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Employers Be Warned: New York Enacts Mass Layoff and Plant Closing Law



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During these uncertain and difficult economic times, companies may find themselves considering significant layoffs or plant closings in order to consolidate and preserve their businesses. However, there are new legal consequences to these actions that will affect New York companies with as few as 50 employees.

On August 5, 2008, Governor Paterson signed into law the New York State Worker Adjustment and Retraining Notification Act (NY WARN). The new law is intended to protect employees by requiring covered employers to provide legally mandated notice prior to mass layoffs, relocations or plant closings. While a federal act already exists, NY WARN has a lower threshold for coverage and imposes a longer notice period.

Unlike the federal WARN, which only applies to employers with 100 or more employees, NY WARN will apply to employers with 50 or more employees (excluding part-timers). Under NY WARN, employers will be required to provide 90 days' notice of a mass layoff, relocation or plant closing (federal WARN only requires 60 days' notice).

Another significant difference between federal WARN and NY WARN is that federal law authorized private actions by aggrieved individuals only. Thus, enforcement under federal WARN was limited to those instances when employees took the steps to initiate litigation. However, under NY WARN, the Commissioner of Labor is authorized to investigate and award relief commensurate with that to which an individual would be entitled in a private court action. The grant of authority to the Commissioner of Labor will likely result in greater enforcement of the new law.

NY WARN contains detailed information that is required to be included in the notice and provides for certain limited exceptions to the notice requirement. Failure to comply with the notice requirements can result in payment of back pay, fines and attorneys' fees.

As a result of this important development, employers with 50 or more employees that previously were not covered by federal WARN must ensure that they become familiar with their obligations under the new state law when contemplating a mass layoff, relocation or plant closing. The law takes effect on February 1, 2009. Our Employment Group stands ready to assist you with this or any other employment law-related issue.

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