

HOUSE BILL 722

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CF SB 434

By: **Delegates Charkoudian, Brooks, Crutchfield, Cullison, Moon, Palakovich Carr, Rogers, Shetty, Stewart, Turner, Valderrama, and Wilkins**

Introduced and read first time: January 30, 2020

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2020

CHAPTER _____

1 AN ACT concerning

2 **Labor and Employment – Occupational Safety and Health – Heat Stress**
3 **Standards**

4 FOR the purpose of requiring the Commissioner of Labor and Industry, in consultation
5 with a certain entity, to develop and adopt regulations on or before a certain date
6 ~~that include a certain standard establishing certain heat stress levels and to ensure~~
7 ~~that all employers comply with certain requirements with respect to occupational~~
8 ~~exposure to excessive heat; that require employers to protect employees from~~
9 heat-related illness caused by heat stress; requiring Maryland Occupational Safety
10 and Health to hold certain informational meetings before beginning a certain
11 process; requiring the Commissioner to consider certain standards in developing
12 regulations; requiring the Commissioner to report to certain committees of the
13 General Assembly on or before a certain date; requiring certain employers to develop,
14 implement, and maintain a certain excessive heat related illness prevention plan
15 for employees; requiring that certain excessive heat related illness prevention plans
16 be developed in a certain manner, tailored and specific to certain hazards, in writing
17 and in a certain language under certain circumstances, and made available in a
18 certain manner; requiring the plan to include certain procedures and methods;
19 requiring the Commissioner to require certain employers to provide certain annual
20 training and education to certain employees; requiring employers to provide certain
21 training and education to employees who are supervisors; requiring that certain
22 training be provided to certain employees at a certain time and in a certain manner;
23 requiring employers to maintain certain records and data and to make certain
24 records and data available to certain persons on request; requiring employers to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~adopt a certain policy prohibiting certain persons from taking certain actions against certain employees; prohibiting employers from taking certain actions against certain employees for taking certain actions; providing for the construction of certain provisions of this Act; defining certain terms; and generally relating to occupational safety and health and heat stress standards.~~

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 5–101
Annotated Code of Maryland
(2016 Replacement Volume and 2019 Supplement)

BY adding to
Article – Labor and Employment
Section 5–1201 ~~through 5–1203~~ to be under the new subtitle “Subtitle 12. Heat Stress Standards”
Annotated Code of Maryland
(2016 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Labor and Employment

5–101.

(a) In this title the following words have the meanings indicated.

(b) “Commissioner” means the Commissioner of Labor and Industry.

(c) (1) “Employee” means, except as provided in § 5–401 of this title, an individual whom an employer employs, for a wage or other compensation, in the business of the employer.

(2) “Employee” includes:

(i) an individual whom a governmental unit employs;

(ii) an individual who is licensed as a taxicab driver and leases or rents a taxicab from a person who operates or owns a taxicab business in Baltimore City;

(iii) an individual who is employed for part-time or temporary help by a governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help to another governmental unit or person; and

(iv) an individual who performs work for a governmental unit or person to whom the individual is provided by another governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help.

(d) (1) “Employer” means:

(i) except as provided in § 5–401 of this title, a person who is engaged in commerce, industry, trade, or other business in the State and employs at least one employee in that business; or

(ii) a public body.

(2) “Employer” includes:

(i) a person who operates or owns a taxicab business in Baltimore City and leases or rents a taxicab to a licensed taxicab driver, to provide services to the public;

(ii) a governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help to another governmental unit or person; and

(iii) a governmental unit or person who contracts directly with another governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help to another governmental unit or person.

(e) “Occupational safety and health standard” means a regulation that requires:

(1) a condition that is reasonably appropriate or necessary to make employment and places of employment safe and healthful; or

(2) the adoption or use of a means, method, operation, practice, or process that is reasonably appropriate or necessary to make employment and places of employment safe and healthful.

(f) “Person” includes a successor.

(g) “Place of employment” means a place in or about which an employee is allowed to work.

