

**SENATE . . . . . No. 1066**

**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, promote employer accountability, and enhance public enforcement.

PETITION OF:

| NAME:                        | DISTRICT/ADDRESS:                                 |                  |
|------------------------------|---|------------------|
| <i>Sal N. DiDomenico</i>     | <i>Middlesex and Suffolk</i>                      |                  |
| <i>Harriette L. Chandler</i> | <i>First Worcester</i>                            | <i>1/25/2019</i> |
| <i>Thomas M. Stanley</i>     | <i>9th Middlesex</i>                              | <i>1/29/2019</i> |
| <i>Walter F. Timilty</i>     | <i>Norfolk, Bristol and Plymouth</i>              | <i>1/29/2019</i> |
| <i>Jack Patrick Lewis</i>    | <i>7th Middlesex</i>                              | <i>1/29/2019</i> |
| <i>Michael J. Barrett</i>    | <i>Third Middlesex</i>                            | <i>1/29/2019</i> |
| <i>James B. Eldridge</i>     | <i>Middlesex and Worcester</i>                    | <i>1/29/2019</i> |
| <i>Marc R. Pacheco</i>       | <i>First Plymouth and Bristol</i>                 | <i>1/29/2019</i> |
| <i>Daniel J. Hunt</i>        | <i>13th Suffolk</i>                               | <i>1/29/2019</i> |
| <i>Michael O. Moore</i>      | <i>Second Worcester</i>                           | <i>1/30/2019</i> |
| <i>Diana DiZoglio</i>        | <i>First Essex</i>                                | <i>1/30/2019</i> |
| <i>Marcos A. Devers</i>      | <i>16th Essex</i>                                 | <i>1/30/2019</i> |
| <i>Patrick M. O'Connor</i>   | <i>Plymouth and Norfolk</i>                       | <i>1/30/2019</i> |
| <i>James T. Welch</i>        | <i>Hampden</i>                                    | <i>1/30/2019</i> |
| <i>Joseph A. Boncore</i>     | <i>First Suffolk and Middlesex</i>                | <i>1/30/2019</i> |
| <i>Adam G. Hinds</i>         | <i>Berkshire, Hampshire, Franklin and Hampden</i> | <i>1/30/2019</i> |

|                                    |  |                  |
|------------------------------------|--|------------------|
| <i>Edward J. Kennedy</i>           | <i>First Middlesex</i>                             | <i>1/30/2019</i> |
| <i>Paul R. Feeney</i>              | <i>Bristol and Norfolk</i>                         | <i>1/30/2019</i> |
| <i>Cindy F. Friedman</i>           | <i>Fourth Middlesex</i>                            | <i>1/30/2019</i> |
| <i>Brendan P. Crighton</i>         | <i>Third Essex</i>                                 | <i>1/30/2019</i> |
| <i>Patricia D. Jehlen</i>          | <i>Second Middlesex</i>                            | <i>1/31/2019</i> |
| <i>Mary S. Keefe</i>               | <i>15th Worcester</i>                              | <i>1/31/2019</i> |
| <i>Mike Connolly</i>               | <i>26th Middlesex</i>                              | <i>1/31/2019</i> |
| <i>Michael F. Rush</i>             | <i>Norfolk and Suffolk</i>                         | <i>1/31/2019</i> |
| <i>Daniel J. Ryan</i>              | <i>2nd Suffolk</i>                                 | <i>1/31/2019</i> |
| <i>John F. Keenan</i>              | <i>Norfolk and Plymouth</i>                        | <i>1/31/2019</i> |
| <i>Liz Miranda</i>                 | <i>5th Suffolk</i>                                 | <i>1/31/2019</i> |
| <i>Kathleen R. LaNatra</i>         | <i>12th Plymouth</i>                               | <i>1/31/2019</i> |
| <i>Sonia Chang-Diaz</i>            | <i>Second Suffolk</i>                              | <i>2/1/2019</i>  |
| <i>Michael J. Moran</i>            | <i>18th Suffolk</i>                                | <i>2/1/2019</i>  |
| <i>Joanne M. Comerford</i>         | <i>Hampshire, Franklin and Worcester</i>           | <i>2/1/2019</i>  |
| <i>Eric P. Lesser</i>              | <i>First Hampden and Hampshire</i>                 | <i>2/1/2019</i>  |
| <i>Mark C. Montigny</i>            | <i>Second Bristol and Plymouth</i>                 | <i>2/1/2019</i>  |
| <i>Sean Garballey</i>              | <i>23rd Middlesex</i>                              | <i>2/1/2019</i>  |
| <i>David Allen Robertson</i>       | <i>19th Middlesex</i>                              | <i>2/1/2019</i>  |
| <i>David Henry Argosky LeBoeuf</i> | <i>17th Worcester</i>                              | <i>2/1/2019</i>  |
| <i>Alan Silvia</i>                 | <i>7th Bristol</i>                                 | <i>2/1/2019</i>  |
| <i>Rebecca L. Rausch</i>           | <i>Norfolk, Bristol and Middlesex</i>              | <i>2/1/2019</i>  |
| <i>Michael D. Brady</i>            | <i>Second Plymouth and Bristol</i>                 | <i>2/1/2019</i>  |
| <i>Julian Cyr</i>                  | <i>Cape and Islands</i>                            | <i>2/1/2019</i>  |
| <i>Lori A. Ehrlich</i>             | <i>8th Essex</i>                                   | <i>2/1/2019</i>  |
| <i>Jason M. Lewis</i>              | <i>Fifth Middlesex</i>                             | <i>2/8/2019</i>  |
| <i>Tram T. Nguyen</i>              | <i>18th Essex</i>                                  | <i>2/11/2019</i> |
| <i>Brian M. Ashe</i>               | <i>2nd Hampden</i>                                 | <i>3/7/2019</i>  |
| <i>Anne M. Gobi</i>                | <i>Worcester, Hampden, Hampshire and Middlesex</i> | <i>4/3/2019</i>  |

