

CONSTANGY

BROOKS & SMITH, LLP

The Employers' Law Firm, Since 1946

*Analysis of State Statutes Governing Plant Closings and Severance Pay (Last Updated September 2010)**

State	Covered Employers	Covered Events	Requirements	Non-contractual, Statutory Severance Pay Obligations
Alabama	None	None	None	None
Alaska	None	None	None	None
Arizona	None	None	None	None
Arkansas	None	None	None	None
California (Cal. Lab. Code §§ 1400-1408)	Any industrial or commercial facility that employs, or has employed within the preceding 12 months, 75 or more employees	<ul style="list-style-type: none"> • Mass layoff – 50 or more employees within 30 day period • Relocating – to a different location 100 or more miles away • Cessation or “substantial” cessation of operations 	Provide notice 60 days before action takes effect to affected employees, Employment Development Department, local workforce investment board, and chief elected official of each city <u>and</u> county government where action occurs. Note: employer’s notice must include elements required by WARN	None
Colorado	None	None	None	None
Connecticut (Conn. Gen. Stat. § 31-	Any industrial, commercial or business	<ul style="list-style-type: none"> • Closing • Relocating – to a 	Employer must pay for continuation of existing	None

* This chart includes a summary of the applicable statutory laws for each of the states. Before initiating a reduction in force that may trigger these laws, it is strongly advised to consult with legal counsel and to examine the relevant statutes, in detail, for specific requirements.

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51n; § 31-51o)	facility which employs, or has employed at any time in the preceding twelve-month period, 100 or more employees	location outside Connecticut	<p>group health insurance, for each affected employee and his/her covered dependents, for 120 days from the date of relocation/closing or until the employee becomes eligible for other group coverage, whichever occurs sooner.</p> <p>*COBRA coverage for employees not affected by this requirement.</p> <p>*This requirements does not apply to employees who choose to continue their employment at new location of the facility.</p>	
Delaware	None	None	None	None
District of Columbia	None	None	None	None
Florida	None	None	None	None
Georgia	None	None	None	None
Hawaii (21 Haw. Rev. Stat. § 394B-1 <i>et seq.</i>)	Any industrial, commercial, or other business entity that employs at any time in the preceding twelve-month period, 50 or more employees	<ul style="list-style-type: none"> • Closing • Partial closing • Relocating – to a location outside Hawaii • Divestiture 	Employer must provide written notification to each employee and the director of Hawaii Department of Labor and Industrial Relations of a covered event at least 60 days prior to its occurrence.	None

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			<p>*Note: if employer actively seeking buyer for sale or merger, notice does not have to be given until binding buy/sell or merger agreement has been entered.</p> <p>Additionally, employer must pay each former employee who applies for and is found eligible for unemployment compensation a “dislocated worker allowance” for 4 weeks, which is equal to the difference between the former employee’s average weekly wage and unemployment benefits.</p>	
Idaho	None	None	None	None
Illinois (820 Ill. Stat. Ann. § 65/1 <i>et seq.</i> ; 30 Ill. Stat. Ann. § 760/15)	Any business enterprise that employs 75 or more employees, excluding part-time employees, OR 75 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of overtime).	<ul style="list-style-type: none"> • Mass layoff – within any 30 day period, at least 33% of employees and at least 25 employees, OR at least 250 employees • Relocating 	If company receives state or local economic incentives, in addition to notice required under WARN, also must provide notice to Governor, Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and	None

State	Covered Employers	Covered Events	Requirements	Non-contractual, Statutory Severance Pay Obligations
		<ul style="list-style-type: none"> • Plant closing – shutdown of single site of employment, or loss of 50 or more employees within single site during any 30 day period • Employment loss – termination, layoff exceeding 6 months, or reduction in hours of more than 50% during each month of any 6 month period. 	<p>Mayor of each municipality where employer has locations in Illinois.</p> <p>State WARN Act provides that 60 day notice should contain elements required by federal WARN, and should be given to affected employees, the Department of Commerce and Economic Opportunity, and the chief elected official of each municipal and county government within which the covered event occurs.</p> <p>*Employer not required to give notice if covered event is necessitated by physical calamity or act of terrorism or war.</p>	
Indiana	None	None	None	None
Iowa (effective July 1, 2010) (I.C.A. § 84C.1 <i>et seq.</i>)	A person who employs 25 or more employees, excluding part-time employees.	Mass layoff – results in an employment loss at a single site of employment during any 30 day period of 25 or more employees, other than part-time employees	Employer must provide at least 30 days written notice prior to a mass layoff or business closing to the affected employees, their representatives, and the department of labor (but if CBA provides for different	None

