

SENATE  
RICHARD T. MOORE, D-UXBRIDGE  
BRUCE E. TARR, R-GLOUCESTER



HOUSE OF REPRESENTATIVES  
JOHN V. FERNANDES, D-MILFORD  
GEORGE N. PETERSON, JR., R-GRAFTON

**THE GENERAL COURT OF MASSACHUSETTS  
STATE HOUSE, BOSTON, 02133-1053**

Monday, September 26, 2011

Press Packet

An Act To Enhance Community Safety

Sponsors:

Senator Richard Moore (D-Uxbridge)  
Senator Bruce Tarr (R-Gloucester)  
Representative John Fernandes (D-Miford)  
Representative George Peterson (R-Grafton)  
Senator Steven Baddour (D-Methuen)  
Senator Robert Hedlund (R-Weymouth)  
Senator James Timilty (D-Walpole)  
Senator Michael Knapik (R-Westfield)  
Senator Richard Ross (R-Wrentham)  
Representative Stephen L. DiNatale (D-Fitchburg)

Contact: Kate Donaghey in Senator Moore's office at (617) 722-1420 or [catherine.donaghey@masenate.gov](mailto:catherine.donaghey@masenate.gov) or Troy Wall in Senator Tarr's office at (617) 722-1600 or [troy.wall@masenate.gov](mailto:troy.wall@masenate.gov).

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Items included are:

- 1) Bill summary for “An Act to Enhance Community Safety”
- 2) Section-by-section summary
- 3) Press release
- 4) Text of the bill

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**An Act to enhance community safety**

*This comprehensive and bipartisan, bicameral legislation seeks to address the strains placed on personal, municipal, and statewide finances as a result of illegal immigration. These strains result from enhanced public safety costs, burdens placed upon a limited job market with an enlarged workforce, the need for safe, affordable housing for our residents, and the availability of crucial yet diminishing services for our vulnerable populations. This legislation seeks to address, to the extent possible, those issues under the control of the Commonwealth. Absent a comprehensive federal solution to legal and illegal immigration, the Commonwealth should act to protect its interest, and the interests of, and impacts upon, its residents.*

**- Public Safety -**

**Secure Communities**

This legislation includes a report to the Legislature by the Executive Office of Public Safety in which they are to identify how they're assisting with the deployment of the Secure Communities Program. In a recent letter to the nation's governors, including Gov. Patrick, ICE Director John Morton indicated his intentions to deploy the program nationwide, regardless of state's objections or acceptance. Since then, several jurisdictions within the Commonwealth have indicated a desire to utilize the program, and have further expressed their desire to maximize its utilization and leverage all data available through its use. With such an advanced biometric interoperability program in place, municipal police departments will be better equipped to identify criminal aliens and quickly notify the appropriate federal agencies. Additionally, should the Commonwealth employ appropriate message routing technology, local law enforcement will have access to such biographic information as full name, date of birth, place of birth, gender, and photograph. As such, the report to the Legislature will include information about current technology in place and any upgrades necessary to maximize the effectiveness of the program.

**Judicial Interaction**

This legislation requires in several sections that individuals presented to the court for various crimes or disputes should have their immigration status verified and confirmed. It has become painfully apparent that our judicial system is strained, and in some instances our courts and jails are full of individuals not permitted to be in our country. While there may indeed be instances when illegal aliens should indeed stand for their crimes against our society, other judicial interactions are purely administrative and thus may be appropriate for federal intervention. Federal authorities, especially Immigration and Customs Enforcement, should be alerted as to the presence of the unauthorized individual and allowed to initiate removal proceedings under the appropriate circumstances.

### **False Identification**

This legislation increases penalties for the creation, dissemination, and use of false identification materials. It creates a specific offense for using the false information for obtaining or maintaining employment, and otherwise staggers penalties for the creation and dissemination depending upon the amount of documents. Additionally, it differentiates offenses for using a false liquor ID and the creation of such identification.

## **- Taxpayer Integrity -**

### **Public Contract Integrity**

This bill seeks to protect and promote the integrity of public contracts by requiring those seeking access to public contracts certify that their employees are indeed authorized to work here. Understanding that public contracts are funded with taxpayer money, we must endeavor to protect the integrity of those funds to the extent possible.

