

HOUSE No. 1899

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel J. Hunt

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 the notification of large job layoffs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>1/17/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/8/2023</i>

HOUSE No. 1899

By Representative Hunt of Boston, a petition (accompanied by bill, House, No. 1899) of Daniel J. Hunt and Michelle M. DuBois for legislation to require certain notices prior to plant closings or layoffs. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1998 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to the notification of large job layoffs.

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 71A of chapter 151A of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out, in line 4, the word "voluntary."

3 SECTION 2. Section 71A of chapter 151A, as so appearing, is hereby further amended
4 by inserting before the word "as," in line 13, the following words:- " , or mass layoff"

5 SECTION 3. Section 71A of chapter 151A, as so appearing, is hereby further amended
6 by inserting before the word "as," in line 16, the following words: - " , or mass layoff"

7 SECTION 4. Section 71A of chapter 151A, as so appearing, is hereby further amended
8 by inserting after the thirteenth paragraph the following paragraph:- "'Mass Layoff,' the
9 reduction, during any 30 days, of an employer's workforce, within a single municipality or

10 employment site, that is not the result of a plant closing or partial closing that affects either at
11 least 25 workers and 25 percent of the workforce, or at least 200 workers."

12 SECTION 5. Section 71A of chapter 151A, as so appearing, is hereby further amended
13 by striking out, in lines 48-49, the words "a significant number of employees of said facility" and
14 inserting in place thereof the following words:- "at least 25 workers and 25 percent of the
15 workforce, or at least 200 workers."

16 SECTION 6. Section 71A of chapter 151A, as so appearing, is hereby further amended
17 by inserting after the word "employer," in line 81, the following words:- ", or employer
18 performing a mass layoff."

19 SECTION 7. Subsection (a) of section 71B of chapter 151A, as so appearing, is hereby
20 amended by striking out subsection (a) and inserting in place the following subsection:-- (a) An
21 employer may not order a plant closing, partial closing, or mass layoff unless 60 days prior to
22 such plant closing, partial closing, or mass layoff, the employer gives written notice of the order
23 to the commissioner, in such form and manner as the commissioner prescribes, such information
24 as may be necessary to determine an employee's reemployment assistance benefits rights under
25 section 71A to 71G, inclusive. An employer giving such notice shall include in its notice the
26 elements required by the Worker Adjustment and Notification Act (29 U.S.C. Sec. 2101 et.
27 Seq.). The commissioner, after making such inquiries and investigations as deemed necessary,
28 shall certify whether a plant closing, partial closing, or mass layoff has occurred or will occur.
29 (1) The commissioner shall certify that a plant closing has or will occur if the commissioner
30 determines that at least ninety per cent of the employees of a facility have been or will be
31 permanently separated within the six month period prior to the date of certification or within

32 such other period as the commissioner shall prescribe; provided that, such period shall fall within
33 six month period prior to the date of certification. The commissioner shall give notice of the
34 determination regarding certification to the employer and if the employees are represented by a
35 labor union to such union and to any other person or organization that the commissioner
36 determines is an interested party. (2) The commissioner shall certify that a partial closing has or
37 will occur if the commissioner determines that at least 25 workers and 25 percent of the
38 workforce; or at least 200 workers have been or will be permanently separated within the six
39 month period prior to the date of certification or within such other period as the commissioner
40 shall prescribe; provided that, such period shall fall within six month period prior to the date of
41 certification. The commissioner shall give notice of the determination regarding certification to
42 the employer and if the employees are represented by a labor union to such union and to any
43 other person or organization that the commissioner determines is an interested party. (3) The
44 commissioner shall certify that a mass layoff has or will occur if the commissioner determines
45 that at least 25 workers and 25 percent of the workforce; or at least 200 workers have been or
46 will be permanently separated within the six month period prior to the date of certification or
47 within such other period as the commissioner shall prescribe; provided that, such period shall fall
48 within six month period prior to the date of certification. The commissioner shall give notice of
49 the determination regarding certification to the employer and if the employees are represented by
50 a labor union to such union and to any other person or organization that the commissioner
51 determines is an interested party.

52 SECTION 8. Section 71B of chapter 151A, as so appearing, is hereby amended by
53 inserting after subsection (c) the following subsections:--

54 (d) An employer who fails to give notice as required by this section before ordering a
55 plant closing, partial closing, or mass layoff, is liable to each employee entitled to notice who
56 lost his or her employment for: (1) Back pay at the average regular rate of compensation received
57 by the employee during the last three years of his or her employment, or the employee's final
58 rate of compensation, whichever is higher. (2) The value of the cost of any benefits to which the
59 employee would have been entitled had his or her employment not been lost, including the cost
60 of any medical expenses incurred by the employee that would have been covered under an
61 employee benefit plan. (3) Liability under this section is calculated for the period of the
62 employer's violation, up to a maximum of 60 days, or one-half the number of days that the
63 employee was employed by the employer, whichever period is smaller.

64 (e) The amount of an employer's liability under subdivision (d) is reduced by the
65 following: (1) Any wages, except vacation moneys accrued prior to the period of the employer's
66 violation, paid by the employer to the employee during the period of the employer's violation. (2)
67 Any voluntary and unconditional payments made by the employer to the employee that were not
68 required to satisfy any legal obligation. (3) Any payments by the employer to a third party or
69 trustee, such as premiums for health benefits or payments to a defined contribution pension plan,
70 on behalf of and attributable to the employee for the period of the violation.

71 (f) Notwithstanding the requirements of subdivision (a), an employer is not required to
72 provide notice if a plant closing, partial closing, or mass layoff, is necessitated by a physical
73 calamity or act of war.

74 (g) An employer is not required to comply with the notice requirement contained in this
75 section if the commissioner determines that all of the following conditions exist: (1) As of the

76 time that notice would have been required, the employer was actively seeking capital or business.
77 (2) The capital or business sought, if obtained, would have enabled the employer to avoid or
78 postpone the plant closing, partial closing, or mass layoff. (3) The employer reasonably and in
79 good faith believed that giving the notice required by this section would have precluded the
80 employer from obtaining the needed capital or business.

81 (h) The commissioner may not determine that the employer was actively seeking capital
82 or business under paragraph

83 (g) unless the employer provides the department with both of the following:(1) A written
84 record consisting of all documents relevant to the determination of whether the employer was
85 actively seeking capital or business, as specified by the commissioner. (2) An affidavit verifying
86 the contents of the documents contained in the record.

87 (i) The affidavit provided to the commissioner pursuant to paragraph

88 (h) (2) of this section shall contain a declaration signed under penalty of perjury stating
89 that the affidavit and the contents of the documents contained in the record submitted pursuant
90 to paragraph (h)(1) of this section are true and correct.

91 SECTION 9. Chapter 151A, as so appearing, is hereby amended by striking out section
92 71C, and inserting in place thereof the following section: -- "Any proposed regulations to be
93 issued pursuant to section 71B shall be filed with the clerk of the house and the clerk of the
94 senate thirty days before publishing a notice of a public hearing, pursuant to section 2 of chapter
95 30A.

96 SECTION 10. Section 71D of chapter 151A, as so appearing, is hereby amended by
97 inserting after the words "partial closings," in line 5, the following words:-- "or mass layoff"

98 SECTION 11. Section 71F of chapter 151A, as so appearing, is hereby amended by
99 inserting after the words "partial closing," in line 6, the following words:-- ", or mass layoff"

100 SECTION 12. This act shall take effect upon its passage.