

HOUSE No. 03549

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel K. Webster

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 relative to public benefits .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Daniel K. Webster</i>	<i>6th Plymouth</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Marc Lombardo</i>	<i>22nd Middlesex</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>James Lyons, Jr.</i>	<i>18th Essex</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Peter Durant</i>	<i>6th Worcester</i>

HOUSE No. 03549

By Mr. Webster of Pembroke, a petition (accompanied by bill, House, No. 3549) of Daniel K. Webster and others for legislation to further regulate the disposition of public benefits and providing for the implementation of a security and immigration compliance law. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to public benefits .

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. This act shall be known and may be cited as the "Massachusetts Security and
2 Immigration Compliance Act."

3 SECTION 2. The General Laws, as appearing in the 2006 Official Edition, are hereby amended
4 by inserting after chapter 117A the following new chapter:--

5 Chapter 117B

6 Restrictions on Public Benefits

7 Section 1. Definitions.

8 As used in this chapter the following terms shall have the following meanings unless the conte xt
9 clearly requires otherwise:-

10 “Emergency Medical Condition,” the same meaning as provided in section 1396b (v) (3) of Title
11 42 of the United States Code.

12 “Federal Public Benefits,” the same meaning as provided in section 1611 of Title 8 of the United
13 States Code.

14 “State Public Benefits,” the same meaning as provided in section 1621 of Title 8 of the United
15 States Code .

16 Section 2. (a) Except as otherwise provided in subsection (3) of this section or where exempted
17 by federal law, on and after January 1, 2012, each agency or political subdivision of the
18 commonwealth shall verify the lawful presence in the United States of every natural person
19 eighteen years of age or older who applies for state public benefits or for federal public benefits
20 which are for the benefit of the applicant.

21 (b) This section shall be enforced without regard to race, religion, gender, ethnicity, or national
22 origin.

23 (c) Verification of lawful presences in the United States shall not be required:

24 For any purpose for which lawful presence in the United States is not required by law,
25 ordinance, or rule;

26 For obtaining health care items and services that are necessary for the treatment of an emergency
27 medical condition of the person involved and are not related to an organ transplant procedure;

28 For short-term, non-cash, in-kind emergency disaster relief;

29 For public health assistance for immunization with respect to diseases and for testing and
30 treatment of symptoms of communicable diseases;

31 For programs, services, or assistance, such as soup kitchens, crisis counseling and intervention,
32 and short-term shelter specified by Federal laws or regulations that:

33 Deliver in-kind services at the community level, including services through public or private
34 nonprofit agencies;

35 Do not condition the provision of assistance, the amount of assistance provided, or the cost of
36 assistance provided on the individual recipient's income or resources; and

37 Are necessary for the protection of life or safety or;

38 For parental care.

39 (d) An agency or a political subdivision shall verify the lawful presence in the United States of
40 each applicant eighteen years of age or older for federal public benefits or state public benefits
41 by requiring the applicant to:

42 (1) Produce:

43 A valid Massachusetts driver license or a Massachusetts identification card, issued pursuant to
44 section 8 of chapter 90 of the General Laws, and 540 Code of Massachusetts Regulation (CMR)
45 2.06 (3) (b);

46 A United States military card or military dependent's identification card; or

47 A United States Coast Guard Merchant Mariner card; or

48 A Native American tribal document.

49 (2) If such documentation as required in subparagraph (1) of subsection (d) of this
50 section cannot be lawfully produced, execute a notarized affidavit stating:

51 That he or she is a United States citizen or legal permanent resident; or

52 That he or she is otherwise lawfully present in the United States pursuant to federal law.

53 (e) Notwithstanding the requirements of subparagraph (1) of subsection (d) of this section, the
54 Commissioner of the Department of Revenue may issue emergency rule, to be effective until
55 July 1, 2008 , providing for additional forms of identification or a waiver process to ensure that
56 an individual seeking benefits pursuant to this section proves lawful presence in the United
57 States. This subsection and all emergency rules authorized hereunder shall cease to be effective
58 as of July 1, 2008.

59 (f) A person who knowingly makes a false, fictitious, or fraudulent statement or representation in
60 an affidavit executed pursuant to subsection (4) of this section shall pay a fine of not less than
61 \$1,000 and not more than \$5,000, or shall be sentenced to serve not less than 6 months nor more
62 than 1 year in the House of Corrections. Each time that a person receives a public benefit based
63 upon such a statement or representation they make shall constitute a separate violation of this
64 section.

65 (g) (1) For an applicant who has executed an affidavit stating that he or she is an alien lawfully
66 present in the United States, verification of lawful presence for federal public benefits or state or
67 local public benefits shall be made through the Federal Systematic Alien Verification for
68 Entitlement program, referred to in this section as the “SAVE program”, operated by the United

69 States Department of Homeland Security. Until such verification of lawful presence is made, the
70 affidavit may be presumed to be proof of lawful presence for purposes of this section.

71 (2) The secretary of each executive office of the commonwealth shall promulgate regulations to
72 ensure that each agency or political subdivision has access to the SAVE program by way of the
73 executive office under which it is organized. Each executive office shall be responsible for the
74 verification through the SAVE program of all its sub agencies. Each executive office shall enter
75 into a memorandum of understanding or any other requirement pursuant to the SAFE program in
76 order to streamline the verification process. Each executive office shall keep account of all
77 applications submitted through its subdivisions and transfer back to its subdivisions any costs on
78 an annual basis.

79 (h) Agencies or political subdivisions of the commonwealth may adopt variations of the
80 requirements of paragraph (b) of subsection (4) of this section to improve efficiency or reduce
81 delay in the verification process or to provide for adjudication of unique individuals
82 circumstances in which the verification procedures in the section would impose unusual hardship
83 on a legal resident of the commonwealth; provided, that the variations shall be no less stringent
84 than the requirements of this section, including provisions to timely execute notarized affidavits.

85 (i) It shall be unlawful for an agency or political subdivision of the commonwealth to provide a
86 federal public benefit or state or local public benefit in violation of this section. Each agency or
87 department that administers a program that provides state or local public benefits shall provide
88 an annual report with respect to its compliance with this section to the auditor and to the House
89 and Senate chairs of the joint committee on state administration and regulatory oversight.

90 (j) Errors and significant delays by the SAVE program shall be reported to the United States
91 Department of Homeland Security which monitors the SAVE program and its verification
92 application errors and significant delays and report yearly on such errors and delays, to ensure
93 that the application of the SAVE program is not wrongfully denying benefits to legal residents of
94 the State.

95 SECTION 3. If any provision of this act or the application thereof to any person or circumstance
96 is held by any court to be unconstitutional or otherwise invalid, such invalidity shall not affect
97 other provisions or applications of this act that can be given effect without the invalid provision
98 or application, and to this end the provisions of the section are declared to be severable.