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N.J. Becomes First State to Mandate Severance Pay for Mass Layoffs

By: Marc H. Zitomer, Esq. & Christopher J. Sedefian, Esq.

Governor Murphy signed legislation into law on January 21, 2020 that will make New Jersey the first state in the country to require employers to pay severance to workers that have been laid off. The legislation (S3170) is an amendment to the Millville-Dallas Airmotive Plant Job Loss Notification Act (“New Jersey WARN Act”). It requires New Jersey employers with at least 100 employees to provide their workers with 90 days’ notice before a mass layoff or a plant closing or transfer resulting in 50 or more employees losing their jobs. Employers were previously required to provide 60 days’ notice for such events. Employers will also be required to provide employees with severance equal to one week of pay for each full year of employment. If the employer does not comply with the 90-day rule, it will be required to provide the affected employee(s) with an additional four weeks of pay.

The amendment eliminates the requirement that the mass layoff must affect at least 50 *full-time* employees and dispenses with the rule mandating that a mass layoff is initiated only where at least 33% of the workforce is affected. Employees are not permitted to waive the right to severance absent state or court approval.

Lawmakers were motivated by last year’s closing of Toys “R” Us, which cost 2,000 employees their jobs in New Jersey. While employees were initially let go without severance pay, two of the private equity firms that owned Toys “R” Us eventually established a \$20 million severance fund.

SPSK advises employers to review their current severance policies and to remain compliant with these new standards. For more information on this Legal Alert or related issues, please contact the labor and employment attorneys at SPSK.

DISCLAIMER: This Alert is designed to keep you aware of recent developments in the law. It is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of the client.

Florham Park

220 Park Avenue
Florham Park, NJ 07932
973-539-1000

Paramus

115 West Century Road
Suite 100
Paramus, NJ 07652
201-262-1600

Sparta

351 Sparta Avenue
Sparta, NJ 07871
973-295-3670

New York

9 East 40th Street
New York, NY 10016
646-652-7775