On August 5, 2008, New York State Governor David Paterson signed into law the New York State Worker Adjustment and Retraining Notification Act ("NY WARN Act"). The law, which is significantly more expansive and affects more employees than its federal counterpart, goes into effect on February 1, 2009. On its website, the New York State Department of Labor warns that covered employers who are planning layoffs shortly after February 1, 2009, should be sure to provide notice to affected employees well before the law’s effective date in order to comply with the new law. Employers are, therefore, well-advised to familiarize themselves with this new law to ensure full compliance.

The NY WARN Act amends the New York Labor Law by adding Article 25-A. Although it mirrors the federal Worker Adjustment and Retraining Notification Act ("Federal WARN Act"), the coverage of the NY WARN Act is much broader in several significant ways:

- **The NY WARN Act covers more employers.** It applies to employers with 50 or more full-time employees. The Federal Warn Act only covers employers with 100 or more full-time employees.

- **The NY WARN Act requires more advance notice.** Under the NY WARN Act, covered employers are required to provide affected employees at least 90 days’ advance written notice. The Federal WARN Act, in contrast, requires at least 60 days’ advance written notice.

- **The NY WARN Act is more readily triggered.** Covered employers under the New York law are required to provide advance written notice of mass layoffs, plant closings, and relocations, to affected employees. Under the federal law, employers are only required to provide advance written notice of mass layoffs and plant closings.

A “mass layoff” under the NY WARN Act is a reduction in force at a single site resulting in 25 or more full-time employees who represent 33% of the workforce, or at least 250 full-time employees, losing their jobs.
during a 30-day period. Under the federal law, a “mass layoff” is a reduction in force at a single site result-
ing in 50 or more full-time employees who represent 33% of the workforce, or at least 500 full-time
employees, losing their jobs during a 30-day period.

The NY WARN Act defines a “plant closing” as the “shutdown” of an employment site resulting in at least
25 full-time employees losing their jobs during a 30-day period. The Federal WARN Act requires at least
50 full-time employees to lose their employment for such a shutdown to qualify as a “plant closing.”

Perhaps most significantly, the NY WARN Act requires notice of “relocations,” which are defined as the
removal of all or substantially all of the industrial or commercial operations of the employer to a different
location 50 or more miles away. The Federal WARN Act has no such requirement.

- **The NY WARN Act can be enforced administratively.** The NY WARN Act provides aggrieved
  employees with a private right of action, but also authorizes the New York State Department of Labor
to enforce the statute administratively. The Federal WARN Act provides employees who have lost
their jobs with only a private right of action.

**Conclusion**

Although the NY WARN Act is similar in structure and terminology to its federal counterpart, it imposes
greater obligations on employers. Employers in New York are encouraged to seek legal advice when con-
sidering a reduction in force, plant closure or relocation.

For further information, please contact:

<table>
<thead>
<tr>
<th>Kenneth W. Taber</th>
<th>Rebecca M. Carr</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York</td>
<td>Washington, DC</td>
</tr>
<tr>
<td>+1.212.858.1813</td>
<td>+1.202.663.9143</td>
</tr>
<tr>
<td><a href="mailto:kenneth.taber@pillsburylaw.com">kenneth.taber@pillsburylaw.com</a></td>
<td><a href="mailto:rebecca.carr@pillsburylaw.com">rebecca.carr@pillsburylaw.com</a></td>
</tr>
</tbody>
</table>

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