

SENATE No. 142

To accompany the petition of the Massachusetts State Federation of Labor, by Kenneth I. Taylor, secretary-treasurer, for legislation to further define the acts relative to peaceful persuasion and injunctions in labor disputes and to make impossible the emasculation and nullification of said acts and for certain other purposes. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Nine.

AN ACT TO FURTHER DEFINE THE ACTS RELATIVE TO PEACEFUL PERSUASION AND INJUNCTIONS IN LABOR DISPUTES AND TO MAKE IMPOSSIBLE THE EMASCULATION AND NULLIFICATION OF SAID ACTS AND FOR CERTAIN OTHER PURPOSES.

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. Chapter one hundred and forty-nine
2 of the General Laws is hereby amended by repealing
3 section twenty-four thereof and substituting the
4 following: —

5 *Section 24.* No person shall be punished crimi-
6 nally or held liable or answerable in any action at
7 law or suit in equity for giving publicity to and ob-
8 taining or communicating information regarding the
9 existence of, or the facts involved in any labor dispute
10 as defined in General Laws, chapter one hundred and
11 forty-nine, section twenty C or General Laws, chapter

12 one hundred and fifty A, section two, subsection
13 seven, whether by advertising, speaking, patrolling
14 any public street or place where any person or per-
15 sons may lawfully be, without intimidation or coer-
16 cion, or by any other method not involving fraud,
17 violence, or breach of the peace; nor shall any person
18 be punished criminally or held liable or answerable
19 in any action at law or suit in equity for persuading
20 or attempting to persuade, by printing or otherwise,
21 any other person to do anything, or to pursue any
22 line of conduct not unlawful or actionable or in viola-
23 tion of any marital or other legal duty, unless such
24 persuasion or attempt to persuade is accompanied by
25 injury or threat of injury to the person, property,
26 business or occupation of the person persuaded or
27 attempted to be persuaded, or by disorder on the part
28 of the person persuading or attempting to persuade;
29 nor shall any person be punished criminally or held
30 liable or answerable in any action at law or suit in
31 equity for attending in the course of a labor dispute
32 as defined in General Laws, chapter one hundred and
33 forty-nine, section twenty C or General Laws, chapter
34 one hundred and fifty A, section two, subsection
35 seven, at any place where such person or persons may
36 lawfully be, for the purpose of peacefully obtaining
37 or communicating information or of so persuading or
38 attempting to persuade.

1 SECTION 2. Chapter one hundred and forty-nine
2 of the General Laws is hereby amended by inserting
3 between section twenty-four J thereof and section
4 twenty-five thereof the following new sections: —

5 *Section 24K.* No person shall be punished crimi-
6 nally or held liable or answerable in any action at law

7 or suit in equity for ceasing to patronize any person
8 or persons or for assembling peaceably to do or to
9 organize to do or to advertise or notify any person or
10 persons of an intention to do any of the acts specified
11 in section twenty-four or in this section.

12 *Section 24L.* No city or town or other political
13 subdivision of the commonwealth shall pass or adopt
14 any, or enforce any existing law, ordinance, by-law,
15 resolution or regulation which shall, nor shall any
16 official thereof, directly or indirectly prohibit, regu-
17 late, restrict or require any permit, license or fee for: —

18 (a) The distribution, circulation or sale, in or upon
19 any street or public place or from house to house of
20 any written, printed, mimeographed or typewritten
21 matter not advertising or offering any goods, wares
22 of merchandise for sale;

23 (b) Picketing or patrolling any public street or
24 place, or any place where any person or persons may
25 lawfully be, by any person or persons, singly or in
26 numbers, with or without placards, regardless of
27 whether the person, persons, firm, corporation or asso-
28 ciation whose premises or place of business is being
29 picketed or patrolled is the employer of such person
30 or persons engaged in such picketing or patrolling and
31 regardless of whether such person or persons are
32 picketing or patrolling by reason, or in the course, of
33 a lawful trade dispute;

34 (c) The oral communication of information not
35 advertising or offering any goods, wares or merchan-
36 dise for sale, in or upon, or by any person or persons
37 traversing, any public street or place or any place
38 where any person or persons may lawfully be, with or
39 without the aid, use, or employment of any vehicle.

40 *Section 24M.* No city or town or other political

41 subdivision of the commonwealth shall pass or adopt
42 any, or enforce any existing law, ordinance, by-law,
43 resolution or regulation which shall interfere with
44 any of the acts specified as legal in sections twenty-
45 four and twenty-four K or which shall establish any
46 certain distance from any means of entrance to or
47 exit from any place of employment in which the acts
48 specified as legal in sections twenty-four and twenty-
49 four K may be done, or which shall restrict the num-
50 bers of persons who may engage in acts specified as
51 legal in sections twenty-four and twenty-four K,
52 whether such laws, ordinances, by-laws, resolutions
53 or regulations are expressly for the purpose of pre-
54 venting sauntering and loitering or blocking of traffic
55 or any other purpose.