State	Covered Employers	Covered Events	Requirements	Non-contractual, Statutory Severance Pay Obligations
		Business closing – permanent or temporary shutdown of a single site of employment or of one or more facilities or operating units that will result in an employment loss for 25 or more employees, other than part-time employees.	notice period, that period controls). *Employer is not required to give 30 days notice in the event of a strike or lockout, if the company is faltering and actively seeking capital, if there are unforeseeable business circumstances, or in the event of a natural disaster.	
Kansas	None	None	None	None
Kentucky	None	None	None	None
Louisiana	None	None	None	None
Maine (26 ME Rev. Stat. Ann. § 625-B)	Any industrial or commercial facility or part thereof which employs or has employed at any time in the preceding 12-month period 100 or more persons.	<ul style="list-style-type: none"> • Relocation – 100 or more miles from original location, either inside or outside Maine. • Termination – substantial cessation of industrial or commercial operations. 	Written notice must be provided to employees, municipal officers of the municipality where the plant is located, and the Director of Bureau of Labor Standards not less than 60 days prior to the covered event.	For a covered event, an employer is liable to its employees for severance pay at the rate of one week’s pay for each year of employment by the employee, but no severance pay obligations if: <ul style="list-style-type: none"> • Covered event caused by physical calamity; • Employee covered by contract providing for severance pay that is equal or greater

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				<p>than statutory severance pay required;</p> <ul style="list-style-type: none"> Employee accepts employment at new location; or Employee has been employed for less than 3 years.
<p>Maryland (MD Ann. Code § 11-301 <i>et seq.</i>)</p>	<p>An employer who employs at least 50 employees and has been doing business in Maryland for at least 1 year</p>	<ul style="list-style-type: none"> Relocating Shutdown that reduces number of employees by at least 25% or 15 employees, whichever is greater, over any three month period 	<p>Voluntary guidelines under direction of Secretary of Labor and Work Force Investment Board</p> <p>Whenever possible, at least 90 days notice shall be given to affected employees</p>	<p>Voluntary guidelines suggest possibility of some continuation of health, severance, and pension benefits</p>
<p>Massachusetts (M.G.L.A. 151A § 71B; M.G.L.A. 149 § 182; M.G.L.A. 175 § 110D; M.G.L.A. 175 § 110G)</p>	<p>Any employers that receive funding from a quasi-public agency of the Commonwealth.</p>	<ul style="list-style-type: none"> Closing 	<p>Voluntary</p> <p>Employer must agree to make a good-faith effort to provide every employee affected with the longest practicable advance notice in cases where notice is possible and appropriate. While no minimum time is set, the Commonwealth expects employers to</p>	<p>Any employer that closes a facility must report to the director of the division of employment security any date necessary to determine an employee's rights under the reemployment assistance benefits program.</p> <p>Every policy of group insurance must include</p>

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			<p>provide at least 90 days notice or equivalent benefits whenever possible.</p> <p>*These provisions are voluntary and carry no sanctions for noncompliance.</p>	<p>coverage guaranteeing that an employee who loses his or her job because of a plant closing will remain insured for 90 days after termination, unless the employee is otherwise entitled to similar benefits during that period.</p> <p>Additionally, Massachusetts has a tin parachute statute, but the First Circuit has held that it is preempted by ERISA. <i>Simas v. Quaker Fabric Corp. of Fall River</i>, 6 F.3d 849 (1st Cir. 1993).</p>
<p>Michigan (M.C.L.A. 450.731 <i>et seq.</i>)</p>	<p>Only applies to employee-owned businesses with 25 or more employees</p>	<ul style="list-style-type: none"> • Closing • Relocating and displacing at least 25 employees 	<p>Voluntary</p> <p>Businesses are <i>encouraged</i> to give notice of decision as soon as possible to Department of Labor, affected employees, any employee organization representing the employees, and the community in which affected establishment is located</p>	<p>None</p>
<p>Minnesota (Minn. Stat. Ann. §</p>	<p>For mandatory requirements, any</p>	<ul style="list-style-type: none"> • Plant Closing – loss of 50 or 	<p>Mandatory requirements: an employer providing</p>	<p>None</p>

