Department of Labor & Workforce Development

# WARN ACT TECHNICAL ASSISTANCE GUIDE

Worker Adjustment & Retraining Notification Act of 1988

# Table of Contents


| | Page |
|---|---|
| Message from Commissioner Jeff McCord | 3 |
| I. Legislation References | 4 |
| The Worker Adjustment and Retraining Notification Act (WARN) | |
| Tennessee Code Annotated | |
| Information Source - Questions Related to WARN | |
| II. Providing Notice | 5-10 |
| General Provisions | 5 |
| Employer Coverage | 5 |
| Employee Coverage | 5 |
| Form and Content of Notice | 6 |
| Required Notification | 7 |
| Sample Letters | 8-10 |
| III. Conducting Rapid Response | 11-12 |
| Contacting the Company | 11 |
| Contacting the Members of the Rapid Response Team | 11 |
| Planning and Conducting the Initial Meeting | 11 |
| Establishing the Employer/Employee Transition Committee | 12 |
| Conducting the Employee Mass Meeting | 12 |
| IV. Federal Statute | 13-19 |
| Worker Adjustment and Retraining Notification Act (WARN) - Public Law 100-379 | |
| V. Tennessee Statutes | 20-24 |
| Plant Closings and Reduction in Operations - TCA 50-1-601, *et.seq.* | |

**State of Tennessee**
**Department of Labor and Workforce Development**
220 French Landing Drive
Nashville, TN 37243
(615) 741-6642

Fellow Tennesseans:

The Worker Adjustment and Retraining Notification (WARN) Act, Public Law 100-379, is a federal law that was enacted on August 4, 1988, and became effective February 4, 1989. WARN requires employers to give a 60-day advance notice of a plant closure or mass layoff.

Under WARN, employers are required to send a written notice to the Dislocated Worker Unit (DWU) of the Tennessee Department of Labor and Workforce Development. The DWU can assist employers and employees by implementing the state's Rapid Response System, designed to provide information quickly that will alleviate some of the anxieties and problems caused by a workforce reduction. In addition the Tennessee American Job Center System provides an entire spectrum of dislocated worker services. American Job Center personnel can design programs for employees that will enable them to take advantage of the many resources available to facilitate their reemployment.

Tennessee's "Plant Closing and Reduction in Operations" Act, T.C.A. § 50-1-601 *et seq.*, applies to employers employing at least 50 but not more than 99 employees. That law requires covered employers to notify the DWU at the time the employer notifies its employees of the reduction in operations. The law only affects reduction in operations affecting 50 or more employees. Although layoffs or closures affecting fewer than 50 employees are not covered by either the federal WARN Act or Tennessee state law, employers are strongly encouraged to file a notice so their employees can receive all possible services and benefits from the state.

Early warning and a well-organized transition program with both employer and employees working as a team can minimize the traumatic effects of worker dislocation.

Enclosed is information explaining WARN and the procedures of the Rapid Response Team. We would like to assist you in making this adjustment as smooth as possible.

Sincerely,

Jeff McCord
Commissioner
Tennessee Department of Labor and Workforce Development

# Legislation

The following is intended only to present a brief overview describing the principal provisions of the Worker Adjustment and Retraining Notification (WARN) Act, Public Law 100-379 (U.S.C.2101, et seq.). It is not an official statement of interpretation of WARN or of the regulations adopted by the Employment and Training Administration of the U.S. Department of Labor. Additional information related to this legislation appears below.

**THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT**
**(WARN) was enacted on August 4, 1988 and became effective on February 4, 1989.**

**TENNESSEE CODE ANNOTATED, TCA 50-1-601**
**(effective May 29, 1989)**

**INFORMATION SOURCE RELATED TO WARN**

Specific requirements of the Worker Adjustment and Retraining Notification Act may be found in the Act. The U. S. Department of Labor published final regulations in the Federal Register (Vol. 54 No.75) on April 20, 1989. The regulations appear at 20 CFR Part 639.

