

HOUSE No. 1033

The Commonwealth of Massachusetts

PRESENTED BY:

Aaron Michlewitz

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:
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>
<i>Gerard Cassidy</i>	<i>9th Plymouth</i>

<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>William Driscoll</i>	<i>7th Norfolk</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Michael J. Finn</i>	<i>6th Hampden</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>
<i>Carlos González</i>	<i>10th Hampden</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>

<i>Natalie Higgins</i>	<i>4th Worcester</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Adrian Madaro</i>	<i>1st Suffolk</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Christopher M. Markey</i>	<i>9th Bristol</i>
<i>Juana B. Matias</i>	<i>16th Essex</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Joan Meschino</i>	<i>3rd Plymouth</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>David M. Nangle</i>	<i>17th Middlesex</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Jerald A. Parisella</i>	<i>6th Essex</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>

<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>William M. Straus</i>	<i>10th Bristol</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>John C. Velis</i>	<i>4th Hampden</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>Joseph F. Wagner</i>	<i>8th Hampden</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>
<i>Bud Williams</i>	<i>11th Hampden</i>

HOUSE No. 1033

By Mr. Michlewitz of Boston, a petition (accompanied by bill, House, No. 1033) of Aaron Michlewitz and others relative to preventing wage theft and promoting employer accountability. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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. Section 27C (b)(1) of chapter 149 of the General Laws, as appearing in the
2 2014 Official Edition, is hereby amended by inserting, in line 58, after the words “subsection
3 (a),” the words “or as otherwise provided in sections 100, 150C, and 148E of chapter 149.”

4 SECTION 2. Section 27C (c) of said chapter 149 of the General Laws, as appearing in
5 the 2014 Official Edition, is hereby further amended by striking out, in line 159 the words “civil
6 and criminal” and inserting in place thereof the following word: - criminal.

7 SECTION 3. Section 150 of said chapter 149 of the General Laws is hereby amended by
8 inserting after the word “190” in line 40, the following word: - , 148E.

9 SECTION 4. Section 150C of said chapter 149 of the General Laws is hereby amended
10 by inserting after the words “one thousand dollars,” in line 9 the words “or shall be subject to a
11 civil citation or order as provided in section 27C”, and further amended by inserting after the
12 word “force” in line 14 the following: “The president and treasurer of a corporation and any

13 officers or agents having the management of such corporation shall be deemed to be the
14 employers of the employees of the corporation within the meaning of this section.

15 SECTION 5: Section 27C of said chapter 149 of the General Laws, as appearing in the
16 2014 Official Edition, is hereby amended by inserting at the end of the last paragraph, the
17 following: -

18 (d) As a further alternative to initiating criminal proceedings pursuant to subsection (a),
19 the attorney general may file a civil action for injunctive relief, for any damages incurred, and for
20 any lost wages and other benefits on behalf of an employee or multiple, similarly situated
21 employees. If the attorney general prevails in such an action, the employee or employees on
22 whose behalf the attorney general brought the civil action shall be awarded treble damages, as
23 liquidated damages, for any lost wages and other benefits, and the attorney general shall also be
24 awarded the costs of the litigation and reasonable attorneys' fees.

25 SECTION 5. Chapter 149 of the general laws, as appearing in the 2014 Official Edition,
26 is hereby further amended by inserting after section 148D, the following sections:-

27 Section 148E. Accountability in labor contracting and subcontracting

28 (a) As used in this section, and in Section 148F the following words have the
29 following meanings:-

30 (1) "Lead contractor" means a business, regardless of form, who obtains,
31 engages, or is provided one or more individuals, directly from a labor contractor or indirectly
32 from a labor subcontractor, to perform labor or services that have a significant nexus with the
33 lead contractor's business activities, operations, or purposes.

34 (2) "Labor contractor" means any person or entity who obtains, engages, or
35 provides one or more individuals to perform labor or services, either with or without a written
36 contract, directly or indirectly, to a lead contractor.

37 (3) "Labor subcontractor" means any person or entity who obtains, engages, or provides,
38 one or more individuals to perform labor or services, either with or without a written contract,
39 directly or indirectly, to a labor contractor.

40 (4) "Wage theft" mean any violation of sections 27, 27F, 27G, 27H, 148, 148A, 148B,
41 148C, 150, 150C, or 152A of this chapter, or subsection (c) or (d) of section 159C of this
42 chapter, or sections 1, 1A, 1B, 2A, 7, 19 or 20 of chapter 151, with respect to any individual
43 obtained, engaged, or employed by a lead contractor, labor contractor, or labor subcontractor.

