

State Department of Labor & Industrial Relations

Workforce Development Division
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DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS

Hawai'i Businesses: Closing Down or Laying Off?



What Every Employer Should Know About:

- ◆ Plant Closing Notice and Dislocated Worker Law
- ◆ Worker Adjustment and Retraining Notification

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To Our Employer Customers:

Please call us if you are thinking about laying off workers or closing your business.

Perhaps our rapid response team can help you avert a layoff or help you stay in business.

We offer many services to help your workers cope with a layoff including job training, job referral, unemployment insurance, and much more.

State and Federal laws on worker layoffs vary—some laws require that you notify us in advance of your worker layoffs or business closing or sale.

Please call us if you have any questions. We are here to help you—808-586-8877.

Department of Labor & Industrial Relations
Workforce Development Division

Employers Must Notify State and Local Officials

State Department of Labor & Industrial Relations Director's Office

830 Punchbowl Street, Room 321

Honolulu, HI 96813

Phone: (808) 586-8844

Fax: (808) 586-9099

Honolulu Mayor's Office

Honolulu Hale

530 S. King Street

Honolulu, HI 96813

Phone: (808) 768-4141

Fax: (808) 768-4242

Hawai'i Mayor's Office

25 Aupuni Street

Hilo, HI 96720

Phone: (808) 961-8211

Fax: (808) 961-6553

Maui Mayor's Office

200 S. High Street, 9th Floor

Wailuku, HI 96793

Phone: (808) 270-7855

Fax: (808) 270-7870

Kaua'i Mayor's Office

4444 Rice Street, Suite 235

Līhu'e, HI 96766

Phone: (808) 241-4900

Fax: (808) 241-6877

State Plant Closing Notice and Dislocated Worker Law

What's the Purpose of this State Law?

Workers are protected from the negative effects of unexpected layoffs or terminations caused by business closing or moving whether due to sale, transfer, merger, bankruptcy, or other business takeover or transaction of business interests.

Does the State Law Apply to You?

The State law applies to employers who have had 50 or more workers within the state over the past 12 months (all other employers are encouraged to voluntarily comply).

What You Must Do

Employers must give 60 days written notice to affected workers and the State Labor Director before a full or partial business closure or a relocation.

Who Benefits?

- ◆ **Employers**—your contributions to unemployment insurance will be reduced as dislocated workers quickly obtain new jobs and their dependence on benefits is lessened.
- ◆ **Employees**—workers who lose their jobs will receive help with job assistance including training, job referral, budget management and unemployment benefits and services.

What Businesses Are Affected?

Any business affected by a sale, transfer, merger, business takeover, bankruptcy, or other transaction of business interests.

What is a Closing?

- ◆ A sale, transfer, merger, business takeover, bankruptcy, or transaction of business interest
- ◆ A permanent shutting down of all business operations
- ◆ An actual or potential layoff or termination of workers

What is Not a Closing?

A business shutdown or relocation of business due to business failure or loss of lease or contract is not a closing.

Rapid Response

When the State Labor Department receives notice of a business closing or layoff, a rapid response team can be sent to the work site to assist workers with job referral, job training, counseling and unemployment benefits.

WARN works in concert with other federal laws including the WIA, which funds job retraining programs for dislocated workers.

U.S. Courts Enforce WARN

Penalties for WARN violations:

- ◆ Back pay and benefits to all employees during the violation period, up to 60 days
- ◆ Fines up to \$500 per day for failure to notify state and local officials

For more information, contact:

- ◆ Your attorney
- ◆ Workforce Development Division at (808) 586-8877

Notice is Not Required if the closing is the result of:

- ◆ Strike
- ◆ Lockout
- ◆ Completion of a temporary project
- ◆ Natural disaster

Notice of less than 60 days is allowed if the closing or layoff is due to:

- ◆ Unforeseen business circumstances.
- ◆ The employer was actively seeking capital or business which would have avoided or postponed the shutdown and giving the notice would have preceded the employer from obtaining capital.

Federal Worker Adjustment and Retraining Notification Act

Does WARN Apply to You?

WARN is the Federal Worker Adjustment and Retraining Notification Law. It applies to employers with 100 or more full-time workers, although other employers are encouraged to voluntarily comply.

WARN requires such employers to give 60 days written notice before:

- ◆ A business closes and terminates all employees.
- ◆ A business lays off 500 or more employees.
- ◆ A business lays off 50-499 employees and they constitute one-third of the employer's workforce.

The written notice must be given to workers, state, and local officials and relevant unions.

Who Benefits?

As with the State law, employer contributions can be reduced and workers move more quickly to new jobs.

Employers Must Notify State and Local Officials

The written notice must include:

- ◆ Name and address of the closing or layoff site
- ◆ Employer contact name and phone number
- ◆ Nature of the closing/layoff (temporary/permanent)
- ◆ Schedule of separation dates
- ◆ Job titles and number of employees affected
- ◆ Bumping rights status of affected workers
- ◆ Name and address of union and its chief elected officer

What is a Relocation?

Any movement of all or most business operations outside of Hawai'i is a relocation.

Rapid Response

When the State Labor Director receives a notice about a business closing or worker layoff, a rapid response team can be sent to the work site to help workers with the job placement, job training, counseling and unemployment benefits.

The State Plant Closing Law works in concert with two federal laws: WARN (Worker Adjustment and Retraining Notification Act) and WIA (Workforce Investment Act). WARN requires certain employers to provide notice of business closings and layoffs. WIA provides job retraining programs for dislocated workers.

Penalties

Employers are subject to penalties for violating the State Plant Closing Law. (For more details on the State Plant Closing Law, please refer to the link:
http://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0394B/HRS_0394B-.htm

For more information, contact:

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- ◆ Workforce Development Division
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Examples of How the Law Works

Project Finished

Employer A is a construction company employing 100 workers for a specific construction project. When the project is finished, all 100 workers are laid off. This closing is not subject to the State Plant Closing Law.

Seasonal Hire

Employer B is a retail store employing 200 employees. The employer hires an additional 50 temporary workers for the holiday shopping season. All 50 temporary workers are laid off at the end of the season. This closing is not subject to the State law.

Lack of Business

Employer C employs 100 workers but suffers financial setbacks due to lack of business. The employer files for bankruptcy and lays off all 100 workers. This closing is subject to the State law.

Loss of Lease

Employer D is a retail store employing 50 workers. The employer loses the lease and lays off all workers. This closure is not subject to the State law.

Storm Damage

Employer E owns and operates a farm employing 200 workers. The farm is totally devastated by a hurricane and all workers are laid off. This closing is not subject to the State law.

Sale

Employer F is a hotel employing 75 workers. The hotel is sold to an investor and the new owners have said that all workers will be retained. It has been ruled that this is a closure and that this is subject to the State Plant Closing Law.

Partial Closing

Corporation G has branch operations across the country and sells its Hawai'i operations to a Hawai'i company. As a result, 30 of the 80 Hawai'i branch employees are laid off. This is a partial closure of Corporation G and is subject to the State law.

Corporation H, with 200 workers is purchased by Corporation I, which lays off a redundant data processing branch. This is a partial closure subject to the State Plant Closing Law.