**General questions on the regulations should be addressed to:**

Office of Adults Services
U.S. Department of Labor
Employment and Training Administration
Room N-5426
200 Constitution Avenue, N.W.
Washington, DC 20210
(202) 693-2501

Since the Tennessee Department of Labor and Workforce Development has no legal, administrative or enforcement responsibility under WARN, it cannot interpret the legislation.

# Providing Notice

## GENERAL PROVISIONS

WARN offers protection to workers, their families and communities by requiring employers to provide notice 60 days in advance of plant closings, mass layoffs and/or sale of a business. This notice must be provided to affected employees or their representatives (e.g., a labor union); to the state Dislocated Worker Unit; and to the appropriate unit of local government. (See Public Law 100-379, Sec.3.)

## EMPLOYER COVERAGE

This technical assistance guide is based on Tennessee law, which requires employers to submit a WARN when 50 or more workers are affected. It is also based on Federal legislation requiring a WARN when 100 or more workers are affected.

In Tennessee, generally, employers are covered by WARN if they have 50 or more employees, exclusive of employees who have worked less than 6 months in the last 12 months, and exclusive of employees who work an average of less than 20 hours a week. Private for profit employers and private nonprofit employers are covered, as are public and quasi-public entities, which operate in a commercial context and are not units of federal, state, or local governments. Employees of federal, state, or local governments are not covered. (See Public Law 100-379, Sec. 2)

A series of layoffs within a 90-day period, which affect two or more groups of less than 50 employees each, but total more than the minimum of 50 employees by the end of the 90-day period, is covered by WARN and requires written notice.

Although layoffs or closures affecting fewer than 50 employees are not covered by WARN, employers are strongly encouraged to file a notice so their employees can receive all possible services and benefits from the state.

## EMPLOYEE COVERAGE

Employees entitled to notice under WARN include hourly and salaried workers, as well as managerial and supervisory employees. Business partners are not entitled to notice.

**FORM AND CONTENT OF NOTICE**

All notices must be in writing, and be specific. To conform to the Act, notices must be received 60 days before a closing or layoff. Required recipients are listed on page 7. Any reasonable method of delivery is acceptable.

The content of the notices to the required parties is listed in section 639.7 of the WARN final regulations. The elements of notice are important if the parties are to receive notice that will provide them with the information they need to take the appropriate actions to minimize the effects of the employment loss on the affected employees.

These elements of notice include:

(1) The name and address of the plant;
(2) The name and address of a contact person;
(3) The date of the layoff or schedule of layoffs, or the date of the closure;
(4) Whether the planned action is permanent or temporary;
(5) The job titles of the positions to be eliminated;
(6) The number of employees affected;
(7) Whether bumping rights exist;
(8) The name of unions representing affected employees if applicable;
(9) The name and address of the chief elected officer of each union representing affected employees if applicable; and
(10) Whether the entire plant will close.

On pages 9-11 are sample WARN notification letters provided as examples for layoffs or closures of facilities in which the employees are or are not represented by a collective bargaining agreement.

# Required Notification

**WARN notices should be sent in writing to**

1. **The Official Union(s) Representing the Employees (if applicable); or, if not represented, Each Affected Employee**

2. **Chief Elected Official of Local Government**

3. **Tennessee Department of Labor & Workforce Development**
   **Dislocated Worker Unit**
   **220 French Landing Drive**
   **Nashville, Tennessee 37245-0658**
   **(615) 253-6357**
   **Toll Free: 1-(800) 255-5872**

# Sample Letter: (50 or More Affected)

(COMPANY LETTERHEAD)

July 1, 20xx

Michael Needel, Director
Dislocated Worker Unit
220 French Landing Drive
Nashville, TN 37245-0658

Dear Director:

This notice is being provided pursuant to the Worker Adjustment and Retraining Notification (WARN) Act of 1988, which requires employers to give official notice to certain government units or officials of a pending mass layoff or permanent closure.

