RESTAURANT, RETAIL & HOSPITALITY

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New York State Enacts Retail Workplace Violence Prevention Act

By Jessica Goldberg

On March 4, 2024, New York's Retail Worker Safety Act takes effect. The Act was enacted in response to evidence of increased assaults and shootings in retail stores, particularly those that are open late. The Act an amendment to New York Labor Law that requires retail employers to develop and implement programs to prevent workplace violence. Director of Public Policy of the Retail, Wholesale & Department Store International Union, Josh Kellerman, commented about the Act, "People have to shop in person. This isn't just about protecting workers, it's about creating safe gathering places."

Who is Subject to the Act's Requirements?

The Act applies to retail employers, including "any person, entity, business, corporation, partnership, limited liability company, or association employing at least ten retail employees." Responsible employers include those with employees working in a retail store that sells "consumer commodities" and "is not primarily engaged in the sale of food for consumption on the premises."

Additionally, employers with 500 or more retail employees nationwide will be subject to certain requirements beginning on January 1, 2027.

Relevant Provisions of the Act to Retail Employers

Workplace Violence Prevention Policy: Employers must either adopt the model retail workplace violence prevention policy, which will be published by the New York Department of Labor, or establish their own policy which meets or exceeds the standards set out in the Department of Labor's model policy. Employers must notify retail employees of the policy when they are hired and at annual trainings, which are required pursuant to this Act. The policy must identify situations in the workplace that might place retail workers at increased risk of workplace violence, provide methods that employers can use to prevent workplace violence, include information about federal and state statutory protections and remedies available to victims of violence in the workplace, and clearly outlaw retaliation against employees who complain of workplace violence or related conduct or who testify or assist in any legal proceeding.

- **Employee Information and Training**: Employers must also either adopt the model retail workplace violence prevention training program, which will be published by the New York Department of Labor, or establish their own training program which meets or exceeds the Department of Labor's model program. The Department of Labor's model training program will be interactive and will include, but not be limited to, information on this Act, selfdefense techniques, de-escalation tactics, active shooter drills, emergency procedures, and instruction on the use of security alarms, panic buttons, and other related emergency.

- **Panic Buttons:** Employers with five hundred or more retail employees nationwide to provide employees with access to panic buttons, which, when pressed, dispatch law enforcement. Such panic buttons can be installed on employer-provided equipment or be wearable by employees. However, employers cannot use wearable panic buttons to track the employee's location, except when the panic button is triggered, to ensure employee privacy. Employers must install panic buttons by January 1, 2027.

The experienced attorneys in Anderson Kill's Restaurant, Retail and Hospitality Group are monitoring this Act and its potential impact on retail employers operating in New York and larger retailers operating nationwide. Please contact us if you or your business need any assistance or further information regarding your responsibilities under this Act or with your other restaurant, retail, and hospitality related legal needs.

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