SENATE No. 966

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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 adoption of the accompanying bill:

An Act to prevent wage theft and promote employer accountability.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Sal N. DiDomenico	Middlesex and Suffolk	
Chris Walsh	6th Middlesex	
Kenneth J. Donnelly	Fourth Middlesex	
Michael F. Rush	Norfolk and Suffolk	
Barbara A. L'Italien	Second Essex and Middlesex	
Timothy J. Toomey, Jr.	26th Middlesex	
Michael O. Moore	Second Worcester	
James B. Eldridge	Middlesex and Worcester	
Thomas M. McGee	Third Essex	
Jason M. Lewis	Fifth Middlesex	
Marc R. Pacheco	First Plymouth and Bristol	
Thomas J. Calter	12th Plymouth	
Mary S. Keefe	15th Worcester	
Daniel A. Wolf	Cape and Islands	
John J. Lawn, Jr.	10th Middlesex	
John F. Keenan	Norfolk and Plymouth	
Danielle W. Gregoire	4th Middlesex	
Nick Collins	4th Suffolk	

Anne M. Gobi	Worcester, Hampden, Hampshire and	
	Middlesex	
James J. O'Day	14th Worcester	
Marjorie C. Decker	25th Middlesex	
Linda Dorcena Forry	First Suffolk	
Evandro C. Carvalho	5th Suffolk	
Brian A. Joyce	Norfolk, Bristol and Plymouth	
Daniel M. Donahue	16th Worcester	
Eric P. Lesser	First Hampden and Hampshire	
Benjamin Swan	11th Hampden	
Diana DiZoglio	14th Essex	
Daniel J. Ryan	2nd Suffolk	
Thomas M. Stanley	9th Middlesex	3/25/2015
Thomas P. Kennedy	Second Plymouth and Bristol	3/4/2015
James E. Timilty	Bristol and Norfolk	6/24/2015
Jennifer L. Flanagan	Worcester and Middlesex	7/14/2015
Patricia D. Jehlen	Second Middlesex	7/29/2015
John H. Rogers	12th Norfolk	7/29/2015
Michael S. Day	31st Middlesex	9/8/2015
Paul R. Heroux	2nd Bristol	9/14/2015
Bruce J. Ayers	1st Norfolk	9/14/2015

SENATE

No. 966

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 966) of Sal N. DiDomenico, Chris Walsh, Kenneth J. Donnelly, Michael F. Rush and other members of the General Court for legislation to prevent wage theft and promote employer accountability. Labor and Workforce Development.

The Commonwealth of Alassachusetts

In the One Hundred and Eighty-Ninth General Court (2015-2016)

An Act to prevent wage theft and promote employer accountability.

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. Chapter 149 of the General Laws, as appearing in the 2012 Official
- 2 Edition, is hereby amended by inserting after section 148B, the following sections:-
- 3 Section 148C. Additional definitions
- 4 For purposes of this chapter and chapter 151, except as otherwise defined with respect to
- 5 any particular section, the following words shall have the following meanings:
- 6 "Person" means an individual, partnership, association, corporation, business trust, or any
- 7 organized group of persons.
- 8 "Employer" includes any person acting directly or indirectly in the interest of an
- 9 employer in relation to an employee and includes a public employer.
- 10 "Employee" means any individual employed by an employer.

11 "Employ" includes to suffer or permit to work. 12 Section 148D. Accountability in labor contracting and subcontracting 13 (a) As used in this section, the following words have the following meanings:-14 (1) "Lead company" means a business entity, regardless of its form, that obtains or is 15 provided workers, directly from a labor contractor or indirectly from a subcontractor, to perform 16 labor or services that have a nexus with the lead company's business activities, operations, or 17 purposes. 18 (2) "Labor contractor" means an individual or entity that supplies, either with or without 19 a written contract, directly or indirectly, a lead company with workers to perform labor or 20 services. 21 (b) A lead company shall be subject to joint and several civil liability and shall share civil 22 legal responsibility for any violations of sections 27, 27F, 27G, 27H, 52D, 56 through 105, 148, 23 148A, 148B, 150, 150C, 152, 152A, 159C, and 190 of this chapter, chapter 151, chapter 151A, 24 and chapter 152 with a labor contractor and any subcontractor for all workers whose labor or 25 services are supplied to it by that labor contractor or subcontractor. 26 (c) The provisions of subsection (b) of this section are in addition to, and shall be 27 supplemental of, any other basis of liability or requirement established by statute or common 28 law. 29 (d) This section does not prohibit any person from establishing, exercising, or enforcing 30 any otherwise lawful rights or remedies.

