

§595. Hiring of workers during a labor dispute

1. Legislative findings. The Legislature finds that:

A. The practice of receiving applicants for employment, conducting interviews of job applicants or performing medical examinations of job applicants at the worksite of an employer who is currently engaged in a labor dispute with that employer's employees tends to incite violence by bringing individuals who may be considered as replacements for workers to the physical focus of the labor dispute and by encouraging a direct confrontation between these individuals and the prior employees; and [RR 2023, c. 2, Pt. E, §10 (COR).]

B. The presence of persons carrying dangerous weapons near sites where applications for positions with an employer involved in a labor dispute are being accepted or where interviews of those job applicants are being conducted or medical examinations of those applicants are being performed creates an unacceptable risk of violence; and [PL 1987, c. 558, §1 (NEW).]

C. The public safety requires the regulation of these practices to reduce the likelihood of violence. [PL 1987, c. 558, §1 (NEW).]

[RR 2023, c. 2, Pt. E, §10 (COR).]

2. Purpose. The purpose of this section is to reduce the potential for violence during labor disputes by prohibiting certain provocative acts and imposing penalties for failure to obey this section.

[PL 1987, c. 558, §1 (NEW).]

3. Receiving job applicants at worksite prohibited. No employer may perform any of the following acts at any of that employer's plants, facilities, places of business or worksites where a labor dispute, strike or lockout involving the employees of that employer is in progress:

A. Receiving persons for the purpose of soliciting or receiving applications for employment with the employer; [PL 1987, c. 558, §1 (NEW).]

B. Conducting or having conducted interviews of applicants for employment with the employer; or [PL 1987, c. 558, §1 (NEW).]

C. Performing or having performed medical examinations of applicants for employment with the employer. [PL 1987, c. 558, §1 (NEW).]

Any employer who violates this subsection is subject to a civil penalty not to exceed \$10,000 for each day the violation continues, payable to the State, to be recovered in a civil action. Upon request, any court of competent jurisdiction shall also enjoin the violation under section 5.

The Attorney General, the Commissioner of Labor or any employee, employees or bargaining agent of employees involved in the labor dispute may file a civil action to enforce this subsection.

[PL 1987, c. 558, §1 (NEW).]

4. Hiring off-site permitted. An employer involved in a labor dispute, strike or lockout may perform hiring activities prohibited under subsection 3 at any site other than the employer's customary plants, facilities, places of business or worksites where a labor dispute, strike or lockout involving the employees of that employer is in progress.

A. The employer must notify the law enforcement agencies of the county and municipality in which the hiring activities will be conducted at least 10 days before commencing hiring activities. [RR 2023, c. 2, Pt. E, §11 (COR).]

B. An employee of the employer conducting hiring activities under this subsection and who is involved in the labor dispute, strike or lockout may not picket, congregate or in any way protest the hiring activities of the employer within 200 feet of the building or structure at which such activities are taking place. Violation of this paragraph is a Class E crime. [RR 2023, c. 2, Pt. E, §11 (COR).]

[RR 2023, c. 2, Pt. E, §11 (COR).]

5. Dangerous weapons prohibited. It is a Class D crime for any person, including, but not limited to, security guards and persons involved in a labor dispute, strike or lockout, to be armed with a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, at a site where applications for employment with an employer involved in a labor dispute, strike or lockout are being received or where interviews of those job applicants are being conducted or where medical examinations of those job applicants are being performed.

A. A person holding a valid permit to carry a concealed handgun is not exempt from this subsection. [PL 2013, c. 424, Pt. A, §14 (AMD).]

B. A security guard is exempt from this subsection to the extent that federal laws or rules required the security guard to be armed with a dangerous weapon at such a site. [PL 1987, c. 558, §1 (NEW).]

C. A public law enforcement officer is exempt from this subsection while on active duty in the public service. [PL 1987, c. 558, §1 (NEW).]

D. A security guard employed by an employer involved in a labor dispute, strike or lockout may be present at the location where applications for employment with the employer will be accepted, interviews of those applicants conducted or medical examinations of those applicants performed to the extent permitted under Title 32, chapter 93. Nothing in this section may be construed to extend or limit in any way the restrictions placed upon the location of private security guards under Title 32, chapter 93. [PL 1987, c. 558, §1 (NEW).]

[PL 2013, c. 424, Pt. A, §14 (AMD).]

SECTION HISTORY

PL 1987, c. 558, §1 (NEW). PL 2013, c. 424, Pt. A, §14 (AMD). RR 2023, c. 2, Pt. E, §§10, 11 (COR).

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