

SENATE No. 1191

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

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:	
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	
<i>Peter Capano</i>	<i>11th Essex</i>	<i>2/25/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>4/1/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>4/15/2021</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>5/14/2021</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>5/14/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>5/14/2021</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>5/18/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>5/28/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>6/23/2021</i>
<i>Adam J. Scanlon</i>	<i>14th Bristol</i>	<i>7/1/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>7/28/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>2/2/2022</i>

SENATE No. 1191

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 1191) of Paul R. Feeney, Paul W. Mark, Peter Capano and Maria Duaine Robinson for legislation relative to unemployment compensation and labor disputes. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1662 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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