

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:

1 SECTION 1. Chapter 149 of the General Laws is hereby amended by inserting after
2 section 19(c) the following new section:

3 “19(d): Whoever utilizes in any way a false identification document for the purposes of
4 soliciting, securing, or maintaining employment from a public employer as defined in section 1
5 of chapter 30C shall be punished by a fine of not more than five thousand dollars or by
6 imprisonment in the state prison for not more than five years or in a jail or house of correction
7 for not more than two years.”

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

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

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

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

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

23 SECTION 3. The general laws are hereby amended by inserting after chapter 30B the
24 following:-

25 “Chapter 30C. PUBLIC CONTRACT INTEGRITY

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

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

34 “Work authorization program”: any of the electronic verification of work authorization
35 programs operated by the United States Department of Homeland Security or any equivalent
36 work authorization program operated by the United States Department of Homeland Security,
37 the United States Department of Labor, the Social Security Administration, other federal agency,
38 or any private verification system authorized by the director of the department of labor to verify
39 information of newly hired employees, pursuant to the Immigration Reform and Control Act of
40 1986 (IRCA) and its progeny.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

91 SECTION 6. Section 2 of chapter 149 of the general laws, as appearing in the 2004
92 Official Edition, is hereby amended by inserting at the end thereof the following: -”The attorney
93 general shall make available to the residents of the commonwealth a 24-hour toll-free hotline
94 which may be used for reporting any suspected violations of the provisions of this chapter,
95 including sections 19c and 26, relative to immigration status and wage laws, or of 8 U.S.C.
96 1324a, relative to the unlawful employment of unauthorized aliens. Calls to the hotline shall be
97 treated confidentially, and callers shall have the option of reporting any violations anonymously.

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

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

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

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

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

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

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

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

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

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

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