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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 547 Session of  
2023

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INTRODUCED BY KANE, KEARNEY, CAPPELLETTI, A. WILLIAMS, SAVAL,  
FONTANA, COSTA, DILLON, MUTH, COLLETT AND BREWSTER,  
MAY 23, 2023

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REFERRED TO LABOR AND INDUSTRY, MAY 23, 2023

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AN ACT

1 Relating to transfers of operations, terminations of  
2 operations, mass layoffs and changes in control.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Mandatory  
7 Severance for Mass Layoffs Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Business." An individual, partnership, association,  
13 corporation or any person or group of persons that employs 50 or  
14 more employees.

15 "Change of control." A material change in ownership of an  
16 employer or a filing seeking bankruptcy protection.

17 "Covered employee." The following:

1           (1) An individual who has been employed by an employer  
2 for at least 90 days immediately before a change of control  
3 affecting that individual's principal place of employment. A  
4 change of control affects a covered employee's principal  
5 place of employment if the change of control results in the  
6 predecessor employer transferring control of the place of  
7 employment to the successor employer.

8           (2) The term does not include:

9           (i) a managerial, supervisory or confidential  
10 employee;

11           (ii) a temporary employee; or

12           (iii) a part-time employee who has worked less than  
13 20 hours per week for the predecessor employer for at  
14 least 90 days immediately before the change of control.

15 "Department." The Department of Labor and Industry of the  
16 Commonwealth.

17 "Employer." An individual, partnership, association,  
18 corporation or a person or group of persons acting directly or  
19 indirectly in the interest of an employer in relation to an  
20 employee, including a person who, directly or indirectly, owns  
21 and operates the nominal employer or owns a corporate subsidiary  
22 that, directly or indirectly, owns and operates the nominal  
23 employer or makes the decision responsible for the employment  
24 action that gives rise to a mass layoff subject to notification.

25 "Establishment." A single place of employment that has been  
26 operated by an employer for more than three years, including a  
27 single location or a group of locations in this Commonwealth.  
28 The term does not include a temporary construction site.

29 "Facility." A building.

30 "Mass layoff." A reduction in force that is not the result

1 of a transfer of operations or termination of operations and  
2 that results in the termination of employment at an  
3 establishment during any 30-day period for 50 or more  
4 employees at or reporting to the establishment.

5 "Operating unit." An organizationally distinct product,  
6 operation or specific work function within or across facilities  
7 at a single establishment.

8 "Predecessor employer." The person who controls a business  
9 before a change of control.

10 "Principal place of employment." An office or other facility  
11 where an employee is principally assigned to work by a  
12 predecessor employer.

13 "Successor employer." A person who controls a business after  
14 a change of control.

15 "Termination of employment." The following:

16 (1) The layoff of an employee without a commitment to  
17 reinstate the employee to the employee's previous employment  
18 within six months of the layoff.

19 (2) The term does not mean:

20 (i) voluntary departure;

21 (ii) retirement;

22 (iii) discharge;

23 (iv) suspension for misconduct connected with  
24 employment;

25 (v) layoff of a seasonal employee; or

26 (vi) a situation in which an employer offers to an  
27 employee, at a location inside this Commonwealth and not  
28 more than 50 miles from the previous place of employment,  
29 the same employment or a position with equivalent status,  
30 benefits, pay and other terms and conditions of

1 employment.

2 (3) A layoff under paragraph (1) of more than six months  
3 which, at its outset, was announced to be a layoff of six  
4 months or less, shall not be treated as a termination of  
5 employment if the extension beyond six months is caused by  
6 business circumstances not reasonably foreseeable at the time  
7 of the initial layoff and notice is given at the time it  
8 becomes reasonably foreseeable that the extension beyond six  
9 months will be required.

10 "Termination of operations." The following:

11 (1) The permanent or temporary shutdown of a single  
12 establishment or of one or more facilities or operating units  
13 within a single establishment.

14 (2) The term does not include a termination of  
15 operations made necessary because of a fire, flood, natural  
16 disaster, national emergency, act of war, civil disorder or  
17 industrial sabotage, decertification from participation in  
18 the Medicare and Medicaid programs as provided under 42  
19 U.S.C. Ch. 7 (relating to Social Security) or license  
20 revocation under the laws of this Commonwealth.

21 "Total compensation." The following:

22 (1) The combined value of a covered employee's wages and  
23 benefits immediately before a change of control. Total  
24 compensation may be paid entirely as wages or in any  
25 combination of wages and fringe benefits, to be determined by  
26 the successor employer.

27 (2) The term includes, but is not limited to, a covered  
28 employee's hourly wage rate or the per diem value of the  
29 covered employee's monthly salary and the employer payments  
30 toward the covered employee's health and welfare and pension

1 benefits.

2 "Transfer of operations." The permanent or temporary  
3 transfer of a single establishment or one or more facilities or  
4 operating units within a single establishment to another  
5 location within or outside this Commonwealth.

6 "Transition period." A period of 180 days immediately  
7 following the effective date of a change of control.

8 Section 3. Transfer of operations, termination of operations or  
9 mass layoff.

10 (a) Notification.--If an establishment is subject to a  
11 transfer of operations or termination of operations which  
12 results, during any continuous period of not more than 30 days,  
13 in the termination of employment of 50 or more employees, or if  
14 an employer conducts a mass layoff, the employer who operates  
15 the establishment or conducts the mass layoff shall provide not  
16 less than 90 days, or the period of time required under 29  
17 U.S.C. Ch. 23 (relating to worker adjustment and retraining  
18 notification), whichever is longer, before the first termination  
19 of employment occurs in connection with the transfer of  
20 operations, termination of operations or mass layoff,  
21 notification of the transfer of operations, termination of  
22 operations or mass layoff to:

23 (1) the department;

24 (2) the chief elected official of the municipality where  
25 the establishment is located;

26 (3) each employee whose employment is to be terminated;  
27 and

28 (4) any collective bargaining units of employees at the  
29 establishment.

