

STATE OF NEW YORK

11216

IN ASSEMBLY

May 1, 2026

Introduced by M. of A. BRONSON -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to removing the exclusion of part-time employees from certain definitions relating to employment and expanding the definition of employer; removing certain exclusions for employer notice requirements for the closing of a facility; removing the discretionary reduction of penalties for employers for certain acts or omissions concerning notice requirements for mass layoffs, relocations or employment loss; removing the maximum time period for determining back pay and other liabilities for certain employees who experience employment loss; allowing the attorney general to take certain action to assist certain employees in receiving back pay and other liabilities; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 860-a of the labor law, as added by chapter 475 of the laws of 2008, is amended to read as follows:

§ 860-a. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed [plant] facility closing or mass layoff by their employer.

2. "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified person.

3. "Associate", when used to indicate a relationship with any person, means:

(a) any entity of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of voting securities;

(b) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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(c) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person.

4. "Beneficial owner", when used with respect to any securities, means a person:

(a) that, individually or with or through any of its affiliates or associates, beneficially owns such securities, directly or indirectly; or

(b) that, individually or with or through any of its affiliates or associates, has (i) the right to acquire such securities, whether such right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement or understanding, whether or not in writing, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; or (ii) the right to vote such securities pursuant to any agreement, arrangement or understanding, whether or not in writing; provided, however, that a person shall not be deemed the beneficial owner of any securities under this subparagraph if the agreement, arrangement or understanding to vote such securities (1) arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made in accordance with the applicable rules and regulations under the Exchange Act and (2) is not then reportable on a Schedule 13D under the Exchange Act, or any comparable or successor report; or

(c) that has any agreement, arrangement or understanding, whether or not in writing, for the purpose of acquiring, holding, voting, except voting pursuant to a revocable proxy or consent as described in subparagraph (ii) of paragraph (b) of this subdivision, or disposing of such securities with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such securities.

5. "Control", including the terms "controlling", "controlled by" and "under common control with", means the possession, directly or indirectly, of the power to direct or cause the direction of (a) the management and policies of a person, (b) the operation of a person, or (c) substantially all of the assets of a person, whether through the ownership of voting securities, by contract, or otherwise. A person's beneficial ownership of ten percent or more of an entity's outstanding voting securities shall create a presumption that such person has control of such entity. Notwithstanding the foregoing, a person shall not be deemed to have control of an entity if such person holds voting securities, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee, custodian or trustee for one or more beneficial owners who do not individually or as a group have control of such entity.

6. "Employment loss" means:

(a) an employment termination, other than a discharge for cause, voluntary departure ~~other than in anticipation of an announced facility closing or mass layoff~~, or retirement;

(b) a mass layoff exceeding [~~six~~] ~~three~~ months;

(c) a reduction in hours of work of more than fifty percent during each month of any consecutive [~~six-month~~] ~~three-month~~ period.

"Employment loss" shall not result under circumstances where a [~~plant~~] ~~facility~~ closing or mass layoff is the result of the relocation or consolidation of part or all of the employer's business and, before the closing or mass layoff, the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a [~~six-month~~] ~~three-month~~ break in employment, or the

1 employer offers to transfer the employee to any other site of employ-
 2 ment, regardless of distance, with no more than a [~~six-month~~] three-
 3 month break in employment, and the employee accepts within thirty days
 4 of the offer or of the closing or mass layoff, whichever is later.

5 [~~3-~~] 7. "Employer" means any business enterprise that employs fifty or
 6 more employees[, excluding part-time employees, or fifty or more employ-
 7 ees that work in the aggregate at least two thousand hours per week].
 8 "Employer" shall include any affiliate of an employer. "Employer" shall
 9 not include the federal or state government or any of their political
 10 subdivisions, including any unit of local government or any school
 11 district.

12 [~~4-~~] 8. "Exchange Act" means the act of Congress known as the Securi-
 13 ties Exchange Act of 1934, as the same has been or hereafter may be
 14 amended from time to time.

15 9. "Mass layoff" means a reduction in force which:
 16 (a) is not the result of a [~~plant~~] facility closing; and
 17 (b) results in an employment loss for those working at or reporting to
 18 a single site of employment during any thirty-day period for[+]
 19 (i) at least thirty-three percent of the employees (excluding part-
 20 time employees); and
 21 (ii) at least twenty-five employees (excluding part-time employees);
 22 or
 23 (iii) at least two hundred fifty employees (excluding part-time
 24 employees)] twenty or more employees.

25 [~~5. "Part-time employee" means an employee who is employed for an~~
 26 ~~average of fewer than twenty hours per week or who has been employed for~~
 27 ~~fewer than six of the twelve months preceding the date on which notice~~
 28 ~~is required.~~

29 [~~6. "Plant~~] 10. "Facility closing" means the permanent or temporary
 30 shutdown of a single site of employment, or one or more facilities or
 31 operating units within a single site of employment, if the shutdown
 32 results in an employment loss at the single site of employment during
 33 any thirty-day period for [~~twenty-five~~] twenty or more employees [~~{other~~
 34 ~~than part-time employees}]~~.

