

## **SUBMISSION**

### **WORKER PROTECTION CONSULTATION**

JUNE 2025

The Australian Retailers Association (ARA) and National Retail Association (NRA) welcome the opportunity to provide feedback on the Worker Protection Consultation.

The ARA and the NRA, which propose to amalgamate into the Australian Retail Council (ARC), represent a \$430 billion sector that employs 1.4 million Australians—one in ten workers—making retail the nation's largest private sector employer and a cornerstone of the Australian economy.

Our combined membership spans the full breadth of Australian retail: from family-owned small and independent businesses, which comprise 95% of our membership, to the largest national and international retailers that support thousands of jobs and sustain communities across both metropolitan and regional Australia. Our industry operates more than 155,000 retail outlets nationwide, with the majority of those also represented by an online or e-commerce presence.

A strong retail sector delivers widespread benefits to all Australians, with a significant portion of every dollar spent in retail flowing back into employees, suppliers, superannuation funds, and local communities. We are united in advocating for the policy settings, reforms and collaboration that will drive growth, resilience, and long-term prosperity for Australian retail and the millions who rely on it.

## **EXECUTIVE SUMMARY**

The ARA and NRA (the association) welcome the Victorian Government's commitment to strengthening protections for customer-facing workers through the development of new criminal offences. Our associations represent thousands of businesses across the retail, fast food, hospitality and transport sectors, employing a workforce that is increasingly exposed to aggression, threats and violence in the course of their daily duties.

The rise in abusive and violent behaviour towards frontline workers is well documented and deeply concerning. It creates unsafe workplaces, contributes to staff turnover and psychological harm, and undermines the integrity of the service economy. While existing criminal offences provide some coverage, enforcement is often inconsistent and common forms of harm, particularly verbal abuse, intimidation and group-based theft, remain under-addressed in practice.

We strongly support the introduction of new indictable and summary offences that specifically recognise and deter violence against protected workers. However, we believe additional reforms are necessary to ensure the legislation fully reflects the nature of retail and hospitality environments.

Together, the associations recommend:

- Expanding the offence scope to include retaliatory or off-duty conduct clearly linked to prior workplace duties. This would be consistent with the "in the course of duties" test adopted in New South Wales.
- Ensuring the definition of "protected worker" explicitly includes contracted and third-party personnel, such as security guards and cleaners operating in public-facing roles.
- Introducing either a dedicated offence or sentencing aggravation for intimidation, harassment and repeated verbal abuse. These are common, harmful, and insufficiently captured by existing laws.
- Considering a tailored offence or specific aggravating factor for swarming-style group thefts. These incidents often involve coordinated intimidation and significant disruption that go beyond typical property offences.
- Monitoring the enforcement of smash-and-grab and ram-raiding conduct. The Victorian Government should evaluate whether a targeted offence, similar to the model introduced in the Northern Territory, is required.

- Prioritising the development of Workplace Protection Orders in reform work. These orders would give employers and police the legal mechanism to prevent known repeat offenders from returning to retail premises.

## STATISTICAL BACKGROUND

The ARA and NRA is deeply concerned by the escalating levels of aggression, intimidation and violence experienced by customer-facing workers across Victoria and nationally. Data from Auror, the SDA and law enforcement authorities demonstrate that retail crime is not only increasing in volume, but is becoming more frequent, brazen and harmful to workers and the broader community.

### National and Victorian Crime Trends

- The top 10 percent of offenders are responsible for approximately 60 percent of total harm and loss, highlighting the urgent need for tools that address repeat and high-risk individuals.
- Weapon-related incidents increased by 66 percent in 2024, with knives and blades accounting for over 50 percent of all weapon-related retail crime events.
- Intimidating or threatening events rose by 39 percent, while violent or serious incidents increased by 30 percent nationally.
- In Victoria specifically:
  - Threatening events rose by 52 percent.
  - Serious incidents rose by 38 percent.
- Nearly 1 in 4 retail crime events involved violence, intimidation, threats, or physical or verbal abuse.

### Worker Impact

- According to the SDA's 2023 national survey, 87 percent of retail workers experienced verbal abuse, and 52 percent reported being abused more than once by the same individual.
- Repeat and targeted abuse is a growing pattern. It contributes to psychological distress, increased absenteeism, and high staff turnover in customer-facing roles.

