



Maryland Employers To Soon Face Mandatory Notice Requirements Before Reductions In Force

Insights

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Thanks to an impending new law, Maryland employers faced with large employee reductions will no longer be able to simply determine on their own whether to follow the state's voluntary advance notification guidelines. Beginning on October 1, 2020, the state law will mandate that certain employers provide advance notice to impacted employees and others ahead of such reductions in force. Because these new state requirements include lower thresholds and other provisions different and broader from the federal WARN Act requirements, they are likely to affect many Maryland employers. What do employers need to know about these significant changes to Maryland's mini-WARN Act?

Which Employers Are Covered?

The law will cover private employers with more than 50 employees in industrial, commercial, or business enterprises who have been doing business in Maryland for at least one year. "Employees" are any individuals who work for an employer for at least an average of 20 hours per week and have worked for the employer for at least six months of the immediately preceding 12 months. The law does not say whether employees must work in Maryland or whether employees who work outside the state should be included in the count of total employees.

What Types Of Changes In Operations Trigger The Notice Requirements?

Employers must give notice of "reductions in operations," which are defined as (1) the relocation of a part of an employer's operation from one workplace to another existing or proposed site; or (2) the shutting down of a workplace or a portion of the operations of a workplace that reduces the number of employees by at least 25% or 15 employees, whichever is greater, over any three-month period. Workplaces include factories, plants, offices, or other facilities at which employers conduct operations – but do not include construction sites or other temporary workplaces.

The Maryland notice requirements thus apply more broadly than federal Worker Adjustment and Retraining Notification (WARN) Act requirements in at least two ways:

- The federal WARN Act applies to employers with 100 or more employees, rather than 50-employee threshold contained in Maryland's mini-WARN Act; and
- The federal WARN Act applies to layoffs of at least 33% of employees or more than 500 employees at one site, as opposed to Maryland's 25% or 15-employee standard.

Who Must Receive Notice And When?

Under the new law, employers must provide written notice at least 60 days in advance of the initiation of the reduction in operations to (1) all employees at the workplace subject to the reduction in operations, as well as any individuals who will be affected by the reduction in operations (e.g., part-time or short-term workers who were not included in the count of employees); (2) each exclusive representative or bargaining agency (i.e., union) representing employees at the workplace subject to the reduction; (3) the Dislocated Worker Unit of the Maryland Department of Labor; and (4) all elected officials in the jurisdiction where the workplace subject to the reduction in operations is located. This last requirement is broader than the federal WARN Act's requirement, which requires only that the chief elected official of the city or county government receive notice.

What Information Must Employers Include In The Notice?

The written notice must include: (1) the name and address of the workplace where the reduction in operations will occur; (2) the name, telephone number, and email address of a workplace supervisory employee as a contact for those individuals seeking further information; (3) a statement explaining whether the reduction is temporary or permanent and whether the workplace is expected to shut down; and (4) the date the reduction in operations is expected to begin.

Penalty For Not Providing Notice

The Maryland Secretary of Labor may assess civil penalties of up to \$10,000 per day against any employer who fails to comply with the new notice requirements. By contrast, an employer who fails to comply with the federal WARN Act faces a maximum civil penalty of only \$500 per day.

What Should Maryland Employers Do?

If you anticipate reducing your workforce in Maryland in the coming months, you are encouraged to consult with your employment counsel to review the new mini-WARN requirements and develop an action plan for ensuring compliance. We will continue to monitor developments related to this new law and its impact on Maryland employers. Make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney or any attorney in [our Bethesda office](#).

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