

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4072

To amend the Worker Adjustment and Retraining Notification Act to minimize the adverse effects of employment dislocation, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 1994

Mr. FORD of Michigan introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Worker Adjustment and Retraining Notification Act to minimize the adverse effects of employment dislocation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND REFERENCE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Worker Adjustment and Retraining Notification Amend-  
6 ments Act”.

7 (b) **REFERENCE.**—Except as specifically provided  
8 otherwise, whenever in this Act an amendment or repeal  
9 is expressed in terms of an amendment to, or repeal of,

1 a section or other provision, the reference shall be consid-  
2 ered to be made to a section or other provision of the  
3 Worker Adjustment and Retraining Notification Act (29  
4 U.S.C. 2101 et seq.).

5 **SEC. 2. DEFINITIONS.**

6 (a) EMPLOYER, PLANT CLOSING, AND MASS LAY-  
7 OFF.—Paragraphs (1) through (3) of section 2(a) (29  
8 U.S.C. 2101(a)(1)–(3)) are amended to read as follows:

9 “(1) the term ‘employer’ means any business  
10 enterprise that employs 50 or more employees;

11 “(2) the term ‘plant closing’ means—

12 “(A) the permanent or temporary shut-  
13 down of a single site of employment, or of one  
14 or more facilities or operating units within a  
15 single site of employment, which results in an  
16 employment loss at such site, during any 30-  
17 day period, for 25 or more employees; or

18 “(B) the permanent or temporary shut-  
19 down of one or more sites of employment, or of  
20 one or more facilities or operating units within  
21 such sites, which results in an employment loss,  
22 during any 30-day period, for 100 or more  
23 employees;

24 “(3) the term ‘mass layoff’ means—

1           “(A) a reduction in force at a single site  
2           of employment which results in an employment  
3           loss at such site, during any 30-day period, for  
4           25 or more employees; or

5           “(B) a reduction in force which results in  
6           an employment loss, during any 30-day period,  
7           for 100 or more employees.”.

8           (b) CONFORMING AMENDMENTS.—

9           (1) NOTICE.—Section 3(d) (29 U.S.C. 2102(d))  
10          is amended by striking out “, each of which is less  
11          than the minimum number of employees specified in  
12          section 2(a) (2) or (3) but which in the aggregate  
13          exceed that minimum number,” and inserting in lieu  
14          thereof “which in the aggregate exceed the minimum  
15          number of employees specified in section 2(a) (2) or  
16          (3)”.

17          (2) DEFINITIONS.—Section 2(b)(1) (29 U.S.C.  
18          2101(b)(1)) is amended by striking “(other than a  
19          part-time employee)”.

20          (c) SECRETARY OF LABOR.—

21          (1) DEFINITION.—Paragraph (8) of section  
22          2(a) (29 U.S.C. 2101(a)(8)) is amended to read as  
23          follows:

1           “(8) the term ‘Secretary’ means the Secretary  
2 of Labor or a representative of the Secretary of  
3 Labor.”.

4           (2) REGULATIONS.—Section 8(a) (29 U.S.C.  
5 2107(a)) is amended by striking “of Labor”.

6 **SEC. 3. NOTICE.**

7           (a) PERIOD.—Section 3 (29 U.S.C. 2102) is amend-  
8 ed—

9           (1) in subsection (a), by striking “a 60-day pe-  
10 riod after” and inserting “the applicable notice pe-  
11 riod required after”;

12           (2) in subsection (b), by striking “60-day pe-  
13 riod” each place such term appears and inserting  
14 “notice period”;

15           (3) by redesignating subsections (b) through (d)  
16 as subsections (c) through (e), respectively; and

17           (4) by inserting after subsection (a), the follow-  
18 ing new subsection:

19           “(b) NOTICE PERIOD.—As used in this section, the  
20 term ‘notice period’ means—

21           “(1) in the case of a plant closing or mass lay-  
22 off which results in an employment loss for at least  
23 25 but not more than 49 employees, 30 days;

1           “(2) in the case of a plant closing or mass lay-  
2           off which results in an employment loss for at least  
3           50 but not more than 99 employees, 60 days; and

4           “(3) in the case of a plant closing or mass lay-  
5           off which results in an employment loss for at least  
6           100 employees, 90 days.”.

7           (b) RECIPIENT.—Section 3(a)(1) (29 U.S.C.  
8           2102(a)(1)) is amended by striking “or, if there is no such  
9           representative at that time, to each affected employee”  
10          and inserting “and to each affected employee”.

11 **SEC. 4. ENFORCEMENT.**

12          (a) AMOUNT.—Section 5(a)(1) (29 U.S.C.  
13          2104(a)(1)) is amended—

14                 (1) in subparagraph (A)(ii), by striking “and”  
15                 at the end thereof;

16                 (2) by redesignating subparagraph (B) as sub-  
17                 paragraph (D); and

18                 (3) by inserting after subparagraph (A) the fol-  
19                 lowing new subparagraphs:

20                         “(B) interest on the amount described in sub-  
21                         paragraph (A) calculated at the prevailing rate;

22                         “(C) an additional amount as liquidated dam-  
23                         ages equal to the sum of the amount described in  
24                         subparagraph (A) and the interest described in sub-  
25                         paragraph (B); and”.

