

# SENATE BILL 434

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By: **Senators McCray, Augustine, and Kelley**  
Introduced and read first time: January 27, 2020  
Assigned to: Finance

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## A BILL ENTITLED

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 to adopt regulations  
5 on or before a certain date that include a certain standard establishing certain heat  
6 stress levels and to ensure that all employers comply with certain requirements with  
7 respect to occupational exposure to excessive heat; requiring certain employers to  
8 develop, implement, and maintain a certain excessive heat–related illness  
9 prevention plan for employees; requiring that certain excessive heat–related illness  
10 prevention plans be developed in a certain manner, tailored and specific to certain  
11 hazards, in writing and in a certain language under certain circumstances, and made  
12 available in a certain manner; requiring the plan to include certain procedures and  
13 methods; requiring the Commissioner to require certain employers to provide certain  
14 annual training and education to certain employees; requiring employers to provide  
15 certain training and education to employees who are supervisors; requiring that  
16 certain training be provided to certain employees at a certain time and in a certain  
17 manner; requiring employers to maintain certain records and data and to make  
18 certain records and data available to certain persons on request; requiring employers  
19 to adopt a certain policy prohibiting certain persons from taking certain actions  
20 against certain employees; prohibiting employers from taking certain actions against  
21 certain employees for taking certain actions; providing for the construction of certain  
22 provisions of this Act; defining certain terms; and generally relating to occupational  
23 safety and health and heat stress standards.

24 BY repealing and reenacting, without amendments,  
25 Article – Labor and Employment  
26 Section 5–101  
27 Annotated Code of Maryland  
28 (2016 Replacement Volume and 2019 Supplement)

29 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Labor and Employment

2 Section 5–1201 through 5–1203 to be under the new subtitle “Subtitle 12. Heat  
3 Stress Standards”

4 Annotated Code of Maryland

5 (2016 Replacement Volume and 2019 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

7 That the Laws of Maryland read as follows:

8 **Article – Labor and Employment**

9 5–101.

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

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

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

15 (2) “Employee” includes:

16 (i) an individual whom a governmental unit employs;

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

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

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

27 (d) (1) “Employer” means:

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

31 (ii) a public body.

32 (2) “Employer” includes:

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

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

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

10 (e) "Occupational safety and health standard" means a regulation that requires:

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

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

16 (f) "Person" includes a successor.

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

19 (h) "Public body" means:

20 (1) a governmental unit;

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

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

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

## 24 **SUBTITLE 12. HEAT STRESS STANDARDS.**

### 25 **5-1201.**

26 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
27 INDICATED.

28 (B) "EXCESSIVE HEAT" MEANS LEVELS OF OUTDOOR OR INDOOR EXPOSURE  
29 TO HEAT THAT EXCEED THE CAPACITIES OF THE HUMAN BODY TO MAINTAIN

1 NORMAL BODY FUNCTIONS AND MAY CAUSE HEAT-RELATED INJURY, ILLNESS, OR  
2 FATALITY.

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

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

12 5-1202.

13 ON OR BEFORE OCTOBER 1, 2022, THE COMMISSIONER SHALL ADOPT  
14 REGULATIONS THAT:

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

18 (2) ENSURE ALL EMPLOYERS COMPLY WITH THE REQUIREMENTS  
19 DESCRIBED IN THIS SUBTITLE WITH RESPECT TO OCCUPATIONAL EXPOSURE TO  
20 EXCESSIVE HEAT.

21 5-1203.

22 (A) (1) EACH EMPLOYER SHALL DEVELOP, IMPLEMENT, AND MAINTAIN  
23 AN EFFECTIVE EXCESSIVE HEAT-RELATED ILLNESS PREVENTION PLAN FOR  
24 EMPLOYEES.

25 (2) THE PLAN REQUIRED UNDER PARAGRAPH (1) OF THIS  
26 SUBSECTION SHALL BE:

27 (I) DEVELOPED AND IMPLEMENTED WITH THE MEANINGFUL  
28 PARTICIPATION OF EMPLOYEES, EMPLOYEE REPRESENTATIVES, AND COLLECTIVE  
29 BARGAINING REPRESENTATIVES, AS APPLICABLE;

30 (II) TAILORED AND SPECIFIC TO HAZARDS IN THE PLACE OF  
31 EMPLOYMENT;

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

3 (IV) MADE AVAILABLE, ON REQUEST, TO EMPLOYEES,  
4 EMPLOYEE REPRESENTATIVES, AND THE COMMISSIONER.

