

Management Alert



New Jersey to Require Hotel Employers to Provide “Panic Devices” to Employees

By Howard M. Wexler

Seyfarth Synopsis: On June 11, 2019, New Jersey Governor Phil Murphy signed a law requiring covered hotels to provide “panic devices” to employees engaged in “housekeeping or room service duties.” The law further imposes notification, reporting, and recordkeeping obligations on covered hotels.

Background

In September 2018 two New Jersey state senators introduced Bill No. S2986 to address the “unique” nature of hotel work. Specifically, the bill sought to protect those hotel employees working alone in guest rooms who may be “particularly vulnerable” to assault. After amendments in the New Jersey State Senate and Assembly, the bill was signed by Governor Murphy on June 11, 2019. A copy of the bill’s text is available [here](#).

Employer’s Covered and Their Obligations

The law differs in some significant ways from the bill introduced in September 2018, discussed in our previous alert here. The highlights of the law include:

- **Covered Hotels:** The mandate applies to hotels and similar establishments that contain 100 or more guest rooms.
- **Obligation to Provide a Panic Device:** Covered hotels must provide each employee who performs “housekeeping or room service duties,” without other employees present, a “panic device.” This includes “any subcontractor” of the hotel employer.
 - **Panic Device:** A “panic device” is a “two-way radio or other electronic device” that an employee keeps on his or her person and allows an employee to “communicate with” or “effectively summon” immediate assistance from security, management, or other appropriate hotel staff member.
- **Employee’s Use:** An employee may use the device if the employee “reasonably believes” there is an ongoing crime, immediate threat of assault or harassment, or other emergency in the employee’s presence. After using the device, the employee may leave the “immediate area of perceived danger” and cease work to await the arrival of assistance. An employee exercising this right is protected from any adverse employment action by the law’s anti-retaliation provision.

Employer's Obligations After Device Triggered

Beyond promptly responding to the employee's location once the device is triggered, covered hotels' obligations include:

- **Notice:** Notifying hotel employees "assigned to housekeeping or room service duties" about the room where the alleged incident occurred.
- **Recordkeeping:** Keeping records of accusations and maintaining a list of accused guests for five years from the date of the incident.
- **Reporting:** Alerting the appropriate law enforcement agency about any panic device incident and cooperating in any subsequent investigation undertaken by such agency.
- **Reassignment:** Immediately reassigning the employee who activated the panic device to a different work area "away from the guest room" for the duration of the guest's stay.
- **Servicing:** Providing other employee's the option of servicing the accused guest's room with a partner or "opting out" of servicing that guest's room for the remainder of the guest's stay.
- **Guest Conviction:** Where an accused guest is convicted of a crime connected to the incident brought to the hotel's attention, the hotel "may decline to provide occupancy to the guest."

Employer's Notification Obligations

Covered hotels must notify both employees and guests of the panic device requirement, which requires:

- **Notice to Employees:** The law requires covered hotels to "develop and maintain" a program that educates hotel employees regarding the use of the panic device, an employee's rights if they activate the device, and to encourage use of the device when appropriate. This program "may include written information," but the law does not require it.
- **Notice to Guests:** Covered hotels are required to notify guests that panic devices are provided to certain hotel employees. This may be done by requiring guest acknowledgement of the policy at check-in or by prominently displaying signs on the interior side of guest room doors detailing the panic device policy and the employees' rights.

Collective Bargaining Agreement Carve Out

The law does not apply where a collective bargaining agreement already addresses the issue of panic devices or otherwise addresses safety and reporting procedures for hotel employees. Further clarification may come when the Commissioner of Labor and Workforce Development adopts rules and regulations to enforce the law.

Penalties for Non-Compliance

Covered hotels that fail to provide required panic devices to their employees or fail to uphold their obligations under the law could face civil penalties in the amount of \$5,000 for a first violation, and \$10,000 for each subsequent violation.

Similar Action Around the Country

Protecting hotel and related industry workers remains a hot topic among state and local legislatures. Similar protections for hotel workers are being considered in the Illinois legislature—the Hotel and Casino Employee Safety Act. A copy of the bill is available [here](#). This follows an ordinance passed by the City of Chicago on October 11, 2017—the Hotel Workers Sexual Harassment Ordinance—requiring Chicago hotels to provide panic buttons or notification devices to certain hotel employees. We previously published an alert regarding the Chicago ordinance [here](#). The full text of the ordinance can be found [here](#), and a link to FAQs regarding the ordinance is available [here](#).

Seyfarth Shaw LLP Management Alert | June 19, 2019

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Washington state passed a law on May 13, 2019, addressing sexual harassment in the workplace, which also requires a “panic button” be provided to employees including janitors, security guards, hotel or motel housekeepers, or room service attendants. The Washington state law is set to take effect on July 28, 2019. A copy of the law is available [here](#). Finally, Miami Beach also passed an ordinance designed to protect these workers by requiring employers to provide “panic buttons,” which is set to take effect on August 1, 2019. A copy of the ordinance is available [here](#).

Employer Takeaways

The New Jersey law is set to take effect on January 1, 2020. Employers need to start considering the costs and burdens of compliance. This includes assessment of how many employees will require the panic devices, what updates need to be made to employee handbooks or other training materials, and how employers will notify guests about the panic device policy.

If you would like further information, please contact [Howard M. Wexler](#) at hwexler@seyfarth.com.

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