

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Tarr, Bruce (SEN)

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 promote fair employment and security in the Commonwealth

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Tarr, Bruce (SEN)	First Essex and Middlesex
Richard R. Tisei	Middlesex and Essex
Michael R. Knapik	Second Hampden and Hampshire
Robert L. Hedlund	Plymouth and Norfolk
Scott P. Brown	Norfolk, Bristol and Middlesex
Jeffrey Davis Perry	5th Barnstable

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01010 OF.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROMOTE FAIR EMPLOYMENT AND SECURITY IN THE COMMONWEALTH.

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. Chapter 149 of the General Laws is hereby amended by inserting after
2 section 19(c) the following new section:

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4 “19(d): Whoever utilizes in any way a false identification document for the purposes of
5 soliciting, securing, or maintaining employment from a public employer as defined in section 1
6 of chapter 30C shall be punished by a fine of not more than five thousand dollars or by
7 imprisonment in the state prison for not more than five years or in a jail or house of correction
8 for not more than two years.”

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10 SECTION 2. Section 24B of chapter 90 of the general laws is hereby amended by adding, after
11 the first paragraph, the following:-

12 “ Whoever falsely makes, steals, alters, forges or counterfeits a learner’s permit, a license
13 to operate motor vehicles or an identification card issued under section 8E with the intent to
14 distribute such learner’s permit, license to operate motor vehicles or identification card or assists
15 another to do so shall be punished as follows:

16 - For the above acts involving 1 to 5 documents, by a fine of not more than \$5,000 or
17 by imprisonment in state prison for not more than 7 years or in a house of correction
18 for not more than five years, or both;

19 - For acts involving 5 to 10 documents, by a fine of not more than \$10,000 or by
20 imprisonment in state prison for not more than 10 years or in a house of correction for
21 not more than 8 years, or both;

22 - For acts involving more than 10 documents, by a fine of not more than \$100,000 or
23 by imprisonment in state prison for not more than 20 years or for not more than 15
24 years in a house of correction, or both.”

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26 SECTION 3. The general laws are hereby amended by inserting after chapter 30B the
27 following:-

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29 “Chapter 30C. PUBLIC CONTRACT INTEGRITY

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

31 “public employer”: any department, agency, or public instrumentality of the commonwealth and
32 any person, corporation, partnership, sole proprietorship, joint venture, or other business entity

33 providing goods or services to any department, agency or public instrumentality of the
34 commonwealth, including but not limited to the Massachusetts Turnpike Authority,
35 Massachusetts Water Resources Authority, Massachusetts Port Authority, and the Massachusetts
36 Bay Transportation Authority.

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38 “Work authorization program”: any of the electronic verification of work authorization programs
39 operated by the United States Department of Homeland Security or any equivalent work
40 authorization program operated by the United States Department of Homeland Security, the
41 United States Department of Labor, the Social Security Administration, other federal agency, or
42 any private verification system authorized by the director of the department of labor to verify
43 information of newly hired employees, pursuant to the Immigration Reform and Control Act of
44 1986 (IRCA) and its progeny.

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

50

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

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

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

58 (A) On or after September 1, 2007, with respect to public employers, contractors, or
59 subcontractors of 500 or more employees;

60 (B) On or after September 1, 2010, with respect to public employers, contractors, or
61 subcontractors of 100 or more employees; and

62 (C) On or after September 1, 2011, with respect to all public employers, contractors, or
63 subcontractors.

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

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

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72 Section 7. The Inspector General shall develop and promulgate regulations for the purpose of
73 ensuring that any person receiving funds pursuant to a contract awarded subject to the provisions
74 of chapter 30B and section 44A of chapter 149 of the general laws is in compliance with federal
75 laws pertaining to immigration and citizenship, including but not limited to 42 U.S.C. 1436(a).
76 Such regulations shall include but not be limited to the ascertaining and verification of
77 immigration and/or citizenship status through a work authorization program maintained by the
78 United States Department of Homeland Security or its substantial equivalent.

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

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

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

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93 SECTION 4. Chapter 149 of the General Laws, as appearing in the 2002 Official Edition, is
94 hereby amended in the second paragraph of section 19c by adding the following at the end
95 thereof:

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97 “Such regulations shall include but not be limited to ascertaining and verifying
98 immigration and/or citizenship status utilizing a work authorization program maintained by the
99 United States Department of Homeland Security or a similarly authorized and efficacious
100 system.”

