

HOUSE No. 1355

By Ms. Coakley-Rivera of Springfield, petition of Cheryl A. Coakley-Rivera relative to counterfeit and fraudulent documents. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO COUNTERFEIT AND FRADULENT DOCUMENTS.

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. Section 24B of Chapter 90 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 inserting after the word “whoever”, in line 1, the following words:—
4 uses any false identification document, as defined in Section 37E of
5 Chapter 266, or false information to procure or.

1 SECTION 2. Section 24B of Chapter 90 is hereby further
2 amended by striking out, in line 1 through 2, after the words “or
3 counterfeits or procures or assists another”, and inserting in place
4 thereof the following words:— counterfeits or assists or conspires
5 with another to use any false identification document or false infor-
6 mation to procure or.

1 SECTION 3. Section 24B of Chapter 90 is hereby further
2 amended by inserting after the word “counterfeit” in line 3, the
3 following words:— , or attempts to use any false identification docu-
4 ment or false information to procure or to falsely make, steal, alter,
5 forge or counterfeit,.

1 SECTION 4. Section 24B of Chapter 90 is hereby further
2 amended by inserting after the word “possession”, in lines 10
3 through 11, the following words:— any registry of motor vehicles
4 document that is fraudulent or obtained using any false identification
5 document or false information.

1 SECTION 5. Section 24B of Chapter 90 is hereby further
2 amended by inserting after the words “deputy registrar”, in line 22,
3 the following words:— or possesses a counterfeit motor vehicle doc-
4 ument from any other state, country or nation.

1 SECTION 6. Section 24B of Chapter 90 is hereby further
2 amended by striking out, in line 23, the word “hundred”, and
3 inserting in place thereof the following word:— thousand.

1 SECTION 7. Section 24B of Chapter 90 is hereby further
2 amended by inserting after the word “two”, in line 25, the following
3 words:— and one-half.

1 SECTION 8. Section 24B of Chapter 90 is hereby further
2 amended by inserting after the word “another”, in line 28, the
3 following words:— or conspires with another or attempts.

1 SECTION 9. Section 24B of Chapter 90 is hereby further
2 amended by inserting after the word “license”, in line 30, the
3 following words:— or learner’s permit.

1 SECTION 10. Section 24B of Chapter 90 is hereby further
2 amended by inserting after the word “use”, in line 31, the following
3 words:— of or attempts to make use,.

1 SECTION 11. Section 24B of Chapter 90 is hereby further
2 amended by inserting after the words “vehicles that was”, in line 32,
3 the following words:— falsely or fraudulently obtained or counter-
4 feited, or whoever uses a social security card, license or learner’s
5 permit, including those issued from any other state, or any other doc-
6 uments issued by a federal or any state or any local governmental
7 agency, foreign or domestic, or those appearing to be so issued, as a
8 means to verify an identity that is not his own, or is fraudulent, to
9 obtain a license or learner’s permit,.

1 SECTION 12. Section 24B of Chapter 90 is hereby further
2 amended by striking out, in line 33, the word “hundred” and
3 inserting in place thereof the following word:— thousand.

1 SECTION 13. Section 24B of Chapter 90 is hereby further
2 amended by inserting after the word “two”, in line 35, the following
3 words:— and one-half.

1 SECTION 14. Section 24B of Chapter 90 is hereby further
2 amended by inserting at the end of the section, in line 46, the
3 following paragraphs:—

4 The provisions of this section shall not apply to any person who
5 has not reached his or her twenty-first birthday who misrepresents or
6 misstates his or her age through the presentation of any document in
7 order to enter any premises licensed for the retail sale of alcoholic
8 beverages for the purpose of purchasing or having served or deliv-
9 ered to him or her alcoholic beverages or attempting to purchase or
10 have another person purchase for him or her any alcoholic beverage.
11 Search warrants to search for and seize implements, apparatus, para-
12 phernalia and other property and devices kept, possessed or used in
13 violation of this section may be issued as provided by law in Chapter
14 276; and all implements, apparatus, paraphernalia or other apparatus
15 or devices found by any officer in executing a search warrant or that
16 shall be produced and brought into court shall be forfeited to the
17 state and further proceedings shall be had for their forfeiture as is
18 prescribed by Section 148 of Chapter 266.

1 SECTION 15. Section 37E of Chapter 266 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after the word “meanings”, in line 2, the following defini-
4 tions:—

5 “ATM card”, any automatic teller machine card or bank card that
6 allows the withdrawal of cash from an automatic teller machine or
7 bank.

8 “Document-making implement”, any implement, impression,
9 template, computer file, computer disc, electronic device, or com-
10 puter hardware or software, without limitation, that is specifically
11 configured or primarily or actually used for making an identification
12 document, a false, fraudulent or counterfeit identification document,
13 or another document-making implement.

14 “Enforcement Officer”, any local, state or federal police officer,
15 corrections officer, sheriff, environmental police, special state police

16 officer, court officer, judge, magistrate, registry of motor vehicles
17 employee, or any other sworn officer of the Commonwealth.

