

HOUSE No. 03913

The Commonwealth of Massachusetts

PRESENTED BY:

John V. Fernandes and

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 to enhance community safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>Richard T. Moore</i>	<i>Worcester and Norfolk</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Steven A. Baddour</i>	<i>First Essex</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>

<i>James J. Lyons, Jr.</i>	<i>18th Essex</i>
<i>George T. Ross</i>	<i>2nd Bristol</i>
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>

HOUSE No. 03913

By Mr. Fernandes of Milford and Senator Moore, a joint petition (subject to Joint Rule 12) of John V. Fernandes, Richard T. Moore and others for legislation to enhance community safety by strengthening the laws regulating undocumented illegal aliens residing or working in the Commonwealth. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to enhance community safety.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to protect our communities, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

□

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. Clause (1) of subsection (c) of section 29F of chapter 29 of the general laws, as
2 appearing in the 2008 Official Edition, is hereby amended by adding the following subclause:-

3 (x) a violation of the federal law prohibiting the employment of unauthorized aliens; or.

4 SECTION 2. The general laws are hereby amended by inserting after chapter 30B the
5 following:-

6 “Chapter 30C. PUBLIC CONTRACT INTEGRITY

7 Section 1. For the purposes of this chapter, the following terms shall be defined as follows:

8 “Public employer”: any department, agency, or public instrumentality of the commonwealth and
9 any person, corporation, partnership, sole proprietorship, joint venture, or other business entity
10 providing goods or services to any department, agency or public instrumentality of the
11 commonwealth, including but not limited to the Massachusetts Turnpike Authority,
12 Massachusetts Water Resources Authority, Massachusetts Port Authority, and the Massachusetts
13 Bay Transportation Authority.

14 “Work authorization program”: any of the electronic verification of work authorization programs
15 operated by the United States Department of Homeland Security or any equivalent work
16 authorization program operated by the United States Department of Homeland Security, the
17 United States Department of Labor, the Social Security Administration, other federal agency, or
18 any private verification system authorized by the director of the department of labor to verify
19 information of newly hired employees, pursuant to the Immigration Reform and Control Act of
20 1986 (IRCA) and its progeny.

21 Section 2. No public employer shall enter into a contract for the provision of goods or services
22 within the commonwealth unless the contractor registers and participates in a work authorization
23 program to verify information of all new employees and certifies to that effect in writing to the
24 director of the department of labor.

25 Section 3. No contractor or subcontractor who enters a contract with a public employer shall
26 enter into such a contract or subcontract in connection with the provision of goods or services in
27 the commonwealth unless the contractor or subcontractor registers and participates in a work

28 authorization program to verify information of all employees and certifies to that effect in
29 writing to the director of the department of labor.

30 Section 4. Sections 2 and 3 of this chapter shall apply as follows:

31 (A) On or after September 1, 2012, with respect to public employers, contractors, or
32 subcontractors of 500 or more employees;

33 (B) On or after September 1, 2013, with respect to public employers, contractors, or
34 subcontractors of 100 or more employees; and

35 (C) On or after September 1, 2014, with respect to all public employers, contractors, or
36 subcontractors.

37 Section 5. The provisions of this chapter shall be enforced without regard to race, religion,
38 gender, ethnicity, or national origin.

39 Section 6. Except as provided in section 4 of this chapter, the director of the department of labor
40 shall prescribe forms and promulgate rules and regulations deemed necessary in order to
41 administer and effectuate the provisions of this chapter.

42 Section 7. The Attorney General, in consultation with the Inspector General, shall develop and
43 promulgate regulations for the purpose of ensuring that any person receiving funds pursuant to a
44 contract awarded subject to the provisions of chapter 30B and section 44A of chapter 149 of the
45 general laws is in compliance with federal laws pertaining to immigration and citizenship,
46 including but not limited to 42 U.S.C. 1436(a). Such regulations shall include but not be limited
47 to the ascertaining and verification of immigration and/or citizenship status through a work

48 authorization program maintained by the United States Department of Homeland Security or its
49 substantial equivalent.

50 Section 8. No contract shall be awarded by or to a public employer, and no public funds shall be
51 expended in accordance with such a contract, unless the public employer named in the contract
52 complies with the regulations prescribed in this chapter.

