

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:

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.

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

20 e. "Panic button" means a physical button installed in easily accessi-
21 ble 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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1 based button that when pressed immediately contacts the local 9-1-1
2 public safety answering point ("PSAP"), provides that PSAP with employee
3 location information, and dispatches local law enforcement to the work-
4 place.

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

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

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

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

15 (B) exchanging money with the public;

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

17 (D) uncontrolled access to the workplace.

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

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

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

31 b. Every employer shall adopt the model retail workplace violence
32 prevention policy promulgated pursuant to this subdivision, or establish
33 a workplace violence prevention policy that equals or exceeds the mini-
34 mum standards provided by such model retail workplace violence
35 prevention policy. Such model retail workplace violence prevention poli-
36 cy shall be provided to all employees in writing upon hire and annually
37 thereafter. Such model retail workplace violence prevention policy shall
38 be publicly available and posted on the website of the department.

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

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

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

51 (iii) de-escalation tactics;

52 (iv) active shooter drills;

53 (v) emergency procedures; and

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

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

6 c. Every employer shall utilize the model workplace violence
7 prevention training program pursuant to this subdivision or establish a
8 training program for retail employees to prevent workplace violence that
9 equals or exceeds the minimum standards provided by such model training.
10 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.

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

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

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

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

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