HOUSE DOCKET, NO. 1928 FILED ON: 1/17/2013

HOUSE . . . . . No. 1741

The Commonwealth of Massachusetts

PRESENTED BY:

Robert M. Koczera

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to plant closings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Robert M. Koczera	*11th Bristol*
Cory Atkins	*14th Middlesex*

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HOUSE . . . . . No. 1741

By Mr. Koczera of New Bedford, a petition (accompanied by bill, House, No. 1741) of Robert M. Koczera and Cory Atkins relative to certain payments to employees upon plant closings. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *535* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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:

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 Section 183 and 184 of Chapter 149 of the General laws, as appearing in the 2000 Official Edition, are hereby repealed.

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

Section 187. Plant Closings.

As used in this section, the following words shall have the following meanings:--

"Covered establishment" means any industrial or commercial or health care facility or part thereof which employs or has employed at any time in the receding 12- month period 100 or more persons.

"Employer" means any person who directly or indirectly owns and operates a covered establishment. For purposes of this definition, a parent corporation is considered the indirect owner and operator of any covered establishment that is directly owned and operated by its corporate subsidiary.

14 “Physical calamity” means, but shall not be limited to, any calamity such as fire, flood or
15 other natural disaster, including adjudicated bankruptcy.

16 “Relocation” means the removal of all or substantially all of industrial or commercial or
17 health care operations in a covered establishment to a new location, with in or without the
18 Commonwealth of Massachusetts, 100 or more miles distant from it original location.

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

26 c.)There shall be no liability for severance pay to an eligible employee if: (1) relocation
27 or termination of a covered establishment is necessitated by a physical calamity (2) that
28 employee accepts employment at the new location; or (3) that employee has been employed by
29 the employer for less than three years.

30 d.) Any employer who violates the provisions of this section of this section shall be liable
31 to the employee or employees affected in the amount of their unpaid severance pay. Action to
32 recover the liability may be maintained against any employer in any state or federal court of
33 competent jurisdiction by any one or more employees for and on behalf or himself or themselves
34 and any other employees similarly situated. Any labor organization may also maintain an action
35 on behalf of its members. The court in such action shall, in addition to any judgment awarded to
36 the plaintiff or plaintiffs, allow a reasonable attorney’s fee to be paid by defendant and costs of
37 the action.

38 e.)The director is authorized to supervise the payment of the unpaid severance pay owing
39 to any employee under this section. The director may bring an action in any court of competent
40 jurisdiction to recover the amount of any unpaid severance pay. The right provided to an
41 employee or employees to bring an action by or on behalf of any employee, and of any employee
42 to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by
43 the director in an action under this (subsection), unless the action is dismissed without prejudice
44 by the director. Any sums recovered by the director on behalf of an employee pursuant to this
45 (subsection) shall be held in a special deposit account and shall be paid, on order of the director,
46 directly to the employee affected. Any sums thus recovered and not paid to an employee
47 because of inability to do so with a period of three years shall be paid over to the Commonwealth
48 of Massachusetts.

49 f.) Any person proposing to relocate or terminate a covered establishment shall notify the
50 director in writing not less than 60 days prior to the relocation. Any person proposing to relocate

51 a covered establishment outside the Commonwealth shall notify employees, and the municipal
52 officers of the municipally where the plan is located, in writing not less than 60 day prior to the
53 relocation. Any person violating this provision commits a civil violation for which forfeiture of
54 not more than $500 may be adjudged, provided that no forfeiture may be adjudged if the
55 relocation is necessitated by a physical calamity, or if the failure to give notice is due to
56 unforeseen circumstances.