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102 SECTION 5. Chapter 149 of the General Laws, as appearing in the 2004 Official Edition, is
103 hereby amended in Section 2 by adding the following at the end thereof:

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105 “Compliance with this section shall include but not be limited to entering into,
106 maintaining and enforcing any and all memoranda of understanding with the Attorney General of
107 the United States pertaining to the enforcement of federal laws regarding immigration and
108 citizenship.”

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110 SECTION 6. Section 2 of chapter 149 of the general laws, as appearing in the 2004 Official
111 Edition, is hereby amended by inserting at the end thereof the following:-

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”The attorney general shall make available to the residents of the commonwealth a 24-hour toll-free hotline which may be used for reporting any suspected violations of the provisions of this chapter, including sections 19c and 26, relative to immigration status and wage laws, or of 8 U.S.C. 1324a, relative to the unlawful employment of unauthorized aliens. Calls to the hotline shall be treated confidentially, and callers shall have the option of reporting any violations anonymously. All complaints, whether received through the hotline, in writing, electronically, or in any other form, shall be recorded and documented by the attorney general and shall immediately refer any violations of federal law, including but not limited to 8 U.S.C. 1324a, to the attorney general of the United States and shall investigate all alleged violations of state law as authorized by the general laws. The attorney general shall annually prepare a year-end report detailing all reported violations of sections 19C and 26 of this chapter and of 8 U.S.C. 1324a, the nature of said violations, the date on which each complaint was received and documented, any enforcement action taken against an employer who knowingly employs illegal aliens in the commonwealth, and any violations of federal law forwarded to the attorney general of the United States. Said report shall be submitted to the house and senate committees on ways and means and to the joint committee on labor and workforce development on or before February 1 of each year.

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SECTION 7. Notwithstanding any general or special law to the contrary, the Attorney General is hereby authorized and directed to facilitate and enter into a memorandum of understanding with the Attorney General of the United States, pursuant to the provisions of 8 U.S.C. 1357(g),

134 for the purpose of enforcing state and federal laws pertaining to immigration and citizenship, not
135 later than eight months following the passage of this act.

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137 SECTION 8. Notwithstanding any general or special law to the contrary, when any person
138 charged with a felony or with driving under the influence pursuant to section 24 of chapter 90 of
139 the general laws is confined, for any period, in any correctional institution or prison in the
140 commonwealth, the commissioner of the department of corrections, the county sheriff, or the
141 municipal police chief or other officer shall make a reasonable effort to verify that the prisoner
142 has been lawfully admitted to the United States and if lawfully admitted, that such lawful status
143 has not expired. If verification of lawful status can not be made from documents in the
144 possession of the prisoner, verification shall be made within 48 hours through a query to the Law
145 Enforcement Support Center (LESC) of the United States Department of Homeland Security or
146 other office or agency designated for that purpose by the United States Department of Homeland
147 Security. If the prisoner is determined not to be lawfully admitted to the United States the
148 commissioner of the department of corrections, the county sheriff, the municipal police chief or
149 an other officer shall notify the United States Department of Homeland Security.

150 (b) Nothing in this section shall be construed to deny a person bond or from being released from
151 confinement when such person is otherwise eligible for release.

152 (c) The secretary of the executive office of public safety shall prepare and issue guidelines and
153 procedures used to comply with the provisions of this section.”

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156 SECTION 10. Section 32 of chapter 121B of the General Laws, as appearing in the 2004
157 Official Edition, is hereby amended by adding the following paragraph:-

158 “Notwithstanding any general or special law or regulation to the contrary, an applicant
159 for assisted housing under this chapter who is not eligible for federal assisted housing under 42
160 U.S.C. section 1436a, and who is not a person residing in the United States under color of law as
161 defined in regulations of the federal Department of Health and Human Services as in force on
162 May 25, 2006, shall not displace or be given priority over any applicant who is so eligible.”

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164 SECTION 11. Notwithstanding any general or special law to the contrary the immigration status
165 of every defendant shall be confirmed at the arraignment stage of any civil or criminal court
166 proceeding.

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168 SECTION 12. If any of the provisions of this act, or the application of such provision to any
169 persons or circumstances, shall be held invalid, the remainder thereof, or the application of such
170 provision to persons or circumstances other than those wherein it is held invalid, shall not be
171 affected thereby.