Additionally, any contractor who is found to have employed an unauthorized worker in violation of federal law would be barred from bidding in the future. Additionally, for those seeking prospective contracts with public employers, they must utilize a program that certifies an employee's authorization to work within the United States, and thus, the Commonwealth. This provision seeks to protect the integrity of taxpayer funds by ensuring that they only go to individuals expressly authorized to work for them.

### **Access to Benefits and Educational Resources**

In keeping with the trend of protecting the integrity of taxpayer dollars, various sections of this bill seek to ensure that state resources and benefits are preserved for those lawfully entitled to them. These benefits include, for example, various family assistance and college grants. Additionally, provisions are included that require that those individuals seeking in-state tuition benefits meet the requirements of both Massachusetts residency and United States citizenship.

### **Housing**

This legislation takes several steps to ensure that state subsidized housing is reserved for residents of the Commonwealth who reside here legally. For no reason should individuals not legally residing in Massachusetts ever bypass or have priority over lawful residents.

Additionally, provisions of this bill attempt to empower local officials to better enforce local building codes and prevent multi-bedroom apartments from becoming multi-family. A growing trend amongst certain landlords seems to be leveraging incredibly limited space to house the maximum number of occupants. This influx of additional residents creates a burden upon municipal services, including schools, as well as poses a significant safety and sanitary threat to the occupants. Those who practice these rental tactics can be subject to fines, relocation costs, as well as tuition reimbursements as part of this proposed legislation.

### **Affidavit of Indigency**

Additionally, the legislation requires anybody submitting an affidavit of indigency to submit their social security number in order to verify their income eligibility. This information would be transmitted to the Department of Revenue in order to ensure that those seeking this public benefit would indeed be eligible.

## **- Motor Vehicles -**

### **Vehicle Registrations**

This legislation seeks to tighten the requirements necessary for registering a motor vehicle in our Commonwealth. If the vehicle were owned by a business, that entity would be required to furnish a federal tax ID number. In the event the owner is a sole proprietor, and lacks a tax ID number, then a social security number would be required.

If the owner were an individual, that individual would be required to furnish their name, date of birth, place of residence and a driver's license, social security number, or other proof of legal presence. Any disabled individual, or an individual who may not possess a driver's license, would still indeed be able to own and register a motor vehicle, so long as they can furnish a social security number.

### **Driving Without a License**

This legislation stiffens penalties for operating a motor vehicle without a license. Current fines range from \$100 to \$1,000. This legislation creates a progressive penalty starting at \$500 for a first offense, \$500 to \$1,000 and/or 30 days in jail for a second offense, and \$1,000 to \$2,000 and/or 60 days in jail for a third or subsequent offense. Also, as an additional resource for the arresting department, upon the third offense, the vehicle may be forfeited. This provision is similar to seizures used in various drug related and drunk driving offenses.

Additionally, any individual who knowingly permits an individual without a license to operate their motor vehicle would be subject to monetary penalties under this legislation, and may also see their own license suspended.

The dangers posed by motorists without driver's licenses are severe, and in recent months have become increasingly evident. These individuals may lack proper driving instructions and thus may have difficulty adhering to our traffic laws. Current penalties do not offer an adequate disincentive and our local police departments lack the tools necessary to restrict and curb this dangerous activity.

### **License Plate Reader Technology**

Currently, 16 communities in Massachusetts utilize license plate reader technology, which assists in identifying revoked or suspended vehicle registrations or insurance policies, as well as identifying where vehicles were in connection to potential crimes. The technology is advanced enough to read more than 1,000 license plates every hour on vehicles traveling at speeds of up to 70 mph. Several departments utilize this technology as a result of state-issued grants. However, while the system connects to a national database of warrants and missing or wanted people, Massachusetts warrants are not listed in that database. Instead, Massachusetts information is listed in a specific state database. This legislation requires a report to the Legislature which will include what hurdles exist in connecting the various databases in order to allow a

more robust and efficient search for our local law enforcement. Cognizant that a specific hurdle may very well be the cost of such an alignment, the legislation requests a cost estimate from the Executive Office of Public Safety.