53 Section 9. No funds shall be expended in accordance with a contract awarded by or to a public
54 employer which will result in the payment of any kind to a person not in compliance with any
55 and all federal laws pertaining to immigration and citizenship, including but not limited to 42
56 U.S.C. 1436(a).”

57 Section 10. The auditor is hereby authorized to conduct random audits to ensure compliance with
58 the provisions of this chapter.

59 SECTION 3. The first paragraph of section 2 of chapter 90 of the general laws, as so appearing,
60 is hereby amended by striking out the second and third sentences and inserting in place thereof
61 the following:-

62 “If the owner is a corporation or business entity, the application shall contain the name of the
63 corporation or business entity, the full address, including the street, city or town, state and zip
64 code, the federal tax identification number or employer identification number if a corporation
65 and the social security number if the business entity is a sole proprietorship and does not have a
66 federal tax identification number. If the applicant is a natural person, the application shall
67 contain his name, full residential address, date of birth, license number or identification card
68 number issued by the registrar and such other particulars as the registrar may require. Except as
69 otherwise provided in this chapter or in regulations adopted by the registrar, no registration shall

70 be issued for a motor vehicle or trailer owned or leased by a natural person unless one of its
71 registering owners or lessees holds a valid license, social security card issued by Social Security
72 Administration, or other proof of legal presence. The registrar shall provide by regulation for
73 exemptions for out-of-state students, military personnel, senior citizens and disabled persons.”

74 SECTION 4. Said section 2 of said chapter 90 is hereby further amended by inserting after the
75 word “statement”, in line 13, as so appearing, the word “signed”.

76 SECTION 5. Said section 2 of said chapter 90 is hereby further amended by striking, in lines 21
77 through 23, inclusive, as so appearing, the words “register in a book or upon suitable index cards
78 to be kept for the purpose the motor vehicle or trailer described in the application, giving to the
79 vehicle” and inserting in place thereof the following:- “keep a record of motor vehicles and
80 trailers that satisfy the application requirements, assign to each motor vehicle and trailer.”

81 SECTION 6. Section 12 of chapter 90 of the general laws, as so appearing, is hereby amended
82 by striking subsections (a) and (b) in their entirety, and inserting in place thereof the following:-

83 “(a) Whoever knowingly employs for hire as a motor vehicle operator any person not licensed in
84 accordance with this chapter shall be punished by a fine of not more than \$1,000 or
85 imprisonment for not more than 60 days or both such fine and imprisonment for a first offense,
86 or, for a second or subsequent offense by a fine of not less than \$1,000 nor more than \$2,000 or
87 imprisonment in the house of correction for not more than 2 ½ years, or both such fine and
88 imprisonment.

89 (b) Whoever knowingly permits a motor vehicle owned by him or under his control to be
90 operated by a person who is unlicensed or whose license has been suspended or revoked shall be
91 punished by a fine of not more than \$1,000 or imprisonment for not more than 60 days or both

92 such fine and imprisonment for a first offense, or, for a second or subsequent offense by a fine of
93 not less than \$1,000 nor more than \$2,000 or imprisonment in the house of correction for not
94 more than 2 ½ years, or both such fine and imprisonment.”

95 SECTION 7. Section 20 of said chapter 90, as so appearing, is hereby amended by striking out,
96 in line 10, the words “of not less than \$100 nor more than \$1,000” and inserting in place thereof
97 the following:- “by a fine of not more than \$500 for a first offense or by imprisonment for not
98 more than 10 days, or by both such fine and imprisonment, by a fine of not less than \$500 nor
99 more than \$1,000 or by imprisonment for not more than 30 days, or both such fine and
100 imprisonment, for a second offense, by a fine of not less than \$1,000 nor more than \$2,000 or by
101 imprisonment for not more than 60 days, or both such fine and imprisonment, for any subsequent
102 offense; provided however that when a person is brought before a district court for the initial
103 appearance the court shall ascertain the immigration status of the individual by utilizing data
104 available through the United States Department of Homeland Security, or any other relevant
105 federal agency;”

106 SECTION 8. Section 24 of chapter 90, as so appearing, is hereby amended by inserting at the
107 end thereof the following paragraph:-

108 “When any person charged with driving under the influence pursuant to this section is confined,
109 for any period, in any correctional institution, prison, or local or regional holding facility in the
110 commonwealth, the commissioner of the department of corrections, the county sheriff, or the
111 municipal police chief or other officer shall make a reasonable effort to verify that the prisoner
112 has been lawfully admitted to the United States and if lawfully admitted, that such lawful status
113 has not expired. If verification of lawful status cannot be made from documents in the

