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SENATE BILL 1068

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

John Arthur Smith

AN ACT

**RELATING TO PUBLIC SAFETY; ESTABLISHING REASONABLE PRECAUTIONS
FOR THE SAFETY OF CONVENIENCE STORE PERSONNEL.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. SHORT TITLE.--This act may be cited as the
"Reasonable Precautions for Convenience Stores Act".**

**Section 2. DEFINITIONS.--As used in the Reasonable
Precautions for Convenience Stores Act:**

**A. "American society for testing materials standard
D3935" means the American society for testing materials
classification standards for transparent polycarbonate bullet-
resistant materials;**

**B. "B rated" means a safe box industry standard
that, at a minimum, conforms to the specifics of a one-fourth
inch body and a one-half inch door constructed of steel or an**

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1 equivalent material;

2 C. "convenience goods" means articles that are
3 purchased frequently for immediate use in readily accessible
4 stores and with a minimum of effort. "Convenience goods"
5 includes consumable items that are generally limited in
6 quantity and variety and sold in their original containers.
7 "Convenience goods" is not intended to exclude convenience
8 stores that sell a small quantity of fresh food or unpackaged
9 products in addition to other convenience goods;

10 D. "convenience store" means a business that is
11 primarily engaged in the retail sale of convenience goods, or
12 both convenience goods and gasoline, and employs one or more
13 employees during the normal operating hours of the
14 establishment. "Convenience store" excludes businesses that
15 operate as hotels, taverns, lodging facilities, restaurants,
16 stores that sell prescription drugs, gasoline service stations,
17 grocery stores, supermarkets, businesses that have more than
18 ten thousand square feet of retail floor space, farmers'
19 markets, roadside stands, on-site farm markets and other
20 agricultural activities or operations;

21 E. "department" means the department of
22 environment;

23 F. "depository or time lock safe" means a B rated
24 or higher-rated safe box equipped with an electronic or
25 manually programmed time lock or drop slot that prevents

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1 unauthorized access;

2 G. "employer" means the owner or operator of a
3 convenience store;

4 H. "pass-through window" means a manually operated
5 mechanical pass-through trough, front-loading deposit door or
6 other similar device that is encased in a transparent
7 polycarbonate window or other bullet-resistant material that
8 meets American society for testing materials standard D3935 or
9 underwriters laboratory standard 752;

10 I. "secretary" means the secretary of environment;

11 J. "security alarm system" means:

12 (1) a device or series of devices, including a
13 single interconnected system of cellular or private radio
14 signals, used to notify law enforcement or a private security
15 agency of an unlawful act in progress; or

16 (2) a security surveillance system with in-
17 house, twenty-four-hour employer-staffed central monitoring
18 capacity away from a convenience store and with the ability to
19 notify law enforcement or a private security agency of an
20 unlawful act in progress;

21 K. "security surveillance system" means a video or
22 digital camera surveillance system that is capable of recording
23 and retrieving a clear video or digital recorded image;

24 L. "service counter" means, at a minimum, the
25 counter space designated by the employer to include the service

1 transaction area of the money register and the surrounding
2 perimeter; and

3 M "underwriters laboratory standard 752" means the
4 underwriters laboratory standards for transparent polycarbonate
5 bullet-resistant materials.

6 Section 3. EMPLOYEE CRIME PREVENTION AND SAFETY TRAINING
7 REQUIRED. --

8 A. An employer shall provide employees at the time
9 of initial hire, and within four-month intervals thereafter,
10 crime prevention and safety training in accordance with a
11 written training curriculum that shall include:

12 (1) discussion of problems related to the
13 specific site;

14 (2) an overview of the potential risk of
15 assault;

16 (3) operational procedures, such as cash-
17 handling rules, that are designed to reduce risk;

18 (4) proper use of security measures and
19 engineering controls that have been adopted in the workplace;

20 (5) behavioral strategies, including conflict
21 resolution and aggression management techniques, to defuse
22 tense situations and reduce the likelihood of violence;

23 (6) specific instructions on how to respond to
24 a robbery and how to respond to attempted shoplifting; and

25 (7) emergency action procedures to be followed

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1 in the event of a robbery or violent incident.

2 B. Training shall be conducted in a language that
3 is understood by the employee and approved by the employer.

4 C. Store-specific training shall be conducted by an
5 employee's immediate supervisor.

6 D. Current employees shall receive training within
7 ninety days of the effective date of the Reasonable Precautions
8 for Convenience Stores Act.

9 E. The training shall be documented for each
10 employee. The documentation shall include a signed statement
11 indicating the date, time and place safety training was
12 received and shall be kept for a period of at least twelve
13 months, or six months after an employee is terminated.