(h) “Public body” means:

(1) a governmental unit;

(2) a public or quasi-public corporation of the State;

(3) a school district in the State or any unit of the district; or

(4) a special district in the State or any unit of the district.

SUBTITLE 12. HEAT STRESS STANDARDS.

5-1201.

(A) (1) IN THIS ~~SUBTITLE~~ SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(B) "EXCESSIVE HEAT" MEANS LEVELS OF OUTDOOR OR INDOOR EXPOSURE TO HEAT THAT EXCEED THE CAPACITIES OF THE HUMAN BODY TO MAINTAIN NORMAL BODY FUNCTIONS AND MAY CAUSE HEAT-RELATED INJURY, ILLNESS, OR FATALITY.~~

~~(C)~~ (2) "HEAT-RELATED ILLNESS" MEANS A ~~SERIOUS~~ MEDICAL CONDITION RESULTING FROM THE INABILITY OF THE BODY TO RID ITSELF OF EXCESS HEAT, INCLUDING HEAT RASH, HEAT CRAMPS, HEAT EXHAUSTION, HEAT SYNCOPE, AND HEAT STROKE.

~~(D)~~ (3) "HEAT STRESS" MEANS THE NET LOAD TO WHICH A WORKER IS EXPOSED FROM THE COMBINED CONTRIBUTIONS OF METABOLIC HEAT, ENVIRONMENTAL FACTORS, AND CLOTHING WORN THAT RESULTS IN AN INCREASE IN HEAT STORAGE IN THE BODY, CAUSING BODY TEMPERATURE TO RISE TO SOMETIMES DANGEROUS LEVELS.

~~5-1202.~~

(B) (1) ON OR BEFORE OCTOBER 1, 2022, THE COMMISSIONER, IN CONSULTATION WITH THE MARYLAND OCCUPATIONAL SAFETY AND HEALTH ADVISORY BOARD, SHALL DEVELOP AND ADOPT REGULATIONS THAT:

~~(1) INCLUDE A STANDARD ESTABLISHING HEAT STRESS LEVELS FOR EMPLOYEES THAT, IF EXCEEDED, TRIGGER ACTION TO PROTECT EMPLOYEES FROM HEAT-RELATED ILLNESS; AND~~

~~(2) ENSURE ALL EMPLOYERS COMPLY WITH THE REQUIREMENTS DESCRIBED IN THIS SUBTITLE WITH RESPECT TO OCCUPATIONAL EXPOSURE TO EXCESSIVE HEAT~~ REQUIRE EMPLOYERS TO PROTECT EMPLOYEES FROM HEAT-RELATED ILLNESS CAUSED BY HEAT STRESS.

(2) BEFORE THE COMMISSIONER BEGINS THE PROCESS FOR DEVELOPING AND ADOPTING THE REGULATIONS REQUIRED UNDER PARAGRAPH (1)

1 OF THIS SUBSECTION, MARYLAND OCCUPATIONAL SAFETY AND HEALTH SHALL
2 HOLD INFORMATIONAL HEARINGS IN FOUR DIFFERENT GEOGRAPHICAL AREAS OF
3 THE STATE FOR THE PURPOSE OF OBTAINING INPUT FROM INTERESTED PARTIES.

4 (3) IN DEVELOPING THE REGULATIONS REQUIRED UNDER
5 PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSIDER
6 STANDARDS CREATED BY THE NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY
7 AND HEALTH, THE AMERICAN CONFERENCE OF GOVERNMENTAL INDUSTRIAL
8 HYGIENISTS, AND THE AMERICAN NATIONAL STANDARDS INSTITUTE.

