

# HOUSE . . . . No. 2234

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, June 2, 1947.

The committee on Labor and Industries, to whom was referred the message from His Excellency the Governor submitting a report of a committee appointed by him for the purpose of recommending such changes in existing laws as will narrow the area and limit the damaging effects of industrial disputes (House, No. 1875, App. C), report (in part) the accompanying bill (House, No. 2234).

For the committee,

FRANCIS A. HARDING.

[Senator WHITE and Representatives CAMERON of Amesbury, POTHIER of Haverhill, VIOLETTE of Fitchburg and CASEY of Lawrence, dissenting.]

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Seven.

AN ACT PROVIDING FOR THE PEACEFUL SETTLEMENT OF INDUSTRIAL DISPUTES DANGEROUS TO THE PUBLIC HEALTH AND SAFETY.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 The General Laws are hereby amended by insert-  
2 ing after chapter 150A the following new chapter: —

3 CHAPTER 150B.

4 PEACEFUL SETTLEMENT OF INDUSTRIAL DISPUTES  
5 DANGEROUS TO PUBLIC HEALTH AND SAFETY.

6 *Section 1. Findings and Declaration of Policy.* —

7 The General Court hereby finds —

8 That the distribution of food, fuel, water, electric  
9 light and power, gas, and hospital and medical serv-  
10 ices is essential to the public health and safety and  
11 that the settlement of industrial disputes which  
12 threaten substantial interruption of such distribu-  
13 tion is therefore affected with a public interest; that  
14 the adjustment of differences concerning wages,  
15 hours and other terms and conditions of employ-  
16 ment which might lead to such disputes can best be  
17 accomplished by encouraging collective bargaining  
18 between employers and representatives freely desig-

19 nated or selected by their employees; but that the  
20 intervention of government is necessary to protect  
21 the public health and safety whenever an industrial  
22 dispute which has not been settled by collective bar-  
23 gaining threatens an immediate and substantial in-  
24 terruption in the production or distribution of food,  
25 fuel, water, electric light or power, gas, or hospital  
26 or medical services which would dangerously curtail  
27 their availability in any community.

28 It is therefore declared to be the policy of the  
29 commonwealth (a) to place primary responsibility  
30 upon the employers and representatives freely des-  
31 igned or selected by employees for the avoidance  
32 of any interruption in the production or distribution  
33 of food, fuel, water, electric light and power, gas, or  
34 hospital or medical services resulting from differ-  
35 ences concerning wages, hours and other terms and  
36 conditions of employment and (b) in the event that  
37 a peaceful adjustment of such differences is not  
38 accomplished by collective bargaining, to provide pro-  
39 cedures for government intervention and the estab-  
40 lishment of wages, hours and other terms and con-  
41 ditions of employment without any interruption  
42 in the production or distribution of such goods or  
43 services which would dangerously curtail their avail-  
44 ability in any community.

45 *Section 2.* When used in this act —

46 “Person” includes one or more individuals, part-  
47 nerships, associations, corporations, legal representa-  
48 tives, trustees, trustees in bankruptcy, or receivers.

49 “Employer” includes any person acting in the  
50 interest of an employer, directly or indirectly, but  
51 shall not include the commonwealth or any political  
52 subdivision thereof, or any labor organization (other

53 than when acting as an employer), or any one acting  
54 in the capacity of officer or agent of such labor  
55 organization.

56 "Employee" shall include any employee, and  
57 shall not be limited to the employees of a particular  
58 employer, and shall include any individual whose  
59 work has ceased as a consequence of, or in connec-  
60 tion with, any current labor dispute, and who has  
61 not obtained any other regular and substantially  
62 equivalent employment.

63 "Representative of employees" means any person  
64 or labor organization designated or selected for the  
65 purpose of collective bargaining by a majority of  
66 the employees in a unit appropriate for such pur-  
67 poses.

68 "Labor dispute" includes any controversy con-  
69 cerning rates of pay, wages, hours or terms, tenure  
70 or conditions of employment, or concerning the asso-  
71 ciation or representation of persons in negotiating,  
72 fixing, maintaining, changing, or seeking to arrange  
73 terms or conditions of employment, regardless of  
74 whether the disputants stand in the proximate rela-  
75 tion of employer and employee.

76 "Essential goods or services" means food, fuel,  
77 water, electric light or power, gas, and hospital or  
78 medical services.

79 "Production" includes production, manufacture,  
80 mining, handling, transporting, or in any other man-  
81 ner working on, and shall also include any process or  
82 occupation necessary to such production.

83 "Distribution" includes distributing, transport-  
84 ing, handling, storing, selling at wholesale or retail,  
85 or furnishing and shall also include any process or  
86 occupation necessary to such distribution.

