

STATE OF NEW YORK

808

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

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

6 8. "[~~Musculoskeletal injuries and~~] Work-related musculoskeletal disor-
7 ders" means [~~work-related~~] work-related conditions (injuries, illness or
8 disorders[~~7~~]) of the muscles, nerves, tendons, ligaments, joints, carti-
9 lage of the body's musculoskeletal system including the muscles, nerves,
10 tendons, ligaments, joints, cartilage and spinal discs of the upper and
11 lower limbs, neck, shoulders, and [~~lower~~] back [~~(including spinal~~
12 ~~discs)~~] that: (a) [~~are caused by sudden or sustained physical exertion~~]
13 are the result of an exposure in the work environment during the
14 performance of work that either causes or contributes significantly to
15 the resulting condition or makes worse or longer-lasting a pre-existing
16 condition; (b) are caused by ergonomic risk factors that include, but
17 are not limited to, rapid pace, forceful exertions, extreme or static
18 postures, repetitive motions, direct pressure, contact stress, vibration
19 or cold temperatures; or [~~(b)~~] (c) are not the result of any instantane-
20 ous non-exertion event, such as slips, trips, or falls.

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

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1 9. [~~"Qualified ergonomist" means an ergonomist who is able to demon-~~
 2 ~~strate proficiency in the core, minimum competencies of ergonomics and~~
 3 ~~injury prevention, as defined by the commissioner. Until the commission-~~
 4 ~~er defines such competencies and approves ergonomists in accordance with~~
 5 ~~such competencies, consultants approved by the commissioner under 12~~
 6 ~~NYCRR 59 and 60 with a credential as a certified safety professional or~~
 7 ~~certified industrial hygienist shall be deemed to qualify as an ergonom-~~
 8 ~~ist]~~ "Competent person" shall mean one capable of performing a job
 9 hazard assessment to identify and assess existing and predictable ergo-
 10 nomi c risk factors in work activities that are a core element of an
 11 employee's job or a significant part of the workday that are harmful to
 12 employees and reasonably likely to cause or contribute to musculoskele-
 13 tal disorders. A competent person shall include ergonomists, industrial
 14 hygienists, certified safety professionals, or other health and safety
 15 professionals who, by possession of a recognized advanced academic
 16 degree, certificate, or professional standing or who by extensive know-
 17 ledge, training, and experience has successfully demonstrated the abili-
 18 ty to manage workplace injury risk.

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

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

32 2. The employer shall ensure that each job, process, shift or opera-
 33 tion of work activity covered by this section or a representative number
 34 of such jobs, processes, shifts or operations of identical work activ-
 35 ities shall be addressed by its injury reduction program. Unless other-
 36 wise exempted under this act, the employer shall have a written work
 37 site evaluation by a [~~qualified ergonomist~~] competent person for risk
 38 factors which have or are likely to cause work-related musculoskeletal
 39 [~~injuries and~~] disorders. Such risk factors shall include, but are not
 40 limited to, rapid pace, forceful exertions, [~~repetitive motions, twist-~~
 41 ~~ing, bending, and awkward postures and combinations thereof~~] extreme or
 42 static postures, repetitive motions, direct pressure, contact stress,
 43 vibration, or cold temperatures that had caused or are likely to cause
 44 work-related musculoskeletal [~~injuries and~~] disorders.

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

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

55 (c) Copies of such worksite [~~risk factor~~] evaluations shall be made
 56 available to workers and their representatives upon request, at no cost,

1 within one business day of such request. Workers and their represen-
2 tatives shall be notified in writing of the results of the worksite
3 evaluation. Employers shall maintain accessible copies of such evalu-
4 ations at locations within the warehouse and shall make such copies
5 readily available to workers.

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

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

21 (~~f) The commissioner shall adopt a standard and process for certifying~~
22 ~~qualified ergonomists, as well as standardized worksite evaluations and~~
23 ~~controls, based on the recommendations of the task force]~~

24 A worksite
25 evaluation must be reviewed by a board certified ergonomist when an
26 employee-led workplace safety committee makes a written request to the
27 employer based upon a material concern related to the findings of a
28 competent person. Where there is no active employee-led workplace safety
29 committee, a worksite evaluation must be reviewed by a board certified
30 ergonomist when any employee-led committee makes a formal recommendation
31 based upon a material concern related to the findings of a competent
32 person.

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

40 (a) Where the employer demonstrates that it is unable to eliminate
41 identified risk factors, the employer shall minimize the exposures to
42 the extent feasible.

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

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

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

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

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

1 [~~required under~~] received in accordance with section twenty-seven-d of
2 this chapter and shall include:

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

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

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

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

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

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

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

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

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

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

1 (ii) The employer shall obtain from the medical consultant a summary
2 of treatment protocols suitable for worker patients covering all aspects
3 of the on-site medical and first aid practices, from early detection of
4 work-related musculoskeletal [~~injuries and~~] disorders through evaluation
5 by a qualified physician and physician provision of appropriate work
6 restrictions in languages understood by the employees.

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

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

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

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

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

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

54 § 7. This act shall take effect on June 1, 2025[, ~~provided, however~~
55 ~~that paragraph (d) of subdivision 2 of section 789 of the labor law as~~
56 ~~added by section five of this act shall take effect on the one hundred~~

~~1 eightieth day after it shall have become a law, provided further, howev-
2 er, that paragraph (e) of subdivision 2 of section 789 of the labor law
3 as added by section five of this act shall take effect on the sixtieth
4 day after it shall have become a law, and provided further, however,
5 that paragraph (f) of subdivision 2 and subdivisions 4 and 5 of section
6 789 of the labor law as added by section five of this act shall take
7 effect on the sixtieth day after it shall have become a law].~~

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

14 § 5. This act shall take effect immediately; provided however, that
15 sections one and two of this act shall take effect on the same date and
16 in the same manner as a chapter of the laws of 2024 amending the labor
17 law relating to establishing the warehouse worker injury reduction
18 program, as proposed in legislative bills numbers S. 5081-C and A.
19 8907-A, takes effect.