

**HOUSE . . . . . No. 1868**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Daniel M. Donahue***

*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:	DATE ADDED:
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>1/18/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>1/24/2023</i>
<i>Adam Scanlon</i>	<i>14th Bristol</i>	<i>1/24/2023</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/31/2023</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/31/2023</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>1/31/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/31/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/31/2023</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>1/31/2023</i>
<i>Jessica Ann Giannino</i>	<i>16th Suffolk</i>	<i>1/31/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>1/31/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/31/2023</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>1/31/2023</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>1/31/2023</i>
<i>Ryan M. Hamilton</i>	<i>15th Essex</i>	<i>1/31/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/31/2023</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>2/7/2023</i>

<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/7/2023</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>2/7/2023</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/7/2023</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>2/7/2023</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>2/7/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>2/7/2023</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>2/7/2023</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/7/2023</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>2/7/2023</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/7/2023</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>2/7/2023</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>2/7/2023</i>
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>2/7/2023</i>
<i>Christopher M. Markey</i>	<i>9th Bristol</i>	<i>2/7/2023</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>2/7/2023</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/7/2023</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>2/7/2023</i>
<i>Marc R. Pacheco</i>	<i>Third Bristol and Plymouth</i>	<i>2/9/2023</i>
<i>Christopher J. Worrell</i>	<i>5th Suffolk</i>	<i>2/9/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/9/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/9/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>2/9/2023</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>2/9/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/9/2023</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>2/10/2023</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/10/2023</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/10/2023</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>2/13/2023</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>2/17/2023</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>2/17/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/17/2023</i>
<i>Edward R. Philips</i>	<i>8th Norfolk</i>	<i>2/17/2023</i>
<i>Kate Donaghue</i>	<i>19th Worcester</i>	<i>2/17/2023</i>
<i>Rob Consalvo</i>	<i>14th Suffolk</i>	<i>2/17/2023</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>2/17/2023</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>2/17/2023</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/17/2023</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>2/28/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/28/2023</i>

<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>2/28/2023</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>2/28/2023</i>
<i>Daniel R. Carey</i>	<i>2nd Hampshire</i>	<i>2/28/2023</i>
<i>Christopher Richard Flanagan</i>	<i>1st Barnstable</i>	<i>2/28/2023</i>
<i>David Biele</i>	<i>4th Suffolk</i>	<i>2/28/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/28/2023</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>2/28/2023</i>
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>2/28/2023</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>3/16/2023</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>3/16/2023</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>3/16/2023</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>3/16/2023</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>3/16/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>3/16/2023</i>
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>3/16/2023</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>3/16/2023</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>3/16/2023</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>3/30/2023</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>3/30/2023</i>
<i>Shirley B. Arriaga</i>	<i>8th Hampden</i>	<i>4/5/2023</i>
<i>Dawne Shand</i>	<i>1st Essex</i>	<i>4/5/2023</i>
<i>Adrienne Pusateri Ramos</i>	<i>14th Essex</i>	<i>4/5/2023</i>
<i>Rita A. Mendes</i>	<i>11th Plymouth</i>	<i>4/5/2023</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>4/18/2023</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>4/20/2023</i>
<i>Jeffrey Rosario Turco</i>	<i>19th Suffolk</i>	<i>4/20/2023</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>	<i>5/11/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>5/11/2023</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>5/11/2023</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>5/11/2023</i>
<i>Tricia Farley-Bouvier</i>	<i>2nd Berkshire</i>	<i>5/22/2023</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>5/22/2023</i>
<i>Orlando Ramos</i>	<i>9th Hampden</i>	<i>5/31/2023</i>
<i>Aaron L. Saunders</i>	<i>7th Hampden</i>	<i>5/31/2023</i>
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>7/24/2023</i>
<i>Jennifer Balinsky Armini</i>	<i>8th Essex</i>	<i>7/24/2023</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>7/24/2023</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Plymouth and Bristol</i>	<i>7/24/2023</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>7/24/2023</i>