This is to advise you that on September 1, 20xx _____
(Company Name)
located at _____
(Street Address) (City/Town) (Zip Code)
will permanently reduce the number of employees. (**Or: will permanently close the facility.**) The number of employees affected is _____. A list of the affected positions is enclosed. Affected employees (**do/do not**) have bumping rights.

Employees are not represented by a union. **(Or: The union representing the employees at this facility is _____ and its chief elected official is _____. The telephone number is (  ) _____ and the address is _____.)**

For further information, please contact me **(Or: other contact person's name and title)** at
(___ ) _____
(Area Code and Telephone Number)

Sincerely,

_____
(Name)

_____
(Job Title)

Attachment (List of Employees)

# Example of List of Affected Positions

| JOB TITLE | Total |
|---|---|
| Assembly | 30 |
| Distribution | 2 |
| Clerical/administrative | 2 |
| Supervisors | 1 |
| TOTAL | 35 |

# Sample Letter: (less than 50 affected)

(COMPANY LETTERHEAD)

July 1, 20xx

Michael Needel, Director
Dislocated Worker Unit
Tennessee Department of Labor
and Workforce Development
220 French Landing Drive
Nashville, TN 37245-0658

Dear Director:

Although notice is not required under the Worker Adjustment and Retraining (WARN) Act, we are providing this notice so that these employees can receive all possible government services and benefits.

_____
(Company name) located at (Street Address)

_____
(City /Town) (Zip Code)

will permanently reduce the staff. (**Or: close the facility**). The mass layoff (**Or: closure**) will take place on September 1, 20xx. Listed below are the job titles and number of employees affected.

| | |
|---|---|
| Assembly | 30 |
| Distribution | 2 |
| Clerical/ Administrative | 2 |
| Supervisors | 1 |
| Total | 35 |

If further information is required, please contact me **(Or: other contact person's name and title)** at (  ) _____
(Area Code and Telephone Number)

Sincerely,

_____
(Name)

_____
(Job Title)

# Conducting Rapid Response

**Contacting the Company**

After the notification of layoff or plant closure is received by the Tennessee Department of Labor and Workforce Development's Dislocated Worker Unit (DWU), a copy is forwarded to the Local Workforce Area Rapid Response Coordinator. The Local Workforce Area Rapid Response Coordinator contacts the company official identified in the notification letter to:

- Acknowledge receipt of the notification and verify the information;
- Provide a brief overview of the Rapid Response procedure;
- Request information to complete the Rapid Response Report; and
- Request a tentative date for the initial meeting.

**Contacting the Members of the Rapid Response Team**

The Local Workforce Area Rapid Response Coordinator (1) contacts the members of Rapid Response Team assigned to the area where the layoff or closure will occur; (2) confirms the initial meeting date; and (3) transmits a copy of the notification to each member. The Rapid Response Team members include a representitive of the:

- Tennessee Department of Labor and Workforce Development (Local Office);
- Local Workforce Investment Area (LWIA);
- Career Center Representative;
- AFL-CIO (if employees are represented by organized labor);
- TRADE (when appropriate); and
- Other member agencies as required.

**Planning and Conducting the Initial Meeting**

After the initial meeting is scheduled, an agenda is prepared by the Local Workforce Area Rapid Response Coordinator. The initial meeting includes employer representatives, employee representatives, the Tennessee Department of Labor and Workforce Development representative(s) and other Rapid Response Team members who describe the services that are available to the dislocated workers. During the the initial meeting, plans are made and a date is set for the employee mass meeting. The Local Workforce Area Rapid Response Coordinator completes final information on the Rapid Response Report.