## - Employment Burdens -

### Employment of Unauthorized Workers

This legislation seeks to identify those employers who knowingly or intentionally hire and employ unauthorized workers. The Attorney General is directed to establish a complaint process (*which may be done anonymously*) for employers with unauthorized workers and she, or a district attorney, is to investigate any accusations. (*There are penalties for filing a frivolous claim*). In the event that the Attorney General or the district attorney find that the employer is indeed knowingly or intentionally employing an unauthorized worker, they are directed to (1) alert ICE as to the presence of the worker, (2) alert local authorities as to the presence of the worker, (3) alert DOR about the employer's actions, (4) alert ICE about the employer's actions, and (5) bring action against the employer.

The action against the employer includes the termination of those unauthorized employees, and a signed affidavit to the court acknowledging the termination and certifying that the employer will not knowingly or intentionally employ an unauthorized worker in the Commonwealth. Should the employer not comply with those provisions, the employer may be subject to the revocation of state issued licenses.

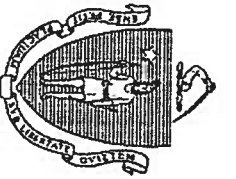
After the first offense, an employer is then placed on a probationary status of either 3 or 5 years. If, within that period, the employer again employs an unauthorized worker, that employer would immediately have any state issued licenses revoked permanently.

Should an employer utilize any available federal resources to confirm the authorization of a prospective or current employee, they would not be subject to the various sanctions imposed by this new law and will be presumed to have acted in good faith.

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AN ACT TO ENHANCE COMMUNITY SAFETY

SECTION	SUBJECT	SUMMARY													
1	Debarment from Bidding	Debars from bidding any contractor found to have violated federal laws prohibiting the employment of unauthorized aliens.													
2	Public Contract Integrity	Establishes new chapter requiring those seeking public contracts to participate in work authorization programs to verify the eligibility of their employees.													
3	Vehicle Registrations	Requires individuals or business entities seeking to register a motor vehicle to produce appropriate documentation. This includes a Federal Tax ID number, license, or social security number respectively.													
4	Excise Tax Liabilities – Vehicle Registration	Requires that an applicant sign a statement certifying that there are no outstanding excise tax liabilities on the motor vehicle													
5	Vehicle Registration – Record Keeping	Requires that the Registrar maintain a record of vehicles and trailers that are registered after satisfying the application requirements													
6	Allowing an Unlicensed Operator	Increases penalties for individuals who knowingly employs an unlicensed operator, and one who knowingly allows an unlicensed operator.													
		<table border="1"> <thead> <tr> <th colspan="2">Current</th> </tr> </thead> <tbody> <tr> <td>1<sup>st</sup></td> <td>Up to \$500</td> </tr> <tr> <td>2<sup>nd</sup> &amp; subsequent</td> <td>\$1,000 / 1 year</td> </tr> <tr> <th colspan="2">Proposed</th> </tr> <tr> <td>1<sup>st</sup></td> <td>Up to \$1,000 / 60 days</td> </tr> <tr> <td>2<sup>nd</sup> &amp; subsequent</td> <td>\$1,000 - \$2,000 / 2 ½ YRS</td> </tr> </tbody> </table>		Current		1 <sup>st</sup>	Up to \$500	2 <sup>nd</sup> & subsequent	\$1,000 / 1 year	Proposed		1 <sup>st</sup>	Up to \$1,000 / 60 days	2 <sup>nd</sup> & subsequent	\$1,000 - \$2,000 / 2 ½ YRS
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# AN ACT TO ENHANCE COMMUNITY SAFETY