18 “False identification document”, a document that is fraudulent,
19 counterfeit or appears to be an identification document or a docu-
20 ment that is an identification document but was obtained by falsi-
21 fying, concealing, or covering up by any trick, scheme or device a
22 material fact; by making any materially false, fictitious, or fraudu-
23 lent statement or representation; or by making or using any false
24 writing or document knowing the same to contain any materially
25 false, fictitious or fraudulent statement.

1 SECTION 16. Section 37E of Chapter 266 is hereby further
2 amended by inserting after the definition of “harass”, in line 6, the
3 following definition:—

4 “Identification document”, a document made or issued by or
5 under the authority of the United States Government, a State, polit-
6 ical subdivision of a State, a foreign government, political subdivi-
7 sion of a foreign government, an international governmental or an
8 international quasi-governmental organization which, when com-
9 pleted with information concerning a particular individual, is of a
10 type intended or commonly accepted for the purpose of identifica-
11 tion or authentication of individuals.

1 SECTION 17. Section 37E of Chapter 266 is hereby further
2 amended by inserting after the word “individual”, in line 9, the
3 following words:— or deceased individual or fictitious individual.

1 SECTION 18. Section 37E of Chapter 266 is hereby further
2 amended by inserting after the word “persons”, in line 15, the
3 following words:— , or as a deceased person or fictitious individual.

1 SECTION 19. Section 37E of Chapter 266 is hereby further
2 amended by striking out, in line 20, the words “with intent to
3 defraud.”.

1 SECTION 20. Section 37E of Chapter 266 is hereby further
2 amended by inserting after the words “that person”, in line 21, the
3 following words:— or poses using the identity of a deceased person
4 or fictitious person,.

1 SECTION 21. Section 37E of Chapter 266 is hereby further
2 amended by inserting after the word “money,” in line 22, the
3 following words:— an ATM card,.

1 SECTION 22. Section 37E of Chapter 266 is hereby further
2 amended by striking out, in line 24, the word “another”, and
3 inserting in place thereof the following words:— or threaten another
4 or to commit any other crime,.

1 SECTION 23. Section 37E of Chapter 266 is hereby further
2 amended by striking out, in line 26, the word “imprisonment” and
3 inserting in place thereof the following words:— by imprisonment in
4 the state prison for not more than five years or.

1 SECTION 24. Section 37E of Chapter 266 is hereby further
2 amended by striking out, in line 28, the words “with intent to
3 defraud”.

1 SECTION 25. Section 37E of Chapter 266 is hereby further
2 amended by inserting after the first word of “person” in line 30, the
3 following words:— obtains such information about a deceased
4 person or fictitious person,.

1 SECTION 26. Section 37E of Chapter 266 is hereby further
2 amended by striking out, in line 32, the words “in order” and
3 inserting in place thereof the following words:— or obtains such
4 information about a deceased person,.

1 SECTION 27. Section 37E of Chapter 266 is hereby further
2 amended by inserting after the words “assist another”, in line 32, the
3 following words:— or conspire with another.

1 SECTION 28. Section 37E of Chapter 266 is hereby further
2 amended by inserting after the word “money”, in line 33, the
3 following words:— an ATM card,.

1 SECTION 29. Section 37E of Chapter 266 is hereby further
2 amended by striking out, in line 34, the word “another”, and

3 inserting in place thereof the following words:— or threaten another
4 or to commit any other crime,.

1 SECTION 30. Section 37E of Chapter 266 is hereby further
2 amended by striking out, in line 36, the word “imprisonment” and
3 inserting in place thereof the following words:— by imprisonment in
4 the state prison for not more than five years or.

1 SECTION 31. Section 37E of Chapter 266 is hereby further
2 amended by inserting after subsection (c), in line 38, the following
3 subsections:—

4 (d) Whoever, uses or transfers, attempts to use or transfer, or
5 assists or conspires with another to use or transfer, documents con-
6 taining personal identifying information about another person,
7 deceased person, or fictitious person, with the intent to defraud,
8 commit any crime, assist in the commission of any crime, or conceal
9 actual identify to avoid apprehension for a crime, shall be guilty of
10 the crime of identity fraud and shall be punished by a fine of not
11 more than \$5,000 or by imprisonment in the state prison for not
12 more than five years or in a jail or house of correction for not more
13 than two and one-half years, or by both fine and imprisonment.

14 (f) Whoever possesses a false identification document, assists or
15 conspires with a person in obtaining a false identification document,
16 or possesses an identification document which is stolen or produced
17 without lawful authority shall be punished by a fine of not more than
18 \$5,000 or by imprisonment in the state prison for not more than five
19 years or in a jail or house of correction for not more than two and
20 one-half years, or by both fine and imprisonment.

