transfers, alters,
402 defaces, uses or carries any such card or license or uses the identification card or motor vehicle

403 license of another or furnishes false information in obtaining such card or license shall be guilty
404 of a misdemeanor and shall be punished by a fine of not more than $500 for a first offense or by
405 a fine of not more than $1,000 or imprisonment for not more than 3 months, or both such fine
406 and imprisonment for a second or subsequent offense. Any person who makes, sells, or
407 distributes a false identification card shall be guilty of a felony and shall be punished by a fine of
408 not more than $5,000 or imprisonment for not more than 5 years, or both such fine and
409 imprisonment."

410 SECTION 15. Chapter 149 of the General Laws is hereby amended by inserting
411 after section 19C the following new section:-

412 "19D. Whoever utilizes in any way a false identification document for the
413 purposes of soliciting, securing, or maintaining employment from a public employer as defined
414 in section 1 of chapter 30C shall be punished by a fine of not more than $5,000 or by
415 imprisonment in the state prison for not more than 5 years or in a jail or house of correction for
416 not more than 2 years, or both such fine and imprisonment."

417 SECTION 16. Chapter 186 of the general laws, as so appearing, is hereby
418 amended by adding the following section:-

419 Section 23. No person shall charge, demand, receive or accept any rent or other
420 payment for the use or occupancy of any residential rental premises which is used or occupied in
421 violation of a zoning by-law, the state building code or other codes, and of which said person has
422 knowledge, or reason to know, and does permit.

423 Within 10 days following receipt of a notice to abate an unlawful occupancy
424 violation, the owner of a residential premises shall serve upon the occupants of such using or
425 occupying said residential premises a copy of this section and shall post a copy of this section in
426 a common area of the premises accessible to all occupants thereof for inspection. Such owner or
427 person shall serve such occupants a notice to vacate the property, requiring that the property be
428 vacated within 10 days.

429 Any person found in violation of this section shall be subject to a fine of not less
430 than $500 not more than $2,000, or by imprisonment of not more than 90 days, or both such fine
431 and imprisonment.

432 In addition to requiring relocation assistance to displaced tenants, the owner-
433 landlord may be fined an amount equal to up to 6 times the monthly rent for zoning and housing
434 code violations to be paid to the city or town.

435 In addition to the above penalties the court may impose a fine equal to the tuition
436 costs of any resident of the unlawful tenant attending a public school which fine shall be received
437 in a civil action by a summary proceeding in the name of the city or town. Said fine shall be paid

438 by the owner of the property. The district court and superior court divisions of the trial shall
439 have jurisdiction of this section. The tuition costs shall be determined in the manner prescribed
440 for nonresident student and shall be paid to the school district which the student attends.

441 Where an owner is convicted of a violation of this section they shall be required
442 to permanently remove the kitchen and bathroom if it exists, an all electrical and plumbing that
443 was installed without proper permits. The term, remove the kitchen shall mean removal of a
444 stove, refrigerator and sinks in any such structure. The building inspector, or his designee, shall
445 inspect the premises to insure all such removal is accomplished within 30 days of the notice to
446 remove.

447 Any tenant who receives a notification of eviction that results from zoning or
448 code enforcement activity for an illegal occupancy shall be considered a displaced person and
449 shall be entitled to relocation assistance in an amount equal to up to 6 times the monthly rental
450 paid by the displaced person. The owner-landlord of the structure shall be liable for the payment
451 of relocation assistance pursuant to this section.

452 SECTION 17. Section 27B of chapter 261 of the general laws, as so appearing, is
453 hereby amended by inserting at the end thereof the following:-

454 "For the purposes of verifying income eligibility, said affidavit of indigency shall
455 include the respective indigent party's social security number. Said affidavit, complete with
456 social security number, shall be transmitted to the department of revenue for verification."

457 SECTION 18. Section 47 of chapter 277 of the general laws, as so appearing, is
458 hereby amended by inserting at the end thereof the following sentence:-

459 "The immigration status of every defendant, including but not limited to those
460 accused of a violation of section 24 of chapter 90 of the general laws, a violation of section 10 of
461 chapter 90 of the general laws, or a like violation of an offense classified as Level I as referenced
462 by the United States Department of Homeland Security's Secure Communities Program, shall be
463 confirmed at the arraignment stage of any criminal court proceeding. In the event the defendant
464 is unlawfully present within the United States, the defendant's status shall be transmitted to the
465 United States Immigration and Customs Enforcement."

466 SECTION 19. Within 6 months of the passage of this act, the executive office of
467 public safety shall report to the joint committee on public safety and homeland security and the
468 clerks of the senate and house of representatives the actions undertaken by the commonwealth to
469 assist with the deployment of the Secure Communities Program as administered by the United
470 States Department of Homeland Security. Said report shall include each of the jurisdictions
471 within the commonwealth that are currently enrolled in the program, those jurisdictions not yet
472 enrolled, the number of criminal aliens that have been identified utilizing the program, the
473 estimated costs of any technology upgrades necessary to deploy the program statewide, and any

474 upgrades that may be required in order to maximize the data available to municipal police
475 through the Criminal Justice Information Services Division Wide Area Network. The secretary
476 shall designate a liaison that shall facilitate the statewide deployment of the Secure Communities
477 program in cooperation with the United States Department of Homeland Security.

478 SECTION 20. Within 6 months of the passage of this act, the executive office of
479 public safety shall report to the joint committee on public safety and homeland security, the
480 house and senate committees on ways and means, and the clerks of the senate and house of
481 representatives on what steps are being taken to improve the effectiveness of license plate reader
482 technology by aligning any state database with any available national databases, the cost of such
483 an alignment, and a proposed schedule for implementation.

484 SECTION 21. Notwithstanding any general or special law to the contrary, a
485 person who is a lawful immigrant or permanent resident of the United States, or is eligible to
486 apply and has applied for such status, shall be eligible to be considered for Massachusetts
487 residency for tuition purposes, provided that the person meets the same requirements for
488 establishing residency in Massachusetts as are required of a United States citizen. Non-citizens
489 who are in, or who are eligible to apply and have applied for refugee or asylum status, shall be
490 eligible to be considered for Massachusetts residency for tuition purposes, provided that the
491 person meets the same requirements for establishing residency in Massachusetts as are required
492 of a United States citizen. All non-citizens shall provide appropriate documentation to verify
493 their status with the United States Citizenship and Immigration Services.

494 SECTION 22. (a) Notwithstanding any general or special law to the contrary, an
495 applicant for the MassGrant program administered by the department of higher education office
496 of grant assistance shall first complete the Free Application for Federal Student Aid or any other
497 federal student loan program that verifies both financial and citizenship eligibility.

498 (b) The secretary of education shall report annually to the senate and house
499 committees on ways and means, the joint committee on education, and the clerks of the senate
500 and house of representatives the amount of money recovered by the department of education
501 from those who received assistance fraudulently and the number of recipients who were issued
502 partial or lifetime disqualifications.

503 SECTION 23. Notwithstanding any general or special law to the contrary, when
504 issuing periodic notices to taxpayers and registered businesses, the department of revenue
505 include information illustrating the risks of employing or contracting with unauthorized workers.
506 Said notice shall include the estimated costs to public safety, the strains placed upon the health
507 safety net, the potential for personal liability, the impacts upon local school budgets, the impact
508 upon the job market, and the availability of quality housing.

509 SECTION 24. Section 13 shall take effect on July 1, 2012.