

# Retail and the Holiday Season: Top Four Areas of Employment Focus

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Retail workers are often the unsung heroes of the holiday shopping season. Stores are open longer and have bigger crowds, and customers are tenser than usual. To navigate the holiday season smoothly, retail employers should be particularly alert to the four areas discussed below and minimize adverse effects on their full-time and seasonal employees.

### I. Addressing Workplace Violence

While workplace violence should be an area of focus throughout the year, the risk is higher around the holidays. Customer stress can run high when dealing with crowds, long checkout lines, and finding the right gifts, and fights can erupt over the last hot gift on the shelves. Theft attempts also often rise during the holiday shopping season, potentially increasing interactions with security guards and the possibility of violence. The pressure on retail workers also can increase the possibility of violent outbursts and put coworkers at risk.

A carefully considered and written emergency response plan can help minimize the chances of a violent event occurring, and the protocols and procedures can ensure timely responses. This can take the form of a standalone workplace violence prevention plan or as part of a greater emergency action plan, the latter being a compliance requirement of the Occupational Safety and Health Act of 1970. Aspects to consider when preparing such a plan include:

- Nature of surveillance to keep tabs on the establishment (*e.g.*, guards and video);
- Providing a quick and easy way for employees to alert management to a potential or actual violent event (*e.g.*, easy-to-reach “panic buttons” for employees);
- The physical layout of the stores and points of sale;
- Requirements for preservation of evidence (*e.g.*, video footage and contemporaneous written reports);
- Lighting requirements in all public and private areas (including parking lots); and
- Whether mitigation measures must be different depending on the time of day, as risks can change depending, for example, if it is dark or light out.

Employees can be a good source for insights into safety issues and concerns they have and can help identify what needs to be addressed in the plan, but retailers must ultimately implement mitigation strategies based on what is feasible for their operations.

Once finalized, the plan should be distributed to and executed by all employees so it is clear that such behavior is unacceptable. They should be trained for the various situations as described in the plan. A best practice is to reinforce this training during regular safety

huddles or meetings so employees are better prepared to respond to a workplace violence incident.

In addition, all retail employers should have a written zero-tolerance policy for negative or aggressive behavior in the workplace, regardless of by whom (*e.g.*, coworker or customer). Despite the adage that “the customer is always right,” that should not apply if the customer engages in bad behavior. Any such behavior must be addressed immediately by the retail employer, and, if an employee was affected, management needs to check with the employee to make sure they are okay. Moreover, the retailer should encourage employees to immediately report any issues so they can be addressed.

## II. Other Workplace Safety Issues

The increase in both crowds and merchandise in stores can give rise to safety concerns. The two most persistent trouble spots relating to safety issues are exit routes and right of access in aisles. Retail establishments must have clear exit routes, doors, and appropriate exit signage in case of emergency, and all aisles are subject to specific rules regarding width, clearance, and the absence of obstacles to allow for safe and easy movement, among other requirements.

Accordingly, retailers need to make sure doors, emergency exits, other exit routes, and aisles are not blocked with, for example, a pallet or rack of additional merchandise. Stores may want to put out as much product as possible to meet the demands of larger crowds, but they should not block doors, doorways, or aisles, and they also cannot stick out into aisles and potentially create a tripping danger. Further, merchandise should not be stacked in such a manner as to be a tip-over hazard. Moreover, since front-line workers often deal with the moving and placement of merchandise, staff must be trained to be on watch for, and correct, any blocked aisles, exit paths, or doors obstacles.

## III. Minimizing Harassment Claims Based on Customer Conduct

Although most people think of employee or manager conduct when referencing unlawful harassment (based on sex, race, and so on), employers are required to protect employees from *all* work-related harassment, even if it is caused by a customer.

While an emergency response plan also can cover harassment situations, it is important to be sure there is a well-publicized complaint process employees can use specifically for hostile work environment and discrimination-type situations. Moreover, given that situations with customers can be short and quick, there should be a way for an employee to get immediate attention from management before the customer leaves.

In addition, best practice would be to train managers on healthy conflict resolution tactics and diffusing tense situations. (This also can help address potential violence situations.) Often, harassing incidents arise out of stressful situations and flaring tempers; having training on how to lighten those stressors can be helpful.

## IV. Managing Employee Morale, Stress

The holiday season brings significant stress to retail employees and, with it, the possibility of burnout and low morale. Common work causes include irregular scheduling, extra-long hours, and the feeling of not being recognized for effort and work. If employee assistance programs are available, retail employers should remind employees of the voluntary, employer-sponsored programs that help employees navigate stressful life circumstances. In addition, retail employers can try to mitigate and minimize burnout and low morale by:

- Scheduling predictable shifts, or at least giving as much advanced notice as possible, so workers can plan their work and personal lives, enhancing their work-life balance.
- Making sure employees are not only scheduled for breaks, but actually take them. Long shifts with anxious shoppers can be very stressful. Enforcing breaks will help minimize that effect on employees. Moreover, emphasis like this shows care and consideration to how employees are doing.
- Regularly recognizing and praising employees' efforts individually and publicizing them in the workplace (*e.g.*, a memo or email to the entire store identifying employees' great work). Indeed, this is important throughout the year, but especially around holiday time.
- Infusing a bit of "fun" into the workday. Get employees motivated with rewards for hitting certain sales milestones or goals and so on during the holiday season and all year. Happier employees are more motivated, which translates into better customer service and lower turnover.
- Promoting open communication. Make sure employees know to come to management with any issues they want addressed. Retailers need to be responsive whenever an issue is raised and make employees feel heard, not just that the presence of an open communication system is lip service (or "ear service").

The holiday season is fraught with obstacles for retail employers, and one of the best ways to overcome those obstacles is to plan how to approach each one. Moreover, employers must train their managerial employees to cultivate the right employment atmosphere. With a little planning, and ample consideration for what their employees go through, retail employers will be able to navigate the holiday season smoothly.

Please contact a Jackson Lewis attorney with any questions.

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