114 possession of the prisoner, verification shall be made within 48 hours through a query to the Law
115 Enforcement Support Center (LESC) of the United States Department of Homeland Security or
116 other office or agency designated for that purpose by the United States Department of Homeland
117 Security. If the prisoner is determined not to be lawfully admitted to the United States the
118 commissioner of the department of corrections, the county sheriff, the municipal police chief or
119 any other officer shall notify the United States Department of Homeland Security. The secretary
120 of the executive office of public safety shall prepare and issue guidelines and procedures used to
121 comply with the provisions of this paragraph.”

122 SECTION 9. Section 24B of chapter 90 of the general laws is hereby amended by adding, after
123 the first paragraph, the following:-

124 “Whoever falsely makes, steals, alters, forges or counterfeits a learner’s permit, a license to
125 operate motor vehicles or an identification card issued under section 8E with the intent to
126 distribute such learner’s permit, license to operate motor vehicles or identification card or assists
127 another to do so shall be punished as follows: (i) for the above acts involving 1 to 5 documents,
128 by a fine of not more than \$2,500 or by imprisonment in state prison for not more than 5 years or
129 in a house of correction for not more than 2 ½ years, or both such fine and imprisonment; (ii) for
130 acts involving 5 to 10 documents, by a fine of not more than \$5,000 or by imprisonment in state
131 prison for not more than 7 years or in a house of correction for not more than 8 years, or both
132 such fine and imprisonment; (iii) for acts involving more than 10 documents, by a fine of not
133 more than \$25,000 or by imprisonment in state prison for not more than 15 years or for not more
134 than 10 years in a house of correction, or both such fine and imprisonment.”

135 SECTION 10. Subsection (a) of section 24W of said chapter 90, as so appearing, is hereby
136 amended by inserting in line 9, after the words “section 13 ½ of chapter 265 or,” the following:-
137 “any person convicted of operating a motor vehicle without having been issued a license
138 pursuant to section 20 of chapter 90, or”

139 SECTION 11. Section 1 of chapter 118 of the general laws, as so appearing, is hereby amended
140 by inserting at the end thereof the following paragraph:-

141 “Benefits for individuals over age 18 for any program established under this chapter or which
142 can be obtained only through an application for benefits under this chapter shall be available
143 only to otherwise eligible individuals who document their lawful presence in the United States in
144 accordance with federal requirements applicable to federal public benefits under Title XIX and
145 Title XXI of the Social Security Act, including the requirements or the waiver of any
146 requirements under section 1115 of the Social Security Act. The documentation requirements
147 shall apply regardless of whether those benefits are subject to federal funding.”

148 SECTION 12. Section 32 of chapter 121B of the General Laws, as appearing in the 2008
149 Official Edition, is hereby amended by adding the following paragraph:-

150 “An applicant for assisted housing under this chapter who is not eligible for federal assisted
151 housing under 42 U.S.C. section 1436a, and who is not a person legally residing in the United
152 States as provided in section 16D of chapter 118E shall not displace or be given priority over any
153 applicant who is so eligible.”

154 SECTION 13. Chapter 149 of the general laws is hereby amended by striking section 19C in its
155 entirety and inserting in place thereof the following:-

156 Section 19C. (a) An employer shall not knowingly employ an unauthorized alien. The term,
157 unauthorized alien, shall mean an alien who does not have the legal right or authorization under
158 federal law to work in the United States as described in 8 U.S.C. 1324a(h)(3). If, in the case
159 when an employer uses a contract, subcontract or other independent contractor agreement to
160 obtain the labor of an alien in the commonwealth, the employer knowingly contracts with an
161 unauthorized alien or with a person who employs or contracts with an unauthorized alien to
162 perform the labor, the employer violates this subsection.

