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STATE OF NEW JERSEY

221st LEGISLATURE

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SYNOPSIS

Establishes occupational heat stress standard and "Occupational Heat-Related Illness and Injury Prevention Program" in DOLWD.

CURRENT VERSION OF TEXT

As reported by the Assembly Labor Committee on May 16, 2024, with amendments.

(Sponsorship Updated As Of: 7/24/2025)

AN ACT concerning the [1]establishment of a heat stress standard by the[1] Department of Labor and Workforce Development [1]**[**establishing**]** and[1] an occupational heat stress standard and heat-related illness and injury prevention program and supplementing Title 34 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares:

a. Heat is the leading weather-related killer, and it is becoming more dangerous as 18 of the last 19 years were the hottest years on record. Excessive heat can cause heat stroke and even death if not treated properly. It also exacerbates existing health problems like asthma, kidney failure, and heart disease. Workers in agriculture and construction are at highest risk, but the problem affects all workers exposed to heat, including indoor workers without climate-controlled environments.

b. Heat stress killed 815 United States workers and seriously injured more than 70,000 workers from 1992 through 2017, according to the United States Department of Labor, Bureau of Labor Statistics.

c. To date, three states, California, Oregon, and Washington, have state occupational safety and health standards that cover outdoor heat exposure. Minnesota has a state standard that covers indoor heat exposure. The United States military has also issued heat protections.

d. The Occupational Safety and Health Administration (OSHA) in the United States Department of Labor has not adopted a heat stress standard.

e. In the absence of a heat stress adopted by OSHA, New Jersey may through legislation and regulation adopt a heat stress standard for the protection of employees against heat-related illness and injury that applies to employers and employees in this State both in private and public employment.

2. As used in this act:

[1]"Amusement park" means any permanent outdoor facility or park where amusement rides are available for use by the general public.[1]

"Commissioner" means the Commissioner of the Department of Labor and Workforce Development or the commissioner's designee.

"Department" means the Department of Labor and Workforce Development.

"Employ" means to suffer or to permit to work.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly ALA committee amendments adopted May 16, 2024.

"Employee" means any individual employed by an employer.

"Employer" means any individual, partnership, association, corporation, and the State and any county, municipality, or school district in the State, or any agency, authority, department, bureau, or instrumentality thereof acting directly or indirectly in the interest of an employer in relation to an employee.

"Excessive heat" means levels of outdoor or indoor exposure to heat that exceed the capacities of the human body to maintain normal body functions and may cause heat-related injury or illness, including those that lead to death.

"Heat-related illness" means a medical condition resulting from the inability of the body to rid itself of excess heat, including heat rash, heat cramps, heat exhaustion, heat syncope, and heat stroke.

"Heat stress" means the net load to which a worker is exposed from the combined contributions of metabolic heat, environmental factors, and clothing worn which result in an increase in heat storage in the body, causing body temperature to rise to sometimes dangerous levels.

"Occupation" means any occupation, service, trade, business, industry or branch or group of industries or employment or class of employment in which employees are employed.

"Occupational safety and health standard" means a regulation or rule that requires the following: a condition that is reasonably appropriate or necessary to make employment and places of employment safe and healthful; or the adoption or use of a means, method, operation, practice, or process that is reasonably appropriate or necessary to make employment and places of employment safe and healthful.

"Place of employment" means a place in or about which an employee is allowed.

3. a. On or before June 1, [1]**[**2024**]** 2025[1], the commissioner shall establish by rule a heat stress standard that contains the following:

(1) A standard that establishes heat stress levels for [1]**[**employers**]** employees[1] that, if exceeded, trigger actions by employers to protect employees from heat-related illness and injury.

(2) A requirement that each employer develop, implement, and maintain an effective heat-related illness and injury prevention plan for employees [1]within 30 days of the effective date of this act[1].

b. The heat-related illness and injury prevention plan referred to in subsection a. of this section shall, to the extent permitted by federal law, be developed and implemented with the meaningful participation of employees and employee representatives, including collective bargaining representatives; shall be tailored and specific to the hazards in the place of employment; shall be in writing in both English and in the language understood by a majority of the employer's employees, if that language is not English; and shall be

made available at a time and in a manner set forth by the commissioner in rule, to employees, employee representatives, including collective bargaining representatives, and to the commissioner.

c. The heat-related illness and injury prevention plan referred to in subsection a. of this section shall at a minimum contain procedures and methods for the following:

