

[Third Reprint]

ASSEMBLY, No. 1044

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

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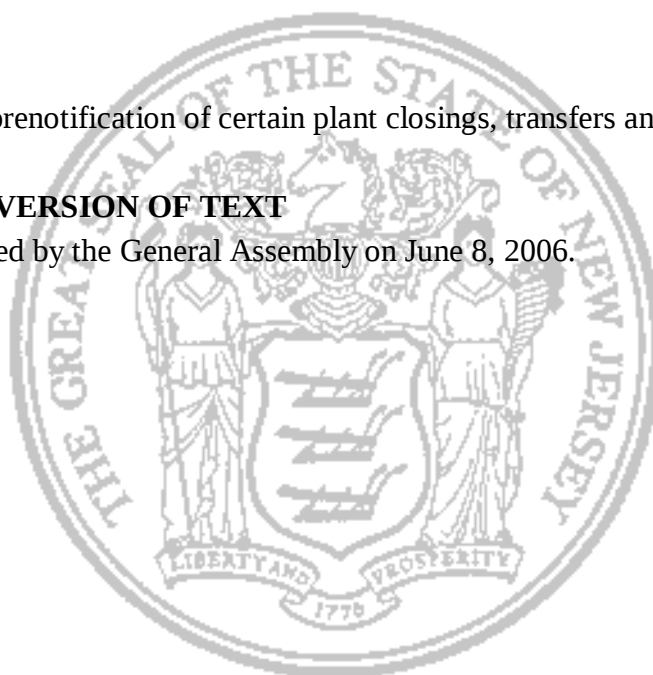
Assemblymen Gordon, Diegnan, Giblin, Vas and Panter

SYNOPSIS

Requires prenotification of certain plant closings, transfers and mass layoffs.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 8, 2006.



(Sponsorship Updated As Of: 1/9/2007)

1 AN ACT concerning prenotification of certain plant closings³,
2 transfers and mass layoffs³ and supplementing Title 34 of the
3 Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. As used in this act:

9 "Commissioner" means the Commissioner of Labor and
10 Workforce Development.

11 "Department" means the Department of Labor and Workforce
12 Development.

13 "Employer" means an individual or private business entity which
14 employs the workforce at an establishment.

15 "Establishment" means a single place of employment which has
16 been operated by an employer for a period longer than three years,
17 but shall not include a temporary construction site.

18 ³"Establishment" may be a single location or a group of contiguous
19 locations, including groups of facilities which form an office or
20 industrial park or separate facilities just across the street from each
21 other.

22 "Facility" means a building.³

23 ²"Full-time employee" means an employee who is not a part-time
24 employee.

25 "Mass layoff" means a reduction in force which is not the result
26 of a transfer or termination of operations and which results in the
27 termination of employment at an establishment during any 30-day
28 period for 500 or more full-time employees or for 50 or more of the
29 full-time employees representing one third or more of the full-time
30 employees at the establishment.

31 ³"Operating unit" means an organizationally distinct product,
32 operation, or specific work function within or across facilities at a
33 single establishment.³

34 "Part-time employee" means an employee who is employed for
35 an average of fewer than 20 hours per week or who has been
36 employed for fewer than six of the 12 months preceding the date on
37 which notice is required pursuant to this act.²

38 "Response team" means the plant closing response team
39 established pursuant to section 5 of this act.

40 "Termination of employment" means the layoff of an employee
41 without a commitment to reinstate the employee to his previous
42 employment within six months of the layoff, except that

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALA committee amendments adopted February 27, 2006.

²Assembly floor amendments adopted May 22, 2006.

³Assembly floor amendments adopted June 8, 2006.

1 "termination of employment" shall not mean ²a voluntary departure
 2 or retirement or a discharge or suspension for misconduct of the
 3 employee connected with the employment or² any layoff of a
 4 seasonal employee or refer to any situation in which an employer
 5 offers to an employee, at a location inside the State and not more
 6 than 50 miles from the previous place of employment, the same
 7 employment or a position with equivalent status, benefits, pay and
 8 other terms and conditions of employment¹, and, except that a
 9 layoff of more than six months which, at its outset, was announced
 10 to be a layoff of six months or less, shall not be treated as a
 11 termination of employment under this act if the extension beyond
 12 six months is caused by business circumstances not reasonably
 13 foreseeable at the time of the initial layoff, and notice is given at the
 14 time it becomes reasonably foreseeable that the extension beyond
 15 six months will be required¹.