163 (b) The attorney general shall prescribe a complaint form for a person to allege a violation of
164 subsection (a). The complainant shall not be required to list the complainant's social security
165 number on the complaint form or to have the complaint form notarized. Upon receipt of a
166 complaint that an employer allegedly knowingly employs an unauthorized alien, the attorney
167 general or district attorney shall investigate whether the employer has violated subsection (a). If
168 a complaint is received but is not submitted on said prescribed form, the attorney general or
169 district attorney may investigate whether the employer has violated subsection (a). This shall not
170 be construed to prohibit the filing of anonymous complaints that are not submitted on a
171 prescribed complaint form. The attorney general or district attorney shall not investigate
172 complaints that are based solely on race, color or national origin. A complaint that is submitted
173 to a district attorney shall be submitted to the district attorney in the county in which the alleged
174 unauthorized alien is or was employed by the employer. The county sheriff or any other local
175 law enforcement agency may assist in investigating a complaint. When investigating a
176 complaint, the attorney general or district attorney shall verify the work authorization of the
177 alleged unauthorized alien with the federal government pursuant to 8 U.S.C. 1373(c). A state,
178 county or local official shall not attempt independently to make a final determination on whether

179 an alien is authorized to work in the United States. An alien's immigration status or work
180 authorization status shall be verified with the federal government pursuant to 8 U.S.C. 1373(c).
181 Whoever knowingly files a false and frivolous complaint shall be punished by a fine of not more
182 than \$500, or by imprisonment of not more than 30 days, or both such fine and imprisonment.

183 (c) If, after an investigation, the attorney general or district attorney determines that the
184 complaint is not false and frivolous:

185 (1) The attorney general or district attorney shall notify the United States Immigration and
186 Customs Enforcement of the presence of the unauthorized alien;

187 (2) The attorney general or district attorney shall notify the United States Immigration and
188 Customs Enforcement of the employer's alleged employment of unauthorized workers;

189 (3) The attorney general or district attorney shall notify the Department of Revenue of the
190 employer's alleged employment of unauthorized workers;

191 (4) The attorney general or district attorney shall notify the local law enforcement agency of
192 the unauthorized alien;

193 (5) The attorney general shall notify the appropriate district attorney to bring an action
194 pursuant to subsection (d) if the complaint was originally filed with the attorney general;

195 (d) An action for a violation of subsection (a) shall be brought against the employer by the
196 district attorney in the county where the unauthorized alien employee is or was employed by the
197 employer. A Level II violation shall be based only on an unauthorized alien who is or was
198 employed by the employer after an action has been brought for a violation of subsection (a) or

199 subsection (k). An employer shall not be subject to a Level II violation unless is currently on
200 probation for a Level I violation.

201 (e) For any action in superior court under this section, the court shall expedite the action,
202 including assigning the hearing at the earliest practicable date.

203 (f) On a finding of a violation of subsection (a):

204 (1) For a Level I, or a violation which does not occur during a probationary period ordered
205 by the court, the court:

206 i. Shall order the employer to terminate the employment of all unauthorized aliens; and

207 ii. Shall order the employer to be subject to a 3 year probationary period for the business
208 location where the unauthorized alien performed work. During the probationary period the
209 employer shall file quarterly reports with the district attorney of each new employee who is hired
210 by the employer at the business location where the unauthorized alien performed work; and

211 iii. Shall order the employer to file a sworn affidavit with the district attorney within 3
212 business days after the order is issued. The affidavit shall state that the employer has terminated
213 the employment of all unauthorized aliens in the commonwealth and that the employer will not
214 intentionally or knowingly employ an unauthorized alien in the commonwealth. The court shall
215 order the appropriate state agencies to suspend all licenses subject to this clause that are held by
216 the employer if the employer fails to file a sworn affidavit with the district attorney within 3
217 business days after the order is issued. All licenses that are suspended under this clause shall
218 remain suspended until such time as the employer files a sworn affidavit with the district
219 attorney. Notwithstanding any general or special law to the contrary, upon filing of the affidavit

220 the suspended licenses shall be reinstated immediately by the appropriate state agencies. For the
221 purposes of this clause, the licenses that shall be subject to suspension are all licenses that are
222 held by the employer specific to the business location where the unauthorized alien performed
223 work. If the employer does not hold a license specific to the business location where the
224 unauthorized alien performed work, but a license is necessary to operate the employer's business
225 in general, the licenses that are subject to suspension are all licenses that are held by the
226 employer at the employer's primary place of business. Upon receipt of the order, the appropriate
227 state agencies shall immediately revoke the licenses. The court shall send a copy of the court's
228 order to the attorney general and the attorney general shall maintain the copy pursuant to
229 subsection (g); and

230 iv. May order the appropriate state agencies to suspend all licenses described in clause (iii)
231 that are held by the employer for a period not to exceed 10 business days. The court shall base
232 its decision to suspend on any evidence or information submitted to it during the action for a
233 violation and shall consider the following factors, if relevant:

234 a. Number of unauthorized aliens employed by the employer;

235 b. Prior misconduct by the employer;

236 c. Degree of harm resulting from the violation;

237 d. Whether the employer made good faith efforts to comply with any applicable
238 requirements;

239 e. Duration of the violation;

240 f. Role of the directors, officers or principals of the employer in the violation;

241 g. Other factors that the court deems appropriate.

