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The Worker Adjustment and Retraining Notification Act (WARN)

Generally, employers with 100 or more employees, not counting employees who have worked for less than six months during the past twelve months and not counting employees who work less than twenty hours a week, are subject to the WARN Act. Employees who are entitled to notice include, hourly, salaried, managerial, and supervisory employees.

Note: The WARN Act is a federal statute; many states have enacted similar legislation and some of those states require that the provisions of the Act apply to businesses with less than 100 employees.

WARN's purpose is to protect workers and their families by requiring employers to notify workers sixty calendar days in advance of plant closings or mass layoffs. WARN also requires employers to notify state dislocated worker units so that dislocated worker assistance can be provided to the employees.

A **covered plant closing** occurs when it is shut down for more than six months, or when fifty or more employees lose their jobs during any thirty-day period at a single site of employment. A **covered mass layoff** occurs when a layoff of six months or longer affects 500 or more workers, or 33 percent of the employer's workforce when the layoffs affect between 50 and 499 workers. The **number of affected workers** is the total number laid off during a thirty-day period (in some cases a ninety-day period).

WARN does not apply to employers who close temporary facilities, or complete a business activity when the workers were specifically hired for the duration of the activity. WARN also provides for less than sixty days' notice when the layoffs result from the closing of a faltering company, unforeseen business circumstances, or a natural disaster.

An employer who violates WARN is liable to each employee for an amount equal to back pay and benefits for the period of violation - up to sixty days. This penalty may be reduced by the period for which notice was given.

Failing to provide notice to the state government may result in a fine of up to \$500 per day for each day the employer is in violation. WARN provides for avoidance of this penalty if an employer satisfies the WARN provisions with respect to each employee within three weeks after the closing or layoff.

WARN is enforced through the U.S. district courts. Workers or units of local government may file individual or class action lawsuits against an employer who violates the WARN provisions. The court is allowed to award attorney's fees as part of a final judgment.

To learn more about WARN contact:

U.S. Department of Labor
Employment and Training Administration
Office of Work-Based Learning
Room N-5426
200 Constitution Avenue, N.W.
Washington, DC 20210
(202) 219-5577 (not a toll-free number)

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