

FIRST REGULAR SESSION

# HOUSE BILL NO. 1251

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CLEMENS.

2519H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To amend chapter 290, RSMo, by adding thereto one new section relating to responsibilities of employers.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 290, RSMo, is amended by adding thereto one new section, to be known as section 290.160, to read as follows:

**290.160. 1. As used in this section, the following terms mean:**

(1) "Director", the director of the department of labor and industrial relations or his or her authorized representative;

(2) "Employee", the same meaning given to such term under section 290.500;

(3) "Employer", an individual or private business entity that employs a workforce at an establishment. For purposes of this section, "employer" also includes any individual, partnership, association, corporation, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee and includes any person who, directly or indirectly, owns and operates a nominal employer or who owns a corporate subsidiary that, directly or indirectly, owns and operates a nominal employer or makes the decision responsible for the employment action that gives rise to a mass layoff subject to notification;

(4) "Establishment", a place of employment that has been operated by an employer for a period longer than three years; provided that, "establishment" shall not include a temporary construction site. The term "establishment" may include a single location or a group of locations, including any building located in this state;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           (5) "Mass layoff", a reduction in the size of a workforce that is not the result of a  
18 transfer or termination of operations and that results in the termination of employment at  
19 an establishment during any thirty-day period for fifty or more employees at or reporting  
20 to the establishment;

21           (6) "Operating unit", an organizationally distinct product, operation, or specific  
22 work function within or across facilities at a single establishment;

23           (7) "Termination of employment", the layoff of an employee without a commitment  
24 to reinstate the employee to his or her previous employment within six months of the  
25 layoff; except that, "termination of employment" shall not mean a voluntary departure or  
26 retirement of an employee, a discharge or suspension of an employee for misconduct of the  
27 employee connected with the employment, or any layoff of a seasonal employee.  
28 "Termination of employment" shall not refer to any situation in which an employer offers  
29 to an employee, at a location in this state and no more than fifty miles from the previous  
30 place of employment, the same employment or a position with equivalent status, benefits,  
31 pay, and other terms and conditions of employment. A layoff of more than six months that,  
32 at its outset, was announced to be a layoff of six months or less, shall not be considered a  
33 "termination of employment" if the extension beyond six months is caused by business  
34 circumstances not reasonably foreseeable at the time of the initial layoff and notice is given  
35 at the time it becomes reasonably foreseeable that the extension beyond six months will be  
36 required;

37           (8) "Termination of operations", the permanent or temporary shutdown of a single  
38 establishment or of one or more facilities or operating units within a single establishment;  
39 except that, "termination of operations" shall not include a termination of operations made  
40 necessary because of a fire, flood, natural disaster, national emergency, act of war, civil  
41 disorder, industrial sabotage, decertification from participation in the Medicare and  
42 Medicaid programs as described under 42 U.S.C. Section 1395 et seq., or any license  
43 revocation under the laws of this state;

44           (9) "Transfer of operations", the permanent or temporary transfer of a single  
45 establishment, or one or more facilities or operating units within a single establishment,  
46 to another location, inside or outside of this state.

47           2. If an establishment is subject to a transfer of operations or a termination of  
48 operations that results, during any continuous period of no more than thirty days, in the  
49 termination of employment of fifty or more employees, or if an employer conducts a mass  
50 layoff, the employer who operates the establishment or conducts the mass layoff shall:

51           (1) Provide, in the case of an employer who employs one hundred or more  
52 employees, no less than ninety days or the period of time required under the federal

53 **Worker Adjustment and Retraining Notification Act, as amended, 29 U.S.C. Section 2101**  
54 **et seq., whichever is longer; before the first termination of employment occurs in**  
55 **connection with the termination or transfer of operations or mass layoff; notification of the**  
56 **termination or transfer of operations or mass layoff to the director, the chief elected official**  
57 **of any municipality in which the establishment is located, each employee whose**  
58 **employment is to be terminated, and any collective bargaining units of employees at the**  
59 **establishment;**

60 **(2) Provide, to each employee whose employment is terminated, severance pay**  
61 **equal to one week of pay for each full year of employment. If the employer provides any**  
62 **employee with less than the number of days of notification required under subdivision (1)**  
63 **of this subsection, the employer shall provide that employee with an additional four weeks**  
64 **of pay. The rate of severance pay provided by the employer under this subdivision shall**  
65 **be the average regular rate of compensation received during the employee's last three years**  
66 **of employment with the employer or the final regular rate of compensation paid to the**  
67 **employee, whichever rate is higher. Severance under this subsection shall be regarded as**  
68 **compensation due to an employee for back pay and losses associated with the termination**  
69 **of the employment relationship and earned in full upon the termination of the employment**  
70 **relationship, notwithstanding the calculation of the amount of the payment with reference**  
71 **to the employee's length of service. An employer shall provide an employee the greater of:**

72 **(a) The severance pay required under this subdivision; or**

73 **(b) Any severance pay provided by the employer pursuant to a collective**  
74 **bargaining agreement or for any other reason.**

75  
76 **Any back pay provided by the employer to the employee under the Worker Adjustment**  
77 **and Retraining Notification Act, 29 U.S.C. Section 2101 et seq., because of a violation of**  
78 **that act, shall be credited toward meeting the severance pay requirements of this**  
79 **subdivision.**

80 **3. No waiver of the right to severance provided under this section shall be effective**  
81 **without approval of the waiver by the director or by a court of competent jurisdiction.**

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