<i>Priscila S. Sousa</i>	<i>6th Middlesex</i>	<i>7/24/2023</i>
<i>William F. MacGregor</i>	<i>10th Suffolk</i>	<i>9/5/2023</i>
<i>Richard M. Haggerty</i>	<i>30th Middlesex</i>	<i>9/18/2023</i>
<i>Meghan Kilcoyne</i>	<i>12th Worcester</i>	<i>9/20/2023</i>
<i>Manny Cruz</i>	<i>7th Essex</i>	<i>9/20/2023</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>11/29/2023</i>
<i>Judith A. Garcia</i>	<i>11th Suffolk</i>	<i>11/29/2023</i>
<i>Marcus S. Vaughn</i>	<i>9th Norfolk</i>	<i>11/29/2023</i>

**HOUSE . . . . . No. 1868**

By Representative Donahue of Worcester, a petition (accompanied by bill, House, No. 1868) of Daniel M. Donahue and others for legislation to prevent wage theft, promote employer accountability, and enhance public enforcement. Labor and Workforce Development.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

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 2020  
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 a worker or multiple, similarly situated workers. If the attorney general prevails in such an  
13 action, the worker or workers on whose behalf the attorney general brought the civil action shall  
14 be awarded treble damages, as liquidated damages, for any lost wages and other benefits, and the  
15 attorney general shall also be awarded court costs and reasonable attorneys' fees.

16 SECTION 4. Said chapter 149 of the General Laws, as so appearing, is hereby amended  
17 by striking out section 148A and inserting in place thereof the following section:-

18 Section 148A. (a) Any person or entity, including an employer or its agent, who in any  
19 manner discriminates or takes adverse action, or threatens to discriminate or take adverse action,  
20 against any person because that person has opposed a violation of this chapter, complained to the  
21 attorney general or to any other person of a violation of this chapter, assisted any other person in  
22 exercising rights under this chapter, informed any other person of rights under this chapter, or  
23 instituted, assisted in, or testified in any investigation or proceedings under or related to this  
24 chapter, or because of a belief that the person may in the future engage in any such actions, shall  
25 have violated this section and shall be punished or subject to civil proceedings as provided in  
26 subsection (b) or subsection (d) of section 27C, or section 150, and shall recover actual damages,  
27 compensatory damages, punitive damages, injunctive relief or any other appropriate relief.

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

34 SECTION 5. Chapter 149 of the General Laws is hereby amended by inserting after  
35 section 148D the following 2 sections:

36 Section 148E. (a) As used in this section and sections 148F and 148G, inclusive, the  
37 following words shall have the following meanings unless the context clearly indicates  
38 otherwise:

39 “Labor contractor”, a person or entity that obtains, engages or provides 1 or more  
40 individuals to perform labor or services, with or without a written contract, directly or indirectly,  
41 to a lead contractor or from a labor subcontractor.

42 “Labor subcontractor”, a person or entity that engages or provides 1 or more individuals  
43 to perform labor or services, with or without a written contract, directly or indirectly, to a labor  
44 contractor.

45 “Lead contractor”, a person or entity that obtains, engages or is provided with 1 or more  
46 individuals, directly from a labor contractor or indirectly from a labor subcontractor, to perform  
47 labor or services that has a significant nexus with the lead contractor’s business activities,  
48 operations or purposes.

49 “Notice”, a written communication mailed, postage prepaid, or hand delivered to the lead  
50 contractor’s place of business, registered agent, officer, director, worksite manager or a  
51 supervisor, or any other individual identified by the lead contractor as its representative. Notice  
52 shall include, if known and available, the name of the employer, the amount of the claim or an  
53 explanation of any data needed to calculate the amount of the claim and the dates that the  
54 claimant worked.

55 “Owner”, a person or entity with an ownership interest that contracts for labor or services  
56 outside of its usual course of business.

57 “Successor entity”, a person or entity that (i) has 1 or more of the same principals,  
58 trustees or officers as the person or entity subject to liability; and (ii) is engaged in the same or  
59 equivalent trade or activity. A successor entity shall not include an individual transferring jobs in  
60 the same or equivalent trade or field.

