

e-Alert

08.06.21

New York Amends Hero Act – Adds Timeline for Infectious Disease Prevention Plans

Background

The State of New York has created amendments to the recently passed Health and Essential Rights Act (HERO) requiring employers to publish a model airborne infectious disease exposure prevention plan in the workplace.

Summary

The amendments include updating the definitions of “employee” and “worksite” as well as providing a timeline for prevention plans to be published and communicated to the workforce.

- **“Employee”:** Expanded to include individuals working for digital applications or platforms
- **“Worksites”:** Worksites do not cover telecommuting or telework unless employer exercises full control of site

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Implementation Timeline:

Employers must comply with the New York Departments of Labor (NYDOL) and Health (NYDOH) to publish a plan combating infectious disease exposure. They must include the plan in their employee handbooks and communicate the plan to the workforce:

- The plan must be adopted within 30 days of the NYDOL publishing its model standards.
- Employers must provide a copy of the plan to employees within 30 days of adopting the plan, within 15 days of closing due to exposure, and immediately to new hires.
- Employers permitted to operate on or after the effective date of the Act must provide the plan to all employees within 60 days of the NYDOL's publishing of the model standards.

Safety Committees in the Workplace

- Employers who employ more than 10 employees and receive over \$800,000 in revenue annually must permit employees to create safety committees as part of the HERO Act.
- Employers who already have safety committees that comply with all Act requirements are not required to create a separate committee.
 - Safety Committees are made up of employees who are generally non-managerial to meet quarterly to review and discuss infectious disease exposure plans in place
- The law only allows the Safety Committee to review policies relating to occupational safety and health.

Liabilities for Noncompliance

- Employees may file suit only after they have provided a 30-day notice to the employer of the violation and the violation has not been corrected.
- If an employee can prove an employer was unwilling to correct a violation in bad faith, then the 30-day notice is not required.

Employer Next Steps

- Employers based in New York should review their policies to ensure compliance with the NYDOL model standards for preventing the spread of infectious diseases.
- If you are a Full-Service or Virtual HR client and would like our assistance with updating your policy, please [email us](#).

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