

The Commonwealth of Massachusetts

PRESENTED BY:

Timothy J. Toomey, Jr.

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 passage of the accompanying bill:

An Act relative to food stamp trafficking

 \Box .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Timothy J. Toomey, Jr.	26th Middlesex
Anne M. Gobi	5th Worcester

By Mr. Toomey of Cambridge, a petition (accompanied by bill, House, No. 2861) of Gobi and Toomey for legislation to establish penalties for the trafficking of food stamps Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to food stamp trafficking \Box .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 18 of the General Laws is hereby amended by inserting after section 5H the following

2 new section:

3 Section 5 I Food Stamp Trafficking

4 (a) Any approved retail food store or wholesale food concern as defined by U.S.C. § 2018(a),

5 that knowingly uses, transfers, acquires, alters or possesses an Electronic Benefit Transfer card,

6 or access devices in any manner not authorized by the federal food stamp act (7 U.S.C § 2011 et

7 seq.) or regulations issued pursuant to the Food Stamp Act, or who presents for payment or

8 redemption of an EBT card that has been illegally received, transferred, used or altered shall:

9 (1) If such benefits are of a value of \$5,000 or more, be guilty of a felony and shall be fined
10 not more than \$250,000 or imprisoned for not more than twenty years, or both.

11 (2) If such benefits are of a value of \$100 or more, but less than \$5,000, or if the item used, 12 transferred, acquired, altered, or possessed is a benefit that has a value of \$100 or more, but less 13 than \$5,000, be guilty of a felony and shall, upon the first conviction thereof, be fined not more 14 than \$10,000 or imprisoned for not more than five years, or both, and, upon the second and any 15 subsequent conviction thereof, shall be imprisoned for not less than six months nor more than 16 five years and may also be fined not more than \$10,000.

If such benefits are of a value of less than \$100, or if the item used, transferred, acquired, 17 (3) altered, or processed is a benefit that has a value of less than \$100, shall be guilty of a 18 misdemeanor, and, upon the first conviction thereof, shall be fined not more than \$1,000 or 19 20imprisoned for not more than one year, or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not 21 more than \$1,000. In addition to such penalties, any person convicted of a felony or 22 misdemeanor violation under this subsection may be suspended by the court from participation 23 in the supplemental nutrition assistance program for an additional period of up to eighteen 24 25 months consecutive to that period of suspension mandated by 7U.S.C. 2015 (b)(1).

(b) Criminal Forfeiture; In imposing a sentence on a person convicted of an offense in
violation of subsection (a) of this section, a court shall order, in addition to any other sentence
imposed under this section, that the person forfeit to the United States all property described in
paragraph (1).

30 (1) Property subject to forfeiture; All property, real and personal, used in a transaction or
31 attempted transaction, to commit, or to facilitate the commission of, a violation (other than a

32 misdemeanor) of subsection (a) of this section, or proceeds traceable to a violation of subsection33 (a) of this section.

34 (2) The proceeds from any sale of forfeited property and any monies forfeited under this35 subsection shall be used:

36 (a) first, to reimburse any Federal or State law enforcement agency for any cost incurred in37 the law enforcement effort resulting in the forfeiture; and

38 (b) second, by any entity carrying out the approval, reauthorization, and compliance

39 investigations of retail stores and wholesale food concerns.

40 (3) No interest in property shall be forfeited under this subsection as the result of any act or

41 omission established by the owner of the interest to have been committed or omitted without the

42 knowledge or consent of the owner.