**Establishing the Employer-Employee Transition Committee**

An employer-employee transition committee is highly effective when used during the transition process for plant closure or layoff. As the federally-mandated committee, either the Workforce Adjustment Committee (WAC) or Transition Assistance Committee (TAC) includes equal representation from the employer and employees. The WAC includes a neutral chairperson from the community; the TAC, a facilitator, usually the Dislocated Worker Coordinator. The selected committee acts as the focal point for communication and services. In cooperation with state/local employment and public/private service providers, the committee can develop a comprehensive plan to help workers transition into new jobs. Positive results, including a faster return to employment, are common when the employer and the employee representatives work together. (The publication Employer-Employee Transition Committees is available from the DWU and provides information on these committees in greater detail.)

Some benefits of using the committee approach are:

- Earlier reemployment;
- Coordination of services;
- Increased motivation, productivity, and morale;
- Positive labor relations;
- Unemployment insurance cost savings;
- More effective use of benefits; and
- Positive community impact.

**Conducting the Employee Mass Meeting**

Potential dislocated workers are given an on-site presentation of benefits, services, and other opportunities available for reemployment.

The Local Workforce Area Rapid Response Coordinator continues to serve as liaison, provide linkages which facilitate worker readjustment, and insure that all workers are afforded the opportunity to participate in reemployment services.

# PUBLIC LAW 100-379
# 100TH CONGRESS

Worker Adjustment and Retraining Notification Act
August 4, 1988

An Act

Requires advance notification of plant closings and mass layoffs.

100th Congress
An Act

Aug 4, 1988
(S. 2527)

To require advance notification of plant closings and mass layoffs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Worker Adjustment and Retraining Notification Act
Business and Industry.
Employment and unemployment
29 USC 2101 note

SECTION 1. SHORT TITLE: TABLE OF CONTENTS

(a) SHORT TITLE.-This Act may be cited as the "Worker Adjustment and Retraining Notification Act".

(b) TABLE OF CONTENTS - The table of contents is as follows:

Sec. 1. Short Title
Sec. 2. Definitions: exclusions from definition of loss of employment.
Sec. 3. Notice required before plant closings and mass layoffs.
Sec. 4. Exemptions.
Sec. 5. Administration and enforcement of requirements
Sec. 6. Procedures in addition to other rights of employees
Sec. 7. Procedures encouraged where not required.
Sec. 8. Authority to prescribe regulations.
Sec. 9. Effect on other laws.
Sec. 10. Reports on employment and international competitiveness.
Sec. 11. Effective date.

29 USC 2101

SEC. 2. DEFINITIONS: EXCLUSIONS FROM DEFINITION OF LOSS OF EMPLOYMENT

(a) DEFINITIONS - As used in this Act—

(1) the term "employer" means any business enterprise that employs—
(A) 100 or more employees, excluding part-time employees; or
(B) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime):

(2) the term "plant closing" means the permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees;

(3) the term "mass layoff" means a reduction in force which—
(A) Is not the result of a plant closing: and
(B) results in an employment loss at the single site of employment during any 30-day period for—
(i)(I) at least 33 percent of the employees (excluding any part-time employees); and
(II) at least 50 employees (excluding any part-time employees): or
(ii) at least 500 employees (excluding any part-time employment);

(4) the term "representative" means an exclusive representative of employees within the meaning of section 9(a) or 8(f) of the National Labor Relations Act (29 U.S.C. 159(a), 158(f) or section 2 of the Railway Labor Act (45 U.S.C. 152);

(5) the term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer;

(6) subject to subsection (b), the term "employment loss" means (A) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (B) a layoff exceeding 6 months, or (C) a reduction in hours of work of more than 50 percent during each month of any 6-month period;

(7) the term "unit of local government" means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers; and

(8) the term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(b) EXCLUSIONS FROM DEFINITION EMPLOYMENT LOSS – (1) In the case of a sale of part or all of an employer's business, the seller shall be responsible for providing notice for any plant closing or mass layoff in accordance with section 3 of this Act, up to and including the effective date of the sale. After the effective date of the sale of part or all of an employer's business, the purchaser shall be responsible for providing notice for any plant closing or mass layoff in accordance with section 3 of this Act. Notwithstanding any other provision of this Act, any person who is an employee of the seller (other than a part-time employee) as of the effective date of the sale shall be considered an employee of the purchaser immediately after the effective date of the sale.