87 *Section 3.* In the event that the commissioner of  
88 labor and industries finds that a labor dispute has  
89 not been settled by collective bargaining and immi-  
90 nently threatens a substantial interruption in the  
91 production or distribution of essential goods or  
92 services, he shall certify such dispute to the gover-  
93 nor. If the governor, after such investigation of  
94 the certified dispute as he deems appropriate, finds  
95 and proclaims that the interruption is imminent  
96 and would curtail the availability of essential goods  
97 or services to such an extent as to endanger the  
98 health or safety of any community and that the  
99 intervention of government will be in the public  
100 interest and in accordance with the policy of this  
101 chapter, then he is authorized to invoke either or  
102 both of the following procedures for the settlement  
103 of the dispute: —

104 (A) The governor may require the employer  
105 and representatives of the employees, parties to  
106 the dispute, to appear before a moderator appointed  
107 by him and show cause why they should not sub-  
108 mit the dispute to arbitration. The moderator  
109 shall be an impartial person skilled in industrial  
110 relations and shall serve without compensation.  
111 The moderator shall not review the merits of the  
112 dispute but shall endeavor to induce the parties  
113 to submit the dispute to arbitration in such a form  
114 as may be mutually acceptable, and to this end he  
115 may conduct such investigation and public or pri-  
116 vate hearing as he deems appropriate. If either  
117 or both of the parties refuses to comply with the  
118 request of the moderator to submit the dispute to  
119 arbitration, the moderator shall find and make  
120 public the reasons for such refusal.

121 A submission to arbitration shall be arranged  
122 or the findings of the moderator published within  
123 fifteen days after the governor's proclamation or  
124 such additional period as may be mutually agreeable  
125 to the parties. For fifteen days after the governor's  
126 proclamation and any additional period mutually  
127 agreeable to the parties, no change shall be made,  
128 except by mutual agreement, in the rates of pay,  
129 wages, hours, or other terms or conditions of em-  
130 ployment in effect prior to the time the events giving  
131 rise to the dispute took place, and there shall be  
132 no interruption in the production or distribution of  
133 the essential goods or services produced or distributed  
134 by the parties to the dispute.

135 (B) The governor may request the parties volun-  
136 tarily to submit the dispute to a special emergency  
137 board of arbitration of three members appointed  
138 by the governor. The emergency board shall fix  
139 in its recommendations the date, prospective or  
140 retroactive, as of which its recommendations shall  
141 be made effective and in doing so shall consider  
142 evidence as to the responsibility of either party for  
143 delaying the settlement or rejecting arbitration.

144 The emergency board shall conduct its hearing  
145 and make and file its report with the governor  
146 within a period of thirty days after the submission  
147 of such dispute, unless the parties shall mutually  
148 agree to extend the period. Prior to the filing of  
149 the report of the emergency board and for thirty  
150 days thereafter, no change shall be made, except by  
151 mutual agreement of the parties, in the rates of pay,  
152 wages, hours or other terms or conditions of em-  
153 ployment in effect prior to the time the events giving  
154 rise to the dispute took place and there shall be no

155 interruption in the production or distribution of the  
156 essential goods or services produced or distributed  
157 by the parties to the dispute.

158 *Section 4.* (a) Whenever the governor finds that  
159 as a result of a labor dispute an interruption of pro-  
160 duction or distribution has occurred or is imminently  
161 threatened which would curtail the availability of  
162 essential goods or services to such an extent as to en-  
163 danger the health or safety of any community and  
164 that such dispute either (a) has not been settled  
165 under the procedures established by section three or  
166 (b) is of such a nature that those procedures cannot  
167 be applied thereto, he shall thereupon declare that  
168 an emergency exists in respect to such essential goods  
169 or services. During such emergency the governor  
170 may —

171 (A) Enter into arrangements with either or both  
172 of the parties to the dispute for continuing the pro-  
173 duction or distribution of such part of the goods or  
174 services theretofore produced or distributed by them  
175 as may be necessary to safeguard the public health  
176 and safety. The governor with the approval of the  
177 council may make and promulgate rules and regula-  
178 tions, to be effective immediately, for carrying out  
179 such arrangements and preventing interference  
180 therewith.

181 (B) (1) Take possession of any plant or facility of  
182 a party to the dispute the operation of which by the  
183 commonwealth he deems to be necessary, as a result  
184 of such dispute, in order to safeguard the public  
185 health or safety. Such power and authority may be  
186 exercised through any department or agency of the  
187 commonwealth and with the assistance of such public  
188 or private instrumentalities or persons as may be

189 designated by the governor. Such plant or facility  
190 shall be operated for the account of the person  
191 operating it immediately prior to the seizure; pro-  
192 vided, however, that such person shall have the  
193 right to elect, by written notice filed with the gover-  
194 nor within ten days after such seizure, to waive all  
195 claims to the proceeds of such operation, and to  
196 receive in lieu thereof fair and reasonable compen-  
197 sation for the appropriation and use of his property,  
198 for which he may bring a petition for damages  
199 against the commonwealth under chapter two hun-  
200 dred and fifty-eight. In determining the amount of  
201 compensation to be awarded in such proceedings  
202 under chapter two hundred and fifty-eight, there  
203 shall be taken into account the existence of the labor  
204 dispute which interrupted or threatened imminently  
205 to interrupt the private operation of such plant or  
206 facility, and the effect of such interruption or  
207 threatened interruption upon the value to the peti-  
208 tioner of the use of such plant or facility.