**SENATE . . . . . No. 1066**

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By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 1066) of Sal N. DiDomenico, Harriette L. Chandler, Thomas M. Stanley, Walter F. Timilty and other members of the General Court for legislation to prevent wage theft, promote employer accountability, and enhance public enforcement. Labor and Workforce Development.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2546 OF 2017-2018.]

**The Commonwealth of Massachusetts**

—————  
**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
—————

An Act to prevent wage theft, promote employer accountability, and enhance public enforcement.

*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 of chapter 149 of the General Laws, as appearing in the 2016  
2 Official Edition, is hereby amended by inserting after the words “subsection (a)”, in line 58, the  
3 following words:- , or section 100, 148E or 150C.

4           SECTION 2. Said section 27C of said chapter 149, as so appearing, is hereby further  
5 amended by striking out, in line 159, the words “Civil and criminal” and inserting in place  
6 thereof the following word:- Criminal.

7           SECTION 3. Said section 27C of said chapter 149, as so appearing, is hereby further  
8 amended by adding the following subsection:-

9 (d) As a further alternative to initiating criminal proceedings pursuant to subsection (a) or  
10 civil proceedings pursuant to subsection (b), the attorney general may file a civil action for  
11 injunctive relief, for any damages incurred, and for any lost wages and other benefits on behalf  
12 of an employee or multiple, similarly situated employees. If the attorney general prevails in such  
13 an action, the employee or employees on whose behalf the attorney general brought the civil  
14 action shall be awarded treble damages, as liquidated damages, for any lost wages and other  
15 benefits, and the attorney general shall also be awarded the costs of the litigation and reasonable  
16 attorneys' fees.

17 SECTION 4. Chapter 149 of the General Laws is hereby amended by inserting after  
18 section 148D the following 3 sections:-

19 Section 148E. (a) As used in this section and sections 148F to 148H, inclusive, the  
20 following words shall have the following meanings unless the context clearly indicates  
21 otherwise:-

22 "Labor contractor", a person or entity who obtains, engages or provides 1 or more  
23 individuals to perform labor or services, with or without a written contract, directly or indirectly,  
24 to a lead contractor or from a labor subcontractor.

25 "Labor subcontractor", a person or entity who engages or provides 1 or more individuals  
26 to perform labor or services, with or without a written contract, directly or indirectly, to a labor  
27 contractor.

28 "Lead contractor", a business, regardless of form, that obtains, engages or is provided  
29 with 1 or more individuals, directly from a labor contractor or indirectly from a labor

30 subcontractor, to perform labor or services that has a significant nexus with the lead contractor's  
31 business activities, operations or purposes.

32 "Wage theft", a violation of sections 27, 27F, 27G or 27H, the first and third sentences  
33 and the fourth paragraph of section 148, sections 148B or 148C, the fourth sentence of section  
34 150, section 152A, subsections (c) or (d) of section 159C, sections 1, 1A, 1B, 2A or 7 of chapter  
35 151, clauses (4) or (5) of section 19 of chapter 151 or section 20 of chapter 151.

