



Guidance for Restaurants: “Mini-WARN” Acts and COVID-19 Issues* September 25, 2020

The Workers Adjustment and Retraining Notification (WARN) Act is a federal law requiring employers to provide written notice to various state and local government officials, affected employees, and any union representatives at least 60 days before certain group separations occur. For more information on the federal law, please look at our “Guidance for Restaurants: Federal WARN Act and COVID-19 Issues.”

States can enact their own “mini-WARN” laws if the laws are (1) more protective to employees; (2) apply to smaller businesses; or (3) do not conflict with the federal requirements. Twenty-three states have chosen to develop their own requirements that may track or modify the federal requirements: California, Connecticut, Delaware, Georgia, Hawaii, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Tennessee, Vermont, and Wisconsin. Below is a selection of these states’ requirements.

Please note that some states and territories have lower thresholds to trigger a WARN Act notice requirement, such as California, Illinois, and New York, and some have completely different triggering mechanisms, such as California and New Jersey. In addition, the six-month furlough option available in the federal WARN Act before an “employment loss” occurs is not available in California or Wisconsin. Some mini-WARN laws also do not have the same quasi-exceptions found in the federal WARN Act. Finally, when the federal WARN Act and a state mini-WARN Act are triggered, the restaurant must comply with both sets of requirements, including the very specific notice obligations.

States with Mini-WARN Statutes:

- **California:** California’s “CA-WARN” has substantial differences from its federal counterpart: it applies to employers of 75 persons instead of 100, is required when 50 or more employees are laid off in a 30-day period (regardless of the percentage of the workforce) and does not have a “temporary facility closing” exception. However, in light of the COVID-19 crisis, California has temporarily suspended its 60-day notice requirement.
- **Connecticut:** Connecticut’s law requires only that a closing employer continue its employee’s health insurance for 120 days; it does not add on any additional notice requirements.
- **Illinois:** Illinois’ notice requirement is applicable to employers who have more than 75 employees (exclusive of part-time employees) or more than 75 employees who work at least 4,000 hours per week in the aggregate (exclusive of overtime). These employers must give notice if they are laying off 33 percent of their workforce (at least 25 employees) or 250 employees (all excluding part-time workers). Illinois’ Department of Labor has specifically stated that the 90-day requirement has **not** been suspended in light of the COVID-19 pandemic.
- **Maryland:** Effective October 1, 2020, employers with 50 or more employees must provide 60 days’ advance notice before imposing a “reduction in operations.” The new law defines a

* This document is provided for informational purposes only. It is not intended to constitute legal advice, nor does it create a client-lawyer relationship between the Restaurant Law Center or one of its Law Firm Partners and any recipient. Recipients should consult with counsel before taking any actions based on the information contained herein.



“reduction in operations” as a relocation of an employer’s operation, the shutdown of a workplace, or the shutdown of a portion of the workplace reducing the number of employees by 15 employees over a three-month period or 25 percent, whichever is greater.

- **New York:** New York’s notice requirement is applicable to employers who have more than 50 employees or 2,000 hours per week in the aggregate. However, these employers may not have to give notice unless they are separating a certain number of employees, determined by the reason for the separations (plant closing, layoff, relocation or a reduction in hours). Employers required to give notice must do so 90 days before any layoffs, which can be reduced if the criteria for “faltering business, unforeseeable business circumstances or natural disaster exceptions” is met. New York’s Department of Labor has specifically stated that the 90-day requirement has **not** been suspended in light of the COVID-19 pandemic.
- **New Jersey:** New Jersey recently modified its notice requirements, which will go into effect 90 days after Governor Phil Murphy’s stay-at-home executive order is terminated. Under these new requirements, severance pay is now guaranteed to terminated employees. Notice requirements are triggered when a transfer or termination of operations results in the loss of 50 or more employees.
- **Ohio:** Ohio’s mini-WARN statute applies to employers with at least one employee and requires notice when 50 or more employees are laid off in a seven-day period. Employers must provide three working days’ notice before the layoff instead of the federal 60-day requirement.
- **Wisconsin:** Wisconsin’s statute applies to employers with at least 50 employees. Employers must provide 60 days’ notice when it lays off 25 percent of its workforce or 25 employees, whichever is greater or when it is laying off 500 employees. Employers must also give notice in the event of a “business closing,” which is the permanent or temporary shutdown of an employment site or facilities at an employment site. Wisconsin’s Department of Workforce Development has specifically stated that the 60 day requirement has **not** been suspended in light of COVID-19, but that employers **may** not be found liable for failing to provide notice if it is related to the COVID-19 pandemic.

Other State Notice Requirements to Watch out for:

- **Alabama:** No state mini-WARN Act, but employers must notify the Unemployment Compensation Call Center when laying off 25 or more employees at the same time.
- **Kansas:** No state mini-WARN Act, but any mass layoff requires Secretary of Labor approval.
- **Pennsylvania:** No state mini-WARN Act, but the City of Philadelphia does have its own distinct mini-WARN Act triggering mechanism.

For questions regarding this document, please contact [Angelo Amador](#), Executive Director of the Restaurant Law Center, at 202-331-5913 or via email at aamador@restaurant.org.



We would also like to thank [Derek Havel](#) and [Elyssa M. Sternberg](#) with the firm of [SheppardMullin](#) for their assistance in drafting this document.