

HOUSE No. 3799

By Mr. Koczera of New Bedford, petition of Robert M. Koczera and others relative to certain payments to employees upon plant closings. Labor and Workforce Development.

The Commonwealth of Massachusetts

PETITION OF:

Robert M. Koczera
Matthew C. Patrick
James E. Timilty

Joyce A. Spiliotis
William Smitty Pignatelli

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO PLANT CLOSINGS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 183 and 184 of Chapter 149 of the General
2 laws, as appearing in the 2000 Official Edition, are hereby repealed.

1 SECTION 2. Chapter 149 of the General Laws, as appearing in
2 the 2000 Official Edition, is further amended by inserting after
3 Section 186 the following:—

4 Section 187. Plant Closings.

5 a.) As used in this section, the following words shall have the
6 following meanings:—

7 “Covered establishment” means any industrial or commercial or
8 health care facility or part thereof which employs or has employed at
9 any time in the preceding 12-month period 100 or more persons.

10 “Employer” means any person who directly or indirectly owns
11 and operates a covered establishment. For purposes of this defini-
12 tion, a parent corporation is considered the indirect owner and oper-
13 ator of any covered establishment that is directly owned and
14 operated by its corporate subsidiary.

15 “Physical calamity” means, but shall not be limited to, any
16 calamity such as fire, flood or other natural disaster, including adju-
17 dicated bankruptcy.

18 “Relocation” means the removal of all or substantially all of
19 industrial or commercial or health care operations in a covered
20 establishment to a new location, with in or without the Common-
21 wealth of Massachusetts, 100 or more miles distant from its original
22 location.

23 b.) Any employer who relocates or terminates a covered establish-
24 ment shall be liable to his, her or its employees for severance pay-
25 ments at a rate of no less than one week’s pay for each year of
26 employment by the employee in that establishment, notwithstanding
27 any express contract which provides for such payment in the event
28 of termination of employment in excess of that provided by this
29 section. The severance pay to eligible employees shall be in addition
30 to any final wage payment to the employee and shall be paid within
31 one regular pay period after the employee’s last full day of work,
32 notwithstanding any other provisions of law.

33 c.) There shall be no liability for severance pay to an eligible
34 employee if:—

35 (1) relocation or termination of a covered establishment is neces-
36 sitated by a physical calamity

37 (2) that employee accepts employment at the new location; or

38 (3) that employee has been employed by the employer for less
39 than three years.

40 d.) Any employer who violates the provisions of this section of
41 this section shall be liable to the employee or employees affected in
42 the amount of their unpaid severance pay. Action to recover the lia-
43 bility may be maintained against any employer in any state or fed-
44 eral court of competent jurisdiction by any one or more employees
45 for and on behalf of himself or themselves and any other employees
46 similarly situated. Any labor organization may also maintain an
47 action on behalf of its members. The court in such action shall, in
48 addition to any judgment awarded to the plaintiff or plaintiffs, allow
49 a reasonable attorney’s fee to be paid by defendant and costs of the
50 action.

51 e.) The director is authorized to supervise the payment of the
52 unpaid severance pay owing to any employee under this section. The
53 director may bring an action in any court of competent jurisdiction

54 to recover the amount of any unpaid severance pay. The right pro-
55 vided to an employee or employees to bring an action by or on
56 behalf of any employee, and of any employee to become a party
57 plaintiff to any such action, shall terminate upon the filing of a com-
58 plaint by the director in an action under this (subsection), unless the
59 action is dismissed without prejudice by the director. Any sums
60 recovered by the director on behalf of an employee pursuant to this
61 (subsection) shall be held in a special deposit account and shall be
62 paid, on order of the director, directly to the employee affected. Any
63 sums thus recovered and not paid to an employee because of
64 inability to do so with a period of three years shall be paid over to
65 the Commonwealth of Massachusetts.

66 f.) Any person proposing to relocate or terminate a covered estab-
67 lishment shall notify the director in writing not less than 60 days
68 prior to the relocation. Any person proposing to relocate a covered
69 establishment outside the Commonwealth shall notify employees,
70 and the municipal officers of the municipality where the plan is
71 located, in writing not less than 60 day prior to the relocation. Any
72 person violating this provision commits a civil violation for which
73 forfeiture of not more than \$500 may be adjudged, provided that no
74 forfeiture may be adjudged if the relocation is necessitated by a
75 physical calamity, or if the failure to give notice is due to unforeseen
76 circumstances.