SENATE DOCKET, NO. 469 FILED ON: 1/13/2009

# SENATE . . . . . No. 201

## The Commonwealth of Massachusetts

**In the Year Two Thousand Nine**

An Act relative to plant relocation..

*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. Chapter 149 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by deleting sections 183 and 184 and inserting in place thereof the following new section 183:-

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

"Employer" means any person who directly or indirectly owns or operates a covered establishment.

"Relocation" means the removal of all or substantially all of industrial or commercial operations in a covered establishment to a new location, within or without the Commonwealth of Massachusetts, 100 or more miles distant from its original location.

Any employer who relocates or terminates a covered establishment shall be liable to his or its employees for severance pay at the rate of no less than one week's pay for each year of

employment by the employee in that establishment. The severance pay to eligible employees shall be in addition to any final wage payment to the employee and shall be paid within one regular pay period after the employee's last full day of work, notwithstanding any other provisions of law.

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

Any employer who violates the provisions of this section shall be liable to the employee or employees affected in the amount of their unpaid severance pay. Action to recover the liability may be maintained against any employer in any state or Federal court of competent jurisdiction by any one or more employees for and on behalf of himself or themselves and any other employees similarly situated. Any labor organization may also maintain an action on behalf of its members.

Any person proposing to relocate or terminate a covered establishment shall notify the secretary of labor in writing not less than 60 days prior to the relocation. Any person violating this provision commits a civil violation for which a forfeiture of not more than $500 may be adjudged, provided that no forfeiture may be adjudged if the relocation is necessitated by a physical calamity, or if the failure to give notice is due to unforeseen circumstances.