### Policing and Enforcement Disparities

- In contrast to South Australia, where 90 percent of retailers reported feeling supported by police, only 10 percent of Victorian retailers felt similarly supported, according to the 2024 PPFF ANZ Retail Crime Study.
- This gap highlights the importance of introducing clear and enforceable offences that provide police and prosecutors with effective tools to respond.

## CONSULTATION QUESTIONS

### 1. Are the proposed offences, in combination with the existing general offences, suitable to capture concerning behaviour in customer-facing contexts?

The association strongly support the introduction of new offences that specifically recognise and respond to harm directed at customer-facing workers. An indictable and summary offence are needed to better reflect the seriousness and prevalence of abuse, aggression and violence in retail, fast food, hospitality and passenger transport environments.

The introduction of a new indictable offence, without the requirement to prove intent to commit an indictable offence, is a positive and necessary reform. It will align protections for customer-facing workers with those currently available to emergency and custodial workers under section 31(1)(b) of the *Crimes Act 1958 (Vic)*. The proposed summary offence for assaulting or resisting a protected worker will also fill a gap by creating a clearer, lower-threshold option for police to charge offenders in response to frontline incidents.

However, we are concerned by the exclusion of intimidation and harassment from the scope of these reforms. These behaviours are not uncommon. They are often repeated and targeted, and they cause real harm to workers. Without an explicit offence or aggravating factor, these incidents are unlikely to be charged under existing general offences, particularly in the absence of physical violence.

As such, we recommend the Victorian Government to include intimidation and harassment as aggravating elements within the proposed summary offences.

## **2. Are the example definitions of the protected workers suitable? If not, what alternatives could be considered?**

The association support the inclusion of retail, fast food, hospitality and passenger transport workers as protected workers under the proposed offences. This reflects the sectors where frontline workers are most frequently exposed to customer aggression and abuse. We also welcome the inclusion of roles such as cleaners and security staff, which are often exposed to similar risks in customer-facing environments.

However, we recommend greater clarity and inclusiveness in how the term “protected worker” is defined. The legislation should account for the diversity of employment models in modern customer-facing work environments and ensure protection applies to all workers carrying out relevant duties, regardless of who employs them or their contractual arrangements. Ensure explicit inclusion of:

- Casual, part-time and labour hire employees, who make up a significant share of the customer-facing workforce.
- Third-party contractors and outsourced workers, such as security guards and cleaners who may not be directly employed by the retail or hospitality business but who interact with customers on-site.
- Roving or mobile roles, including delivery drivers, visual merchandisers, trolley collectors and other staff who regularly interact with customers outside a single premises.

## **3. Are there any gaps in the range of offences available if a worker is on duty or off duty?**

The association supports expanding the proposed offence scope to ensure that it includes conduct that occurs outside the workplace or after a shift, where there is a clear connection to the worker’s duties. Abuse or retaliation that occurs after a worker has enforced store policies or refused service is often directly linked to their role, even if it occurs off-site or while they are off duty. The current proposal focuses primarily on “on duty” protection and does not clearly cover these circumstances.

The association recommends that Victoria adopt an approach consistent with New South Wales, where protections apply to conduct that occurs “in the course of duties.” This broader definition includes incidents that take place outside work hours if the harm stems from a worker’s actions during their employment:

- Expand the offences to apply to retaliatory conduct that occurs after a worker has completed a shift, provided it is clearly linked to a workplace interaction or decision.
- Mirror the NSW “in the course of duties” test, which ensures legal protection even if the abuse takes place later or off-site, so long as it is connected to work-related duties.

## **4. Is there harmful conduct occurring in retail, fast food, hospitality or passenger transport workplaces that is not captured by the existing and proposed offences?**

The association supports the introduction of new indictable and summary offences that directly address assaults and resistance against customer-facing workers. However, as previously noted in question one there remains a significant gap in how the legal system recognises and responds to non-physical forms of harm, such as verbal abuse, intimidation, harassment and repeated low-level aggression.

## **5. What do you understand ‘swarming’ conduct to involve?**

The association understands swarming conduct to involve a coordinated group of individuals entering a retail premises for the purpose of stealing goods, often with the use of intimidation, speed and numbers to overwhelm staff and bypass store security. This behaviour may or may not involve physical violence but typically results in distress, fear and disruption for workers and customers.

Swarming is distinct from typical theft due to its group dynamic, intentional use of intimidation, and the rapid execution of the offence. It is often pre-planned and may be associated with organised or repeat offending. These incidents are becoming more frequent in both high-value retail environments (such as electronics or luxury goods) and everyday grocery and liquor settings.

