

SENATE No. 02061

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

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>Richard T. Moore</i>	<i>Worcester and Norfolk</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Steven A. Baddour</i>	<i>First Essex</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Elizabeth Poirier</i>	<i>14th Bristol</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol, and Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>

<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>John P. Fresolo</i>	<i>16th Worcester</i>
<i>Joyce A. Spiliotis</i>	<i>12th Essex</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Kimberly Ferguson</i>	<i>1st Worcester</i>
<i>Steven Howitt</i>	<i>4th Bristol</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Peter Durant</i>	<i>6th Worcester</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Kevin Kuros</i>	<i>8th Worcester</i>
<i>Angelo D'Emilia</i>	<i>8th Plymouth</i>
<i>Ryan Fattman</i>	<i>18th Worcester</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>
<i>Edward Coppinger</i>	<i>10th Suffolk</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Paul Adams</i>	<i>17th Essex</i>
<i>Daniel Winslow</i>	<i>9th Norfolk</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Matthew Beaton</i>	<i>11th Worcester</i>
<i>Donald Wong</i>	<i>9th Essex</i>
<i>Marc Lombardo</i>	<i>22nd Middlesex</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>James T. Welch</i>	<i>Hampden</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>
<i>Sheila Harrington</i>	<i>1st Middlesex</i>
<i>James Lyons, Jr.</i>	<i>18th Essex</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>David Vieira,</i>	<i>3rd Barnstable</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>

SENATE No. 02061

By Mr. Moore, a petition (accompanied by bill, Senate, No.) of Richard T. Moore, John V. Fernandes, Bruce E. Tarr, George N. Peterson, Jr. and other members of the General Court for legislation to enhance community safety. 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 and confront the strains placed on personal, municipal, and statewide finances as a result of illegal immigration, 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
2 laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following
3 subclause:-

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

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

7 “Chapter 30C. PUBLIC CONTRACT INTEGRITY

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

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

16 “Work authorization program”: any of the electronic verification of work authorization
17 programs operated by the United States Department of Homeland Security or any equivalent
18 work authorization program operated by the United States Department of Homeland Security,
19 the United States Department of Labor, the Social Security Administration, other federal agency,
20 or any private verification system authorized by the director of the department of labor to verify
21 information of newly hired employees, pursuant to the Immigration Reform and Control Act of
22 1986 (IRCA) and its progeny.

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

27 Section 3. No contractor or subcontractor who enters a contract with a public employer
28 shall enter into such a contract or subcontract in connection with the provision of goods or

29 services in the commonwealth unless the contractor or subcontractor registers and participates in
30 a work authorization program to verify information of all employees and certifies to that effect in
31 writing to the director of the department of labor.

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

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

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

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

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

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

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

50 work authorization program maintained by the United States Department of Homeland Security
51 or its substantial equivalent.

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

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

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

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

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

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

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

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

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

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

93 (b) Whoever knowingly permits a motor vehicle owned by him or under his control to be
94 operated by a person who is unlicensed or whose license has been suspended or revoked shall be
95 punished by a fine of not more than \$1,000 or imprisonment for not more than 60 days or both
96 such fine and imprisonment for a first offense, or, for a second or subsequent offense by a fine of
97 not less than \$1,000 nor more than \$2,000 or imprisonment in the house of correction for not
98 more than 2 ½ years, or both such fine and imprisonment.”

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

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

112 “When any person charged with driving under the influence pursuant to this section is
113 confined, for any period, in any correctional institution, prison, or local or regional holding
114 facility in the commonwealth, the commissioner of the department of corrections, the county

115 sheriff, or the municipal police chief or other officer shall make a reasonable effort to verify that
116 the prisoner has been lawfully admitted to the United States and if lawfully admitted, that such
117 lawful status has not expired. If verification of lawful status cannot be made from documents in
118 the possession of the prisoner, verification shall be made within 48 hours through a query to the
119 Law Enforcement Support Center (LESC) of the United States Department of Homeland
120 Security or other office or agency designated for that purpose by the United States Department of
121 Homeland Security. If the prisoner is determined not to be lawfully admitted to the United
122 States the commissioner of the department of corrections, the county sheriff, the municipal
123 police chief or any other officer shall notify the United States Department of Homeland Security.
124 The secretary of the executive office of public safety shall prepare and issue guidelines and
125 procedures used to comply with the provisions of this paragraph.”

