

	H.758	Federal WARN Act
Advanced Notice	90 days	60 days
Circumstances that trigger WARN Act	<ul style="list-style-type: none"> • Closes a facility permanently or temporarily, affecting 20 or more employees, excluding part-time employees • A 50% reduction of total workforce during any 6-month period of companies with at least 20 employees 	<ul style="list-style-type: none"> • Closes a facility permanently or temporarily, affecting at least 50 employees, or the closing of a plant that has fewer than 50 employees but that closing also involves the layoff of enough other workers to total 50 or more • Lays off 500 workers at a single site, or 50-499 workers that constitute 33% of employer's active workforce • Announces temporary layoff of less than 6 months, and meets previous requirements • Reduces the hours of work for 50 or more employees by more than 50% for each month in any 6-month period
Extensions	<ul style="list-style-type: none"> • Extension granted if layoff beyond one month is caused by business circumstances, including unforeseeable changes in price or cost not reasonably foreseeable at the time • Notice must be given at the time it becomes reasonably foreseeable that the extension beyond one month will be required • After 15 days beyond the extension, the commissioner may demand the required information in subdivisions 412(c)(1)-(9) within 5 business days 	<ul style="list-style-type: none"> • If extension of layoff is needed, notice must be given when the need becomes known
Exceptions	<ul style="list-style-type: none"> • If the employer is attempting to secure capital or investments in an attempt to avoid closure or mass-layoff • Employer has offered employment to its employees with less than a one-month break and its employees have accepted so that fewer than 20 	<ul style="list-style-type: none"> • If the company is actively seeking capital and giving advanced notice would preclude its ability to obtain the capital • When the closing or layoff is caused by unforeseeable (i.e. an unexpected cancellation of a major order) • When closing or mass layoff is

	<p>employees will actually experience a layoff</p> <ul style="list-style-type: none"> • The business closing or mass layoff is the result of the completion of the project and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or project or undertaking • Closing or mass-layoff was due to any form of natural disaster • Closing is due to a strike or a lockout 	<p>direct result of a natural disaster</p>
Content of notice to employees	<ul style="list-style-type: none"> • A statement as to whether the planned action is permanent or temporary • The expected date of layoff or closing • An indication as to whether or not bumping rights exist • Name and number of a company official to contact for information 	<ul style="list-style-type: none"> • A statement as to whether the planned action is permanent or temporary • The expected date of layoff or closing • An indication as to whether or not bumping rights exist • Name and number of a company official to contact for information
<p>Content of notice to dislocated worker and local Chief Elected Official/VDOL <u>All of this information is required under the VDOL Employment Security Board Rule</u></p>	<ul style="list-style-type: none"> • Employee's name • Employee's home address • Employee SSN • Employees job title • Employee's wage • Employee's severance pay, if any • Employee's pension information • Employee's workstation location • Any other information related to employment separation as requested by the Commissioner <p><i>*Under the proposed bill VDOL may only report the number of layoffs, job titles and workstations affected.</i></p>	<ul style="list-style-type: none"> • Name and Address where the layoff or closing occurs • Explanation of whether it is temporary or permanent • The date of layoff with a schedule of any further employment reductions • Job titles of positions and the name of affected employee in each job category • Statement of bumping rights (if any) • Name of union/employee rep and name and address of the chief elected officer of each union
Information to the State Rapid Response Dislocated Worker Unit	<ul style="list-style-type: none"> • Name and address of employment site. • Name and number of a company official • Date of separation • Number of affected employees 	<ul style="list-style-type: none"> • Name and address of employment site. • Name and number of a company official • Date of separation • Number of affected employees
Information to	<ul style="list-style-type: none"> • Name and address of 	<ul style="list-style-type: none"> • Name and address of

<p>the union rep</p>	<p>employment site</p> <ul style="list-style-type: none"> • Explanation of whether it is temporary or permanent • Date of separation • Job titles of positions affected and the name of affected employees in each job classification 	<p>employment site</p> <ul style="list-style-type: none"> • Explanation of whether it is temporary or permanent • Date of separation • Job titles of positions affected and the name of affected employees in each job classification
<p>Penalties for violating WARN Act</p>	<ul style="list-style-type: none"> • Employer who violates subsection 412(a) is liable to each employee entitled to notice who lost employment for back pay up to 60 days or one half the number of days that the employee was employed by the employer, whichever is shorter • The value of the cost of any benefit to which the employee would have been entitled to had employment not been lost, including cost of any medical or dental expenses incurred by the employee that would have been covered under an employee benefit plan • An administrative penalty not more than \$5,000 	<ul style="list-style-type: none"> • An employer is liable to each affected employee for an amount equal to back pay and benefits for the period of the violation, up to 60 days. Liability may be reduced by any wages paid over the notice period. Liability may also be reduced by any voluntary and unconditional payment not required by legal obligation. • Failure to provide notice is subject to civil penalty not to exceed \$500 for each day of violation. The penalty may be avoided if employer satisfies its liability to each affected employee within 3 weeks after closing. The court may allow the prevailing party reasonable attorney's fee as part of the costs.