16 "Termination of operations" means the ³termination of all or a
 17 portion of the operations conducted in an permanent or temporary
 18 shutdown of a single³ establishment³, or of one or more facilities or
 19 operating units within a single establishment³, except ³for that
 20 "termination of operations" shall not include³ a termination of
 21 operations made necessary because of a ²court order, including
 22 bankruptcy,¹ ²fire, flood, natural disaster, national emergency, act
 23 of war, civil disorder or industrial sabotage¹, decertification from
 24 participation in the Medicare and Medicaid programs as provided
 25 under Titles XVIII and XIX of the federal "Social Security Act,"
 26 ²[P.L.] Pub.L. 74-271 (42 U.S.C. s.1395 et seq.) or license
 27 revocation pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)¹.

28 "Transfer of operations" means the ³permanent or temporary³
 29 transfer of ³all or a portion of the operations conducted in an a
 30 single³ establishment³, or one or more facilities or operating units
 31 within a single establishment,³ to another location, inside or outside
 32 of this State.
 33

34 2. If an establishment is subject to a transfer of operations or a
 35 termination of operations which results, during any continuous
 36 period of not more than ¹[180] ²[90] ³30² days, in the termination
 37 of employment of 50 or more ²full-time² employees, ²or if an
 38 employer conducts a mass layoff,² the employer who operates the
 39 establishment ²or conducts the mass layoff² shall:

40 a. Provide, in the case of an employer who employs ¹[200]
 41 ²[50] ³100² or more ²full-time² employees, not less than ¹[180]
 42 90¹ days before the first termination of employment occurs in
 43 connection with the termination or transfer of operations, ¹[or, in
 44 the case of an employer who employs more than 49 and less than
 45 200 employees, not less than 90 days before the first termination of

1 employment occurs in connection with the termination or transfer of
2 operations,]¹ ²or mass layoff,² notification of the termination or
3 transfer of operations ²or mass layoff² to the Commissioner of
4 Labor and Workforce Development, the chief elected official of the
5 municipality where the establishment is located, each employee
6 whose employment is to be terminated and any collective
7 bargaining units of employees at the establishment;

8 b. Provide to each ²full-time² employee whose employment is
9 terminated and to whom the employer provides less than the
10 number of days of notification required pursuant to subsection a. of
11 this section, severance pay equal to one week of pay for each ²full²
12 year of employment. The rate of severance pay provided by the
13 employer pursuant to this subsection b. shall be '[one-half of]' the
14 average regular rate of compensation received during the
15 employee's last three years of employment with the employer or
16 '[one-half of]' the final regular rate of compensation paid to the
17 employee, whichever rate is higher. The severance pay provided by
18 the employer pursuant ²to² this subsection b. shall be in addition to
19 any severance pay provided by the employer pursuant to a
20 collective bargaining agreement or for any other reason, except that
21 any back pay provided by the employer to the employee pursuant to
22 section 5 of the "Worker Adjustment and Retraining Notification
23 Act," Pub.L.100-379 (29 U.S.C. ¹['§] s.¹ 2104), because of a
24 violation of section 3 of that act (29 U.S.C. ¹['§] s.¹ 2102) shall be
25 credited toward meeting the severance pay requirements of this
26 subsection b.; ²and²

27 c. Provide the response team with the amount of on-site work-
28 time access to the employees of the establishment that the response
29 team determines is necessary for the response team to carry out its
30 responsibilities pursuant to section 5 of this act.

