

# **HOUSE . . . . . No. 4172**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, November 6, 2019.

The committee on Labor and Workforce Development, to whom was referred the petition (accompanied by bill, House, No. 1662) of Paul W. Mark and others relative to unemployment compensation and labor disputes, reports recommending that the accompanying bill (House, No. 4172) ought to pass.

For the committee,

PAUL BRODEUR.

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The Commonwealth of Massachusetts

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
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An Act relative to unemployment compensation and labor disputes.

*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 25 of Chapter 151A of the General Laws, as appearing in the 2018 Official  
2 Edition, is hereby amended by striking out section (b) and inserting in place thereof the  
3 following:-

4                   (b) Any week with respect to which the commissioner finds that his  
5 unemployment is due to a stoppage of work which exists because of a labor dispute at the  
6 factory, establishment or other premises at which he was last employed for a period of 30 days  
7 following the commencement of the unemployment caused by the labor dispute, except that the  
8 period without benefits shall not apply if the employer hires a permanent replacement worker for  
9 the claimant's position. A replacement worker shall be presumed to be permanent unless the  
10 employer certifies in writing that the claimant will be permitted to return to their prior position  
11 upon conclusion of the dispute. If the employer does not permit the return, the claimant shall be  
12 entitled to recover any benefits lost as a result of the 30 day waiting period before receiving  
13 benefits; however, no waiting period or disqualification under this subsection (b) shall apply if  
14 the labor dispute is caused by the failure or refusal of the employer to comply with an agreement

15 or contract between the employer and the claimant, including a collective bargaining agreement  
16 with a union representing the claimant, or a state or federal law pertaining to hours, wages, or  
17 conditions of work; provided, however, that nothing in this subsection shall be construed so as to  
18 deny benefits to an otherwise eligible individual (1) who becomes involuntarily unemployed  
19 during the period of the negotiation of a collective bargaining contract, in which case the  
20 individual shall receive benefits for the period of his unemployment but in no event beyond the  
21 date of the commencement of a strike; or (2) who is not recalled to work within one week  
22 following the termination of the labor dispute; and provided, further, that this subsection shall  
23 not apply if it is shown to the satisfaction of the commissioner that:

24 (1) The employee is not participating in or financing or directly interested in the labor  
25 dispute which caused the stoppage of work; and that

26 (2) The employee does not belong to a grade or class of workers of which, immediately  
27 before the commencement of the stoppage, there were members employed at the premises at  
28 which the stoppage occurs, any of whom are participating in or financing or directly interested in  
29 the dispute, except that an individual for whom no work is available and who is not a member of  
30 or eligible to membership in the group or organization which caused the stoppage, shall not be  
31 considered as belonging to the same grade or class of workers as those who are responsible for  
32 the stoppage of work; provided, further, that if, in any case, separate branches of work which are  
33 commonly conducted as separate businesses in separate premises are conducted in separate  
34 departments of the same premises, each such department may, for the purposes of this  
35 subsection, be deemed a separate factory, establishment or other premises.

36 (3) For the purposes of this chapter, the payment of regular union dues or assessments  
37 shall not be construed as participating in or financing or being directly interested in a labor  
38 dispute.

39 (4) The individual has, subsequent to his unemployment because of a labor dispute,  
40 obtained employment, and has been paid wages of not less than the amount specified in clause  
41 (a) of section twenty-four; provided, however, that during the existence of such labor dispute the  
42 wages of such individual used for the determination of his benefit rights shall not include any  
43 wages such individual earned from the employer involved in such labor dispute.

44 In addition to the foregoing, an employee shall not be denied benefits as the result of an  
45 employer's lockout, whether or not there is a stoppage of work, if such employees are ready,  
46 willing and able to work under the terms and conditions of the existing or expired contract  
47 pending the negotiation of a new contract unless the employer shows by a preponderance of  
48 evidence that the lockout is in response to: (a) acts of repeated and substantial damage to the  
49 employer's property, or (b) repeated threats of imminent, substantial damage; provided, however,  
50 that such damage or threats of damage are caused or directed by members of the bargaining unit  
51 with the express or implied approval of the officers of such unit, and the employer has taken all  
52 reasonable measures to prevent such damage to property and such efforts have been  
53 unsuccessful.

54 A lockout, as used in this subsection, shall exist whether or not such action is to obtain  
55 for the employer more advantageous terms when an employer fails to provide employment to his  
56 employees with whom he is engaged in a labor dispute, either by physically closing his plant or  
57 informing his employees that there will be no work until the labor dispute has terminated.