

SENATE No. 1158

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:

Table with 3 columns: NAME, DISTRICT/ADDRESS, and Date. Rows include Sal N. DiDomenico, Rebecca L. Rausch, Marc R. Pacheco, Jacob R. Oliveira, Vanna Howard, Michael D. Brady, Jason M. Lewis, Michael J. Barrett, Jessica Ann Giannino, Paul W. Mark, James K. Hawkins, Walter F. Timilty, Thomas M. Stanley, Mathew J. Muratore, James B. Eldridge, and Mark C. Montigny.

<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>2/17/2023</i>
<i>Adam Gomez</i>	<i>Hampden</i>	<i>2/23/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/23/2023</i>
<i>Anne M. Gobi</i>	<i>Worcester and Hampshire</i>	<i>2/23/2023</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>2/28/2023</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>3/1/2023</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>3/1/2023</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>3/2/2023</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>3/14/2023</i>
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	<i>3/21/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/21/2023</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>3/22/2023</i>
<i>John C. Velis</i>	<i>Hampden and Hampshire</i>	<i>3/29/2023</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>4/5/2023</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>4/10/2023</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>4/18/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>5/1/2023</i>
<i>Robyn K. Kennedy</i>	<i>First Worcester</i>	<i>5/1/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>5/3/2023</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>5/22/2023</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>7/5/2023</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>8/9/2023</i>
<i>Manny Cruz</i>	<i>7th Essex</i>	<i>9/21/2023</i>
<i>Pavel M. Payano</i>	<i>First Essex</i>	<i>9/25/2023</i>

SENATE No. 1158

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 1158) of Sal N. DiDomenico, Rebecca L. Rausch, Marc R. Pacheco, Jacob R. Oliveira and other members of the General Court for legislation to prevent wage theft, promote employer accountability, and enhance public enforcement. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1179 OF 2021-2022.]

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)
10 or 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 acknowledgment 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.