

New Jersey Business Closing/Mass Layoff Notification Law

(including notification form, revised 3/20/2008)

Millville Dallas Airmotive Plant Job Loss Notification Act P.L. 2007, c.212, C.34:21-2

Any restatement or summary of the law, which is contained in this document is intended for informational purposes only. The Department of Labor and Workforce Development has neither enforcement authority, nor rulemaking authority under the Millville Dallas Airmotive Plan Job Loss Notification Act, P.L. 2007, c.212. The role of the Department of Labor and Workforce Development under P.L. 2007, c.212, is limited to (1) dispatching the rapid response team to, among other things, provide appropriate information, referral and counseling to workers who are subject to plant closings or mass layoffs and (2) making available to employers the form upon which notification shall be provided under P.L. 2007, c.212.

Under New Jersey law, employees have certain rights and employers have certain obligations to give proper notice to their employees and others before taking certain employment actions.

The entire law can be viewed at: <http://www.njleg.state.nj.us/2006/Bills/PL07/212 .HTM>.

Who must comply with this law? (C.34:21-2)

If you are an individual or private business establishment that has been in operation in the State of New Jersey for longer than three years and you employ 100 or more full-time employees, you must comply with the above law if you anticipate any of the following events:

Mass Layoff	" Mass layoff " means a reduction in force which is not the result of a transfer or termination of operations and which results in the termination of employment at an establishment during any 30-day period for 500 or more full-time employees or for 50 or more of the full-time employees representing one third or more of the full-time employees at the establishment.
Transfer or Termination of Operations	" Termination of operations " means the permanent or temporary shutdown of a single establishment, or of one or more facilities or operating units within a single establishment, except that "termination of operations" shall not include a termination of operations made necessary because of a fire, flood, natural disaster, national emergency, act of war, civil disorder or industrial sabotage, decertification from participation in the Medicare and Medicaid programs as provided under Titles XVIII and XIX of the federal "Social Security Act," Pub.L.74-271 (42 U.S.C. s.1395 et seq.) or license revocation pursuant to P.L.1971, c.136 (C.26:2H-1 et al.).
	" Transfer of operations " means the permanent or temporary transfer of a single establishment, or one or more facilities or operating units within a single establishment, to another location, inside or outside of this State.

Who must you provide notice to and when? (C.34:21-2)

Before the first termination of employment occurs, you must provide no less than 60 days advance notice in writing to the following entities:

- Commissioner of Labor and Workforce Development
- The chief elected official of the municipality where the establishment is located
- Each employee whose employment is to be terminated
- Any collective bargaining unit of employees at the establishment

Severance pay (C.34:21-2b)

The employer who operates the establishment or conducts the mass layoff shall provide each full-time employee whose employment is terminated and to whom the employer provides less than the number of days of notification required pursuant to subsection a. of C.34:21-2, severance pay equal to one week of pay for each full year of employment. The rate of severance pay provided by the employer pursuant to this subsection b. shall be the average regular rate of compensation received during the employee's last three years of employment with the employer or the final regular rate of compensation paid to the employee, whichever rate is higher. The severance pay provided by the employer pursuant to this subsection b. shall be in addition to any severance pay provided by the employer pursuant to a collective bargaining agreement or for any other reason, except that any back pay provided by the employer to the employee pursuant to section 5 of the "Worker Adjustment and Retraining Notification Act," Pub.L.100-379 (29 U.S.C. s.2104), because of a violation of section 3 of that act (29 U.S.C. s. 2102) shall be credited toward meeting the severance pay requirements of this subsection b of this act.