209 (2) The declaration of emergency or the seizure  
210 and operation of a plant or facility by the common-  
211 wealth shall not render inapplicable any state or  
212 federal law concerning the health, safety, security  
213 and employment standards, and the department or  
214 agency operating such plant or facility shall comply  
215 with said laws as if it were privately operated. Dur-  
216 ing such emergency the rates of pay, wages, hours and  
217 other terms and conditions of employment thereto-  
218 fore effective shall be maintained without change;  
219 provided, that if an emergency board of arbitration  
220 shall have been appointed and shall have recom-  
221 mended changes in rates of pay, wages, hours or  
222 other terms or conditions of employment, such

223 changes may, in the discretion of the governor, be  
224 made effective in any plant which is being operated  
225 by the commonwealth; and provided further, that  
226 when no emergency board has been appointed, the  
227 governor may appoint a special board of three arbi-  
228 trators which shall, after a hearing, make recom-  
229 mendations concerning the rates of pay, wages,  
230 hours and terms and conditions of employment for  
231 the period of public operation, which recommenda-  
232 tions may, in the discretion of the governor, be made  
233 effective in such plant or facility during said period.

234 (3) In the case of a labor dispute between or among  
235 parties to a valid and existing collective bargaining  
236 agreement, the authority of any special board of  
237 arbitration appointed under this section shall be  
238 limited, with respect to the unexpired period of such  
239 agreement, to the determination of grievances as-  
240 serted thereunder, and the making of recommenda-  
241 tions or determinations concerning the proper inter-  
242 pretation and application of the provisions of such  
243 agreement. Recommendations which may be made  
244 by such a board in excess of its authority as herein  
245 limited shall not be made effective during the period  
246 of public operation.

247 (b) During such emergency it shall be unlawful  
248 for any person to engage in any concerted cessation  
249 of work or other concerted activities interfering or  
250 threatening to interfere with the operation of any  
251 plant or facility which is being operated by the com-  
252 monwealth for the purpose of bringing about any  
253 change in rates of pay, wages, hours or terms or  
254 conditions of employment; or to aid or encourage  
255 any such concerted cessation of work or other con-  
256 certed activities by giving direction or guidance in

257 the conduct thereof or by providing funds for the  
258 payment of strike, unemployment, or other benefits  
259 to persons participating therein; or to violate any  
260 rule or regulation promulgated by the governor with  
261 the approval of the council under paragraph (A).  
262 Nothing in this chapter shall be construed as re-  
263 quiring any individual employee to render labor or  
264 service without his consent.

265 (c) Whenever the parties to a labor dispute which  
266 has led the governor to proclaim the existence of an  
267 emergency under this section shall jointly satisfy  
268 the governor that they are in a position to resume  
269 or continue without interruption the operation of  
270 any plant or facility for the production or distribu-  
271 tion of essential goods or services the governor shall  
272 terminate forthwith with respect to such plant or  
273 facility any arrangements made pursuant to para-  
274 graph (A) and if such plant or facility is being  
275 operated by the commonwealth, it shall be restored  
276 immediately to the person entitled thereto.

277 (d) Whenever, in the opinion of the governor,  
278 the intervention of the commonwealth under this  
279 section is no longer necessary to safeguard the public  
280 health or safety, he shall declare the termination of  
281 the emergency without regard to the settlement or  
282 continuation of the labor dispute.

283 *Section 5.* (a) No person (other than the com-  
284 monwealth as provided in subsection (b)), shall be  
285 entitled to legal or equitable relief in any court of the  
286 commonwealth as a result of a violation of any pro-  
287 vision of this act.

288 (b) The superior court in a suit by the common-  
289 wealth shall have jurisdiction to restrain and enjoin  
290 violations of this chapter and such jurisdiction shall

291 not be limited by the provisions concerning labor  
292 disputes contained in section twenty C of chapter  
293 one hundred and forty-nine, sections one, nine and  
294 nine A of chapter two hundred and fourteen, and  
295 sections thirteen A and thirteen B of chapter two  
296 hundred and twenty; provided, that such suits shall  
297 be brought by direction of the governor and not  
298 otherwise.

299 *Section 6.* If any provision of this chapter or the  
300 application of such provision to any person or cir-  
301 cumstance shall be held invalid, the remainder of  
302 this chapter, or the application of such provision to  
303 persons or circumstances other than those as to which  
304 it is held invalid, shall not be affected thereby.

