SENATE DOCKET, NO. 826 FILED ON: 1/13/2009

SENATE . . . . . No. 1817

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to promote fair employment and security in the Commonwealth.

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 is hereby amended by inserting after section 19(c) the following new section:

"19(d): Whoever utilizes in any way a false identification document for the purposes of soliciting, securing, or maintaining employment from a public employer as defined in section 1 of chapter 30C shall be punished by a fine of not more than five thousand dollars or by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two years."

SECTION 2. Section 24B of chapter 90 of the general laws is hereby amended by adding, after the first paragraph, the following:-

" Whoever falsely makes, steals, alters, forges or counterfeits a learner's permit, a license to operate motor vehicles or an identification card issued under section 8E with the intent to distribute such learner's permit, license to operate motor vehicles or identification card or assists another to do so shall be punished as follows:

For the above acts involving 1 to 5 documents, by a fine of not more than $5,000 or by imprisonment in state prison for not more than 7 years or in a house of correction for not more than five years, or both;

For acts involving 5 to 10 documents, by a fine of not more than $10,000 or by imprisonment in state prison for not more than 10 years or in a house of correction for not more than 8 years, or both;

For acts involving more than 10 documents, by a fine of not more than $100,000 or by imprisonment in state prison for not more than 20 years or for not more than 15 years in a house of correction, or both."

SECTION 3. 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.

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

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

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

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

(A) On or after September 1, 20079, with respect to public employers, contractors, or subcontractors of 500 or more employees;

(B) On or after September 1, 2010, with respect to public employers, contractors, or subcontractors of 100 or more employees; and

(C) On or after September 1, 2011, with respect to all public employers, contractors, or subcontractors.

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

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

Section 7. The Inspector General shall develop and promulgate regulations for the purpose of ensuring that any person receiving funds pursuant to a contract awarded subject to the provisions of chapter 30B and section 44A of chapter 149 of the general laws is in compliance with federal laws pertaining to immigration and citizenship, including but not limited to 42 U.S.C. 1436(a). Such regulations shall include but not be limited to the ascertaining and verification of immigration and/or citizenship status through a work authorization program maintained by the United States Department of Homeland Security or its substantial equivalent.

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

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

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

SECTION 4. Chapter 149 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended in the second paragraph of section 19c by adding the following at the end thereof:

"Such regulations shall include but not be limited to ascertaining and verifying immigration and/or citizenship status utilizing a work authorization program maintained by the United States Department of Homeland Security or a similarly authorized and efficacious system."

SECTION 5. Chapter 149 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended in Section 2 by adding the following at the end thereof:

"Compliance with this section shall include but not be limited to entering into, maintaining and enforcing any and all memoranda of understanding with the Attorney General of the United States pertaining to the enforcement of federal laws regarding immigration and citizenship."

SECTION 6. Section 2 of chapter 149 of the general laws, as appearing in the 2004 Official Edition, is hereby amended by inserting at the end thereof the following:-"The attorney general shall make available to the residents of the commonwealth a 24-hour toll-free hotline which may be used for reporting any suspected violations of the provisions of this chapter, including sections 19c and 26, relative to immigration status and wage laws, or of 8 U.S.C. 1324a, relative to the unlawful employment of unauthorized aliens. Calls to the hotline shall be treated confidentially, and callers shall have the option of reporting any violations anonymously.

All complaints, whether received through the hotline, in writing, electronically, or in any other form, shall be recorded and documented by the attorney general and shall immediately refer any violations of federal law, including but not limited to 8 U.S.C. 1324a, to the attorney general of the United States and shall investigate all alleged violations of state law as authorized by the general laws. The attorney general shall annually prepare a year-end report detailing all reported violations of sections 19C and 26 of this chapter and of 8 U.S.C. 1324a, the nature of said violations, the date on which each complaint was received and documented, any enforcement action taken against an employer who knowingly employs illegal aliens in the commonwealth, and any violations of federal law forwarded to the attorney general of the United States. Said report shall be submitted to the house and senate committees on ways and means and to the joint committee on labor and workforce development on or before February 1 of each year.

SECTION 7. Notwithstanding any general or special law to the contrary, the Attorney General is hereby authorized and directed to facilitate and enter into a memorandum of understanding with the Attorney General of the United States, pursuant to the provisions of 8 U.S.C. 1357(g), for the purpose of enforcing state and federal laws pertaining to immigration and citizenship, not later than eight months following the passage of this act.

SECTION 8. Notwithstanding any general or special law to the contrary, when any person charged with a felony or with driving under the influence pursuant to section 24 of chapter 90 of the general laws is confined, for any period, in any correctional institution or prison in the commonwealth, the commissioner of the department of corrections, the county sheriff, or the municipal police chief or other officer shall make a reasonable effort to verify that the prisoner has been lawfully admitted to the United States and if lawfully admitted, that such lawful status has not expired. If verification of lawful status can not be made from documents in

the possession of the prisoner, verification shall be made within 48 hours through a query to the Law Enforcement Support Center (LESC) of the United States Department of Homeland Security or other office or agency designated for that purpose by the United States Department of Homeland Security. If the prisoner is determined not to be lawfully admitted to the United States the commissioner of the department of corrections, the county sheriff, the municipal police chief or an other officer shall notify the United States Department of Homeland Security.

(b) Nothing in this section shall be construed to deny a person bond or from being released from confinement when such person is otherwise eligible for release.

(c) The secretary of the executive office of public safety shall prepare and issue guidelines and procedures used to comply with the provisions of this section."

SECTION 9. Section 32 of chapter 121B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

"Notwithstanding any general or special law or regulation to the contrary, an applicant for assisted housing under this chapter who is not eligible for federal assisted housing under 42 U.S.C. section 1436a, and who is not a person residing in the United States under color of law as defined in regulations of the federal Department of Health and Human Services as in force on May 25, 2006, shall not displace or be given priority over any applicant who is so eligible."

SECTION 10. Notwithstanding any general or special law to the contrary the immigration status of every defendant shall be confirmed at the arraignment stage of any civil or criminal court proceeding.

SECTION 11. If any of the provisions of this act, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder thereof, or the application of

such provision to persons or circumstances other than those wherein it is held invalid, shall not be affected thereby.