

retail environments

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STILL NOT SAFE to come out

Keeping displays from extending into areas that cause hazards

By Jerry Birnbach

A hazard epidemic is sweeping across today's retail stores, and America's retailers are not doing enough to keep it from spreading.

The disconnect in solving the problem exists between the corporate and store level. Corporate employee handbooks, safety manuals, and merchandising guides address customer safety issues, procedures, and protocols—some in a general sense, others very specific in staff training. All guidelines are established to ensure what the law expects from retailers: to reasonably ensure a safe, hazard-free shopping venue.

In over 200 retail liability cases in six years, I've seen a common thread: All injuries were preventable if the staff had followed the safety guidelines to the letter. Accidents result when aisle space is converted into sales floor space after the store receives a certificate of occupancy based on a fixture plan approved by the local building department.

What's happening

For store planners, the adage "form follows function" was the rule for designing a store. The function today is established by ADA regulations, which clearly address aisle widths, alignment of gondola runs, elimination of obstructions, and customer access to product. Once the store layout meets these defined functions, the form of displays and aisles are established to address the needs of the product offering, branding strategy, and other considerations.

The typical issue, based on many plaintiff deposition reviews, is store displays protruding over the building-department-approved layout, creating hazards throughout the stores.



Displays and other items in inappropriate places can create hazards. PHOTO:

Corporate guidelines clearly advise store employees:

- not to extend a product presentation over the display baseline into the aisle.
- not to locate vendor displays or promotional displays in aisles whose width is at ADA minimum.
- not to place pallets in the aisle without loading the product to a 36-in. height and out to within an inch of the pallet's perimeter.
- not to use makeshift tables, boxes, and carts as displays that could cause a trip in a minimal-width aisle or a high-traffic area.

It might seem like common sense to avoid violating these basic regulations, but they are often violated to boost volume and profit for the store with temporary displays.

The rationale appears to be that the dollars-per-square-foot advantage for the store outweighs the risk that the hazardous display condition can impact a customer's safety. Many guidelines require store staff to discover hazards, report the hazards to upper management, and cure the hazard immediately.

Depositions often reveal store employees' failure to realize that a condition was hazardous until someone got injured. On the other side of the equation are cases where the retailer was able to prove by inspection, logs, and staff training that it had taken reasonable steps to ensure a safe, hazard-free venue.

No one wants shoppers to be harmed, yet the cases I handled involved such impacts as broken bones, scarred face, quadriplegia, and loss of sight on customers ranging from 5 to 83 years old.

What to do about it

So who should be more vigilant in order to ensure a safe shopping experience?

Display Manufacturer: Surprised? All too often, the display manufacturer winds up between a rock and a hard place. Vendors supplying displays to the retailer try to keep costs to a minimum. For instance, in the design phase, a vendor might suggest eliminating a 4-in.-high base to save \$40 per display. If the display is going to 1,000 stores, that's a \$40,000 savings. What is not considered is that a display without a base could catch a foot, will not keep a shopping cart away from the product, and can impact the display's safety in other ways. So the display manufacturer needs to draw a line in the sand, explain the safety ramifications, and refuse to make the modification. Several cases have included the display manufacturer as a defendant due to lack of safety compliance.

Corporate Retailer: Retail management at the corporate level needs to enforce planograms, making it clear that any variations are not safe or acceptable. Define lines of demarcation in all stores via a floor plan that restricts any display (permanent or temporary) allowed in that area. Make planograms clearly define the display type, product levels, display components and their location, signs for pricing and safety, such as "ask for assistance" for heavy or large products or those placed on high shelves.

Store Staff: Employees need to participate in proper training methods, refresh training yearly, learn to discover hazards, question any concerns with upper management, and cure any hazards immediately. A vast number of safety procedures are expected of the staff. It is essential for upper management to supervise staff to ensure that they are providing this review, throughout the day, as regulated by the store safety manual. Retail staff need to be assured that reminding an upper management staff member that a display is misplaced will not lead to termination.

If we all take an active role in making the store safe, both retailers and customers will benefit.

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