242 (2) For a Level II violation, or a violation which occurs during a probationary period ordered
243 by the court, the court shall order the appropriate state agencies to permanently revoke all
244 licenses that are held by the employer specific to the business location where the unauthorized
245 alien performed work. If the employer does not hold a license specific to the business location
246 where the unauthorized alien performed work but a license is necessary to operate the
247 employer's business in general, the court shall order the appropriate state agencies to
248 permanently revoke all licenses that are held by the employer at the employer's primary place of
249 business. Upon receipt of the order, the appropriate state agencies shall immediately revoke the
250 licenses.

251 (g) The attorney general shall maintain copies of court orders that are received pursuant to
252 subsection (f) and shall maintain a database of the employers and business locations that have a
253 Level I of subsection (a) and make the court orders available on the attorney general's website.

254 (h) When determining whether an employee is an unauthorized alien, the court shall consider
255 only the federal government's determination pursuant to 8 U.S.C. 1373(c). The federal
256 government's determination creates a rebuttable presumption of the employee's lawful status.
257 The court may take judicial notice of the federal government's determination and may request
258 the federal government to provide automated or testimonial verification pursuant to 8 U.S.C.
259 1373(c).

260 (i) For the purposes of this subsection, proof of verifying the employment authorization of an
261 employee through available federal resources creates a rebuttable presumption that an employer
262 did not knowingly employ an unauthorized alien.

263 (j) For the purposes of this subsection, an employer that establishes that it has complied in good
264 faith with the requirements of 8 U.S.C. 1324a(b) establishes an affirmative defense that the
265 employer did not knowingly employ an unauthorized alien. An employer is considered to have
266 complied with the requirements of 8 U.S.C. 1324a(b), notwithstanding an isolated, sporadic or
267 accidental technical or procedural failure to meet the requirements, if there is a good faith
268 attempt to comply with the requirements.

269 (k) An employer shall not intentionally employ an unauthorized alien. If, in the case when an
270 employer uses a contract, subcontract or other independent contractor agreement to obtain the
271 labor of an alien in the commonwealth, the employer intentionally contracts with an
272 unauthorized alien or with a person who employs or contracts with an unauthorized alien to
273 perform the labor, the employer violates this subsection.

274 (l) The attorney general shall prescribe a complaint form for a person to allege a violation of
275 subsection (k). The complainant shall not be required to list the complainant's social security
276 number on the complaint form or to have the complaint form notarized. Upon receipt of a
277 complaint that an employer allegedly intentionally employs an unauthorized alien, the attorney
278 general or district attorney shall investigate whether the employer has violated subsection (k). If
279 a complaint is received but is not submitted on said prescribed form, the attorney general or
280 district may investigate whether the employer has violated subsection (k). This shall not be
281 construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed
282 complaint form. The attorney general or district attorney shall not investigate complaints that are
283 based solely on race, color or national origin. A complaint that is submitted to a district attorney
284 shall be submitted to the district attorney in the county in which the alleged unauthorized alien is
285 or was employed by the employer. The county sheriff or any other local law enforcement

286 agency may assist in investigating a complaint. When investigating a complaint, the attorney
287 general or district attorney shall verify the work authorization of the alleged unauthorized alien
288 with the federal government pursuant to 8 U.S.C. 1373(c). A state, county or local official shall
289 not attempt independently to make a final determination on whether an alien is authorized to
290 work in the United States. An alien's immigration status or work authorization status shall be
291 verified with the federal government pursuant to 8 U.S.C. 1373(c). Whoever knowingly files a
292 false and frivolous complaint shall be punished by a fine of not more than \$500, or by
293 imprisonment of not more than 30 days, or both such fine and imprisonment.