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

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

137 more than \$25,000 or by imprisonment in state prison for not more than 15 years or for not more
138 than 10 years in a house of correction, or both such fine and imprisonment.”

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

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

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

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

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

158 SECTION 13. Chapter 149 of the general laws is hereby amended by striking section
159 19C in its entirety and inserting in place thereof the following:-

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

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

181 alleged unauthorized alien with the federal government pursuant to 8 U.S.C. 1373(c). A state,
182 county or local official shall not attempt independently to make a final determination on whether
183 an alien is authorized to work in the United States. An alien's immigration status or work
184 authorization status shall be verified with the federal government pursuant to 8 U.S.C. 1373(c).
185 Whoever knowingly files a false and frivolous complaint shall be punished by a fine of not more
186 than \$500, or by imprisonment of not more than 30 days, or both such fine and imprisonment.

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

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

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

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

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

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

200 (d) An action for a violation of subsection (a) shall be brought against the employer by
201 the district attorney in the county where the unauthorized alien employee is or was employed by

202 the employer. A Level II violation shall be based only on an unauthorized alien who is or was
203 employed by the employer after an action has been brought for a violation of subsection (a) or
204 subsection (k). An employer shall not be subject to a Level II violation unless is currently on
205 probation for a Level I violation.

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

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

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

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

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

218 iii. Shall order the employer to file a sworn affidavit with the district
219 attorney within 3 business days after the order is issued. The affidavit shall state that the
220 employer has terminated the employment of all unauthorized aliens in the commonwealth and
221 that the employer will not intentionally or knowingly employ an unauthorized alien in the
222 commonwealth. The court shall order the appropriate state agencies to suspend all licenses

223 subject to this clause that are held by the employer if the employer fails to file a sworn affidavit
224 with the district attorney within 3 business days after the order is issued. All licenses that are
225 suspended under this clause shall remain suspended until such time as the employer files a sworn
226 affidavit with the district attorney. Notwithstanding any general or special law to the contrary,
227 upon filing of the affidavit the suspended licenses shall be reinstated immediately by the
228 appropriate state agencies. For the purposes of this clause, the licenses that shall be subject to
229 suspension are all licenses that are held by the employer specific to the business location where
230 the unauthorized alien performed work. If the employer does not hold a license specific to the
231 business location where the unauthorized alien performed work, but a license is necessary to
232 operate the employer's business in general, the licenses that are subject to suspension are all
233 licenses that are held by the employer at the employer's primary place of business. Upon receipt
234 of the order, the appropriate state agencies shall immediately revoke the licenses. The court shall
235 send a copy of the court's order to the attorney general and the attorney general shall maintain
236 the copy pursuant to subsection (g); and

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

- 241 a. Number of unauthorized aliens employed by the employer;
- 242 b. Prior misconduct by the employer;
- 243 c. Degree of harm resulting from the violation;

- 244 d. Whether the employer made good faith efforts to comply with
245 any applicable requirements;
- 246 e. Duration of the violation;
- 247 f. Role of the directors, officers or principals of the employer in the
248 violation;
- 249 g. Other factors that the court deems appropriate.

250 (2) For a Level II violation, or a violation which occurs during a probationary
251 period ordered by the court, the court shall order the appropriate state agencies to permanently
252 revoke all licenses that are held by the employer specific to the business location where the
253 unauthorized alien performed work. If the employer does not hold a license specific to the
254 business location where the unauthorized alien performed work but a license is necessary to
255 operate the employer's business in general, the court shall order the appropriate state agencies to
256 permanently revoke all licenses that are held by the employer at the employer's primary place of
257 business. Upon receipt of the order, the appropriate state agencies shall immediately revoke the
258 licenses.

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

262 (h) When determining whether an employee is an unauthorized alien, the court shall
263 consider only the federal government's determination pursuant to 8 U.S.C. 1373(c). The federal
264 government's determination creates a rebuttable presumption of the employee's lawful status.

265 The court may take judicial notice of the federal government's determination and may request
266 the federal government to provide automated or testimonial verification pursuant to 8 U.S.C.
267 1373(c).