61 “Wage theft”, a violation of sections 27, 27F, 27G or 27H of chapter 149, the first and  
62 third sentences and the fourth paragraph of section 148 of chapter 149, wage theft violations as  
63 otherwise defined by this paragraph in section 148B of chapter 149, the fourth sentence of  
64 section 150 of chapter 149, section 152A of chapter 149, subsections (c) or (d) of section 159C  
65 of chapter 149, or sections 1, 1A, 2A or 7 of chapter 151.

66 (b) An employer, except a staffing agency as defined by section 159C that is licensed or  
67 registered pursuant to sections 46A to 46R, inclusive, of chapter 140, shall provide each worker,  
68 not later than 10 days after the commencement of employment, with written notice in the  
69 language the employer normally uses to communicate employment-related information to the  
70 worker, of the following information: (i) the rate or rates of pay and the basis for those rates,  
71 whether paid by the hour, shift, day, week, salary, piece, commission or otherwise, including  
72 methods of calculation for overtime, if applicable; (ii) allowances, if any, claimed as part of the  
73 minimum wage, including meal, tip or lodging allowances; (iii) the regular pay day designated  
74 by the employer; (iv) the name of the employer, including any “doing business as” names used  
75 by the employer; (v) the physical address of the employer’s main office or principal place of  
76 business and mailing address, if different; (vi) the telephone number of the employer; and (vii)

77 the name, address, and telephone number of the employer's workers' compensation insurance  
78 carrier.

79 (c) (1) A lead contractor shall be subject to joint and several civil liability with a labor  
80 contractor and a labor subcontractor for wage theft, including treble damages and attorney's fees  
81 as identified in Section 150, provided that written notice of the alleged violation to be raised in  
82 that action is provided to the lead contractor, labor contractor and labor subcontractor, if  
83 applicable, not more than 45 days from the last occurrence of the alleged wage theft.

84 (2) A labor contractor shall be subject to joint and several liability with a labor  
85 subcontractor with whom the labor contractor has privity of contract, or implied contract, for  
86 wage theft, including treble damages and attorney's fees as identified in Section 150, provided  
87 that written notice of the alleged violation to be raised in that action is provided to the labor  
88 contractor and labor subcontractor not more than 45 days from the last occurrence of the alleged  
89 wage theft.

90 (3) A lead contractor's joint and several liability shall be limited to 120 consecutive days  
91 of any alleged wage theft, counting back the 120 days from the day of the last violation prior to  
92 the notice. This 120-day damages limitation period shall not impact other wage violation  
93 remedies available to a claimant.

94 (4) Notice of wage theft violations may be provided by a worker or any other designated  
95 person on behalf of similarly situated workers. Any person or entity having a contract with such  
96 lead contractor who receives notice shall deliver copies of it forthwith to the lead contractor and  
97 either the labor contractor or labor subcontractor that is alleged to have committed wage theft.

98 (5) A successor entity to any lead contractor, labor contractor or labor subcontractor  
99 subject to liability under this section shall also be liable under this section.

100 (6) An owner shall not be subject to liability under subsection (c) unless the owner is a  
101 lead contractor, labor contractor or labor subcontractor. Subsection (c) shall not impose  
102 individual liability on a homeowner for the labor or services received at the homeowner's place  
103 of residence or the owner of a home-based business for labor or services received at the  
104 homeowner's place of business.

105 (7) A written offer and payment in full of all such wages allegedly owed during the 45-  
106 day period after a receipt of the notice by a lead contractor, labor contractor or labor  
107 subcontractor shall extinguish a lead contractor's liability for damages under this section.

