

1 H.78

2 Introduced by Representatives Consejo of Sheldon, Atkins of Winooski,
3 Bissonnette of Winooski, Bohi of Hartford, Branagan of
4 Georgia, Browning of Arlington, Christie of Hartford, Clarkson
5 of Woodstock, Conquest of Newbury, Evans of Essex, Fisher of
6 Lincoln, French of Randolph, Gilbert of Fairfax, Hooper of
7 Montpelier, Howrigan of Fairfield, Jerman of Essex, Keenan of
8 St. Albans City, Lenes of Shelburne, Martin of Wolcott,
9 McAllister of Highgate, Miller of Shaftsbury, Mitchell of
10 Barnard, Moran of Wardsboro, Mrowicki of Putney, Nuovo of
11 Middlebury, Pearce of Richford, Pearson of Burlington, Perley
12 of Enosburgh, Poirier of Barre City, Savage of Swanton, South
13 of St. Johnsbury, Stevens of Waterbury, Stevens of Shoreham,
14 Sweaney of Windsor, Townsend of Randolph, Waite-Simpson
15 of Essex, Wilson of Manchester, Wizowaty of Burlington and
16 Young of Albany

17 Referred to Committee on

18 Date:

19 Subject: Labor; reduction in force; payment of wages

1 Statement of purpose: This bill proposes to require that an employer that
2 ceases business operations pay all wages and benefits owed to its employees
3 within one week of the closing or layoff.

4 An act relating to wages for laid-off employees

5 It is hereby enacted by the General Assembly of the State of Vermont:

6 Sec. 1. 21 V.S.A. chapter 23 is added to read:

7 CHAPTER 23. EMPLOYMENT LOSS DUE TO

8 BUSINESS CLOSING

9 § 1821. DEFINITIONS

10 For the purposes of this chapter:

11 (1) "Affected employees" means employees who are terminated from
12 their jobs as the result of the employer closing an employment facility or
13 reducing the workforce.

14 (2)(A) "Employment loss" means either of the following:

15 (i) A termination of employment other than for cause, voluntary
16 departure, or retirement.

17 (ii) A layoff for more than six months.

18 (B) Employment loss shall not be deemed to have occurred if it is the
19 result of relocation or consolidation of part or all of the employer's business
20 and, prior to the employment loss, the employer offers one of the following:

1 ~~(i) To transfer the employees at the same or greater wage and~~
2 ~~benefit level to a different employment site within a reasonable commuting~~
3 ~~distance with no more than a six-month break in employment.~~

4 ~~(ii) To transfer the employees to employment at the same or~~
5 ~~greater wage and benefit level at any other employment site regardless of~~
6 ~~distance with no more than a six-month break in employment, to pay~~
7 ~~reasonable moving expenses, and the offer is made no later than 30 days before~~
8 ~~the employment loss.~~

9 ~~(3) "Mass layoff" means a reduction in force that is not a plant closing~~
10 ~~but the result of a permanent cessation of a major discrete portion of the~~
11 ~~business, including the elimination of a shift; the shutdown or relocation of a~~
12 ~~division; the permanent discontinuation or transfer of a production process or~~
13 ~~product line; a major workforce reduction; or a prolonged staging of permanent~~
14 ~~layoffs that do not qualify as a full plant closing and that reduction of~~
15 ~~workforce results in an employment loss at a single employment site during~~
16 ~~any six-month period for at least 20 percent of the employees but not fewer~~
17 ~~than 25 employees.~~

18 ~~(4) "Part-time employee" means an employee who is employed for an~~
19 ~~average of fewer than 20 hours a week.~~

20 ~~(5) "Plant closing" means the permanent or temporary shutdown of a~~
21 ~~single employment site, or one or more facilities or operating units within a~~

1 ~~single employment site, if, during any six month period, the shutdown results~~
2 in termination of at least 90 percent of the employees or an employment loss
3 for 25 or more employees, excluding part-time employees, at that employment
4 site.

5 § 1822. EMPLOYMENT LOSS; EXCEPTIONS

6 An employment loss will not be considered to have occurred if the loss is
7 either of the following:

8 (1) The closing of a temporary facility or the result of the completion of
9 a particular project or undertaking, and the affected employees were notified at
10 the time of hiring that the employment was limited to the duration of the
11 facility or project.

12 (2) The direct result of any form of natural disaster, such as a fire, flood,
13 earthquake, or drought.

14 § 1823. EMPLOYER LIABILITY

15 (a) An employer who orders a plant closing, a mass layoff, or ceases
16 business operations shall provide to each affected employee within one week
17 all final wage payments or benefits made or owed to the employee.

