

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 2128 Session of  
1995

---

INTRODUCED BY VEON, BELFANTI, SHANER, McGEEHAN, MIHALICH, LUCYK,  
DeWEESE, DALEY, TIGUE, STEELMAN, TRELLO, DeLUCA, SCRIMENTI,  
KUKOVICH, LAUGHLIN, JOSEPHS, GIGLIOTTI, VAN HORNE, CURRY,  
LEVANSKY, SURRA, RICHARDSON, RAMOS, MICHLOVIC, THOMAS AND  
BELARDI, OCTOBER 23, 1995

---

REFERRED TO COMMITTEE ON LABOR RELATIONS, OCTOBER 23, 1995

---

AN ACT

1 Prohibiting the use of permanent replacement workers during a  
2 labor dispute; prohibiting the use of employment agents and  
3 contract employment agencies from recruiting or furnishing  
4 employees to permanently replace employees in a labor  
5 dispute; providing for injunctive relief and damages; and  
6 imposing a penalty.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Workplace  
11 Peace and Fairness Act.

12 Section 2. Declaration of policy.

13 The General Assembly finds and declares as follows:

14 (1) The most important factor contributing to strike-  
15 related violence is the perception by strikers that their job  
16 security is being threatened. This perception is justified  
17 immediately when employers hire permanent replacements. The  
18 use of permanent replacement workers causes severe

1 confrontations in the course of a labor dispute which results  
2 in great expenditures of public funds to maintain peace and  
3 prevent injury and death to striking workers.

4 (2) In order to fulfill its primary responsibilities of  
5 preventing violence, providing for the general welfare and  
6 protecting public peace and property, the Commonwealth shall  
7 use its powers, as provided under the 10th amendment of the  
8 Constitution of the United States, to prohibit the use of  
9 permanent replacement workers by employers.

10 (3) The development of policies which diminish the need  
11 for expending large sums of public funds to maintain peace  
12 and prevent violence, public disturbances and destruction of  
13 property and maintain the rights of free speech is essential  
14 to the best interests of all citizens and businesses in this  
15 Commonwealth.

16 (4) The National Labor Relations Act (49 Stat. 449, 29  
17 U.S.C. § 151 et seq.) guarantees workers the right to join  
18 unions, to bargain collectively and to engage in other  
19 concerted activities for the purpose of collective bargaining  
20 or other mutual aid or protection. The primary activity which  
21 provides workers the ability to engage in meaningful  
22 collective bargaining is the strike. Absent the ability to  
23 strike, workers have little or no bargaining power. The  
24 National Labor Relations Act expressly prohibits employers  
25 from using termination as a weapon against striking  
26 employees. An employer effectively bypasses the prohibition  
27 on discharge by hiring permanent replacement workers to fill  
28 strikers' jobs. There is no practical distinction between the  
29 threat of discharge and the threat of permanent replacement;  
30 with both, workers are threatened with the permanent loss of

1       their employment. Nothing in the National Labor Relations Act  
2       expressly provides protection for an employer's hiring of  
3       permanent replacement workers. Therefore, the Commonwealth is  
4       justified in preventing violence in labor-management  
5       relations by prohibiting permanent replacement employees.

6   Section 3.   Definitions.

7       The following words and phrases when used in this act shall  
8       have the meanings given to them in this section unless the  
9       context clearly indicates otherwise:

10      "Employment agent."   Any person, partnership, company,  
11      agency, firm or corporation that:

12           (1)   Must comply with the provisions of the act of July  
13           31, 1941 (P.L.616, No.261), known as the Employment Agency  
14           Law.

15           (2)   Is hired or in contact with, or arranges or offers  
16           services to, a company for the purpose of recruiting,  
17           selecting, supplying, hiring or employing individuals to fill  
18           job vacancies or attain employment with the company.

19   Section 4.   Use of permanent replacement workers.

20      It shall be unlawful for an employer, including a government  
21      agency and its political subdivision, or their representatives,  
22      to hire, employ, recruit, procure or offer to grant the status  
23      of permanent replacement employee to a person for performing  
24      bargaining unit work for an employer during:

25           (1)   A lockout of employees who are members of a labor  
26           organization.

27           (2)   An authorized strike of employees who are members of  
28           a labor organization.

29   Section 5.   Recruitment of permanent replacement workers  
30                               prohibited.

1       It shall be unlawful for an employment agent or officer or  
2 agent thereof to send an applicant to a place where a strike, a  
3 lockout or other labor dispute exists with the intent of  
4 permanently replacing a person in a labor organization who is  
5 involved in a lockout or a strike authorized by an employee  
6 representative.

7 Section 6. Injunctive relief and damages.

8       (a) Remedy by injunction.--Immediately upon the occurrence  
9 of an alleged violation of this act, the employee or employee  
10 representative alleging the violation may apply for injunctive  
11 relief in any court of competent jurisdiction, and the court  
12 shall have jurisdiction to grant a temporary or permanent  
13 injunction restraining any person from continued violation of  
14 this act.

15       (b) Civil damages.--An employee or employee representative  
16 may institute an appropriate civil action for damages,  
17 including, but not limited to, lost wages, salary, pension and  
18 retirement contributions and benefits and other employee  
19 benefits and seniority, against an employer alleged to be in  
20 violation of this act.

21 Section 7. Penalty.

22       A person who violates any provision of this act commits a  
23 summary offense and shall, upon conviction, be sentenced to pay  
24 a fine of not more than \$1,000 nor more than \$1,500 for each  
25 offense. Each permanent replacement employee hired shall be  
26 deemed a separate offense.

27 Section 8. Effective date.

28       This act shall take effect in 60 days.