294 (m) If, after an investigation, the attorney general or district attorney determines that the
295 complaint is not false and frivolous:

296 (1) The attorney general or district attorney shall notify the United States Immigration and
297 Customs Enforcement of the presence of the unauthorized alien;

298 (2) The attorney general or district attorney shall notify the United States Immigration and
299 Customs Enforcement of the employer's alleged employment of unauthorized workers;

300 (3) The attorney general or district attorney shall notify the Department of Revenue of the
301 employer's alleged employment of unauthorized workers;

302 (4) The attorney general or district attorney shall notify the local law enforcement agency of
303 the unauthorized alien;

304 (5) The attorney general shall notify the appropriate district attorney to bring an action
305 pursuant to subsection (n) if the complaint was originally filed with the attorney general;

306 (n) An action for a violation of subsection (k) shall be brought against the employer by the
307 district attorney in the county where the unauthorized alien employee is or was employed by the
308 employer. A Level II violation shall be based only on an unauthorized alien who is or was
309 employed by the employer after an action has been brought for a violation of subsection (k) or
310 subsection (a).

311 (o) For any action in superior court under this section, the court shall expedite the action,
312 including assigning the hearing at the earliest practicable date.

313 (p) On a finding of a violation of subsection (k):

314 (1) For a Level I violation, or a violation which does not occur during a probationary period
315 ordered by the court, the court shall:

- 316 i. Order the employer to terminate the employment of all unauthorized aliens; and
- 317 ii. Order the employer to be subject to a 5 year probationary period for the business location
318 where the unauthorized alien performed work. During the probationary period the employer
319 shall file quarterly reports with the district attorney of each new employee who is hired by the
320 employer at the business location where the unauthorized alien performed work; and
- 321 iii. Order the employer to file a sworn affidavit with the district attorney within 3 business
322 days after the order is issued. The affidavit shall state that the employer has terminated the
323 employment of all unauthorized aliens in the commonwealth and that the employer will not
324 intentionally or knowingly employ an unauthorized alien in the commonwealth. The court shall
325 order the appropriate state agencies to suspend all licenses subject to this clause that are held by
326 the employer if the employer fails to file a sworn affidavit with the district attorney within 3

327 business days after the order is issued. All licenses that are suspended under this clause shall
328 remain suspended until such time as the employer files a sworn affidavit with the district
329 attorney. Notwithstanding any general or special law to the contrary, upon filing of the affidavit
330 the suspended licenses shall be reinstated immediately by the appropriate state agencies. For the
331 purposes of this clause, the licenses that shall be subject to suspension are all licenses that are
332 held by the employer specific to the business location where the unauthorized alien performed
333 work. If the employer does not hold a license specific to the business location where the
334 unauthorized alien performed work, but a license is necessary to operate the employer's business
335 in general, the licenses that are subject to suspension are all licenses that are held by the
336 employer at the employer's primary place of business. Upon receipt of the order, the appropriate
337 state agencies shall immediately revoke the licenses. The court shall send a copy of the court's
338 order to the attorney general and the attorney general shall maintain the copy pursuant to
339 subsection (q).

340 iv. Order the appropriate state agencies to suspend all licenses described in clause (iv) that
341 are held by the employer for a period not to exceed 10 business days. The court shall base its
342 decision to suspend on any evidence or information submitted to it during the action for a
343 violation and shall consider the following factors, if relevant:

344 a. Number of unauthorized aliens employed by the employer;

345 b. Prior misconduct by the employer;

346 c. Degree of harm resulting from the violation;

347 d. Whether the employer made good faith efforts to comply with any applicable
348 requirements;

349 e. Duration of the violation;

350 f. Role of the directors, officers or principals of the employer in the violation;

351 g. Other factors that the court deems appropriate; and

352 (2) For a Level II violation, or a violation which occurs during a probationary period ordered
353 by the court, the court shall order the appropriate state agencies to permanently revoke all
354 licenses that are held by the employer specific to the business location where the unauthorized
355 alien performed work. If the employer does not hold a license specific to the business location
356 where the unauthorized alien performed work but a license is necessary to operate the
357 employer's business in general, the court shall order the appropriate state agencies to
358 permanently revoke all licenses that are held by the employer at the employer's primary place of
359 business. Upon receipt of the order, the appropriate state agencies shall immediately revoke the
360 licenses.

361 (q) The attorney general shall maintain copies of court orders that are received pursuant to
362 subsection (p) and shall maintain a database of the employers and business locations that have a
363 Level I violation of subsection (k) and make the court orders available on the attorney general's
364 website.

