

HOUSE BILL NO. 6433

October 11, 2022, Introduced by Reps. Aiyash and Cavanagh and referred to the Committee on Commerce and Tourism.

A bill to require certain employers that close or relocate an establishment or engage in a mass layoff to pay severance pay to certain employees; to require certain employers to display certain information at work sites; to provide for the powers and duties of certain state governmental officers and entities; to require the promulgation of rules; to provide for civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "relocation, closing, and

1 mass layoff severance pay act".

2 Sec. 3. As used in this act:

3 (a) "Closing" or "closes" means the permanent shutdown of a
4 covered establishment. A closing may occur because of a relocation,
5 a termination, or the consolidation of the covered employer's
6 operations.

7 (b) "Compensation" means all wages, salaries, fees, bonuses,
8 commissions, and other payments made on behalf of or for the
9 benefit of an eligible employee.

10 (c) "Covered employer" means a person that directly or
11 indirectly owns and operates a covered establishment. A parent
12 corporation is considered an indirect owner and operator of any
13 covered establishment that is directly owned and operated by its
14 corporate subsidiary.

15 (d) "Covered establishment" means a facility or part of a
16 facility at which in the 12-month period immediately preceding a
17 closing, mass layoff, or relocation, both of the following
18 conditions were met:

19 (i) 20 or more employees worked, regardless of whether the
20 employees worked at the facility at the same time.

21 (ii) The employees described in subparagraph (i) received in the
22 aggregate a total of \$2,000,000.00 or more in compensation.

23 (e) "Department" means the department of labor and economic
24 opportunity.

25 (f) "Director" means the director of the department or the
26 director's designee.

27 (g) "Eligible employee" means an employee who meets all of the
28 following conditions:

29 (i) At the time of the closing or mass layoff, the employee has

1 been continuously employed at the covered establishment for at
2 least 1 year, including any period when the employee was on a leave
3 of absence. The requirement that the employee be employed at the
4 time of the closing or mass layoff does not apply to an employee
5 who voluntarily quit employment at the covered establishment to
6 take a new job 30 days or less before the date set by the covered
7 employer for a closing or mass layoff in an initial notice provided
8 by the covered employer that is required under this act or federal
9 law.

10 (ii) The employee has not been discharged for cause.

11 (iii) The employee has not accepted employment at another or
12 relocated facility operated by the covered employer.

13 (h) "Gross earnings" includes all pay for regular hours, shift
14 differentials, premiums, overtime, floating holidays, holidays,
15 funeral leave, jury duty pay, sick pay, and vacation pay earned
16 within the 12-month period immediately preceding the closing or
17 mass layoff. Gross earnings does not include payments made under a
18 third-party benefit program, such as disability payments.

19 (i) "Mass layoff" means a reduction in a covered employer's
20 workforce, not the result of a closing, that results in a loss of
21 at least 20 employees at a covered establishment.

22 (j) "Relocation" means the removal of all or substantially all
23 operations in a covered establishment to a new location, within or
24 outside this state, 100 or more miles distant from its original
25 location.

26 (k) "Week's pay" means an amount equal to an employee's gross
27 earnings during the 12-month period immediately preceding the month
28 of the closing or mass layoff, as determined by the department,
29 divided by the number of weeks in which the employee received gross

1 earnings during that 12-month period.

2 Sec. 5. (1) A covered employer that closes or engages in a
3 mass layoff at a covered establishment shall pay to an eligible
4 employee of the covered establishment severance pay at the rate of
5 1 week's pay for each year that the employee was employed at the
6 covered establishment and partial pay for any partial year. The
7 severance pay to an eligible employee under this section is in
8 addition to any final wage payment to the employee and must be paid
9 not later than 1 regular pay period after the employee's last full
10 day of work.

11 (2) A covered employer is not exempt from liability for
12 severance pay under this act solely because it files a voluntary
13 petition for bankruptcy protection under chapter 7 or chapter 11 of
14 title 11 of the federal bankruptcy code, 11 USC 701 to 784 and 11
15 USC 1101 to 1174, or because an involuntary petition is commenced
16 against it pursuant to section 303 of the federal bankruptcy code,
17 11 USC 303.