108 (8) If a good faith settlement denial or a partial payment is issued for an alleged wage  
109 theft violation within a 45-day period, a lead contractor or a labor contractor shall not be subject  
110 to joint and several liability, treble damages or attorney's fees as identified in section 150, and in  
111 support of its contention that it responded in good faith, it may offer evidence that it conducted a  
112 timely and thorough investigation, as determined by a court of competent jurisdiction, of a labor  
113 contractor or a labor subcontractor's violation with no finding of fault as an affirmative defense.  
114 Such an investigation would require: i) an acknowledgement and reasonably prompt action upon  
115 receiving notice; ii) adopting and implementing reasonable standards for the prompt  
116 investigation; iii) conducting a reasonable investigation based upon all available information; iv)  
117 issuing prompt, fair and equitable settlement of wage theft violation claims in which liability has  
118 become reasonably clear; and v) provided the claimant or its designee is provided with a record  
119 of the investigation and the results of the investigation.

120 (d) For purposes of this section, a labor contractor or a labor subcontractor shall  
121 indemnify a lead contractor for any wages, damages, interest, penalties or attorneys' fees owed  
122 or incurred by the lead contractor as a result of the labor contractor or labor subcontractor's wage  
123 theft. For purposes of this section, a labor subcontractor shall indemnify a labor contractor for  
124 any wages, damages, interest, penalties or attorneys' fees owed by the labor contractor as a result  
125 of the labor subcontractor's wage theft.

126 (e) When a lead contractor receives written notice that a labor contractor or labor  
127 subcontractor has allegedly failed to pay wages to a person or persons performing labor for the  
128 lead contractor, the lead contractor may do one or both of the following: (i) provide the unpaid  
129 wages directly to the person or persons performing labor for the lead contractor; or (ii) withhold  
130 or cause to be withheld from any payment due to the labor contractor or labor subcontractor the  
131 amount sufficient to satisfy the unpaid wages.

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

136 (g) The attorney general shall enforce this section and may obtain injunctive or  
137 declaratory relief. Violation of this section shall be subject to paragraphs (1), (2), (4) and (7) of  
138 subsection (b) of section 27C, and subsection (d) of section 27C, except in cases where the lead  
139 contractor, labor contractor or labor subcontractor provides payment in full during the 45-day  
140 notice period for any wages allegedly owed, as described in subsection (c).

141 (h) No person or entity shall by contract or any other means be exempted from  
142 subsections (a), (b), (c), (e), (f), (g), or (h), or from section 148F. Nothing in this chapter shall  
143 limit the availability of other remedies at law or equity.

144 (i) The attorney general may promulgate regulations to implement this section.

145 (j) A lead contractor, labor contractor or labor subcontractor shall not be subject to joint  
146 and several liability for non-payment of retirement and health and welfare benefits to an  
147 employee benefits fund that has its own collection procedures for delinquent employer  
148 remittance as prescribed in a collectively bargained agreement pursuant to the Taft Hartley Act.  
149 This shall apply to section 27 and section 150C of chapter 149.

150 Section 148F. (a) The attorney general may investigate a claim of wage theft. Upon  
151 finding that any person or entity has engaged in a wage theft violation, the attorney general may  
152 issue a stop work order to an employer, requiring the cessation of all business operations of the  
153 violating person or entity as to the specific place of business and employment for which the  
154 violation exists. Said notice shall also be issued to the officer or agent of the employer and the  
155 lead contractor, if any.

156 Not less than 5 days before the commencement of a stop work order under this section,  
157 the attorney general shall notify the violating person or entity and the lead contractor, if any, of  
158 the intended action and give the person or entity an opportunity to confer with the attorney  
159 general in person or through counsel or other representative as to the proposed action. Notice  
160 shall be given to the person or entity by mail, postage prepaid, to the usual place of business or,  
161 if there is no usual place of business, to the last known address.

162           The stop work order may be issued only against the person or entity that has engaged in a  
163 wage theft violation and only as to the specific place of business or employment for which the  
164 violation exists. The stop work order shall be effective 48 hours after it is served unless a timely  
165 appeal request is filed pursuant to subsection (b). A stop work order shall be served in hand or at  
166 a place of business, employment or job site by posting a copy of the stop work order in a  
167 conspicuous location. A stop work order shall be released by the attorney general upon a finding  
168 that the violation has been corrected.