(2) Notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff-

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

29 USC 2102

SEC. 3. NOTICE REQUIRED BEFORE PLANT CLOSINGS AND MASS LAYOFFS

(a) NOTICE TO EMPLOYEES, STATE DISLOCATED WORKER UNITS, AND LOCAL GOVERNMENTS - An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of such an order—

(1) to each representative of the affected employees as of the time of the notice or,if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act) and the chief elected official of the unit of local government within which such closing or layoff is to occur. If there is more than one such unit, the unit of local government which the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(b) REDUCTION OF NOTIFICATION PERIOD – (1) An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business which, if obtained, would have enabled the employer to avoid or postpone the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2)(A) An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(B) No notice under this Act shall be required if the plant closing or mass layoff is due to any form of natural disaster, such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

(3) An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(c) EXTENSION OF LAYOFF PERIOD – A layoff of more than 6 months which, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless –

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(d) DETERMINATIONS WITH RESPECT TO EMPLOYMENT LOSS – For purposes of this section, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 2(a) (2) or (3) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

29 USC 2103

SEC. 4. EXEMPTIONS

This Act shall not apply to a plant closing or mass layoff if –

(1) the closing is of a temporary facility or the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act. Nothing in this Act shall require an employer to serve written notice pursuant to section 3(a) of this Act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act: Provided, that nothing in this Act shall be deemed to validate or invalidate any judicial or administrative ruling relating to the hiring of permanent replacements for economic strikers under the National Labor Relations Act.

29 USC 2104

Sec. 5. ADMINISTRATIVE AND ENFORCEMENT OF REQUIREMENTS

(a) CIVIL ACTIONS AGAINST EMPLOYERS. – (1) Any employer who orders a plant closing or mass layoff in violation of section 3 of this Act shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for –

Wages

(A) back pay for each day of violation at a rate of compensation not less than the high of

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

Health and medical care

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred.

Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(2) The amount for which an employer is liable under paragraph (1) shall be reduced by –

Wages

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

Health and medical care

(C) any payment by the employer to a third party or trustee (such as premiums or health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

In addition, any liability incurred under paragraph (1) with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(3) Any employer who violates the provisions of section 3 with respect to a unit of local government shall be subject to a civil penalty of not more than $500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

Courts, U.S.

(4) If an employer which has violated this Act proves to the satisfaction of the court that the act or omission that violated this Act was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this Act the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section.

State and

(5) A person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under paragraph (1) or (3), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any district in which the violation is alleged to have occurred, or in which the employer transacts business.

Courts, U.S.

(6) In any such suit, the court, in its discretion, may allow the prevailing party reasonable attorney's fee as part of the costs.

(7) For purposes of this subsection, the term, "aggrieved employee" means an employee" who has worked for the employer ordering the plant closing or mass layoff and who, as a result of the failure by the employer to comply with section 3, did not receive timely notice either directly or through his or her representative as required by section 3.

Courts, U.S.

(b) EXCLUSIVITY OF REMEDIES – The remedies provided for in this section shall be the exclusive remedies for any violation of this Act. Under this Act, a Federal court shall not have authority to enjoin a plant closing or mass layoff.

29 USC 2105

SEC. 6. PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES

Contracts

The rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this Act shall run concurrently with any period of notification required by contract or by any other statute.

29USC 2106

SEC. 7. PROCEDURES ENCOURAGED WHERE NOT REQUIRED

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 3 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

29 USC 2107

SEC. 8. AUTHORITY TO PRESCRIBE REGULATIONS

(a) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this Act.

(b) The mailing of notice to an employee's last known address or inclusion of notice in the employee's paycheck will be considered acceptable methods for fulfillment of the employer's obligation to give notice to each affected employee under this Act.

