

# HOUSE . . . . No. 2259

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, June 9, 1949.

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. B), report (in part) the accompanying bill (House, No. 2259).

For the committee,

CLARENCE TELFORD.

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

## The Commonwealth of Massachusetts

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

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### AN ACT AMENDING THE STATE LABOR RELATIONS ACT.

*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 1. Section 4 of chapter 150A of the Gen-  
2 eral Laws, as inserted by section 2 of chapter 345 of  
3 the acts of 1938, is hereby amended by striking out  
4 subsection (3) thereof, and inserting in place thereof  
5 the following: —

6 (3) By discrimination in regard to hire or tenure of  
7 employment or any term or condition of employment,  
8 to encourage or discourage membership in any labor  
9 organization; provided, that nothing in this chapter  
10 shall preclude an employer from making and carrying  
11 out, except as provided in subsection six hereof, an  
12 agreement with a labor organization (not established,  
13 maintained or assisted by any action defined in this  
14 chapter as an unfair labor practice) to require as a  
15 condition of employment membership therein, if such  
16 labor organization is the representative of the em-  
17 ployees as provided in subsection (a) of section five  
18 in the appropriate collective bargaining unit covered  
19 by such agreement then made, but no such agreement  
20 shall be deemed to apply to any employee who is not  
21 eligible for full membership and voting rights in such  
22 labor organization.

1 SECTION 2. Said section 4 is hereby further  
2 amended by adding at the end thereof the following  
3 new subsection: —

4 (6) To discharge or otherwise discriminate against  
5 any employee because he is not a member in good  
6 standing of a labor organization with whom the em-  
7 ployer has made an agreement to require as a condi-  
8 tion of employment membership therein, unless

9 (A) Such labor organization shall have certified to  
10 the employer that such employee —

11 (1) Was denied admission to, or deprived of, mem-  
12 bership in good standing as a result of a bona fide  
13 occupational disqualification or the administration of  
14 discipline; and

15 (2) Has exhausted the remedies available to him  
16 within the labor organization including any right of  
17 appeal permitted by its constitution or by-laws; and

18 (B) Such employee shall have exhausted the reme-  
19 dies available to him under section six A and six B  
20 of this chapter.

1 SECTION 3. Said chapter 150A is hereby further  
2 amended by striking out section 4A and inserting in  
3 place thereof the following two sections: —

4 *Section 4A.* It shall be an unfair labor practice for  
5 any person or labor organization —

6 (1) To seize or occupy unlawfully private property  
7 as a means of forcing settlement of a labor dispute; or

8 (2) To authorize or engage in any strike, slowdown,  
9 boycott or other concerted cessation of work or with-  
10 holding of patronage for the purpose of —

11 (a) Bringing about, directly or indirectly, the com-  
12 mission of any unfair labor practice, or

13 (b) Injuring or interfering with the trade or business

14 of any person because such person has refused to  
15 commit an unfair labor practice; or

16 (c) Interfering with, restraining or coercing em-  
17 ployees in their choice or rejection of representatives  
18 for the purpose of collective bargaining after the com-  
19 mission has determined in a proceeding under section  
20 five that such employees do not desire to be repre-  
21 sented by such labor organization; or

22 (3) To aid in any such concerted activities by giving  
23 direction or guidance in the conduct thereof or by  
24 providing funds for the payment of strike, unemploy-  
25 ment or other benefits to persons participating therein.

26 *Section 4B.* It shall be an unfair labor practice for  
27 a labor organization to refuse to bargain collectively  
28 with any employer who has recognized it as the ex-  
29 clusive representative of employees in a unit appro-  
30 priate for the purposes of collective bargaining.

1 SECTION 4. Subsection (c) of section 5 of said  
2 chapter 150A is hereby amended by adding at the end  
3 thereof the following: — The commission may estab-  
4 lish such rules or regulations as it deems appropriate  
5 to effectuate the policies of this chapter for the filing  
6 of petitions for investigation and certification by em-  
7 ployers or employees or their representatives and shall  
8 include therein provision for the filing of a petition  
9 by an employer whenever it is alleged —

10 (1) That two or more labor organizations have pre-  
11 sented to the employer conflicting claims that each  
12 represents a majority of the employees in a bargaining  
13 unit or units claimed by them to be appropriate; or

14 (2) That a labor organization not theretofore recog-  
15 nized as the representative of a majority of the em-  
16 ployees in the bargaining unit claimed by it to be

17 appropriate has requested the employer to bargain  
18 with it as the exclusive representative of such em-  
19 ployees, or without such request is attempting to secure  
20 such recognition by strike, slowdown, boycott or other  
21 concerted cessation of work or withholding of pa-  
22 tronage.