21 (g) Whoever shows or provides a false identification document to
22 an enforcement officer to identify himself, as proof of his identity or
23 to verify his identity shall be punished by a fine of not more than
24 \$5,000 or by imprisonment in the state prison for not more than five
25 years or in a jail or house of correction for not more than two and
26 one-half years, or by both fine and imprisonment.

27 (h) Whoever fraudulently or wrongfully or whoever assists or
28 conspires with another to affix or impress the seal of any department
29 or agency of the Commonwealth to any certificate, instrument, com-
30 mission, document or paper or with knowledge of its fraudulent
31 character, buys, procures, sells or transfers to another, or assists or

32 conspires with another to buy, procure, sell or transfer to another,
33 any such certificate, instrument, commission, document, or paper, to
34 which or upon which said seal has been so fraudulently or wrong-
35 fully affixed or impressed, shall be punished by a fine of not more
36 than \$5,000 or by imprisonment in the state prison for not more than
37 five years or in a jail or house of correction for not more than two
38 and one-half years, or by both fine and imprisonment.

39 (i) Whoever obtains, assists or conspires with another to obtain, or
40 attempts to obtain, an identification document by falsifying, con-
41 cealing or covering up by any trick, scheme or device a material
42 fact; by making any materially false, fictitious, or fraudulent state-
43 ment or representation; or by making or using any false writing or
44 document knowing the same to contain any materially false, ficti-
45 tious or fraudulent statement or entry for the purpose of obtaining
46 money, an ATM card, credit, goods, services, anything of value, any
47 identification card, or for the purpose of utilizing as a valid identifi-
48 cation card, shall be punished by imprisonment in the state prison
49 for not more than ten years or by a fine of not more than \$10,000 or
50 by both fine and imprisonment.

51 (j) Whoever produces, transfers, or possesses, or whoever assists
52 or conspires with another to produce, transfer or possess, a docu-
53 ment-making implement with the intent that such document making
54 implement will be used in the production of a false identification
55 document or another document-making implement for such use shall
56 be punished by imprisonment in the state prison for not more than
57 ten years or by a fine of not more than \$10,000 or by both fine and
58 imprisonment.

59 (k) Whoever possesses with intent to use unlawfully or transfer
60 unlawfully five or more identification documents (other than those
61 issued lawfully for the use of the possessor) or whoever possesses
62 five or more false identification documents or whoever assists or
63 conspires with another to possess with intent to use unlawfully or
64 transfer unlawfully five or more identification documents (other than
65 those issued lawfully for the use of the possessor) or whoever assists
66 or conspires with another to possess five or more false identification
67 documents shall be punished by imprisonment in the state prison for
68 not more than ten years or by a fine of not more than \$10,000 or by
69 both fine and imprisonment.

1 SECTION 32. Section 37E of Chapter 266 is hereby further
2 amended by striking out in line 39 the designation “(d)” and
3 inserting in place thereof the following designation:— (1).

1 SECTION 33. Section 37E of Chapter 266 is hereby further
2 amended by striking out in lines 46 through 48, subsection (e).

1 SECTION 34. Section 37E of Chapter 266 is hereby further
2 amended by inserting at the end of the section, in line 48, the
3 following subsections:—

4 (m) The provisions of this section shall not apply to any person
5 who has not reached his or her twenty-first birthday who misrepres-
6 sents or misstates his or her age through the presentation of any doc-
7 ument in order to enter any premises licensed for the retail sale of
8 alcoholic beverages for the purpose of purchasing or having served
9 or delivered to him or her alcoholic beverages or attempting to pur-
10 chase or have another person purchase for him or her any alcoholic
11 beverage.

12 (n) Upon conviction of any of the offenses in this section, the
13 defendant shall be responsible for the immediate payment to the
14 prosecutor’s office for all costs incurred by that office for any
15 experts used by the prosecution to prove the victim’s lack of
16 capacity due to illness, age, or disability as defined in Section 13K
17 of Chapter 265.

18 (o) Search warrants to search for and seize implements, apparatus,
19 paraphernalia and other property and devices kept, possessed or used
20 in violation of this section, may be issued as provided by law in
21 Chapter 276; and all implements, apparatus, paraphernalia or other
22 apparatus or devices found by any officer in executing a search war-
23 rant or which shall be produced and brought into court shall be for-
24 feited to the state and further proceedings shall be had for their
25 forfeiture as is prescribed by Section 148 of Chapter 266.

1 SECTION 35. Chapter 266, as appearing in the 2002 Official Edi-
2 tion, is hereby amended by inserting after Section 147 the following
3 sections:—

4 Section 148. (a) The following property shall be subject to forfei-
5 ture to the Commonwealth and all property rights therein shall be in
6 the Commonwealth:—

7 (1) All materials, products, and equipment of any kind, which are
8 used, or intended for use in identify theft or identity fraud activity in
9 violation of Section 24B of Chapter 90, Section 37E of Chapter 266
10 and Section 1 of Chapter 267.

