

LEGISLATIVE RESEARCH UNIT

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STATES' WARN-TYPE LAWS

You asked us to compare laws of other states that are similar to the federal Worker Adjustment and Retraining Notification (WARN) Act.¹ A computer search² of the laws of the 15 states³ with the most manufacturing jobs in 2002, according to the federal Census Bureau,⁴ for laws similar to the WARN Act found six states (including Illinois) with similar laws.

Those state laws generally expand on the federal WARN Act, by requiring employers with fewer employees to notify employees and others of closings, layoffs, and relocations. The federal WARN Act applies to employers with at least 100 employees.⁵ The state laws that we found apply to employers with at least 75 (Illinois and California) or 50 employees (New York, Tennessee, and Wisconsin).⁶ New York also requires notice at least 90 days before a plant closing, mass layoff, or relocation, compared to the 60 days' notice required by the federal WARN and other state laws.⁷

Appendix A to this letter compares the major provisions of the federal WARN Act to those six states' laws.

We hope this information is helpful. Please let us know if we can be of further assistance.

Sincerely,



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Senior Research Associate

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Notes

1. 29 U.S. Code secs. 2101 ff.
2. We searched a computer database of state laws for the phrase "worker adjustment", or both of the words "layoff" and "relocation" in the same section.
3. Those states in order from most to fewest manufacturing jobs are California, Ohio, Texas, Illinois, Michigan, Pennsylvania, New York, North Carolina, Indiana, Wisconsin, Georgia, Tennessee, Florida, New Jersey, and Minnesota.
4. U.S. Census Bureau, *2002 Economic Census*, "Geographic Area Series United States, Table 3. Industry Statistics by Subsectors for Selected States: 2002" (downloaded from the U.S. Census Bureau Internet site).
5. 29 U.S. Code subsec. 2101(a)(1).
6. 820 ILCS 65/5(c); Cal. Labor Law, subsec. 1400(a); N.Y. Labor Law, sec. 860-a; Tenn. Code, subsec. 50-1-601(1); and Wis. Stat., subsec. 109.07(1)(d).
7. N.Y. Labor Law, sec. 860-b.

Appendix A: Features of Federal WARN Act and Similar State Laws

<i>Federal</i>	<i>Illinois</i>	<i>California</i>	<i>Minnesota</i>
EMPLOYERS COVERED			
Those with at least 100 full-time employees, or at least 100 employees working a total of at least 4,000 hours per week, excluding overtime.	Employers with at least 75 full-time employees, or at least 75 employees working a total of at least 4,000 hours per week, excluding overtime.	Employers with at least 75 full- or part-time employees.	Employers to which federal act applies.
CONDITIONS REQUIRING NOTICE			
Closing(s) involving at least 50 employees in a 30-day period.	Closing(s) involving at least 50 employees in a 30-day period.	Cessation of industrial or commercial operations at a covered establishment.	If federal act applies.
Layoffs in any 30-day period of at least 33% and at least 50 full-time employees; or at least 500 full-time employees.	Layoffs in any 30-day period of at least 33% and at least 25 full-time employees; or at least 250 employees.	Layoffs in any 30-day period of at least 50 employees.	
	Relocation.	Relocation of the industrial or commercial operations of a covered establishment to a place at least 100 miles away.	

Appendix A: Features of Federal WARN Act and Similar State Laws (cont'd)

Federal

Illinois

California

Minnesota

NOTICE REQUIREMENTS

Employer must give written notice at least 60 days before a plant closing or mass layoff to employees or their representative, the state designated worker unit, and the chief elected official of the local government where the closing or layoff will occur.

Employer must give written notice at least 60 days before a plant closing, relocation, or mass layoff to employees, their representatives, the Department of Commerce and Economic Opportunity, and the chief elected official of the local government where the closing, etc. will occur.

Employers that receive state or local economic development incentives can be required to notify other state and local government officials.

Employer must give written notice, at least 60 days before an end of operations, mass layoff, or relocation, to its employees, the Employment Development Department, the local workforce investment board, and the chief elected official of each local government where the closing, layoff, or relocation will occur.

Employers giving notice under the federal act are directed also to report to the Commissioner of Employment and Economic Development the names, addresses, and occupations of the employees who have been or will be terminated.

ENFORCEMENT

A person seeking to enforce the WARN provisions can sue in U.S. district court.

The Illinois Department of Labor holds administrative hearings for actions under the Act.

A person, including a local government or an employee representative, can bring a civil suit in state court.

No penalty for noncompliance is stated.

EMPLOYER LIABILITY

Violators must pay each employee back pay and benefits for the period of violation, up to 60 days, but not over half the number of days the employee had worked.

Same as federal.

