

SENATE No. 80

By Ms. Pines, a petition (accompanied by bill, Senate, No. 80) of the Massachusetts AFL-CIO, by Joseph C. Faherty, president, Lois G. Pines, Marc R. Pacheco, Robert M. Koczera, Thomas P. Kennedy and other members of the General Court for legislation relative to the notice required prior to the relocation of certain industrial or commercial operations and the severance pay due terminated employees. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Seven.

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:

1 Chapter 149 of the General Laws, as appearing in the 1992
2 Official Edition of the Massachusetts General Laws, is hereby
3 amended by deleting sections 183 and 184 and inserting in place
4 thereof the following new section 183: —

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

8 “Employer” means any person who directly or indirectly owns
9 or operates a covered establishment.

10 “Relocation” means the removal of all or substantially all of
11 industrial or commercial operations in a covered establishment to
12 a new location, within or without the Commonwealth of
13 Massachusetts, 100 or more miles distant from its original loca-
14 tion.

15 Any employer who relocates or terminates a covered establish-
16 ment shall be liable to his employees for severance pay at the rate
17 of one week’s pay for each year of employment by the employee
18 in that establishment. The severance pay to eligible employees
19 shall be in addition to any final wage payment to the employee
20 and shall be paid within one regular pay period after the
21 employee’s last full day of work, notwithstanding any other provi-
22 sions of law.

23 There shall be no liability for severance pay to an eligible
24 employee if: (A) relocation or termination of a covered establish-
25 ment is necessitated by a physical calamity; (B) the employee is
26 covered by an express contract providing for severance pay;
27 (C) that employee accepts employment at the new location; or (D)
28 that employee has been employed by the employer for less than
29 three years.

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

38 Any person proposing to relocate or terminate a covered estab-
39 lishment shall notify the secretary of labor in writing not less
40 than 60 days prior to the relocation. Any person violating this pro-
41 vision commits a civil violation for which a forfeiture of not more
42 than \$500 may be adjudged, provided that no forfeiture may be
43 adjudged if the relocation is necessitated by a physical calamity,
44 or if the failure to give notice is due to unforeseen circumstances.