29 USC2108

SEC. 9. EFFECT ON OTHER LAWS

The giving of notice pursuant to this Act, if done in good faith compliance with the Act, shall not constitute a violation of the National Labor Relations Act or the Railway Labor Act.

29 USC 2109

SEC. 10. REPORT ON EMPLOYMENT AND INTERNATIONAL COMPETITIVENESS

Two years after the date of enactment of this Act the Comptroller General shall submit to the Committee on Small Business of both the House and Senate, the Committee on Labor and Human Resources, and the Committee on Education and Labor a report containing a detailed and objective analysis of the effect of this Act on employers (especially small and medium-sized businesses), the economy (international competitiveness), and employees (in terms of levels and conditions of employment). The Comptroller General shall assess both costs and benefits, including the effect on productivity, competitiveness, unemployment rates and compensation, and worker retraining and readjustment.

29 USC 2101 note.

Sec. 11. EFFECTIVE DATE

This Act shall take effect on the date which is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 8 is effective upon enactment.

---

(Note by the office of the Federal Register – The foregoing Act, having been presented to the President of the United States on Friday, July 22, 1988, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become law without his signature on August 4, 1988.)

---

LEGISLATIVE HISTORY – S. 2527:
CONGRESSIONAL RECORD, VOL. 134 (1988):
June 22-24, 27-29, July 6, considered and passed Senate.
July 13, considered and passed House
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol 24 (1988):

# Tennessee

# Code

# Annotated

## TCA 50-1-601

Effective May 29, 1989.

This law requires employers to submit a WARN when 50 or more workers are affected, as opposed to 100 or more as required by the federal WARN legislation. Tennessee adheres to all of the other federal legislation requirements of Public Law 100-379.

**50-1-104** State officials notified of plant closings or mass layoffs.
Upon being served with advance written notification of a plant closing or mass layoff pursuant to § 3 (a)(2) of the Worker Adjustment and Retraining Notification Act, Public Law No. 100-379, the commissioner of Labor and Workforce Development shall immediately advise the commissioners of economic and community development, education, employment security, human services, mental health and mental retardation, and health and environment, the executive director of the state board of education, and the chancellor of the state university and community college system, concerning the circumstances of the plant closing or mass layoff, including the number of employees affected. [Acts 1989, ch. 399, § 2.]

Compiler's Notes. Section 3 of the Worker Adjustment and Retraining Notification Act, P.L. No.100-379, referred to in this section, is codified as 29 U.S.C. § 2102. Effective Dates. Acts 1989, ch. 399, § 4. May 29, 1989.

Cross-References. Plant closings and reduction in operations, part 6 of this chapter. Plant closings or mass layoffs, notification to employees and state, § 50-1-602

## Part 6—Plant Closings and Reduction in Operations

**50-1-601. Definitions**.— As used in this part, unless the context clearly requires otherwise:

(1) "Employer" means any person, corporation, or other entity which employs at least fifty (50) but not more than ninety-nine (99) full-time employees at a workplace located within Tennessee and which is not excluded or exempt from the requirements of the Employment Security Law, compiled in chapter 7 of this title;

(2) "Reduction in operations" means:
   - (A) The closure of a workplace, or a portion of the operations therein, whereby the number of employees working within such workplace is permanently or indefinitely reduced by fifty (50) or more during any three-month period;
   - (B) The modernization of a workplace, or a portion of the operations therein, whereby the number of employees working within such workplace is permanently or indefinitely reduced by fifty (50) or more during any three-month period;
   - (C) The relocation of a workplace, or a portion of the operations therein, to another site located more than fifty (50) miles from the workplace, whereby the number of employees working within such workplace is permanently or indefinitely reduced by fifty (50) or more during any three-month period; or
   - (D) The implementation of application of any management policy within a workplace, whereby the number of employees working within such workplace is permanently or indefinitely reduced by fifty (50) or more during any three-month period; and

(3) "Workplace" means a factory, plant, office, or other facility where employees produce goods or provide services [Acts 1988, ch. 997, § 2; 1989, ch. 399, § 1.]