11 (2) All conveyances, including aircraft, vehicles or vessels used,
12 or intended for use, to transport, conceal, or otherwise facilitate
13 identity theft in violation of Section 24B of Chapter 90, Section 37E
14 of Chapter 266 and Section 1 of Chapter 267.

15 (3) All books, records, and research, including formulas, micro-
16 film, tapes and data in any form, which are used, or intended for use,
17 in violation of Section 24B of Chapter 90, Section 37E of Chapter
18 266 and Section 1 of Chapter 267.

19 (4) All moneys, negotiable instruments, bank accounts, or other
20 things of value used or intended for use to support identity theft
21 activity in violation of Section 24B of Chapter 90, Section 37E of
22 Chapter 266 and Section 1 of Chapter 267.

23 (5) All real property, including any right, title, and interest in
24 whole of any lot or tract of land and any appurtenances or improve-
25 ments thereto, which is used in any manner or part, to plan, to
26 commit, or to facilitate the commission of a violation of Section 24B
27 of Chapter 90, Section 37E of Chapter 266 and Section 1 of Chapter
28 267.

29 (6) No forfeiture under this section shall extinguish a perfected
30 security interest held by a creditor in a conveyance or in any real
31 property at the time of the filing of the forfeiture action.

32 (7) Property subject to forfeiture under subparagraphs (1), (3), (4)
33 and (5) shall, upon motion of the attorney general or district
34 attorney, be declared forfeit by any court having jurisdiction over
35 said property, or having final jurisdiction over any related criminal
36 proceeding.

37 (c) The court shall order forfeiture of all conveyances subject to
38 the provisions of subparagraph (2) and of all real property subject to
39 the provisions of subparagraph (5) of subsection (a) of this section,
40 except as follows:—

41 (1) No conveyance used by any person as a common carrier in the
42 transaction of business as a common carrier shall be forfeited unless
43 it shall appear that the owner or other person in charge of such con-
44 veyance was a consenting party or privy to a violation of Section

45 24B of Chapter 90, Section 37E of Chapter 266 and Section 1 of
46 Chapter 267.

47 (2) No conveyance shall be forfeited by reason of any act or omis-
48 sion established by the owner thereof to have been committed or
49 omitted by any person other than such owner while such conveyance
50 was unlawfully in the possession of a person other than the owner in
51 violation of the criminal laws of the United States, or of the Com-
52 monwealth or of any state.

53 (3) No conveyance or real property shall be subject to forfeiture
54 unless the owner thereof knew or should have known that such con-
55 veyance or real property was used in and for the business of identity
56 theft and identity fraud. Proof that the conveyance or real property
57 was used to facilitate identity theft or identity fraud on three or more
58 different dates shall be prima facie evidence that the conveyance or
59 real property was used in and for the business of unlawfully commit-
60 ting identity theft or identity fraud.

61 (4) No conveyance or real property used to facilitate unlawful
62 identity theft or identity fraud shall be forfeited if the gross amount
63 of monies seized is less than \$1,000.

64 (d) A district attorney or the attorney general may petition the
65 superior court in the name of the Commonwealth in the nature of a
66 proceeding in rem to order forfeiture of a conveyance, real property,
67 monies or other things of value subject to forfeiture under the provi-
68 sions of subparagraphs (2), (4), and (5) or subsection (a). Such peti-
69 tion shall be filed in the court having jurisdiction over said
70 conveyance, real property, monies or other things of value or having
71 final jurisdiction over any related criminal proceedings brought
72 under any provision of Section 24B of Chapter 90, Section 37E of
73 Chapter 266 or Section 1 of Chapter 267. In all such suits where the
74 property is claimed by any person, other than the Commonwealth,
75 the Commonwealth shall have the burden of proving to the court the
76 existence of probable cause to institute the action, and any such
77 claimant shall then have the burden of proving that the property is
78 not forfeitable pursuant to subparagraphs (2), (4), and (5) of said
79 subsection (a). The owner of said conveyance or real property, or
80 other person claiming thereunder shall have the burden of proof as to
81 all exceptions set forth in subsections (c) and (i). The court shall
82 order the Commonwealth to give notice by certified or registered
83 mail to the owner of said conveyance, real property, monies or other