COMPARISON OF WARN & NEW JERSEY PLANT CLOSING/MASS LAYOFF LAW

FEDERAL WARN	NEW JERSEY STATE
<i>Employer</i>	
<ul style="list-style-type: none"> Any business enterprise with 100 or more employees, excluding part time; or 100 or more employees, including part time, who work a combined total of at least 4,000 regular hours per week 	<ul style="list-style-type: none"> An individual or private business entity operated by an employer for a period longer than three years and employs 100 or more full-time employees
<i>Covered Actions</i>	
<ul style="list-style-type: none"> Plant Closings – The permanent shutdown of a single site of employment, if the shutdown results in an employment loss during any 30 day period for 50 or more employees Mass Layoffs – Results in an employment loss of at least 33% of the workforce at a single site of employment during any 30 day period, provided at least 50 employees are affected. If 500 employees are affected, the one third requirement does not apply 	<ul style="list-style-type: none"> A transfer of operations or a termination of operations during any continuous period of 30 days which results in the termination of employment of 50 or more full-time employees, or mass layoff that results in an employment loss at an establishment during any 30 day period for 500 or more full-time employees, or for 50 or more full-time employees representing one third or more of the full-time employees at the establishment
<i>Notice Requirement</i>	
60 days	60 days
<i>Notice Provided To</i>	
<ul style="list-style-type: none"> The affected employees <i>or</i> their bargaining representative The chief elected official of the unit of local government The state dislocated worker unit 	<ul style="list-style-type: none"> Each employee to be terminated <i>and</i> any collective bargaining units The chief elected official of the municipality The Commissioner of Labor and Workforce Development
<i>Content of Notice</i>	
<ul style="list-style-type: none"> The name and address of the employment site where the plant or mass layoff will occur A statement as to whether the planned action is expected to be permanent or temporary and, if the entire plant is to be closed a statement to that effect Job titles of positions to be affected and the number of affected employees in each job classification An indication as to whether bumping rights exist The name and telephone number of a company official to contact 	<ul style="list-style-type: none"> A statement of the number of employees to be terminated and the date or dates of the mass layoff or termination of operations A statement of the reasons for the mass layoff or transfer or termination of operations A statement of any employment available to employees at any other establishment operated by the employer, and information regarding the benefits, pay and other terms and conditions of that employment and the location of the other establishment A statement of any employee rights with respect to wages, severance pay, benefits, pension or other terms of employment as they relate to the termination, including any rights based on a collective bargaining agreement or other existing employer policy A disclosure of the amount of the severance pay which is payable A statement of the employees' right to receive from the response team, information, referral and counseling regarding public

	programs which may make it possible to delay or prevent the transfer, termination of operations or mass layoff; public programs and benefits to assist the employees; and employee rights based on law
<i>Severance</i>	
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Provided to each full-time terminated employee to whom the employer provides less than the number of days of notification. Calculation is equal to one week of pay for each full year of employment and is in addition to any other severance paid for any reason. Back pay provided by the employer to conform to the WARN law is credited towards meeting this severance pay criteria
<i>Response Team Services</i>	
<ul style="list-style-type: none"> • At the employer's discretion 	<ul style="list-style-type: none"> • Provides for on-site work-time access
<i>Disputes</i>	
<ul style="list-style-type: none"> • Settled in District Court 	<ul style="list-style-type: none"> • Settled in Superior Court

Millville Dallas Airmotive Plant Job Loss Notification Act

Definitions (per P.L 2007, c212, C.34:21-1)

- **"Commissioner"** means the Commissioner of Labor and Workforce Development.
- **"Department"** means the Department of Labor and Workforce Development.
- **"Employer"** means an individual or private business entity which employs the workforce at an establishment.
- **"Establishment"** means a single place of employment which has been operated by an employer for a period longer than three years, but shall not include a temporary construction site. "Establishment" may be a single location or a group of contiguous locations, including groups of facilities which form an office or industrial park or separate facilities just across the street from each other.
- **"Facility"** means a building.
- **"Full-time employee"** means an employee who is not a part-time employee.
- **"Mass layoff"** means a reduction in force which is not the result of a transfer or termination of operations and which results in the termination of employment at an establishment during any 30-day period for 500 or more full-time employees or for 50 or more of the full-time employees representing one third or more of the full-time employees at the establishment.
- **"Operating unit"** means an organizationally distinct product, operation, or specific work function within or across facilities at a single establishment.
- **"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 six of the 12 months preceding the date on which notice is required pursuant to this act.
- **"Response team"** means the plant closing response team established pursuant to section 5 of this act.
- **"Termination of employment"** means the layoff of an employee without a commitment to reinstate the employee to his previous employment within six months of the layoff, except that "termination of employment" shall not mean a voluntary departure or retirement or a discharge or suspension for misconduct of the employee connected with the employment or any layoff of a seasonal employee or refer to any situation in which an employer offers to an employee, at a location inside the State and not more than 50 miles from the previous place of employment, the same employment or a position with equivalent status, benefits, pay and other terms and conditions of employment, and, except that a layoff of more than six months which, at its outset, was announced to be a layoff of six months or less, shall not be treated as a termination of employment under this act if the