35 [~~7-~~] 11. "Representative" means an exclusive representative within the
 36 meaning of section 9(a) or 8(f) of the National Labor Relations Act (29
 37 U.S.C. 159(a), 158(f)) or section 2 of the Railway Labor Act (45 U.S.C.
 38 152).

39 [~~8-~~] 12. "Relocation" means the removal of all or substantially all of
 40 the industrial or commercial operations of an employer to a different
 41 location fifty miles or more away.

42 13. "Person" means any individual, partnership, association, corpo-
 43 ration, cooperative, limited liability company, firm, trust, or other
 44 entity.

45 § 2. Subdivision 3 of section 860-b of the labor law is REPEALED.

46 § 3. Subdivisions 5 and 7 of section 860-b of the labor law, as added
 47 by chapter 475 of the laws of 2008, are amended to read as follows:

48 5. In the case of a sale of part or all of an employer's business, the
 49 seller shall be responsible for providing notice for any [~~plant~~] facili-
 50 ty closing or mass layoff in accordance with this section, up to and
 51 including the effective date of the sale. After the effective date of
 52 the sale of part or all of an employer's business, the purchaser shall
 53 be responsible for providing notice for any [~~plant~~] facility closing or
 54 mass layoff in accordance with this section. Notwithstanding any other
 55 provision of this article, any person who is an employee of the seller

1 as of the effective date of the sale shall be considered an employee of
2 the purchaser immediately after the effective date of the sale.

3 7. Nothing set forth herein shall be read to prevent an employer who
4 is not required to comply with the notice requirements of this section,
5 to the extent possible, to provide notice to its employees about a
6 proposal to close a ~~[plant]~~ facility or permanently reduce its work-
7 force.

8 § 4. Subdivision 1 of section 860-c of the labor law, as added by
9 chapter 475 of the laws of 2008, is amended to read as follows:

10 1. In the case of a ~~[plant]~~ facility closing or mass layoff, an
11 employer is not required to comply with the notice requirement in subdivi-
12 sion one of section eight hundred sixty-b of this article if:

13 ~~(a) [(i) at the time the notice would have been required, the employer~~
14 ~~was actively seeking capital or business; and~~

15 ~~(ii) the capital or business sought, if obtained, would have enabled~~
16 ~~the employer to avoid or postpone the relocation or termination; and~~

17 ~~(iii) the employer reasonably and in good faith believed that giving~~
18 ~~the notice required by subdivision one of section eight hundred sixty-b~~
19 ~~of this article would have precluded the employer from obtaining the~~
20 ~~needed capital or business;~~

21 ~~(b) the need for a notice was not reasonably foreseeable at the time~~
22 ~~the notice would have been required;~~

23 ~~(c)]~~ the ~~[plant]~~ facility closing is of a temporary facility or the
24 ~~[plant]~~ facility closing or mass layoff is the result of the completion
25 of a particular project or undertaking, and the affected employees were
26 hired with the understanding that their employment was limited to the
27 duration of the facility or project or undertaking;

28 ~~[(d) the plant closing or mass layoff is due to any form of natural~~
29 ~~disaster, such as a flood, earthquake, or drought; or~~

30 ~~(e)]~~ ~~(b)~~ the facility closing or mass layoff constitutes a strike or
31 constitutes a lockout not intended to evade the requirements of this
32 article. Nothing in this article shall require an employer to serve
33 written notice when permanently replacing a person who is deemed to be
34 an economic striker under the National Labor Relations Act (29 U.S.C.
35 151 et seq.). Nothing in this article shall be deemed to validate or
36 invalidate any judicial or administrative ruling relating to the hiring
37 of permanent replacements for economic strikers under the National Labor
38 Relations Act.

39 § 5. Section 860-d of the labor law, as added by chapter 475 of the
40 laws of 2008, is amended to read as follows:

41 § 860-d. Extension of mass layoff period. A mass layoff of more than
42 ~~[six]~~ three months which, at its outset, was announced to be a mass
43 layoff of ~~[six]~~ three months or less with an announced expected date of
44 recall shall be treated as an employment loss under this article unless:

45 1. the extension beyond ~~[six]~~ three months is caused by business
46 circumstances (including unforeseeable changes in price or cost) not
47 reasonably foreseeable at the time of the initial mass layoff; and

48 2. notice is given at the time it becomes reasonably foreseeable that
49 the extension beyond ~~[six]~~ three months will be required.

50 § 6. Section 860-e of the labor law, as added by chapter 475 of the
51 laws of 2008, is amended to read as follows:

52 § 860-e. Determinations with respect to employment loss. In determin-
53 ing whether a ~~[plant]~~ facility closing or mass layoff has occurred or
54 will occur, employment losses for two or more groups of employees at a
55 single site of employment, each of which is less than the minimum number
56 of employees specified in ~~[subdivisions four or six]~~ subdivision nine or

1 ~~ten~~ of section eight hundred sixty-a of this article but which in the
2 aggregate meet or exceed that minimum number set forth in such subdivi-
3 sions, and which occur within any ninety-day period shall be considered
4 to be a [~~plant~~] ~~facility~~ closing or mass layoff unless the employer
5 demonstrates that the employment losses are the result of separate and
6 distinct actions and causes and are not an attempt by the employer to
7 evade the requirements of this article.