365 (r) When determining whether an employee is an unauthorized alien, the court shall consider
366 only the federal government's determination pursuant to 8 U.S.C. 1373(c). The federal
367 government's determination creates a rebuttable presumption of the employee's lawful status.
368 The court may take judicial notice of the federal government's determination and may request
369 the federal government to provide automated or testimonial verification pursuant to 8 U.S.C.
370 1373(c).

371 (s) For the purposes of this section, proof of verifying the employment authorization of an
372 employee through available federal resources creates a rebuttable presumption that an employer
373 did not knowingly employ an unauthorized alien.

374 (t) For the purposes of this section, an employer that establishes that it has complied in good faith
375 with the requirements of 8 U.S.C. 1324a(b) establishes an affirmative defense that the employer
376 did not knowingly employ an unauthorized alien. An employer is considered to have complied
377 with the requirements of 8 U.S.C. 1324a(b), notwithstanding an isolated, sporadic or accidental
378 technical or procedural failure to meet the requirements, if there is a good faith attempt to
379 comply with the requirements.

380 SECTION 14. The third paragraph of section 34B of chapter 138, as so appearing, is hereby
381 amended by inserting the following:- “Any person who transfers, alters, defaces, uses or carries
382 any such card or license or uses the identification card or motor vehicle license of another or
383 furnishes false information in obtaining such card or license shall be guilty of a misdemeanor
384 and shall be punished by a fine of not more than \$500 for a first offense or by a fine of not more
385 than \$1,000 or imprisonment for not more than 3 months, or both such fine and imprisonment for
386 a second or subsequent offense. Any person who makes, sells, or distributes a false
387 identification card shall be guilty of a felony and shall be punished by a fine of not more than
388 \$5,000 or imprisonment for not more than 5 years, or both such fine and imprisonment.”

389 SECTION 15. Chapter 149 of the General Laws is hereby amended by inserting after section
390 19C the following new section:-

391 “19D. Whoever utilizes in any way a false identification document for the purposes of soliciting,
392 securing, or maintaining employment from a public employer as defined in section 1 of chapter

393 30C shall be punished by a fine of not more than \$5,000 or by imprisonment in the state prison
394 for not more than 5 years or in a jail or house of correction for not more than 2 years, or both
395 such fine and imprisonment.”

396 SECTION 16. Chapter 186 of the general laws, as so appearing, is hereby amended by adding
397 the following section:-

398 Section 23. No person shall charge, demand, receive or accept any rent or other payment for the
399 use or occupancy of any residential rental premises which is used or occupied in violation of a
400 zoning by-law, the state building code or other codes, and of which said person has knowledge,
401 or reason to know, and does permit.

402 Within 10 days following receipt of a notice to abate an unlawful occupancy violation, the owner
403 of a residential premises shall serve upon the occupants of such using or occupying said
404 residential premises a copy of this section and shall post a copy of this section in a common area
405 of the premises accessible to all occupants thereof for inspection. Such owner or person shall
406 serve such occupants a notice to vacate the property, requiring that the property be vacated
407 within 10 days.

408 Any person found in violation of this section shall be subject to a fine of not less than \$500 not
409 more than \$2,000, or by imprisonment of not more than 90 days, or both such fine and
410 imprisonment.

411 In addition to requiring relocation assistance to displaced tenants, the owner-landlord may be
412 fined an amount equal to up to 6 times the monthly rent for zoning and housing code violations
413 to be paid to the city or town.

414 In addition to the above penalties the court may impose a fine equal to the tuition costs of any
415 resident of the unlawful tenant attending a public school which fine shall be received in a civil
416 action by a summary proceeding in the name of the city or town. Said fine shall be paid by the
417 owner of the property. The district court and superior court divisions of the trial shall have
418 jurisdiction of this section. The tuition costs shall be determined in the manner prescribed for
419 nonresident student and shall be paid to the school district which the student attends.

420 Where an owner is convicted of a violation of this section they shall be required to permanently
421 remove the kitchen and bathroom if it exists, an all electrical and plumbing that was installed
422 without proper permits. The term, remove the kitchen shall mean removal of a stove, refrigerator
423 and sinks in any such structure. The building inspector, or his designee, shall inspect the
424 premises to insure all such removal is accomplished within 30 days of the notice to remove.