5 (B) EACH PLAN REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL  
6 INCLUDE PROCEDURES AND METHODS FOR:

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

9 (2) PROVIDING POTABLE WATER WITH A TEMPERATURE OF LESS  
10 THAN 15 DEGREES CELSIUS OR 59 DEGREES FAHRENHEIT;

11 (3) PROVIDING PAID REST BREAKS AND ACCESS TO SHADE,  
12 COOL-DOWN AREAS, OR CLIMATE-CONTROLLED SPACES;

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

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

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

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

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

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

27 (III) INCREASING REST ALLOWANCES;

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

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

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

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

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

15 (III) PERSONAL PROTECTIVE EQUIPMENT, INCLUDING  
16 WATER-COOLED GARMENTS, AIR-COOLED GARMENTS, REFLECTIVE CLOTHING, AND  
17 COOLING VESTS;

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

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

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

27 (1) THE IDENTIFICATION OF HEAT-RELATED ILLNESS FACTORS;

28 (2) PERSONAL FACTORS THAT MAY INCREASE SUSCEPTIBILITY TO  
29 HEAT-RELATED ILLNESS;

30 (3) SIGNS AND SYMPTOMS OF HEAT-RELATED ILLNESS;

31 (4) DIFFERENT TYPES OF HEAT-RELATED ILLNESS;

1           **(5) THE IMPORTANCE OF ACCLIMATIZATION AND CONSUMPTION OF**  
2 **FLUIDS;**

3           **(6) AVAILABLE ENGINEERING CONTROL MEASURES;**

4           **(7) ADMINISTRATIVE CONTROL MEASURES;**

5           **(8) THE IMPORTANCE OF REPORTING HEAT-RELATED SYMPTOMS**  
6 **BEING EXPERIENCED BY AN EMPLOYEE OR ANOTHER EMPLOYEE;**

7           **(9) RECORD-KEEPING REQUIREMENTS AND REPORTING**  
8 **PROCEDURES;**

9           **(10) EMERGENCY RESPONSE PROCEDURES; AND**

10           **(11) EMPLOYEE RIGHTS.**

11           **(D) IN ADDITION TO THE TRAINING AND EDUCATION REQUIRED UNDER**  
12 **SUBSECTION (C) OF THIS SECTION, THE EMPLOYER SHALL PROVIDE TRAINING AND**  
13 **EDUCATION TO EMPLOYEES WHO ARE SUPERVISORS, INCLUDING TRAINING AND**  
14 **EDUCATION REGARDING:**

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

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

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

25           **(E) THE EDUCATION AND TRAINING REQUIRED UNDER THIS SECTION**  
26 **SHALL:**

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

29           **(2) PROVIDE EMPLOYEES OPPORTUNITIES TO ASK QUESTIONS,**  
30 **PROVIDE FEEDBACK, AND REQUEST ADDITIONAL INSTRUCTION, CLARIFICATION, OR**

1 OTHER FOLLOW-UP;

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

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

7 (F) EACH EMPLOYER SHALL:

8 (1) MAINTAIN AT ALL TIMES:

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

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

15 (III) DATA ON ENVIRONMENTAL AND PHYSIOLOGICAL  
16 MEASUREMENTS RELATED TO HEAT; AND

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

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

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

25 (II) REPORTING VIOLATIONS OF THIS SECTION TO THE FEDERAL  
26 GOVERNMENT, THE STATE, OR A LOCAL GOVERNMENT.

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

29 (I) REPORTING A HEAT-RELATED ILLNESS CONCERN TO, OR  
30 SEEKING ASSISTANCE OR INTERVENTION WITH RESPECT TO HEAT-RELATED



1 HEALTH SYMPTOMS FROM, THE EMPLOYER, LOCAL EMERGENCY SERVICES, THE  
2 FEDERAL GOVERNMENT, THE STATE, OR A LOCAL GOVERNMENT; OR

3 (II) EXERCISING ANY OTHER RIGHTS OF THE EMPLOYEE UNDER  
4 THIS SECTION.

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

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