

Chapter 588

(Senate Bill 801)

AN ACT concerning

Labor and Employment – Economic Stabilization Act – Alterations

FOR the purpose of prohibiting an employee from counting in the determination of a reduction in operations, under certain circumstances, for the purposes of certain provisions of law; altering the persons to whom an employer is required to provide certain notice of a reduction in operations; altering the information required to be included in a certain notice of a reduction in operations; exempting an employer from a certain notice requirement under certain circumstances; requiring an employer that relies on a certain provision of this Act to provide certain notice as soon as practicable; requiring that certain notice of a reduction in operations be provided by a seller on or before a certain date of sale and a purchaser after a certain date of sale under certain circumstances; requiring a certain individual to be considered an employee of a purchaser immediately after a certain date; making certain stylistic changes; defining a certain term; altering certain definitions; and generally relating to the Economic Stabilization Act.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 11–301, 11–302, and 11–305
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 11–303
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Labor and Employment

11–301.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) “Employee” means an individual who works for an employer for an hourly or salaried wage or in a managerial and supervisory capacity.

(2) “Employee” does not include individuals who work less than an average of 20 hours per week or have worked for an employer for less than 6 months in the immediately preceding 12 months.

(c) (1) “Employer” means any person, corporation, or other entity that employs at least 50 employees ~~IN THE STATE~~ and operates an industrial, commercial, or business enterprise in the State.

(2) “Employer” does not include the State or its political subdivisions or any employer who has been doing business in the State less than 1 year.

(d) **“PERMANENT” MEANS THAT AN EMPLOYER HAS ~~NO INTENT~~ NOT AGREED IN A WRITTEN CONTRACT TO RESTORE OPERATIONS ~~AT~~ WITHIN 3 MONTHS AFTER THE TIME THAT THE REDUCTION IN OPERATIONS OCCURS.**

(E) “Reduction in operations” includes:

(1) the relocation of a part of an employer’s operation from ~~±~~ AN INITIAL workplace to another existing or proposed site ~~THAT REDUCES~~ MAY REDUCE THE TOTAL NUMBER OF EMPLOYEES AT THE INITIAL WORKPLACE BY AT LEAST 25% OR 15 EMPLOYEES, WHICHEVER IS GREATER; or

(2) the shutting down of a workplace or a portion of the operations of a workplace that reduces the **TOTAL** number of employees by at least [25 percent] **25%** or 15 employees, whichever is greater, over any 3-month period.

~~[(e)]~~ (F) (1) “Workplace” includes a factory, plant, office or other facility where employees produce goods or provide services.

(2) “Workplace” does not include a construction site or other temporary workplace.

11-302.

(A) This subtitle does not apply to reductions in operations if the reduction:

(1) results solely from labor disputes;

(2) occurs in a commercial, industrial, or agricultural enterprise operated by this State or its political subdivisions;

(3) occurs at construction sites or other temporary workplaces;

(4) results from seasonal factors that are determined by the Department to be customary in the industry; or

(5) results when an employer files for bankruptcy under federal bankruptcy laws.

(B) FOR THE PURPOSES OF THIS SUBTITLE, AN EMPLOYEE MAY NOT BE COUNTED IN THE DETERMINATION OF A REDUCTION IN OPERATIONS IF THE EMPLOYER OFFERS TO TRANSFER THE EMPLOYEE TO:

~~**(1) A DIFFERENT SITE OF EMPLOYMENT WITHIN A REASONABLE COMMUTING DISTANCE; OR**~~

~~**(2) ANY OTHER SITE OF EMPLOYMENT, REGARDLESS OF COMMUTING DISTANCE, THAT THE EMPLOYEE ACCEPTS WITHIN 30 DAYS AFTER THE EMPLOYER'S OFFER TO ACCEPTS AN OFFER TO TRANSFER TO ANY OTHER SITE OF EMPLOYMENT WITHIN 30 DAYS AFTER BEING OFFERED THE TRANSFER.**~~

11-303.