SECTION	SUBJECT	SUMMARY															
7	Driving Without a License	<p>Increases penalties for driving without a license offense, and requires that the immigration status of any individual appearing before the court for such an offense be verified.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 35%; text-align: center;">Current</th> <th style="width: 35%; text-align: center;">Proposed</th> </tr> </thead> <tbody> <tr> <td>Any</td> <td style="text-align: center;">\$100 - \$1,000</td> <td></td> </tr> <tr> <td style="text-align: center;">1<sup>st</sup></td> <td></td> <td style="text-align: center;">Up to \$500 / 10 days</td> </tr> <tr> <td style="text-align: center;">2<sup>nd</sup></td> <td></td> <td style="text-align: center;">\$500 - \$1,000 / 30 days</td> </tr> <tr> <td style="text-align: center;">3<sup>rd</sup> &amp; subsequent</td> <td></td> <td style="text-align: center;">\$1,000 - \$2,000 / 60 days</td> </tr> </tbody> </table>		Current	Proposed	Any	\$100 - \$1,000		1 <sup>st</sup>		Up to \$500 / 10 days	2 <sup>nd</sup>		\$500 - \$1,000 / 30 days	3 <sup>rd</sup> & subsequent		\$1,000 - \$2,000 / 60 days
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3 <sup>rd</sup> & subsequent		\$1,000 - \$2,000 / 60 days															
8	Prisoner Verification	<p>Requires that the immigration status of anyone detained for DUI be ascertained within 48 hours of confinement.</p> <p>Increases penalties for creation and distribution of false identification.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 35%; text-align: center;">Current</th> <th style="width: 35%; text-align: center;">Proposed</th> </tr> </thead> <tbody> <tr> <td>Any offense</td> <td style="text-align: center;">Up to \$500 / 2 - 5 yrs</td> <td></td> </tr> <tr> <td style="text-align: center;">1-5 documents</td> <td></td> <td style="text-align: center;">Up to \$2,500 / 2 ½ - 5 yrs</td> </tr> <tr> <td style="text-align: center;">5-10 documents</td> <td></td> <td style="text-align: center;">Up to \$5,000 / 7 - 8 yrs</td> </tr> <tr> <td style="text-align: center;">10+ documents</td> <td></td> <td style="text-align: center;">\$25,000 / 10 - 15 yrs</td> </tr> </tbody> </table>		Current	Proposed	Any offense	Up to \$500 / 2 - 5 yrs		1-5 documents		Up to \$2,500 / 2 ½ - 5 yrs	5-10 documents		Up to \$5,000 / 7 - 8 yrs	10+ documents		\$25,000 / 10 - 15 yrs
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9	False Identification																
10	Vehicle Seizure	<p>Allows for seizure of vehicle after the 3<sup>rd</sup> offense of driving without a license, similar to certain drug and drunk driving offenses.</p>															
11	Benefits for Families	<p>Requires that any benefits for individuals over the age of 18 are eligible to those who document their lawful presence within the United States.</p>															
12	Housing	<p>Ensures that lawful residents are given priority in assisted housing.</p>															
13	Employer Knowingly or Intentionally Hiring Unauthorized Employees	<p>Establishes penalties for employers who knowingly or intentionally hire unauthorized employees, including potential loss of state-issued licenses and reporting to Department of Revenue. Establishes process for complaint and review of accusations. Employers actively verifying their employees would enjoy rebuttable defense.</p>															

**AN ACT TO ENHANCE COMMUNITY SAFETY**

SECTION	SUBJECT	SUMMARY										
14	Identification Cards – Liquor Purchases	<p align="center">Increases and differentiates penalties for the use of false identification for liquor purchases and the creation of them.</p> <p align="center"><b>POSSESSION OR USE</b></p> <table border="1" data-bbox="1073 953 1252 1780"> <tr> <td align="center">Any offense</td> <td align="center">Current Up to \$500</td> </tr> <tr> <td align="center">1<sup>st</sup></td> <td align="center">Proposed Up to \$500</td> </tr> <tr> <td align="center">2<sup>nd</sup> &amp; subsequent</td> <td align="center">Up to \$1,000 / 90 days</td> </tr> </table> <p align="center"><b>CREATION</b></p> <table border="1" data-bbox="870 953 1016 1780"> <tr> <td align="center">Any</td> <td align="center">Current Same as above</td> </tr> <tr> <td align="center">Any</td> <td align="center">Proposed \$5,000 / 5 years</td> </tr> </table>	Any offense	Current Up to \$500	1 <sup>st</sup>	Proposed Up to \$500	2 <sup>nd</sup> & subsequent	Up to \$1,000 / 90 days	Any	Current Same as above	Any	Proposed \$5,000 / 5 years
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Any	Proposed \$5,000 / 5 years											
15	False ID to Obtain Employment	<p align="center">Establishes offense of using false identification to obtain employment.</p> <table border="1" data-bbox="672 953 753 1766"> <tr> <td align="center">Any</td> <td align="center">Proposed Up to \$5,000 / 2 ½ - 5 yrs</td> </tr> </table>	Any	Proposed Up to \$5,000 / 2 ½ - 5 yrs								
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16	Housing Violations	<p align="center">Empowers local authorities to better enforce building code violations by landlords knowingly altering premises. Penalties include relocation costs, fines up to 6 times the monthly rent, and order to restore premises to lawful condition.</p>										
17	Affidavit of Indigency	<p align="center">Requires that individual filing affidavit of indigency for appointed counsel include Social Security Number for DOR income verification.</p>										
18	Immigration Status – Arraignment	<p align="center">Requires that the immigration status of any individual appearing before a court for a criminal offense be ascertained at the arraignment stage.</p>										
19	Secure Communities	<p align="center">Requires report from EOPS regarding actions taken to assist with the deployment of Secure Communities, including any jurisdictions utilizing the program, any criminal aliens identified, and any technology upgrades necessary to maximize effectiveness of the program locally. Also requires appointment of liaison for ICB officials.</p>										

