



# **Employers And Manufacturers Association (EMA)**

**Submission to the**

**Justice Committee**

**On the**

**Crimes Amendment Bill**

**February 2026**

## **Introduction**

The EMA is New Zealand's largest business-focused organisation with our members employing around 15% of New Zealand's workforce.

We have been part of the fabric of the New Zealand business community for 140 years with our membership covering all sectors of business nationally. Our role is to help businesses navigate the complex business environment, advocate for legislative change that smooths the path for business and provide services to our members that help shine a light on the pathway through those complex regulations.

Retail is the third largest segment of our membership and that membership covers small owner/operators all the way up to some of New Zealand's largest and most well-known retailers. About 80% of our membership base is classified as small to medium business.

In talking to our members it is clear, that while largely supportive of the intent of the bill, they are very concerned with aspects of the bill that they believe will cause significant issues for their businesses and their staff.

The EMA shares those concerns and this submission focuses solely on the issues raised by our members.

## **Citizen's Arrest**

There is no support from the EMA or it's members for the expanded powers of Citizen's Arrest nor is there any support for greater use of the current powers as they are regarded as unsafe for staff, a direct contradiction of employers' obligations under the Health and Safety Act and impractical to implement.

Asking retail assistants to detain or restrain perpetrators puts both the employee and the alleged offender at far greater risk of physical harm.

As a personal example my then 17-year-old daughter watched one of her young, female colleagues in a well-known retail store in Auckland's Queen St, get kicked and punched to the ground simply for asking a shoplifter if she was going to pay. The offender then lifted the young woman from the ground by her hair, ripping out a large chunk of hair and taking a piece of scalp with it.

Another of our larger Auckland members has a downtown retail store that is routinely targeted by gang members and prospects who come in looking for the sports gear of their favourite teams in their favoured gang colours.

No employer would knowingly put their employee in the way of such potential harm to carry out a Citizen's Arrest.

Doing so would be a breach of the Health and Safety Act.

The Act explicitly states that employers, as far as reasonably practical, must ensure that the health and safety of others is not put at risk as part of the of the conduct of the business.

Instructing staff to carry out a Citizen's Arrest clearly puts them at risk of physical harm and is an obvious breach of the Act – even when it is rewritten to take a risk-based approach later this year.

As an organisation that teaches Health and Safety to diploma level and has specialist consultants in the field, our advice will remain to simply let offenders go. People may not like the Health and Safety Act, but to do otherwise and instruct staff to intervene is a clear breach of the Act.

Most employers already instruct staff not to intervene or try to physically prevent criminal behaviour now because of that risk. Expecting expanded powers of Citizen's Arrest to somehow reduce current offending or deter potential offenders is just wishful thinking.

As the Police will no doubt explain, many of these offenders are well organised, work in groups – not isolation – and are well aware of what they are up against in the way of security and what measures can be taken against them as offenders, or not.

## **Restraint**

Police are also very well-trained around what they can and can't do in terms of restraint and reasonable restraint. Yet the new Bill allows for citizens to use some form of restraints after they have subdued a potential offender.

Is that now expected to become part of the training of retail assistants?

Potential offenders are also allowed to use reasonable force if they believe they are being unreasonably restrained. Making an allowance for more powers of Citizen's Arrest and the provision for the use of restraints is a straightforward recipe for more physical escalation and harm towards the retailer.

Once restrained and presumably the police are then called, where do you put the alleged offender? Lock them in the toilet? And what are the rules around duty of care while you are restraining that person?

There is also another concern is expanding the power of arrest and providing for the possible restraint of offenders that has been raised in conversations with members working in security firms.

These firms routinely try and screen out what they call “mall cops,” those tempted to try and rush in and physically manage a situation rather than de-escalating the situation. The ‘mall cop’ is a certain type of personality with a braggadocio that encourages intervention as a reaction to a situation.

Encouraging citizen’s arrests and providing for restraint raises a concern from those in the industry about escalation or encouragement of this type of behaviour by their staff to the detriment of their staff and others who may be involved in the situation.

### **Summary**

While supportive of the intent of the legislation the EMA reiterates that it cannot support the expansion of powers of Citizen’s Arrest or support the use of restraints. Both have the potential to escalate a situation and lead to greater hard for those working in retail.

Thanks you for the opportunity to submit. For any queries or clarifications please contact:

Alan McDonald  
Head of Advocacy and Strategy, EMA  
0278074398 or  
[alan.mcdonald@ema.co.nz](mailto:alan.mcdonald@ema.co.nz)