169           (b) A person or entity aggrieved by the imposition of a stop work order shall have 10  
170 days from the date of its service to make a request for a hearing. A person or entity that timely  
171 files such an appeal shall be granted a hearing in accordance with chapter 30A not later than 21  
172 days after receipt of the appeal. The stop work order shall not be in effect during the pendency of  
173 a timely filed appeal.

174           (c) A stop work order imposed against a person or entity shall be effective against any  
175 successor entity as defined by section 148E.

176           (d) An employee affected by a stop work order pursuant to this section shall be paid their  
177 regular rate for the period the stop work order is in place or the first 10 days the employee would  
178 have been scheduled to work if the stop work order had not been issued, whichever is less, by the  
179 person or entity that was served the stop work order. Time lost by an employee affected by a stop  
180 work order pursuant to this section, not exceeding 10 days, shall be considered time worked  
181 under chapters 149 and 151. Subsection (c) of section 148E shall not apply to wages due and  
182 payable under this subsection.

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

184 SECTION 6. Chapter 149 of the General Laws is hereby amended by inserting after  
185 section 148F the following section:-

186 Section 148G. (a) For purposes of this section, the following terms shall have the  
187 following meanings:

188 (1) “Aggrieved person”, any employee or former employee, or person providing services  
189 for remuneration to another against whom one or more of the alleged violations was committed  
190 by the alleged violator, whether or not employed by the violator at the time an action is filed,  
191 including any person who is not classified by an employer as an employee but who claims to be  
192 an employee and whose claims against the purported employer relate to such alleged  
193 misclassification.

194 (2) “Public enforcement action”, a civil action brought by a relator under this section to  
195 enforce protections enforceable by the attorney general.

196 (3) “Relator”, a whistleblower that acts as a plaintiff in a public enforcement action under  
197 this section.

198 (4) “Whistleblower”, an aggrieved person or any current or former employee, contractor,  
199 subcontractor, employee of a lead contractor, labor contractor or labor subcontractor of the  
200 defendant, vendor, or client with knowledge of the alleged violations that is independent of and  
201 materially adds to any publicly disclosed information about the alleged violations.

202 (b) (1) A relator, on behalf of the attorney general and with the consent of the aggrieved  
203 person or persons, may initiate a public enforcement action pursuant to the procedures and  
204 subject to the limitations specified in subsection (e) of this section. Such action may be brought

205 in any court of competent jurisdiction. Such an action may allege multiple violations that have  
206 affected different parties aggrieved by the same defendant.

207 (2) For purposes of public enforcement actions brought pursuant to this section,  
208 whenever the attorney general is authorized to assess or seek civil remedies, including penalties,  
209 equitable and declaratory relief, and other civil relief, for a violation of wage theft, as defined by  
210 section 148E of this chapter, a court is hereby authorized to assess the same civil remedies.

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

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

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

218 (6) Civil penalties or fines recovered in a public enforcement action or settlement of a  
219 proposed action shall be distributed as follows:

220 (i) one third to the aggrieved person;

221 (ii) one third to the Community Outreach and Labor Education Fund established in  
222 subsection (f) of this section; and

223 (iii) one third to the attorney general.

224 Any funding received by the attorney general under this section shall be continuously  
225 appropriated to supplement, and not supplant, other funding for those purposes.

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

228 (8) Notwithstanding any other provision of law, a public enforcement action authorized  
229 by this section shall be commenced within the same period of time that the attorney general has  
230 to take enforcement action under section 150 of this chapter or section 20A of chapter 151. The  
231 statute of limitations for bringing a public enforcement action under this section shall be tolled  
232 from the date that a relator files a notice pursuant to subsection (e) of this section with the  
233 attorney general, or the date that the attorney general commences an investigation, whichever is  
234 earlier.

