

**HOUSE . . . . . No. 1817**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Robert M. Koczera**

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*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  
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### 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3 hereby repealed.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 "Employer" means any person who directly or indirectly owns and operates a covered establishment. For  
11 purposes of this definition, a parent corporation is considered the indirect owner and operator of any covered  
12 establishment that is directly owned and operated by its corporate subsidiary.
- 13 "Physical calamity" means, but shall not be limited to, any calamity such as fire, flood or other natural disaster,  
14 including adjudicated bankruptcy.
- 15 "Relocation" means the removal of all or substantially all of industrial or commercial or health care operations  
16 in a covered establishment to a new location, with in or without the Commonwealth of Massachusetts, 100 or more  
17 miles distant from it original location.
- 18 b.) Any employer who relocates or terminates a covered establishment shall be liable to his, her or its  
19 employees for severance payments at a rate of no less than one week's pay for each year of employment by the  
20 employee in that establishment, notwithstanding any express contract which provides for such payment in the event  
21 of termination of employment in excess of that provided by this section. The severance pay to eligible employees

22 shall be in addition to any final wage payment to the employee and shall be paid within one regular pay period after  
23 the employee's last full day of work, notwithstanding any other provisions of law.

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

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

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

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