
Empire State Restaurant & Tavern Association

Report From The Executive Director...Scott Wexler

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NYS Releases Final Guidance on New Sexual Harassment Prevention Law - The New York State Department of Labor has released finalized materials and guidance on New York State's new sexual harassment prevention law. The law establishes protections from sexual harassment for employees, individuals working as contractors and others, such as visitors to your business – including your patrons. It imposes obligations on state officials, employers and government contractors. This law includes new requirements for every employer in the state, which are now in effect. The new law:

- Prohibits use of mandatory arbitration clauses for sexual harassment complaints in employment contracts
- Bars use of nondisclosure agreements in settlements, except when requested by the victim
- Must establish & distribute in writing to all employees a sexual harassment prevention policy that meets the state's minimum standards by October 9, 2018.
- Must establish & all employees must participate in sexual harassment prevention training annually that meets the state's minimum standards - all current employees must be trained by October 9, 2019 and all new employees must be trained as quickly as possible

The finalized materials, along with a step-by-step toolkit for employers are available online: ny.gov/programs/combating-sexual-harassment-workplace. The Department of Labor has produced numerous resources to help you understand and comply with the law:

- Minimum standards for sexual harassment prevention policies
- Minimum standards for sexual harassment prevention training
- Model sexual harassment prevention policy
- Model sexual harassment complaint form
- Model training script and Power Point presentation (videos coming soon)
- Frequently Asked Questions

You can use the resources provided by the Department of Labor or develop your own as long as they meet the state's minimum requirements. We've already received inquiries in our office seeking recommendations for a training program to comply with the new law. And some have asked whether the Association will develop it's own or endorse a training program. Those are all good questions and thanks to the Labor Department's decision to grant our request to extend the deadline for employee training by one year - until October 1, 2019 - we can all take the necessary time to review the available options and make an informed recommendation to you.

It's important to note that employers are required to pay their employees for the time they participate in sexual harassment prevention training. The Department of Labor has indicated that for tipped food service workers the time spent does not count towards either the 80% tip producing or the 20% non-tip producing components of the "80 - 20" rule which governs whether you take a tip credit for each employee.

Under the guidance employers seem advised to pay tipped workers the full minimum wage for the time they participate in mandatory sexual harassment prevention training each year. For the best advice and guidance for your individual business based on your specific situation please check with your attorney or other labor law advisor. We'll continue to update you as we receive more information about the implementation of this new law.

Training Schedule Revised - We've changed the location of the Buffalo and Melville training sessions and added a training session at Tompkins Cortland Community College since last month's report. Our ABCs of the ABC Law seminar for owners & managers and our ATAP seminar for servers are now scheduled for:

October 29	Buffalo	Hyatt Regency Buffalo Hotel
October 30	Canandaigua	NY Kitchen
November 5	Melville	Melville Marriott
November 6	Nanuet	Hilton Garden Inn
November 12	Lake Placid	Crowne Plaza Hotel
November 13	Syracuse	Genesee Grande Hotel
November 27	Dryden	Tompkins Cortland Community College

These seminars are free thanks to the generous support of our sponsors. The ABC Law sessions will be held from 10:00 am – 1:00 pm (registration opens at 9:30 am) and the ATAP sessions will be held from 1:30 pm – 3:00 pm (registration opens at 1:15 pm). More details on each of these sessions and registration information are available on our website, www.esrta.org, or you can contact the association office by email at esrta@verizon.net or by phone at 877.436.8121.

Paid Sick Leave Law - The Westchester County Legislature approved, and the County Executive plans to sign a local law providing 40 hours of paid sick leave for most workers. The new law will require employers with five or more employees to provide at least an hour of paid sick time for every 30 hours worked. This “earned sick leave time” legislation is not the only one of its kind. The Albany County Legislature is considering something very similar. Like the Westchester proposal, the Albany legislation has faced strong opposition from the business community. And the Albany County Legislature will most likely ignore the concerns of business – just as the Westchester County Legislature did. Keep an eye out on your local governments to make sure they're not sticking their noses into your business – and let us know so we can help.