

5 May 2026

Committee Secretariat
Justice Committee
Parliament Buildings
Wellington

Retail NZ submission: Trespass (Specified Retail Premises and Other Matters) 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 222,000 Kiwis.
2. Retail NZ consulted our membership in the preparation of this submission.
3. A retail store is a private business functioning as a public space. Unlike other private premises, retail relies on easy, unrestricted access, which makes the ability to formally revoke that access through a trespass notice a vital safety mechanism for protecting staff from anti-social, abusive or violent behaviour, while also reducing theft of property.
4. The ability to trespass enables retailers to be proactive by preventing known high-risk individuals (recidivist or violent offenders) from entering their stores.
5. The autonomy afforded to private businesses by the trespass legislation enables retailers to take meaningful action without involving the police in the first instance.
6. Trespass is seen as an important protection for staff who should be able to come to work without facing an individual who has previously behaved in an inappropriate way.
7. We have heard from several of our larger retailers that trespass is used frequently, however the use of trespass could be more effective if the Act is modernised. This underscores the importance of ensuring the Bill is robust and accounts for the retail landscape, including technological advances, of New Zealand now and in the future.

Trespass Amendments

8. Retail NZ is in favour of the increase in maximum trespass period from two to three years. Retail crime has exploded in recent years, with the COMS Retail NZ Crime Report 2024 finding 99% of retailers experienced some form of retail crime or anti-social behaviour in the 12-month period to 30 June 2024, ranging from credit card fraud and shoplifting, through to threatening behaviour, criminal damage or physical assault. Increasing the maximum trespass period means there are more serious consequences for individuals committing crime on retail premises. This amendment provides retailers with the discretionary power to issue a trespass notice for the length of time warranted by the offence. It is right that this power sits with retailers.
9. While the Bill introduces a three-year default "backstop" for instances where a duration is not specified, Retail NZ maintains that trespass notices must remain proportionate to the harm caused. Retailers must exercise their discretion carefully to maintain their

social licence, ensuring that maximum penalties are reserved for high-harm conduct like physical assault or repeat blatant theft. Without clear guidelines, there is a risk that the default three-year period could be applied inappropriately to low-level or first-time offenders. We recommend that the Committee considers including a provision that a timeframe must be stipulated, or reconsider the “backstop” timeframe to be less than the maximum duration.

10. Retail NZ supports the amendment allowing businesses to issue trespass notices covering multiple locations, addressing the current challenge faced by retailers that they have to watch and wait as an offender causes problems in their other stores before they can take further action. This bespoke power is particularly valuable for shopping precincts where a group of occupiers can now delegate authority to issue a single, collective notice and also for retail models such as co-operatives and franchise structures, where stores are individually owned but operate under shared branding and systems.
11. While the Bill permits trespassing an individual from an entire national chain, Retail NZ emphasises that this power must be proportionate, validated and exercised with discretion.
12. Retail NZ recommends guidance be provided to ensure broad national bans are reserved for high-harm conduct, such as physical assault, use of a weapon or repeat theft, while more localised notices are utilised for lower-level offending, to ensure the response remains proportionate.
13. We also recommend the justification for issuing a trespass notice be required to be documented and available for audit to ensure that the response is proportionate to the harm caused. This supports the Privacy Act 2020 and maintains public trust in retailers by demonstrating that their discretionary powers are being used fairly and consistently.
14. An audit trail may include images or video obtained by CCTV, body cam, or other device.
15. We recommend guidance is developed to support the issuance of a trespass notice, providing clear direction and criteria for issuing a notice to ensure every response is proportionate to the harm caused. The guidance should provide an indication of what a tiered framework would look like. For example, three-month notices for first-time low-level offending, while reserving the maximum three-year period for high-harm conduct such as physical assault. By formalising these criteria, retailers protect their social licence and ensure full compliance with the Human Rights Act 1993, which prohibits the discriminatory use of trespass powers. Furthermore, clear internal policies by retailers provide staff with the operational confidence needed to manage risks proactively and ensure that all notices are legally robust enough for Police enforcement.
16. When issuing a trespass notice, a retailer is the primary agency responsible for all personal data collected for trespass enforcement, meaning the legal obligation for compliance rests directly with the individual business. To operate lawfully, they must adhere to the Privacy Act 2020 and its Information Privacy Principles (IPPs), which dictate how personal information must be collected, secured, and retained.
17. The Bill remains silent on the application of trespass powers to young people. Crime committed by young people is very common, despite some larger retailers choosing not to report youth crime to the Police. There have been concerns that young people act with impunity as they know they will not be treated as an adult by the criminal justice system. This Bill does not address this issue.
18. We fully support the rights of retailers to exercise their judgement and discretion when issuing trespass notices. We’re concerned that in the absence of clarity in the Bill relating to younger people, there is a risk that the extended powers outlined in the Bill