9 ~~5-1203.~~

10 ~~(A) (1) EACH EMPLOYER SHALL DEVELOP, IMPLEMENT, AND MAINTAIN~~
11 ~~AN EFFECTIVE EXCESSIVE HEAT RELATED ILLNESS PREVENTION PLAN FOR~~
12 ~~EMPLOYEES.~~

13 ~~(2) THE PLAN REQUIRED UNDER PARAGRAPH (1) OF THIS~~
14 ~~SUBSECTION SHALL BE:~~

15 ~~(I) DEVELOPED AND IMPLEMENTED WITH THE MEANINGFUL~~
16 ~~PARTICIPATION OF EMPLOYEES, EMPLOYEE REPRESENTATIVES, AND COLLECTIVE~~
17 ~~BARGAINING REPRESENTATIVES, AS APPLICABLE;~~

18 ~~(II) TAILORED AND SPECIFIC TO HAZARDS IN THE PLACE OF~~
19 ~~EMPLOYMENT;~~

20 ~~(III) IN WRITING AND IN THE LANGUAGE UNDERSTOOD BY A~~
21 ~~MAJORITY OF EMPLOYEES, IF THE LANGUAGE IS NOT ENGLISH; AND~~

22 ~~(IV) MADE AVAILABLE, ON REQUEST, TO EMPLOYEES,~~
23 ~~EMPLOYEE REPRESENTATIVES, AND THE COMMISSIONER.~~

24 ~~(B) EACH PLAN REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL~~
25 ~~INCLUDE PROCEDURES AND METHODS FOR:~~

26 ~~(1) INITIAL AND REGULAR MONITORING OF EMPLOYEE EXPOSURE TO~~
27 ~~HEAT TO DETERMINE WHETHER AN EMPLOYEE'S EXPOSURE HAS BEEN EXCESSIVE;~~

28 ~~(2) PROVIDING POTABLE WATER WITH A TEMPERATURE OF LESS~~
29 ~~THAN 15 DEGREES CELSIUS OR 59 DEGREES FAHRENHEIT;~~

30 ~~(3) PROVIDING PAID REST BREAKS AND ACCESS TO SHADE,~~
31 ~~COOL DOWN AREAS, OR CLIMATE CONTROLLED SPACES;~~

~~(4) PROVIDING AN EMERGENCY RESPONSE FOR ANY EMPLOYEE WHO HAS SUFFERED INJURY AS A RESULT OF BEING EXPOSED TO EXCESSIVE HEAT;~~

~~(5) ACCLIMATIZING EMPLOYEES TO AREAS WHERE EXPOSURE TO HEAT IS PRESENT;~~

~~(6) LIMITING THE LENGTH OF TIME AN EMPLOYEE MAY BE EXPOSED TO HEAT DURING THE WORKDAY;~~

~~(7) IMPLEMENTING A HEAT ALERT PROGRAM TO PROVIDE NOTIFICATION WHEN THE NATIONAL WEATHER SERVICE OR OTHER COMPETENT WEATHER SERVICE FORECASTS THAT A HEAT WAVE IS LIKELY TO OCCUR IN THE FOLLOWING DAY OR DAYS, INCLUDING:~~

~~(I) POSTPONING TASKS THAT ARE NOT URGENT UNTIL THE HEAT WAVE IS OVER;~~

~~(II) INCREASING THE TOTAL NUMBER OF WORKERS TO REDUCE THE HEAT EXPOSURE OF EACH WORKER;~~

~~(III) INCREASING REST ALLOWANCES;~~

~~(IV) REMINDING WORKERS TO DRINK LIQUIDS IN SMALL AMOUNTS FREQUENTLY TO PREVENT DEHYDRATION; AND~~

~~(V) TO THE EXTENT PRACTICABLE, MONITORING THE ENVIRONMENTAL HEAT AT JOB SITES AND RESTING PLACES;~~

~~(8) PREVENTING HAZARDS, INCLUDING THROUGH THE USE OF:~~

~~(I) ENGINEERING CONTROLS THAT INCLUDE THE ISOLATION OF HOT PROCESSES, THE ISOLATION OF EMPLOYEES FROM SOURCES OF HEAT, LOCAL EXHAUST VENTILATION, SHIELDING FROM A RADIANT HEAT SOURCE, THE INSULATION OF HOT SURFACES, AIR CONDITIONING, COOLING FANS, EVAPORATIVE COOLERS, AND NATURAL VENTILATION;~~

