

By: Flores

H.B. No. 148

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. This Act may be cited as the Antelmo Ramirez Heat Safety Act.

SECTION 2. 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

1 of the location of employment, type of employment, or type of  
2 employer.

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

6 (1) two heat safety experts;

7 (2) two persons employed as construction workers;

8 (3) one employer;

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

11 (5) one representative of a construction worker labor  
12 union.

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

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

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

26 (2) include requirements related to the provision of  
27 drinking water, access to nearby shade or climate-controlled

1 environments, access to nearby restrooms and handwashing stations,  
2 rest periods, effective emergency response procedures,  
3 acclimatization to working in heat, training procedures for  
4 employees and supervisors, and related standards for protection  
5 against heat illness; and

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

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

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

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

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

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

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

1 employee in a language that the employee understands.

2 Sec. 53.006. UNLAWFUL EMPLOYMENT PRACTICE. An employer  
3 commits an unlawful employment practice under this chapter if the  
4 employer retaliates or discriminates against an employee that:

5 (1) experiences heat illness;

6 (2) reports heat illness or a violation of this  
7 chapter or other applicable standards to their employer;

8 (3) files a complaint with the Texas Workforce  
9 Commission;

10 (4) files a lawsuit; or

11 (5) testifies, assists, or participates in any manner  
12 in an investigation, proceeding, or hearing under this chapter.

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

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

25 (c) If the court presiding over an action filed by an  
26 employee under this section finds that an employer knowingly  
27 violated the heat illness prevention standards adopted under this

1 chapter, the court shall award the employee an amount equal to  
2 triple the amount of damages otherwise due to the employee.

3 Sec. 53.008. DEADLINES FOR CERTAIN ACTIONS. (a) The  
4 commission shall appoint the advisory board described by Section  
5 53.003 as soon as reasonably possible after the effective date of  
6 this Act, but not later than October 1, 2023.

7 (b) The advisory board shall submit recommended standards  
8 to the commission under Section 53.003 not later than January 1,  
9 2024.

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

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

13 SECTION 3. Chapter 53, Labor Code, as added by this Act,  
14 applies only to work performed on or after the adoption and  
15 publication of the standards described by Section 53.003, Labor  
16 Code, as added by this Act.

17 SECTION 4. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes on the 91st day after the last day of the legislative  
22 session.