84 things of value and to such other persons as appear to have an
85 interest therein, and the court shall promptly, but not less than two
86 weeks after notice, hold a hearing on the petition. Upon the motion
87 of the owner of said conveyance, real property, monies or other
88 things of value, the court may continue the hearing on the petition
89 pending the outcome of any criminal trial related to the violation of
90 Section 24B of Chapter 90, Section 37E of Chapter 266 or Section 1
91 of Chapter 267. At such hearing the court shall hear evidence and
92 make conclusions of law, and shall thereupon issue a final order;
93 from which the parties shall have a right of appeal. In all such suits
94 where a final order results in a forfeiture, said final order shall pro-
95 vide for disposition of said conveyance, real property, monies or any
96 other thing of value by the Commonwealth or any subdivision
97 thereof in any manner not prohibited by law, including official use
98 by an authorized law enforcement or other public agency, or sale at
99 public auction or by competitive bidding. The proceeds of any such
100 sale shall be used to pay the reasonable expenses of the forfeiture
101 proceedings, seizure, storage, maintenance of custody, advertising,
102 and notice, and the balance thereof shall be distributed as further
103 provided in this section. The final order of the court shall provide for
104 restitution of all known claims at the time of the disposition of the
105 case with the remainder of said monies and the proceeds of any such
106 sale to be distributed equally between the prosecuting district
107 attorney or attorney general, and the city, town or state police depart-
108 ment involved in the seizure. If more than one department was sub-
109 stantially involved in the seizure, the court having jurisdiction over
110 the forfeiture proceeding shall distribute the fifty percent equitably
111 among these departments. There shall be established within the
112 office of the state treasurer separate special law enforcement trust
113 funds for each district attorney and for the attorney general. All such
114 monies and proceeds received by any prosecuting district attorney or
115 attorney general shall be deposited in such trust fund and shall then
116 be expended without further appropriation to defray the costs of pro-
117 tracted investigations, to provide additional technical equipment or
118 expertise, to provide matching funds to obtain federal grants, or for
119 such other law enforcement purposes as the district attorney or
120 attorney general deems appropriate. The district attorney or attorney
121 general may expend up to ten percent of the monies and proceeds for
122 anti-identity theft, anti-terrorism or fraud education or neighborhood

123 crime watch programs that further law enforcement purposes. Any
124 program seeking to be an eligible recipient of said funds shall file an
125 annual audit report with the local district attorney and attorney
126 general. Such report shall include, but not be limited to, a listing of
127 the assets, liabilities, itemized expenditures, and board of directors
128 of such program. Within ninety days of the close of the fiscal year,
129 each district attorney and the attorney general shall file an annual
130 report with the house and senate committees on ways and means on
131 the use of the monies in the trust fund for the purposes of anti-iden-
132 tity theft or fraud education, anti-terrorism or neighborhood crime
133 watch programs. All such monies and proceeds received by any
134 police department shall be deposited in a special law enforcement
135 trust fund and shall be expended without further appropriation to
136 defray the costs of protracted investigations, to provide additional
137 technical equipment or expertise, to provide matching funds to
138 obtain federal grants, or for such other law enforcement purposes as
139 the chief of police of such city or town, or the colonel of state police
140 deems appropriate, but such funds shall not be considered a source
141 of revenue to meet the operating needs of such department.

142 (e) Any officer, department, or agency having custody of any
143 property subject to forfeiture under this chapter, or having disposed
144 of said property, shall keep and maintain full and complete records
145 showing from whom it received said property, under what authority
146 it held or received or disposed of said property, to whom it delivered
147 said property, the date and manner of destruction or disposition of
148 said property, and the exact kinds, quantities and forms of said prop-
149 erty. Said records shall be open to inspection by all federal and state
150 officers charged with enforcement of federal and state drug control
151 laws. Persons making final disposition or destruction of said prop-
152 erty under court order shall report, under oath, to the court the exact
153 circumstances of said disposition or destruction.

154 (f)(1) During the pendency of forfeiture proceedings the court
155 may issue at the request of the Commonwealth ex parte any prelimi-
156 nary order or process necessary to seize or secure the property for
157 which forfeiture is sought and to provide for its custody, including
158 but not limited to an order that the Commonwealth remove the prop-
159 erty if possible, and safeguard it in a secure location in a reasonable
160 fashion; that monies be deposited in an interest-bearing escrow
161 account; and that a custodian be appointed to manage such property

162 or a business enterprise. Property taken or detained under this
163 section shall not be subject to replevin, but once seized shall be
164 deemed to be lawfully in the custody of the Commonwealth pending
165 forfeiture, subject only to the orders and decrees of the court having
166 jurisdiction. Process for seizure of said property shall issue only
167 upon a showing of probable cause, and the application therefor and
168 the issuance, execution, and return thereof shall be subject to the
169 provisions of Chapter 276, so far as applicable.

170 (2) There shall be created within the division of capital asset man-
171 agement and maintenance an office of seized property management
172 to which a district attorney or the attorney general may refer any real
173 property, and any furnishings, equipment and related personal prop-
174 erty located therein, for which seizure is sought. The office of seized
175 property management shall be authorized to preserve and manage
176 such property in a reasonable fashion and to dispose of such prop-
177 erty upon a judgment ordering forfeiture issued pursuant to the pro-
178 visions of subsection (d), and to enter into contracts to preserve,
179 manage and dispose of such property. The office of seized property
180 management may receive initial funding from the special law
181 enforcement trust funds of the attorney general and each district
182 attorney established pursuant to subsection (d) and shall subse-
183 quently be funded by a portion of the proceeds of each sale of such
184 managed property to the extent provided as payment of reasonable
185 expenses in subsection (d).