1 SECTION 5. Subsection (a) of section 6 of said chap-  
2 ter 150A is hereby amended by striking out the words  
3 "section four" in line 3 and inserting in place thereof  
4 the words:— sections four, four A and four B, — so  
5 as to read as follows:— (a) The commission is em-  
6 powered, as hereinafter provided, to prevent any per-  
7 son from engaging in any unfair labor practice listed  
8 in sections four, four A and four B affecting industry  
9 and trade. This power shall be exclusive, and shall  
10 not be affected by any other means of adjustment or  
11 prevention that has been or may be established by  
12 agreement, code, law, or otherwise.

1 SECTION 6. Said chapter 150A is hereby further  
2 amended by inserting after section 6 the following  
3 three sections:—

4 *Section 6A.* Any employee who is required as a  
5 condition of employment to be a member in good  
6 standing of a labor organization may file with the  
7 commission a charge alleging (1) that, although eligible  
8 to membership he has been unfairly denied admission  
9 to, or unfairly suspended or expelled from member-  
10 ship in, such organization for reasons other than mal-  
11 feasance in office or non-payment of regular initiation  
12 fees, dues, or assessments and (2) that such labor  
13 organization has requested, or is about to request his  
14 employer to discharge or otherwise discriminate

15 against him because of his failure to maintain mem-  
16 bership in good standing in such organization; pro-  
17 vided, that such charge shall be filed not more than  
18 fifteen days after notice of such request has been given  
19 the employee by the labor organization. Upon filing  
20 of such charge, the commission shall have power to  
21 issue and cause to be served upon the labor organiza-  
22 tion a complaint stating the charge in that respect  
23 and containing a notice of hearing. The notice shall  
24 be given and the subsequent proceedings shall be  
25 conducted in the manner provided in section six. If  
26 upon all the evidence the commission shall determine  
27 that the employee was unfairly denied admission to  
28 membership in such organization, or that such dis-  
29 cipline —

30 (1) Was imposed by the labor organization in viola-  
31 tion of its constitution and bylaws; or

32 (2) Was imposed without a fair trial, including an  
33 adequate hearing and opportunity to defend; or

34 (3) Was not warranted by the offense, if any, com-  
35 mitted by the employee against the labor organiza-  
36 tion; or

37 (4) Is not consistent with the established public  
38 policy of the commonwealth, then the commission  
39 shall state its determinations and shall issue and cause  
40 to be served on the labor organization an order re-  
41 quiring it, in its discretion, either to admit or restore  
42 the employee to membership in good standing to-  
43 gether with full voting rights, or else to refrain from  
44 seeking to bring about any discrimination against  
45 him in his employment because he is not a member  
46 in good standing, and to return to him such union  
47 dues and assessments as may have been collected

48 from him during the period of his suspension or ex-  
49 pulsion from the union. If the commission shall not  
50 make such a determination after hearing, it shall  
51 enter an order dismissing the charge filed by the  
52 employee.

53 Nothing contained in this section or in section four  
54 shall be deemed to require a labor organization as a  
55 condition of making or enforcing a contract requiring  
56 membership therein as a condition of employment,  
57 to accord to non-participants in an insurance plan the  
58 right to vote on questions pertaining thereto or to  
59 grant local organizations voting rights in a convention  
60 proportionate to their membership.

61 *Section 6B.* Any person aggrieved by a final order  
62 of the commission under section six A granting or  
63 denying relief, may obtain a review of such order in  
64 the manner provided in section six.

65 *Section 6C.* During any disciplinary proceedings  
66 within a labor organization or any proceedings under  
67 sections six A and six B, the employee shall continue  
68 to pay the regular union dues and assessments.

1 SECTION 7. The first paragraph of section 7 of  
2 said chapter 150A is hereby amended by striking out  
3 the words "five and six" in line 4 and inserting in  
4 place thereof the words: — five, six, six A and six B, —  
5 so as to read as follows: — *Section 7.* For the purpose  
6 of all hearings and investigations which, in the opinion  
7 of the commission, are necessary and proper for the  
8 exercise of the powers vested in it by sections five,  
9 six, six A and six B.

1 SECTION 8. Section 9 of said chapter 150A is  
2 hereby amended by inserting, after the word "chap-

3 ter" in line 1 the words:—, except as provided in  
4 section four A, — so as to read as follows: *Section 9.*  
5 Nothing in this chapter, except as provided in section  
6 four A, shall be construed so as to interfere with or  
7 impede or diminish in any way the right to strike.

1 SECTION 9. Section 10 of said chapter 150A is  
2 hereby amended by striking out subsection (b) thereof,  
3 as most recently amended by chapter 354 of the acts  
4 of 1945, and inserting in place thereof the following:—  
5 (b) This chapter shall not be deemed applicable to  
6 any unfair labor practice involving employees who are  
7 subject to and protected by the federal railway labor  
8 act, or to any unfair labor practice governed exclu-  
9 sively by the national labor relations act or other fed-  
10 eral statute or regulations issued purusant thereto.