36 (b) An employer, except a staffing agency as defined by section 159C that is licensed or  
37 registered pursuant to sections 46A to 46R, inclusive, of chapter 140, shall provide each  
38 employee, not later than 10 days after the commencement of employment, with written notice in  
39 the language the employer normally uses to communicate employment-related information to the  
40 employee, of the following information: (i) the rate or rates of pay and the basis for those rates,  
41 whether paid by the hour, shift, day, week, salary, piece, commission or otherwise, including  
42 methods of calculation for overtime, if applicable; (ii) allowances, if any, claimed as part of the  
43 minimum wage, including meal, tip or lodging allowances; (iii) the regular pay day designated  
44 by the employer; (iv) the name of the employer, including any "doing business as" names used  
45 by the employer; (v) the physical address of the employer's main office or principal place of  
46 business and mailing address, if different; (vi) the telephone number of the employer; and (vii)  
47 the name, address, and telephone number of the employer's workers' compensation insurance  
48 carrier.

49 (c) A lead contractor shall be subject to joint and several civil liability with a labor  
50 contractor and a labor subcontractor for wage theft, provided that written notice of the alleged  
51 violation to be raised in that action is provided to the lead contractor, labor contractor and labor

52 subcontractor, if applicable, not less than 15 days before the filing of a civil action for wage theft  
53 under this section. A successor entity to any lead contractor, labor contractor or labor  
54 subcontractor subject to liability under this section shall also be liable under this section if that  
55 entity: (i) has 1 or more of the same principals or officers as the person or entity subject to  
56 liability; and (ii) is engaged in the same or equivalent trade or activity as the person or entity  
57 subject to liability.

58 A written offer and payment in full of all such wages allegedly owed during the 15 day  
59 period by a lead contractor, labor contractor or labor subcontractor shall be a defense to any  
60 future civil action based upon the same allegation.

61 (d) For purposes of this section, a labor contractor or a labor subcontractor shall  
62 indemnify a lead contractor for any wages, damages, interest, penalties or attorneys' fees owed  
63 or incurred by the lead contractor as a result of the labor contractor or labor subcontractor's wage  
64 theft. For purposes of this section, a labor subcontractor shall indemnify a labor contractor for  
65 any wages, damages, interest, penalties or attorneys' fees owed by the labor contractor as a result  
66 of the labor subcontractor's wage theft.

67 (e) A person or entity that has been found to have committed wage theft in the previous 5  
68 years shall notify a lead contractor or labor contractor prior to entering into an agreement to  
69 engage or provide 1 or more individuals, directly or indirectly, to a lead contractor or labor  
70 contractor.

71 A lead contractor or labor contractor that was jointly and severally liable under  
72 subsection (c) but was not the entity that committed the wage theft shall not be required to  
73 provide notice under this subsection.

74 (f) When a lead contractor receives written notice that a labor contractor or labor  
75 subcontractor has allegedly failed to pay wages to a person performing labor for the lead  
76 contractor, the lead contractor may do one or both of the following: (i) provide the unpaid wages  
77 directly to the person performing labor for the lead contractor; or (ii) withhold or cause to be  
78 withheld from any payment due to the labor contractor or labor subcontractor the amount  
79 sufficient to satisfy the unpaid wages.

80 (g) When an individual applies for unemployment benefits pursuant to chapter 151A, and  
81 wage theft occurred during the base period as determined based on credible evidence, the  
82 individual's unemployment benefits shall be calculated as if wages had been timely and lawfully  
83 paid.

84 (h) The attorney general shall enforce this section, and may obtain injunctive or  
85 declaratory relief. Violation of this section shall be subject to paragraphs (1), (2), (4) and (7) of  
86 subsection (b) of section 27C, and subsection (d) of section 27C, except in cases where the lead  
87 contractor, labor contractor or labor subcontractor provides payment in full during the 15-day  
88 notice period for any wages allegedly owed, as described in subsection (c).

89 (i) No person or entity shall by contract or any other means be exempted from  
90 subsections (a), (b), (c), (e), (f), (g), (h), or (i) or from sections 148F or 148G. Nothing in this  
91 chapter shall limit the availability of other remedies at law or equity.

92 (j) The attorney general may promulgate regulations to implement this section.

93 Section 148F. (a) The attorney general may investigate an employer's failure to obtain  
94 unemployment insurance as required under chapter 151A. Upon finding a violation of section 15  
95 or section 47 of chapter 151A, the attorney general may issue a stop work order to an employing

96 unit and the officer or agent of the employing unit, requiring the cessation of all business  
97 operations of the violating person or entity as to the specific place of business and employment  
98 for which the violation exists.

