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Senate Finance Committee  
Miller Senate Office Building, 3 East Wing  
11 Bladen St.,  
Annapolis, MD 21401-1991

**Re: SB 434 (Labor and Employment – Occupational Safety and Health – Heat Stress Standards) – SUPPORT**

Dear Chair Kelley, Vice Chair Feldman, and members of the Finance Committee:

On behalf of the National Employment Law Project (NELP), we strongly support the passage of SB 434, *an Occupational Safety and Health Heat Stress Standard*, a commonsense bill that would protect the health and safety of Maryland workers by providing for standards to prevent illness and deaths from heat exposure.

NELP is a non-profit law and policy organization with 50 years of experience advocating for the employment and labor rights of our nation's workers. One of the key issues that NELP works on is improving health and safety protections for workers, especially low wage workers of color who are disproportionately often in the most dangerous jobs.

Global warming is resulting in more frequent days of extreme heat, and record-breaking summers are now becoming the norm. 2017 was the second-hottest year on record, surpassed only by 2016.<sup>1</sup>

In indoor and outdoor workplaces, workers are laboring in extreme heat, often with no protections from heat stress. According to the Bureau of Labor Statistics, from 1992 through 2016, exposure to excessive environmental heat killed 783 U.S. workers and seriously injured 69,374.<sup>2</sup> And with accelerating global warming, the United Nations reported in 2016 that worker injuries and deaths due to excessive heat exposure are projected to increase in the coming years.

In 2016, as the summer temperatures soared in Maryland, the Maryland Department of Labor called on employers to promote summer safety in extreme heat with water, rest and shade."<sup>3</sup> But without a specific standard in

<sup>1</sup> YaleEnvironment360. It's Official: 2017 Was the second hottest year on record. E360 Digest. Jan 4, 2018. <https://e360.yale.edu/digest/its-official-2017-was-the-second-hottest-year-on-record>. Accessed July 12, 2018

<sup>2</sup> Bureau of Labor Statistics. Occupational injuries/illnesses and fatal injuries profiles. <https://data.bls.gov/gqt/InitialPage>. Accessed March 6, 2018. Serious injuries are defined as those resulting in at least one day away from work.

<sup>3</sup> <https://www.dlir.state.md.us/whatsnews/heatadvice.shtml>



place requiring these very basic safety measures, Maryland OSHA can do little to proactively ensure that employers provide these necessary protections. Often it is only after a worker is killed or suffered a serious heat related illness that the Maryland Occupational Safety and Health Administration can enforce heat illness prevention efforts. It is time for Maryland to step up and protect workers in the state from heat related illness and death.

For the reasons explained below, SB 434 represents a critical step toward expanding on-the-job protections for Maryland workers that are exposed to extreme heat:

- Maryland workers do not have the necessary protections that a state OSHA heat standard would provide. There is no Federal OSHA specific standard to protect workers from extreme heat. Because of the absence of a heat standard in 47 states, approximately 130 million workers are left unprotected. The Maryland Department of Labor can do little without a specific standard to fully assure the protection of workers in the state from excessive heat. In 2016, the National Institute for Occupational Safety and Health (NIOSH) estimated that two in 1,000 workers are at risk of heat stress.<sup>4</sup> MD should do its part in providing safe and secure workplaces for Maryland workers by implementing a state heat standard for its workers.
- This legislation provides for common sense protective measures for workers exposed to excessive heat. This bill specifically requires Maryland Department of Labor and Industry to adopt a standard that would establish for employers the basic steps they must implement to protect Maryland workers exposed to excessive heat. These basic preventative measures include provisions for water, rest, shade and acclimatizing workers to heat exposure.
- SB 434 promotes accountability and transparency for employers and workers. The bill also includes important training and education requirements to ensure that workers are trained in how to recognize the early symptoms of heat stress, the procedures to follow when an employee exhibits signs of heat stress, how to identify a high risk situation, and the safe procedures the employer has implemented for working in high-heat environments. Mandating that employees not only receive training but are also given opportunities to ask questions and provide feedback as a part of this process are best practices for injury, illness, or death prevention. Employers are also required to maintain data on heat-related illnesses or deaths, training procedures, as well as hazard assessments and evaluations. These records must be made

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<sup>4</sup> NIOSH [2016]. NIOSH criteria for a recommended standard: occupational exposure to heat and hot environments. By Jacklitsch B, Williams WJ, Musolin K, et al. Cincinnati, OH: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, DHHS (NIOSH) Publication 2016-106. <https://www.cdc.gov/niosh/docs/2016-106/pdfs/2016-106.pdf>.

available to employees, their representatives, or the Labor Commissioner upon request. This is another critical step in promoting transparency, but also in holding employers accountable for the protections that they would be legally required to provide.

- SB 434 shields workers from retaliation by providing whistleblower protections. This bill requires employers to maintain a policy that protects workers from discrimination or retaliation as a result of reporting a heat related illness or heat-related safety concerns.
- This legislation models provisions from the most successful and vigorous heat standard in the U.S. Washington,<sup>5</sup> Minnesota,<sup>6</sup> and California<sup>7</sup> have implemented heat standards in their state OSHA plans and have over a decade of experience in best practices. The California heat standard, for example, was first implemented as an emergency measure in 2005 after a surge in heat-related worker fatalities and was made a permanent measure in 2006.<sup>8</sup>

Accordingly, we strongly urge you to support the passage and enactment of SB 434 to extend workplace protections against exposure to excessive heat to Maryland's workers. If you have any questions, please contact Debbie Berkowitz, Health and Safety Director at the National Employment Law Project ([dberkowitz@nelp.org](mailto:dberkowitz@nelp.org)).

Sincerely,



Deborah Berkowitz  
Health & Safety Director



Shayla Thompson  
Government Affairs Manager

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<sup>5</sup> The full text of Washington's heat exposure rule can be found here: <https://bit.ly/3bRwiaK>

<sup>6</sup> The full text of Minnesota's indoor heat standard can be found here: <https://bit.ly/2vBEPhd>

<sup>7</sup> The full text of California's outdoor heat standard can be found here: <https://bit.ly/2UYSfPD>

<sup>8</sup> *Id.* at 4-5