1 SECTION 3. Section twenty C of chapter one hun-
2 dred and forty-nine of the General Laws is hereby
3 amended by adding at the end of the first clause
4 thereof the following words:— and section twenty-
5 four of this chapter, — and by adding at the end of
6 the entire section the words:— regardless of whether
7 the disputants stand in the proximate relation of
8 employer and employee, — so that the whole shall
9 read:— For the purposes of this and the preceding
10 section, sections one, nine and nine A of chapter two
11 hundred and fourteen, and sections thirteen A and
12 thirteen B of chapter two hundred and twenty, and
13 section twenty-four of this chapter, —

14 (a) A case shall be held to involve or to grow out
15 of a labor dispute when the case involves persons who
16 are engaged in the same industry, trade, craft or occu-
17 pation; or who are employees of the same employer;
18 or who are members of the same or an affiliated organ-

19 ization of employers or employees; whether such
20 dispute is (1) between one or more employers or asso-
21 ciations of employers and one or more employees or
22 associations of employees; (2) between one or more
23 employers or associations of employers and one or
24 more employers or associations of employers; or (3)
25 between one or more employees or associations of em-
26 ployees and one or more employees or associations of
27 employees; or when the case involves any conflicting
28 or competing interests in a "labor dispute" (as here-
29 inafter defined) of "persons participating or inter-
30 ested" therein (as hereinafter defined).

31 (b) A person or association shall be held to be a
32 person participating or interested in a labor dispute if
33 relief is sought against him or it, and if he or it is
34 engaged in the same industry, trade, craft or occupa-
35 tion in which such dispute occurs, or has a direct or
36 indirect interest therein, or is a member, officer or
37 agent of any association composed in whole or in part
38 of employers or employees engaged in such industry,
39 trade, craft or occupation.

40 (c) The term "labor dispute", when used in the
41 sections hereinbefore referred to, includes any con-
42 troversy concerning terms or conditions of employ-
43 ment, or concerning the association or representation
44 of persons in negotiating, fixing, maintaining, chang-
45 ing or seeking to arrange, terms or conditions of em-
46 ployment, regardless of whether the disputants stand
47 in the proximate relation of employer and employee.

1 SECTION 4. Section two of chapter one hundred
2 and fifty A of the General Laws is hereby amended
3 by adding at the end of the first line thereof the
4 words: — or in section twenty-four of chapter one

5 hundred and forty-nine, — so that said section shall
6 start with the following words: — When used in this
7 chapter or in section twenty-four of chapter one hun-
8 dred and forty-nine.

1 SECTION 5. Subsection one of section nine A of
2 chapter two hundred and fourteen of the General
3 Laws is hereby amended by inserting in sub-subsec-
4 tion (b), after the word “irreparable” and before the
5 word “injury” the following words: — actual pecu-
6 niary, — and by adding at the end of sub-subsection
7 (c) the words: — regardless of whether or not any
8 acts of the defendants are or have been unlawful, —
9 and by adding at the end of sub-subsection (e) the
10 words: — of the said property against acts which in-
11 volve violation of the criminal law warranting arrest,
12 — so that the whole of said subsection (1) shall read:
13 — (1) No court shall have jurisdiction to issue a pre-
14 liminary or permanent injunction in any case involving
15 or growing out of a labor dispute, as defined in section
16 twenty C of chapter one hundred and forty-nine,
17 except after hearing the testimony of witnesses in
18 open court (with opportunity for cross-examination)
19 in support of the allegations of a complaint made
20 under oath, and testimony in opposition thereto, if
21 offered, and except after findings of fact by the court,
22 to the effect —

23 (a) That unlawful acts have been threatened and
24 will be committed unless restrained or have been
25 committed and will be continued unless restrained,
26 but no injunction or temporary restraining order shall
27 be issued on account of any threat or unlawful act
28 excepting against the person or persons, association or
29 organization making the threat or committing the

30 unlawful act or actually authorizing or ratifying the
31 same after actual knowledge thereof;

32 (b) That substantial and irreparable actual pecuni-
33 ary injury to the complainant's property will follow;

34 (c) That as to each item of relief granted greater
35 injury will be inflicted upon the complainant by the
36 denial of relief than will be inflicted upon the defend-
37 ants by the granting of relief, regardless of whether
38 or not any acts of the defendants are or have been
39 unlawful;

40 (d) That the complainant has no adequate remedy
41 at law; and

42 (e) That the public officers charged with the duty
43 to protect the complainant's property are unable or
44 unwilling to furnish adequate protection of the said
45 property against acts which involve violation of the
46 criminal law warranting arrest.

1 SECTION 6. If any provision of this act or the ap-
2 plication thereof to any person, court, or circumstance
3 is held unconstitutional or otherwise invalid, the
4 remaining provisions of the act and the application of
5 such provisions to other persons, courts, or circum-
6 stances shall not be affected thereby.

1 SECTION 7. This act shall take effect upon its
2 passage.

