

Washington State Joins the Mini-WARN Act Club. How Will Layoffs and Business Closings Be Impacted?

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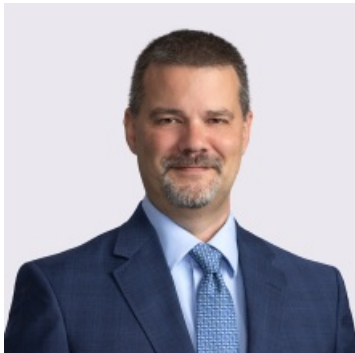


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Takeaways

- Washington's mini-WARN law, "Securing Timely Notification and Benefits for Laid-Off Employees Act," becomes effective 07.27.25.
- It requires employers with 50 or more employees to give a 60-day notice prior to certain layoffs or business closings.
- Employers contemplating layoffs or business closings in Washington must determine whether federal WARN or Washington's mini-WARN (or both) will require them to provide advance notices.

Related links

- [Washington's Mini-WARN \(pdf\)](#)
- [Washington State Employment Law: Key Legislative Changes Effective July–September 2025](#)

Article

Washington is the latest state to enact a "mini-WARN" act, joining a growing number of states with legislation similar to the federal Worker Adjustment and Retraining Notification Act (WARN), 29 U.S.C. § 2101, *et seq.* The Washington "[Securing Timely Notification and Benefits for Laid-Off Employees Act](#)" becomes effective on July 27, 2025.

The new law directs the Washington Employment Security Department (ESD) to adopt rules and to administer and enforce Washington's Mini-WARN. Currently, no rules are in place.

Generally, federal WARN requires employers to provide 60 days' advance written notice to affected employees, their union representatives, the state dislocated worker unit, and the chief elected official of local government of a "plant closing" or a "mass layoff."

Washington's law similarly requires 60 days' advance written notice of a "business closing" or a "mass layoff" to affected employees or, if they are represented by a union, their bargaining representative, and the ESD.

Although the two statutes are similar, their significant differences present challenges for employers trying to navigate compliance with both laws. Employers with workplaces in Washington and contemplating mass layoffs or business closings should ensure they are aware of not only federal WARN notice requirements, but also the new Washington requirements.

Employers Covered by Washington's Mini-WARN

Significantly, an “employer” under Washington’s Mini-WARN is defined as any “person” who employs 50 or more employees in Washington, excluding “part-time” employees. The state or any state political subdivisions or any local government are not covered employers. Federal WARN applies to employers with 100 full-time employees or 100 or more full-time and part-time employees who in the aggregate work at least 4,000 hours per week, not including overtime.

Both statutes have the same basic definition of “part-time” (an employee who has been employed for fewer than six months out the 12 months preceding the date the notice would due or who as of that notice date works an average work week of fewer than 20 hours). Under Washington’s law, if a collective bargaining agreement has a different definition of “part-time,” that definition will apply.

Washington's Notice Triggering Events

Washington’s law requires at least 60 calendar days of advance written notice before conducting a “business closing” or a “mass layoff.” Important definitions include:

- *“Business closing”*: The permanent or temporary shutdown of a single site of employment of one or more facilities or operating units that will result in an “employment loss” for 50 or more employees (excluding part-time employees). Washington’s law does not state that the business closing must occur within a specified time. Federal WARN discusses a plant closing that occurs during a 30- or a 90-day period. Thus, Washington’s notice requirements appear applicable to business closings that are gradual and take place over an extended period of time.
- *“Mass layoff”*: A reduction that is not the result of a “business closing” but results in an “employment loss” (including reductions in hours) for 50 employees (excluding part-time employees) during any 30-day period. This definition of “mass layoff” differs significantly from federal WARN’s, which requires the “employment losses” to occur at a “single site of employment” or that the 50 employees constitute a certain percentage of the employer’s workforce at the single site of employment.
- *“Employment loss”*: An employment termination (other than discharge for cause, voluntary separation, or retirement), a layoff exceeding six months, or a reduction in hours of more than 50 percent during each month of a six-month period. It does not include the relocation or consolidation of all or part of the business if, before the business closing or mass layoff, the employer offers to transfer the employee to a different site within a reasonable commuting distance with no more than a six-month break in employment. Unlike federal WARN, Washington’s law does not address employees who are offered transfers that are outside of a reasonable commuting distance.
- *“Single site of employment”*: Includes a single location or a group of contiguous locations, such as a group of structures that form a campus or a business part of separate facilities across the street from each other. Federal WARN’s definition is more expansive.
- *“Aggrieved employee”*: One who has been employed by the employer and who did

not receive timely notice directly from the employer or the employee's representative (under the National Labor Relations Act or the Railway Labor Act).

