

WARN ACT
May 7, 2009

With the current Chrysler bankruptcy (and potential GM filing), the specter of franchise termination and possible closure of your dealership, dealers, more than ever, need to be aware of the obligations set forth in the Federal Worker Adjustment and Re-Training Notice Act (WARN).

In general, employers are covered by WARN if they have 100 or more employees, not counting employees who have worked less than six (6) months in the last twelve (12) months and not counting employees who work an average of less than twenty (20) hours a week. WARN requires a 60-day advance notice if an employer is going to shut down operations or lay off over half of the workforce at a particular location. Employees entitled to notice under WARN include hourly and salaried workers, as well as managerial and supervisory employees. A covered employer must give notice if it will be closing one or more facilities and the shutdown will result in an employment loss for fifty (50) or more employees. In the case of a mass layoff not resulting in the closing of the facility, but which will result in an employment loss at the site during any thirty (30) days period for 50-499 employees, if they make up at least 33% of the employer's active workforce, the employer is required to provide proper notice. For purposes of WARN, subject to limited exceptions, "employment loss" means termination (other than discharge for cause, voluntary resignations or retirements); layoff exceeding six (6) months or a reduction in an employee's hours of work of more than 50% in each month of any 6-month period.

Employees who have worked less than six (6) months in the last twelve (12) months and employees who work an average of less than twenty (20) hours a week are entitled to notice, even though they are not counted when determining the trigger levels discussed above.

The employer must also provide notice to the State dislocated worker unit and to the chief elected official of the unit of local government in which the employment site is located.

You may contact Ron Smith, Donn Wray, Mike Shanahan or Jeff Halbert of Stewart & Irwin for further information at 317-639-5454.