

## WARN ACT COVERAGE SUMMARY

Employers are covered by WARN if they have 100 or more employees, not counting employees who have worked less than 6 months in the last 12 months and not counting employees who work an average of less than 20 hours a week. These latter groups, however, are entitled to notice. Private, for-profit employers and private, nonprofit employers are covered, as are public and quasi-public entities which operate in a commercial context and are separately organized from the regular government. Regular Federal, State, and local government entities which provide public services are not covered.

There are three separate ways the notice obligation is triggered:

- (1) **Plant Closing:** A covered employer must give notice if an employment site (or one or more facilities or operating units within an employment site) will be shut down, and the shutdown will result in an employment loss (as defined later) of 50 or more employees during any 30-day period. The term "operating unit" refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site. Whether a specific unit within an employer's organization is an operating unit depends on such factors as collective bargaining agreements, the employer's organizational structure, and industry understandings about what constitutes separate work functions.
- (2) **Mass Layoff:** A covered employer must give notice if there is to be a mass layoff which does not result from a plant closing, but which will result in an employment loss at a single site of employment of 50-499 employees during any 30 day period if the affected employees make up at least 33% of the employer's active workforce at the site of employment effected. If you need to know the maximum number we could layoff/affect prior to WARN being triggered, note that you only count employees affected/terminated at the single site of employment to get to the 50 threshold (meaning we could potentially exclude out-of-state employees, although sometimes an out-of-state employer might be considered assigned to/based out of R.I.) and the 33% threshold means 33% of the employees working at the site affected (i.e., 33% of our RI job site). Also note you count all employees – regardless of the reason – that have been terminated/affected in the operative 30 day period.
- (3) **Mass Layoff (part 2):** A covered employer must give notice if there is to be a mass layoff which does not result from a plant closing, but which will result in an employment loss at a single site of employment during any 30-day period of 500 or more employees – even if this is less than 33% of their workforce at the site.

"Employment loss" includes separation, layoff/furlough exceeding 6 months, or a reduction in an employee's work hours of more than 50% of any 6 month period. Even if a single mass layoff for plant closing does not trigger the WARN Act's collective e dismissal requirements, an employer also must give the 60-day WARN Act notice if the number of employment losses for two or more groups of workers, each of which is fewer than the minimum number needed to trigger notice reaches the threshold level, during any 90-day period, of either a plant closing or mass layoff. The notice period (or equivalent pay) is 60 days.