

Chapter 662

1959 REPLACEMENT PART

Labor Disputes

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LIMITATIONS ON JUDICIAL INTERFERENCE WITH LABOR DISPUTES

662.010 Definitions for ORS 662.010 to 662.130. As used in ORS 662.010 to 662.130 and for the purposes of those sections:

(1) "Labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employe

(2) A case involves or grows out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft or occupation, or who have direct or indirect interests therein, or who are employes of the same employer, or who are members of the same or an affiliated organization of employers or employes, whether such dispute is: (a) Between one or more employers or associations of employers and one or more employes or associations of employes; (b) between one or more employers or associations of employers and one or more employes or associations of employers; or (c) between one or more employes or associations of employes and one or more employes or associations of employes; or when the case involves any conflicting or competing interests in a labor dispute of persons participating or interested therein.

(3) A person or association is a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it:

(a) Is engaged in the same industry, trade, craft or occupation in which such dispute occurs.

(b) Has a direct or indirect interest therein.

(c) Is a member, officer or agent of any association composed in whole or in part of employers or employes engaged in such industry, trade, craft or occupation

662.020 Declaration of policy as to labor organizations. In the interpretation of ORS 662.010 to 662.130, and in determining the jurisdiction and authority of the courts of this state, as such jurisdiction and authority are defined and limited in those statutes, the public policy of Oregon is declared as follows Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property

to organize in a corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor and thereby to obtain acceptable terms and conditions of employment, wherefor, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization and designation of representatives of his own choosing to negotiate the terms and conditions of his employment and that he shall be free from the interference, restraint or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; therefor, the definitions of and limitations contained in ORS 662.010 to 662.130 upon the jurisdiction and authority of the courts of this state hereby are enacted.

662.030 Restrictions in employment contracts on affiliation with a labor or employer organization as unenforceable. Any undertaking or promise described in this section or any other undertaking or promise in conflict with the public policy declared in ORS 662.020 is declared to be contrary to the public policy of Oregon and is not enforceable in any court of this state and does not afford any basis for the granting of legal or equitable relief by any such court, including specifically, every undertaking or promise made after June 6, 1931, whether written or oral, express or implied, constituting or contained in any contract or agreement of hiring or employment between any individual, firm, company, association or corporation, and any employe or prospective employe of the same, whereby:

(1) Either party to such contract or agreement undertakes or promises not to join, become or remain a member of any labor organization or of any employer organization.

(2) Either party to such contract or agreement undertakes or promises that he will withdraw from an employment relation in the event that he joins, becomes or remains a member of any labor organization or of any employer organization.

662.040 Injunctions in labor disputes generally restricted. No court, nor any judge thereof, shall have jurisdiction to issue any restraining order or temporary or permanent

injunction in a case involving or growing out of a labor dispute, except in strict conformity with ORS 662.010 to 662.130, nor shall any such restraining order or temporary or permanent injunction be issued contrary to the public policy declared in ORS 662.020.

662.050 Specific acts which are not enjoined. No court, nor any judge thereof, shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person or persons participating or interested in such dispute from doing, whether singly or in concert, any of the following acts:

(1) Ceasing or refusing to perform any work or to remain in any relation of employment.

(2) Becoming or remaining a member of any labor organization or of any employer organization, regardless of any undertaking or promise, as is described in ORS 662.030.

(3) Paying or giving to, or withholding from, any person participating or interested in such labor dispute, any strike or unemployment benefits or insurance, or other moneys or things of value.

(4) By all lawful means aiding any person participating or interested in any labor dispute who is being proceeded against in, or is prosecuting, any action or suit in any court of the United States or of any state

(5) Giving publicity to the existence of, or facts involved in, any labor dispute, whether by advertising, speaking, patrolling or by any other method not involving fraud or violence or intimidation.

(6) Assembling peaceably to act or to organize to act in promotion of their interests in a labor dispute.

(7) Advising or notifying any person of any intention to do any of the acts specified in subsections (1) to (6) of this section

(8) Agreeing with other persons to do or not to do any of the acts specified in subsections (1) to (7) of this section.

(9) Advising, urging or otherwise causing or inducing without fraud or violence or intimidation, the acts specified in subsections (1) to (8) of this section, regardless of any undertaking or promise, as is described in ORS 662.030.