18 (3) A covered employer that violates this section may be
19 ordered to pay a civil fine of not more than \$1,000.00 for each
20 separate violation. A violation of this section may be prosecuted
21 by the prosecutor of the county in which the violation occurred or
22 by the attorney general. A civil fine must not be imposed under
23 this subsection if doing so would prevent the violator from making
24 all payments required under subsection (1).

25 Sec. 7. (1) A covered employer that violates this act is
26 liable to an affected employee in both of the following amounts:

27 (a) The amount of the severance pay required to be paid to the
28 employee under this act that remains unpaid.

29 (b) An additional 4 weeks' pay.

(2) Notwithstanding section 9 or any other provision of law, 1
or more employees may bring an action, for and on behalf of that
employee or those employees and any other employees similarly
situated, in any court of competent jurisdiction to recover the
unpaid severance pay. A labor organization may bring an action on
behalf of its members. A court, in an action brought under this
section, in addition to any judgment awarded to the plaintiff,
shall allow for a reasonable attorney fee and costs of the action
to be recovered by the plaintiff. An action brought under this
section must be brought not later than 6 years after the date of
the violation.

Sec. 9. The department or attorney general may bring an action
in any court of competent jurisdiction to recover unpaid severance
pay under this act. An employee is not prohibited from bringing, or
being a plaintiff in, an action under section 7(2) because the
department or the attorney general brings an action under this
section. Money from an award recovered by the department or
attorney general on behalf of an employee under this section must
be held in a special deposit account and must be paid, on order of
the director or attorney general, to the employee. Money from an
award in the special deposit account remaining 3 or more years
after the final disposition of the action, if the money has
remained in the special deposit account because of the inability to
pay the employee, must be deposited into the general fund. An
action brought under this section must be brought not later than 6
years after the date of the violation.

Sec. 11. (1) A covered employer shall notify the department in
writing not less than 90 days before relocating or closing a
covered establishment. A covered employer shall notify the

1 department as far in advance as practicable, but not less than 90
2 days before, of a mass layoff at a covered establishment, and shall
3 report to the department in writing the date that the covered
4 employer expects to begin recalling employees and the date by which
5 the covered employer expects to have recalled all of the employees.
6 A notification or report provided to the department under this
7 section must include all relevant information in the possession of
8 the covered employer regarding a potential recall, if applicable.

9 (2) To monitor compliance with the requirements of this act, a
10 covered employer shall allow the department access to its
11 employees' compensation records, with appropriate notice and at a
12 mutually agreeable time.

13 (3) The department shall create a poster for use by covered
14 employers that includes statements that summarize an employee's
15 rights under this act. A covered employer shall display the poster
16 at each of its work sites in a conspicuous location that is
17 accessible to its employees. A covered employer that violates this
18 subsection may be ordered to pay a civil fine of not more than
19 \$5,000.00 for each separate violation. A violation of this
20 subsection may be prosecuted by the prosecutor of the county in
21 which the violation occurred or by the attorney general.

22 Sec. 13. (1) A covered employer shall notify the employees of
23 a covered establishment and the officers of the municipality where
24 the covered establishment is located in writing not less than 90
25 days before closing the covered establishment, unless this notice
26 requirement is waived by the department. A covered employer that
27 violates this section is responsible for a state civil infraction
28 and may be ordered to pay a civil fine of not more than \$1,000.00.

29 (2) A civil fine imposed under this section must not be

1 collected if collecting the civil fine would prevent the violator
2 from making all payments required under section 5(1).

3 Sec. 15. Benefits paid or payable to an eligible employee
4 under the Michigan employment security act, 1936 (Ex Sess) PA 1,
5 MCL 421.1 to 421.75, do not reduce the amount of severance pay the
6 eligible employee is entitled to receive under this act.

7 Sec. 17. Not later than 90 days after the effective date of
8 this act, the department shall promulgate rules to implement this
9 act pursuant to the administrative procedures act of 1969, 1969 PA
10 306, MCL 24.201 to 24.328.

11 Sec. 19. If a collective bargaining agreement or other
12 agreement that is in effect on the effective date of this act
13 conflicts with this act, this act applies to the agreement on the
14 date that it is amended, extended, or renewed.

15 Enacting section 1. This act takes effect 90 days after the
16 date it is enacted into law.