

New York HERO Act Amended to Enhance Workplace Safety Committee Requirements

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On December 28, 2022, the New York Health And Essential Rights Act (HERO Act) was amended to add new enforcement provisions to the HERO Act's workplace safety committee requirements. These amendments are currently in effect.

By way of background, the HERO Act was enacted during the COVID-19 pandemic to minimize the spread of the disease in private sector workplaces in New York and to protect employees against exposure and disease during a future airborne infectious disease outbreak. Section 1 of the HERO Act essentially requires employers to establish an infectious disease exposure prevention plan ("Plan") for the workplace and to activate the Plan when an airborne infectious disease is designated by the New York State Commissioner of Health as a highly contagious communicable disease that presents a serious risk of harm to the public health.

The current [amendments](#) involve Section 2 of the HERO Act which requires employers with 10 or more employees to allow employees to create a joint labor-management workplace safety committee. The amendments **mandate employers to recognize within five business days the establishment of a workplace safety committee** created by employees under Section 2. The amendments also provide for **penalties of \$50 a day for failure to do so** until the violation is cured. The prior version of the HERO Act did not specify a time limit for employers to recognize a workplace safety committee and did not provide for specific civil penalties related to that.

While no designation requiring employers to activate the HERO Act Plan is currently in effect, in light of the amendments, New York employers must ensure that:

- the Plan is periodically reviewed and updated in compliance with the HERO Act;
- all employees including new hires are aware of the updated Plan including the amendments;
- the updated Plan is accessible to all employees including new hires; and
- procedures are in place to activate the Plan.