

**HOUSE . . . . . No. 3549**

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The Commonwealth of Massachusetts

PRESENTED BY:

***Daniel K. Webster***

*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 relative to public benefits .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Daniel K. Webster</i>	<i>6th Plymouth</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Bruce E. Tarr</i>	
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>James J. Lyons, Jr.</i>	<i>18th Essex</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>

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By Mr. Webster of Pembroke, a petition (accompanied by bill, House, No. 3549) of Daniel K. Webster and others for legislation to further regulate the disposition of public benefits and providing for the implementation of a security and immigration compliance law. Public Safety and Homeland Security.

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
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An Act relative to public benefits .

*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. This act shall be known and may be cited as the "Massachusetts Security  
2 and Immigration Compliance Act."

3 SECTION 2. The General Laws, as appearing in the 2006 Official Edition, are hereby  
4 amended by inserting after chapter 117A the following new chapter:--

5 Chapter 117B

6 Restrictions on Public Benefits

7 Section 1. Definitions.

8 As used in this chapter the following terms shall have the following meanings unless the  
9 context clearly requires otherwise:-

10           “Emergency Medical Condition,” the same meaning as provided in section 1396b (v) (3)  
11 of Title 42 of the United States Code.

12           “Federal Public Benefits,” the same meaning as provided in section 1611 of Title 8 of the  
13 United States Code.

14           “State Public Benefits,” the same meaning as provided in section 1621 of Title 8 of the  
15 United States Code .

16           Section 2. (a) Except as otherwise provided in subsection (3) of this section or where  
17 exempted by federal law, on and after January 1, 2012, each agency or political subdivision of  
18 the commonwealth shall verify the lawful presence in the United States of every natural person  
19 eighteen years of age or older who applies for state public benefits or for federal public benefits  
20 which are for the benefit of the applicant.

21           (b) This section shall be enforced without regard to race, religion, gender, ethnicity, or  
22 national origin.

23           (c) Verification of lawful presences in the United States shall not be required:

24           For any purpose for which lawful presence in the United States is not required by law,  
25 ordinance, or rule;

26           For obtaining health care items and services that are necessary for the treatment of an  
27 emergency medical condition of the person involved and are not related to an organ transplant  
28 procedure;

29           For short-term, non-cash, in-kind emergency disaster relief;

30 For public health assistance for immunization with respect to diseases and for testing and  
31 treatment of symptoms of communicable diseases;

32 For programs, services, or assistance, such as soup kitchens, crisis counseling and  
33 intervention, and short-term shelter specified by Federal laws or regulations that:

34 Deliver in-kind services at the community level, including services through public or  
35 private nonprofit agencies;

36 Do not condition the provision of assistance, the amount of assistance provided, or the  
37 cost of assistance provided on the individual recipient's income or resources; and

38 Are necessary for the protection of life or safety or;

39 For parental care.

40 (d) An agency or a political subdivision shall verify the lawful presence in the United  
41 States of each applicant eighteen years of age or older for federal public benefits or state public  
42 benefits by requiring the applicant to:

43 (1 ) Produce:

44 A valid Massachusetts driver license or a Massachusetts identification card, issued  
45 pursuant to section 8 of chapter 90 of the General Laws, and 540 Code of Massachusetts  
46 Regulation (CMR) 2.06 (3) (b);

47 A United States military card or military dependent's identification card; or

48 A United States Coast Guard Merchant Mariner card; or

49 A Native American tribal document.

50 (2) If such documentation as required in subparagraph (1) of subsection (d) of  
51 this section cannot be lawfully produced, execute a notarized affidavit stating:

52 That he or she is a United States citizen or legal permanent resident; or

53 That he or she is otherwise lawfully present in the United States pursuant to federal law.

54 (e) Notwithstanding the requirements of subparagraph (1) of subsection (d) of this  
55 section, the Commissioner of the Department of Revenue may issue emergency rule, to be  
56 effective until July 1, 2008 , providing for additional forms of identification or a waiver process  
57 to ensure that an individual seeking benefits pursuant to this section proves lawful presence in  
58 the United States. This subsection and all emergency rules authorized hereunder shall cease to  
59 be effective as of July 1, 2008.

60 (f) A person who knowingly makes a false, fictitious, or fraudulent statement or  
61 representation in an affidavit executed pursuant to subsection (4) of this section shall pay a fine  
62 of not less than \$1,000 and not more than \$5,000, or shall be sentenced to serve not less than 6  
63 months nor more than 1 year in the House of Corrections. Each time that a person receives a  
64 public benefit based upon such a statement or representation they make shall constitute a  
65 separate violation of this section.

66 (g) (1) For an applicant who has executed an affidavit stating that he or she is an alien  
67 lawfully present in the United States, verification of lawful presence for federal public benefits  
68 or state or local public benefits shall be made through the Federal Systematic Alien Verification  
69 for Entitlement program, referred to in this section as the “SAVE program”, operated by the

70 United States Department of Homeland Security. Until such verification of lawful presence is  
71 made, the affidavit may be presumed to be proof of lawful presence for purposes of this section.

72 (2) The secretary of each executive office of the commonwealth shall promulgate  
73 regulations to ensure that each agency or political subdivision has access to the SAVE program  
74 by way of the executive office under which it is organized. Each executive office shall be  
75 responsible for the verification through the SAVE program of all its sub agencies. Each  
76 executive office shall enter into a memorandum of understanding or any other requirement  
77 pursuant to the SAFE program in order to streamline the verification process. Each executive  
78 office shall keep account of all applications submitted through its subdivisions and transfer back  
79 to its subdivisions any costs on an annual basis.

80 (h) Agencies or political subdivisions of the commonwealth may adopt variations of the  
81 requirements of paragraph (b) of subsection (4) of this section to improve efficiency or reduce  
82 delay in the verification process or to provide for adjudication of unique individuals  
83 circumstances in which the verification procedures in the section would impose unusual hardship  
84 on a legal resident of the commonwealth; provided, that the variations shall be no less stringent  
85 than the requirements of this section, including provisions to timely execute notarized affidavits.

86 (i) It shall be unlawful for an agency or political subdivision of the commonwealth to  
87 provide a federal public benefit or state or local public benefit in violation of this section. Each  
88 agency or department that administers a program that provides state or local public benefits shall  
89 provide an annual report with respect to its compliance with this section to the auditor and to the  
90 House and Senate chairs of the joint committee on state administration and regulatory oversight.

91 (j) Errors and significant delays by the SAVE program shall be reported to the United  
92 States Department of Homeland Security which monitors the SAVE program and its verification  
93 application errors and significant delays and report yearly on such errors and delays, to ensure  
94 that the application of the SAVE program is not wrongfully denying benefits to legal residents of  
95 the State.

96 SECTION 3. If any provision of this act or the application thereof to any person or  
97 circumstance is held by any court to be unconstitutional or otherwise invalid, such invalidity  
98 shall not affect other provisions or applications of this act that can be given effect without the  
99 invalid provision or application, and to this end the provisions of the section are declared to be  
100 severable.