186 (g) Any “document-making implement,” defined in Section 37E
187 of Chapter 266, any “false identification document” as defined in
188 Section 37E of Chapter 266, or any “identification document” con-
189 cerning a particular individual who is not the individual in posses-
190 sion of such documents, may be seized by any police officer and
191 summarily forfeited to the Commonwealth to dispose at its discre-
192 tion.

193 (h) The failure, upon demand by a police officer of the person in
194 possession or control of a document-making implement, false identi-
195 fication document or identification document to produce proof that
196 he is a legal holder thereof constitutes authority for the seizure and
197 forfeiture of the document-making implement, false identification
198 document or identification document.

199 (i) The owner of any real property that is the principal domicile of
200 the immediate family of the owner and which is subject to forfeiture

201 under this section may file a petition for homestead exemption with
202 the court having jurisdiction over such forfeiture. The court may, in
203 its discretion, allow the petition exempting from forfeiture an
204 amount allowed under section one of Chapter one hundred and
205 eighty-eight. The value of the balance of said principal domicile, if
206 any, shall be forfeited as provided in this section. Such homestead
207 exemption may be acquired on only one principal domicile for the
208 benefit of the immediate family of the owner.

209 (j) A forfeiture proceeding affecting the title to real property or
210 the use and occupation thereof or the buildings thereon shall not
211 have any effect except against the parties thereto and persons having
212 actual notice thereof, until a memorandum containing the names of
213 the parties to such proceeding, the name of the town where the
214 affected real property lies, and a description of such real property
215 sufficiently accurate for identification is recorded in the registry of
216 deeds for the county or district where the real property lies. At any
217 time after a judgment on the merits, or after the discontinuance, dis-
218 missal or other final disposition is recorded by the court having
219 jurisdiction over such matter, the clerk of such court shall issue a
220 certificate of the fact of such judgment, discontinuance, dismissal or
221 other final disposition, and such certificate shall be recorded in the
222 registry in which the original memorandum recorded pursuant to this
223 section was filed.

224 Section 149. (a) Any person who violates the provisions of
225 Section 24B of Chapter 90 or Section 37E, subsections (b) through
226 (h) of Chapter 266 may be imprisoned for not less three years and
227 not more than ten years in the state prison and shall be fined not
228 more than ten thousand dollars or by both fine and imprisonment,
229 for a subsequent conviction of any of those provisions.

230 (b) Any person who violates the provisions of Section 24B of
231 Chapter 90 or Section 37E, subsections (b) through (h) of Chapter
232 266 may be imprisoned for not less five years and not more than fif-
233 teen years in the state prison and shall be fined not more than fifteen
234 thousand dollars or by both fine and imprisonment for a subsequent
235 conviction of the provisions of Section 37E, subsections (i) through
236 (k) of Chapter 266 or Section 1 of Chapter 267.

237 (c) Any person who violates the provisions of Section 37E, sub-
238 sections (i) through (k) of Chapter 266 or Section 1 of Chapter 267
239 may be imprisoned for not less five years and not more than fifteen

240 years in the state prison and shall be fined not more than fifteen
241 thousand dollars or by both fine and imprisonment, for a subsequent
242 conviction of the provisions of Section 24B of Chapter 90 or Section
243 37E, subsections (b) through (h) of Chapter 266.

244 (d) Any person who violates the provisions of Section 37E, sub-
245 sections (i) through (k) of Chapter 266 or Section 1 of Chapter 267
246 shall be imprisoned for not less seven years and not more than fif-
247 teen years in the state prison or jail or house of correction and shall
248 be fined not more than twenty thousand dollars or by both fine and
249 imprisonment, for a subsequent conviction of any of those provi-
250 sions.

251 (e) Any person who violates the provisions of Section 24B of
252 Chapter 90, Section 37E of Chapter 266 or Section 1 of Chapter 267
253 in furtherance of any of the below crimes, for which a person is also
254 convicted:—

255 (1) any offense which involves murder, kidnapping, robbery, or
256 extortion;

257 (2) any of the following offenses:— arson, assault and battery
258 with a dangerous weapon, bribery, burglary, malicious destruction of
259 property, embezzlement, escape, throwing or placing explosives at
260 or near persons or property, illegal possession or storage of explo-
261 sives, possession of infernal machines, forgery, gaming in violation
262 of Sections sixteen and seventeen, seventeen A and seventeen B of
263 Chapter two hundred and seventy-one of the general laws, intimidat-
264 ion of witnesses or jurors or persons furnishing information in con-
265 nection with criminal proceedings, larceny, lending of money or
266 things of value in violation of the general laws, mayhem, escape,
267 perjury, subornation of perjury, receiving stolen property, communi-
268 cating terrorist threats, possessing or using chemical, biological or
269 nuclear weapons, possession or use of hoax substances;

270 (3) any offense involving the distribution of a narcotic drug, mari-
271 juana, or other dangerous drug;

