

SENATE No. 2817

The Commonwealth of Massachusetts

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

SENATE, April 7, 2022.

The committee on Labor and Workforce Development to whom was referred the 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, reports recommending that the accompanying bill (Senate, No. 2817).

For the committee,
Patricia D. Jehlen

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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. If the employer
8 does not permit their return, the claimant shall be entitled to recover any benefits lost as a result
9 of the 30 day waiting period before receiving benefits; however, no waiting period or
10 disqualification under this subsection (b) shall apply if the labor dispute is caused by the failure
11 or refusal of the employer to comply with an agreement or contract between the employer and
12 the claimant, including a collective bargaining agreement with a union representing the claimant,
13 or a state or federal law pertaining to hours, wages, or conditions of work; provided, however,
14 that nothing in this subsection shall be construed so as to deny benefits to an otherwise eligible

15 individual (1) who becomes involuntarily unemployed during the period of the negotiation of a
16 collective bargaining contract, in which case the individual shall receive benefits for the period
17 of his unemployment but in no event beyond the date of the commencement of a strike; or (2)
18 who is not recalled to work within one week following the termination of the labor dispute; and
19 provided, further, that this subsection shall not apply if it is shown to the satisfaction of the
20 commissioner that:

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

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

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

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

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

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