

## NY Retailers Face New Workplace Violence Prevention Safety Requirements, by Keith Gutstein, Jennifer Sherven and Amanda Varrone

New York retail employers should start preparing to comply with new obligations requiring them to develop and implement programs and safety measures to prevent workplace violence under legislation recently signed by Governor Kathy Hochul.

Among key provisions, the Retail Worker Safety Act (S8358/A8947), signed into law on September 5, 2024 requires:

- Retail worker employers with at least ten employees to develop and implement workplace violence prevention programs;
- Directs the NYS Department of Labor to produce a model workplace violence prevention training program;
- Requires employers to provide training on such programs; and,
- Mandates the installation of panic buttons at certain workplaces (employers with at least 500 employees) or wearable or mobile phone-based panic buttons to be provided.

The policy and training requirements of the law take effect March 3, 2025 (although proposed amendments would move the effective date to June 2, 2025) with the panic button requirement for larger employers taking effect January 2027. The proposed chapter amendments are expected to be voted on by the Legislature at the start of the next session in January 2025. If approved, the changes would include extending the effective date of the policy and training requirements to June 2, 2025, modifying the frequency of training for employers with fewer than 50 employees (further outlined below) and applying the panic button requirement to employers with 500 or more retail employees in New York State, rather than nationwide under the current act. As proposed amendments have not been finalized, employers should prepare to comply with the March 3<sup>rd</sup> deadline.

Under the law, “employer” is defined as “any person, entity, business, corporation, partnership, limited liability company, or an association employing at least ten retail employees. “Retail employee” means any employee working at a retail store for an employer.

### Workplace Violence Prevention Policy

The DOL will create and publish a model retail workplace violence prevention guidance document and retail workplace violence prevention policy that employers can utilize. Conversely, employers can establish their own workplace violence prevention policy that equals or exceeds the minimum standards provided by the model retail workplace violence prevention policy.

The model policy will 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; and,
- Working alone or in small numbers.

It will also outline methods that employers may use to prevent incidents of workplace violence and 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. The policy will also have anti-retaliation language.

The retail workplace violence prevention policy must be provided to all employees in writing in English and in the language identified by each employee as their primary language.

### Workplace Violence Prevention Training

The Department will also produce an “interactive” model workplace violence prevention training program, which employers must utilize or establish a training program that exceeds the minimum standards set forth by the model training program.

Such training will include measures that retail employees can use to protect themselves when faced with workplace violence from customers or other coworkers.

These include:

- De-escalation tactics;
- Active shooter drills; and,
- Instruction on the use of security alarms, panic buttons and other related emergency devices.

The frequency of training varies based on the employer’s size. Under the proposed amendment, employers with fewer than 50 employees must provide it upon hire and every two years thereafter; employers with 50 or more employees must provide it upon hire and annually thereafter.

### Panic Buttons

Among provisions, every employer with at least 500 retail employees will have an added responsibility to provide access to panic buttons throughout the workplace or workplaces; if an employer chooses to utilize wearable or mobile phone-based panic buttons, they must be provided to each employee and cannot be used to track employee locations except when the panic button is triggered.

Kaufman Dolowich will continue to monitor developments including any applicable guidance. If you have any questions about the law itself or your obligations under the law, please contact Kaufman Dolowich’s team of skilled labor and employment attorneys.