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

237 (i) If the attorney general, on the same facts and theories, cites a person or entity within  
238 the time periods set forth in subsection (e) of this section for a violation of the same section or  
239 sections of the General Laws under which such relator is attempting to recover a civil penalty or  
240 other remedy on behalf of aggrieved employees or others, or files a proceeding to assess  
241 penalties or to enforce other remedies available to the attorney general, provided that the attorney  
242 general provides notice to the relator pursuant to subsection (e) of this section. Public  
243 enforcement actions belong to the attorney general and preclude subsequent attorney general  
244 enforcement efforts based on the same facts and law, whether brought by the attorney general or  
245 by a relator under this section. However, nothing in this section shall operate to limit the attorney

246 general's right to seek additional civil remedies for aggrieved parties as part of a public  
247 enforcement action in which it has intervened; or

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

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

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

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

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

260 (iii) it is anticipated that the aggrieved person or whistleblower may bring a public  
261 enforcement action or cooperate with one.

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

264 (e) (1) No public enforcement action pursuant to this section may be commenced prior to  
265 60 days after written notice of the claim has been filed by the relator with the attorney general.

266 (2) The relator shall submit a filing fee of no less than 75 dollars with each filing of  
267 notice, subject to any waiver, in accordance with regulations promulgated by the attorney  
268 general. Notice and submission of the filing fee shall toll the statute of limitations on the  
269 enforcement action for which notice has been provided.

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

272 (4) The notice shall include:

273 (i) The name, address, and contact information of the alleged violator;

274 (ii) The name and contact information of the relator;

275 (iii) The name, address, and contact information of the relator's legal counsel, should one  
276 exist; and

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

279 (5) The attorney general shall, by regulation, provide for the right of a relator to furnish  
280 an amended notice, if the attorney general determines that the relator's original notice pursuant  
281 to paragraph (1) of this subsection was not in compliance with this section or the regulations  
282 issued thereunder. Such determination by the attorney general shall identify with particularity  
283 the deficiencies in the original notice. The relator shall have 30 days from receiving the  
284 determination of the attorney general of noncompliance with this section to amend the notice.  
285 The amended notice will relate back to the original notice.

286 (6) If the attorney general intends to investigate the alleged violation, it shall notify the  
287 relator of its decision within 30 days of the date of the notice received pursuant to paragraph (1)  
288 of this subsection. Within 120 days of that decision, the attorney general may investigate the  
289 alleged violation and issue any appropriate citation. If the attorney general, during the course of  
290 its investigation, determines that additional time is necessary to complete the investigation, it  
291 may extend the time by not more than 60 additional days and shall issue a notice of the  
292 extension. If the attorney general determines that a citation will not be issued, it shall notify the  
293 relator of that decision within five business days.

294 (7) If, within 30 days, the attorney general notifies the relator that it does not intend to  
295 investigate the alleged violation, the relator may bring a public enforcement action. If, upon an  
296 investigation, the attorney general determines that no citation will be issued, it may authorize the  
297 relator to commence a public enforcement action.

298 (8) If more than one relator files a public enforcement action on the same facts or  
299 allegations as another relator, the actions may be consolidated under Rule 42 of the  
300 Massachusetts Rules of Civil Procedure.

301 (9) If the attorney general does not object to the filing of a public enforcement action  
302 pursuant to this section, but objects to the attorney general being represented by a particular  
303 attorney proposed by the relator, the attorney general may, within the time limits set forth in  
304 paragraph (6) of this subsection, put the relator on notice of the attorney general's objection. The  
305 attorney general will establish regulations for notice and a hearing, for purposes of reviewing the  
306 attorney general's objection to counsel. Upon finding, after notice and hearing, that, based on  
307 the attorney's past conduct while representing a client or clients, the attorney does not meet the

308 required professional standards of representatives, or, alternatively, if the attorney fails to  
309 zealously pursue the remedies available under this section, the attorney general may order that  
310 the public enforcement shall not be filed by the particular attorney on behalf of the relator.

311 (10) The attorney general may intervene in a public enforcement action and proceed with  
312 any and all claims in the action:

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

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

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

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

326 (i) The court shall review and approve any settlement of any action filed pursuant to this  
327 section. The proposed settlement shall be submitted to the attorney general concurrent with  
328 submission to the court. The court shall approve a settlement of the action only upon a

329 determination that such settlement or voluntary dismissal is fair, adequate, reasonable, and in the  
330 public interest.