44 (a) A lead contractor shall be subject to joint and several civil liability with a
45 labor contractor and a labor subcontractor. For purposes of this section, the president and
46 treasurer of a corporation and any officers or agents having the management of such corporation
47 shall also be deemed civilly liable for a wage theft violation hereunder.

48 (b) Nothing in this section shall limit the availability of other remedies at law or in
49 equity.

50 (c) No person shall by special contract or by any other means exempt himself from this
51 section or section 148F.

52 Section 148F. Stop Work Order

53 (a) Notwithstanding sections 15 and 47 of chapter 151A, on determination by the director
54 of the department of unemployment assistance, or a designee, that any person or entity is failing

55 to make contributions required by section 14 of chapter 151A, the director, or designee may
56 issue a stop work order to an employing unit and the officer or agent of the employing unit,
57 requiring the cessation of all business operations of the violator. The stop work order may be
58 issued only against the person or entity found to be in violation, and only as to the specific place
59 of business or employment for which the violation exists. The stop work order shall be effective
60 when served upon the violator or at the place of business or employment. A stop work order
61 may be served in hand or at a place of business, employment, or job site by posting a copy of the
62 stop work order in a conspicuous location. The stop work order shall remain in effect until the
63 director, or designee, issues an order releasing the stop work order upon a finding that the
64 violation has been corrected.

65 (b) On determination by the attorney general, or a designee, that any person or entity is
66 engaging in a wage theft violation, the attorney general, or designee, may issue a stop work order
67 to an employing unit and the officer or agent of the employing unit, requiring the cessation of all
68 business operations of the violator. The stop work order may be issued only against the
69 individual or entity found to be in violation, and only as to the specific place of business or
70 employment for which the violation exists. The stop work order shall be effective when served
71 upon the violator or at the place of business or employment. A stop work order may be served in
72 hand or at a place of business, employment, or job site by posting a copy of the stop work order
73 in a conspicuous location. The stop work order shall remain in effect until the attorney general,
74 or designee issues an order releasing the stop work order upon a finding that the violation has
75 been corrected.

76 (c) Any person who is aggrieved by the imposition of a stop work order issued pursuant
77 to subsections (a) or (b) of this section shall have ten days from the date of its service to make a

78 request to the issuing agency for a hearing. Any person who timely files such an appeal shall be
79 granted a hearing in accordance with chapter 30A within fourteen days of receipt of the appeal.
80 The stop work order shall not be in effect during the pendency of any timely filed appeal.

81 (d) A stop work order imposed hereunder against a person or entity shall be
82 effective against any successor person or entity that (i) has at least one of the same principals or
83 officers as the person or entity against whom the stop work order was issued; and (ii) is engaged
84 in the same or equivalent trade or activity as the person or entity for which the stop work order
85 was imposed.

86 (e) Any employee affected by a stop work order pursuant to this section shall be
87 paid for the first ten days lost pursuant to the stop work order, and any time lost pursuant to this
88 section not exceeding ten days shall be considered time worked under chapters 149 and 151.
89 Subsection (b) of section 148E shall not apply to wages due and payable under this subsection.

90 (f) The department of unemployment assistance may promulgate regulations to
91 implement sections 148F (a) of chapter 149 of the General Laws.

92 (g) The attorney general may promulgate regulations to implement sections 148E and
93 148F of chapter 149 of the General Laws, but not including subsection (a) of said section 148F
94 of said chapter 149.

95

96 SECTION 3: Said chapter 149, as so appearing, is hereby amended by inserting, in line 9,
97 the words “or shall be subject to a civil citation or order as provided in section 27C and by being
98 required to reimburse employees for any wages withheld or deducted that were not put toward

99 the use for which they were withheld or deducted, or by being required to pay for all costs
100 incurred by an employee that would have been paid for or reimbursed by insurance if such
101 insurance coverage had been in force. The president and treasurer of a corporation and any
102 officers or agents having the management of such corporation shall be deemed to be the
103 employers of the employees of the corporation within the meaning of this section” after the
104 words “one thousand dollars,” and by striking from line 9 the words “by being required to
105 reimburse employees for” and by striking lines 11, 12, 13, and 14.