**AN ACT TO ENHANCE COMMUNITY SAFETY**

<b>SECTION</b>	<b>SUBJECT</b>	<b>SUMMARY</b>
20	License Plate Reader Technology	Requires report from EOFS regarding license plate reader technology and any potential alignment with national databases in order to expand effectiveness of the technology.
21	In-State Tuition	Requires that anybody seeking in-state tuition meets same standards of residency as a United States Citizen.
22	MassGrant	In order to be eligible for a MassGrant, an individual must first complete the FAFSA application or any other federal program which verifies financial and citizenship eligibility.
23	DOR Notices	Requires periodic notices from DOR to taxpayers and businesses regarding risks of employing or contracting with unauthorized workers. This includes public safety costs, health safety net exposure, personal liability, and educational costs.
24	Effective Date	Establishes effective date for Section 13 as July 1, 2012.

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**THE GENERAL COURT OF MASSACHUSETTS  
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**FOR IMMEDIATE RELEASE  
September 26, 2011**

**CONTACT: Kate Donaghey of  
Senator Moore's office; (617) 722-1420 or  
[catherine.donaghey@masenate.gov](mailto:catherine.donaghey@masenate.gov) or  
Troy Wall of Senator Tarr's office; 617-  
722-1600 [troy.wall@masenate.gov](mailto:troy.wall@masenate.gov)**

**Legislators Unveil Comprehensive Illegal Immigration Package  
Emphasis on Public Safety and Taxpayer Dollars**

BOSTON – With the recent tragic death of Milford resident Matthew Denice, Sen. Richard T. Moore, D-Uxbridge, and Rep. John V. Fernandes, D-Milford, joined together with Sen. Bruce E. Tarr, R-Gloucester, and Rep. George Peterson Jr., R-Grafton, in drafting comprehensive legislation that absent a federal solution to legal and illegal immigration, addresses the strains placed on personal, municipal, and statewide finances as a result of illegal immigration.

“An Act To Enhance Community Safety” addresses the impact illegal immigration has on our local police, our local schools, our local housing markets, and our local economies.

“This legislation offers a comprehensive solution to the problems created by illegal immigration,” stated Moore “This is not a partisan issue and we must work together in the name of public safety,” added Moore.

This legislation, first and foremost, addresses the implementation of the Secure Communities Program. With increased interest across the Commonwealth, this legislation includes a report to the legislature by the Executive Office of Public Safety (EOPS), in which they are to identify how they are assisting with the deployment of the Secure Communities Program.

The legislation attempts to address an increase in the strain placed on schools, hospitals, courts and other institutions as a result of illegal immigration in many Massachusetts communities. “We agreed to draft and file a comprehensive piece of legislation which will seek to address all the issues within the control of state government,” Moore said.