Swarming causes harm not only through economic loss but also by creating unsafe working conditions, particularly when staff are outnumbered and unable to intervene or leave the premises safely.

Characteristics of Swarming Conduct:

- A group enters the store at the same time, often in a sudden and coordinated manner.
- Offenders target specific goods and remove them quickly.
- Staff are outnumbered and intimidated, and customers may also feel unsafe.
- Offenders may wear masks or hoods, and incidents are often recorded or shared on social media.
- Property damage, verbal abuse or minor assaults may occur in the process, but even when these do not occur, the conduct is inherently threatening and disruptive.

**6. Do you consider that Victoria's current offences, such as theft, affray, robbery, burglary and/or property damage adequately address 'swarming' conduct? If not, why not?**

The association does not consider that current offences fully or adequately address swarming conduct. While charges can be laid using existing provisions, such as theft or affray, these do not reflect the deliberate use of group dynamics to intimidate staff, nor the psychological harm and operational disruption that result. As a consequence, responses can be inconsistent, and sentencing may not reflect the seriousness of the conduct.

The association supports consideration of a tailored offence or, at minimum, a sentencing aggravation to ensure swarming is appropriately recognised in law. The associations rationale for this view is that:

- Swarming sits between traditional theft and violent disorder. It often lacks explicit threats or violence, making it difficult to charge under existing affray or robbery provisions.
- Workers experience intimidation, helplessness and fear, even in cases where no physical contact occurs.
- A specific offence would provide greater clarity for enforcement, better reflect the impact on workers, and assist with tracking and responding to organised retail crime.

**7. Are there characteristics of 'smash and grab' or 'ram-raiding' that are not captured by existing criminal offences?**

The association agrees that existing offences can be used to prosecute most aspects of smash and grab and ram-raiding conduct. However, we believe that current charges may not fully reflect the organised, high-impact and violent nature of these incidents, nor the trauma experienced by retail workers who are present during such events.

We recommend the Victorian Government monitor enforcement outcomes and consider whether a targeted offence or charging guideline is required to ensure consistency and proportionality in response. The recent approach taken in the Northern Territory offers a useful model for consideration. The associations rationale for this view is:

- Smash and grab and ram-raid incidents often involve the deliberate use of tools or vehicles to force entry into retail premises, often at speed and with disregard for safety. These features are not always fully reflected in burglary or damage charges.
- These incidents are frequently premeditated, involve stolen vehicles and cause extensive property damage, business interruption and psychological harm.
- Current charging practices rely on assembling multiple offences, which may vary depending on the attending officers, leading to inconsistency in sentencing outcomes.
- The Northern Territory has introduced a standalone offence that criminalises the use of a vehicle to unlawfully enter a building with intent to steal. This model allows for clearer enforcement and sentencing, and better recognition of the harm caused.

**Supporting Evidence**

- In early 2025, Victoria experienced a wave of ram-raids targeting high-value retailers in Melbourne, with six luxury stores hit in just weeks, and \$1.2 million in goods stolen. Multiple stores were targeted more than once in coordinated attacks.

### **Workplace Protection Orders (WPOs) – Out of Scope but Strongly Supported**

While not part of the proposed legislative reform package, the association urges the Victorian Government to prioritise the development of Workplace Protection Orders (WPOs) as a policy measure to protect customer-facing workers from repeat harm.

WPOs would provide a legal mechanism for employers and police to apply for court-issued orders that prevent individuals from returning to a workplace following abusive, threatening or violent conduct. These orders would be particularly valuable in circumstances where criminal charges are not laid, or where the conduct does not meet the threshold for prosecution but still creates a risk to workers. WPOs are an essential piece of form as:

- In many cases, employers have no enforceable way to prevent a known offender from re-entering a store where they have previously caused harm.
- WPOs would empower businesses to take proactive and preventative action to protect their teams, especially in high-risk or repeat situations.

The ACT has implemented a WPO model under the *Work Health and Safety Act*, and South Australia has developed a similar framework. These examples provide useful legislative starting points for Victoria.

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The ARA and NRA appreciate the opportunity to contribute to this important discussion.

We encourage the Government to continue collaborating with business groups and service providers to ensure any future reforms are practical, enforceable and responsive to the operational realities of customer-facing workplaces.

Any queries in relation to this submission can be directed to our policy team at [policy@retail.org.au](mailto:policy@retail.org.au).