Same as federal.

No penalty for noncompliance is stated.

Appendix A: Features of Federal WARN Act and Similar State Laws (cont'd)

<i>Federal</i>	<i>Illinois</i>	<i>California</i>	<i>Minnesota</i>
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EXEMPTIONS TO NOTICE REQUIREMENTS

If the employer offers to transfer employees to a different site within a reasonable commuting distance.

If the closure is due to unforeseen business circumstances or a natural disaster.

If the closure or layoff constitutes a strike or a lockout not intended to evade the Act's requirements.

Same as federal, except that notice is also required for relocation.

Same as federal, except that notice is also required for relocation.

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Appendix A: Features of Federal WARN Act and Similar State Laws (cont'd)

New York

Tennessee

Wisconsin

EMPLOYERS COVERED

Employers with at least 50 full-time employees, or at least 50 employees working a total of at least 2,000 hours per week.	Employers with at least 50 employees but fewer than 100. (This extends the federal law, which covers employers with at least 100 employees.)	Employers with at least 50 employees.
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CONDITIONS REQUIRING NOTICE

Plant closing, mass layoff, or relocation involving at least 25 full-time employees representing at least 33% of the workforce, or 250 employees regardless of workforce percentage.	Reduction in operations, including closure of a workplace or reduction of at least 50 employees in a 3-month period or relocation of a workplace at least 50 miles away, affecting at least 50 employees in a 3-month period.	Permanent or temporary shutdown affecting at least 25 employees, or mass layoff affecting the greater of 25% of the workforce or 25 employees.
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NOTICE REQUIREMENTS

Employer must give written notice at least 90 days before a plant closing, relocation, or mass layoff to employees, their representatives, the New York State Department of Labor, and the local workforce investment boards for the locality where the closing, layoff, or relocation is to occur.	Employers must give notice to affected employees and the Commissioner of Labor and Workforce Development.	Employers must give notice to affected employees, their representative, and the highest-ranking official of any municipality in which the affected employment site is located, at least 60 days before the closing or mass layoff is to occur.
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Appendix A: Features of Federal WARN Act and Similar State Laws (cont'd)

New York

Tennessee

Wisconsin

ENFORCEMENT

A person, including a local government or employee representative, can bring a civil action in state court.

An employee can file a claim with the Department of Workforce Development. If it does not recover payment, it is to refer the claim to the Wisconsin Department of Justice, which can sue in circuit court on behalf of the employee.

EMPLOYER LIABILITY

Same as federal.

Same as federal.

EXEMPTIONS TO NOTICE REQUIREMENTS

Same as federal, except that notice is also required for relocation.

If reduction results from labor dispute or seasonal factor, or occurs at a temporary work-place.

Same as federal.

Sources:

Employers covered: 29 U.S. Code subsec. 2101(a)(1); 820 ILCS 65/5(c); Cal. Labor Law, subsec. 1400(a); N.Y. Labor Law, sec. 860-a; Tenn. Code, subsec. 50-1-601(1); and Wis. Stat., subsec. 109.07(1)(d).

Conditions requiring notice: 29 U.S. Code subsec. 2101(a)(2) and (a)(3); 820 ILCS 65/5(d) and (f); Cal. Labor Law, secs. 1400 and 1401; N.Y. Labor Law, sec. 860-a; Tenn. Code, subsec. 50-1-601(2); and Wis. Stat., subsecs. 109.07(1)(b) and (1)(f).

Notice requirements: 29 U.S. Code subsec. 2102(a); 820 ILCS 65/10; Cal. Labor Law, sec. 1401; Minn. Stat., sec. 116L.976, subd. 2; N.Y. Labor Law, sec. 860-b; Tenn. Code, sec. 50-1-602; and Wis. Stat., subsec. 109.07 (1m).

Appendix A: Features of Federal WARN Act and Similar State Laws (cont'd)

Legal Jurisdiction: 29 U.S. Code subsec. 2104(a)(5); 820 ILCS 65/30; Cal. Labor Law, sec. 1404; N.Y. Labor Law, sec. 860-g, subd. 7; and Wis. Stat., subsec. 109.07(4).

Employer liability: 29 U.S. Code subsec. 2104(a)(1); 820 ILCS 65/35; Cal. Labor Law, sec. 1402; N.Y. Labor Law, sec. 860-g, subds. 1 and 2; and Wis. Stat., subsec. 109.07(3).

Exemptions to notice requirements: 29 U.S. Code subsec. 2103; 820 ILCS 65/15; Cal. Labor Law, sec. 1402.5; N.Y. Labor Law, sec. 860-c; Tenn. Code, sec. 50-1-603; and Wis. Stat., subsec. 109.07(6).