

MAINE STATE LEGISLATURE

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NEW DRAFT OF H. P. 1184, L. D. 754

N I N E T Y - T H I R D L E G I S L A T U R E

Legislative Document

No. 1487

H. P. 1743

House of Representatives, April 30, 1947.

Reported by a Majority of the Committee on Labor and printed under
Joint Rules.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT to Protect the Right to Work.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 25, §§ 121-125, additional. Chapter 25 of the revised statutes is hereby amended by adding thereto 5 new sections, to be numbered 121 to 125, inclusive, to read as follows:

Sec. 121. Agreements or combinations in restraint of right to work declared illegal. Any agreement or combination between any employer and any labor union or labor organization whereby persons who are members or who are not members of such union or organization shall be denied the right to work for said employer, or whereby membership in such union or organization is made a condition of continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against public policy and an illegal combination or conspiracy except as provided for in sections 122 to 125, inclusive, of this chapter.

Sec. 122. Rights of employers and employees. Employers shall have the right to exercise all the normal and reasonable powers of management which are essential to the fulfillment of management's obligations to employees, consumers, investors, and to the public under the laws of

this state. Such rights shall include the right of free speech within the limits of the constitution and the law of this state. Employees shall have the right to organize, form, join or assist labor organization, to bargain collectively through representatives of their own choice, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection. Such rights shall include the right of free speech within the limits of the constitution and the law of this state, and the right to conduct authorized strikes and peaceful picketing at the place of their employment; provided that the state or any political subdivision or agency thereof may require its employees as a condition of such employment to waive in writing the right to strike.

Sec. 123. Duties of employers and employees. Employers and employees shall participate in collective bargaining in good faith, shall maintain and be responsible for agreements made as to wages, hours and other conditions of employment, shall be liable for actual damages caused to the other party to a labor dispute resulting from the violation of any of the provisions of this chapter and shall attempt in good faith to effect prompt, peaceful and just settlement of disputes between employers and employees, their agents and representatives.

Sec. 124. Binding effect of collective bargaining agreement. All collective bargaining agreements shall be mutually and equally binding upon and enforceable against each of the parties thereto either at law or in equity. In addition to any other remedy or remedies existing either at law or equity, a suit for damages for such breach or for injunctive relief in equity may be maintained by the party or parties aggrieved in the superior court or the supreme judicial court of the state. If the defendant against whom action is sought to be commenced and maintained is a labor organization, such action may be filed in the superior court or in the supreme judicial court of any county wherein it has a place of business or in which any officer of such labor organization resides or may be found.

Sec. 125. Unfair labor practices. It shall be an unfair labor practice:

- I. On the part of an employer to interfere with, restrain or coerce employees in the exercise of their rights guaranteed in section 122 of this chapter;
- II. On the part of an employer to dominate or interfere with the formation or administration of any labor organization;
- III. On the part of an employer to induce or coerce employees to join or not to join any labor organization or to encourage or discourage

membership therein by discrimination in favor of members or non-members or in regard to hire or tenure of employment thereof; to induce employees to join by making membership a condition of employment, or to enforce or to assist in the collection of dues or other financial obligations to such organization; provided that it shall be lawful for an employer and representatives of his employees to make, maintain or continue in force an agreement requiring membership in a labor organization as a condition of continued employment, and to provide for employer's aid in enforcing the financial obligations of membership to such labor organization on the following conditions:

A. That the labor organization shall be a freely chosen representative of and include in its membership a majority of the employees included in the bargaining unit;

B. That the agreement shall be ratified by the affirmative vote of a majority of all employees in the bargaining unit as evidenced by a vote by secret ballot;

C. That ratification shall be accorded each renewal of the agreement as well as initially in the manner specified, provided, however, the employer may waive such ratification by the employees;

D. That any person employed shall be admitted to membership in such labor organization on terms and with advantages enjoyed by a majority of the membership and shall have full access to the financial records and other records of the labor organization;

E. That no member of such labor organization shall be deprived of membership thereby losing his employment, except on written charges and after a fair hearing according to procedures clearly set forth in the labor organization constitution and by-laws or articles of agreement to which the member assented in writing when he joined, and no member shall be deprived of membership upon a charge that he criticized the officials or policies of any labor organization;

F. That an employee shall not be required to join a labor organization during the first 30 days of his employment.

IV. On the part of employers, employees, or their representatives to refuse to meet at reasonable times and places within the state or to bargain collectively or to refuse to participate in the settlement of controversies, but refusal to grant any demand made in meeting shall not be construed as refusal to bargain collectively;

V. On the part of employers and employees to participate in any cessation, interruption or variation of employment relations in violation of an existing written labor agreement or of a provision of this chapter;

VI. On the part of employees to interfere with, restrain, or coerce employers in the exercise of their rights guaranteed in section 122 of this chapter;

VII. On the part of employees to interfere with the functioning of an employer's management organization by interrupting, disorganizing or delaying the performance of work by employees or by interfering with the employer's dealers, customers or consumers in order to compel the adjustment of alleged grievances concerning matters incident to the normal and reasonable powers of management or to compel managerial acts or to prohibit the enforcement of managerial directions or policies, or otherwise to interfere with or coerce an employer, his representatives or supervisory employees in exercising the normal and reasonable powers of management, including the right of access to plants, offices and records at all times; provided, however, that nothing herein shall be construed to affect, interfere with, or diminish, in any manner, the rights guaranteed to employees by section 122 of this chapter;

VIII. On the part of employees to institute, encourage or engage in strikes in violation of the terms of this chapter, or by the use of force or violence or threats thereof to prevent or to attempt to prevent any individual from quitting or continuing in the employment of or from accepting or refusing employment by an employer, or from entering or leaving any place of such employer;

IX. On the part of labor organizations or members thereof to picket against, withhold labor from or refuse to handle, use or work on particular products of employers or persons not a party to the labor dispute;

X. On the part of labor organizations to refuse without just cause to accept employees into a labor organization; to coerce or discriminate against employees exercising their right of free choice with respect to membership in a labor organization; to suspend or expel member employees from such organization without just cause; to charge exorbitant and unreasonable dues or initiation fees or unreasonable assessments as conditions of membership in such organization; or to make unfair or unreasonable use of work permits, create or make unnecessary work, or create, encourage or participate in a monopoly by any labor organization.'