99 Not less than 5 days before the commencement of a stop work order under this section,  
100 the attorney general shall notify the violating person or entity of the intended action and give the  
101 person or entity an opportunity to confer with the attorney general in person or through counsel  
102 or other representative as to the proposed action. Notice shall be given to the person or entity by  
103 mail, postage prepaid, to the usual place of business or, if there is no usual place of business, to  
104 the last known address.

105 The stop work order may be issued only against the person or entity found to be in  
106 violation of section 15 or section 47 of chapter 151A and only as to the specific place of business  
107 or employment for which the violation exists. The stop work order shall be effective 24 hours  
108 after it is served upon the violator or the place of business or employment. A stop work order  
109 may be served in hand or at a place of business, employment or job site by posting a copy of the  
110 stop work order in a conspicuous location. The stop work order shall be in effect, subject to an  
111 appeal under subsection (b), until the attorney general issues an order to release the stop work  
112 order upon a finding that the violation has been corrected.

113 (b) A person or entity aggrieved by the imposition of a stop work order shall have 10  
114 days from the date of its service to make a request for a hearing to be held in a manner  
115 determined by the attorney general. A person or entity that timely files such an appeal shall be  
116 granted a hearing in accordance with chapter 30A not later than 21 days after receipt of the  
117 appeal. The stop work order shall not be in effect during the pendency of a timely filed appeal.



118 (c) A stop work order imposed against a person or entity shall be effective against any  
119 successor person or entity that: (i) has at least 1 of the same principals or officers as the person or  
120 entity against whom the stop work order was issued; and (ii) is engaged in the same or equivalent  
121 trade or activity as the person or entity for which the stop work order was imposed.

122 (d) An employee affected by a stop work order pursuant to this section shall be paid for  
123 the period the stop work order is in place or the first 10 days the employee would have been  
124 scheduled to work if the stop work order had not been issued, whichever is less, by the person or  
125 entity that was served the stop work order. Time lost by an employee affected by a stop work  
126 order pursuant to this section, not exceeding 10 days, shall be considered time worked under  
127 chapters 149 and 151. Subsection (c) of section 148E shall not apply to wages due and payable  
128 under this subsection.

129 (e) The attorney general may promulgate regulations to implement this section.

130 Section 148G. (a) Upon finding that any person or entity has engaged in a wage theft  
131 violation, the attorney general may issue a stop work order to an employing unit and the officer  
132 or agent of the employing unit, requiring the cessation of all business operations of the violating  
133 person or entity as to the specific place of business and employment for which the violation  
134 exists.

135 Not less than 5 days before the commencement of a stop work order under this section,  
136 the attorney general shall notify the violating person or entity of the intended action and give the  
137 person or entity an opportunity to confer with the attorney general in person or through counsel  
138 or other representative as to the proposed action. Notice shall be given to the person or entity by

139 mail, postage prepaid, to the usual place of business, or if there is no usual place of business, to  
140 the last known address.

141 The stop work order may be issued only against the person or entity found to be in  
142 violation, and only as to the specific place of business and employment for which the violation  
143 exists. The stop work order shall be effective 24 hours after it is served upon the violator or the  
144 place of business or employment. A stop work order may be served in hand or at a place of  
145 business, employment or job site by posting a copy of the stop work order in a conspicuous  
146 location. The stop work order shall be in effect, subject to an appeal under subsection (b), until  
147 the attorney general issues an order to release the stop work order upon a finding that the  
148 violation has been corrected.

149 (b) A person or entity aggrieved by the imposition of a stop work order shall have 10  
150 days from the date of its service to make a request for a hearing to be held in a manner  
151 determined by the attorney general. A person or entity that timely files such an appeal shall be  
152 granted a hearing in accordance with chapter 30A not later than 21 days after receipt of the  
153 appeal. The stop work order shall not be in effect during the pendency of a timely filed appeal.

154 (c) A stop work order imposed under this section against a person or entity shall be  
155 effective against any successor person or entity that: (i) has at least 1 of the same principals or  
156 officers as the person or entity against whom the stop work order was issued; and (ii) is engaged  
157 in the same or equivalent trade or activity as the person or entity for which the stop work order  
158 was imposed.

159 (d) An employee affected by a stop work order pursuant to this section shall be paid for  
160 the period the stop work order is in place or the first 10 days the employee would have been

161 scheduled to work if the stop work order had not been issued, whichever is less, by the person or  
162 entity that was served the stop work order. Time lost by an employee affected by a stop work  
163 order issued pursuant to this section, not exceeding 10 days, shall be considered time worked  
164 under chapters 149 and 151. Subsection (c) of section 148E shall not apply to wages due and  
165 payable under this subsection.

