

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, Lenex 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.