

HOUSE No. 1748

The Commonwealth of Massachusetts

PRESENTED BY:

Aaron Michlewitz and Kate Hogan

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:	DATE ADDED:
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>	<i>1/15/2015</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>1/20/2015</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>9/30/2019</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	<i>2/4/2015</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>9/30/2019</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>	<i>9/30/2019</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>9/30/2019</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>9/30/2019</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>	<i>9/30/2019</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>9/30/2019</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>9/30/2019</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>	<i>9/30/2019</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>9/30/2019</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>9/30/2019</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>9/30/2019</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>9/30/2019</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>9/30/2019</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>9/30/2019</i>

<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	<i>9/30/2019</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>9/30/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>9/30/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>9/30/2019</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>	<i>9/30/2019</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>	<i>9/30/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>9/30/2019</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>9/30/2019</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>	<i>9/30/2019</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>9/30/2019</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>	<i>9/30/2019</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>9/30/2019</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>	<i>9/30/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>9/30/2019</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>9/30/2019</i>
<i>John C. Velis</i>	<i>4th Hampden</i>	<i>9/30/2019</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>	<i>9/30/2019</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	<i>9/30/2019</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>	<i>9/30/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>9/30/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>9/30/2019</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>9/30/2019</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>9/30/2019</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>9/30/2019</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>9/30/2019</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>	<i>9/30/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>9/30/2019</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	<i>9/30/2019</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>9/30/2019</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>9/30/2019</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>	<i>9/30/2019</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>9/30/2019</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>9/30/2019</i>
<i>Brendan P. Crighton</i>	<i>11th Essex</i>	<i>9/30/2019</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	<i>9/30/2019</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>9/30/2019</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>9/30/2019</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>	<i>9/30/2019</i>

<i>Daniel Cullinane</i>	<i>12th Suffolk</i>	<i>9/30/2019</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>9/30/2019</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>	<i>9/30/2019</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>9/30/2019</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>9/30/2019</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>9/30/2019</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>9/30/2019</i>
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>	<i>9/30/2019</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>	<i>9/30/2019</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>	<i>9/30/2019</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>9/30/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>9/30/2019</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>9/30/2019</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>9/30/2019</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>9/30/2019</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>9/30/2019</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>9/30/2019</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>9/30/2019</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>9/30/2019</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>	<i>9/30/2019</i>
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>	<i>9/30/2019</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>	<i>9/30/2019</i>

HOUSE No. 1748

By Representatives Michlewitz of Boston and Hogan of Stow, a petition (accompanied by bill, House, No. 1748) of Aaron Michlewitz, Kate Hogan and others for legislation to prevent wage theft and promote employer accountability. Labor and Workforce Development.

The Commonwealth of Massachusetts

**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:

1 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.

31 Section 148E. Stop Work Order

32 (a) On determination by the attorney general or director of department of unemployment
33 assistance, or a designee, that any person or entity is employing an employee in violation of
34 sections 27, 27F, 27G, 27H, 52D, 56 through 105, 148, 148A, 148B, 148D, 150, 150C, 152,
35 152A, 159C, and 190 of this chapter, chapter 151, or chapter 151A, the attorney general,
36 director, or designee may issue a stop work order against the violator requiring the cessation of
37 all business operations of the violator. The stop work order may be issued only against the
38 individual or entity found to be in violation, and only as to the specific place of business or
39 employment for which the violation exists. The stop work order shall be effective when served
40 upon the violator or at the place of business or employment. A stop work order may be served at
41 a place of business or employment by posting a copy of the stop work order in a conspicuous
42 location at the place of business or employment. The stop work order shall remain in effect until
43 the attorney general, director, or designee issues an order releasing the stop work order upon a
44 finding that the violation has been corrected.

45 (b) Any violator against which a stop work order is issued pursuant to subsection (a) of
46 this section may request a hearing. Such request shall be made in writing not more than ten days
47 after the issuance of such order.

48 (c) Stop work orders and any penalties imposed thereunder against a corporation,
49 partnership, or sole proprietorship shall be effective against any successor entity that has one or
50 more of the same principals or officers as the corporation, partnership, or sole proprietorship
51 against which the stop work order was issued and that is engaged in the same or equivalent trade
52 or activity.

53 (d) Any employee affected by a stop work order pursuant to this section shall be paid for
54 the first ten days lost pursuant to the stop work order, and any time lost pursuant to this section
55 not exceeding ten days shall be considered time worked under chapter 149.

56 (d) The attorney general shall adopt regulations necessary to carry out this subsection.

57 SECTION 2. Section 27C of chapter 149 of the General Laws, as appearing in the 2012
58 Official Edition, is hereby amended by inserting after the word “148B,” in line 4, and after the
59 word “148B,” in line 14, the following word:-

60 , 148D

61 SECTION 3. Section 150 of chapter 149 of the General Laws, as appearing in the 2012
62 Official Edition, is hereby amended by inserting after the word “148B,” in line 21, the following
63 word:-

64 , 148D

65 SECTION 4. Section 150 of chapter 149 of the General Laws, as appearing in the 2012
66 Official Edition, is hereby further amended by inserting after the word “fees,” in line 30, the
67 following words:-

68 The attorney general may bring a civil action for injunctive relief and to collect the claim
69 of any employee or employees, including any similarly situated employees, aggrieved by a
70 violation of sections 33E, 148, 148A, 148B, 148D, 150C, 152, 152A, 159C, or 190 or section 19
71 of chapter 151, including any damages incurred, and lost wages and other benefits. If the
72 attorney general prevails in such an action, the employee or employees shall be awarded treble
73 damages, as liquidated damages, and the attorney general shall be awarded the costs of the

74 litigation and reasonable attorneys' fees. The attorney general shall not be required to pay a
75 filing fee in connection with any such action.

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

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

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

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

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

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

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

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

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

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