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EMPLOYERS MAY GET RELIEF FROM NOTICE FOR MASS LAYOFFS BECAUSE OF UNPRECEDENTED TIMES

by Gray Reed's Labor & Employment Department
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The economic impact of the COVID-19 global pandemic is widespread and immeasurable. Businesses across the globe are temporarily closing their doors, compelling them to take unprecedented measures to preserve their financial viability. If mass layoffs become necessary (defined as 50 or more employees), employers need to be mindful of their obligations under the WARN Act. However, the WARN Act also has some exceptions that employers should know about during these uncertain times.

WHAT IS THE WARN ACT?

The Worker Adjustment and Retraining Act of 1988 (WARN Act) is a federal law which “protects workers, their families, and communities by requiring employers with 100 or more employees . . . to provide at least sixty calendar days advance written notice of a plant closing and mass layoff affecting 50 or more employees at a single site of employment.” This notice is meant to allow employees to have an opportunity to find other employment and to protect them from an immediate financial hardship.

CAN THE SIXTY DAY NOTICE REQUIREMENT BE AVOIDED?

Requiring sixty days’ notice could literally bankrupt businesses who are having to reduce headcounts because of business closures as a result of the coronavirus outbreak. The statute provides important exceptions to this notice requirement which companies should be aware of in these unprecedented times.

The Act provides that if the layoffs are “caused by business circumstances that are not reasonably foreseeable as of the time that notice would have been required,” then the sixty day notice period under the WARN Act can be reduced or eliminated. Circumstances which are sudden, dramatic, unexpected and outside of the employer’s control will generally fall within this exception. Among the circumstances that may be unforeseeable are an unanticipated and dramatic major economic downturn.

If you have any questions or concerns about how to deal with the COVID-19 outbreak, please [contact us](#) to avoid potential liability.

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