

STATE OF NEW YORK

8947--C

Cal. No. 468

IN ASSEMBLY

January 30, 2024

Introduced by M. of A. REYES, SHRESTHA, LEVENBERG, ZINERMAN, SIMONE, ARDILA, OTIS, FORREST, GIBBS, STECK, HEVESI, GALLAGHER, CARROLL, GONZALEZ-ROJAS, MAMDANI, BURDICK, BURGOS, BORES, JACOBSON, CRUZ, TAYLOR, DARLING, CLARK, KIM, COLTON, CUNNINGHAM, SIMON, TAPIA, PHEFFER AMATO, EPSTEIN, RAGA, LAVINE, SHIMSKY, JEAN-PIERRE, KELLES, L. ROSENTHAL, WEPRIN, SOLAGES -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the labor law, in relation to requiring retail worker employers to develop and implement programs to prevent workplace violence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "retail
2 worker safety act".

3 § 2. The labor law is amended by adding a new section 27-e to read as
4 follows:

5 § 27-e. Prevention of retail workplace violence. 1. Definitions. For
6 the purposes of this section:

7 a. "Employer" means any person, entity, business, corporation, part-
8 nership, limited liability company, or an association employing at least
9 ten retail employees. The term shall not include the state, any poli-
10 tical subdivision of the state, a public authority, or any other govern-
11 mental agency or instrumentality.

12 b. "Retail employee" means an employee working at a retail store for
13 an employer.

14 c. "Workplace" means any location away from an employee's domicile,
15 permanent or temporary, where an employee performs any work-related duty
16 in the course of their employment by an employer.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 d. "Retail store" means a store that sells consumer commodities at
2 retail and which is not primarily engaged in the sale of food for
3 consumption on the premises.

4 e. "Panic button" means a physical button that when pressed immediate-
5 ly contacts the local 9-1-1 public safety answering point ("PSAP"),
6 provides that PSAP with employee location information, and dispatches
7 local law enforcement to the workplace. A panic button may be a button
8 that is installed in an easily accessible location in the workplace, or
9 a wearable or mobile phone-based button.

10 2. Written workplace violence prevention policy. The department shall
11 create and publish a model retail workplace violence prevention guidance
12 document and retail workplace violence prevention policy that employers
13 may utilize in their adoption of a retail workplace violence prevention
14 policy required by this section. Such model retail workplace violence
15 prevention policy shall be publicly available and posted on the website
16 of the department.

17 a. Such model retail workplace violence prevention policy shall:

18 (i) outline a list of factors or situations in the workplace that
19 might place retail employees at risk of workplace violence, including
20 but not limited to:

21 (A) working late night or early morning hours;

22 (B) exchanging money with the public;

23 (C) working alone or in small numbers; and

24 (D) uncontrolled access to the workplace.

25 (ii) outline methods that employers may use to prevent incidents of
26 workplace violence, including but not limited to establishing and imple-
27 menting reporting systems for incidents of workplace violence;

28 (iii) include information concerning the federal and state statutory
29 provisions concerning violence against retail workers and remedies
30 available to victims of violence in the workplace and a statement that
31 there may be applicable local laws; and

32 (iv) clearly state that retaliation against individuals who complain
33 of workplace violence or the presence of factors or situations in the
34 workplace that might place retail employees at risk of workplace
35 violence, or who testify or assist in any proceeding under the law is
36 unlawful.

37 b. Every employer shall adopt the model retail workplace violence
38 prevention policy promulgated pursuant to this subdivision, or establish
39 a workplace violence prevention policy that equals or exceeds the mini-
40 imum standards provided by such model retail workplace violence
41 prevention policy. Such retail workplace violence prevention policy
42 shall be provided to all employees in writing upon hire and annually
43 thereafter pursuant to paragraph a of subdivision four of this section.

44 3. Employee information and training. a. The department, in consulta-
45 tion with relevant groups as deemed necessary, shall produce a model
46 workplace violence prevention training program. Every employer shall
47 utilize the model workplace violence prevention training program pursu-
48 ant to this subdivision or establish a workplace violence prevention
49 training program that equals or exceeds the minimum standards provided
50 by such model training program. The department's model training program
51 shall be interactive and shall include, but not be limited to:

52 (i) information on the requirements of this section;

53 (ii) examples of measures retail employees can use to protect them-
54 selves when faced with workplace violence from customers or other
55 coworkers;

56 (iii) de-escalation tactics;

1 (iv) active shooter drills;
2 (v) emergency procedures; and
3 (vi) instruction on the use of security alarms, panic buttons, and
4 other related emergency devices.

5 b. The department shall include information in such model workplace
6 violence prevention training program addressing conduct by supervisors
7 and any additional responsibilities for such supervisors, including
8 ways to address workplace specific emergency procedures, and training on
9 areas of previous security problems.

10 c. As part of this training, every employer shall communicate to each
11 employee a site-specific list of emergency exits and meeting places in
12 case of emergency. Such workplace violence prevention training shall be
13 provided to all retail employees upon hire and on an annual basis ther-
14 eafter.

15 4. Notice of policy. a. Every employer shall provide their retail
16 employees, in writing in English and in the language identified by each
17 employee as the primary language of such employee, at the time of hiring
18 and at every annual workplace violence prevention training provided
19 pursuant to subdivision three of this section, a notice containing such
20 employer's retail workplace violence prevention policy and the informa-
21 tion presented at such employer's workplace violence prevention training
22 program.

23 b. The commissioner shall prepare templates of the model retail work-
24 place violence prevention policy created and published pursuant to
25 subdivision two of this section and the model workplace violence
26 prevention training program produced pursuant to subdivision three of
27 this section. The commissioner shall determine, in their discretion,
28 which languages to provide in addition to English, based on the size of
29 the New York state population that speaks each language and any other
30 factor that the commissioner shall deem relevant. All such templates
31 shall be made available to employers in such manner as determined by the
32 commissioner.

33 c. When an employee identifies as their primary language a language
34 for which a template is not available from the commissioner, the employ-
35 er shall comply with this subdivision by providing that employee an
36 English-language notice.

37 d. An employer shall not be penalized for errors or omissions in the
38 non-English portions of any notice provided by the commissioner.

39 5. Panic buttons. a. Every employer of five hundred or more retail
40 employees nationwide shall provide access to panic buttons throughout
41 the workplace or workplaces; provided, however, if an employer chooses
42 to utilize wearable or mobile phone-based panic buttons, such employer
43 shall be required to provide such panic buttons to each of such employ-
44 er's retail employees.

45 b. Mobile phone-based panic buttons may only be installed on employ-
46 er-provided equipment, and wearable and mobile phone-based panic buttons
47 shall not be used to track employee locations except when the panic
48 button is triggered.

49 6. Rules and regulations. The commissioner shall adopt rules and regu-
50 lations necessary to implement the provisions of this section.

51 7. Evaluation of policy. Beginning in the year two thousand twenty-
52 seven and every succeeding four years thereafter, the department shall
53 evaluate, using the criteria within this section, the impact of the
54 current model retail workplace violence prevention guidance document and
55 retail workplace violence prevention policy. Upon the completion of each
56 evaluation the department shall update the model retail workplace

1 violence prevention guidance document and retail workplace violence
2 prevention policy as needed.

3 § 3. This act shall take effect on the one hundred eightieth day after
4 it shall have become a law; provided that subdivision 5 of section 27-e
5 of the labor law, as added by section two this act, shall take effect
6 January 1, 2027. Effective immediately, the addition, amendment and/or
7 repeal of any rule or regulation necessary for the implementation of
8 this act on its effective date are authorized to be made and completed
9 on or before such effective date.