

Model Retail Workplace Violence Prevention Policy for Retail Employers in New York State

New York State Labor Law Section 27-e(2) states, “The department shall create and publish a model retail workplace violence prevention guidance document and retail workplace violence prevention policy that employers may utilize in their adoption of a retail workplace violence prevention policy required by this section. Such model retail workplace violence prevention policy shall be publicly available and posted on the website of the department.”

This Model Policy may be used by retail employers to meet the minimum requirements of this law. Retail employers are encouraged to tailor this Model Policy to suit their individual workplace needs and their company voice. Text highlighted in yellow should be replaced with the appropriate company information and additional material may be added where noted. Employers may establish an incident reporting system and implement relevant violence prevention methods listed in the *Incident Reporting System* and *Additional Methods to Prevent Violence* sections. Keep in mind that these sections of this document are optional.

Purpose and Goals

[Employer Name] is committed to the safety and security of our employees. As part of our mission to maintain a worksite free from violence, we have implemented measures to increase worker safety and reduce the risk of violence to our employees. This policy is part of that effort.

After reading this policy, employees will understand the factors and situations that may put them at risk of workplace violence and the measures we have implemented to help prevent violence in the workplace. This policy will also explain what federal and state laws are in place to protect retail workers from violence.

Understanding Workplace Violence

Workplace violence refers to any act or threat of physical violence, abuse, harassment, or intimidation that takes place in the workplace. This type of violence can be committed by:

- Strangers with no relationship to the business
- Customers who are served by the business
- Current or past employees
- People who have a personal relationship with someone associated with the business

According to the Centers for Disease Control and Prevention, workplace violence incidents in the retail industry are most commonly committed by customers.

Risk Factors for Workplace Violence

Certain workplace conditions, known as risk factors, may increase the chance that workplace violence will occur. The presence of a risk factor does not mean violence will occur, just that violence is more likely than if the risk factor was not present.

In the retail industry, there are general work situations that can increase the risk for workplace violence. These include:

- Exchanging money with the public
- Extensive interaction with the public
- Working alone or in small numbers
- Working at an isolated worksite
- Working late night or early morning hours
- Uncontrolled access to the workplace

There are also specific factors that can vary by store that may increase the risk for workplace violence. These include:

- The sale of alcohol
- A poorly lit store interior
- Poorly lit parking and/or surrounding areas
- A history of robbery, violent incidents, or other security problems
- Uncontrolled access into the store
- The availability of high value merchandise
- A large amount of cash on hand
- A lack of staff training on recognizing hostile and aggressive behavior

[Instruction to Employers: *If you have identified additional risk factors for workplace violence at your worksite(s) please add them to the bulleted lists above.*]

Any employee who is aware of additional store factors that may increase the risk of workplace violence is encouraged to let their manager, supervisor, or **[name of designated office or person]** know, in writing.

Identifying Risks at Your Workplace

Different work practices, tasks, job functions, locations, and physical store characteristics may put employees at additional risk of workplace violence. The following steps may be used by employers to identify trends in workplace violence incidents and better understand worksite specific risk factors:

- Employer review of medical, safety, workers compensation, and insurance records from the past two years
- Employer review of worker and police reports of incidents of assault or aggressive behavior from the past two years
- Solicitation of worker feedback on their experience of violence or aggressive behavior and areas of risk within the store
- Evaluation of the physical store including building layouts, lighting, and communication and security systems for areas of risk
- Evaluation of the effectiveness of current security measures

Preventing Workplace Violence

To reduce the risk of workplace violence, [Employer Name] provides Workplace Violence Prevention training to all employees. We have also established a clear, easy-to-use system for employees to report incidents of workplace violence. This section details these and the additional methods we use to help prevent workplace violence.

Employees who have ideas for practical safeguards or procedures that could reduce the risk of workplace violence or increase worker safety are encouraged to share them (in writing) with their manager, supervisor, or [name of designated office or person].

Workplace Violence Prevention Training

As required by New York State Labor Law, [Employer Name] provides Workplace Violence Prevention Training to all employees upon hire. This training provides employees with information on the employer's responsibilities under the New York State Retail Worker Safety Act, de-escalation tactics, the employer's emergency procedures, and how to use available security and emergency devices. This training also provides employees with information on how to protect themselves if faced with workplace violence and how to report violent incidents to the employer. After the initial training at hiring, we will provide all employees with Workplace Violence Prevention Training every one to two years.

Incident Reporting System [Note to employer: this section is Optional. If used, edit with your company-specific or store-specific procedures or information.]

[Employer Name] is committed to ensuring that any incident or report of violence is taken seriously and dealt with appropriately. If there is an immediate threat to an employee's physical safety or the safety of others, or a serious injury has occurred, employees should immediately call 911 to obtain law enforcement and/or medical assistance.

Any employee who is subject to or witnesses verbal harassment, threats, or violence at work is required to promptly report the incident to their manager, supervisor, or [name of designated office or person]. Reports of violence may be recorded using our Workplace Violence Incident Report form. To the extent possible, managers, supervisors, or [name of designated office or person] will maintain the confidentiality of any worker who reports workplace violence.

