

18 March 2026

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Retail NZ submission: Health and Safety at Work Amendment Bill

Overview

1. Retail NZ is a membership organisation that represents the views and interests of New Zealand's retail sector. We are the peak body representing retailers across Aotearoa, with our membership accounting for nearly 70% of all domestic retail turnover. New Zealand's retail sector comprises approximately 30,000 businesses and employs around 227,000 Kiwis, which makes up approximately 9% of the workforce.
2. Retail NZ consulted our membership in the preparation of this submission. Our membership covers a wide range of retailer types, both large and small; naturally there were some varying perspectives of the proposed changes. For the purpose of this submission, we have chosen to highlight the views of members who fall into the SME category, given this Bill's emphasis on reducing compliance burdens for that segment of the business sector.
3. Retail NZ is generally supportive of the goals and expected outcomes of the Bill, to sharpen the health and safety system's focus on critical risks, while reducing compliance costs and providing more clarity and certainty for small businesses. However, we do have several concerns that are highlighted below for further consideration, with recommendations for greater clarity in parts of this legislation, particularly around critical risks and the inclusion of psychosocial risks in these provisions.

Focus on critical risks

4. Retail NZ supports the shift of the Act's focus to prioritising critical risks, rather than managing all risks equally. The retail environment is typically low-risk, and many current compliance expectations, such as documentation of minor hazards, do not align with actual risk profiles. We believe this change has the potential to:
 - a. Reduce unnecessary administrative burden for SMEs.
 - b. Allow retailers to focus resources where they matter most.
 - c. Create a more proportionate and credible health and safety system.
5. Members also emphasised that minor injuries arising from normal work activities, such as small cuts or strains, should not automatically trigger complex compliance procedures unless they indicate a wider systemic issue. Clarifying this distinction would help ensure the Bill's focus on serious harm does not unintentionally perpetuate unnecessary administrative burden.

6. It should be noted, however, that while Retail NZ supports greater emphasis and prioritisation of critical risks, particularly to assist small businesses, it must remain clear that **all** risks still require appropriate management. Prioritisation should not be interpreted as permission to ignore lower-level hazards, nor diminish the overarching duty to provide a safe workplace. Maintaining consistent expectations around fostering a positive safety culture is essential to ensuring that all retailers, regardless of size, continue to meet their fundamental health and safety obligations. Further in our submission, we provide recommendations for adding clarification and developing guidelines that would support retailers in effectively managing workplace risks.

Updated definitions of critical risks and notifiable events

7. The proposed definition of “critical risk” still lacks the clarity needed for consistent and practical application. Members have told us that the categories are too broad to give meaningful guidance and still require the kind of complex analysis and assessment that small retailers currently struggle with.
8. Under new section 22A, a critical risk is defined either by inclusion in Schedule 1A or by the likelihood of severe consequences such as death or a notifiable injury or illness. Yet Schedule 1A includes very broad hazard types, for example, item (c) under the “General risk and workplace management” category, “raised and falling objects,” treats **any** lifted object as a falling-object hazard. In practice, this could categorise even low-level, low-impact situations as “critical” regardless of weight, height, or context.
9. The same issue appears in section 24 of the Act’s definition of “notifiable incidents,” which includes broad terms such as any “escape, spillage, or leakage of a substance.” Interpreted literally, a small spill from a shelf could be viewed as notifiable, despite posing minimal actual risk.
10. These examples illustrate a key challenge: overly broad definitions risk increasing uncertainty rather than reducing it. Small business owners, who usually lack specialist health and safety expertise, may feel compelled to over-report or over-comply, adding administrative pressure instead of alleviating it. Clear, practical guidance is therefore essential to support consistent and proportionate compliance.
11. Members have also advised that current critical risk categories do not reflect the risks most commonly faced in retail, including psychosocial risks such as crime, aggression, and violence—issues that are also relevant across hospitality and recreation.
12. Psychosocial risks such as customer aggression, intimidation and armed robbery are becoming more frequent, and now represent some of the most significant hazards in the retail sector. Our members report increasing incidents involving concealed weapons, including knives, machetes and guns. These situations create obvious physical risks for staff, as well as serious emotional harm for employees who fear being threatened or attacked.
13. Under the Health and Safety at Work Act, PCBUs are already required to manage risks to both physical and psychological health; however, the Amendment Bill does not explicitly recognise these psychosocial hazards as “critical risks,” despite the fact that they can, and often do, result in serious harm. Retailers also note that businesses have faced Employment Relations Authority and court findings when psychosocial risks were not adequately managed, underscoring that these hazards are treated as serious in practice and thus warrant explicit recognition in legislation.

14. To ensure the legislation reflects real-world harm, Retail NZ recommends that psychosocial risks, including customer aggression, violence, and retail crime, be explicitly included within the definition or examples of critical risks, supported by clear guidance to assist small businesses in meeting their obligations consistently and confidently.
15. Retail NZ further recommends that the Government provide more detailed guidance on each type of critical risk, including specific thresholds or conditions that elevate a hazard to “critical.” For example, defining relevant weights, heights, or circumstances for falling-object hazards would help ensure consistent interpretation.