8 § 7. Subdivisions 2, 4, 6 and 8 of section 860-g of the labor law, as
9 added by chapter 475 of the laws of 2008, are amended and a new subdivi-
10 sion 9 is added to read as follows:

11 2. Back pay and other liability under this section is calculated for
12 the period of the employer's violation, [~~up to a maximum of sixty days,~~]
13 or one-half the number of days that the employee was employed by the
14 employer, whichever period is smaller.

15 4. The amount of an employer's liability under subdivision one of this
16 section, shall be reduced by the following:

17 (a) Any wages, except vacation moneys accrued before the period of the
18 employer's violation, paid by the employer to the employee during the
19 period of the employer's violation.

20 (b) Any voluntary and unconditional payments made by the employer to
21 the employee that were not required to satisfy any legal obligation.

22 (c) Any payments by the employer to a third party or trustee, such as
23 premiums for health benefits or payments to a defined contribution
24 pension plan, on behalf of and attributable to the employee for the
25 period of the violation.

26 (d) Any liability paid by the employer under any applicable federal
27 law governing notification of mass layoffs, [~~plant~~] ~~facility~~ closings,
28 or relocations.

29 (e) In an administrative proceeding by the commissioner, any liability
30 paid by the employer prior to the commissioner's determination as the
31 result of a private action brought under this article.

32 (f) In a private action brought under this article, any liability paid
33 by the employer in an administrative proceeding by the commissioner
34 prior to the adjudication of such private action.

35 6. [~~If an employer proves to the satisfaction of the commissioner that~~
36 ~~the act or omission that violated this article was in good faith and~~
37 ~~that the employer had reasonable grounds for believing that the act or~~
38 ~~omission was not a violation of this article, the commissioner may, in~~
39 ~~his or her discretion, reduce the amount of liability provided for in~~
40 ~~this section. In determining the amount of such reduction, the commis-~~
41 ~~sioner shall consider (a) the size of the employer; (b) the hardships~~
42 ~~imposed on employees by the violation; (c) any efforts by the employer~~
43 ~~to mitigate the violation; and (d) the grounds for the employer's~~
44 ~~belief.]~~

45 (a) Within thirty days after a natural disaster, such as a flood,
46 earthquake, or drought, an employer may make application to the commis-
47 sioner for a reduction in liability imposed under this article. If such
48 employer proves, to the satisfaction of the commissioner, that the mass
49 layoff, relocation or employment loss out of which liability arose was a
50 direct result of such natural disaster, the commissioner may, in such
51 commissioner's discretion, reduce any liability with respect to such
52 mass layoff, relocation or employment loss provided for in this article.
53 In determining the amount of any approved reduction, the commissioner
54 shall consider: (i) the size of the employer; (ii) the hardships imposed
55 on employees by any and all violations; (iii) any efforts by the employ-
56 er to mitigate any violation or violations and any reduction in liabil-

1 ity to employees; and (iv) the degree of harm caused to the employer and
2 the employees by the natural disaster.

3 (b) Any aggrieved employee of an employer making application pursuant
4 to paragraph (a) of this subdivision seeking to challenge the determi-
5 nation of the commissioner may bring a civil action on their own behalf,
6 or on behalf of other persons similarly situated, or both, in any court
7 of competent jurisdiction, within the time period provided by section
8 two hundred thirteen of the civil practice law and rules. The court may
9 award reasonable attorney's fees as part of costs to any plaintiff who
10 prevails in a civil action brought under this article.

11 8. Neither the commissioner nor any court shall have the authority to
12 enjoin a [~~plant~~] facility closing, relocation, or mass layoff under this
13 article; provided, however, whenever an employer is liable pursuant to
14 subdivision one of this section, application may be made by the attorney
15 general in the name of the people of the state of New York to a court or
16 justice having jurisdiction by a special proceeding to issue an injunc-
17 tion, and upon notice to the defendant of not less than five days, to
18 enjoin and restrain the actions of such employer or take such other
19 actions the attorney general may deem appropriate to enforce the
20 provisions of subdivision one of this section. In connection with any
21 such proposed application, the attorney general is authorized to take
22 proof and make a determination of the relevant facts and to issue
23 subpoenas in accordance with the civil practice law and rules.

24 9. No waivers of liability under this article shall be enforceable
25 unless supervised by a court, the commissioner or certified class coun-
26 sel.

27 § 8. Severability. If any provision or application of this act shall
28 be held to be invalid, or to violate or be inconsistent with any appli-
29 cable federal law or regulation, that shall not affect other provisions
30 or applications of this act which can be given effect without that
31 provision or application; and to that end, the provisions and applica-
32 tions of this act are severable.

33 § 9. This act shall take effect immediately.