14 Section 4. LATE NIGHT SECURITY REQUIRED. -- A convenience
15 store operating between the hours of 11:00 p.m. and 5:00 a.m.
16 shall protect employees during those hours by keeping no more
17 than fifty dollars (\$50.00) in any cash register in that time
18 period and by:

19 A. taking staffing precautions, including:

- 20 (1) staffing the store with at least two
21 employees per shift;
22 (2) hiring on-premises security personnel;
23 (3) controlling access to the employee by
24 means of a secured safety enclosure of transparent polycarbonate
25 or other bullet-resistant material that meets American society

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1 for testing materials standard D3935 or underwriters laboratory
2 standard 752;

3 (4) providing a pass-through window of
4 transparent polycarbonate or other bullet-resistant material
5 that meets American society for testing materials standard
6 D3935 or underwriters laboratory standard 752 that restricts
7 access to and encompasses the service counter area, and
8 provides an enclosure that extends not less than five feet
9 above the service counter; or

10 (5) upon closing the store, conspicuously
11 posting signs stating that the store is closed and prohibiting
12 all sales transactions while allowing employees to perform
13 duties such as store stocking, maintenance, cleaning and other
14 non-sales transaction duties; and

15 B. taking lighting precautions, including providing
16 and maintaining exterior lighting that ensures clear visibility
17 of the parking areas, walkways, building entrances and exits,
18 pay telephones and gasoline pump areas during all evening
19 operating hours; or

20 C. applying for an exemption from late-night
21 security measures after providing verification from an
22 appropriate law enforcement agency that the convenience store
23 has not experienced within the past two years of the request
24 for exemption a murder, robbery, sexual battery, aggravated
25 assault, aggravated battery, kidnapping or false imprisonment

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1 as defined by the Criminal Code.

2 Section 5. LIMITS ON SIGNS--POSTING A NOTICE REQUIRED. --

3 A. An employer shall maintain door and window signs
4 so that a clear and unobstructed view of the service counter
5 and cash register exists from outside the building.

6 B. An employer shall provide an unobstructed view
7 throughout the store from the service counter area. This may
8 be accomplished by different means, including mirrors and video
9 monitors.

10 C. An employer shall conspicuously post a notice in
11 English and in Spanish stating that there is:

- 12 (1) a safe in the store;
- 13 (2) an active security alarm system in the
14 store;
- 15 (3) an active security surveillance system in
16 the store;
- 17 (4) a limited amount of cash in the cash
18 register; and
- 19 (5) no employee ability to access the contents
20 of the safe.

21 Section 6. SECURITY SURVEILLANCE SYSTEM REQUIRED. --

22 A. A convenience store shall have a fully
23 operational security surveillance system that records a
24 continuous unobstructed view of the service counter area and
25 all entryways and exits during all operating hours and that

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1 includes a high resolution black and white or color screen
2 monitor with on-screen date and time capabilities available on
3 playback.

4 B. The employer shall conduct a monthly maintenance
5 inspection of the security surveillance system, make necessary
6 maintenance inspections and repairs to ensure full-time proper
7 operation of the security surveillance system and, in the event
8 of a mechanical malfunction that exceeds a seventy-two hour
9 period, provide alternative security that may include closure
10 of the premises.

11 C. The employer shall maintain a video or digital
12 library of all in-store transactions recorded by the security
13 surveillance system during normal operating hours of the
14 convenience store for a period of no less than twenty business
15 days.

16 Section 7. SECURITY ALARM SYSTEM REQUIRED. -- The employer
17 shall:

18 A. provide, maintain and document in each
19 convenience store a fully operational security alarm system
20 with a working, portable, accessible personal panic alarm for
21 each on-duty employee that, when activated, notifies law
22 enforcement, a private security agency or an employer's in-
23 house central monitoring system when an unlawful act is in
24 progress; and

25 B. conduct monthly maintenance inspections and make

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1 all necessary repairs to ensure the proper operation of the
2 security alarm system and, in the event of an extended
3 mechanical malfunction that exceeds an eight-hour period,
4 provide alternative security that may include closure of the
5 premises.

6 Section 8. DEPOSITORY OR TIME-LOCK SAFE REQUIRED. --

7 A. An employer shall provide:

8 (1) at least one B rated or higher-rated
9 depository or time lock safe in each store to ensure controlled
10 access to cash; and

11 (2) monthly maintenance inspection and
12 necessary repairs to ensure the full-time proper operation of
13 the depository or time-lock safe system so that, in the event
14 of an extended mechanical malfunction of the depository or
15 time-lock safe system that exceeds an eight-hour period,
16 alternative security that may include closure of the premises
17 or inspection and maintenance of an in-store central monitoring
18 system is provided.

19 B. The location of a depository or time-lock safe
20 may be determined by the employer but shall be located within
21 the service counter area, or in an office adjacent to the
22 service counter area.

23 Section 9. DOCUMENTATION OF SECURITY MEASURES REQUIRED. --

24 A. An employer shall maintain for a period of at
25 least twenty-four months all employee training, inspections,

1 servicing, alterations and upgrades performed on required
2 security surveillance systems, security alarm systems and
3 depository or time-lock safe systems; and

4 B. make available documentation of its employee
5 training, on maintenance, inspection and repairs on required
6 security surveillance systems, security alarms systems and
7 depository or time-lock safe equipment within one hundred
8 twenty days, not including weekends and holidays, of a
9 department request.

10 Section 10. PENALTIES.--Failure to make documentation
11 available on request of the department within one hundred
12 twenty days shall subject the employer to the penalties
13 provided in Section 50-9-24 NMSA 1978.

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