272 (4) coercion of child under eighteen into criminal conspiracy,
273 inducing a person under eighteen to have sexual intercourse, posses-
274 sion or dissemination of matter harmful to minors, posing or
275 exhibiting child in state of nudity or sexual conduct, dissemination
276 of visual material of child in state of nudity or sexual conduct, pur-
277 chase or possession of visual material of child depicted in sexual
278 conduct;

279 (5) any offense punishable by imprisonment for more than one
280 year involving the possession or distribution of firearms;

281 (6) any accessory to any offense described in this section or any
282 conspiracy or attempt or solicitation to commit any offense
283 described in this subsection;

284 (7) the location of any fugitive from justice from an offense
285 described in this subsection;

286 (8) any crime of violence, shall be imprisoned for not less than
287 ten years and not more than twenty years in the state prison or shall
288 be fined not more than thirty thousand dollars or shall be punished
289 by both such fine and imprisonment.

290 (f) The crimes as set forth in Section 24B of Chapter 90, Section
291 37E of Chapter 266 or Section 1 of Chapter 267, maybe prosecuted
292 and punished in the jurisdiction where the crime occurred, where the
293 victim is domiciled, or where the defendant is domiciled.

1 SECTION 36. Section 1 of Chapter 267, as appearing in the 2002
2 Official Edition, is hereby amended by inserting after the word
3 “defraud,” in line 1, the following words:— in his possession,
4 attempts or makes use of, or.

1 SECTION 37. Section 1 of Chapter 267 is hereby further
2 amended by inserting after the word, “counterfeits”, in line 2, the
3 following words:— , or whoever, with intent to injure or defraud,
4 conspires or assists another to possess, to attempt to make use of, to
5 falsely make, alter, forge or counterfeit.

1 SECTION 38. Section 1 of Chapter 267 is hereby further amended
2 by inserting after the word “record,” in line 2, the following
3 words:— an official document issued by any local, federal or state
4 governmental agency, foreign or domestic, which could be used as a
5 means of verifying a person’s or deceased person’s identity, estab-
6 lishing a fictitious identity, or verifying personal identifying infor-
7 mation as defined in Section 37E of Chapter 266.

1 SECTION 39. Section 1 of Chapter 267 is hereby further
2 amended by inserting after the words “ten years or”, in line 21, the
3 following words:— by a fine of not more than \$10,000, or by both
4 fine and imprisonment.

1 SECTION 40. Section 1 of Chapter 267 is hereby further
2 amended by inserting at the end of the section, in line 22, the
3 following paragraphs:—

4 The provisions of this section shall not apply to any person who
5 has not reached his or her twenty-first birthday who misrepresents or
6 misstates his or her age through the presentation of any document in
7 order to enter any premises licensed for the retail sale of alcoholic
8 beverages for the purpose of purchasing or having served or deliv-
9 ered to him or her alcoholic beverages or attempting to purchase or
10 have another person purchase for him or her any alcoholic beverage.
11 Search warrants to search for and seize implements, apparatus, para-
12 phernalia and other property and devices kept, possessed or used in
13 violation of this section, may be issued as provided by law in
14 Chapter 276; and all implements, apparatus, paraphernalia or other
15 apparatus or devices found by any officer in executing a search war-
16 rant or which shall be produced and brought into court shall be for-
17 feited to the state and further proceedings shall be had for their
18 forfeiture as is prescribed by section.

1 SECTION 41. Chapter 24A of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by inserting after
3 Section 5, the following new section:—

4 Section 6. Any person, firm, organization, charitable or otherwise,
5 corporation regardless of how established or organized, or govern-
6 ment agency that holds personal data pertaining to an identifiable
7 individual shall maintain and dispose of such records and informa-
8 tion in a secure manner. For the purposes of this section, personal
9 data means information that identifies an individual, including but
10 not limited to date of birth, social security number, driver identifica-
11 tion number, name, address or telephone number. In cases where
12 personal data has been improperly accessed or disclosed or where
13 the data files or an electronic storage system has been breached or
14 otherwise compromised, the holder of the personal data shall notify
15 each person for which a record is maintained of the security breach.
16 Such notification shall be made as soon as possible but no later than
17 10 business days and shall be in writing unless unduly burdensome
18 due to number of records and prohibitive costs. Under such circum-
19 stances, alternative forms of notice may be approved by the Director
20 of the Office of Consumer Affairs and Business Regulations. Said

21 Director shall publish regulations implementing the provisions of
22 this section including but not limited to reasonable protocols for
23 securing and disposing of personal data and procedures for notifying
24 data subjects of a breach or potential unauthorized access to personal
25 data. A holder of personal data which is negligent in failing to
26 comply with any requirement imposed under this section or the reg-
27 ulations issued by the Director shall be liable to the person whose
28 data was improperly obtained in an amount equal to the sum of any
29 actual damages sustained by the individual as a result of the failure
30 and together with, in the case of any successful action to enforce any
31 liability under this section, the costs of the action and reasonable
32 attorney's fees as determined by the court. The remedies provided
33 hereunder shall not be exclusive.