~~(II) ADMINISTRATIVE CONTROLS THAT LIMIT EXPOSURE TO A HAZARD BY ADJUSTMENT OF WORK PROCEDURES OR WORK SCHEDULES, INCLUDING ACCLIMATIZING EMPLOYEES, ROTATING EMPLOYEES, SCHEDULING WORK EARLIER OR LATER IN THE DAY, USING WORK-REST SCHEDULES, REDUCING WORK INTENSITY OR SPEED, CHANGING REQUIRED WORK CLOTHING, AND USING RELIEF WORKERS; AND~~

~~(H) PERSONAL PROTECTIVE EQUIPMENT, INCLUDING WATER COOLED GARMENTS, AIR COOLED GARMENTS, REFLECTIVE CLOTHING, AND COOLING VESTS;~~

~~(9) COORDINATING RISK ASSESSMENT EFFORTS, PLAN DEVELOPMENT, AND IMPLEMENTATION WITH OTHER EMPLOYERS WHO HAVE EMPLOYEES WHO WORK AT THE SAME WORK SITE; AND~~

~~(10) ALLOWING EMPLOYEES TO CONTACT THE EMPLOYER DIRECTLY AND EFFICIENTLY TO COMMUNICATE IF THE EMPLOYEE FEELS LIKE THE EMPLOYEE IS SUFFERING FROM A HEAT RELATED ILLNESS.~~

~~(c) THE COMMISSIONER SHALL REQUIRE AN EMPLOYER TO PROVIDE ANNUAL TRAINING AND EDUCATION TO EMPLOYEES WHO MAY BE EXPOSED TO HIGH HEAT LEVELS, INCLUDING TRAINING AND EDUCATION REGARDING:~~

~~(1) THE IDENTIFICATION OF HEAT RELATED ILLNESS FACTORS;~~

~~(2) PERSONAL FACTORS THAT MAY INCREASE SUSCEPTIBILITY TO HEAT RELATED ILLNESS;~~

~~(3) SIGNS AND SYMPTOMS OF HEAT RELATED ILLNESS;~~

~~(4) DIFFERENT TYPES OF HEAT RELATED ILLNESS;~~

~~(5) THE IMPORTANCE OF ACCLIMATIZATION AND CONSUMPTION OF FLUIDS;~~

~~(6) AVAILABLE ENGINEERING CONTROL MEASURES;~~

~~(7) ADMINISTRATIVE CONTROL MEASURES;~~

~~(8) THE IMPORTANCE OF REPORTING HEAT RELATED SYMPTOMS BEING EXPERIENCED BY AN EMPLOYEE OR ANOTHER EMPLOYEE;~~

~~(9) RECORD KEEPING REQUIREMENTS AND REPORTING PROCEDURES;~~

~~(10) EMERGENCY RESPONSE PROCEDURES; AND~~

~~(11) EMPLOYEE RIGHTS.~~

~~(d) IN ADDITION TO THE TRAINING AND EDUCATION REQUIRED UNDER SUBSECTION (c) OF THIS SECTION, THE EMPLOYER SHALL PROVIDE TRAINING AND~~

~~EDUCATION TO EMPLOYEES WHO ARE SUPERVISORS, INCLUDING TRAINING AND
EDUCATION REGARDING:~~

~~(1) PROPER PROCEDURES A SUPERVISOR IS REQUIRED TO FOLLOW
UNDER THIS SECTION WITH RESPECT TO THE PREVENTION OF EMPLOYEE EXPOSURE
TO EXCESSIVE HEAT;~~

~~(2) HOW TO RECOGNIZE HIGH RISK SITUATIONS, INCLUDING HOW TO
MONITOR WEATHER REPORTS AND WEATHER ADVISORIES AND HOW TO AVOID
ASSIGNING AN EMPLOYEE TO A SITUATION THAT COULD PREDICTABLY
COMPROMISE THE SAFETY OF THE EMPLOYEE; AND~~