18 (b) In addition to the remedies provided in sections 342a and 345a of this
19 title, an affected employee may bring an action in the civil division of the
20 superior court in the county in which the employer is located. The court may
21 award up to three times the amount of pay and benefits owed plus damages of

1 ~~two percent of the amount of the underpayments for each day following the~~
2 ~~date of payment during which the payments remain unpaid and shall award~~
3 ~~costs and attorney's fees if the affected employee prevails.~~

4 ~~(c) An employer that violates subsection (a) of this section shall:~~

5 ~~(1) If the employer employed up to 49 employees, be assessed a civil~~
6 ~~penalty of not more than \$1,000.00 for each employee affected by the~~
7 ~~violation.~~

8 ~~(2) If the employer employed 50 or more, be assessed a civil penalty of~~
9 ~~not more than \$2,000.00 for each employee affected by the violation.~~

~~Sec. 1. 9 V.S.A. § 1971 is amended to read:~~

~~§ 1971. EXTENT OF LIEN~~

~~The liability of a corporation an employer as defined in 21 V.S.A. § 341 to~~
~~wage earners an employee for unpaid wages which were earned in the three~~
~~months next 30 days prior to the filing of a mortgage or other lien upon the~~
~~property and franchise of such corporation of the employer, in all cases, shall~~
~~be a first lien thereon, notwithstanding any mortgage or other lien thereon~~
~~recorded after such wages were earned. An individual who works for wages,~~
~~salary or hire at a rate of compensation not exceeding \$3,000.00 a year shall~~
~~be deemed to be a wage earner within the meaning of this section. Notice of~~
~~the lien shall be filed with the secretary of state's office and, if applicable, in~~
~~the land records by the employee or the department of labor acting on behalf~~

~~of the employee. An employee who is owed wages or the department of labor acting on behalf of that employee may file an action to execute on the lien in the civil division of the superior court in the county in which the employer has its principal place of business in the state.~~

Sec. 2. 11A V.S.A. § 14.03 is amended to read:

§ 14.03. ARTICLES OF DISSOLUTION

(a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth:

- (1) the name of the corporation;*
- (2) the date dissolution was authorized;*
- (3) if dissolution was approved by the shareholders:*

(A) the number of votes entitled to be cast on the proposal to dissolve; and

(B) either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval;

(4) if voting by voting groups was required, the information required by subdivision (3) of this subsection ~~must be~~ separately provided for each voting group entitled to vote separately on the plan to dissolve;

~~(5) a statement as to the settlement of debts, the distribution of property,
and the status of pending litigation;~~

~~(6) a statement whether the corporation owes any unpaid wages to its
employees.~~

~~(b) Subject to the provisions of section 14.09 of this title, a corporation is
dissolved upon the effective date of its articles of dissolution.~~

~~(c) If a corporation owes unpaid wages to its employees, it shall also file a
statement to that effect with the department of labor.~~

~~(d) A corporation's liability for unpaid wages shall not be affected by the
corporation's dissolution and winding up of its affairs. The directors and
shareholders of a corporation shall be individually liable in an action brought
by the department of labor for any unpaid wages owed to the corporation's
employees, or brought by an individual employee that is owed wages by the
corporation.~~

Sec. 1. 9 V.S.A. § 1971 is amended to read:

§ 1971. ~~EXTENT OF LIEN~~ UNPAID WAGES; STATUTORY LIEN;

PRIORITY OVER SUBSEQUENT MORTGAGE OR LIEN

(a) A statutory lien is created on the real and personal property of a
corporation for up to 30 days of unpaid wages.

(b) The liability of a corporation to ~~wage-earners~~ an employee for unpaid
wages which were earned ~~in the three months next~~ for a 30-day period prior to

~~the filing of a new mortgage or other lien upon the property and franchise of such corporation of the corporation, in all cases, shall be a first lien thereon, notwithstanding any mortgage or other lien thereon recorded after such wages were earned. An individual who works for wages, salary or hire at a rate of compensation not exceeding \$3,000.00 a year shall be deemed to be a wage earner within the meaning of this section. Notice of the lien if on personal property shall be filed with the secretary of state's office and, if on real property, in the land records, by the employee or the department of labor acting on behalf of one or more employees. An employee who is owed wages or the department of labor acting on behalf of one or more employees may file an action to execute on the lien in the civil division of the superior court in the county in which the corporation has its principal place of business in the state, or in the civil division of the Washington County superior court.~~

Sec. 2. 11A V.S.A. § 14.03 is amended to read:

§ 14.03. ARTICLES OF DISSOLUTION; CONTENT OF NOTICE; NOTICE
TO DEPARTMENT OF LABOR REGARDING UNPAID WAGES

(a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth:

- (1) the name of the corporation;*
- (2) the date dissolution was authorized;*

(3) if dissolution was approved by the shareholders:

(A) the number of votes entitled to be cast on the proposal to dissolve; and

(B) either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval;

(4) if voting by voting groups was required, the information required by subdivision (3) of this subsection ~~must be~~ separately provided for each voting group entitled to vote separately on the plan to dissolve;

(5) a statement as to the settlement of debts, the distribution of property, and the status of pending litigation;

(6) a statement whether the corporation owes any unpaid wages to its employees.

(b) Subject to the provisions of section 14.09 of this title, a corporation is dissolved upon the effective date of its articles of dissolution.

(c) If a corporation owes unpaid wages to its employees, it shall also file a statement to that effect with the department of labor.