extension beyond six months is caused by business circumstances not reasonably foreseeable at the time of the initial layoff, and notice is given at the time it becomes reasonably foreseeable that the extension beyond six months will be required.

- **"Termination of operations"** means the permanent or temporary shutdown of a single establishment, or of one or more facilities or operating units within a single establishment, except that "termination of operations" shall not include a termination of operations made necessary because of a fire, flood, natural disaster, national emergency, act of war, civil disorder or industrial sabotage, decertification from participation in the Medicare and Medicaid programs as provided under Titles XVIII and XIX of the federal "Social Security Act," Pub.L.74-271 (42 U.S.C. s.1395 et seq.) or license revocation pursuant to P.L.1971, c.136 (C.26:2H-1 et al.).
- **"Transfer of operations"** means the permanent or temporary transfer of a single establishment, or one or more facilities or operating units within a single establishment, to another location, inside or outside of this State.

Notification Form
under the
Millville Dallas Airmotive Plant Job Loss Notification Act
P.L. 2007, c.212, C.34:21-2

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Under New Jersey law, prenotification of certain plant closings, transfers, and mass layoffs is required by way of completion of this Notification Form.

The entire law can be viewed at: <http://www.nileg.state.nj.us/2006/Bills/PL07/212 .HTM>.

If you are an individual or private business establishment that has been in operation in the State of New Jersey for longer than three years and you employ 100 or more full-time employees, you must comply with the above law if you anticipate any of the following events:	
Mass Layoff	"Mass layoff" means a reduction in force which is not the result of a transfer or termination of operations and which results in the termination of employment at an establishment during any 30-day period for 500 or more full-time employees or for 50 or more of the full-time employees representing one third or more of the full-time employees at the establishment.
Transfer or Termination of Operations	Termination of operations" means the permanent or temporary shutdown of a single establishment, or of one or more facilities or operating units within a single establishment, except that "termination of operations" shall not include a termination of operations made necessary because of a fire, flood, natural disaster, national emergency, act of war, civil disorder or industrial sabotage, decertification from participation in the Medicare and Medicaid programs as provided under Titles XVIII and XIX of the federal "Social Security Act," Pub.L.74-271 (42 U.S.C. s.1395 et seq.) or license revocation pursuant to P.L.1971, c.136 (C.26:2H-1 et al.).
	"Transfer of operations" means the permanent or temporary transfer of a single establishment, or one or more facilities or operating units within a single establishment, to another location, inside or outside of this State.

Please Type or Print All Applicable Information

Company Information

Company Name		
Address		
City	State	Zip Code
Contact Person		
Telephone Number		
Fax		
Email		

Union Information (if applicable)

Union Name and Local Number		
Address		
City	State	Zip Code
Contact Person		
Telephone Number		
Fax		
Email		

"Termination of employment" means the layoff of an employee without a commitment to reinstate the employee to his previous employment within six months of the layoff, except that "termination of employment" shall not mean a voluntary departure or retirement or a discharge or suspension for misconduct of the employee connected with the employment or any layoff of a seasonal employee or refer to any situation in which an employer offers to an employee, at a location inside the State and not more than 50 miles from the previous place of employment, the same employment or a position with equivalent status, benefits, pay and other terms and conditions of employment, and, except that a layoff of more than six months which, at its outset, was announced to be a layoff of six months or less, shall not be treated as a termination of employment under this act if the extension beyond six months is caused by business circumstances not reasonably foreseeable at the time of the initial layoff, and notice is given at the time it becomes reasonably foreseeable that the extension beyond six months will be required.