Proportional duties for small PCBUs

16. Retail NZ supports a tiered approach for businesses operating in lower-hazard environments, with reduced compliance expectations for PCBUs with limited resources and operating generally low-risk environments. Small businesses make up the majority of the retail sector, and much of the wider business community, in New Zealand, so streamlining compliance obligations and removing unnecessary administrative burden will materially reduce pressure on small employers. However, further refinement is required to ensure the new framework is workable in practice.
17. Many retail businesses operate multiple small stores, each with small teams. A store with six or eight staff functions very differently from a single workplace with dozens of workers. In many cases, the risk profile and day-to-day decision-making are workplace specific. It may therefore be appropriate to consider applying the small PCBU threshold at the workplace level, where stores operate independently.
18. Retailers also note that worker headcount alone does not reliably indicate hazard levels. The nature of the work and environment is equally critical. For example, a two-person shop operating heavy machinery may carry substantially higher risk than a large retail store with 100 workers but minimal critical hazards. A size-only threshold risks oversimplifying these variations.
19. It was additionally noted by some retailers that differing thresholds for PCBUs could create confusion in shared retail environments where multiple businesses operate together. For example, shops located in malls or entertainment complexes, contractors who perform temporary work, and service providers such as cleaning or security teams all operate side-by-side and often share responsibility for managing the same risks.
20. If PCBUs working together in a shared retail environment are subject to different compliance requirements because of their respective headcounts, this breaks the alignment that currently makes overlapping duties operate effectively. It can also create confusion about who is responsible for which risks, weakening the clarity and cooperation needed for effective consultation and coordination.
21. Retail NZ recommends further consideration of a tiered duty framework to ensure clarity, fairness, and practical application for businesses based on risk profile and the resourcing realities of small businesses.

Strengthening Approved Codes of Practice (ACOPs) as safe harbours

22. Retail NZ supports the strengthening of the ACOP framework. Our members see the Bill’s new pathway for industry bodies to propose ACOPs as a significant and positive development. It provides a mechanism for businesses and sector representatives to shape health and safety standards based on real-world experience and practical expertise in managing risks within the retail environment.

23. Retail NZ recommends the development of a retail-specific ACOP and welcomes the opportunity to participate in this work when the opportunity arises. We encourage the inclusion of control measures that are already widely used, or increasingly accepted, for managing retail-specific hazards—particularly those relating to retail crime and customer aggression. This may include tools such as facial recognition technology to identify patterns of potential offending, and smart technologies capable of detecting safety risks through motion or behaviour analysis. Clear, relevant, industry-specific guidance will give retailers greater legal certainty and support the adoption of effective, proven controls.
24. Additionally, some members have recommended that ACOPs be developed for specific retail sub-sectors to ensure that businesses handling specialised products receive appropriate guidance. For example, lithium batteries, now common across a wide range of consumer goods, present distinct fire-related risks that may require different controls from other types of fire hazards. The current critical-risk category for fire hazards does not provide practical guidance on managing these battery-specific risks, and a dedicated ACOP would help retailers store, charge, and dispose of lithium batteries safely and consistently.

Clarifying overlapping duties

25. Retail NZ supports the Bill’s clarification that compliance with equivalent or intersecting requirements under other regulatory regimes, such as the Food Act, Fire Safety and Evacuation Regulations, or the Hazardous Substances framework, constitutes compliance with the Health and Safety at Work Act. This distinction helps avoid duplication of effort, reduces unnecessary audits, and provides greater certainty for businesses that are already meeting their obligations under multiple regulatory systems.
26. Retail NZ recommends that the Government publish clear and practical guidance to help retailers identify where these Acts overlap. A useful tool would be a comparison matrix or table that sets out the major workplace health and safety duties under each relevant Act, shows where the requirements are aligned, and highlights where additional steps may still be required. This would support consistent compliance, reduce confusion for retailers that do not have access to specialist advisers, and help ensure that businesses can meet their obligations efficiently and confidently.

Clarifying officers’ duties

27. Retail NZ supports the clarification of officer duties in the Bill, particularly the confirmation that an officer’s due diligence obligations apply only to their governance role. This change will make compliance simpler for small business owners who often fill multiple roles within their business and need clear, practical expectations.
28. Multiple members expressed concern that the current framework places disproportionate responsibility on employers, with limited clarity around worker obligations. Retail NZ therefore recommends that the Bill more clearly define and communicate employee responsibilities, ensuring a fairer and more balanced allocation of duties. This would help shift perceptions that health and safety is ‘solely an employer task’ and promote shared accountability across workplaces.
29. As an example, the Model Work Health and Safety Act in Australia, adopted by most Australian jurisdictions, specifically lists duties of workers which include “take reasonable care for his or her

own health and safety” and “take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons.”

Conclusion

30. Retail NZ appreciates the intent of the Health and Safety at Work Amendment Bill to create a more focused, practical, and proportionate health and safety system. We support the shift toward prioritising critical risks, the introduction of clearer duties for small PCBUs, the strengthened ACOP framework, and the clarification of overlapping regulatory requirements. These changes have the potential to reduce unnecessary compliance pressure and improve certainty for the many small and medium retail businesses that make up the majority of our sector.
31. As outlined in this submission, Retail NZ recommends further refinement to ensure the Bill operates effectively in practice. Clearer definitions, more detailed guidance, and a stronger alignment between regulatory categories and real-world retail risks are essential to achieving consistency and proportionate compliance. We would particularly welcome greater clarity on the application of critical risks, thresholds for small PCBUs, and the integration of retail-specific hazards such as crime, aggression, and violence. Strengthening employee responsibilities and ensuring that duties are understood and shared across the workforce will also help create safer workplaces while reducing pressure on employers.
32. Retail NZ looks forward to continuing to engage with officials and the Committee as the Bill progresses, and we welcome the opportunity to contribute to the development of retail-specific guidance or ACOPs.
33. Thank you for the opportunity to make a submission. Retail NZ is happy to discuss any aspect of this submission further at a Select Committee hearing.
34. No part of this submission should be withheld under the Official Information Act.

Sincerely,



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