

EssilorLuxottica

September 3, 2024

Chair David Thomas and Board Members
Occupational Safety & Health Standards Board
Department of Industrial Relations, State of California
2520 Venture Oaks Way
Suite 350
Sacramento, CA 95833

Submitted electronically: oshsb@dir.ca.gov; EBerg@dir.ca.gov

**RE: PROPOSED REGULATION FOR PROPOSED SB 553 IMPLEMENTATION REGARDING
WORKPLACE VIOLENCE**

Dear Chair Thomas and Members of the Board:

EssilorLuxottica is a global leader in the design, manufacture and distribution of ophthalmic lenses, frames and sunglasses. Our retail brands, include Sunglass Hut, LensCrafters, Pearle Vision, Target Optical, Oakley, and Ray Ban among others. Collectively, we have more than 500 locations across California and employ over 5700 people. Additionally, we have two manufacturing sites and several labs in the state.

EssilorLuxottica is submitting this comment letter on the proposed regulation interpreting the workplace violence regulatory mandate of Senate Bill 553 (Cortese) ("SB 553"), passed in 2023, codified into Labor Code Section 3343. We appreciate the opportunity to share our thoughts on this important issue.

We will provide comments both on the Workplace Violence General Industry Draft, dated July 15, 2024 (the "Proposed Regulation") and on general concerns related to employers' obligations surrounding workplace violence.

One Size Fits All Is Not Feasible

The Proposed Regulation provision related to Engineering Controls & Work Practice Controls attempts to mandate a "one size fits all" approach that is not conducive to conducting business in retail establishments.

Keeping employees safe in the workplace is a number one priority, and access to eye health care and products is also a critical component for our patients/customers. As written, the provisions may be feasible for warehouses, banks or large buildings that house many employees but will not be practical where customer traffic is present throughout the day like in small retail operations.

Prescriptive Engineering Controls Cause Disproportionate Hardship

“Engineering controls” means an aspect of the built space or a device that removes a hazard from the workplace or creates a barrier between the worker and the hazard. For purposes of reducing workplace violence hazards, engineering controls include, but are not limited to: electronic or mechanical access controls to employee occupied areas; weapon detectors (installed or handheld); enclosed workstations with shatter-resistant glass; deep service counters; spaces configured to optimize employee access to exits, escape routes, and alarms; separate rooms or areas for high risk persons; locks on doors; furniture affixed to the floor; opaque glass (protects privacy, but allows employees to see where potential risks are); improving lighting in dark areas, sight-aids, improving visibility, and removing sight barriers; video monitoring and recording; and personal and workplace alarms.”

Proposed Section 3343(b)(2) defines “Engineering controls.” The following aspects of the definition would be infeasible or cause hardship on our organization:

- **ACCESS CONTROLS:** Our brick-and-mortar stores are designed for customers to touch, see and try on the eyewear they are seeking. Adding access control to employee occupied areas would not allow customers to freely enter the establishment and shop or receive the eye care services they need. Requiring additional access control to inventory areas may increase the likelihood of dangerous interactions between staff and assailants, and is inconsistent with the Proposed Regulation’s requirement in Section (c)(10)(B) that employers shall not require or encourage employees to confront persons suspected of committing a criminal act. In high-risk locations security guards can control the front doors or magnetic locks can be installed so the door can remain locked from the outside but unlocked from the inside. As part of the required risk assessment, retailers should have reasonable discretion to determine which locations would benefit from enhanced security measures at the front door, not a requirement for all locations when it is not necessary across the entire fleet.
- **WEAPON DETECTORS:** Smaller footprint retail establishments are not set up to screen customers for weapons, nor would customers appreciate having to walk through a metal detector or be patted down with a handheld device. Furthermore, our employees would be placed in uncomfortable situations more likely to trigger adverse events if they are having to examine customers in this way. We take these potential situations very seriously, however, which is why we have developed a robust, comprehensive program on active shooter events that is a mandatory training for all our employees. This is in addition to the comprehensive Workplace Violence and Harassment plan we have instituted in compliance with SB 553.

EssilorLuxottica locations do not permit weapons in the workplace and make significant efforts through policies and signage to ensure this. Any concerns employees have regarding weapons brought to the workplace by either an employee or customer gets reported through the proper channels and is addressed appropriately.

- **WORKSTATION ENCLOSURES:** Enclosing workstations with any sort of glass or deep service counters hinders free flow of conversation between customer/employee as well as prohibiting services in some locations. EssilorLuxottica locations that sell prescription eyewear require employees to take measurements, conduct eye health testing, and ensure that the finished product is a perfect fit for the consumer. As an optical retailer interacting with customers, barriers are not practical to provide our customers with the service they need.

