



Cal/OSHA Draft Rules for Workplace Violence Prevention

Following California's Workplace Violence Prevention Plan regulation becoming effective, the California Division of Occupational Safety and Health (Cal/OSHA) recently published its draft Workplace Violence Prevention regulation. The CRA team submitted comments on the draft regulations, which were due to Cal/OSHA September 3, 2024 and our team is also tracking when Cal/OSHA will hold an advisory committee on the regulations, which is expected to be scheduled later this year.

As a reminder, Cal Retailers worked hard last year through a series of meetings and communications with the Governor's office and Senator Cortese to reach a deal on SB 553. The deal included replacing Section 4 - the "Workplace Violence Prevention" section with language that mirrors what is the Cal/OSHA proposed regulations and removing any language pertaining to shoplifting/retail theft.

What remained in the legislation, which was signed into law, included the following:

- Section 1 & 2 - which refers to TRO's, which CRA did not receive any input from members;
- Section 3 - The Illness and Injury Prevention Program (which is part of the Cal/OSHA draft regulations).

While not perfect language, Cal Retailers, through our extensive advocacy efforts, came a LONG WAY from where the bill started with language to prevent loss prevention professionals from engaging with potential shoplifters to labeling retail as a "High Violence Industry."

Now, Cal/OSHA is in the regulatory rulemaking phase for SB 553, which covers nearly every employer in the state. As part of the legislation, Cal/OSHA is tasked with developing a Workplace Violence Prevention regulations and presenting it to the Board before December 31, 2025. Cal/OSHA recently published its initial draft regulation (Title 8 CCR 3343), which contains more specific workplace violence prevention requirements, including engineering controls. Under SB 553, a new regulation must be adopted by December 31, 2026.

In the draft regulation, Cal/OSHA requires, among other things, that employers implement engineering controls and work practice (a/k/a "administrative") controls appropriate for the workplace to eliminate or minimize employee exposure to identified workplace violence hazards. The draft regulation then goes on to define engineering controls to include:

electronic or mechanical access controls to employee occupied areas; weapon detectors (installed or handheld); enclosed workstations with shatter-resistant glass; deep service counters; spaces configured to optimize employee access to exits, escape routes, and alarms; separate rooms or areas for high risk persons; locks on doors; furniture affixed to the floor; opaque glass (protects privacy, but allows employees to see where potential risks are); improving lighting in dark areas, sight-aids, improving visibility, and removing sight barriers; video monitoring and recording; and personal and workplace alarms.

Work practice controls would be defined as including:

appropriate staffing levels; provision of dedicated security personnel; an effective means to alert employees of the presence, location, and nature of a security threat; control of visitor entry; methods and procedures to prevent unauthorized firearms and weapons in the workplace; employee training on workplace violence prevention methods; and employee training on procedures to follow in the event of a workplace violence incident or emergency.

While the standard was drafted by the Legislature as a “performance standard” that permits employers to choose the engineering and administrative controls best suited for their worksites to minimize exposure, Cal/OSHA’s draft regulation creates the realistic potential that the agency will enforce it as a “specification standard,” creating risk for employers who do not consider and implement the specific controls included in the definition.