

HOUSE No. 2861

The Commonwealth of Massachusetts

PRESENTED BY:

Timothy J. Toomey, Jr.

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 relative to food stamp trafficking.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>	<i>1/21/2011</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>	<i>1/26/2011</i>

HOUSE No. 2861

By Mr. Toomey of Cambridge, a petition (accompanied by bill, House, No. 2861) of Timothy J. Toomey, Jr. and Anne M. Gobi for legislation to establish penalties for the trafficking of food stamps. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to food stamp trafficking.

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

1 Chapter 18 of the General Laws is hereby amended by inserting after section 5H the
2 following new section:

3 Section 5 I Food Stamp Trafficking

4 (a) Any approved retail food store or wholesale food concern as defined by U.S.C. §
5 2018(a), that knowingly uses, transfers, acquires, alters or possesses an Electronic Benefit
6 Transfer card, or access devices in any manner not authorized by the federal food stamp act (7
7 U.S.C § 2011 et seq.) or regulations issued pursuant to the Food Stamp Act, or who presents for
8 payment or redemption of an EBT card that has been illegally received, transferred, used or
9 altered shall:

10 (1) If such benefits are of a value of \$5,000 or more, be guilty of a felony and shall
11 be fined not more than \$250,000 or imprisoned for not more than twenty years, or both.

12 (2) If such benefits are of a value of \$100 or more, but less than \$5,000, or if the item
13 used, transferred, acquired, altered, or possessed is a benefit that has a value of \$100 or more, but
14 less than \$5,000, be guilty of a felony and shall, upon the first conviction thereof, be fined not
15 more than \$10,000 or imprisoned for not more than five years, or both, and, upon the second and
16 any subsequent conviction thereof, shall be imprisoned for not less than six months nor more
17 than five years and may also be fined not more than \$10,000.

18 (3) If such benefits are of a value of less than \$100, or if the item used, transferred,
19 acquired, altered, or processed is a benefit that has a value of less than \$100, shall be guilty of a
20 misdemeanor, and, upon the first conviction thereof, shall be fined not more than \$1,000 or
21 imprisoned for not more than one year, or both, and upon the second and any subsequent
22 conviction thereof, shall be imprisoned for not more than one year and may also be fined not
23 more than \$1,000. In addition to such penalties, any person convicted of a felony or
24 misdemeanor violation under this subsection may be suspended by the court from participation
25 in the supplemental nutrition assistance program for an additional period of up to eighteen
26 months consecutive to that period of suspension mandated by 7U.S.C. 2015 (b)(1).

27 (b) Criminal Forfeiture; In imposing a sentence on a person convicted of an offense
28 in violation of subsection (a) of this section, a court shall order, in addition to any other sentence
29 imposed under this section, that the person forfeit to the United States all property described in
30 paragraph (1).

31 (1) Property subject to forfeiture; All property, real and personal, used in a
32 transaction or attempted transaction, to commit, or to facilitate the commission of, a violation

33 (other than a misdemeanor) of subsection (a) of this section, or proceeds traceable to a violation
34 of subsection (a) of this section.

35 (2) The proceeds from any sale of forfeited property and any monies forfeited under
36 this subsection shall be used:

37 (a) first, to reimburse any Federal or State law enforcement agency for any cost
38 incurred in the law enforcement effort resulting in the forfeiture; and

39 (b) second, by any entity carrying out the approval, reauthorization, and compliance
40 investigations of retail stores and wholesale food concerns.

41 (3) No interest in property shall be forfeited under this subsection as the result of any act
42 or omission established by the owner of the interest to have been committed or omitted without
43 the knowledge or consent of the owner.