

SENATE . . . . . No. 966

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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:
Sal N. DiDomenico	Middlesex and Suffolk
Chris Walsh	6th Middlesex
Kenneth J. Donnelly	Fourth Middlesex
Michael F. Rush	Norfolk and Suffolk
Barbara A. L'Italien	Second Essex and Middlesex
Timothy J. Toomey, Jr.	26th Middlesex
Michael O. Moore	Second Worcester
James B. Eldridge	Middlesex and Worcester
Thomas M. McGee	Third Essex
Jason M. Lewis	Fifth Middlesex
Marc R. Pacheco	First Plymouth and Bristol
Thomas J. Calter	12th Plymouth
Mary S. Keefe	15th Worcester
Daniel A. Wolf	Cape and Islands
John J. Lawn, Jr.	10th Middlesex
John F. Keenan	Norfolk and Plymouth
Danielle W. Gregoire	4th Middlesex
Nick Collins	4th Suffolk

<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	
<i>James J. O'Day</i>	<i>14th Worcester</i>	
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>	
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>	
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	
<i>Benjamin Swan</i>	<i>11th Hampden</i>	
<i>Diana DiZoglio</i>	<i>14th Essex</i>	
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/25/2015</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>	<i>3/4/2015</i>
<i>James E. Tilty</i>	<i>Bristol and Norfolk</i>	<i>6/24/2015</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	<i>7/14/2015</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>7/29/2015</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>	<i>7/29/2015</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>	<i>9/8/2015</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>9/14/2015</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>9/14/2015</i>

**SENATE . . . . . No. 966**

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By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 966) of Sal N. DiDomenico, Chris Walsh, Kenneth J. Donnelly, Michael F. Rush and other members of the General Court for legislation to prevent wage theft and promote employer accountability. Labor and Workforce Development.

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**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:-, 148D

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

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

66 The attorney general may bring a civil action for injunctive relief and to collect the claim  
67 of any employee or employees, including any similarly situated employees, aggrieved by a  
68 violation of sections 33E, 148, 148A, 148B, 148D, 150C, 152, 152A, 159C, or 190 or section 19  
69 of chapter 151, including any damages incurred, and lost wages and other benefits. If the  
70 attorney general prevails in such an action, the employee or employees shall be awarded treble  
71 damages, as liquidated damages, and the attorney general shall be awarded the costs of the  
72 litigation and reasonable attorneys’ fees. The attorney general shall not be required to pay a  
73 filing fee in connection with any such action.

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

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

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

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

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

93 The attorney general may bring a civil action for injunctive relief and to collect the claim  
94 of any employee or employees, including any similarly situated employees, aggrieved by a  
95 violation of this chapter, including any damages incurred, and lost wages and other benefits. If

96 the attorney general prevails in such an action, the employee or employees shall be awarded  
97 treble damages, as liquidated damages, and the attorney general shall be awarded the costs of the  
98 litigation and reasonable attorneys' fees.

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

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

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

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