

HOUSE No. 1662

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark and Lindsay N. Sabadosa

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 adoption of the accompanying bill:

An Act relative to unemployment compensation and labor disputes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>1/16/2019</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>1/31/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/30/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/1/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>2/1/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/1/2019</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>2/1/2019</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>1/31/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/1/2019</i>

HOUSE No. 1662

By Representatives Mark of Peru and Sabadosa of Northampton, a petition (accompanied by bill, House, No. 1662) of Paul W. Mark and others relative to unemployment compensation and labor disputes. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

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 Chapter 151A of the General Laws is hereby amended in Section 25 by replacing (b)
2 thereof with the following-

3
4 (b) Any week with respect to which the commissioner finds that his unemployment is due
5 to a stoppage of work which exists because of a labor dispute at the factory, establishment or
6 other premises at which he was last employed for a period of 30 days following the
7 commencement of the unemployment caused by the labor dispute, except that the period without
8 benefits shall not apply if the employer hires a permanent replacement worker for the claimant's
9 position. A replacement worker shall be presumed to be permanent unless the employer certifies
10 in writing that the claimant will be permitted to return to their prior position upon conclusion of
11 the dispute. If the employer does not permit the return, the claimant shall be entitled to recover
12 any benefits lost as a result of the 30 day waiting period before receiving benefits; however, no

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

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

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

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

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

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

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