166 (e) The attorney general may promulgate regulations to implement this section.

167 SECTION 5. Section 150 of said chapter 149, as appearing in the 2016 Official Edition,  
168 is hereby amended by inserting, in line 22, after the word “148C” the following word:- , 148E.

169 SECTION 6. Section 150C of said chapter 149, as appearing in the 2016 Official Edition,  
170 is hereby amended by striking out, in line 9, the words “one thousand dollars,” and inserting in  
171 place thereof the following words:- \$1,000 or shall be subject to a civil citation or order as  
172 provided in subsection (b) of section 27C.

173 SECTION 7. Said section 150C of said chapter 149, as so appearing, is hereby further  
174 amended by adding the following sentence:- The president and treasurer of a corporation and any  
175 officers or agents having the management of such corporation shall be considered the employers  
176 of the employees of the corporation for the purposes of this section.

177 SECTION 8. Said chapter 149 of the General Laws is hereby amended by striking out  
178 section 148A and inserting in place thereof the following section:-

179 Section 148A. (a) Any person or entity, including an employer or its agent, who in any  
180 manner discriminates or takes adverse action, or threatens to discriminate or take adverse action,  
181 against any person because that person has opposed a violation of this chapter, complained to the

182 attorney general or to any other person of a violation of this chapter, assisted any other person in  
183 exercising rights under this chapter, informed any other person of rights under this chapter, or  
184 instituted, assisted in, or testified in any investigation or proceedings under or related to this  
185 chapter, or because of a belief that the person may in the future engage in any such actions, shall  
186 have violated this section and shall be punished or subject to civil proceedings as provided in  
187 subsection (b) or subsection (d) of section 27C, or section 150, and shall recover actual damages,  
188 compensatory damages, punitive damages, injunctive relief or any other appropriate relief.

189 (b) There shall be a rebuttable presumption of a violation of this section if a person or  
190 entity discriminates or takes adverse action, or threatens to discriminate or take adverse action,  
191 against any person within 90 days of that person's exercise of rights under this chapter, including  
192 activity protected by this section. This presumption may be rebutted by clear and convincing  
193 evidence that the action was taken for a permissible purpose and that it would have been taken in  
194 the absence of the protected activity.

195 SECTION 9. Section 19 of chapter 151 of the General Laws, as appearing in the 2016  
196 Official Edition, is hereby amended by striking out subsection (1) and inserting in place thereof  
197 the following subsection:-

198 (1) (a) Any person or entity, including an employer or its agent, who in any manner  
199 discriminates or takes adverse action, or threatens to discriminate or take adverse action, against  
200 any person because that person has opposed a violation of this chapter, complained to the  
201 attorney general or to any other person of a violation of this chapter, assisted any other person in  
202 exercising rights under this chapter, informed any other person of rights under this chapter, or  
203 instituted, assisted in, or testified in any investigation or proceedings under or related to this

204 chapter, or because of a belief that the person may in the future engage in any such actions, shall  
205 have violated this section and shall be punished or subject to civil proceedings as provided in  
206 subsection (b) or subsection (d) of section 27C, or section 150, and shall recover actual damages,  
207 compensatory damages, punitive damages, injunctive relief or any other appropriate relief.

208 (b) There shall be a rebuttable presumption of a violation of this subsection if a person or  
209 entity discriminates or takes adverse action, or threatens to discriminate or take adverse action,  
210 against any person within 90 days of that person's exercise of rights under this chapter, including  
211 activity protected by this subsection. This presumption may be rebutted by clear and convincing  
212 evidence that the action was taken for a permissible purpose and that it would have been taken in  
213 the absence of the protected activity.

214 SECTION 10. Chapter 149 of the General Laws, as so appearing, is hereby amended by  
215 inserting after section 148G the following section 148H:-

216 (a) For purposes of this section, the following terms shall have the following meanings:

217 (1) "Aggrieved person", any employee, prospective or former employee, or person  
218 providing services for remuneration to another against whom one or more of the alleged  
219 violations was committed by the alleged violator, whether or not employed by the violator at the  
220 time an action is filed, including any person who is not classified by an employer as an employee  
221 but who claims to be an employee and whose claims against the purported employer relate to  
222 such alleged misclassification.

223 (2) "Public enforcement action", a civil action brought by a relator under this section to  
224 enforce protections enforceable by the attorney general.

