

STATE OF NEW YORK

2432

2025-2026 Regular Sessions

IN ASSEMBLY

January 16, 2025

Introduced by M. of A. BRONSON -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to reducing work related musculoskeletal disorders; and to amend a chapter of the laws of 2024 amending the labor law relating to establishing the warehouse worker injury reduction program, as proposed in legislative bills numbers S. 5081-C and A. 8907-A, in relation to the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 8 and 9 of section 780 of the labor law as added by a chapter of the laws of 2024 amending the labor law relating to establishing the warehouse worker injury reduction program, as proposed in legislative bills numbers S. 5081-C and A. 8907-A, are amended to read as follows:

8. "~~Musculoskeletal injuries and~~ Work-related musculoskeletal disorders" means ~~[work-related]~~ work-related conditions (injuries, illness or disorders~~[,]~~) of the muscles, nerves, tendons, ligaments, joints, cartilage of the body's musculoskeletal system including the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs of the upper and lower limbs, neck, shoulders, and ~~[lower]~~ back ~~[(including spinal discs)]~~ that: (a) ~~[are caused by sudden or sustained physical exertion]~~ are the result of an exposure in the work environment during the performance of work that either causes or contributes significantly to the resulting condition or makes worse or longer-lasting a pre-existing condition; (b) are caused by ergonomic risk factors that include, but are not limited to, rapid pace, forceful exertions, extreme or static postures, repetitive motions, direct pressure, contact stress, vibration or cold temperatures; or ~~[(b)]~~ (c) are not the result of any instantaneous non-exertion event, such as slips, trips, or falls.

9. ~~["Qualified ergonomist" means an ergonomist who is able to demonstrate proficiency in the core, minimum competencies of ergonomics and~~

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

LBD02852-01-5

~~injury prevention, as defined by the commissioner. Until the commissioner defines such competencies and approves ergonomists in accordance with such competencies, consultants approved by the commissioner under 12 NYCRR 59 and 60 with a credential as a certified safety professional or certified industrial hygienist shall be deemed to qualify as an ergonomist]~~ "Competent person" shall mean one capable of performing a job hazard assessment to identify and assess existing and predictable ergonomic risk factors in work activities that are a core element of an employee's job or a significant part of the workday that are harmful to employees and reasonably likely to cause or contribute to musculoskeletal disorders. A competent person shall include ergonomists, industrial hygienists, certified safety professionals, or other health and safety professionals who, by possession of a recognized advanced academic degree, certificate, or professional standing or who by extensive knowledge, training, and experience has successfully demonstrated the ability to manage workplace injury risk.

§ 2. Section 789 of the labor law, as added by a chapter of the laws of 2024 amending the labor law relating to establishing the warehouse worker injury reduction program, as proposed in legislative bills numbers S. 5081-C and A. 8907-A, is amended to read as follows:

§ 789. Injury reduction program. 1. Every employer subject to this section shall establish and implement an injury reduction program designed to identify and minimize the risks of work-related musculoskeletal ~~[injuries and]~~ disorders among workers involved in performing manual materials handling tasks. The program shall include: worksite evaluation; control of exposures, including ergonomic risk factors such as pace, which have caused or have the potential to cause work-related musculoskeletal ~~[injuries and]~~ disorders; employee training; on-site medical and first aid practices; and employee involvement.

2. The employer shall ensure that each job, process, shift or operation of work activity covered by this section or a representative number of such jobs, processes, shifts or operations of identical work activities shall be addressed by its injury reduction program. Unless otherwise exempted under this act, the employer shall have a written worksite evaluation by a ~~[qualified ergonomist]~~ competent person for risk factors which have or are likely to cause work-related musculoskeletal ~~[injuries and]~~ disorders. Such risk factors shall include, but are not limited to, rapid pace, forceful exertions, ~~[repetitive motions, twisting, bending, and awkward postures and combinations thereof]~~ extreme or static postures, repetitive motions, direct pressure, contact stress, vibration, or cold temperatures that had caused or are likely to cause work-related musculoskeletal ~~[injuries and]~~ disorders.

(a) Any worksite evaluations shall also determine whether any employees exposed to such risk factors are subject to either personnel action with the potential for adverse action, or adverse action or termination themselves, arising in whole or in part from an employer's use of quotas to determine employee assignments.

(b) All such worksite evaluations shall ~~[obtain recommendations]~~ incorporate input from workers who regularly perform those jobs, either directly or through an employee-led workplace safety committee, on the possible risk factors and any workplace changes that can reduce such risk factors.

(c) Copies of such worksite ~~[risk-factor]~~ evaluations shall be made available to workers and their representatives upon request, at no cost, within one business day of such request. Workers and their representatives shall be notified in writing of the results of the worksite

1 evaluation. Employers shall maintain accessible copies of such evalu-
2 ations at locations within the warehouse and shall make such copies
3 readily available to workers.