may have a disproportionate impact on younger people. We would support additional safeguards for young people who receive a trespass notice. For example, there should be opportunity for a young person to appeal a trespass notice.

19. We also would support keeping the maximum trespass notice period to two years for people under 18. This recognises that young people should be given the opportunity to change their behaviour without facing long-term exclusion, which could impact their access to essential services as they transition into adulthood. While the Ministerial Advisory Group (MAG) for Victims of Retail Crime proposed 'short, sharp' three-month notices for first-time youth offenders to prevent escalation, a lower two-year cap for under 18-year-olds ensures that the most serious recidivist risks are managed without permanently marginalising young people.
20. We recommend the Bill explicitly address how trespass legislation interacts with the Biometric code, particularly in the case of applying trespass legislation to young people. Rule 4 of the Biometric Code 2025 states an agency may collect biometric information only (a) by a lawful means; and (b) by a means that, in the circumstances of the case (particularly in circumstances where information is being collected from children or young persons), – (i) is fair; and (ii) does not intrude to an unreasonable extent upon the personal affairs of the individual concerned.
21. While Retail NZ supports the intent to prevent offenders from frustrating the trespass process, we remain concerned that the 'ought to have known' threshold in Section 4C is overly subjective. We recommend that this power be explicitly linked to a requirement for corroborating visual evidence (e.g. CCTV) to protect both the retailer's social licence and the individual's rights.
22. Retail NZ views this Bill as a positive step in modernising a tool that, under the 1980 Act, is no longer fit for purpose. With retail crime costing the sector \$2.6 billion annually, the high volume of trespass notices and subsequent breaches creates a significant burden on the justice system. However, the MAG has noted that the Act's impact is currently "stymied" by operational challenges relating to Police resourcing and a "low prioritisation" of trespass breaches.
23. We strongly advocate for a formal Police evaluation framework to monitor the effectiveness of these new measures. This evaluation should specifically track whether the increased penalties, such as the \$2,000 maximum fine, successfully signal a higher priority to Police and result in increased response and prosecution rates. Furthermore, it is vital to assess whether the multi-location amendment effectively reduces the store-hopping behaviour and "game-playing" currently seen, where offenders exploit the need for individual store-by-store warnings to continue victimising a single brand or precinct.

Conclusion

24. Thank you for the opportunity to make a submission.
25. Retail NZ supports the intent of the Bill, but more work is needed to make the Bill workable in practice.
26. In summary, we recommend:
 - a. **Mandate Proportionality:** Reduce the default "backstop" duration from three years to two years, or require a specific duration for every trespass notice to ensure penalties match the harm caused.
 - b. **Establish a Tiered Framework:** Issue government guidance for retailers e.g., three-month notices for low-level first offences, reserving the three-year maximum for violent or recidivist conduct.

- c. Strengthen Evidence Standards: Require documented justifications for all notices and link the 'ought to have known' threshold (Section 4C) to a requirement for corroborating visual evidence (such as CCTV).
 - d. Protect Young People: Cap the maximum trespass period at two years for those under 18 and mandate a clear, accessible appeal process.
 - e. Ensure Police Accountability: Establish a formal framework to evaluate whether increased fines and multi-location powers actually result in higher Police response and prosecution rates.
27. Retail NZ welcomes the opportunity to discuss this submission further and wishes to make an oral submission to the Committee.
28. No part of this submission should be withheld under the OIA.

Sincerely,



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