225 (3) “Relator”, a whistleblower or a representative organization that acts as a plaintiff in a  
226 public enforcement action under this section.

227 (4) “Representative organization”, an organization that is tax-exempt under subsection  
228 (c)(3), (c)(4) or (c)(5) of the federal Internal Revenue Code, 26 U.S. C. section 501, and that  
229 regularly advocates on behalf of employees or that regularly assists in enforcement of this  
230 chapter or chapter 151 and that has been elected by an aggrieved person to initiate a public  
231 enforcement action on the aggrieved person’s behalf, in writing in a form prescribed by the  
232 attorney general. In such cases, the aggrieved party’s name and personal identifying information  
233 shall be kept confidential if the aggrieved party so chooses.

234 (5) “Whistleblower”, an aggrieved person or any current or former employee, contractor,  
235 subcontractor, employee of a contractor or subcontractor of the defendant, vendor, or client with  
236 knowledge of the alleged violations that is independent of and materially adds to any publicly  
237 disclosed information about the alleged violations.

238 (b) (1) A relator, on behalf of the attorney general, may initiate a public enforcement  
239 action pursuant to the procedures and subject to the limitations specified in subsection (e) of this  
240 section. Such action may be brought in any court of competent jurisdiction. Such an action may  
241 allege multiple violations that have affected different parties aggrieved by the same defendant.

242 (2) For purposes of public enforcement actions brought pursuant to this section,  
243 whenever the attorney general is authorized to assess or seek civil remedies, including penalties,  
244 equitable and declaratory relief, and other civil relief, for a violation of section 21, 26-27H, 52D,  
245 100, 148, 148A, 148B, 148C, 148E, 150A, 150C, 152, 152A, 159C, or 190 of this chapter, or of  
246 chapter 151, a court is hereby authorized to assess the same civil remedies. Where the section of

247 chapter 149 or chapter 151 establishes an employer's obligation to maintain certain working  
248 conditions, but no civil penalty is specifically provided for a breach of that obligation, there is  
249 hereby established a civil penalty of \$500 for each aggrieved person per two-week period in  
250 which the breach occurred. All civil penalties shall be awarded for each person aggrieved by the  
251 violation during each two-week period in which the violation occurred.

252 (3) When a civil remedy is recovered pursuant to decision or settlement in any public  
253 enforcement action, the relator shall be awarded reasonable attorneys' fees and costs.

254 (4) Nothing in this section shall operate to limit an aggrieved party's right to pursue a  
255 private action based on the same violation or injury.

256 (5) Nothing in this section shall operate to limit the attorney general's right to seek  
257 restitution and damages, where available, for aggrieved parties as part of a public enforcement  
258 action in which it has intervened.

259 (6) Civil remedies recovered in a public enforcement action or settlement of a proposed  
260 action shall be distributed as follows:

261 (i) Where the attorney general has not intervened, 30 percent to the relator and 70 percent  
262 to the attorney general for enforcement of and education about the rights and obligations  
263 enforceable under this chapter and chapter 151. Twenty-five percent of the attorney general's  
264 share shall be reserved for providing funding to community-based outreach and enforcement  
265 activities under subsection (f) of this section. The Attorney General shall promulgate regulations  
266 relative to further distribution and disbursement of recoveries. Any funding received by the attorney  
267 general under this section shall be continuously appropriated to supplement, and not supplant,  
268 other funding for those purposes;

269 (ii) Where the attorney general has intervened, 20 percent to the relator and 80 percent to  
270 the attorney general for enforcement of and education about the rights and obligations  
271 enforceable under chapters 149 and 151. Twenty-five percent of the attorney general's share  
272 shall be reserved for providing funding to community-based outreach and enforcement activities  
273 under subsection (f) of this section. The attorney general shall promulgate regulations relative to  
274 further distribution and disbursement of recoveries. Any funding received by the attorney general  
275 under this section shall be continuously appropriated to supplement, and not supplant, other  
276 funding for those purposes;

277 (7) The right to bring a public enforcement action under this section shall not be impaired  
278 by any special contract.

279 (8) Notwithstanding any other provision of law, a public enforcement action authorized  
280 by this section shall be commenced within the same period of time that the attorney general has  
281 to take enforcement action under this chapter or chapter 151. The statute of limitations for  
282 bringing a public enforcement action under this section shall be tolled from the date that a relator  
283 files a notice pursuant to subsection (e) of this section with the attorney general, or the date that  
284 the attorney general commences an investigation, whichever is earlier.

