

CLIENT ALERTS

EPSTEIN BECKER & GREEN, P.C.

NJ WARN ACT ENHANCES PROTECTIONS PROVIDED UNDER FEDERAL LAW

On December 20, 2007, New Jersey enacted the Millville Dallas Airmotive Plant Job Loss Notification Act ("NJ Warn Act"), which supplements protections provided under the federal Worker Adjustment and Retraining Notification Act (the WARN Act). New Jersey now joins several other states that have adopted state laws modeled after the WARN Act.

The NJ Warn Act mirrors its federal counterpart in that it requires New Jersey employers with 100 or more employees to provide 60-day notice in the event of a mass layoff or a transfer or termination of operations. A "mass layoff" is defined as a reduction in force resulting in the termination of 500 or more full-time employees at a single site or 50 or more full-time employees representing at least 1/3 of the total full-time employees. A transfer or termination of operations means the discharge of 50 or more full-time employees within a 30-day period.

The NJ Warn Act differs from the federal Warn Act in the following ways:

<i>Provision</i>	<i>Federal WARN</i>	<i>NJ WARN</i>
Covered Entities	An employment site is one or more facilities or operating units within an employment site.	Includes establishments with a single location or a group of locations including groups of facilities that form an office or industrial park or separate facilities across the street from each other.
Who must be notified?	<ul style="list-style-type: none"> · Affected employees <i>or</i> bargaining representative; · State dislocated worker unit; · Chief elected official of municipality 	<ul style="list-style-type: none"> · Affected employees; · Any collective bargaining units; · The Commissioner of Labor and Workforce Development; · The chief elected official of the municipality

Resurgens Plaza
945 East Paces Ferry Road
Suite 2700
Atlanta, Georgia 30326-1380
404.923.9000

150 North Michigan Avenue
35th Floor
Chicago, Illinois 60601-7553
312.499.1400

Lincoln Plaza
500 N. Akard Street
Suite 2700
Dallas, Texas 75201-3306
214.397.4300

Wells Fargo Plaza
1000 Louisiana
Suite 5400
Houston, Texas 77002-5013
713.750.3100

1875 Century Park East
Suite 500
Los Angeles, California 90067-2506
310.556.8861

Wachovia Financial Center
200 South Biscayne Boulevard
Suite 4300
Miami, Florida 33131
305.982.1520

Two Gateway Center
12th Floor
Newark, New Jersey 07102-5003
973.642.1900

250 Park Avenue
New York, New York 10177-1211
212.351.4500

One California Street
26th Floor
San Francisco, California 94111-5427
415.398.3500

One Landmark Square
Suite 1800
Stamford, Connecticut 06901-2681
203.348.3737

1227 25th Street, N.W.
Suite 700
Washington, DC 20037-1175
202.861.0900

Notice content	<ul style="list-style-type: none"> · Name and telephone number of employer contact; · Action is permanent or temporary; · Expected date of first termination or within 2 weeks expected date; · Bumping rights – existing policy allowing one employee to displace another (i.e., seniority) 	<ul style="list-style-type: none"> · The date of termination to each employee; · The reasons for the termination of employment; · The number of employees who will be terminated; · A list of employment opportunities including the terms of employment such as salary, location and benefits; · Rights regarding wages, severance and benefits; · Amount of severance payable; · Employees' right to receive assistance from the New Jersey Department of Labor.
Exceptions	Includes the "unforeseeable business circumstance," "faltering business" & "sale of business" exceptions.	Omits "unforeseeable business circumstance," "faltering business" & "sale of business" exceptions.
Damages	One day of pay for each day violated up to 60 days and maximum \$500/day.	Severance pay equal to one week of pay for every full year of employment.
Defenses	Includes "good faith" defense.	Omits "good faith" defense.

Under the NJ Warn Act, an employer is required to pay damages the equivalent of one week's pay for every year of employment, while the federal WARN Act requires the employer pay one day of back pay for each day violated. Accordingly, employers should review existing policies and release agreements providing for severance and retirement payments.

Employers should also be aware that the NJ Warn Act is effective immediately and does not contain a grandfather clause for employers that already issued notice of impending layoffs or plant closings under the Federal WARN Act. The New Jersey Commissioner of Labor will make available a form of notice within 90 days of the enactment of the statute.

* * *

If you should have any questions about the NJ Warn Act, please contact Joseph Guarino in the firm's Newark office at 973-639-8267 or jguarino@ebglaw.com. Ms. Maxiel L. Gomez, an associate in the Labor and Employment Department, assisted in the preparation of this Alert.

This document has been provided for informational purposes only and is not intended and should not be construed to constitute legal advice. Please consult your attorneys in connection with any fact-specific situation under federal law and the applicable state or local laws that may impose additional obligation on you and your company.