If an incident of workplace violence occurs, [Employer Name] will evaluate the risk factors that may have led to the incident. The New York State Department of Labor recommends that employers maintain a record of any reports of workplace violence they receive so that they may evaluate and identify any trends in workplace violence incidents over time.

Additional Methods to Prevent Workplace Violence [Note to employer: this section is Optional. If used, edit with your company-specific or store-specific procedures or information.]

Based on the general risks to retail workplaces identified above, [Employer Name] has adopted the following strategies to reduce the risk of workplace violence to our employees and customers.

1. To control access into the store, employees should keep doors locked before and after official business hours. In addition, doors used for deliveries and garbage removal should be locked when

not in use. Employees should report to their supervisor, manager, or [name of designated office or person] if any lock is broken and needs to be replaced. [Employer Name] will replace any broken lock as soon as possible.

2. To ensure employees and customers can escape situations of violence if needed, all employees are responsible for maintaining accessible exit routes. Exit routes must not be obstructed by supplies, boxes, etc. If needed, the employer or their designee will notify the property owner and request exit routes are cleared.
3. To limit areas where a perpetrator can hide, adequate lighting will be maintained inside and outside the store. Employees should let their supervisor, manager, or [name of designated office or person] know if any lighting source is burnt out or dimmed and needs to be replaced. [Employer Name] will replace any broken lighting source promptly or request that the property owner do so.

[Instructions to Employer: *If you have implemented additional violence prevention methods that are not listed in this policy, add them to this list. The NYSDOL Retail Worker Safety Act Website provides additional violence prevention methods intended to address specific risk factors.]*

Retail Workers, Workplace Violence, and the Law

Several provisions of state and federal law concern violence against retail workers. For example, New York State Labor Law Section 27-e requires retail employers to take specific actions to promote safety at their workplace(s). NYS Penal Law (Section 120.19) stipulates legal remedies available for any retail worker who is assaulted. The U.S. Occupational Safety and Health Act stipulates an employer's responsibility to maintain a safe workplace. Additional details on each of these areas of law are provided below. There may also be applicable local laws that apply to retail workers in your city, county, town, or village.

The New York State Retail Worker Safety Act

Under the Retail Worker Safety Act at New York State Labor Law Section 27-e, all retail employers with 10 or more employees must:

- Adopt a workplace violence prevention policy. This policy must be distributed to employees when they are hired and redistributed annually after that.
- Train employees on workplace violence prevention. Employers must train employees when they are first hired. After that, employers with 50 or more retail employees must provide retail workplace violence prevention training once a year. Employers with 49 or fewer retail employees must provide training every two years.

Starting January 1, 2027, all retail employers with 500 or more employees across worksites in New York State must:

- Provide employees with a silent response button. This button must be able to request immediate assistance from a security officer, manager, or supervisor in case of emergency. This Model Policy will be updated to reflect this new requirement by January 1, 2027.
- Provide employees with training on the use of a silent response button.

New York State Penal Law

Under New York State Penal Law Section 120.19, anyone who assaults a retail worker and causes physical injury could be charged with a class E felony. If someone assaults a retail worker with a deadly weapon or with intent to cause injury, they may be charged with a more serious felony or additional charges. Any retail worker who is assaulted should call 911. If that worker would like to pursue criminal charges, they should contact the local police department where they were assaulted.

Workplace Violence and Federal Law

Under the Occupational Safety and Health Act, employers have a responsibility to provide their workers with a workplace free from known safety hazards. Employers who are aware that their employees are at foreseeable risk of workplace violence that is likely to cause serious physical injury or death, must implement available and feasible measures to reduce the risk of violence. Employees have the right to file a complaint with the Occupational Safety and Health Administration (OSHA) against any employer who they believe has violated the Occupational Safety and Health Act. For information on how to file a complaint, visit the OSHA website at: <https://www.osha.gov/workers/file-complaint>.

Retaliation

Retaliation against employees by an employer upon learning that the employee has engaged in the following activities is unlawful, for example:

- Complained about or reported incidents of workplace violence
- Complained about or reported factors or situations that may put workers at risk of workplace violence
- Testified or assisted in any legal proceedings or investigations concerning workplace violence

Adverse actions are actions taken by an employer that would dissuade a reasonable employee from engaging in any of the law's protected activities. This includes actions taken by supervisors. Examples of adverse actions may include but are not limited to:

- Demotion, termination, reducing hours, reducing pay, or assigning less desirable shifts
- Reducing work responsibilities, passing the employee over for a promotion, or changing an individual's work assignment to a less desirable location
- More intensive or critical supervision or the assignment of more difficult duties

[Note to employer: you may include your organization-specific or store-specific information for reporting here.]

Any retail employee who believes they are the victim of workplace retaliation may file a complaint with the New York State Department of Labor by calling 518-457-3839 or emailing retailworkersafety@labor.ny.gov.

Conclusion

This policy provides employees with an understanding of the factors that may increase their risk of workplace violence, the employer methods implemented to protect employees from workplace violence, and the Federal and State laws that concern violence against retail workers. [Employer Name] encourages any employee to report incidents of or risk factors for workplace violence to their manager, supervisor, or [name of designated office or person]. Employee experience and workplace knowledge is invaluable to our workplace violence prevention planning and achieving our mission to maintain a safe and secure workplace.