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OSHA Alert

December 13, 2024

New York retailers must comply with workplace violence prevention law

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The New York Retail Worker Safety Act takes effect in 2025 and aims to create a safer working environment for employees who face a heightened risk of workplace violence.



What's the impact?

- As enacted, the law is set to take effect on March 3, 2025, requiring New York retail employers with more than 10 employees to implement a written workplace violence policy and to train all workers on the policy.
- The law also requires that retail employers with more than 500 employees nationwide must install panic buttons by January 1, 2027.

On September 5, 2024, New York Governor Kathy Hochul signed into law the [New York Retail Worker Safety Act](#) (RWSA), a statute requiring retail employers in the state to adopt safety measures to prevent and address workplace violence.

Who is subject to this act?

The law applies to retailers employing at least 10 workers in locations that sell consumer goods. Establishments that primarily sell food for consumption on the premises are exempted from the requirements of the act. The law is set to go into effect on March 3, 2025, as currently drafted. However, a proposed amendment, if passed by the state legislature, would push back the effective date for compliance.

Proposed amendment

Governor Hochul's office is in talks with the New York State Legislature to modify certain provisions of the RWSA via an amendment that addresses employer concerns while still ensuring the safety of retail workers. The proposed amendment would change certain compliance requirements and shift the effective date for compliance. We expect more information to become available when the 2025 legislative session commences.

What is the impact of this law?

The law aims to create a safer working environment for employees who, due to conditions specific to the retail industry, face a higher risk of workplace violence.

These conditions include late night and early morning hours, working alone or in small numbers, and exchanging money with the public. By requiring employers to train employees and involve them in the process, the law seeks to reduce the incidence of workplace violence events. Other benefits include anticipated reduction in costs and liabilities associated with workplace violence, including medical expenses, lost productivity, legal fees, and reputational impact to employers.

Requirements under the Retail Worker Safety Act

As written, the law requires covered retailers to develop and implement a written workplace violence prevention policy, provide annual interactive training to employees on violence prevention, and distribute written notices setting forth the policy and training information. Additionally, the RWSA states that the Commissioner of Labor shall adopt rules and regulations to implement the law.

WRITTEN POLICY

The RWSA states that the NYS Department of Labor (NYDOL or Department) shall issue a model policy for review and adoption by employers. However, the RWSA also gives employers the option to establish their own policy that meets or exceeds the minimum standards of the model policy. According to the RWSA, the model policy shall:

- / outline a list of factors or situations in the workplace that might place retail employees at risk of workplace violence, including but not limited to:
 - working late night or early morning hours,
 - exchanging money with the public,
 - working alone or in small numbers, and
 - uncontrolled access to the workplace;
- / outline methods that employers use to prevent incidents of workplace violence, including but not limited to establishing and implementing reporting systems for incidents of workplace violence;
- / include information concerning the federal and state statutory provisions concerning violence against retail workers and remedies available to victims of violence in the workplace and a statement that there may be applicable local laws; and
- / clearly state that retaliation against individuals who complain of workplace violence or the presence of factors or situations in the workplace that might place retail employees at risk of workplace violence, or who testify or assist in any proceeding under the law is unlawful.

EMPLOYEE TRAINING

Similarly, the RWSA states that the Department must develop a model training program for use by employers. As with the model program, employers can opt to use the model training program developed by the Department or develop their own training that meets or exceeds the training standards contained in the Department's program. Until the Department publishes the required training, employers will necessarily struggle with implementing this requirement. The statutory language requires that the training be interactive and include (i) "information on the requirements of [the RWSA]"; (ii) "examples of measures retail employees can use to protect themselves when faced with workplace violence from customers or other coworkers"; (iii) "de-escalation tactics"; (iv) "active shooter drills"; (v) "emergency procedures"; and (vi) "instruction in the use of security alarms, panic buttons, and other related emergency devices." However, these terms are not defined, and it is unclear how the Department can create an effective "one-size-fits-all" training.

NOTICE TO EMPLOYEES

At the time of hire and during every annual workplace violence prevention training, employers must provide employees with a copy of a notice, in English and each employee's self-designated primary language, containing the employer's workplace violence prevention policy and the information presented at the workplace violence prevention training program. If the Department has not created a notice in an employee's selected language, only the English language notice must be provided.

PANIC BUTTONS

Presently, the RWSA requires employers with more than 500 retail employees to provide access to “panic buttons” that immediately contact a public safety answering point so that law enforcement officers can be dispatched. Employers can satisfy this “panic button” requirement by either (i) installing traditional, stationary panic buttons throughout the workplace or (ii) provide all retail employees with wearable or mobile phone-based panic button installed on an employer-provided device (employers cannot require that phone-based panic buttons be installed on employee’s personal devices). Employers who wish to employ the wearable or phone-based option should exercise caution given the law expressly prohibits employers from using mobile or wearable panic buttons to track employee locations except for when the panic button is deployed. Unlike all other portions of this law, which are currently slated to go into effect on March 3, 2025, the requirements regarding panic buttons become effective much later, on January 1, 2027.

How to comply with the Retail Worker Safety Act

Retail employers in New York should prepare for compliance with the current version of the law while continuing to monitor the progress of the amendment which, if passed, would impact compliance dates and how retailers opt to comply with the law. Reviewing current policies and protocols, consulting with legal counsel, and monitoring the NYDOL’s guidance and materials once they become available is recommended. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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