Because of the statutes' differences, some workforce reductions may trigger Washington's law but not federal WARN, while others will trigger both.

Exceptions to Washington's Notice Requirement

Under federal WARN, if an employer seeks to rely on an "exception" for providing fewer than 60 days of notice, the employer must provide written WARN notices as soon as practicable and include in its notices information about the exception on which it relies. In contrast, Washington's law excuses an employer from providing written notices if it satisfies the faltering company, unforeseeable business circumstances, or natural disaster exception. Generally:

- *Faltering company:* The employer was actively seeking capital or business when a notice would have been required, and the capital or business sought, if obtained, would have allowed the employer to avoid or postpone the business closing or mass layoff. Under federal WARN, the "faltering company" exception is available only in the event of a plant closing, not a mass layoff.
- *Unforeseeable business circumstances:* The mass layoff or business closing is caused by business circumstances that were not reasonably foreseeable when a notice would have been required. The circumstances must be caused by a sudden, dramatic, and unexpected action or condition outside the employer's control.
- *Natural disaster:* The mass layoff or business closing is due to a natural disaster, such as a flood, earthquake, drought, storm, tornado, or similar natural event. This exception is similar to federal WARN's natural disaster exception.

Washington's law also excepts mass layoffs at a construction project where employees were hired with the understanding their employment was limited to the duration of a particular portion of the construction project or multiemployer construction projects where the employees are subject to a full union referral and dispatch system. Federal WARN does not explicitly exempt these situations.

Moreover, Washington's law (like federal WARN) includes a "sale" exception.

Required Notices, Content

Both statutes require certain information in the 60-days' advance notice, but there are some differences. Employers that have obligations under both laws should make sure their notices comply with both laws.

The Washington notice to ESD, the employees, and their bargaining representatives must include all information required by federal WARN, as well as the following:

- Name and address of the employment site where the business closing or mass layoff will occur, and name and contact information for an employer "company official" for further information.
- Whether the planned action is expected to be permanent or temporary. If the entire business is to be closed, the notice must so state. If the planned action is expected

to be temporary, the notice must state whether it is expected to last longer or shorter than three months.

- The expected date of the first employment loss and the schedule for anticipated employment losses.
- The job titles of the positions to be affected and the names of employees currently holding the affected jobs.
- Whether the mass layoff or business closing is the result of, or will result in, the relocation or contracting out of the employer's operations or the employees' positions.

Federal WARN Regulations, 20 CFR § 639 *et seq.*, specify the contents of each separate notice to employees, unions, state dislocated worker unit, and chief elected official of local government. Importantly, none of those notice elements require providing names of affected employees to other employees, the state dislocated worker unit, and chief elected officials of local government. Washington's law would have an employer provide to an affected employee the names of all other affected employees and their schedule of separation dates and the notice to ESD must include addresses for all affected employees.

Employees on Paid Family and Medical Leave

For employees on paid family or medical leave under Title 50A RCW, Washington's law prohibits an employer from including them in a mass layoff. There is no similar requirement in federal WARN or its regulations.

Enforcement

Under both statutes, the affected employees, their unions, or the government can sue for failure to comply with the requirements. Under Washington's law, the ESD may sue for violations and may assess penalties. Additionally, the law requires the ESD to administer and enforce its provisions, foreshadowing some type of administrative agency enforcement scheme (which likely will be described in any ESD rules).

* * *

The differences between federal and state WARN statutes will keep employers on their toes, predicting which notice requirements their contemplated action may trigger.

Please contact a Jackson Lewis attorney if you have questions about Washington's new law or need guidance handling reductions in force, plant closings, or other workplace issues.

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