

By: Flores

H.B. No. 67

A BILL TO BE ENTITLED

AN ACT

relating to certain heat safety protections; providing administrative and civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 2, Labor Code, is amended by adding Chapter 53 to read as follows:

CHAPTER 53. HEAT SAFETY

Sec. 53.001. DEFINITIONS. In this section:

(1) "Commission" means the Texas Workforce Commission.

(2) "Heat illness" means a serious medical condition resulting from the body's inability to cope with a particular heat load and includes heat cramps, heat exhaustion, heat syncope, and heat stroke.

(3) "Heat safety expert" means a person that:

(A) possesses a certification or educational degree in public health, medicine, occupational safety, environmental science, human physiology, or a related field; and

(B) performs work focused on heat safety in the workplace.

Sec. 53.002. APPLICABILITY. This chapter applies to the mitigation and control of risks related to heat illness, regardless of the location of employment, type of employment, or type of employer.

1 Sec. 53.003. HEAT ILLNESS PREVENTION ADVISORY BOARD;
2 STANDARDS. (a) The commission shall appoint an advisory board
3 consisting of the following seven members:

4 (1) two heat safety experts;

5 (2) two persons employed as construction workers;

6 (3) one employer;

7 (4) one representative of a non-profit organization
8 engaged in worker safety issues; and

9 (5) one representative of a construction worker labor
10 union.

11 (b) The advisory board appointed under this section shall
12 develop and recommend heat illness prevention standards consistent
13 with this chapter and designed to protect employees from heat
14 illness in indoor and outdoor work. The commission shall review and
15 adopt the standards recommended by the advisory board under this
16 section for use by employers to the extent that the standards are
17 consistent with this chapter and other applicable law.

18 (c) The standards recommended by the advisory board and
19 adopted by the commission under this section must:

20 (1) be developed in a manner consistent with "Criteria
21 for a Recommended Standard: Occupational Exposure to Heat and Hot
22 Environments" published by the National Institute for Occupational
23 Safety and Health;

24 (2) include requirements related to the provision of
25 drinking water, access to nearby shade or climate-controlled
26 environments, access to nearby restrooms and handwashing stations,
27 rest periods, effective emergency response procedures,

1 acclimatization to working in heat, training procedures for
2 employees and supervisors, and related standards for protection
3 against heat illness; and

4 (3) include mandatory administrative penalties of not
5 less than \$1,000 per violation per employee for an employer's
6 failure to comply with heat illness prevention standards adopted
7 under this section, to be assessed and administered by the
8 commission.

9 Sec. 53.004. SIGNAGE REQUIRED. (a) The commission shall
10 produce signage in English, Spanish, Vietnamese, and any other
11 languages that the commission determines to be appropriate
12 outlining:

13 (1) the heat illness prevention standards adopted by
14 the commission under this chapter; and

15 (2) an employee's rights under this chapter.

16 (b) The commission shall make the signage available for free
17 download by employers and the public on the commission's website.

18 (c) An employer shall post a copy of the signage described
19 by this section at its place of business in a place accessible by
20 the employer's employees.

21 Sec. 53.005. EMPLOYEE TRAINING REQUIRED. An employer is
22 required to provide training to each of its employees about the heat
23 illness prevention standards adopted under this chapter as they
24 relate to employees, supervisors, and employers. The training,
25 including any related written materials, must be provided to each
26 employee in a language that the employee understands.

27 Sec. 53.006. UNLAWFUL EMPLOYMENT PRACTICE. An employer

1 commits an unlawful employment practice under this chapter if the
2 employer retaliates or discriminates against an employee that:

- 3 (1) experiences heat illness;
4 (2) reports heat illness or a violation of this
5 chapter or other applicable standards to their employer;
6 (3) files a complaint with the Texas Workforce
7 Commission;
8 (4) files a lawsuit; or
9 (5) testifies, assists, or participates in any manner
10 in an investigation, proceeding, or hearing under this chapter.

11 Sec. 53.007. LIABILITY. (a) In addition to any
12 administrative penalties assessed under this chapter, an employee
13 is entitled to a private right of action in a court of appropriate
14 jurisdiction for an employer's failure to comply with heat illness
15 prevention standards adopted under this chapter. An employee is
16 not required to exhaust applicable alternative administrative
17 remedies before pursuing a private right of action under this
18 section.

19 (b) An employee that prevails in an action against an
20 employer under this section is entitled to recover from the
21 employer all court costs and reasonable attorney fees related to
22 the action.

23 (c) If the court presiding over an action filed by an
24 employee under this section finds that an employer knowingly
25 violated the heat illness prevention standards adopted under this
26 chapter, the court shall award the employee an amount equal to
27 triple the amount of damages otherwise due to the employee.

1 Sec. 53.008. DEADLINES FOR CERTAIN ACTIONS. (a) The
2 commission shall appoint the advisory board described by Section
3 53.003 as soon as reasonably possible after the effective date of
4 this Act, but not later than October 1, 2023.

5 (b) The advisory board shall submit recommended standards
6 to the commission under Section 53.003 not later than January 1,
7 2024.

8 (c) The commission shall adopt and publish the standards
9 described by Section 53.003 not later than March 1, 2024.

10 (d) This section expires and is repealed on January 1, 2025.

11 SECTION 2. Chapter 53, Labor Code, as added by this Act,
12 applies only to work performed on or after the adoption and
13 publication of the standards described by Section 53.003, Labor
14 Code, as added by this Act.

15 SECTION 3. This Act takes effect immediately if it receives
16 a vote of two-thirds of all members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2023.