4 (d) An initial worksite evaluation shall be conducted. Worksite eval-
5 uations shall be reviewed and updated at least annually. A new analysis
6 of risk factors shall be conducted in accordance with the provisions of
7 subdivision one of this section whenever a new job, process, or opera-
8 tion is introduced which could increase the risk factors for work-relat-
9 ed musculoskeletal [~~injuries and~~] disorders. Such new analysis shall be
10 conducted within thirty days of the creation or change of a job, process
11 or operation.

12 (e) [~~The commissioner shall form a task force chaired by a recognized~~
13 ~~academic leader in the field of ergonomics in New York state and includ-~~
14 ~~ing, but not limited to, representatives from the warehouse workforce,~~
15 ~~labor organizations active in the warehousing industry, and employers in~~
16 ~~the industry, to recommend the core competencies required for the~~
17 ~~certification of qualified ergonomists, as well as standardized worksite~~
18 ~~evaluations and controls.~~

19 (f) The commissioner shall adopt a standard and process for certifying
20 qualified ergonomists, as well as standardized worksite evaluations and
21 controls, based on the recommendations of the task force] A worksite
22 evaluation must be reviewed by a board certified ergonomist when an
23 employee-led workplace safety committee makes a written request to the
24 employer based upon a material concern related to the findings of a
25 competent person. Where there is no active employee-led workplace safety
26 committee, a worksite evaluation must be reviewed by a board certified
27 ergonomist when any employee-led committee makes a formal recommendation
28 based upon a material concern related to the findings of a competent
29 person.

30 3. The employer shall correct in a timely manner any risk factors
31 identified as having caused or being likely to cause work-related muscu-
32 loskeletal [~~injuries and~~] disorders. For any corrections which require
33 more than thirty days to complete, the employer shall revise, as needed,
34 and provide a schedule for such proposed corrections. Such schedule
35 shall be included in the evaluations provided to workers and their
36 representatives.

37 (a) Where the employer demonstrates that it is unable to eliminate
38 identified risk factors, the employer shall minimize the exposures to
39 the extent feasible.

40 (b) In reducing risk factors, the employer shall consider:

41 (i) engineering controls and redesigning work stations to change
42 shelving heights, provide adjustable fixtures or tool redesign; and

43 (ii) administrative controls, such as job rotation which reduces the
44 exposure to risk factors, reduced work pacing or additional work breaks.

45 (c) Employers shall maintain records of steps taken to eliminate or
46 reduce risk factors and shall make copies available to workers and their
47 representatives upon request.

48 4. All employers covered by this section shall provide injury
49 reduction training to all employees involved in performing manual mate-
50 rials handling jobs and tasks at the warehouse during normal work hours
51 and without suffering a loss of pay. Such training shall be provided in
52 a language and vocabulary that the workers understand and shall be
53 repeated annually. The training shall also be provided to the workers'
54 supervisors. Such training shall be in addition to [~~the~~] any training
55 [~~required under~~] received in accordance with section twenty-seven-d of
56 this chapter and shall include:

1 (a) The early symptoms of work-related musculoskeletal [~~injuries and~~
2 disorders and the importance of early detection;

3 (b) Musculoskeletal [~~injury and~~] disorder ergonomic risk factors and
4 exposures at work, including the hazards posed by excessive rates of
5 work;

6 (c) Methods to reduce risk factors for musculoskeletal [~~injuries and~~
7 disorders, including both engineering controls and administrative
8 controls, such as limitations on work pace and increased scheduled and
9 unscheduled breaks;

10 (d) The employer's program to identify risk factors as required under
11 this section and prevent work-related musculoskeletal [~~injuries and~~
12 disorders, including the summary protocols for medical treatment
13 approved by the employer's medical consultant;

14 (e) The rights and function of workplace safety committees established
15 under section twenty-seven-d of this chapter and the rights of employees
16 to report any risk factors, other hazards, injuries or health and safety
17 concerns; and

18 (f) Training on the unlawful retaliation of any provision in this
19 section, including [~~the~~] a reference to the employer's policy requiring
20 disciplinary actions [~~required~~] when supervisors or managers violate the
21 law or policy, as well as the employer's policy prohibiting any work-
22 place discrimination.

23 5. Any on-site [~~medical office or first aid station~~] location that
24 [~~sees~~] staffs a medical professional to treat workers in warehouses
25 covered by this section [~~with~~] for symptoms of work-related musculoske-
26 letal [~~injuries and~~] disorders shall be staffed with medical profes-
27 sionals operating within their legal scope of practice. Nothing in this
28 section shall infringe on the rights of workers under the opening para-
29 graph of subdivision (a) of section thirteen of the workers' compen-
30 sation law to either select an authorized physician to treat employees
31 and render medical care or to select the continuance of any medical
32 treatment or care by an authorized physician selected by the employee.
33 All examinations and treatments by any medical personnel employed or
34 selected by the employer under section seven hundred eighty-one of this
35 article shall be performed for the purposes of the injury reduction
36 program and shall not interfere with the rights of employees to receive
37 any medical treatment or any other benefits under the workers' compen-
38 sation law.

