

SENATE No. 883

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 promote fair employment and security in the Commonwealth..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bruce E. Tarr</i>	
<i>Robert L. Hedlund</i>	
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Michael R. Knapik</i>	
<i>Richard T. Moore</i>	
<i>James E. Timilty</i>	

SENATE No. 883

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 883) of Bruce E. Tarr, Robert L. Hedlund, Richard J. Ross, Michael R. Knapik and other members of the Senate for legislation to promote fair employment and security in the Commonwealth. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1817 OF 2009-2010.]

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
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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
4 purposes of soliciting, securing, or maintaining employment from a public employer as defined
5 in section 1 of chapter 30C shall be punished by a fine of not more than five thousand dollars or
6 by 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
15 or by imprisonment in state prison for not more than 7 years or in a house of correction for not
16 more 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
21 or by imprisonment in state prison for not more than 20 years or for not more than 15 years in a
22 house of correction, or both.”

23 SECTION 3. The general laws are hereby amended by inserting after chapter 30B
24 the 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
35 authorization programs operated by the United States Department of Homeland Security or any
36 equivalent work authorization program operated by the United States Department of Homeland
37 Security, the United States Department of Labor, the Social Security Administration, other
38 federal agency, or any private verification system authorized by the director of the department of
39 labor to verify information of newly hired employees, pursuant to the Immigration Reform and
40 Control Act of 1986 (IRCA) and its progeny.

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

45 Section 3. No contractor or subcontractor who enters a contract with a public
46 employer shall enter into such a contract or subcontract in connection with the provision of
47 goods or services in the commonwealth unless the contractor or subcontractor registers and
48 participates in a work authorization program to verify information of all employees and certifies
49 to that effect in 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, 2011, with respect to public employers, contractors,
52 or subcontractors of 500 or more employees;

53 (B) On or after September 1, 2012, with respect to public employers, contractors,
54 or subcontractors of 100 or more employees; and

55 (C) On or after September 1, 2013, with respect to all public employers,
56 contractors, or 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
60 department of labor shall prescribe forms and promulgate rules and regulations deemed
61 necessary in order to 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
70 funds shall be expended in accordance with such a contract, unless the public employer named in
71 the contract complies with the regulations prescribed in this chapter.

72 Section 9. No funds shall be expended in accordance with a contract awarded by
73 or to a public employer which will result in the payment of any kind to a person not in

74 compliance with any and all federal laws pertaining to immigration and citizenship, including but
75 not limited to 42 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 2008 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 2008 Official
86 Edition, 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
92 2008 Official Edition, is hereby amended by inserting at the end thereof the following:-

93 ”The attorney general shall make available to the residents of the commonwealth
94 a 24-hour toll-free hotline which may be used for reporting any suspected violations of the

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

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

115 SECTION 8. Notwithstanding any general or special law to the contrary, when
116 any person charged with a felony or with driving under the influence pursuant to section 24 of
117 chapter 90 of the general laws is confined, for any period, in any correctional institution or prison

118 in the commonwealth, the commissioner of the department of corrections, the county sheriff, or
119 the municipal police chief or other officer shall make a reasonable effort to verify that the
120 prisoner has been lawfully admitted to the United States and if lawfully admitted, that such
121 lawful status has not expired. If verification of lawful status can not be made from documents in
122 the possession of the prisoner, verification shall be made within 48 hours through a query to the
123 Law Enforcement Support Center (LESC) of the United States Department of Homeland
124 Security or other office or agency designated for that purpose by the United States Department of
125 Homeland Security. If the prisoner is determined not to be lawfully admitted to the United States
126 the commissioner of the department of corrections, the county sheriff, the municipal police chief
127 or an other officer shall notify the United States Department of Homeland Security.

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

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

132 SECTION 9. Section 32 of chapter 121B of the General Laws, as appearing in
133 the 2008 Official Edition, is hereby amended by adding the following paragraph:-

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

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

143 SECTION 11. If any of the provisions of this act, or the application of such
144 provision to any persons or circumstances, shall be held invalid, the remainder thereof, or the
145 application of such provision to persons or circumstances other than those wherein it is held
146 invalid, shall not be affected thereby.