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Mini-WARN Acts: Does Your State Have One?

Sixteen states, with New Jersey being the most recent addition and New York soon to follow, currently have laws requiring advance notice to employees or others in the event of worksite closings or large layoffs. Those sixteen states with so-called “mini-WARN” acts are: California, Connecticut, Hawaii, Illinois, Kansas, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, Oregon, Rhode Island, South Carolina, Tennessee and Wisconsin.

These mini-WARN’s vary greatly in scope and effect. For example, the Michigan and Minnesota laws make compliance voluntary. Others create only minimal obligations. Consider New Hampshire, which only requires that, in layoffs affecting 25 or more employees, the employer provide a state agency notice within the same calendar week as the layoff. In South Carolina, two weeks notice is required in a plant shutdown only if the employer requires similar notice from employees in the event of a quit. Oregon’s mini-WARN is triggered only if the federal WARN Act applies. And Rhode Island’s plant closing law is more akin to a wage payment statute: no notice is required, but an employer that liquidates or merges, sells or moves out of state must pay final wages within 24 hours of the triggering event (for employees with at least one year of service, the employer must also pay holidays, vacations and insurance benefits within 24 hours).

Still other mini-WARN’s differ more substantively from the WARN Act. Some unique components of state plant closing laws relative to federal law include:

California: applies to layoffs involving 50 employees in facilities with 75 or more employees, but does not require that one-third of the workforce be affected, like the WARN Act; also does not recognize the business circumstances exception.

Connecticut: in the case of plant closings or relocations to another state, the employer must pay to continue existing health insurance of terminated employees for as long as 120 days.

Hawaii: applies to employers with 50 or more employees.

Illinois: similar to the WARN Act, but covers employers with 75 employees, and applies to mass layoffs of 25 or more employees constituting 75% of the workforce.

Kansas: certain employers must apply to the state secretary of labor for permission to limit or cease operations.

Maine: applies to all employers, with only WARN-like exception to notice requirement being physical calamity (but does include other exceptions: a labor contract providing for severance exists, employee accepts a job offer at new facility, or the employee is employed for less than three years).

Massachusetts: employers with 50 or more employees at a facility must provide notice; the state bills employers for reemployment assistance it provides up to a 13-week maximum, which amount is reduced for every week of advance notice provided by the employer.

Tennessee: applies to employers with 50 to 99 employees, and to relocations greater than 50 miles, full or partial closings, workplace modernization, or other implementations of management policy if resulting in a workplace reduction of 50 or more employees over a three-month period.

Wisconsin: covers employers with 50 or more employees, applies to closings affecting at least 25 employees, and layoffs of 25% of the workforce or 25 employees, whichever is greater.

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