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

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

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

282 (l) The attorney general shall prescribe a complaint form for a person to allege a violation
283 of subsection (k). The complainant shall not be required to list the complainant's social security
284 number on the complaint form or to have the complaint form notarized. Upon receipt of a
285 complaint that an employer allegedly intentionally employs an unauthorized alien, the attorney
286 general or district attorney shall investigate whether the employer has violated subsection (k). If

287 a complaint is received but is not submitted on said prescribed form, the attorney general or
288 district may investigate whether the employer has violated subsection (k). This shall not be
289 construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed
290 complaint form. The attorney general or district attorney shall not investigate complaints that are
291 based solely on race, color or national origin. A complaint that is submitted to a district attorney
292 shall be submitted to the district attorney in the county in which the alleged unauthorized alien is
293 or was employed by the employer. The county sheriff or any other local law enforcement
294 agency may assist in investigating a complaint. When investigating a complaint, the attorney
295 general or district attorney shall verify the work authorization of the alleged unauthorized alien
296 with the federal government pursuant to 8 U.S.C. 1373(c). A state, county or local official shall
297 not attempt independently to make a final determination on whether an alien is authorized to
298 work in the United States. An alien's immigration status or work authorization status shall be
299 verified with the federal government pursuant to 8 U.S.C. 1373(c). Whoever knowingly files a
300 false and frivolous complaint shall be punished by a fine of not more than \$500, or by
301 imprisonment of not more than 30 days, or both such fine and imprisonment.

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

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

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

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

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

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

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

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

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

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

325 i. Order the employer to terminate the employment of all unauthorized
326 aliens; and

327 ii. Order the employer to be subject to a 5 year probationary period for the
328 business location where the unauthorized alien performed work. During the probationary period

329 the employer shall file quarterly reports with the district attorney of each new employee who is
330 hired by the employer at the business location where the unauthorized alien performed work; and

331 iii. Order the employer to file a sworn affidavit with the district attorney
332 within 3 business days after the order is issued. The affidavit shall state that the employer has
333 terminated the employment of all unauthorized aliens in the commonwealth and that the
334 employer will not intentionally or knowingly employ an unauthorized alien in the
335 commonwealth. The court shall order the appropriate state agencies to suspend all licenses
336 subject to this clause that are held by the employer if the employer fails to file a sworn affidavit
337 with the district attorney within 3 business days after the order is issued. All licenses that are
338 suspended under this clause shall remain suspended until such time as the employer files a sworn
339 affidavit with the district attorney. Notwithstanding any general or special law to the contrary,
340 upon filing of the affidavit the suspended licenses shall be reinstated immediately by the
341 appropriate state agencies. For the purposes of this clause, the licenses that shall be subject to
342 suspension are all licenses that are held by the employer specific to the business location where
343 the unauthorized alien performed work. If the employer does not hold a license specific to the
344 business location where the unauthorized alien performed work, but a license is necessary to
345 operate the employer's business in general, the licenses that are subject to suspension are all
346 licenses that are held by the employer at the employer's primary place of business. Upon receipt
347 of the order, the appropriate state agencies shall immediately revoke the licenses. The court shall
348 send a copy of the court's order to the attorney general and the attorney general shall maintain
349 the copy pursuant to subsection (q).

350 iv. Order the appropriate state agencies to suspend all licenses described in
351 clause (iv) that are held by the employer for a period not to exceed 10 business days. The court

352 shall base its decision to suspend on any evidence or information submitted to it during the
353 action for a violation and shall consider the following factors, if relevant:

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

355 b. Prior misconduct by the employer;

356 c. Degree of harm resulting from the violation;

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

359 e. Duration of the violation;

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

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

363 (2) For a Level II violation, or a violation which occurs during a probationary
364 period ordered by the court, the court shall order the appropriate state agencies to permanently
365 revoke all licenses that are held by the employer specific to the business location where the
366 unauthorized alien performed work. If the employer does not hold a license specific to the
367 business location where the unauthorized alien performed work but a license is necessary to
368 operate the employer's business in general, the court shall order the appropriate state agencies to
369 permanently revoke all licenses that are held by the employer at the employer's primary place of
370 business. Upon receipt of the order, the appropriate state agencies shall immediately revoke the
371 licenses.

