

Testimony of Scott Schneider, C.I.H., F.A.I.H.A in support of HB 722

HB 722 - Labor and Employment - Occupational Safety and Health - Heat Stress Standards
SUPPORT TESTIMONY

Dear Chair Davis, Vice Chair Dumais, and members of the Economic Matters Committee,

My Name is Scott Schneider. I am a 36 year resident of Montgomery County living in District 20. I am a Certified Industrial Hygienist and have spent the past 40 years working to protect workers from exposure to hazardous conditions on the job, primarily in the construction industry. I have worked for a variety of unions over my career, most recently and for the past 20 years for the Laborers' Health and Safety Fund of North America as Director of Occupational Safety and Health from which I retired in 2017. My job was to help the union members and their employers improve safety and health conditions on their jobsites. As part of my job, I worked closely with OSHA to develop standards for asbestos, silica and many other exposures as well as on campaigns like their Fall prevention campaign. I also did site visits to construction sites all over the country.

Maryland is one of about half the states which runs its own State OSHA program. Under this provision of the OSHA Act, States can run their own programs, funded about half by the Federal Government, as long as they are "equally effective" as the Federal program. State programs though can go beyond the Federal program, for example by promulgating standards for workers in their state where no such Federal requirement exists. Maryland, in fact, was one of the first states to protect construction workers from lead exposure and is the only state with a standard to protect tree care workers. Currently, California, Washington State and Minnesota have standards to protect workers from heat stress on the job. Federal OSHA does not, but maintains an annual Heat Stress awareness campaign, as does Maryland OSHA, to raise awareness of the problem among employers and employees. Federal OSHA normally takes 15-20 years to promulgate new standards, so waiting for the Federal government to act is not an option.

Heat is a major hazard in the workplace for both outdoor workers and indoor workers. Outdoor workers at risk include: construction workers like road workers, roofers and many others; landscapers; farm workers; telecommunications workers; and municipal workers. Indoor workers at risk include: laundry workers; restaurant workers; boilermakers/stationary engineers; and teachers. Attached is a recent study showing just how high the risk is for construction workers in the US. While construction workers are 6% of the workforce, they represent 36% of heat-related deaths. Risks are particularly high for construction workers who are Hispanic and for cement masons, roofers, brick masons and construction laborers. Working on a roof or highway in 90°+ heat is exacerbated by exposure to direct sunlight and hot asphalt, working in protective clothing and the shear physical demands of the job. As temperatures increase, the risk of heat stroke will rise as well unless precautions are taken.

In 2018, 60 workers died from heat stroke in the US but over 17,000 suffered from heat-related illnesses. In Maryland, 9 workers have died from heat stress since 1992 and 100 workers lost work because of a heat-related illness in 2018 alone. The past few years have seen some of the warmest summers on record and the expectation is that this trend will continue. Currently, Maryland has about 25-30 days per year of temperatures over 90°F and a few days where temperatures soar above 100 or 105°F. This is expected to rise to about 70 days over 90°F/year and 30 days/year with temperatures above 100°F by 2050 (with about 16 days above 105°F). Attached to my testimony are fact sheets recently produced by the Union of Concerned Scientists showing these projections for all 8 Congressional Districts in Maryland.

The OSHA Heat Stress Campaign recommends, and the State heat stress standards require, simple precautions to ensure no one suffers from heat exposures. These include:

- Providing sufficient cool drinking water throughout the day
- Allowing workers to take regular rest breaks, particularly if they are feeling the symptoms related to heat exposure
- Providing a cool shady area for workers to rest (often a pop-up tent with fans or coolers)
- Training both workers and supervisors on the hazards of heat and what to watch for
- Emergency plans to make sure workers suffering from heat stress are treated promptly and properly
- Reducing the risk of heat exposure by, for example, scheduling work during the coolest part of the day
- Allowing workers to acclimatize to heat exposures (most heat-related deaths occur in the first days on the job before the body can adjust to the heat.)

While most responsible employers already follow these precautions, those who don't need to be required by law to provide such protection. A voluntary heat stress campaign is helpful, but is no substitute for mandating protections. Maryland should join the other states which already mandate protection from heat stress on the job. This bill would require Maryland OSHA to promulgate a standard and again place Maryland in the forefront of worker safety and health, rather than dragging its heels and only protecting workers when forced to do so by action on the Federal level, which isn't forthcoming.

Industry testimony on the Senate version of this bill last week was generally supportive, suggesting minor changes to make the standard less burdensome on small businesses. Several even said their companies already comply with the provisions proposed in this legislation. While we understand their concerns, these considerations are best addressed in public hearings during rulemaking. MOSH can solicit input and propose a standard based on public testimony and input from all stakeholders. Changes to the bill itself are unnecessary.

We have also submitted written testimony supporting this bill from the IBEW, the Roofers Union, AFSCME District 3, the Sheet Metal Workers, UNITE-HERE, the Teamsters Joint Council 62, the American Public Health Association of Maryland, Bruce Lippy (former MOSH inspector),

Debbie Berkowitz at the National Employment Law Center (NELP) and Ann Rosenthal, former Associate Solicitor of Labor for OSHA. Rosenthal's testimony explains the need for a standard and why the General Duty Clause is inadequate to protect workers, including a recent court case throwing out an OSHA General Duty citation for heat in the death of a roofer.

For these reasons, I urge you to approve this bill and require Maryland OSHA to finally protect workers from heat stress with a new state standard. Thank you. I'm happy to answer any questions.

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