

Testimony in **support**

**HB 722**– LABOR AND EMPLOYMENT – Occupational Safety and Health – Heat Stress Standards

Darryl Alexander, Fellow

National Council for Occupational Safety and Health

darrylalex@gmail.com

Chairperson Davis, Vice Chair Dumais and members of the Economic Matters Committee; thank you for the opportunity to testify in support of HB 722. Special thanks to Delegate Charkoudian for leading the charge on this bill.

My name is Darryl Alexander; I have a long and varied career in health and safety including research, training and policy – most recently as the retired health and safety director of the American Federation of Teachers, a union that represents workers in all spheres of state and local government. Currently I am a Fellow of the National Council for Occupational Safety and Health (NCOSH). NCOSH is dedicated to making a safe and healthful workplace a reality for all workers.

The focus of my testimony will be on the potential for employers to save money if the heat stress standard becomes law. I will also comment on the weaknesses of the fiscal note and its analysis of costs of a heat stress standard to MOSH and other governmental entities.

Employers with comprehensive heat stress programs – the core of requirements in the standard - will save on the cost of workers' compensation associated with heat-related illness. I have attached the results of a peer reviewed study demonstrating the savings.

A decade ago, the city of Waco, Texas, wanted to do something about the costly and frequent heat-related illnesses of its outdoor employees. The city medical director and researchers developed a heat stress awareness program and tracked heat-related illnesses and the impact of the program on workers' compensation costs from 2011-2017. The program provided annual training for supervisors and outdoor workers on the dangers of heat exposure and recognition of symptoms of overexposure. More importantly the city established work cycle procedures and practices to assure adequate acclimatization of workers and routine breaks in cool areas.

The program made a special effort to reach workers with chronic diseases such as diabetes, heart disease and hypertension that might put them at increased risk for heat-related illness. These workers received additional training and support.

Supervisors changed work practices so that the most demanding jobs were scheduled earlier in the day when it was cooler and/or they rotated workers in and out of work on hot days. They also provided more frequent breaks, water and shade during hot months.

The results? By 2016 heat-related illnesses had essentially been cut to zero, and median worker compensation costs were cut in half from \$416.00 per case to \$208.00. The last two years of the program, the city submitted no heat-related illness workers' compensation claims.

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Workers' compensation claims do not begin to reflect the true cost of heat-related illness. Many heat-related illnesses are never recognized as such and symptoms are attributed to other illnesses.

Employers with heat stress programs are also spared losses in worker productivity and absenteeism associated with heat stress. According to the National Bureau of Economic Research, productivity declines roughly 14% during weekdays above 86°F and can cost an average of \$20 per person. In fact, high temperatures increase the likelihood of injury or illness that can result in higher legal and insurance costs.

One employer organization used an OSHA [tool](#) for small businesses to estimate how much a heat-related incident can cost an employer. It calculated in the tool that just one heat-related accident can have a direct cost of more than \$23,000 with indirect costs doubling the amount. Employees pay; employers pay for heat-related stress and illnesses

All these potential savings -which can be substantial -will be derived by both public and private sector employers. The fiscal note made no mention of these savings for state and local government agencies when it cited the costs of setting up heat stress programs.

The fiscal note for the bill falls short of performing a genuine cost- benefit analysis as well as making a realistic projection of costs to develop and enforce a heat stress standard. The fiscal note primarily makes estimates of costs to MOSH and state and government entities based on assumptions not supported by any evidence. Some notable flaws include:

- The implication that the requirements of the standard will apply universally to all employees of state agencies such as the Department of General Industry (DGS), Maryland Transportation Department (MDOT), Natural Resources etc. In the regulatory process, the agency will develop a precise scope of coverage which more than likely will specify workers who can anticipate an exposure to extreme heat- not all workers of an employer as covered by the standard. Administrative and clerical personnel would not be covered, monitored and trained on heat stress. Therefore, the speculation of costs for state and local government are wildly speculative. MDOT and other agencies already have highly developed safety and risk management programs that in all likelihood have policies in place to quickly identify and protect affected workers. They will not need to invest any significant resources to draft a comprehensive plan and maintain record-keeping for the limited number of covered workers.
- The assumption that some local government entities will incur high costs to comply with a heat stress standard is similarly flawed. For instance, it's difficult to see how Montgomery County can predict that the county would need \$50,000 to

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develop a program. OSHA has already widely distributed a template for a heat stress awareness program and the tools for adopting one. The county would not be starting for scratch. The county has a budget of \$6,000 a year for all occupational safety and health training which includes training for broad program standards such as blood-borne pathogen exposure (annual training required), respiratory protection, hazard communication and others. Adding heat stress training for workers exposed to extreme heat to the list would probably cost very little.

- The assertion that seven new MOSH staff and new contractors will have to be hired to develop the rule and enforce it is a stretch. The costs will shift by fiscal year – in the two years of development there will be a need to dedicate resources and staff to draft the standard but far fewer than seven. Any new contractor or staff costs devoted to development of the standard would disappear after promulgation. No new compliance staff would have to be hired to enforce the final standard.
- The assumption that 1400 new inspections and citations should be expected is not based on any evidence after new standards have been adopted. And given the limited scope and number of work sites and workers covered by a heat stress standard, one simply cannot anticipate a steep rise in complaints or discrete program inspections for this rule. The agency will always have the authority to decide or not that employers with covered workers will become a priority target for enforcement, and more than likely targeted employers' workers will have a long list of hazardous exposures. Compliance officers often cite targeted employers for violations of several standards and if they determine a violation of the heat stress standard they can include it in comprehensive citations with no additional inspections or visits to the employer. The bottom line is there will not be a substantial burden on the agency to enforce the rule.

The fiscal note should be revised based on realistic estimates of costs to MOSH, other governmental entities, employers and include costs to workers who suffer heat-related illnesses and symptoms. If that exercise occurs, I believe the estimates will be far less than projected in this note.

Heat stress and exposure to extreme heat are manageable at low cost to employers and MOSH. I urge you to take the steps to establish a clear standard for employers to follow to avoid the potential for mounting fatalities and heat-related illnesses in our hotter climate.

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<sup>i</sup> McCarthy RB, Shofer FS, Green-McKenzie J. Outcomes of a Heat Stress Awareness Program on Heat-Related Illness in Municipal Outdoor Workers. J Occup Environ Med. 2019 Sep;61(9):724-728.