30 (b) Severance.--An employer subject to subsection (a) shall

1 provide severance pay as follows:

2 (1) The employer shall provide to each employee whose  
3 employment is terminated severance pay equal to one week of  
4 pay for each full year of employment.

5 (2) If the employer provides an employee with less than  
6 the number of days of notification required under subsection  
7 (a), the employer shall provide that employee with an  
8 additional four weeks of severance pay.

9 (3) The rate of severance pay provided by the employer  
10 under this subsection shall be the average regular rate of  
11 compensation received during the employee's last three years  
12 of employment with the employer or the final regular rate of  
13 compensation paid to the employee, whichever rate is higher.

14 (4) Severance pay under this subsection shall be  
15 regarded as compensation due to an employee for back pay and  
16 losses associated with the termination of the employment  
17 relationship, and earned in full upon the termination of the  
18 employment relationship, notwithstanding the calculation of  
19 the amount of the payment with reference to the employee's  
20 length of service.

21 (5) Severance pay provided by the employer under this  
22 subsection shall be in addition to any severance pay provided  
23 by the employer under a collective bargaining agreement or  
24 for any other reason, except that any back pay provided by  
25 the employer to the employee under 29 U.S.C. § 2104 (relating  
26 to administration and enforcement of requirements) because of  
27 a violation of 29 U.S.C. § 2102 (relating to notice required  
28 before plant closings and mass layoffs) shall be credited  
29 toward meeting the severance pay requirements of this  
30 subsection.

1           (6) Severance pay under this subsection shall not be  
2 subject to the provisions of section 404(d) of the act of  
3 December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known  
4 as the Unemployment Compensation Law.

5           (c) Qualification for notification.--In determining whether  
6 a transfer of operations, termination of operations or mass  
7 layoff is subject to the notification requirements of this  
8 section, any terminations of employment for two or more groups  
9 at a single establishment occurring within any 90-day period  
10 when each group has less than the number of terminations that  
11 would trigger the notification requirements of this section but  
12 the aggregate for all of the groups exceeds that number shall be  
13 regarded as subject to the notification requirements, unless the  
14 employer demonstrates that the cause of the terminations for  
15 each group is separate and distinct from the causes of the  
16 terminations for the other group or groups.

17           (d) Approval of waiver.--A waiver of the right to severance  
18 provided under subsection (b) shall not be effective without  
19 approval of the waiver by the department or a court of competent  
20 jurisdiction.

21 Section 4. Change of control.

22           (a) Retention of employees.--

23           (1) Except as otherwise provided in this section, a  
24 successor employer shall retain all covered employees for at  
25 least the transition period following a change of control,  
26 unless the department approves a reduction in the workforce  
27 under subsection (e). During the transition period, the  
28 successor employer may not terminate a covered employee  
29 without cause and may not reduce the total compensation of a  
30 covered employee.

1           (2) A successor employer and a labor organization  
2 representing covered employees may, in a collective  
3 bargaining agreement, provide that the agreement supersedes  
4 the requirements of this section.

5       (b) Public notice.--

6           (1) No later than 15 days before the effective date of a  
7 change of control, the predecessor employer shall:

8               (i) Post public notice of the change of control at  
9 each principal place of employment.

10              (ii) Send notice of the change of control to any  
11 labor organization that represents covered employees.

12           (2) The notice shall include the name and contact  
13 information of the predecessor employer, the name and contact  
14 information of the successor employer and the effective date  
15 of the change of control.

16           (3) The notice shall be posted at each principal place  
17 of business of the predecessor employer in a conspicuous  
18 place and in a manner that is readily viewable by covered  
19 employees.

20       (c) Employee information.--No later than 15 days before the  
21 effective date of a change of control, a predecessor employer  
22 shall provide to the successor employer the name, address, date  
23 of hire, total compensation and classification of each covered  
24 employee.

25       (d) Retention of records.--A successor employer shall retain  
26 the following written or electronic records for at least three  
27 years:

28           (1) The information provided to the successor employer  
29 under subsection (c).

30           (2) Any offer of employment made to a covered employee.



1           (3) Any termination of a covered employee during a  
2 transition period, including the reasons for the termination.

3           (4) Any written evaluation of a covered employee.

4           (e) Reduction of employees.--

5           (1) For two years after the transition period, a  
6 successor employer may reduce the total number of employees  
7 who would have qualified as covered employees during the 90-  
8 day period immediately before a change of control only if  
9 approved by the department.

10          (2) The department may not authorize a successor  
11 employer to reduce the number of employees under paragraph  
12 (1) except upon a showing by a preponderance of the evidence  
13 that the employer has conducted a study of the nature and  
14 scope of the work performed by those employees proposed to be  
15 eliminated, and the study shows that the elimination of the  
16 employees is necessary for the continued solvency of the  
17 business.

18          (3) A successor employer may terminate an employee with  
19 cause consistent with any applicable collective bargaining  
20 agreement during the period specified in paragraph (1).

21           (f) Construction.--This section may not be construed to  
22 limit the right of covered employees to bring legal action for  
23 wrongful termination.

24           (g) Rights and remedies.--The rights and remedies provided  
25 under this section are in addition to, and are not intended to  
26 supplant, any existing rights or remedies.

27 Section 5. Effective date.

28 This act shall take effect immediately.