STATE OF NEW YORK

8358--B

IN SENATE

January 22, 2024

Introduced by Sens. RAMOS, BRISPORT, CHU, CLEARE, COONEY, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, MAYER, RIVERA, 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 -- 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:

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

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

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

a. "Employer" means any person, entity, business, corporation, partnership, limited liability company, or an association employing at least ten retail employees. The term shall not include the state, any political subdivision of the state, a public authority, or any other governmental agency or instrumentality.

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

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

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

e. "Panic button" means a physical button installed in easily accessible locations throughout the workplace, or a wearable, or mobile phone-

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

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based button that when pressed immediately contacts the local 9-1-1 public safety answering point ("PSAP"), provides that PSAP with employee location information, and dispatches local law enforcement to the workplace.

2. Written workplace violence prevention policy. The department shall create and publish a model retail workplace violence prevention guidance document and retail workplace violence prevention policy that employers may utilize in their adoption of a retail workplace violence prevention policy required by this section.

a. Such model retail workplace violence prevention policy shall:

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

(A) working late night or early morning hours;

(B) exchanging money with the public;

(C) working alone or in small numbers; and

(D) uncontrolled access to the workplace.

(ii) outline methods that employers may use to prevent incidents of workplace violence at such workplace or workplaces, including but not limited to establishing and implementing reporting systems for incidents of workplace violence;

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

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

b. Every employer shall adopt the model retail workplace violence prevention policy promulgated pursuant to this subdivision, or establish a workplace violence prevention policy that equals or exceeds the minimum standards provided by such model retail workplace violence prevention policy. Such model retail workplace violence prevention policy shall be provided to all employees in writing upon hire and annually thereafter. Such model retail workplace violence prevention policy shall be publicly available and posted on the website of the department.

3. Employee information and training. a. The department, in consultation with relevant groups as deemed necessary, shall produce a model workplace violence prevention training program. Every employer shall utilize the model workplace violence prevention training program pursuant to this subdivision or establish a workplace violence prevention training program that equals or exceeds the minimum standards provided by such model training program. The department's model training program shall be interactive and shall include, but not be limited to:

(i) information on the requirements of this section;

(ii) examples of measures retail employees can use to protect themselves when faced with workplace violence from customers or other coworkers;

(iii) de-escalation tactics;

(iv) active shooter drills;

(v) emergency procedures; and

(vi) instruction on the use of security alarms, panic buttons, and other related emergency devices.

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

c. Every employer shall utilize the model workplace violence prevention training program pursuant to this subdivision or establish a training program for retail employees to prevent workplace violence that equals or exceeds the minimum standards provided by such model training. As part of this training, every employer shall communicate to each employee a site-specific list of emergency exits and meeting places in case of emergency. Such workplace violence prevention training shall be provided to all retail employees upon hire and on an annual basis thereafter.

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

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

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

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

5. Panic buttons. a. Every employer of five hundred or more retail employees nationwide shall provide access to panic buttons throughout the workplace or workplaces.

b. Wearable or mobile phone-based panic buttons may only be installed on employer-provided equipment and shall not be used to track employee locations except when the panic button is triggered.

6. Rules and regulations. The commissioner shall adopt rules and regulations necessary to implement the provisions of this section.

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

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that subdivision 5 of section 27-e

of the labor law, as added by section two this act, shall take effect January 1, 2027. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.