Moore, Fernandes, Tarr and Peterson said the bipartisan sponsors of the bill will be helpful as it moves through the legislative process. Senate co-sponsors are: Sen. Steve A. Baddour, D-Metheun, Sen. James E. Timilty, D-Walpole, Sen. Robert L. Hedlund, R-

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**THE GENERAL COURT OF MASSACHUSETTS  
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Weymouth, Sen. Michael R. Knapik, R-Westfield, and Sen. Richard J. Ross, R-Wrentham and Rep. Stephen L. DiNatale, D-Fitchburg.

“Enough is enough,” said Bruce Tarr, “and many publicized incidents over the past several months have proven time and again that the price for tolerating the acts of those who refuse to respect the laws of our nation and our Commonwealth is harm to our citizens and abuse of our resources. The time is long overdue for us to act in a comprehensive way to protect public safety and ensure that public funds benefit only those who deserve them.”

The bill comes about one month after Milford resident Matthew Denice died in a motor vehicle accident. Denice, 23, was killed when Nicolas D. Guaman, an illegal immigrant who was driving drunk, struck Denice's motorcycle, police say.

"While we've worked to address some of these issues in other bills and the state budget, I think certainly the incident with Matthew Denice's death has caused us to redouble our efforts and try to be more comprehensive in our approach," Moore said.

“For the first time, we have a bill that is covering nearly all the steps we need to take as a Commonwealth to ensure that taxpayers – not illegal immigrants – benefit from public programs and are as safe as possible from those that are here illegally seeking to do our citizens harm”, said Baddour. “We cannot and should not be spending monies from taxpayer-funded public benefit programs on those who are breaking the law.”

Denice's death has sparked a call for illegal immigration reforms including adopting Secure Communities, a federal initiative designed to facilitate communication between federal immigration authorities and local police.

Joao Brito of the Netherlands was arrested and charged in May, 2011 for his connection to the vandalism of a vehicle in Boston. Fingerprints from the arrest revealed that Brito was wanted by Dutch authorities for sexual abuse of children and human smuggling, information obtained because of the successful use of the Secure Communities Program being implemented in Suffolk County.

And then on the morning of Saturday, September 24, 2011 Eduardo Torres was charged with his 6th OUI. During a sobriety test Torres provided police officers with a fake name and only after booking did they learn that he had 2 previous OUI arrests in Massachusetts and 3 in California. It was also discovered that Torres had previously been deported out of the country.

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The bill unveiled today would require individuals or businesses seeking to register a vehicle to produce documentation such as a federal tax identification number, license or social security number. The bill would also strengthen penalties for people who drive without a license or knowingly allow someone else to drive their vehicle.

"It's a major concern," Peterson said of driving without a license. "As we move forward, I think we need to tighten up our rules and regulations to ensure that anyone with a Massachusetts driver's license is a legal resident of the Commonwealth and the United States."

Current fines for driving without a license range from \$100 to \$1,000. The bill would create a \$500 fine for a first offense, \$500 to \$1,000 fine and/or a 30-day jail term for a second offense, and \$1,000 to \$2,000 fine and/or a 60-day jail sentence for a third or subsequent offense. Police may require the suspect to forfeit his or her vehicle after the third offense.

In addition to illegal immigrants, "it's recognizing there are people who are citizens as well as illegal aliens, who don't have a license and still drive continuing to pose a danger to the public," Moore said.

The legislation also ensures that state-subsidized housing is reserved for legal Massachusetts residents and aims to help local building officials prevent multi-bedroom apartments from housing several families.

Employment provisions of the bill include establishing penalties for employers who knowingly hire unauthorized workers and requiring companies seeking public contracts to participate in programs to verify the eligibility of their employees, according to the documents.

"I firmly believe that the source of the problem is employment," Fernandes said of illegal immigration. "If people can't work, they either won't come here or won't stay here."