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116L.976)	<p>employer covered by WARN.</p> <p>For discretionary provisions, any employer</p>	<p>more employees during any 30 day period</p> <ul style="list-style-type: none"> • Substantial Layoff • Relocation 	<p>notice of covered event under WARN or under discretionary provisions must report to the commissioner the names, addresses, and occupations of the employees who will be or have been terminated.</p> <p>Discretionary provisions: an employer is encouraged to give notice of its considering a covered event as early as possible to the commissioner, the employees of the affected establishment, any employee organization representing the employees, and the local government unit in which the affected establishment is located.</p>	
Mississippi	None	None	None	None
Missouri	None	None	None	None
Montana	None	None	None	None
Nebraska	None	None	None	None
Nevada	None	None	None	None
New Hampshire (<i>effective Jan 1, 2010</i>) (N.H. Rev. Stat. § 275-F:1 <i>et seq.</i>)	Any business enterprise that employs 75 or more full-time employees in New Hampshire OR any	Mass layoff – results in an employment loss at a single site of employment in New Hampshire during	Employer must provide at least 60 days written notice prior to a mass layoff or plant closing to affected	None

State	Covered Employers	Covered Events	Requirements	Non-contractual, Statutory Severance Pay Obligations
	business enterprise that employs 75 or more employees who in the aggregate work at least 3,000 hours per week (exclusive of overtime hours).	<p>any 30-day period for at least 250 employees, excluding any part-time or seasonal employees, OR at least 25 employees, excluding part-time or seasonal employees, if they constitute 33% of the full-time employees of the employer.</p> <p>Plant closing – permanent or temporary shutdown of a single site of employment in New Hampshire, or one or more facilities or operating units within a single site of employment, if shutdown results in employment loss during any 30-day period for 50 or more employees, excluding part-time employees.</p>	<p>employees and representatives of affected employees, the commissioner of labor, the New Hampshire attorney general, and the chief elected official of each municipality in New Hampshire within which the mass layoff or plant closing occurs.</p> <p>* Employer is not required to give notice if employer is faltering company and actively seeking capital, notice was not reasonably foreseeable, plant closing or mass layoff is the result of the completion of a particular project, plant closing or mass layoff is necessitated by physical calamity, natural disaster, terrorism/war, or closing or layoff is a strike or lockout.</p>	
New Jersey (N.J.S.A. § 34:21-1 <i>et seq.</i>)	An employer who has been in business for a period longer than 3 years who employs 100 or more full-time employees	<ul style="list-style-type: none"> • Transfer of operations; or • Termination of operations <p>that results in termination</p>	Provide notice within not less than 60 days (or the time required under WARN, whichever is longer) before the first termination of employment	None There are, however, severance pay obligations (1 week of pay for each full year of employment) if

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		<p>of employment of 50 or more full time employees during any continuous period of not more than 30 days; or</p> <ul style="list-style-type: none"> • Mass layoff <p>that results in termination of employment during any 30 day period for 500 or more employees OR 50 ore more employees representing 1/3 of full time employees.</p> <p>Note: a “termination of operations” (but, notably, not a transfer of operations or mass layoff) exempts a termination necessitated by certain circumstances outside the employer’s control (i.e. fire, flood, natural disaster, etc.)</p>	<p>occurs to Commissioner of Labor and Workplace Development, the chief elected official of the municipality where the establishment is located, each employee whose employment is to be terminated, and any collective bargaining units of employees.</p>	<p>timely notice is not given.</p>
New Mexico	None	None	None	None
<p>New York (<i>effective February 2009</i>) (McKinney’s Labor Law § 860 <i>et seq.</i>)</p>	<p>An employer who employs 50 or more full-time employees</p>	<ul style="list-style-type: none"> • Mass layoff – employment loss during any 30 day period of at least 33% of 	<p>Provide at least 90 days notice of covered event to affected employees, representative(s) of affected employees, New</p>	<p>None.</p>

