

HOUSE No. 1817

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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:

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3 the 2000 Official Edition, are hereby repealed.

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

6 Section 187. Plant Closings.

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

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

11 "Employer" means any person who directly or indirectly owns and operates a covered
12 establishment. For purposes of this definition, a parent corporation is considered the indirect

13 owner and operator of any covered establishment that is directly owned and operated by its
14 corporate subsidiary.

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

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

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

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

31 d.) Any employer who violates the provisions of this section of this section shall be liable
32 to the employee or employees affected in the amount of their unpaid severance pay. Action to
33 recover the liability may be maintained against any employer in any state or federal court of
34 competent jurisdiction by any one or more employees for and on behalf of himself or themselves

35 and any other employees similarly situated. Any labor organization may also maintain an action
36 on behalf of its members. The court in such action shall, in addition to any judgment awarded to
37 the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by defendant and costs of
38 the action.

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

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