Further provisions of the bill include those which:

- Require anybody submitting an affidavit of indigency to submit their social security number in order to verify their income eligibility which would be transmitted through the Department of Revenue
- Require that an applicant sign a statement certifying that there are no outstanding excise tax liabilities on the motor vehicle

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**THE GENERAL COURT OF MASSACHUSETTS  
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- Require that the Registrar maintain a record of vehicles and trailers that are registered after satisfying the application requirements
- Require a report to the Legislature, as well as a cost estimate from EOPS, detailing the existing hurdles Massachusetts faces in connecting the various databases in order to effectively execute the license plate reader technology
- Require that the immigration status of anyone detained for DUI be ascertained within 48 hours of confinement

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**SENATE . . . . . No. XXXXX**

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**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>Steven A. Baddour</i>	<i>First Essex</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>

[Pin Slip]

**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 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 the  
192 unauthorized alien;

193 (5) The attorney general shall notify the appropriate district attorney to bring an action pursuant  
194 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 by the  
205 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 location  
208 where the unauthorized alien performed work. During the probationary period the employer  
209 shall file quarterly reports with the district attorney of each new employee who is hired by the  
210 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 business  
212 days after the order is issued. The affidavit shall state that the employer has terminated the  
213 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) that  
231 are held by the employer for a period not to exceed 10 business days. The court shall base its  
232 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 requirements;

238 e. Duration of the violation;

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

240 g. Other factors that the court deems appropriate.

241 (2) For a Level II violation, or a violation which occurs during a probationary period ordered by  
242 the court, the court shall order the appropriate state agencies to permanently revoke all licenses

243 that are held by the employer specific to the business location where the unauthorized alien  
244 performed work. If the employer does not hold a license specific to the business location where  
245 the unauthorized alien performed work but a license is necessary to operate the employer's  
246 business in general, the court shall order the appropriate state agencies to permanently revoke all  
247 licenses that are held by the employer at the employer's primary place of business. Upon receipt  
248 of the order, the appropriate state agencies shall immediately revoke the licenses.

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

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

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

261 (j) For the purposes of this subsection, an employer that establishes that it has complied in good  
262 faith with the requirements of 8 U.S.C. 1324a(b) establishes an affirmative defense that the  
263 employer did not knowingly employ an unauthorized alien. An employer is considered to have  
264 complied with the requirements of 8 U.S.C. 1324a(b), notwithstanding an isolated, sporadic or

265 accidental technical or procedural failure to meet the requirements, if there is a good faith  
266 attempt to comply with the requirements.

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

272 (l) The attorney general shall prescribe a complaint form for a person to allege a violation of  
273 subsection (k). The complainant shall not be required to list the complainant's social security  
274 number on the complaint form or to have the complaint form notarized. Upon receipt of a  
275 complaint that an employer allegedly intentionally employs an unauthorized alien, the attorney  
276 general or district attorney shall investigate whether the employer has violated subsection (k). If  
277 a complaint is received but is not submitted on said prescribed form, the attorney general or  
278 district may investigate whether the employer has violated subsection (k). This shall not be  
279 construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed  
280 complaint form. The attorney general or district attorney shall not investigate complaints that are  
281 based solely on race, color or national origin. A complaint that is submitted to a district attorney  
282 shall be submitted to the district attorney in the county in which the alleged unauthorized alien is  
283 or was employed by the employer. The county sheriff or any other local law enforcement  
284 agency may assist in investigating a complaint. When investigating a complaint, the attorney  
285 general or district attorney shall verify the work authorization of the alleged unauthorized alien  
286 with the federal government pursuant to 8 U.S.C. 1373(c). A state, county or local official shall  
287 not attempt independently to make a final determination on whether an alien is authorized to

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

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

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

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

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

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

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

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

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

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

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

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

315 ii. Order the employer to be subject to a 5 year probationary period for the business location  
316 where the unauthorized alien performed work. During the probationary period the employer  
317 shall file quarterly reports with the district attorney of each new employee who is hired by the  
318 employer at the business location where the unauthorized alien performed work; and

319 iii. Order the employer to file a sworn affidavit with the district attorney within 3 business days  
320 after the order is issued. The affidavit shall state that the employer has terminated the  
321 employment of all unauthorized aliens in the commonwealth and that the employer will not  
322 intentionally or knowingly employ an unauthorized alien in the commonwealth. The court shall  
323 order the appropriate state agencies to suspend all licenses subject to this clause that are held by  
324 the employer if the employer fails to file a sworn affidavit with the district attorney within 3  
325 business days after the order is issued. All licenses that are suspended under this clause shall  
326 remain suspended until such time as the employer files a sworn affidavit with the district  
327 attorney. Notwithstanding any general or special law to the contrary, upon filing of the affidavit  
328 the suspended licenses shall be reinstated immediately by the appropriate state agencies. For the  
329 purposes of this clause, the licenses that shall be subject to suspension are all licenses that are  
330 held by the employer specific to the business location where the unauthorized alien performed