1 (b) LIABILITY PERIOD.—Section 5(a)(1) (29 U.S.C.  
2 2104(a)(1) (as amended by subsection (a)) is amended—

3 (1) by inserting “(A)” after “(1)”,

4 (2) by redesignating subparagraphs (A) through  
5 (D) as clauses (i) through (iv), respectively, by strik-  
6 ing “subparagraph (A)” in clauses (ii) and (iii) and  
7 inserting “clause (i)”, and by striking “subpara-  
8 graph (B)” in clause (iii) and inserting “clause (ii)”,

9 (3) by redesignating clauses (i) and (ii) as  
10 subclauses (I) and (II), and

11 (4) by amending the last sentence to read as  
12 follows:

13 “(B) Liability under subparagraph (A) shall be cal-  
14 culated for the period of the violation up to—

15 “(i) 30 days, in the case of a plant closing or  
16 mass layoff which results in an employment loss for  
17 at least 25 but not more than 49 employees,

18 “(ii) 60 days, in the case of a plant closing or  
19 mass layoff which results in an employment loss for  
20 at least 50 but not more than 99 employees, and

21 “(iii) 90 days, in the case of a plant closing or  
22 mass layoff which results in an employment loss for  
23 at least 100 employees,

24 but in no event for more than one-half the number of days  
25 the employee was employed by the employer.”.

1 (c) EXEMPTION.—Section 5(a)(4) (29 U.S.C.  
2 2104(a)(4)) is amended by striking “reduce the amount  
3 of the liability or penalty provided for in this section” and  
4 inserting “reduce the amount of the liability under clause  
5 (iii) of paragraph (1)(A) and reduce the amount of the  
6 penalty provided for in paragraph (3)”.

7 (d) ADMINISTRATIVE COMPLAINT.—Section 5(a)(5)  
8 (29 U.S.C. 2104(a)(5)) is amended—

9 (1) by striking “may sue,” and inserting  
10 “may,”;

11 (2) by inserting after “both,” the following:  
12 “(A) file a complaint with the Secretary alleging a  
13 violation of section 3, or (B) bring suit”; and

14 (3) by adding at the end thereof the following  
15 new sentence: “A person seeking to enforce such li-  
16 ability may use one or both of the enforcement  
17 mechanisms described in clauses (A) and (B).”.

18 (e) ACTION BY THE SECRETARY.—Section 5 (29  
19 U.S.C. 2104) is amended—

20 (1) by redesignating subsection (b) as sub-  
21 section (d); and

22 (2) by inserting after subsection (a) the follow-  
23 ing new subsections:

24 “(b) ACTION BY THE SECRETARY.—

1           “(1) ADMINISTRATIVE ACTION.—The Secretary  
2 shall receive, investigate, and attempt to resolve  
3 complaints of violations of section 3 by an employer  
4 in the same manner that the Secretary receives, in-  
5 vestigates, and attempts to resolve complaints of vio-  
6 lations of sections 6 and 7 of the Fair Labor Stand-  
7 ards Act of 1938 (29 U.S.C. 206 and 207).

8           “(2) SUBPOENA POWERS.—For the purposes of  
9 any investigation provided for in this section, the  
10 Secretary shall have the subpoena authority provided  
11 for under section 9 of the Fair Labor Standards Act  
12 of 1938 (29 U.S.C. 209).

13           “(3) CIVIL ACTION.—The Secretary may bring  
14 an action in any court of competent jurisdiction to  
15 recover on behalf of an employee the back pay, inter-  
16 est, benefits, and liquidated damages described in  
17 subsection (a)(1).

18           “(4) SUMS RECOVERED.—Any sums recovered  
19 by the Secretary on behalf of an employee shall be  
20 held in a special deposit account and shall be paid,  
21 on order of the Secretary, directly to each employee  
22 affected. Any such sums not paid to an employee be-  
23 cause of inability to do so within a period of 3 years  
24 shall be credited as an offsetting collection to the ap-  
25 propriations account of the Secretary of Labor for

1 expenses for the administration of this Act and shall  
2 remain available to the Secretary until expended.

3 “(5) ACTION TO COMPEL RELIEF BY SEC-  
4 RETARY.—The district courts of the United States  
5 shall have jurisdiction, for cause shown, over an ac-  
6 tion brought by the Secretary to restrain the with-  
7 holding of payment of back pay, interest, benefits, or  
8 other compensation, plus interest, found by the court  
9 to be due to employees under this Act.

10 “(c) LIMITATIONS PERIOD.—

11 “(1) IN GENERAL.—An action may be brought  
12 under this section not later than 2 years after the  
13 date of the last event constituting the alleged viola-  
14 tion for which the action is brought.

15 “(2) COMMENCEMENT.—In determining when  
16 an action is commenced under this section for the  
17 purposes of paragraph (1), it shall be considered to  
18 be commenced on the date on which the complaint  
19 is filed.”.

20 **SEC. 5. POSTING OF NOTICES; PENALTIES.**

21 Section 11 (29 U.S.C. 2101 note) is amended to read  
22 as follows:

23 **“SEC. 11. POSTING OF NOTICES; PENALTIES.**

24 “(a) POSTING OF NOTICES.—Each employer shall  
25 post and keep posted in conspicuous places upon its prem-

1 ises where notices to employees are customarily posted a  
2 notice to be prepared or approved by the Secretary setting  
3 forth excerpts from, or summaries of, the pertinent provi-  
4 sions of this Act and information pertinent to the filing  
5 of a complaint under section 5(a)(5).

6 “(b) PENALTIES.—A willful violation of subsection  
7 (a) shall be punishable by a fine of not more than \$100  
8 for each separate offense.”.

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