39 (a) Employers shall ensure that staffing and the practice of any first
40 aid or medical station meets state requirements for physician super-
41 vision of nurses, emergency medical technicians or other non-physician
42 personnel.

43 (b) In all warehouses with on-site medical or first aid providers for
44 the treatment of work-related musculoskeletal [~~injuries and~~] disorders,
45 the employer shall consult with a medical consultant who is licensed by
46 New York state and board certified in occupational medicine.

47 (i) The employer shall obtain from the medical consultant a written
48 evaluation of the on-site medical or first aid provider program and
49 protocols followed in the warehouse for identification and treatment of
50 work-related musculoskeletal [~~injuries and~~] disorders and shall include
51 recommendations to ensure compliance with accepted medical practice of
52 the staffing, supervision and documentation of medical treatment proto-
53 cols.

54 (ii) The employer shall obtain from the medical consultant a summary
55 of treatment protocols suitable for worker patients covering all aspects
56 of the on-site medical and first aid practices, from early detection of

1 ~~work-related~~ musculoskeletal [~~injuries and~~] disorders through evaluation
2 by a qualified physician and physician provision of appropriate work
3 restrictions in languages understood by the employees.

4 (iii) The employer shall ensure that the medical consultant reviews
5 the previous medical consultant evaluation, related materials and proto-
6 cols on an annual basis, and recommends changes as appropriate.

7 (iv) The employer shall ensure that all designated medical and first
8 aid providers have observed, in person, the jobs involving manual mate-
9 rials handling within the warehouse and all risk factors identified in
10 the evaluation conducted under the medical consultant evaluation.

11 (c) There shall be no delays in the provision of adequate medical care
12 to workers who report injuries to the on-site medical services.

13 (d) Each employer shall ensure that no supervisory or managerial
14 employee or other person discriminates or retaliates against any
15 current, former, or prospective employee or other person for reporting a
16 work-related injury or illness, or health and safety concern.

17 6. Employers shall ensure that employees and their designated repre-
18 sentatives are consulted both before and during the development and
19 implementation of all aspects of the program. Where employees have
20 established a workplace safety committee in compliance with section
21 twenty-seven-d of this chapter, the employer shall ensure that the
22 committee is consulted regarding the development and implementation of
23 all aspects of the injury reduction program. Any record created by the
24 employer according to this section shall be provided to the workplace
25 safety committee prior to consultation. All ergonomic safety documents
26 provided to employees shall be provided in writing in English and in the
27 language identified by each employee as the primary language of such
28 employee. If, prior to the effective date of this section, an employer
29 has formed workplace safety committees in the State of New York through
30 collective bargaining that is currently active, and continuously main-
31 tains such safety committees in conjunction with an injury prevention
32 program that fully complies with the federal Occupational Safety and
33 Health Act, then such employer may instead allow an employee-led work-
34 place safety committee to review or conduct any worksite evaluations
35 performed by a competent person. Such injury prevention program must be
36 reviewed by a board certified ergonomist where an employee-led workplace
37 safety committee makes a written request to the employer based upon a
38 material concern related to the findings of a competent person. Where
39 there is no active employee-led workplace safety committee, a worksite
40 evaluation must be reviewed by a board certified ergonomist when any
41 employee-led committee makes a written request to the employer based
42 upon a material concern related to the findings of a competent person.
43 Such review must be commenced within thirty days of receipt of such
44 written request. Copies of revised or new worksite evaluations shall be
45 made available to workers and their representatives, at no cost, upon
46 request upon completion of such worksite evaluation.

47 § 3. Section 7 of a chapter of the laws of 2024 amending the labor law
48 relating to establishing the warehouse worker injury reduction program,
49 as proposed in legislative bills numbers S. 5081-C and A. 8907-A, is
50 amended to read as follows:

51 § 7. This act shall take effect on June 1, 2025[; ~~provided, however~~
52 ~~that paragraph (d) of subdivision 2 of section 780 of the labor law as~~
53 ~~added by section five of this act shall take effect on the one hundred~~
54 ~~eightieth day after it shall have become a law; provided further, howev-~~
55 ~~er, that paragraph (e) of subdivision 2 of section 780 of the labor law~~
56 ~~as added by section five of this act shall take effect on the sixtieth~~

~~day after it shall have become a law; and provided further, however, that paragraph (f) of subdivision 2 and subdivisions 4 and 5 of section 789 of the labor law as added by section five of this act shall take effect on the sixtieth day after it shall have become a law].~~

§ 4. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, that shall not affect the validity or effectiveness of any other provision of this act, or of any other application of any provision of this act, which can be given effect without that provision or application; and to that end, the provisions and applications of this act are severable.

§ 5. This act shall take effect immediately; provided however, that sections one and two of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2024 amending the labor law relating to establishing the warehouse worker injury reduction program, as proposed in legislative bills numbers S. 5081-C and A. 8907-A, takes effect.