~~(3) PROPER PROCEDURES, INCLUDING EMERGENCY RESPONSE
PROCEDURES, TO FOLLOW WHEN AN EMPLOYEE EXHIBITS SIGNS OR REPORTS
SYMPTOMS CONSISTENT WITH POSSIBLE HEAT RELATED ILLNESS.~~

~~(E) THE EDUCATION AND TRAINING REQUIRED UNDER THIS SECTION
SHALL:~~

~~(1) BE PROVIDED BY AN EMPLOYER FOR EACH NEW EMPLOYEE
BEFORE STARTING A JOB ASSIGNMENT;~~

~~(2) PROVIDE EMPLOYEES OPPORTUNITIES TO ASK QUESTIONS,
PROVIDE FEEDBACK, AND REQUEST ADDITIONAL INSTRUCTION, CLARIFICATION, OR
OTHER FOLLOW UP;~~

~~(3) BE PROVIDED IN PERSON BY AN INDIVIDUAL WITH KNOWLEDGE
OF HEAT RELATED ILLNESS PREVENTION AND OF THE PLAN OF THE EMPLOYER
REQUIRED UNDER SUBSECTION (A) OF THIS SECTION; AND~~

~~(4) BE APPROPRIATE IN CONTENT AND VOCABULARY TO THE
LANGUAGE, EDUCATIONAL LEVEL, AND LITERACY OF THE EMPLOYEES.~~

~~(F) EACH EMPLOYER SHALL:~~

~~(1) MAINTAIN AT ALL TIMES:~~

~~(I) RECORDS RELATED TO EACH PLAN OF THE EMPLOYER
REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, INCLUDING HEAT RELATED
ILLNESS RISK AND HAZARD ASSESSMENTS AND IDENTIFICATION, EVALUATION,
CORRECTION, AND TRAINING PROCEDURES;~~

~~(II) DATA ON ALL HEAT RELATED ILLNESSES AND DEATHS THAT
HAVE OCCURRED AT THE PLACE OF EMPLOYMENT; AND~~

~~(HH) DATA ON ENVIRONMENTAL AND PHYSIOLOGICAL MEASUREMENTS RELATED TO HEAT; AND~~

~~(2) MAKE THE RECORDS AND DATA AVAILABLE, ON REQUEST, TO EMPLOYEES AND THEIR REPRESENTATIVES, AND TO THE COMMISSIONER FOR EXAMINATION AND COPYING.~~

~~(G) (1) EACH EMPLOYER SHALL ADOPT A POLICY PROHIBITING ANY PERSON, INCLUDING AN AGENT OF THE EMPLOYER, FROM DISCRIMINATING OR RETALIATING AGAINST AN EMPLOYEE FOR:~~

~~(I) EXERCISING THE RIGHTS OF THE EMPLOYEE UNDER THIS SECTION; OR~~

~~(H) REPORTING VIOLATIONS OF THIS SECTION TO THE FEDERAL GOVERNMENT, THE STATE, OR A LOCAL GOVERNMENT.~~

~~(2) AN EMPLOYER MAY NOT DISCRIMINATE OR RETALIATE AGAINST AN EMPLOYEE FOR:~~

~~(I) REPORTING A HEAT-RELATED ILLNESS CONCERN TO, OR SEEKING ASSISTANCE OR INTERVENTION WITH RESPECT TO HEAT-RELATED HEALTH SYMPTOMS FROM, THE EMPLOYER, LOCAL EMERGENCY SERVICES, THE FEDERAL GOVERNMENT, THE STATE, OR A LOCAL GOVERNMENT; OR~~

~~(H) EXERCISING ANY OTHER RIGHTS OF THE EMPLOYEE UNDER THIS SECTION.~~

~~(H) THIS SECTION MAY NOT BE CONSTRUED TO DIMINISH THE RIGHTS, PRIVILEGES, OR REMEDIES OF ANY EMPLOYEE UNDER A COLLECTIVE BARGAINING AGREEMENT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2022, the Commissioner of Labor and Industry shall report to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2-1257 of the State Government Article, on the implementation of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.