



Layoff Protection for California Workers

On January 1, 2003, the California Layoff Protection Act took effect. This law is modeled on the federal WARN Act (Worker Adjustment and Retraining Notification), which requires certain employers provide its employees **60-day notice** of a layoff or closing.

The California Act improves on WARN in two main ways: it covers smaller employers and allows workers to sue in non-federal courts. Workers can receive back pay under *both* laws. Any payments recovered under either law would not reduce UI payments.

Details on the two laws:

| Item | Federal WARN | California Layoff Protection |
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| Length of notice | 60 days | 60 days |
| When the law applies: when a covered employer has a mass layoff or a plant closing | | |
| Covered employer | 100 employees over past 12 months (an employee is a person employed at least 6 of last 12 months and works average of at least 20 hours a week for that employer) | 75 employees over past 12 months (an employee is a person employed for at least 6 or last 12 months – including employees working less than 20 hours a week) |
| Mass layoff | A layoff of 50 or more full-time employees if the layoff affects 33% of the full-time workforce at a single site, or a layoff of 500 or more people at a single site, all during a 30-day period | A layoff of 50 or more employees regardless of size of business , at a single site, during a 30-day period |
| Plant closing | A plant closing resulting in layoff of 50 or more full-time employees at a single site, during a 30-day period | A termination or substantial termination of activity at a site resulting in layoff of 50 or more people |
| Exemptions: a company may be all or partially exempt if it can prove the following | | |
| Unusual circumstances | Unforeseeable business circumstance; natural disaster; company reasonably believed giving notice would affect chances of obtaining capital or business that it was actively seeking | Act of physical calamity or war; company reasonably believed giving notice would affect chances of obtaining capital or business that it was actively seeking |
| Project-based or seasonal employment | Temporary facility or completion of a particular project if employees hired with that understanding | Completion of project in broadcasting, motion picture, or certain construction, drilling, logging and mining industries, or seasonal employment, if employees were hired with that understanding |
| Notice: notice to workers must be mailed to current address or inserted in paycheck | | |
| Who gets notice | All employees whose employment may be affected; state dislocated worker unit; union officer; CEO of local government | Same as federal plus local Workforce Investment Board |

| Item | Federal WARN | California Layoff Protection |
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| Content of notice | Company name, address of site, contact person, type of layoff, date of layoffs, job titles affected, number of employees in each category, information about bumping rights and severance, union representation including name of union and rep., brief explanation of reasons for layoff | Same as federal |
| Enforcement: workers can seek state government assistance in pressuring employers to comply with the state law or can sue the employer for noncompliance | | |
| Agency action | No provision | If requested, California's Department of Industrial Relations must investigate whether there was legitimate reason for not giving notice |
| Litigation | A person, including local government or employee representative, may sue in any U.S. district court where the employer does business | A person, including local government or employee representative, may sue in "any court of competent jurisdiction" |
| Penalties: if a company violates the law, all of the following penalties may apply | | |
| Back pay | Back pay for the period of violation, up to 60 days (calculated at employee's final rate or 3-year average rate of pay, whichever is higher) | Same as federal |
| Benefits | Value of cost of any benefits which the employee would have received, including cost of medical expenses that would have been covered by a benefit plan | Same as federal |
| Civil penalty | The company pays a fine to the government of up to \$500/day for each day of violation, unless the company pays employees within three weeks from notice | Same as federal |
| Attorneys' fees | The court may award the winning party (plaintiff or defendant) a reasonable attorney's fee | The court may award reasonable attorneys' fees to any plaintiff (not defendant) who prevails. |

Effective date: The California law took effect January 1, 2003. According to the Legislative Counsel, any layoff that is covered by the law and takes place on or after January 1 must provide 60-day notice.

If you think your company violated the law: Contact the California Labor Federation's Workforce and Economic Development (WED) program for more information about the Layoff Protection Act, services available to laid off workers, and what union leaders can do in the event of a layoff. **WED staff can help you determine whether either law applies and what to do next.**

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