

STATE OF NEW YORK

8358--A

IN SENATE

January 22, 2024

Introduced by Sens. RAMOS, BRISPORT, CHU, CLEARE, COONEY, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, KENNEDY, MAYER, SALAZAR, SERRANO, SKOUFIS, STAVISKY, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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. Legislative findings. The legislature finds and declares that
4 violence against retail workers is a growing problem in New York. From
5 verbal harassment that often leads to physical violence, all the way to
6 racially motivated mass shootings of retail workers and customers,
7 retail workers are on the front lines of violence in our society. Given
8 that these stores offer essential necessities to the public, this
9 violence is also a threat to public health and safety. The legislature
10 also finds and declares that many employers have not done enough to take
11 responsibility for the health and safety of their employees. Few employ-
12 ers have conducted risk assessments of their workplace, and even fewer
13 have adequately trained their employees in how to respond to harassment
14 and potentially violent situations.
15 § 3. The labor law is amended by adding a new section 27-e to read as
16 follows:
17 § 27-e. Duty of retail worker employers to develop and implement
18 programs to prevent workplace violence. 1. Definitions. For the purposes
19 of this section:
20 a. "Employer" means any person, entity, business, corporation, part-
21 nership, limited liability company, or an association employing at least
22 ten retail employees. The term shall not include the state, any poli-

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

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1 tical subdivision of the state, a public authority, or any other govern-
2 mental agency or instrumentality.

3 b. "Retail employee" means an employee working at a retail store for
4 an employer.

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

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

11 2. Risk evaluation and determination. Every employer shall evaluate
12 its workplace or workplaces to determine the presence of factors or
13 situations in such workplace or workplaces that might place retail
14 employees at risk of workplace violence. Examples of such factors shall
15 include, but not be limited to:

16 a. working late night or early morning hours;

17 b. exchanging money with the public;

18 c. working alone or in small numbers;

19 d. uncontrolled access to the workplace; and

20 e. areas of previous security problems.

21 3. Written workplace violence prevention policy. a. Every employer
22 shall develop and implement a written workplace violence prevention
23 policy for its workplace or workplaces that includes the following:

24 (1) a list of the risk factors, such as those identified in subdivi-
25 sion two of this section, that are present in such workplace or work-
26 places;

27 (2) the methods the employer will use to prevent incidents of work-
28 place violence at such workplace or workplaces, including but not limit-
29 ed to the following:

30 (i) making high-risk areas more visible to more people;

31 (ii) installing good external lighting;

32 (iii) using drop safes or other methods to minimize cash on hand;

33 (iv) posting signs stating that limited cash is on hand;

34 (v) providing employee training; and

35 (vi) establishing and implementing reporting systems for incidents of
36 workplace violence.

37 b. Every employer shall make the written workplace violence prevention
38 policy available upon request to its retail employees, such retail
39 employees' designated representatives, and the department. Retail
40 employees shall be provided a written copy of the workplace violence
41 prevention policy upon hire. The written policy shall be available in
42 English, Spanish and any other language requested by a retail employee
43 within thirty days of such request.

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

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

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

56 (c) de-escalation tactics;

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

5 5. All training shall be conducted in English as well as the primary
6 languages spoken by retail employees in the workplace. Every employer
7 shall provide its retail employees with such workplace violence
8 prevention training at the time of hiring and annually thereafter. When
9 providing such workplace violence prevention training, each employer
10 shall also inform their retail employees of the details and location of
11 the written workplace violence prevention policy developed pursuant to
12 this section. Each employer shall include the risk factors specific to
13 such employer's workplace or workplaces, measures retail employees can
14 take to protect themselves from such risks identified in such written
15 workplace violence prevention policy, and any procedures the employer
16 has implemented to protect retail employees.

17 6. Documentation of workplace violence incidents. Every employer shall
18 document each incident of workplace violence and shall maintain a copy
19 of such documentation for a minimum of three years after each incident.
20 Every employer shall provide documentation of such incidents to the
21 department upon request and shall remove any personally identifying
22 information from such documentation before delivering it to the depart-
23 ment.

24 7. Annual review. Every employer shall review the number and scope of
25 workplace violence incidents annually and shall make any necessary
26 changes to the written workplace violence prevention policy as
27 prescribed by subdivision three of this section.

28 8. Panic buttons. Every employer of fifty or more retail employees
29 employees shall install panic buttons at easily accessible locations
30 throughout the workplace or workplaces. For the purposes of this
31 section, "panic button" shall mean a physical button that when pressed
32 immediately dispatches local law enforcement to the workplace.

33 9. Security guards. Employers who have experienced a certain number of
34 violent incidents in their workplace or workplaces in a given period of
35 time, as determined by the department, shall be required to have a secu-
36 rity guard present at the workplace during all hours in which the work-
37 place is open.

38 10. Within one hundred eighty days of the effective date of this
39 section, the commissioner shall adopt rules and regulations necessary to
40 implement the provisions of this section.

41 § 4. This act shall take effect on the ninetieth day after it shall
42 have become a law. Effective immediately, the addition, amendment and/or
43 repeal of any rule or regulation necessary for the implementation of
44 this act on its effective date are authorized to be made and completed
45 on or before such effective date.