The types of incidents that our California locations experience most frequently include suspects coming in off the street with the intent to steal large amounts of eyewear. In some instances, without provocation, the thefts turn into robbery incidents because the suspects brandished a weapon or assaulted the employee. Because the target of the criminal activity is luxury and fashion product, we have installed locking fixtures in 25 locations across California that place the desired eyewear behind glass and non-accessible to customers. The fixtures require an employee to lock and unlock the mechanism so the product can be tried on. Although effective as a security deterrent, it's not a favorable solution in non-high-risk stores due to customers wanting to freely try on eyewear. Further, it does not prevent all adverse events, as there have been instances where suspects destroy the security glass off the fixtures to steal the product.

- **SPACE CONFIGURATION:** Often the space being occupied to sell eyewear is predetermined by a mall, strip center, or host. This is an agreement between the lessor and lessee. Reconfiguring small footprint stores to accommodate the proposed requirements is not a practical option for these types of spaces. As part of the overall Workplace Violence Prevention plan, retailers should be providing employees with training that allows them to remain safe and know what to do during an emergency, including how to escape. As an example, we operate in various host locations throughout California. Inside of a large footprint host, barriers are often present and cause blind spots for our employees. The barriers are usually a large pillar that is designed to keep the structure of the building intact. As a lessee of the host, we cannot prevent nor remove the barrier, therefore we cannot control the environment as the Proposed Regulation is requiring.
- **VIDEO MONITORING and ALARMS:** When a retailer has hundreds if not thousands of locations throughout the country, providing continuous video monitoring or personal alarms is not always possible. In higher-risk locations, cameras can be monitored throughout the day by our Command Center. Employees are encouraged to contact police immediately, then the Command Center, if they feel unsafe. In the state of California, we have almost 300 locations that have cameras. Some of the locations can be remotely viewed, while in others the employees have access to review footage. We also have dedicated personnel in the state of California that investigate robberies, assaults, threats, and critical incidents and regularly share that information with law enforcement.

Prescriptive Work Practice Controls Cause Disproportionate Hardship

“Work practice controls include, but are not limited to: appropriate staffing levels; provision of dedicated security personnel; an effective means to alert employees of the presence, location, and nature of a security threat; control of visitor entry; methods and procedures to prevent unauthorized firearms and weapons in the workplace; employee training on workplace violence prevention methods; and employee training on procedures to follow in the event of a workplace violence incident or emergency.”

Proposed Section 3343(b)(7) defines “Work practice controls.” The following aspects of the definition would be infeasible or cause hardship on our organization:

- **SECURITY PERSONNEL:** As part of the risk assessment and monitoring of workplace safety, retailers should know which locations need continuous security guard services and which do not. Keeping a security guard from open to close inside of a retail store in the state of California can cost upwards of \$150K per year. The cost of security personnel has been inflated due to demand of needing guards throughout the state due to repetitive theft incidents and safety concerns plaguing retailers. Mandating that all stores need a security guard is prohibitive due to cost and is not necessary in every location. We believe it amounts to an unconstitutional government-mandated outsourcing of state police power.

In the state of California, we have spent more than \$1 million YTD 2024 on security guard services. Some locations have been upgraded to enhanced security services, which includes the guards protecting the front door by reducing customer capacity to mitigate the flash mobs from entering the store. Even in locations that have security personnel controlling the front door, groups of suspects have pushed through the guard to reach the product they want to steal. Unnecessary mandated security costs will simply lead to higher costs for consumers across all business sectors.

In summary, the Proposed Regulation needs to be more performance oriented, not prescriptive. We take seriously the safety of our associates and our customers. Retailers cannot succeed without the partnership of our associates, nor if our customers feel unsafe and unwilling to visit our locations. The current draft regulations should have flexibility to tailor effective security solutions that are most appropriate and for diverse business environments. The language as currently written does not illustrate the least restrictive or cost-effective means to accomplish the goal, and in some cases may lead to more hardships for retail employees.

We appreciate the opportunity to provide comment and look forward to participating in the advisory committee process.

Sincerely,

Tillie Fowler

Tillie Fowler
Head of Government Relations, North America

Copy: Mike Mott mmott@essilorluxottica.com
Jane Lehman jlehman@us.luxottica.com
Millie Kresevich mfilipov@luxotticaretail.com