



ATTORNEYS AT LAW

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The Basics

Notice Requirement

A covered employer must provide 60-days' advance notice of a "planned" plant closing or mass layoff

Covered employer?



Definitions

- Plant Closing
 - Permanent or temporary shutdown of single site of employment (SSE) or facility/operating unit
 - 50 or more employees experience employment loss
- Mass Layoff
 - Not a plant closing
 - 500 or more affected employees at SSE or
 - 50 – 499 affected employees which account for at least 33% of active employees at SSE



Employment Loss

- Terminations (excluding terminations for cause, resignations and retirements)
- Layoffs exceeding 6 months
- A reduction in hours of work of individual EEs more than 50% during each month for six months.



Who must receive notice?

- Representative(s) of affected employees (chief elected official and local union official)
- Unrepresented affected employees
- State dislocated worker unit
- Chief elected official of the unit of local government.



Exceptions

Natural Disaster

- * Floods, earthquakes, storms and similar effects of nature
- * Must be direct cause of planned action
- * Unlikely

Unforeseeable Business Circumstances

- * Sudden, dramatic and unexpected action or condition outside of employer's control
- * Government ordered closing of an employment site
- Notice still required
- Notice must provide factual basis for reason why less notice is being provided



COVID-19

- Layoffs, furloughs, etc.
- Hard to predict how long this pandemic will last
- The Problem



COVID-19 OPTIONS

- Initial Layoff. Provide notices as soon as practicable and consistent with the UBC exception even if layoffs have already been made
- Extended Layoff. If prior layoffs were identified as a short-term layoff (6 months or less) to employees and/or union representatives, provide notices with respect to a decision to extend the layoffs *due to business circumstances unforeseeable* as of the time of the initial layoffs *when* it becomes reasonably foreseeable that the extension is required (e.g., issuance of an amended stay-at-home or shelter-in-place order)
- Separate Event. Provide prompt notices for a **second** planned action (closing or layoff) and **argue** that the **second** planned action is necessary due to a separate and distinct cause.



Mini-WARN Acts