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

376 (r) When determining whether an employee is an unauthorized alien, the court shall
377 consider only the federal government's determination pursuant to 8 U.S.C. 1373(c). The federal
378 government's determination creates a rebuttable presumption of the employee's lawful status.
379 The court may take judicial notice of the federal government's determination and may request
380 the federal government to provide automated or testimonial verification pursuant to 8 U.S.C.
381 1373(c).

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

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

391 SECTION 14. The third paragraph of section 34B of chapter 138, as so appearing, is
392 hereby amended by inserting the following:- "Any person who transfers, alters, defaces, uses or
393 carries any such card or license or uses the identification card or motor vehicle license of another

394 or furnishes false information in obtaining such card or license shall be guilty of a misdemeanor
395 and shall be punished by a fine of not more than \$500 for a first offense or by a fine of not more
396 than \$1,000 or imprisonment for not more than 3 months, or both such fine and imprisonment for
397 a second or subsequent offense. Any person who makes, sells, or distributes a false
398 identification card shall be guilty of a felony and shall be punished by a fine of not more than
399 \$5,000 or imprisonment for not more than 5 years, or both such fine and imprisonment.”

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

402 “19D. Whoever utilizes in any way a false identification document for the purposes of
403 soliciting, securing, or maintaining employment from a public employer as defined in section 1
404 of chapter 30C shall be punished by a fine of not more than \$5,000 or by imprisonment in the
405 state prison for not more than 5 years or in a jail or house of correction for not more than 2 years,
406 or both such fine and imprisonment.”

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

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

413 Within 10 days following receipt of a notice to abate an unlawful occupancy violation,
414 the owner of a residential premises shall serve upon the occupants of such using or occupying
415 said residential premises a copy of this section and shall post a copy of this section in a common

416 area of the premises accessible to all occupants thereof for inspection. Such owner or person
417 shall serve such occupants a notice to vacate the property, requiring that the property be vacated
418 within 10 days.

419 Any person found in violation of this section shall be subject to a fine of not less than
420 \$500 not more than \$2,000, or by imprisonment of not more than 90 days, or both such fine and
421 imprisonment.

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

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

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

436 Any tenant who receives a notification of eviction that results from zoning or code
437 enforcement activity for an illegal occupancy shall be considered a displaced person and shall be

438 entitled to relocation assistance in an amount equal to up to 6 times the monthly rental paid by
439 the displaced person. The owner-landlord of the structure shall be liable for the payment of
440 relocation assistance pursuant to this section.

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

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

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

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

455 SECTION 19. Within 6 months of the passage of this act, the executive office of public
456 safety shall report to the joint committee on public safety and homeland security and the clerks
457 of the senate and house of representatives the actions undertaken by the commonwealth to assist
458 with the deployment of the Secure Communities Program as administered by the United States
459 Department of Homeland Security. Said report shall include each of the jurisdictions within the

460 commonwealth that are currently enrolled in the program, those jurisdictions not yet enrolled, the
461 number of criminal aliens that have been identified utilizing the program, the estimated costs of
462 any technology upgrades necessary to deploy the program statewide, and any upgrades that may
463 be required in order to maximize the data available to municipal police through the Criminal
464 Justice Information Services Division Wide Area Network. The secretary shall designate a
465 liaison that shall facilitate the statewide deployment of the Secure Communities program in
466 cooperation with the United States Department of Homeland Security.

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

473 SECTION 21. Notwithstanding any general or special law to the contrary, a person who
474 is a lawful immigrant or permanent resident of the United States, or is eligible to apply and has
475 applied for such status, shall be eligible to be considered for Massachusetts residency for tuition
476 purposes, provided that the person meets the same requirements for establishing residency in
477 Massachusetts as are required of a United States citizen. Non-citizens who are in, or who are
478 eligible to apply and have applied for refugee or asylum status, shall be eligible to be considered
479 for Massachusetts residency for tuition purposes, provided that the person meets the same
480 requirements for establishing residency in Massachusetts as are required of a United States
481 citizen. All non-citizens shall provide appropriate documentation to verify their status with the
482 United States Citizenship and Immigration Services.

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

487 (b) The secretary of education shall report annually to the senate and house committees
488 on ways and means, the joint committee on education, and the clerks of the senate and house of
489 representatives the amount of money recovered by the department of education from those who
490 received assistance fraudulently and the number of recipients who were issued partial or lifetime
491 disqualifications.

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

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