425 Any tenant who receives a notification of eviction that results from zoning or code enforcement
426 activity for an illegal occupancy shall be considered a displaced person and shall be entitled to
427 relocation assistance in an amount equal to up to 6 times the monthly rental paid by the displaced
428 person. The owner-landlord of the structure shall be liable for the payment of relocation
429 assistance pursuant to this section.

430 SECTION 17. Section 27B of chapter 261 of the general laws, as so appearing, is hereby
431 amended by inserting at the end thereof the following:-

432 “For the purposes of verifying income eligibility, said affidavit of indigency shall include the
433 respective indigent party’s social security number. Said affidavit, complete with social security
434 number, shall be transmitted to the department of revenue for verification.”

435 SECTION 18. Section 47 of chapter 277 of the general laws, as so appearing, is hereby amended
436 by inserting at the end thereof the following sentence:-

437 “The immigration status of every defendant, including but not limited to those accused of a
438 violation of section 24 of chapter 90 of the general laws, a violation of section 10 of chapter 90
439 of the general laws, or a like violation of an offense classified as Level I as referenced by the
440 United States Department of Homeland Security’s Secure Communities Program, shall be
441 confirmed at the arraignment stage of any criminal court proceeding. In the event the defendant
442 is unlawfully present within the United States, the defendant’s status shall be transmitted to the
443 United States Immigration and Customs Enforcement.”

444 SECTION 19. Within 6 months of the passage of this act, the executive office of public safety
445 shall report to the joint committee on public safety and homeland security and the clerks of the
446 senate and house of representatives the actions undertaken by the commonwealth to assist with
447 the deployment of the Secure Communities Program as administered by the United States
448 Department of Homeland Security. Said report shall include each of the jurisdictions within the
449 commonwealth that are currently enrolled in the program, those jurisdictions not yet enrolled, the
450 number of criminal aliens that have been identified utilizing the program, the estimated costs of
451 any technology upgrades necessary to deploy the program statewide, and any upgrades that may
452 be required in order to maximize the data available to municipal police through the Criminal
453 Justice Information Services Division Wide Area Network. The secretary shall designate a
454 liaison that shall facilitate the statewide deployment of the Secure Communities program in
455 cooperation with the United States Department of Homeland Security.

456 SECTION 20. Within 6 months of the passage of this act, the executive office of public safety
457 shall report to the joint committee on public safety and homeland security, the house and senate
458 committees on ways and means, and the clerks of the senate and house of representatives on
459 what steps are being taken to improve the effectiveness of license plate reader technology by
460 aligning any state database with any available national databases, the cost of such an alignment,
461 and a proposed schedule for implementation.

462 SECTION 21. Notwithstanding any general or special law to the contrary, a person who is a
463 lawful immigrant or permanent resident of the United States, or is eligible to apply and has
464 applied for such status, shall be eligible to be considered for Massachusetts residency for tuition
465 purposes, provided that the person meets the same requirements for establishing residency in
466 Massachusetts as are required of a United States citizen. Non-citizens who are in, or who are
467 eligible to apply and have applied for refugee or asylum status, shall be eligible to be considered
468 for Massachusetts residency for tuition purposes, provided that the person meets the same
469 requirements for establishing residency in Massachusetts as are required of a United States
470 citizen. All non-citizens shall provide appropriate documentation to verify their status with the
471 United States Citizenship and Immigration Services.

472 SECTION 22. (a) Notwithstanding any general or special law to the contrary, an applicant for
473 the MassGrant program administered by the department of higher education office of grant
474 assistance shall first complete the Free Application for Federal Student Aid or any other federal
475 student loan program that verifies both financial and citizenship eligibility.

476 (b) The secretary of education shall report annually to the senate and house committees on ways
477 and means, the joint committee on education, and the clerks of the senate and house of

478 representatives the amount of money recovered by the department of education from those who
479 received assistance fraudulently and the number of recipients who were issued partial or lifetime
480 disqualifications.

481 SECTION 23. Notwithstanding any general or special law to the contrary, when issuing periodic
482 notices to taxpayers and registered businesses, the department of revenue include information
483 illustrating the risks of employing or contracting with unauthorized workers. Said notice shall
484 include the estimated costs to public safety, the strains placed upon the health safety net, the
485 potential for personal liability, the impacts upon local school budgets, the impact upon the job
486 market, and the availability of quality housing.

487 SECTION 24. Section 13 shall take effect on July 1, 2012.