Section 148E. Stop Work Order

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(a) On determination by the attorney general or director of department of unemployment assistance, or a designee, that any person or entity is employing an employee in violation of sections 27, 27F, 27G, 27H, 52D, 56 through 105, 148, 148A, 148B, 148D, 150, 150C, 152, 152A, 159C, and 190 of this chapter, chapter 151, or chapter 151A, the attorney general, director, or designee may issue a stop work order against the violator requiring the cessation of all business operations of the violator. The stop work order may be issued only against the individual or entity found to be in violation, and only as to the specific place of business or employment for which the violation exists. The stop work order shall be effective when served upon the violator or at the place of business or employment. A stop work order may be served at a place of business or employment by posting a copy of the stop work order in a conspicuous location at the place of business or employment. The stop work order shall remain in effect until the attorney general, director, or designee issues an order releasing the stop work order upon a finding that the violation has been corrected.

- (b) Any violator against which a stop work order is issued pursuant to subsection (a) of this section may request a hearing. Such request shall be made in writing not more than ten days after the issuance of such order.
- (c) Stop work orders and any penalties imposed thereunder against a corporation, partnership, or sole proprietorship shall be effective against any successor entity that has one or more of the same principals or officers as the corporation, partnership, or sole proprietorship against which the stop work order was issued and that is engaged in the same or equivalent trade or activity.

- (d) Any employee affected by a stop work order pursuant to this section shall be paid for the first ten days lost pursuant to the stop work order, and any time lost pursuant to this section not exceeding ten days shall be considered time worked under chapter 149.
 - (d) The attorney general shall adopt regulations necessary to carry out this subsection.
- SECTION 2. Section 27C of chapter 149 of the General Laws, as appearing in the 2012
 Official Edition, is hereby amended by inserting after the word "148B," in line 4, and after the
 word "148B," in line 14, the following word:-, 148D

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- SECTION 3. Section 150 of chapter 149 of the General Laws, as appearing in the 2012
 Official Edition, is hereby amended by inserting after the word "148B," in line 21, the following
 word:-, 148D
 - SECTION 4. Section 150 of chapter 149 of the General Laws, as appearing in the 2012 Official Edition, is hereby further amended by inserting after the word "fees," in line 30, the following words:-

The attorney general may bring a civil action for injunctive relief and to collect the claim of any employee or employees, including any similarly situated employees, aggrieved by a violation of sections 33E, 148, 148A, 148B, 148D, 150C, 152, 152A, 159C, or 190 or section 19 of chapter 151, including any damages incurred, and lost wages and other benefits. If the attorney general prevails in such an action, the employee or employees shall be awarded treble damages, as liquidated damages, and the attorney general shall be awarded the costs of the litigation and reasonable attorneys' fees. The attorney general shall not be required to pay a filing fee in connection with any such action.

SECTION 5. Section 27 of chapter 149 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the word "fees," in line 98, the following words:-

The attorney general may bring a civil action for injunctive relief and to collect the claim of any employee or employees, including any similarly situated employees, aggrieved by a violation of sections 27, 27F, 27G, or 27H, including any damages incurred, and lost wages and other benefits. If the attorney general prevails in such an action, the employee or employees shall be awarded treble damages, as liquidated damages, and the attorney general shall be awarded the costs of the litigation and reasonable attorneys' fees. The attorney general shall not be required to pay a filing fee in connection with any such action.

SECTION 6. Section 20 of chapter 151 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in line 14, the following words:-

At the request of any employee paid less than the minimum wage to which he or she is entitled the attorney general may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court.

SECTION 7. Section 20 of chapter 151 of the General Laws, as appearing in the 2012 Official Edition, is hereby further amended by inserting after the word "fees," in line 14, the following words:-

The attorney general may bring a civil action for injunctive relief and to collect the claim of any employee or employees, including any similarly situated employees, aggrieved by a violation of this chapter, including any damages incurred, and lost wages and other benefits. If

the attorney general prevails in such an action, the employee or employees shall be awarded treble damages, as liquidated damages, and the attorney general shall be awarded the costs of the litigation and reasonable attorneys' fees.

SECTION 8. Section 1B of chapter 151 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in line 18, the following words:-

At the request of any employee paid less than such overtime rate of compensation, the attorney general may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court.

SECTION 9. Section 1B of chapter 151 of the General Laws, as appearing in the 2012 Official Edition, is hereby further amended by inserting after the word "fees," in line 18, the following words:-

The attorney general may bring a civil action for injunctive relief and to collect the claim of any employee or employees, including any similarly situated employees, aggrieved by a violation of this section, including any damages incurred, and lost wages and other benefits. If the attorney general prevails in such an action, the employee or employees shall be awarded treble damages, as liquidated damages, and the attorney general shall be awarded the costs of the litigation and reasonable attorneys' fees.