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		<p>workforce, which amounts to at least 25 employees OR a total loss of 250 employees</p> <ul style="list-style-type: none"> • Plant closing – if 25 or more employees lose their jobs in any 30 period** • Relocating – to a different location 50 or more miles away 	<p>York State Department of Labor, and local Workforce Investment Board.</p> <p>Content of notice must comply with federal WARN Act. Notice to affected employees and any representative of same must also contain required language concerning UI Insurance, job training and re-employment services.</p> <p>McKinney’s Labor Law § 195 provides: Within five working days of an employee’s termination, employer must give employee written notice of the exact date of the termination as well as the exact date of cancellation of employee benefits connected with the termination.</p>	
North Carolina	None	None	None	None
North Dakota	None	None	None	None
Ohio	None	None	None	None
Oklahoma	None	None	None	None
Oregon	None	None	None	None

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Pennsylvania	Philadelphia Ordinance – covers employers with 50 or more employees in the city.	<ul style="list-style-type: none"> • Relocating • Closing 	<p>Employer must provide written notice of any plans to relocate or close any of its establishments at least 60 days beforehand.</p> <p>**Note: PA trial court ruled that a similar plan closing ordinance in Pittsburgh was invalid because of a state law that bars municipalities from regulating businesses unless expressly authorized by statute. <i>See Smaller Mfrs. Council v. Council of City of Pittsburgh</i>, 485 A.2d 73 (Pa. Commw. Ct. 1984).</p>	None
Puerto Rico (PR ST T. 29 § 185a)	None	None	None	No severance obligations as a result of a relocation or plant closing, but note that an employer who discharges an employee without cause has an obligation to pay additional compensation upon discharge, pursuant to statute.
Rhode Island	None	None	None	None Rhode Island does have a “tin parachute” law that

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				requires payment of severance pay to employees terminated as a result of a change in control of a corporation (R.I. Gen. Laws § 28-7-19.2), but this was held to be preempted by ERISA. <i>See United Paperworkers Inter. Union Local 1468 v. Imperial Home Decor Group</i> , 76 F.Supp.2d 179 (D.R.I. 1999).
South Carolina	None	None	None	None
South Dakota	None	None	None	None
Tennessee (T.C.A. § 50-1-601 <i>et seq.</i>)	An employer who employs at least 50 but not more than 99 full-time employees located at a workplace located within Tennessee	<ul style="list-style-type: none"> • Closing; • Modernizing; • Relocating beyond 50 miles; or • Layoff affecting 50 or more employees during any 3-month period	Notify affected employees (does not indicate when) and state government by telephoning commissioner of labor and workplace development re: circumstances of reduction and number of employees affected *Does not apply if reduction results solely from a labor dispute, occurs at a construction site or other temporary workplace, or results from seasonal factors	None

State	Covered Employers	Covered Events	Requirements	Non-contractual, Statutory Severance Pay Obligations
Texas	None	None	None	None
Utah	None	None	None	None
Vermont	None	None	None	None
Virginia	None	None	None	None
Washington	None	None	None	None
West Virginia	None	None	None	None
Wisconsin (W.S.A. 109.07)	Any business enterprise that employs 50 or more persons in Wisconsin.	<ul style="list-style-type: none"> • Business closing – permanent or temporary shutdown of an employment site or one or more facilities at an employment site or within a single municipality that affects 25 or more employees • Mass layoff – at least 25% of employer’s workforce or 25 employees, which is greater; OR at least 500 employees 	<p>Employer must provide written notification to the state, the highest official in the municipality in which the affected employment site is located, all affected employees, and their collective bargaining representative no later than 60 days prior to the date the covered event takes place.</p> <p>The notice to an affected employee shall also include contact information for the local workforce development board under serving the area in which the employment site is located and, if available, the list of resources prepared by the board.</p>	None
Wyoming	None	None	None	None