

## Chapter 20

### Employment Relations and Collective Bargaining

#### **34-20-1 Declaration of policy.**

The public policy of the state as to employment relations and collective bargaining in the furtherance of which this chapter is enacted, is declared to be as follows:

- (1) It recognizes that there are three major interests involved, namely: that of the public, the employee, and the employer. These three interests are to a considerable extent interrelated. It is the policy of the state to protect and promote each of these interests with due regard to the situation and to the rights of the others.
- (2) Industrial peace, regular and adequate income for the employee, and uninterrupted production of goods and services are promotive of all of these interests. They are largely dependent upon the maintenance of fair, friendly, and mutually satisfactory employment relations and the availability of suitable machinery for the peaceful adjustment of whatever controversies may arise. It is recognized that certain employers, including farmers and farmer cooperatives, in addition to their general employer problems, face special problems arising from perishable commodities and seasonal production which require adequate consideration. It is also recognized that whatever may be the rights of disputants with respect to each other in any controversy regarding employment relations, they should not be permitted in the conduct of their controversy to intrude directly into the primary rights of third parties to earn a livelihood, transact business, and engage in the ordinary affairs of life by any lawful means and free from molestation, interference, restraint, or coercion.
- (3) Negotiation of terms and conditions of work should result from voluntary agreement between employer and employee. For the purpose of such negotiation an employee has the right, if the employee desires, to associate with others in organizing and bargaining collectively through representatives of the employee's own choosing, without intimidation or coercion from any source.
- (4) It is the policy of the state, in order to preserve and promote the interests of the public, the employee, and the employer alike, to establish standards of fair conduct in employment relations and to provide a convenient, expeditious and impartial tribunal by which these interests may have their respective rights and obligations adjudicated.

Amended by Chapter 365, 2024 General Session

#### **34-20-2 Definitions.**

As used in this chapter:

- (1) "Affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce within the state.
- (2) "Commerce" means trade, traffic, commerce, transportation, or communication within the state.
- (3) "Election" means a proceeding in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives or for any other purpose specified in this chapter and includes elections conducted by the board or by any tribunal having competent jurisdiction or whose jurisdiction was accepted by the parties.
- (4)
  - (a) "Employee" includes any employee unless this chapter explicitly states otherwise, and includes an individual whose work has ceased as a consequence of, or in connection with,

any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment.

- (b) "Employee" does not include an individual employed as an agricultural laborer, or in the domestic service of a family or person at his home, or an individual employed by his parent or spouse.
- (5) "Employer" includes a person acting in the interest of an employer, directly or indirectly, but does not include:
  - (a) the United States;
  - (b) a state or political subdivision of a state;
  - (c) a person subject to the federal Railway Labor Act;
  - (d) a labor organization, other than when acting as an employer;
  - (e) a corporation or association operating a hospital if no part of the net earnings inures to the benefit of any private shareholder or individual; or
  - (f) anyone acting in the capacity of officer or agent of a labor organization.
- (6) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec.105, of the federal government.
- (7) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- (8) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- (9) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- (10) "Labor dispute" means any controversy between an employer and the majority of the employer's employees in a collective bargaining unit concerning the right or process or details of collective bargaining or the designation of representatives.
- (11) "Labor organization" means an organization of any kind or any agency or employee representation committee or plan in which employees participate that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.
- (12) "Person" includes an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver.
- (13) "Representative" includes an individual or labor organization.
- (14) "Secondary boycott" includes combining or conspiring to cause or threaten to cause injury to one with whom no labor dispute exists, whether by:
  - (a) withholding patronage, labor, or other beneficial business intercourse;
  - (b) picketing;
  - (c) refusing to handle, install, use, or work on particular materials, equipment, or supplies; or
  - (d) by any other unlawful means, in order to bring him against his will into a concerted plan to coerce or inflict damage upon another.
- (15) "Unfair labor practice" means any unfair labor practice listed in Section 34-20-8.

Amended by Chapter 507, 2024 General Session

### **34-20-7 Organization and collective bargaining -- Employees' rights.**

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection; and such employees shall also have the right to refrain from any or all of such activities.

Enacted by Chapter 85, 1969 General Session

**34-20-8 Unfair labor practices.**

- (1) It shall be an unfair labor practice for an employer, individually or in concert with others:
  - (a) To interfere with, restrain or coerce employees in the exercise of the rights guaranteed in Section 34-20-7.
  - (b) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it, provided that an employer is not prohibited from permitting employees to confer with the employer during working hours without loss of time or pay.
  - (c) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided, that nothing in this act shall preclude an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this act as an unfair labor practice) to require as a condition of employment, membership therein, if such labor organization is the representative of the employees as provided in Subsection 34-20-9(1) in the appropriate collective bargaining unit covered by such agreement when made.
  - (d) To refuse to bargain collectively with the representative of a majority of the employer's employees in any collective bargaining unit.
  - (e) To bargain collectively with the representatives of less than a majority of the employer's employees in a collective bargaining unit.
  - (f) To discharge or otherwise discriminate against an employee because the employee has filed charges or given testimony under this chapter.
- (2) It shall be an unfair labor practice for an employee individually or in concert with others:
  - (a) To coerce or intimidate an employee in the enjoyment of the employee's legal rights, including those guaranteed in Section 34-20-7, or to intimidate the employee's family, picket the employee's domicile, or injure the person or property of the employee or the employee's family.
  - (b) To coerce, intimidate or induce an employer to interfere with any of the employer's employees in the enjoyment of their legal rights, including those guaranteed in Section 34-20-7, or to engage in any practice with regard to the employer's employees which would constitute an unfair labor practice if undertaken by the employer on the employer's own initiative.
  - (c) To co-operate in engaging in, promoting, or inducing picketing (not constituting an exercise of constitutionally guaranteed free speech), boycotting or any other overt concomitant of a strike unless a majority in a collective bargaining unit of the employees of an employer against whom such acts are primarily directed have voted by secret ballot to call a strike.
  - (d) To hinder or prevent, by mass picketing, threats, intimidation, force, or coercion of any kind the pursuit of any lawful work or employment, or to obstruct or interfere with entrance to or egress from any place of employment, or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance.
  - (e) To engage in a secondary boycott; or to hinder or prevent, by threats, intimidation, force, coercion, or sabotage, the obtaining, use or disposition of materials, equipment, or services; or to combine or conspire to hinder or prevent the obtaining, use or disposition of materials, equipment or services, provided, however, that nothing herein shall prevent sympathetic strikes in support of those in similar occupations working for other employers in the same craft.
  - (f) To take unauthorized possession of property of the employer.

- (3) It shall be an unfair labor practice for any person to do or cause to be done on behalf of or in the interest of employers or employees, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by Subsections (1) and (2) of this section.

Amended by Chapter 507, 2024 General Session

**34-20-9 Collective bargaining -- Representatives .**

- (1) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for those purposes shall be the exclusive representatives of all the employees in that unit for the purposes of collective bargaining in respect to rate of pay, wages, hours of employment, and of other conditions of employment.
- (2) Any individual employee or group of employees may present grievances to their employer at any time.

Amended by Chapter 507, 2024 General Session

**34-20-13 Right to strike.**

This chapter does not interfere with, impede, or diminish in any way the right to strike.

Amended by Chapter 201, 1991 General Session

**34-20-14 Determining joint employment status -- Franchisors excluded.**

- (1) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.
- (2)
  - (a) For purposes of this chapter, a franchisor is not considered to be an employer of:
    - (i) a franchisee; or
    - (ii) a franchisee's employee.
  - (b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (2) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Enacted by Chapter 370, 2016 General Session