285 (c) (1) Notwithstanding the provisions of subsection (b) of this section, no public  
286 enforcement action may be brought by a relator:

287 (i) If the attorney general, on the same facts and theories, cites a person or entity within  
288 the time periods set forth in subsection (e) of this section for a violation of the same section or  
289 sections of the General Laws under which such relator is attempting to recover a civil penalty or  
290 other remedy on behalf of aggrieved employees or others, or files a proceeding to assess



291 penalties or to enforce other remedies available to the attorney general, provided that the attorney  
292 general serves notice on the relator pursuant to subsection (e) of this section. Public enforcement  
293 actions belong to the attorney general and preclude subsequent attorney general enforcement  
294 efforts based on the same facts and law, whether brought by the attorney general or by a relator  
295 under this section. However, nothing in this section shall operate to limit the attorney general's  
296 right to seek additional civil remedies for aggrieved parties as part of a public enforcement action  
297 in which it has intervened.

298 (ii) For any violation of a posting, notice, agency reporting, or filing requirement, except  
299 where the filing or reporting requirement involves mandatory payroll reporting.

300 (2) The attorney general shall establish a publicly available online database of public  
301 enforcement actions brought pursuant to this section, which shall include the names of the  
302 parties, the date filed, the disposition, and any other information that the attorney general shall by  
303 regulation prescribe.

304 (d) (1) No one shall retaliate or take adverse action in any manner against an aggrieved  
305 person or whistleblower, or threaten to retaliate or take adverse action, because:

306 (i) the aggrieved person or whistleblower has brought a public enforcement action;

307 (ii) the aggrieved person or whistleblower has cooperated with a relator in a public  
308 enforcement action or the attorney general in investigating, prosecuting, or intervening in a  
309 public enforcement action; or

310 (iii) it is believed that the aggrieved person or whistleblower may bring a public  
311 enforcement action or cooperate with one.

312 (2) Any person aggrieved by a violation of this subsection may enforce it as provided by  
313 section 27C or section 150 of this chapter, or as provided by section 19 of chapter 151.

314 (e) (1) No public enforcement action pursuant to this section may be commenced prior to  
315 60 days after written notice of the claim has been filed by the relator with the attorney general.

316 (2) The relator shall submit a filing fee of 75 dollars with each filing of notice, subject to  
317 waiver in accordance with regulations promulgated by the attorney general. Notice and  
318 submission of the filing fee shall toll the statute of limitations on the enforcement action for  
319 which notice has been provided.

320 (3) The attorney general shall establish an online portal to provide for efficient electronic  
321 filing of the notice.

322 (4) The notice shall be construed in the light most favorable to the relator, and shall  
323 include:

324 (i) The name, address, and contact information of the alleged violator.

325 (ii) The name and contact information of the relator.

326 (iii) The name, address, and contact information of the relator's legal counsel, should one  
327 exist.

328 (iv) A concise statement of the underlying claim reasonably calculated to apprise the  
329 attorney general of the substance and nature of the claim.

330 (5) The attorney general shall, by regulation, provide for the right of a relator to furnish  
331 an amended notice, if the attorney general determines that the relator's original notice pursuant

332 to paragraph (1) of this subsection was not in compliance with this section or the regulations  
333 issued thereunder. Such determination by the attorney general shall identify with particularity  
334 the deficiencies in the original notice. If such determination and the opportunity to amend are not  
335 provided by the attorney general within thirty days of the original notice, the original notice shall  
336 be deemed to comply with this section. The relator shall have thirty days from receiving the  
337 determination of the attorney general of noncompliance with this section to amend the notice.  
338 The amended notice will relate back to the original notice.

339 (6) If the attorney general intends to investigate the alleged violation, it shall notify the  
340 relator of its decision within 30 calendar days of the date of the notice received pursuant to  
341 paragraph (1) of this subsection. Within 120 calendar days of that decision, the attorney general  
342 may investigate the alleged violation and issue any appropriate citation. If the attorney general,  
343 during the course of its investigation, determines that additional time is necessary to complete  
344 the investigation, it may extend the time by not more than 30 additional calendar days and shall  
345 issue a notice of the extension. If the attorney general determines that a citation shall not be  
346 issued, it shall notify the relator of that decision within five business days thereof by certified  
347 mail.

348 (7) Upon receipt of notice that no citation will be issued, or if no citation is issued by the  
349 attorney general within the time limits prescribed herein, or if the attorney general fails to  
350 provide timely or any notification, the relator may commence a public enforcement action.