662.060 Restrictions on injunctions to prohibit the doing in concert of the acts enumerated in ORS 662.050. No court, nor

any judge thereof, shall have jurisdiction to issue a restraining order or temporary or permanent injunction upon the ground that any of the persons participating or interested in a labor dispute constitute or are engaged in an unlawful combination or conspiracy because of the doing in concert of the acts enumerated in ORS 662.050.

662.070 Liability of associations and officers and members of associations for unlawful acts of individuals. No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute, shall be held responsible or liable in any court of this state for the unlawful acts of individual officers, members or agents, except upon clear proof of actual participation in, or actual authorization of, such acts, or of ratification of such acts after actual knowledge thereof

662.080 Hearing and findings of certain facts are prerequisites to injunction. No court, nor any judge thereof, shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, except after hearing the testimony of witnesses in open court, with opportunity for cross-examination, in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court, to the effect:

(1) That unlawful acts have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the persons, association or organization making the threat or committing the unlawful act or actually authorizing or ratifying the same after actual knowledge thereof.

(2) That substantial and irreparable injury to complainant's property will follow.

(3) That as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief.

(4) That complainant has no adequate remedy at law.

(5) That the public officers charged with the duty to protect complainant's prop-

erty are unable or unwilling to furnish adequate protection.

662.090 Notice of hearing; issuance of temporary injunction without notice. (1) The hearing shall be held after due and personal notice thereof has been given, in such manner as the court shall direct, to all known persons against whom relief is sought, and also to the chief of those public officials of the county and city within which the unlawful acts have been threatened or committed charged with the duty to protect complainant's property. However, if a complainant also alleges that, unless a temporary restraining order is issued without notice, a substantial and irreparable injury to complainant's property will be unavoidable, such a temporary restraining order may be issued upon testimony under oath, sufficient, if sustained, to justify the court in issuing a temporary injunction upon a hearing after notice. Such a temporary restraining order shall be effective for no longer than five days and shall become void at the expiration of the five days.

(2) No temporary restraining order or temporary injunction shall be issued except on condition that complainant first files an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense those enjoined for any loss, expense or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable costs, together with a reasonable attorney's fee and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court.

(3) The undertaking mentioned in subsection (2) of this section shall be understood to signify an agreement entered into by the complainant and the surety upon which a decree may be rendered in the same suit or proceeding against the complainant and surety, upon a hearing to assess damages of which hearing complainant and surety shall have reasonable notice, the complainant and surety submitting themselves to the jurisdiction of the court for that purpose. This section does not deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by suit at law or in equity.

662.100 Compliance with obligations involved in dispute and making reasonable effort to settle as prerequisites to injunctive relief. No restraining order or injunctive relief shall be granted to any complainant who has failed to comply with any obligation imposed by law which is involved in the labor dispute in question, or who has failed to make every reasonable effort to settle such dispute, either by negotiation or with the aid of any available governmental machinery of mediation or voluntary arbitration.

662.110 Findings of fact prerequisite to injunction; scope of injunction. (1) No restraining order or temporary or permanent injunction shall be granted in a case involving or growing out of a labor dispute, except on the basis of findings of fact made and filed by the court in the record of the case prior to the issuance of such restraining order or injunction.

(2) Every restraining order or injunction granted in a case involving or growing out of a labor dispute shall include only a prohibition of such specific acts as may expressly be complained of in the bill of complaint or petition filed in such case and as shall expressly be included in the findings of fact made and filed by the court.

662.120 Appeal to Supreme Court. Whenever any court or judge thereof issues or denies any temporary injunction in a case involving or growing out of a labor dispute, the court shall, upon the request of any party to the proceedings and on his filing the usual bond for costs, forthwith certify, as in ordinary cases, the record of the case to the Supreme Court for its review. Upon the filing of such record in the Supreme Court, the appeal shall be heard and the temporary injunctive order affirmed, modified or set aside with the greatest possible expedition, giving the proceedings precedence over all other matters, except older matters of the same character.

