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§ 186. Restrictions on financial transactions

(a) Payment or lending, etc., of money by employer or agent to employees, representatives, or labor organizations

It shall be unlawful for any employer or association of employers or any person who acts as a labor relations expert, adviser, or consultant to an employer or who acts in the interest of an employer to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value—

(1) to any representative of any of his employees who are employed in an industry affecting commerce; or

(2) to any labor organization, or any officer or employee thereof, which represents, seeks to represent, or would admit to membership, any of the employees of such employer who are employed in an industry affecting commerce; or

(3) to any employee or group or committee of employees of such employer employed in an industry affecting commerce in excess of their normal compensation for the purpose of causing such employee or group or committee directly or indirectly to influence any other employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing; or

(4) to any officer or employee of a labor organization engaged in an industry affecting commerce with intent to influence him in respect to any of his actions, decisions, or duties as a representative of employees or as such officer or employee of such labor organization.

(b) Request, demand, etc., for money or other thing of value

(1) It shall be unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subsection (a) of this section.

(2) It shall be unlawful for any labor organization, or for any person acting as an officer, agent, representative, or employee of such labor organization, to demand or accept from the operator of any motor vehicle (as defined in section 13102 of title 49) employed in the transportation of property in commerce, or the employer of any such operator, any money or other thing of value payable to such organization or to an officer, agent, representative or employee thereof as a fee or charge for the unloading, or in connection with the unloading, of the cargo of such vehicle: *Provided*, That nothing in this paragraph shall be construed to make unlawful any payment by an employer to any of his employees as compensation for their services as employees.

(c) Exceptions

The provisions of this section shall not be applicable (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: *Provided*, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner; (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents): *Provided*, That (A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, together with such neutral persons as the representatives of the employers and the representatives of employees may agree upon and in the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; (6) with respect to money or other thing of value paid by any employer to a trust fund established

by such representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, (B) child care centers for preschool and school age dependents of employees, or (C) financial assistance for employee housing: *Provided*, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: *Provided further*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: *Provided further*, That no such legal services shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under subchapter II of this chapter or this chapter; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959 [29 U.S.C. 401 et seq.]; or (9) with respect to money or other things of value paid by an employer to a plant, area or industrywide labor management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978.

(d) Penalties for violations

(1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c)(4) through (c)(9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a payment, loan, money, or other thing of value under subsections (c)(4) through (c)(9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.

(2) Except for violations involving transactions covered by subsection (d)(1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.

(e) Jurisdiction of courts

The district courts of the United States and the United States courts of the Territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of section 381 of title 28 (relating to notice to opposite party) to restrain violations of this section, without regard to the provisions of section 17 of title 15 and section 52 of this title, and the provisions of chapter 6 of this title.

(f) Effective date of provisions

This section shall not apply to any contract in force on June 23, 1947, until the expiration of such contract, or until July 1, 1948, whichever first occurs.

(g) Contributions to trust funds

Compliance with the restrictions contained in subsection (c)(5)(B) of this section upon contributions to trust funds, otherwise lawful, shall not be applicable to contributions to such trust funds established by collective agreement prior to January 1, 1946, nor shall subsection (c)(5)(A) of this section be construed as prohibiting contributions to such trust funds if prior to January 1, 1947, such funds contained provisions for pooled vacation benefits.

(June 23, 1947, ch. 120, title III, § 302, 61 Stat. 157; Pub. L. 86–257, title V, § 505, Sept. 14, 1959, 73 Stat. 537; Pub. L. 91–86, Oct. 14, 1969, 83 Stat. 133; Pub. L. 93–95, Aug. 15, 1973, 87 Stat. 314; Pub. L. 95–524, § 6(d), Oct. 27, 1978, 92 Stat. 2021; Pub. L. 98–473, title II, § 801, Oct. 12, 1984, 98 Stat. 2131; Pub. L. 101–273, § 1, Apr. 18, 1990, 104 Stat. 138; Pub. L. 104–88, title III, § 337, Dec. 29, 1995, 109 Stat. 954.)

REFERENCES IN TEXT

The Labor-Management Reporting and Disclosure Act of 1959, referred to in subsec. (c)(8), is Pub. L. 86–257, Sept. 14, 1959, 73 Stat. 519, as amended, which is classified principally to chapter 11 (§ 401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

Section 5(b) of the Labor Management Cooperation Act of 1978, referred to in subsec. (c)(9), probably means section 6(b) of Pub. L. 95–524, which is set out as a note under section 175a of this title.

Section 381 of title 28, referred to in subsec. (e), was omitted from the revision of Title 28, Judiciary and Ju-

dicial Procedure, by act June 25, 1948, ch. 646, 62 Stat. 869. See rule 65 of Federal Rules of Civil Procedure set out in the Appendix to Title 28.

Chapter 6 (§ 101 et seq.) of this title, referred to in subsec. (e), is a reference to act Mar. 23, 1932, ch. 90, 47 Stat. 70, popularly known as the Norris-LaGuardia Act.

