

By: Flores

H.B. No. 88

A BILL TO BE ENTITLED

AN ACT

relating to workplace heat illness prevention, including the creation of a heat illness prevention advisory board; imposing administrative 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. WORKPLACE HEAT SAFETY

Sec. 53.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the heat illness prevention advisory board established under Section 53.003.

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

(3) "Employer" means a person who employs one or more employees.

(4) "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.

(5) "Heat safety expert" means an individual who:

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

(B) performs work focused on heat safety in the

1 workplace.

2 Sec. 53.002. APPLICABILITY. This chapter applies to all  
3 employers in this state, regardless of the location of employment,  
4 type of employment, or size or type of employer.

5 Sec. 53.003. HEAT ILLNESS PREVENTION ADVISORY BOARD. (a) A  
6 heat illness prevention advisory board is established to assist the  
7 commission in adopting heat illness prevention standards under this  
8 chapter.

9 (b) The advisory board consists of the following members  
10 appointed by the commission:

11 (1) two members who are heat safety experts;

12 (2) two members who are employed as construction  
13 workers;

14 (3) one member who is an employer;

15 (4) one member who is a representative of a nonprofit  
16 organization engaged in worker safety issues; and

17 (5) one member who is a representative of construction  
18 worker labor unions.

19 (c) The advisory board shall develop and recommend to the  
20 commission heat illness prevention standards, consistent with this  
21 chapter, that are designed to protect employees from heat illness  
22 in indoor and outdoor worksites.

23 Sec. 53.004. HEAT ILLNESS PREVENTION STANDARDS. (a) The  
24 commission by rule shall adopt heat illness prevention standards.  
25 In adopting the standards, the commission shall give full  
26 consideration to the recommendations the advisory board makes under  
27 Section 53.003(c).

1        (b) The heat illness prevention standards must:

2                (1) be consistent with the standards and  
3 recommendations relating to heat and workforce safety contained in  
4 the Criteria for a Recommended Standard: Occupational Exposure to  
5 Heat and Hot Environments published by the National Institute for  
6 Occupational Safety and Health, as those standards and  
7 recommendations existed on October 1, 2023; and

8                (2) include:

9                        (A) requirements for providing:

10                                (i) drinking water;

11                                (ii) access to nearby shade or  
12 climate-controlled environments, restrooms, and handwashing  
13 stations; and

14                                (iii) rest periods;

15                        (B) standards for effective emergency response  
16 procedures;

17                        (C) standards for heat acclimatization;

18                        (D) training on heat and workforce safety for  
19 employees and supervisors; and

20                        (E) other related standards for protecting  
21 workers from heat illness.

22        Sec. 53.005. NOTICE TO EMPLOYEES. (a) Each employer shall  
23 post in a conspicuous place accessible to employees the notice the  
24 commission prescribes under Subsection (b) at:

25                (1) the employer's place of business; and

26                (2) if applicable, the worksite at which employees  
27 perform job duties for the employer.

1       (b) The commission shall prescribe the form and content of  
2 the employer notice required by Subsection (a) and make the notice  
3 available on the commission's Internet website. The notice must:

4           (1) be in English, Spanish, Vietnamese, and any other  
5 language the commission determines appropriate; and

6           (2) outline:

7                   (A) the heat illness prevention standards the  
8 commission adopts under this chapter; and

9                   (B) employees' rights under this chapter.

10       Sec. 53.006. EMPLOYEE TRAINING REQUIRED. Each employer  
11 shall provide training to the employer's employees about the  
12 commission's heat illness prevention standards as the standards  
13 relate to employees, supervisors, and employers. The training,  
14 including any related written materials, must be provided to each  
15 employee in a language that the employee understands.

16       Sec. 53.007. UNLAWFUL EMPLOYMENT PRACTICE. An employer  
17 commits an unlawful employment practice under this chapter if the  
18 employer retaliates or discriminates against an employee who:

19           (1) experiences heat illness in the workplace;

20           (2) reports to the employer an instance of heat  
21 illness or a violation of this chapter or other applicable  
22 standards;

23           (3) files a complaint with the commission related to a  
24 violation of this chapter or rules adopted under this chapter;

25           (4) files an action related to a violation of this  
26 chapter or rules adopted under this chapter; or

27           (5) testifies, assists, or participates in any manner

1 in an investigation, proceeding, or hearing under this chapter.

2 Sec. 53.008. ADMINISTRATIVE PENALTY. The commission shall  
3 assess an administrative penalty in an amount that is at least  
4 \$1,000 against an employer for each violation of this chapter or a  
5 rule adopted under this chapter. Each day a violation continues or  
6 occurs is a separate violation for purposes of imposing a penalty.

7 Sec. 53.009. CIVIL LIABILITY. (a) In addition to any  
8 administrative penalty assessed under this chapter, an employer is  
9 liable in a civil action for personal injury, death, or other  
10 damages caused by the employer's failure to comply with the heat  
11 illness prevention standards the commission adopts. An employee is  
12 not required to exhaust any applicable administrative remedies  
13 before filing an action under this section.

14 (b) An employee who prevails in an action against an  
15 employer under this section is entitled to recover from the  
16 employer court costs and reasonable attorney's fees.

17 (c) A court that finds that an employer knowingly violated  
18 the heat illness prevention standards adopted under this chapter  
19 shall award exemplary damages in an amount equal to three times the  
20 amount of compensatory damages awarded to the employee.

21 SECTION 2. (a) As soon as practicable after the effective  
22 date of this Act, but not later than March 1, 2024, the Texas  
23 Workforce Commission shall appoint the advisory board members to  
24 the heat illness prevention advisory board established under  
25 Section 53.003, Labor Code, as added by this Act.

26 (b) Not later than May 1, 2024, the heat illness prevention  
27 advisory board shall submit to the Texas Workforce Commission the

1 recommended workplace heat illness prevention standards the board  
2 develops under Section 53.003(c), Labor Code, as added by this Act.

3 (c) Not later than June 1, 2024, the Texas Workforce  
4 Commission shall:

5 (1) adopt heat illness prevention standards as  
6 required by Section 53.004, Labor Code, as added by this Act; and

7 (2) prescribe the employer notice required by Section  
8 53.005, Labor Code, as added by this Act.

9 SECTION 3. An employer is not required to comply with  
10 Chapter 53, Labor Code, as added by this Act, before June 1, 2024.

11 SECTION 4. (a) The change in law made by this Act applies  
12 only to an unlawful employment practice that occurs on or after June  
13 1, 2024.

14 (b) The change in law made by this Act applies only to a  
15 cause of action that accrues on or after June 1, 2024.

16 SECTION 5. This Act takes effect on the 91st day after the  
17 last day of the legislative session.