There shall be a quick response program to provide both employers and employees with services to assist in mitigating the impact on employees that occurs with a reduction in operations.

11-305.

(a) **[An] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN** employer shall provide written notice at least 60 days before initiating a reduction in operations to:

(1) all employees at the workplace that **[is] ARE** subject to the reduction in operations;

(2) each exclusive representative or bargaining agency that represents **THE** employees at the workplace that **[is] ARE** subject to the reduction in operations;

(3) individuals who work less than 20 hours on average each week or have worked for the employer for less than 6 months in the immediately preceding 12 months at the workplace that is subject to the reduction in operations;

(4) the Division's dislocated worker unit; and

(5) **(I) [all elected officials in the jurisdiction] THE CHIEF ELECTED OFFICIAL OF THE POLITICAL SUBDIVISION** where the workplace that is subject to the reduction in operations is located; **OR**

(II) IF THE WORKPLACE IS LOCATED IN MORE THAN ONE POLITICAL SUBDIVISION, THE CHIEF ELECTED OFFICIAL OF THE POLITICAL SUBDIVISION TO WHICH THE EMPLOYER PAID THE MOST TAXES FOR THE FISCAL YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE REDUCTION IN OPERATIONS OCCURS.

(b) The notice required under subsection (a) of this section shall include:

(1) the name and address of the workplace where the reduction of operations is expected to occur;

(2) the name, telephone number, and e-mail address of a [workplace supervisory employee as a] **COMPANY OFFICIAL TO** contact for [seeking] further information;

(3) a statement that explains whether the reduction in operations is expected to be permanent or temporary and [whether] **IF** the workplace is expected to shut down; and

(4) the expected date when the reduction in operations will begin.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN EMPLOYER IS NOT REQUIRED TO PROVIDE WRITTEN NOTICE IF:

(I) THE EMPLOYER:

1. ~~A~~ **WAS ACTIVELY SEEKING CAPITAL OR BUSINESS THAT WOULD HAVE ENABLED THE EMPLOYER TO AVOID OR POSTPONE THE REDUCTION IN OPERATIONS; AND**

~~B. 2. REASONABLY BELIEVED IN GOOD FAITH THAT PROVIDING THE WRITTEN NOTICE REQUIRED WOULD HAVE PRECLUDED THE EMPLOYER FROM OBTAINING THE NECESSARY CAPITAL OR BUSINESS; AND~~

~~2. THE REDUCTION IN OPERATIONS IS CAUSED BY BUSINESS CIRCUMSTANCES THAT WERE NOT REASONABLY FORESEEABLE AT THE TIME THAT WRITTEN NOTICE WOULD HAVE BEEN REQUIRED TO BE PROVIDED; OR~~

(II) THE REDUCTION IN OPERATIONS OCCURS DUE TO ANY FORM OF NATURAL DISASTER SUCH AS A FLOOD, AN EARTHQUAKE, OR A DROUGHT.

(2) AN EMPLOYER THAT RELIES ON THIS SUBSECTION SHALL PROVIDE NOTICE AS SOON AS PRACTICABLE WITH A BRIEF STATEMENT OF THE

BASIS FOR NOT PROVIDING WRITTEN NOTICE AT LEAST 60 DAYS BEFORE INITIATING A REDUCTION IN OPERATIONS.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR A REDUCTION IN OPERATIONS THAT WILL RESULT FROM A SALE OF PART OR ALL OF AN EMPLOYER'S BUSINESS, THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE PROVIDED BOTH BY:

(I) THE SELLER ON OR BEFORE THE EFFECTIVE DATE OF SALE;
AND

(II) THE PURCHASER AFTER THE EFFECTIVE DATE OF SALE.

(2) AN INDIVIDUAL WHO IS AN EMPLOYEE OF THE SELLER AS OF THE EFFECTIVE DATE OF SALE SHALL BE CONSIDERED AN EMPLOYEE OF THE PURCHASER IMMEDIATELY AFTER THE EFFECTIVE DATE OF SALE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.