AMENDMENTS

1995—Subsec. (b)(2). Pub. L. 104–88 substituted ''(as defined in section 13102 of title 49)'' for ''(as defined in part II of the Interstate Commerce Act)''.

1990—Subsec. (c)(7)(C). Pub. L. 101–273 added subcl. (C).

1984—Subsec. (d). Pub. L. 98–473, in amending subsec. (d) generally, added par. (1), designated existing provisions as par. (2), inserted reference to par. (1), and inserted provisions relating to commission of a felony.

1978—Subsec. (c)(9). Pub. L. 95–524 added cl. (9).

1973—Subsec. (c)(8). Pub. L. 93–95 added cl. (8).

1969—Subsec. (c)(7). Pub. L. 91–86 added cl. (7).

1959—Subsec. (a). Pub. L. 86–257 amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows: ''It shall be unlawful for any employer to pay or deliver, or to agree to pay or deliver, any money or other thing of value to any representative of any of his employees who are employed in an industry affecting commerce.''

Subsec. (b). Pub. L. 86–257 amended subsec. (b) generally. Prior to amendment subsec. (b) read as follows: ''It shall be unlawful for any representative of any employees who are employed in an industry affecting commerce to receive or accept, or to agree to receive or accept, from the employer of such employees any money or other thing of value.''

Subsec. (c). Pub. L. 86–257 substituted ''in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer'' for ''with respect to any money or other thing of value payable by an employer to any representative who is an employee or former employee of such employer, as compensation for, or by reason of, his services as an employee of such employer'' in cl. (1), and added cl. (6).

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

APPLICABILITY TO COLLECTIVE BARGAINING AGREEMENTS

Amendment by Pub. L. 95–524 not to affect terms and conditions of any collective bargaining agreement whether in effect prior to or entered into after Oct. 27, 1978, see section 6(e) of Pub. L. 95–524, set out as an Effective Date note under section 175a of this title.

§ 187. Unlawful activities or conduct; right to sue; jurisdiction; limitations; damages

(a) It shall be unlawful, for the purpose of this section only, in an industry or activity affecting commerce, for any labor organization to engage in any activity or conduct defined as an unfair labor practice in section 158(b)(4) of this title.

(b) Whoever shall be injured in his business or property by reason or[1] any violation of subsection (a) of this section may sue therefor in any district court of the United States subject to the limitations and provisions of section 185 of this title without respect to the amount in controversy, or in any other court having jurisdiction of the parties, and shall recover the damages by him sustained and the cost of the suit.

(June 23, 1947, ch. 120, title III, § 303, 61 Stat. 158; Pub. L. 86–257, title VII, § 704(e), Sept. 14, 1959, 73 Stat. 545.)

[1] So in original. Probably should be ''of''.

AMENDMENTS

1959—Subsec. (a). Pub. L. 86–257 struck out provisions which specified particular practices that were unlawful, and inserted reference to practices defined in section 158(b)(4) of this title, which section defines the unfair labor practices formerly enumerated in this subsection.

§ 188. Repealed. Aug. 9, 1955, ch. 690, § 4(3), 69 Stat. 625

Section, act June 23, 1947, ch. 120, title III, § 305, 61 Stat. 160, forbade striking by Government employees, required discharge of striking employee and forfeiture of his civil-service status, and made him ineligible for employment for three years. See sections 3333 and 7311 of Title 5, Government Organization and Employees, and section 1918 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER V—CONGRESSIONAL JOINT COMMITTEE ON LABOR-MANAGEMENT RELATIONS

§§ 191 to 197. Omitted

CODIFICATION

Section 191, act June 23, 1947, ch. 120, title IV, § 401, 61 Stat. 160, related to establishment and composition of Joint Committee on Labor-Management Relations.

Section 192, act June 23, 1947, ch. 120, title IV, § 402, 61 Stat. 160, related to a study by committee of the entire field of labor-management relations.

Section 193, acts June 23, 1947, ch. 120, title IV, § 403, 61 Stat. 160; Aug. 10, 1948, ch. 833, 62 Stat. 1286, related to a final report to Congress to be submitted no later than March 1, 1949.

Section 194, act June 23, 1947, ch. 120, title IV, § 404, 61 Stat. 161, related to employment and compensation of experts and other personnel.

Section 195, act June 23, 1947, ch. 120, title IV, § 405, 61 Stat. 161, related to hearings, calling of witnesses, production of evidence.

Section 196, act June 23, 1947, ch. 120, title IV, § 406, 61 Stat. 161, related to reimbursement of committee members for expenses.

Section 197, act June 23, 1947, ch. 120, title IV, § 407, 61 Stat. 161, related to appropriation of funds.

CHAPTER 8—FAIR LABOR STANDARDS

Sec.
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205. Repealed.
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211. Collection of data.
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214. Employment under special certificates.
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