1 SECTION 42. Chapter 93 of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by inserting after
3 Section 55, the following new section:—

4 Section 55A. A consumer credit reporting agency shall place a
5 security alert in a credit report at the request of a consumer that noti-
6 fies a recipient of the credit report that the consumer's identity may
7 have been used without authorization or consent to fraudulently
8 obtain goods or services in the consumer's name. A consumer credit
9 reporting agency shall notify each person requesting consumer credit
10 information with respect to a consumer of the existence of a security
11 alert in the credit report of that consumer, regardless of whether a
12 full credit report, credit score, or summary report is requested. The
13 security alert shall be activated within 3 business days and shall
14 remain in place for 90 days with a recurring right of renewal. If a
15 consumer has placed a security alert, a consumer credit reporting
16 agency shall provide the consumer, upon request, with a free copy of
17 his or her credit report at the time the 90-day security alert period
18 expires. The recipient of a credit report with a security alert for the
19 purpose of a financial transaction, including but not limited to an
20 extension of credit or the purchase or lease of a good or service shall
21 not complete the transaction without taking reasonable steps to
22 verify the consumer's identity. A consumer reporting agency that
23 fails to institute a security alert after its request shall be subject to
24 the provisions of sections 63 and 64 of this Chapter. The Director of

25 the Office of Consumer Affairs and Business Regulation may pro-
26 mulgate regulations for the implementation of this section.

1 SECTION 43. Said Chapter 93 of the General Laws, is hereby
2 further amended by inserting the following new section:—

3 Section 55B. A consumer credit reporting agency shall place a
4 security freeze in a credit report at the request of a consumer that
5 prohibits the consumer credit reporting agency from releasing the
6 consumer's credit report or any information from it without the
7 express authorization of the consumer. Nothing in this section shall
8 prevent a consumer credit reporting agency from reporting the exis-
9 tence of a security freeze to a third party. A security freeze shall be
10 activated within 3 business days and shall remain in place until
11 rescinded by the consumer. Upon implementation of a security
12 freeze, a consumer credit reporting agency shall confirm the freeze
13 in writing to the consumer and provide a secure password to be used
14 by the consumer to authorize disclosure of his report to a third party.
15 To effectuate access while a security freeze is in effect, the consumer
16 shall contact the consumer reporting agency in advance with infor-
17 mation on the authorized third party recipient and provide a written
18 request accompanied by his secure password. After the implementa-
19 tion of a security freeze, a consumer credit reporting agency shall
20 not make material changes to a consumer credit report without
21 sending written confirmation of the change to the consumer within
22 30 days of the change. In cases where a security freeze is placed on a
23 consumer's credit report, a consumer credit reporting agency may
24 respond to inquiries for a report by stating that the consumer has
25 limited access to his report for security reasons. The consumer
26 reporting agency shall further advise the third party to contact the
27 subject consumer for authorization to access the information. If the
28 consumer does not allow his or her credit report to be accessed for
29 that specific party or period of time, the third party may treat the
30 application as incomplete. The provisions of this section shall not
31 apply to the following inquiries or request for access to a credit
32 report that is subject to a security freeze:—

33 (1) inquiries by preexisting account, contract, or debtor-creditor
34 relationships for the purposes of reviewing the account, including
35 activities related to account maintenance, monitoring, credit line

36 increases, and account upgrades and enhancements, or collecting the
37 financial obligation owing for the account, contract, or debt;

38 (2) access ordered by a court of competent jurisdiction through
39 court order, warrant, or subpoena;

40 (3) access by authorized law enforcement officers for the purpose
41 of investigating allegations of identity theft or unauthorized use of
42 credit;

43 (4) access by an authorized state agency to ensure compliance
44 with the laws and regulations of the Commonwealth or to fulfill any
45 of its other statutory responsibilities;

46 (5) access as required by the federal Fair Credit Reporting Act;

47 (6) access by a credit file monitoring subscription service to
48 which the consumer has subscribed; or

49 (7) access for the purpose of compliance with the provisions of
50 this chapter. A consumer credit reporting agency may charge a rea-
51 sonable fee for establishing a security freeze on a consumer report
52 but in no case shall such fee exceed 20 dollars for an initial security
53 freeze and five dollars for each temporary lift for a specified period
54 or time or for a specific third party. The Director of the Office of
55 Consumer Affairs and Business Regulations may promulgate regula-
56 tions for the implementation of this section. In addition to any other
57 rights the consumer may have under this section, every consumer
58 credit reporting agency, after being contacted by telephone, mail, or
59 in person by any consumer who has reason to believe he or she may
60 be a victim of identity theft, shall promptly provide to that consumer
61 a statement, written in a clear and conspicuous manner, describing
62 the statutory rights of victims to establish a security alert or freeze
63 on his report.