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CA Gov. Executive Order Relaxes WARN Notice Requirements for COVID-19

In the wake of business slowdowns and shutdowns as a result of the COVID-19 pandemic, many employers face a dilemma when forced to furlough or layoff workers. The Federal and California WARN Acts require 60 days' notice before laying off employees, subject to certain thresholds. This presents an untenable situation for employers forced to shut down, where they are essentially forced to violate the notice requirement because they cannot continue employing people.

Yesterday, Governor Newsome issued an Executive Order [EO N-31-20] suspending the advance notice requirement of the California WARN Act for layoffs as a result of the COVID-19 crisis. To understand the impact of this executive order, here are the basics of the CA WARN Act:

To whom does it apply? "Covered establishments" are those that employed at least 75 employees within the last 12 months. To be counted, employees must have been employed for at least 6 months.

What does it require? 60 days' advance written notice is required when laying off 50 or more employees within a 30 day period, or when there is a plant closure or cessation of business affecting any amount of employees. Notice must be given to affected employees and certain government entities.

The executive order suspends the 60-day notice requirement, **effective March 4 through the end of the COVID-19 emergency**. This allows employers forced to cease business and layoff or furlough employees to do so immediately without risk of violating the advance notice requirement. Employers must still give written notice compliant with the WARN act in terms of content, but need not wait 60 days to effect layoffs. The order also requires additional disclosures in the notice, such as information related to unemployment benefits.

Employers contemplating lay-offs or extended furloughs [which might also trigger WARN requirements] should consult with counsel to ensure compliance with other state and federal requirements. Stokes Wagner can provide comprehensive guidance and compliant WARN Notice templates for immediate action. For more information, please do not hesitate to contact us at aparry@stokeswagner.com and info@stokeswagner.com.

Questions? Contact Stokes Wagner.