

New York HERO Act: What Employers Need to Know

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On September 6, 2021, New York State Governor Kathy Hochul announced the requirement for New York employers^[1] to implement their plans for the prevention of airborne infectious disease exposure pursuant to the [New York State Health and Essential Rights Act](#) (“HERO Act”). This requirement arose in response to the New York Department of Health’s September 6, 2021 [designation of COVID-19](#) as a contagious communicable disease that presents a serious risk of harm to public health under the HERO Act.

About the HERO Act

The HERO Act, signed into law on May 5, 2021, mandates that employers enact certain health and safety requirements to protect their employees during an airborne infectious disease outbreak. The HERO Act is not specific to COVID-19 and is intended to ensure that New York employers have a safety plan in place in the event of any airborne infectious disease.

The New York Department of Labor, in collaboration with the New York Department of Health, has developed a model Airborne Infectious Disease Exposure Prevention Plan, as well as eleven industry specific Model Plans, which may be accessed from the Department of Labor’s [NYS HERO Act page](#). Employers can choose to adopt the relevant model plan, or establish an alternative plan that meets or exceeds the HERO Act’s minimum requirements. Plans should include:

- Health Screenings
- Testing and quarantining
- Face covering requirements
- Physical distancing
- Hand washing facilities
- Cleaning and disinfection
- Personal Protective Equipment (where applicable)

Next Steps for New York Employers

With the designation of COVID-19 as an airborne infectious disease, New York employers covered by the HERO Act should: (1) immediately review their Airborne Infectious Disease Exposure Prevention Plan and update it if necessary; (2) activate their plan; (3) verbally review the plan with their employees; and (4) provide each employee with a copy of the plan in English or the employee’s primary language. The plan should also be posted at the employer’s worksite. Additionally, employers should add or update their Employment Handbook as appropriate.

If you are a New York employer and need help navigating the HERO Act’s requirements or any other employment laws, contact [Tracy Armstrong](#) or another member of the Wilentz [Employment Law](#) Team.

^[1] The HERO Act covers most private employers, but does have some exclusions.

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