

**HOUSE . . . . . No.**

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**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 passage of the accompanying bill:

An Act relative to plant closings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Robert M. Koczera	11th Bristol
Christine E. Canavan	10th Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3799 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and 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 the 2000 Official Edition, are  
3 hereby repealed.

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

6 Section 187. Plant Closings.

7 a.) 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 part thereof which  
9 employs or has employed at any time in the receding 12- month period 100 or more persons.

10

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

14

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

17

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

21

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

28

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

32

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

40

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

50

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

56 adjudged if the relocation is necessitated by a physical calamity, or if the failure to give notice is due to unforeseen  
57 circumstances.