Cross-References. State officials notified of Plant closings or mass layoffs, §50-01-104.

Amendments. The 1989 amendments in (1), added "but not more than ninety-nine (99)" following "at least fifty (50)".
Effective Dates. Acts 1988, ch 997, §7. July 1, 1988. Acts 1989, ch 399, §4. May 29, 1989.

**50-1-602. Notification of employees and state -(a)** Upon notifying affected employees of a reduction in operations, the employer shall then notify state government by telephoning the commissioner of labor and workforce development and informing the commissioner of the circumstances of the reduction in operations as well as the number of employees affected.

(b) The commissioner shall obtain and operate a toll-free telephone line for the purpose of receiving and encouraging employer compliance with the provisions of subsection (a). The commissioner shall regularly undertake appropriate activities to inform and remind employers of the existence of the toll-free telephone line and of the requirements contained within subsection (a).

(c) Upon receiving initial notification of a reduction in operations, the commissioner shall immediately advise the commissioners of economic and community development, education, employment security, human services, mental health and mental retardation, and health, and environment the executive director of the state board of education and the chancellor of the board of regents of the state university and community college system, concerning the circumstances of the reduction in operations and the number of affected employees [Acts 1988, ch. 997, § 3; 1989, ch. 399, § 3.]

Amendments. The 1989 amendment substituted references to the commissioner of labor and workforce development for reference to the executive director of the economic cabinet council in (a), (b) and (c).

Effective Dates. Acts 1989, ch. 399, § 4. May 29, 1989.

**50-1-603. Provisions not applicable in certain situations –** The provisions of § 50-1-602(a) shall not apply to any reduction in operations which:

(1) Results solely from a labor dispute;
(2) Occurs at a construction site or other temporary workplace; or
(3) Results from seasonal factors, as determined by the rules of the commissioner of labor and workforce development to be customary within the business or industry.

[Acts 1988, ch. 997, § 4; 1989 ch. 399, § 3.]

Amendments. The 1989 amendment (3), substituted "commissioner of labor" for "executive director of the economic cabinet council".

Effective Dates. Acts 1989, ch. 399, § 4. May 29, 1989.

**50-1-604. Rules** – The commissioner of labor and workforce development shall promulgate, in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, such rules as may be necessary in order to implement the provisions of this part in an orderly and efficient manner. [Acts 1988, ch. 997, § 5; 1989, ch. 399, § 3.]

Amendments. The 1989 amendment substituted "commissioner of labor" for "executive director of the economic cabinet council"

Effective Dates. Acts 1988, ch. 997, § 7. July 1, 1988. Acts 1989, ch. 399, § 4. May 29, 1989.

“Permission for the publication of sections of Tennessee Code Annotated was granted by the State of Tennessee.”

For individuals with hearing impairments, please call the Tennessee Department of Labor and Workforce Development’s TDD line at 615-532-2879.

The Tennessee Department of Labor and Workforce Development is an equal opportunity employer. Auxiliary aids and services are available upon request to individuals with disabilities.

www.tn.gov/workforce

The Tennessee Department of Labor and Workforce Development is committed to principles of equal opportunity, equal access, and affirmative action. Auxiliary aids and services are available upon request to individuals with disabilities.

Tennessee Department of Labor and Workforce Development; Authorization 337307; This public document was promulgated for electronic use only.

***Workforce Assistance and Information Resources***

JOBS4TN.GOV

**www.Jobs4TN.gov**

TN Department of Labor & Workforce Development

**www.tn.gov/workforce**

**www.dol.gov**

AmericanJobCenter TENNESSEE

***Visit your local American Job Center***

Tennessee Department of Labor & Workforce Development
Employment & Workforce Development Division, Worker Unit
220 French Landing Drive
Nashville, Tennessee 37243-0658
(615) 253-6357 or Toll Free 1 (800) 255-5872