

## NEW YORK HERO ACT



### HERO ACT GUIDANCE PUBLISHED BY NY DEPARTMENT OF LABOR

In May 2021, Governor Andrew Cuomo signed the New York Health and Essential Rights Act, known as the HERO Act, into law. The HERO Act sets minimum safety standards for the private sector. The HERO Act also requires certain employers to establish joint workplace safety committees with their employees. On June 14, 2021, amendments to the HERO Act were enacted to extend the deadlines originally set forth in the statute.

On July 6, 2021, the New York Department of Labor (“DOL”) published an Airborne Infectious Disease Exposure Prevention Standard (the “Standard”), a Model Airborne Infectious Disease Exposure Prevention Plan (the “Model Plan”), and various industry-specific model plans (“Specific Industry Models”). Employers can choose to adopt the applicable policy template/plan provided by DOL or establish alternative plans that meet or exceed the Standard’s minimum requirements. Upon DOL’s publication, employers have 30 days to adopt a plan; however, as of the date of this article, the plans do not need to be implemented, as they only become effective upon the designation of an airborne infectious disease as a “highly contagious communicable disease that presents a serious risk of harm to the public health” by the New York Department of Health.

As a result of the DOL’s actions on July 6, 2021, all New York employers must immediately perform the following: (1) adopt a model plan or create an alternative plan that meets or exceeds the requirements of the Standard by August 5, 2021 (within 30 days of the date of the publication of the Standard); (2) provide the plan to employees within 30 days of the adoption of the plan and to new hires at the time of hiring; (3) post the plan in a visible and prominent place at each worksite; and (4) update their employee manuals to include the prevention plan.

Additionally, effective November 1, 2021, companies with 10 or more employees must permit employees to establish and administer a joint labor-management workplace safety committee. The committee will have the authority to, among other things, raise health and safety concerns, review and comment on health and safety policies, participate in government workplace site visits, review employer-filed reports pertaining to workplace health and safety, and regularly schedule meetings during work hours. The DOL is expected to publish future guidance relating to the implementation of safety committees.



Employers must take immediate steps to begin to adopt the Standard, Model Plan, and Specific Industry Models, or draft their own comparable versions of these documents. Employers can face severe penalties for failure to adopt and distribute the plans in accordance with law. As additional rules and regulations are expected to be promulgated, it is important for employers to remain aware of their obligations and ensure their policies and procedures are compliant with the HERO Act.

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