Termination Information – C.34:21-3

a. Number of employees to be terminated:	
Date(s) on which each termination of employment will occur:	
Date(s) on which mass layoff or transfer or termination of operations of the establishment will occur:	
b. Reason for termination: <input type="checkbox"/> Mass Layoff <input type="checkbox"/> Transfer of Operations <input type="checkbox"/> Termination of Operations	
Explain the reason(s) for mass layoff or transfer or termination of operations:	
c. Is any employment being offered to terminated employees at any other establishment operated by the employer? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide detailed information regarding the benefits, pay, and other terms and conditions of that employment and the location of the other establishment:
d. Please state any employee rights with respect to wages, severance pay, benefits, pension or other terms of employment as they relate to the termination, including, but not limited to, any rights based on a collective bargaining agreement or other existing employer policy.	
d1. Rights to wages? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, please explain.
d2. Rights to severance pay? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, please explain.
d3. Rights to pension? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, please explain.

<p>d4. Rights to benefits? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, please explain.</p>
<p>d5. Rights to other terms of employment? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, please explain.</p>

Severance pay which is payable, pursuant to the P.L. 2007, c.212, to each full-time employee to whom the employer provides less than the number of days notification required under the Act:
The employer who operates the establishment or conducts the mass layoff shall provide each full-time employee whose employment is terminated and to whom the employer provides less than 60 days notification before the first termination of employment occurs in connection with the termination or transfer of operations, or mass layoff, severance pay equal to one week of pay for each full year of employment. The rate of severance pay provided by the employer shall be the average regular rate of compensation received during the employee’s last three years of employment with the employer or the final regular rate of compensation paid to the employee, whichever rate is higher. This severance pay shall be in addition to any severance pay provided by the employer pursuant to a collective bargaining agreement or for any other reason, except that any back pay provided by the employer to the employee pursuant to section 5 of the “Worker Adjustment and Retraining Notification Act, “ Pub.L.100-379 (29 U.S.C. s.2104), because of a violation of section 3 of that act (29 U.S.C. s.2101) shall be credited toward meeting the severance pay requirements of the Millville Dallas Airmotive Job Loss Notification Act.

Response Team Services:
In accordance with section 5 of P.L. 2007, c.212, there is established within the Department of Labor and Workforce Development a response team, the purpose of which is to provide appropriate information, referral and counseling to workers who are subject to plant closings or mass layoffs. The information, referral and counseling provided by the response team will address available public programs which make it possible to delay or prevent the transfer or termination of operations, including economic development incentive and workforce development programs, public programs or benefits which may be available to assist the employees, including but not limited to, unemployment compensation benefits, job training or retraining programs, and job search assistance; and employee rights based on P.L. 2007, c.212, or any other law which applies to the employees with respect to wages, severance pay, benefits, pensions or other terms of employment as they relate to the termination of employment.

Employers covered by P.L. 2007, c.212 are required to provide the response team with the amount of on-site work-time access to the employees of the establishment that the response team determines is necessary for the response team to carry out its responsibilities under the law.

Please provide the completed Notification Form to:

→ The Commissioner of Labor and Workforce Development

David J. Socolow, Commissioner
Department of Labor and Workforce Development
Attention: Rapid Response Team
P.O. Box 933
Central Office Bldg. 7TH Floor, John Fitch Plaza
Trenton, New Jersey 08625-0933

Telephone: 1(800) 343-3919

Fax: (609) 777-3202

Email: Rapid.Response@dol.state.nj.us

→ The Chief Elected Official of the municipality where the establishment is located

→ Each employee whose employment is to be terminated

→ Any collective bargaining units of employees at the establishment