
Senate Bill 434

Date: February 20, 2020

Committee: Finance

Bill Title: Labor and Employment - Occupational Safety and Health - Heat Stress Standards

Senate Bill 434 requires all employers to have detailed heat stress related written programs, perform a variety of monitoring and in person training, and mandates specific work practices based on employee exposure to heat. SB 434 applies to all workplaces; it does not provide an exception for typically climate controlled workplaces such as office or retail settings, seasonal work, or geographic locations. Maryland Occupational Safety and Health (MOSH) already has existing laws and inspection procedures to address extreme heat exposure and anti-retaliation provisions.

SB 434 directs the Commissioner of Labor and Industry to determine the exact threshold of heat stress levels that, once exceeded, will require all employers to provide paid rest breaks, shade, cooling-off areas, limiting hours per day an employee may be exposed to heat, increasing the number of workers, testing the temperature of drinking water, etc. A major challenge to this, however, is the heat exposure capacities of individuals vary greatly depending on age, lifestyle, health, genetics, and acclimatization, which inhibits a one-size fits all approach.

As the provisions of the bill take effect on October 1, 2020, MOSH will be required to enforce this law with the penalty and citation provisions under existing law. The Department anticipates that many employers will be immediately in violation of the detailed requirements of a written plan, monitoring, and prescriptive training of employees and supervisors, regardless of their employees' exposure to weather conditions.

MOSH is required to conduct a full field investigation of all employee complaints alleging exposure to a "serious" hazard and is required to issue citations and penalties if a violation is found. SB 434 defines heat-related illness and includes, as "serious" in nature, rashes and heat cramps. MOSH has limited resources to conduct investigations of rashes or cramps that would typically be considered non-serious.

MOSH already affords protections for employees who are exposed to hazardous conditions under its General Duty Clause, §5-104 of the Labor and Employment Article. MOSH utilizes this standard for instances of heat-stress-related hazards and conducted 15 heat related investigations last year alone. MOSH evaluates heat stress during inspections when warranted, regardless of whether a certain temperature is exceeded. MOSH also has similar discrimination laws that provide protection for employees, specifically §5-604 of the Labor and Employment Article.

SB 434 attempts to address employee exposure to heat stress in a prescriptive, regulatory, one-size fits all manner while existing law already provides for protection of employees from extreme heat related illness. Education, outreach, and utilizing the latest existing resources available for free on the MOSH or Occupational Safety and Health (OSHA) or National Institute of Occupational Health (NIOSH) websites are all existing and effective efforts currently in place to help employers recognize and protect employees from extreme heat.