STATE OF NEW YORK

8947--A

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 -- read once and referred 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:

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

§ 2. Legislative findings. The legislature finds and declares that violence against retail workers is a growing problem in New York. From verbal harassment that often leads to physical violence, all the way to racially motivated mass shootings of retail workers and customers, retail workers are on the front lines of violence in our society. Given that these stores offer essential necessities to the public, this violence is also a threat to public health and safety. The legislature also finds and declares that many employers have not done enough to take responsibility for the health and safety of their employees. Few employers have conducted risk assessments of their workplace, and even fewer have adequately trained their employees in how to respond to harassment and potentially violent situations.

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

§ 27-e. Duty of retail worker employers to develop and implement programs to prevent 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 poli-

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

LBD13440-03-4

tical 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.

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

a. working late night or early morning hours;

b. exchanging money with the public;

c. working alone or in small numbers;

d. uncontrolled access to the workplace; and

e. areas of previous security problems.

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

(1) a list of the risk factors, such as those identified in subdivision two of this section, that are present in such workplace or workplaces;

(2) the methods the employer will use to prevent incidents of workplace violence at such workplace or workplaces, including but not limited to the following:

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

(ii) installing good external lighting;

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

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

(v) providing employee training; and

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

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

4. Employee information and training. 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 include, but not be limited to:

(a) information on the requirements of this section;

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

(c) de-escalation tactics;

(d) active shooter drills;

(e) emergency procedures; and

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

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

6. Documentation of workplace violence incidents. Every employer shall document each incident of workplace violence and shall maintain a copy of such documentation for a minimum of three years after each incident. Every employer shall provide documentation of such incidents to the department upon request and shall remove any personally identifying information from such documentation before delivering it to the department.

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

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

9. Security guards. Employers who have experienced a certain number of violent incidents in their workplace or workplaces in a given period of time, as determined by the department, shall be required to have a security guard present at the workplace during all hours in which the workplace is open.

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

§ 4. This act shall take effect on the ninetieth day after it shall have become a law. 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.