662.130 Contempt proceedings; jury trial; change of judge. (1) In all cases arising under ORS 662.010 to 662.130 in which a person is charged with contempt in a court of this state, the accused shall enjoy the right to a speedy and public trial by an impartial jury wherein the contempt has been committed; provided, this right shall not apply to contempts committed in the presence of the court or so near thereto

as to interfere directly with the administration of justice or to the misbehavior, misconduct or disobedience of any officer of the court in respect to the writs, orders or process of the court.

(2) The defendant in any proceeding for contempt of court may file with the court a demand for the retirement of the judge sitting in the proceeding, if the contempt arises from an attack upon the character or conduct of such judge and if the attack occurred elsewhere than in the presence of the court or so near thereto as to interfere directly with the administration of justice. Upon the filing of any such demand the judge shall thereupon proceed no further, but another judge shall be designated as provided by law. The demand shall be filed prior to the hearing in the contempt proceeding.

662.140 to 662.200 [Reserved for expansion]

HOT CARGO AND SECONDARY BOYCOTT

662.210 Definitions for ORS 662.210 to 662.240. As used in ORS 662.210 to 662.240:

(1) "Employee" includes any natural person who works for any person for compensation.

(2) "Employer" includes any person acting in the interest of an employer, directly or indirectly, and any association of employers, including growers and other hirers of labor.

(3) "Hot cargo" means any combination or agreement resulting in a refusal by employees to handle goods or to perform any services for their employer because of a dispute between some other employer and his employees or a labor organization or any combination or agreement resulting in a refusal by employers to handle goods or perform any services for another employer because of an agreement between such other employer and his employees or a labor organization.

(4) "Labor organization" means any organization of any kind, or any agency or employe representation committee or plan, in which employes participate and which 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

(5) "Secondary boycott" means any combination or agreement to cease performing,

or to cause any employe to cease performing any services for any employer, or to cause any loss or injury to such employer, or to his employees, for the purpose of inducing or compelling such employer to refrain from doing business with, or handling the products of any other employer because of a dispute between the latter and his employees or a labor organization or any combination or agreement to cease performing, or to cause any employer to cease performing any services for another employer, or to cause any loss or injury to such other employer, or to his employees, for the purpose of inducing or compelling such other employer to refrain from doing business with, or handling the products of any other employer, because of an agreement between the latter and his employees or a labor organization.

662.220 Statement of purpose. The purpose of ORS 662 210 to 662.240 is to preserve tranquility among the citizens of this state and to insure the unobstructed production and distribution of the products of our factories and fields, and for the continued protection and preservation of our democratic way of life and for the general welfare of the people of this state.

662.230 Unlawful labor practices. (1) Hot cargo and secondary boycott hereby are declared to be unlawful.

(2) Any act, combination or agreement which directly or indirectly causes, induces or compels a violation of this section, or inflicts any loss, injury or damage on anyone because of his refusal to violate this section is unlawful

662.240 Legal and equitable relief. Any person injured or threatened with injury by any violation of ORS 662 230 is entitled to injunctive relief therefrom in a proper case, and may recover any damages resulting therefrom in any courts having jurisdiction in this state.

662.250 to 662.300 [Reserved for expansion]

662.310 [Repealed by 1953 c.723 §22]

662.320 [Repealed by 1953 c.723 §22]

662.330 [Repealed by 1953 c.723 §22]

662.340 [Repealed by 1953 c.723 §22]

662.350 to 662.400 [Reserved for expansion]

STATE CONCILIATION SERVICE

662.405 Declaration of policy. It hereby is declared to be the public policy of the State of Oregon that the best interests of the people of this state are served by fostering collective bargaining and by the prevention of or the prompt settlement of labor controversies, strikes and lockouts; that sound and stable industrial peace and the advancement of the general welfare of the state and of the best interests of employers and employes can most satisfactorily be secured by the settlement of issues between employers and employes through the processes of conference and collective bargaining between employers and employes; that the settlement of issues between employers and employes through collective bargaining may be advanced by making available full and adequate government facilities for conciliation, mediation and voluntary arbitration to aid and encourage employers and employes to reach and maintain agreements concerning rates of pay, hours and working conditions and to make all reasonable efforts to settle their differences by mutual agreement reached through conferences and collective bargaining. [1957 c 122 §1]

662.410 [Repealed by 1957 c.122 §5]

