

STATE OF NEW YORK

8358--C

Cal. No. 1055

IN SENATE

January 22, 2024

Introduced by Sens. RAMOS, BRISPORT, CHU, CLEARE, COONEY, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, LIU, 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 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in 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.

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.

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

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

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

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

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

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

19 (B) exchanging money with the public;

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

21 (D) uncontrolled access to the workplace.

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

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

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

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

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

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

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

53 (iii) de-escalation tactics;

54 (iv) active shooter drills;

55 (v) emergency procedures; and

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

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

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

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

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

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

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

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

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

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

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

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