31 ²In determining whether a termination or transfer of operations
32 or a mass layoff is subject to the notification requirements of this
33 section, any terminations of employment for two or more groups at
34 a single establishment occurring within any 90-day period, when
35 each group has less than the number of terminations which would
36 trigger the notification requirements of this section but the
37 aggregate for all of the groups exceeds that number, shall be
38 regarded as subject to the notification requirements unless the
39 employer demonstrates that the cause of the terminations for each
40 group is separate and distinct from the causes of the terminations
41 for the other group or groups.²

42
43 3. The notification provided pursuant to subsection a. of
44 section 2 of this act shall include:

45 a. A statement of the number of employees whose employment
46 will be terminated in connection with the ²mass layoff or² transfer

1 or termination of operations of the establishment, the date or dates
2 on which the ²mass layoff or² transfer or termination of operations
3 and each termination of employment will occur;

4 b. A statement of the reasons for the ²mass layoff or² transfer
5 or termination of operations;

6 c. A statement of any employment available to employees at
7 any other establishment operated by the employer, and information
8 regarding the benefits, pay and other terms and conditions of that
9 employment and the location of the other establishment;

10 d. A statement of any employee rights with respect to wages,
11 severance pay, benefits, pension or other terms of employment as
12 they relate to the termination, including, but not limited to, any
13 rights based on a collective bargaining agreement or other existing
14 employer policy;

15 e. A disclosure of the amount of the severance pay which is
16 payable pursuant to the provisions of subsection b. of section 2 of
17 this act; and

18 f. A statement of the employees' right to receive from the
19 response team, pursuant to subsection c. of section 2 and subsection
20 a. of section 5 of this act, information, referral and counseling
21 regarding: public programs which may make it possible to delay or
22 prevent the transfer or termination of operations ²or mass layoff²;
23 public programs and benefits to assist the employees; and employee
24 rights based on law.

25 The notification shall be in writing and, after the commissioner
26 has made a form for the notification available to employers,
27 provided on that form. The commissioner shall make the form
28 available to employers not more than 90 days following the
29 effective date of this act.

30

31 4. This act shall not be construed as limiting or modifying any
32 provision of a collective bargaining agreement which requires
33 notification, severance payment or other benefits on terms which
34 are more favorable to employees than those required by this act.

35

36 5. a. There is established, in the Department of Labor and
37 Workforce Development, a response team. The purpose of the
38 response team is to provide appropriate information, referral and
39 counseling, as rapidly as possible, to workers who are subject to
40 plant closings or mass layoffs.

41 b. In the case of each transfer or termination of the operations in
42 an establishment which results in the termination of 50 or more
43 employees, the response team shall:

44 (1) Offer to meet with the representatives of the management of
45 the establishment to discuss available public programs which may
46 make it possible to delay or prevent the transfer or termination of
47 operations, including economic development incentive and

1 workforce development programs;
2 (2) Meet on site with workers and provide information, referral
3 and counseling regarding:
4 (a) Available public programs which may make it possible to
5 delay or prevent the transfer or termination of operations, including
6 economic development incentive and workforce development
7 programs;
8 (b) Public programs or benefits which may be available to assist
9 the employees, including, but not limited to, unemployment
10 compensation benefits, job training or retraining programs, and job
11 search assistance; and
12 (c) Employee rights based on this act or any other law which
13 applies to the employees with respect to wages, severance pay,
14 benefits, pensions or other terms of employment as they relate to
15 the termination of employment; and
16 (3) Seek to facilitate cooperation between representatives of the
17 management and employees at the establishment to most effectively
18 utilize available public programs which may make it possible to
19 delay or prevent the transfer or termination of operations or to assist
20 employees if it is not possible to prevent the termination.
21
22 6. An aggrieved employee or former employee or his authorized
23 representative may file a complaint with the department or initiate
24 suit in Superior Court under this act either individually or on behalf
25 of employees or former employees affected by a violation of the
26 provisions of this act. If an action is undertaken on behalf of
27 affected employees or former employees, the party initiating the
28 action shall inform the department, which shall notify each affected
29 employee or former employee. If the department or the court finds
30 the employer has violated the provisions of this act, it shall award to
31 the aggrieved present or former employees: costs of the action,
32 including reasonable attorneys' fees; compensatory damages,
33 including lost wages, benefits and other remuneration. Any award
34 of compensatory damages for lost wages shall be limited to the
35 amount of severance pay required pursuant to subsection b. of
36 section 2 of this act.
37
38 ³7. This act shall be known and may be cited as the "Millville
39 Dallas Airmotive Plant Job Loss Notification Act."³
40
41 ³[7.] ³8.³ This act shall take effect immediately.