662.415 State Conciliation Service established; purpose. A State Conciliation Service hereby is established within the Bureau of Labor with primary responsibility for fostering collective bargaining by rendering voluntary assistance to employers and employes in resolving their differences without resort to strikes, lockouts or other forms of industrial conflict. [1957 c.122 §2(1)]

662.420 [Repealed by 1957 c.122 §5]

662.425 Mediation services. (1) When any party to a labor controversy notifies the State Conciliation Service that a labor controversy exists or is imminent, the Labor Conciliator, if he determines that a labor controversy exists or is imminent, shall immediately set a time and place for a mediation conference and invite the parties to attend to participate in mediation of their differences

(2) When it comes to the attention of the Labor Conciliator that a labor controversy exists or is imminent, the Labor Conciliator may offer mediation services if he deems it to be in the public interest. [1957 c.122 §3]

662.430 [Repealed by 1957 c.122 §5]

662.435 Services for state agencies and political subdivisions. The services and facilities of the State Conciliation Service and the Labor Conciliator shall be made available to the State of Oregon or any of its agencies, boards, commissions or other branches or any of the political subdivisions of the state and to the public employes of the State of Oregon in all its agencies, boards, commissions or other branches or its political subdivisions in the same manner as such facilities are available to private employers and their employes. [1957 c.122 §4; 1959 c.184 §1]

662.440 [Repealed by 1957 c.122 §5]

662.445 List of qualified arbitrators. The State Conciliation Service shall maintain a list of qualified arbitrators who may be available to the parties to a labor controversy if the parties so request. [1957 c.122 §2(3)]

662.450 [Repealed by 1957 c.122 §5]

662.455 Labor Conciliator and other employes. The head of the State Conciliation Service shall be the Labor Conciliator who shall be appointed by the Commissioner of the Bureau of Labor. The Commissioner of the Bureau of Labor shall appoint such other employes of the State Conciliation Service as may be necessary to assist the Labor Conciliator. The Labor Conciliator and all other employes of the State Conciliation Service shall be subject to the State Civil Service Law. [1957 c.122 §2(2)]

662.460 [Repealed by 1957 c.122 §5]

662.470 [Repealed by 1957 c.122 §5]

662.480 [Repealed by 1957 c.122 §5]

662.490 [Repealed by 1957 c.122 §5]

662.500 [Repealed by 1957 c.122 §5]

662.510 [Repealed by 1957 c.122 §5]

662.520 [Repealed by 1957 c.122 §5]

662.530 [Repealed by 1957 c.122 §5]

662.540 [Repealed by 1957 c.122 §5]

662.550 [Repealed by 1957 c 122 §5]

662.560 to 662.600 [Reserved for expansion]

662.610 [1953 c.723 §1, repealed by 1959 c 55 §1]

662.620 [1953 c.723 §2; repealed by 1959 c.55 §1]

662.630 [1953 c 723 §3; repealed by 1959 c 55 §1]	662.720 [1953 c.723 §13; repealed by 1959 c.55 §1]
662.640 [1953 c 723 §4; repealed by 1959 c 55 §1]	662.730 [1953 c 723 §14; repealed by 1959 c.55 §1]
662.650 [1953 c 723 §5; repealed by 1959 c.55 §1]	662.740 [1953 c.723 §15, repealed by 1959 c 55 §1]
662.660 [1953 c.723 §6; repealed by 1959 c 55 §1]	662.750 [1953 c 723 §16, repealed by 1959 c 55 §1]
662.670 [1953 c 723 §7; repealed by 1959 c 55 §1]	662.760 [1953 c 723 §19, repealed by 1959 c 55 §1]
662.680 [1953 c 723 §8, repealed by 1959 c 55 §1]	662.770 [1953 c 723 §17, repealed by 1959 c 55 §1]
662.690 [1953 c.723 §9, repealed by 1959 c 55 §1]	662.780 [1953 c 723 §18, repealed by 1959 c 55 §1]
662.700 [1953 c 723 §10; repealed by 1959 c 55 §1]	662.790 [1953 c 723 §20; repealed by 1959 c 55 §1]
662.710 [1953 c.723 §12; repealed by 1959 c 55 §1]	

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173 160 and other changes specifically authorized by law
 Done at Salem, Oregon,
 on November 1, 1959

Sam R. Haley
 Legislative Counsel

CHAPTERS 663 TO 669
[Reserved for expansion]