351 (8) If the attorney general does not object to the filing of a public enforcement action  
352 pursuant to this section, but objects to the attorney general being represented by a particular  
353 attorney proposed by the relator, the attorney general may, within the time limits set forth in

354 paragraph (6) of this subsection, may put the relator on notice of the attorney general's objection.  
355 The attorney general will establish regulations for notice and a hearing, for purposes of  
356 reviewing the attorney general's objection to counsel. Upon finding, after notice and hearing,  
357 that, based on the attorney's past conduct while representing a client or clients, the attorney does  
358 not meet the required professional standards of representatives, or, alternatively, if the attorney  
359 fails to zealously pursue the remedies available under this section, the attorney general may order  
360 that the public enforcement shall not be filed by the particular attorney on behalf of the relator.

361 (9) The attorney general may intervene in a public enforcement action and proceed with  
362 any and all claims in the action:

363 (i) As of right within 30 days after the filing of the action;

364 (ii) For good cause shown, as determined by the court, after the expiration of the 30 day  
365 period after the filing of the action.

366 (10) If the attorney general intervenes in an action it shall have primary responsibility for  
367 prosecuting the action and shall not be bound by an act of the relator bringing the action. In such  
368 cases, the relator shall remain a party to the action. The attorney general may move to dismiss or  
369 settle the action after the relator has been notified of the filing of the motion and has been  
370 provided with an opportunity to be heard, and the court determines that such dismissal or  
371 settlement is fair, adequate, reasonable, and in the public interest. Any disposition by the  
372 attorney general shall provide compensation for reasonable attorneys' fees and costs expended  
373 on behalf of the relator in instituting the action.

374 (11) If the attorney general does not intervene in the action, the relator shall have the  
375 right to conduct such an action subject to the following limitations:

376 (i) The court shall review and approve any settlement of any action filed pursuant to this  
377 section. The proposed settlement shall be submitted to the attorney general concurrent with  
378 submission to the court. The court shall approve a settlement of the action only upon a  
379 determination that such settlement or voluntary dismissal is fair, adequate, reasonable, and in the  
380 public interest.

381 (ii) If the attorney general so requests, it shall be served with copies of all pleadings filed  
382 in the action and shall be supplied with copies of all deposition transcripts. The attorney general  
383 shall bear any costs associated with service of such pleadings and depositions.

384 (12) No public enforcement action brought pursuant to this section shall be subject to the  
385 requirements of rule 23 of the Massachusetts rules of civil procedure.

386 (f) (1) The Community Outreach and Labor Education Fund is established as a special  
387 fund, separate and distinct from the General Fund. Interest earned by the Community Outreach  
388 and Labor Education Fund shall be credited to the same Fund. All moneys in the Community  
389 Outreach and Labor Education Fund shall be continuously appropriated for the purpose of  
390 awarding grants as provided in paragraph (3) of this subsection.

391 (2) The 25 percent of the attorney general's share of recoveries reserved for providing  
392 funding to community-based outreach and enforcement activities pursuant to paragraph (6) of  
393 subsection (b) of this section shall be reported to the treasurer of the commonwealth, who shall  
394 credit such amount to the Community Outreach and Labor Education Fund.

395 (3) Moneys in the Community Outreach and Labor Fund shall be granted from time to  
396 time by the attorney general to organizations that are tax-exempt under subsection (c)(3), (c)(4)  
397 or (c)(5) of the federal Internal Revenue Code, 26 U.S. C. section 501, for purposes of funding

398 outreach, education and technical assistance to Massachusetts workers pertaining to workplace  
399 rights.

400 (4) Grants provided from the Community Outreach and Labor Education Fund shall be  
401 used for activities to assist workers in enforcing employment rights, including outreach,  
402 community-based education events, training materials, technical assistance, counseling, research  
403 and referral services.

404 (5) When considering applications for grants, the attorney general shall give priority to  
405 projects that provide services to especially vulnerable workers.

406 (g) (1) If any word, phrase, clause, sentence, paragraph, section or part of this section or  
407 the application thereof to any person or circumstances shall be adjudged invalid by a court of  
408 competent jurisdiction, such order or judgment shall be confined in its operation to the  
409 controversy in which it was rendered, and shall not affect or invalidate the remainder of this  
410 section, but shall be confined in its operation to the word, phrase, clause, sentence, paragraph,  
411 section or part thereof directly involved in the controversy in which such judgment shall have  
412 been rendered.

413 (2) This section shall be liberally construed in light of its remedial purposes to expand the  
414 enforcement of statutes protecting workers in the commonwealth.