

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
107TH LEGISLATURE

(Filing No. H-674)

COMMITTEE AMENDMENT " " to H.P. 1082, L.D. 1362, Bill,  
"AN ACT to Clarify the Severance Pay Statute."

Amend said Bill in section 3 by striking out everything  
after the amending clause and inserting in place thereof the  
following:

'§ 625-A. Severance pay

As used in this section, unless the context otherwise  
indicates, the following words shall have the following meanings.

1. Covered establishment. ~~←~~ "covered establishment"  
means any industrial or commercial facility or part thereof which  
employs or has employed at any time in the preceding 12-month  
period 100 or more persons.

2. Director. ~~←~~ "director" shall mean the Director  
of the Bureau of Labor.

3. Employer. ~~←~~ "employer" means any person who  
directly or indirectly owns and operates a covered establishment.

4. Person. ~~←~~ "person" means any individual, group  
of individuals, partnership, corporation, association or any other  
entity.

5. Physical calamity. ~~←~~ "physical calamity" means  
any calamity such as fire, flood or other natural disaster, or  
the final order of any federal, state or local governmental  
agency including adjudicated bankruptcy.

6. Relocation. ~~←~~ "relocation" means the removal  
of all or substantially all of industrial or commercial  
operations in a covered establishment to a new location, within  
or without the State of Maine, 100 or more miles distant from its  
original location.

7. Termination. ~~←~~ ~~→~~ "Termination" means the substantial cessation of industrial or commercial operations in a covered establishment.

8. Week's pay. ~~←~~ ~~→~~ "Week's pay" means an amount equal to 1/52nd part of the gross wages paid to an employee during the 12 months prior to relocation or termination.

9. Severance pay. Any employer who relocates or terminates a covered establishment shall be liable to his employees for severance pay at the rate of one week's pay for each year of employment by the employee in such establishment. Such severance pay to eligible employees shall be in addition to any final wage payment to such employee and shall be paid within one regular pay period after the employee's last full day of work, notwithstanding any other provisions of law.

10. Mitigation of severance pay liability. There shall be no liability for severance pay to an eligible employee if:

- A. Relocation or termination of a covered establishment is necessitated by a physical calamity;
- B. Such employee is covered by an express contract providing for severance pay;
- C. That employee accepts employment at the new location; and
- D. That employee has been employed by said employer for less than 3 years.

11. Suits by employees. Any employer who violates the provisions of this section shall be liable to the employee or employees affected in the amount of their unpaid severance pay. Action to recover such liability may be maintained against any

employer in any state or federal court of competent jurisdiction by any one or more employees for and on behalf of himself or themselves and any other employees similarly situated. Any labor organization may also maintain an action on behalf of its members. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant and costs of the action.

12. Suits by the director. The director is authorized to supervise the payment of the unpaid severance pay owing to any employee under this section. The director may bring an action in any court of competent jurisdiction to recover the amount of any unpaid severance pay. The right provided by subsection 11 to bring an action by or on behalf of any employee, and of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the director in an action under this subsection, unless such action is dismissed without prejudice by the director. Any sums recovered by the director on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the director, directly to the employee affected. Any sums thus recovered not paid to an employee because of inability to do so within a period of 3 years shall be paid over to the State of Maine.

13. Notice of director. Any person proposing to relocate or terminate a covered establishment shall notify the director in writing not less than 60 days prior to such relocation.

14. Powers of director. In any investigation or proceeding under this section, the director shall have, in addition to all other powers granted by law, the authority to examine books and records of any employer affected by this section as set out in section 665, subsection 1.

Statement of Fact

The purposes of this amendment are to:

1. Clarify the bill by defining terms.
2. Provide mitigation of the employer's liability for severance pay where the employee accepts a job from the employer at the new location or where the employee has been employed by the employer for less than 3 years.
3. Allow suits by the Director of the Bureau of Labor to obtain judgments (in particular, the director's suit may take the place of the individual suits of a large number of employees) and to enforce judgments.

Reported by the Committee on Labor.

Reproduced and distributed under the direction of the Clerk of the House.

6/9/75

(Filing No. H-674)