331 work. If the employer does not hold a license specific to the business location where the  
332 unauthorized alien performed work, but a license is necessary to operate the employer's business  
333 in general, the licenses that are subject to suspension are all licenses that are held by the  
334 employer at the employer's primary place of business. Upon receipt of the order, the appropriate  
335 state agencies shall immediately revoke the licenses. The court shall send a copy of the court's  
336 order to the attorney general and the attorney general shall maintain the copy pursuant to  
337 subsection (q).

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

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

343 b. Prior misconduct by the employer;

344 c. Degree of harm resulting from the violation;

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

346 e. Duration of the violation;

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

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

349 (2) For a Level II violation, or a violation which occurs during a probationary period ordered by  
350 the court, the court shall order the appropriate state agencies to permanently revoke all licenses

351 that are held by the employer specific to the business location where the unauthorized alien  
352 performed work. If the employer does not hold a license specific to the business location where  
353 the unauthorized alien performed work but a license is necessary to operate the employer's  
354 business in general, the court shall order the appropriate state agencies to permanently revoke all  
355 licenses that are held by the employer at the employer's primary place of business. Upon receipt  
356 of the order, the appropriate state agencies shall immediately revoke the licenses.

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

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

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

370 (t) For the purposes of this section, an employer that establishes that it has complied in good faith  
371 with the requirements of 8 U.S.C. 1324a(b) establishes an affirmative defense that the employer  
372 did not knowingly employ an unauthorized alien. An employer is considered to have complied

373 with the requirements of 8 U.S.C. 1324a(b), notwithstanding an isolated, sporadic or accidental  
374 technical or procedural failure to meet the requirements, if there is a good faith attempt to  
375 comply with the requirements.

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

385 SECTION 15. Chapter 149 of the General Laws is hereby amended by inserting after section  
386 19C the following new section:-

387 “19D. Whoever utilizes in any way a false identification document for the purposes of soliciting,  
388 securing, or maintaining employment from a public employer as defined in section 1 of chapter  
389 30C shall be punished by a fine of not more than \$5,000 or by imprisonment in the state prison  
390 for not more than 5 years or in a jail or house of correction for not more than 2 years, or both  
391 such fine and imprisonment.”

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

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

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

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

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

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

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

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

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

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

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

433 “The immigration status of every defendant, including but not limited to those accused of a  
434 violation of section 24 of chapter 90 of the general laws, a violation of section 10 of chapter 90  
435 of the general laws, or a like violation of an offense classified as Level I as referenced by the  
436 United States Department of Homeland Security’s Secure Communities Program, shall be  
437 confirmed at the arraignment stage of any criminal court proceeding. In the event the defendant

438 is unlawfully present within the United States, the defendant's status shall be transmitted to the  
439 United States Immigration and Customs Enforcement."

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

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

458 SECTION 21. Notwithstanding any general or special law to the contrary, a person who is a  
459 lawful immigrant or permanent resident of the United States, or is eligible to apply and has

460 applied for such status, shall be eligible to be considered for Massachusetts residency for tuition  
461 purposes, provided that the person meets the same requirements for establishing residency in  
462 Massachusetts as are required of a United States citizen. Non-citizens who are in, or who are  
463 eligible to apply and have applied for refugee or asylum status, shall be eligible to be considered  
464 for Massachusetts residency for tuition purposes, provided that the person meets the same  
465 requirements for establishing residency in Massachusetts as are required of a United States  
466 citizen. All non-citizens shall provide appropriate documentation to verify their status with the  
467 United States Citizenship and Immigration Services.

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

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

477 SECTION 23. Notwithstanding any general or special law to the contrary, when issuing periodic  
478 notices to taxpayers and registered businesses, the department of revenue include information  
479 illustrating the risks of employing or contracting with unauthorized workers. Said notice shall  
480 include the estimated costs to public safety, the strains placed upon the health safety net, the

481 potential for personal liability, the impacts upon local school budgets, the impact upon the job  
482 market, and the availability of quality housing.

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