

[Fourth Reprint]

ASSEMBLY, No. 1044

STATE OF NEW JERSEY
212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

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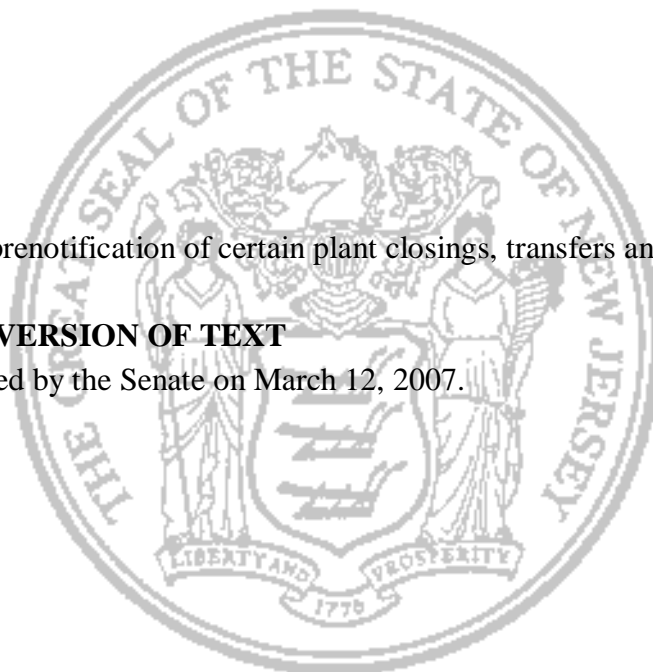
**Assemblymen Gordon, Diegnan, Giblin, Vas, Panter, Senators Sweeney,
Doria, Asselta, Karcher and Assemblyman Stack**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended by the Senate on March 12, 2007.



(Sponsorship Updated As Of: 6/12/2007)

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

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.

⁴Senate floor amendments adopted March 12, 2007.

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

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

29 "Transfer of operations" means the ³permanent or temporary³
 30 transfer of ³[all or a portion of the operations conducted in an] a
 31 single³ establishment³, or one or more facilities or operating units
 32 within a single establishment,³ to another location, inside or outside
 33 of this State.
 34

35 2. If an establishment is subject to a transfer of operations or a
 36 termination of operations which results, during any continuous
 37 period of not more than ¹[180] ²[90¹] 30² days, in the termination
 38 of employment of 50 or more ²full-time² employees, ²or if an
 39 employer conducts a mass layoff,² the employer who operates the
 40 establishment ²or conducts the mass layoff² shall:

41 a. Provide, in the case of an employer who employs ¹[200]
 42 ²[50¹] 100² or more ²full-time² employees, not less than ¹[180]
 43 90¹ days before the first termination of employment occurs in
 44 connection with the termination or transfer of operations, ¹[or, in
 45 the case of an employer who employs more than 49 and less than

1 200 employees, not less than 90 days before the first termination of
2 employment occurs in connection with the termination or transfer of
3 operations,]¹ ²or mass layoff,² notification of the termination or
4 transfer of operations ²or mass layoff² to the Commissioner of
5 Labor and Workforce Development, the chief elected official of the
6 municipality where the establishment is located, each employee
7 whose employment is to be terminated and any collective
8 bargaining units of employees at the establishment;

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

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

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

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

46 a. A statement of the number of employees whose employment

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

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

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

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

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

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

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

31

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

36

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

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

45 (1) Offer to meet with the representatives of the management of
46 the establishment to discuss available public programs which may
47 make it possible to delay or prevent the transfer or termination of

1 operations, including economic development incentive and
2 workforce development programs;

3 (2) Meet on site with workers and provide information, referral
4 and counseling regarding:

5 (a) Available public programs which may make it possible to
6 delay or prevent the transfer or termination of operations, including
7 economic development incentive and workforce development
8 programs;

9 (b) Public programs or benefits which may be available to assist
10 the employees, including, but not limited to, unemployment
11 compensation benefits, job training or retraining programs, and job
12 search assistance; and

13 (c) Employee rights based on this act or any other law which
14 applies to the employees with respect to wages, severance pay,
15 benefits, pensions or other terms of employment as they relate to
16 the termination of employment; and

17 (3) Seek to facilitate cooperation between representatives of the
18 management and employees at the establishment to most effectively
19 utilize available public programs which may make it possible to
20 delay or prevent the transfer or termination of operations or to assist
21 employees if it is not possible to prevent the termination.

22
23 6. An aggrieved employee or former employee or his authorized
24 representative may ⁴[file a complaint with the department or]⁴
25 initiate suit in Superior Court under this act either individually or
26 on behalf of employees or former employees affected by a violation
27 of the provisions of this act. If an action is undertaken on behalf of
28 affected employees or former employees, the party initiating the
29 action shall inform the department, which shall notify each affected
30 employee or former employee. If ⁴[the department or]⁴ the court
31 finds the employer has violated the provisions of this act, it shall
32 award to the aggrieved present or former employees: costs of the
33 action, including reasonable attorneys' fees; ⁴and⁴ compensatory
34 damages, including lost wages, benefits and other remuneration.
35 Any award of compensatory damages for lost wages shall be limited
36 to the amount of severance pay required pursuant to subsection b. of
37 section 2 of this act.

38
39 ³7. This act shall be known and may be cited as the "Millville
40 Dallas Airmotive Plant Job Loss Notification Act."³

41
42 ³[7.] 8.³ This act shall take effect immediately.