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

334 (13) No public enforcement action brought pursuant to this section shall be subject to the  
335 requirements of Rule 23 of the Massachusetts Rules of Civil Procedure.

336 (14) A relator is not allowed to act on behalf of the attorney general in any other manner  
337 or capacity except as stated in this section. The ability to bring a public enforcement action shall  
338 not include investigatory actions or stop work orders on behalf of the Attorney General's office.

339 (f) (1) There shall be established a fund known as the Community Outreach and Labor  
340 Education Fund, separate and distinct from the General Fund. Interest earned by the Community  
341 Outreach and Labor Education Fund shall be credited to the same Fund. All moneys in the  
342 Community Outreach and Labor Education Fund shall be continuously appropriated for the  
343 purpose of awarding grants as provided in paragraph (2) of this subsection. The treasurer of the  
344 commonwealth shall credit such funds recovered under subsection (b)(6) of this section  
345 attributed to the Community Outreach and Labor Education Fund to this fund.

346 (2) Moneys in the Community Outreach and Labor Fund shall be granted from time to  
347 time by the attorney general to organizations that are tax-exempt under subsection (c)(3), (c)(4)  
348 or (c)(5) of the federal Internal Revenue Code, 26 U.S. C. section 501, for purposes of funding  
349 outreach, education and technical assistance to Massachusetts workers pertaining to workplace  
350 rights. The Attorney General shall promulgate regulations relative to further distribution and

351 disbursal of recoveries. Any funding received from the attorney general under this section shall  
352 be continuously appropriated to supplement, and not supplant, other funding for those purposes.  
353 Amounts remaining in the fund at the end of a fiscal year shall not revert to the General Fund but  
354 shall be available for expenditure in the subsequent year and shall not be subject to section 5C of  
355 chapter 29.

356 (3) Grants provided from the Community Outreach and Labor Education Fund shall be  
357 used for activities to assist workers in enforcing employment rights, including but not limited to  
358 outreach, community-based education events, training materials, technical assistance,  
359 counseling, research and referral services.

360 (g) This section shall be liberally construed in light of its remedial purposes to expand the  
361 enforcement of statutes protecting workers in the commonwealth.

362 SECTION 7. Section 150 of said chapter 149, as so appearing, is hereby amended by  
363 inserting, in line 22, after the word "148C" the following word:- , 148E.

364 SECTION 8. Section 150C of said chapter 149, as so appearing, is hereby amended by  
365 striking out, in line 9, the words "one thousand dollars," and inserting in place thereof the  
366 following words:- \$1,000 or shall be subject to a civil citation or order as provided in subsection  
367 (b) of section 27C.

368 SECTION 9. Said section 150C of said chapter 149, as so appearing, is hereby further  
369 amended by adding the following sentence:- The president and treasurer of a corporation and any  
370 officers or agents having the management of such corporation and who have knowledge or  
371 should have had knowledge of general operations shall be considered the employers of the  
372 employees of the corporation for the purposes of this section.

373 SECTION 10. Section 19 of chapter 151 of the General Laws, as so appearing, is hereby  
374 amended by striking out subsection (1) and inserting in place thereof the following subsection:-

375 (1) (a) Any person or entity, including an employer or its agent, who in any manner  
376 discriminates or takes adverse action, or threatens to discriminate or take adverse action, against  
377 any person because that person has opposed a violation of this chapter, complained to the  
378 attorney general or to any other person of a violation of this chapter, assisted any other person in  
379 exercising rights under this chapter, informed any other person of rights under this chapter, or  
380 instituted, assisted in, or testified in any investigation or proceedings under or related to this  
381 chapter, or because of a belief that the person may in the future engage in any such actions, shall  
382 have violated this section and shall be punished or subject to civil proceedings as provided in  
383 subsection (b) or subsection (d) of section 27C, or section 150, and shall recover actual damages,  
384 compensatory damages, punitive damages, injunctive relief or any other appropriate relief.

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