

SENATE NO. 1010

AN ACT TO PROMOTE FAIR EMPLOYMENT AND SECURITY IN THE COMMONWEALTH

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 149 of the General Laws is hereby amended by inserting after section
2 19(c) the following new section:
3 “19(d): Whoever utilizes in any way a false identification document for the purposes of
4 soliciting, securing, or maintaining employment from a public employer as defined in section 1
5 of chapter 30C shall be punished by a fine of not more than five thousand dollars or by
6 imprisonment in the state prison for not more than five years or in a jail or house of correction
7 for not more than two years.”

8 SECTION 2. Section 24B of chapter 90 of the general laws is hereby amended by adding, after
9 the first paragraph, the following:-
10 “ Whoever falsely makes, steals, alters, forges or counterfeits a learner’s permit, a license
11 to operate motor vehicles or an identification card issued under section 8E with the intent to
12 distribute such learner’s permit, license to operate motor vehicles or identification card or
13 assists another to do so shall be punished as follows:

- 14 - For the above acts involving 1 to 5 documents, by a fine of not more than \$5,000 or
15 by imprisonment in state prison for not more than 7 years or in a house of correction
16 for not more than five years, or both;
- 17 - For acts involving 5 to 10 documents, by a fine of not more than \$10,000 or by
18 imprisonment in state prison for not more than 10 years or in a house of correction
19 for not more than 8 years, or both;
- 20 - For acts involving more than 10 documents, by a fine of not more than \$100,000 or
21 by imprisonment in state prison for not more than 20 years or for not more than 15
22 years in a house of correction, or both.”

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

25 “Chapter 30C. PUBLIC CONTRACT INTEGRITY

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

27 “public employer”: any department, agency, or public instrumentality of the commonwealth and
28 any person, corporation, partnership, sole proprietorship, joint venture, or other business entity
29 providing goods or services to any department, agency or public instrumentality of the
30 commonwealth, including but not limited to the Massachusetts Turnpike Authority,
31 Massachusetts Water Resources Authority, Massachusetts Port Authority, and the
32 Massachusetts Bay Transportation Authority.

33 “Work authorization program”: any of the electronic verification of work authorization
34 programs operated by the United States Department of Homeland Security or any equivalent
35 work authorization program operated by the United States Department of Homeland Security,
36 the United States Department of Labor, the Social Security Administration, other federal

37 agency, or any private verification system authorized by the director of the department of labor
38 to verify information of newly hired employees, pursuant to the Immigration Reform and
39 Control Act of 1986 (IRCA) and its progeny.

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

44 Section 3. No contractor or subcontractor who enters a contract with a public employer shall
45 enter into such a contract or subcontract in connection with the provision of goods or services in
46 the commonwealth unless the contractor or subcontractor registers and participates in a work
47 authorization program to verify information of all employees and certifies to that effect in
48 writing to the director of the department of labor.

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

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

52 (B) On or after September 1, 2008, with respect to public employers, contractors, or
53 subcontractors of 100 or more employees; and

54 (C) On or after September 1, 2009, with respect to all public employers, contractors, or
55 subcontractors.

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

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

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

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

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

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

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

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

84 SECTION 5. Chapter 149 of the General Laws, as appearing in the 2002 Official Edition, is
85 hereby amended in Section 2 by adding the following at the end thereof:

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

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

92 ”The attorney general shall make available to the residents of the commonwealth a 24-hour
93 toll-free hotline which may be used for reporting any suspected violations of the provisions
94 of this chapter, including sections 19c and 26, relative to immigration status and wage laws,
95 or of 8 U.S.C. 1324a, relative to the unlawful employment of unauthorized aliens. Calls to
96 the hotline shall be treated confidentially, and callers shall have the option of reporting any
97 violations anonymously. All complaints, whether received through the hotline, in writing,
98 electronically, or in any other form, shall be recorded and documented by the attorney
99 general and shall immediately refer any violations of federal law, including but not limited
100 to 8 U.S.C. 1324a, to the attorney general of the United States and shall investigate all
101 alleged violations of state law as authorized by the general laws. The attorney general shall
102 annually prepare a year-end report detailing all reported violations of sections 19C and 26 of

103 this chapter and of 8 U.S.C. 1324a, the nature of said violations, the date on which each
104 complaint was received and documented, any enforcement action taken against an employer
105 who knowingly employs illegal aliens in the commonwealth, and any violations of federal
106 law forwarded to the attorney general of the United States. Said report shall be submitted to
107 the house and senate committees on ways and means and to the joint committee on labor
108 and workforce development on or before February 1 of each year.

109 SECTION 7. Notwithstanding any general or special law to the contrary, the Attorney General
110 is hereby authorized and directed to facilitate and enter into a memorandum of understanding
111 with the Attorney General of the United States, pursuant to the provisions of 8 U.S.C. 1357(g),
112 for the purpose of enforcing state and federal laws pertaining to immigration and citizenship,
113 not later than eight months following the passage of this act.

114 SECTION 8. Notwithstanding any general or special law to the contrary, when any person
115 charged with a felony or with driving under the influence pursuant to section 24 of chapter 90 of
116 the general laws is confined, for any period, in any correctional institution or prison in the
117 commonwealth, the commissioner of the department of corrections, the county sheriff, or the
118 municipal police chief or other officer shall make a reasonable effort to verify that the prisoner
119 has been lawfully admitted to the United States and if lawfully admitted, that such lawful status
120 has not expired. If verification of lawful status can not be made from documents in the
121 possession of the prisoner, verification shall be made within 48 hours through a query to the
122 Law Enforcement Support Center (LESC) of the United States Department of Homeland
123 Security or other office or agency designated for that purpose by the United States Department
124 of Homeland Security. If the prisoner is determined not to be lawfully admitted to the United

125 States the commissioner of the department of corrections, the county sheriff, the municipal
126 police chief or an other officer shall notify the United States Department of Homeland Security.

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

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

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

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

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

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