(1) initial and regular monitoring for employee exposure to heat to determine whether an employee's exposure has been excessive;

(2) providing potable water[1], available immediately and in immediate proximity to impacted employees,[1] with a temperature of less than 15 degrees Celsius or 59 degrees Fahrenheit;

(3) providing paid rest breaks and access to shade, cool-down areas or climate-controlled spaces;

(4) providing an emergency response for any employee who has suffered injury as a result of being exposed to excessive heat;

(5)[1][acclimatizing employees to areas where exposure to heat is present;

(6)]1 limiting the length of time an employee may be exposed to heat during the workday;

[1][(7)](6)[1] for outdoor and indoor non-climate-controlled environments, implementation of a heat alert program to provide notification to employees when the National Weather Service forecasts that a heat wave is likely to occur in the following day or days, and when that notification occurs, also taking the following actions:

(a) postponing tasks that are [1][not urgent] non-essential[1] until the [1]excessive[1] heat [1][wave is over] condition subsides[1];

(b) increasing the total number of workers to reduce the heat exposure of each worker;

(c) [1]instituting or[1] increasing rest allowances;

(d) reminding workers to drink liquids in small amounts frequently to prevent dehydration; and

(e) to the extent practicable, monitoring the environmental heat [1]index[1] at job sites and resting places;

[1][(8)](7)[1] preventing hazards, including through the use of:

(a) engineering controls that include the isolation of hot processes, the isolation of employees from sources of heat, local exhaust ventilation, shielding from a radiant heat source, the insulation of hot surfaces, air conditioning, cooling fans, evaporative coolers, and natural ventilation;

(b) administrative controls that limit exposure to a hazard by adjustment of work procedures or work schedules, including [1][acclimatizing employees,]1 rotating employees, scheduling work earlier or later in the day, using work-rest schedules, reducing work intensity or speed, changing required work clothing and using relief workers; and

(c) personal protective equipment, including water-cooled garments, air-cooled garments, reflective clothing, and cooling vests;

[1]**[**(9)**]**(8)[1] coordinating risk assessment efforts, plan development, and implementation with other employers who have employees who work at the same work site; and

[1]**[**(10)**]**(9)[1]allowing employees to contact the employer directly and efficiently to communicate if the employee feels like the employee is suffering from a heat-related illness.

d. The heat-related illness and injury prevention plan referred to in subsection a. of this section shall contain at a minimum annual training and education to employees who may be exposed to high heat levels, including training and education regarding the following:

(1) the identification of heat-related illness risk factors;

(2) personal factors that may increase susceptibility to heat-related illness;

(3) signs and symptoms of heat-related illness;

(4) different types of heat-related illness;

(5) the importance of [1]**[**acclimatization and**]**[1] consumption of fluids;

(6) available engineering control measures;

(7) administrative control measures;

(8) the importance of reporting heat-related symptoms being experienced by an employee or another employee;

(9) record-keeping requirements and reporting procedures;

(10) emergency response procedures; and

(11) employee rights under this act and department rules promulgated to implement this act.

e. The heat-related illness and injury prevention plan referred to in subsection a. of this section shall contain at a minimum special training and education to employees who are supervisors, in addition to the training and education provided to all employees under subsection d. of this section, which shall include training and education regarding the following:

(1) proper procedures a supervisor is required to follow under this section with respect to the prevention of employee exposure to excessive heat;

(2) how to recognize high-risk situations, including how to monitor weather reports and weather advisories and how to avoid assigning an employee to a situation that could predictably compromise the safety of the employee; and

(3) proper procedures including emergency response procedures to follow when an employee exhibits signs or reports symptoms consistent with possible heat-related illness.

f. The heat-related illness and injury prevention plan referred to in subsection a. of this section shall require that the education and training referred to in subsections d. and e. of this section:

(1) be provided by an employer for each new employee before starting a job assignment;

(2) provide employees opportunities to ask questions, provide feedback, and request additional instruction, clarification, or another follow-up;

(3) be provided by an individual with knowledge of heat-related illness prevention and of the plan of the employer required under subsection a. of this section; and

(4) be appropriate in content and vocabulary commensurate to the language, education level, and literacy of the employees.

g. A requirement that each employer shall maintain the following:

(1) records related to the heat-related illness and injury prevention plan referred to in subsection a. of this section, including heat-related illness risk and hazard assessments and identification, evaluation, correction and training procedures;

(2) data on all heat-related illnesses, injuries and fatalities that have occurred at the place of employment, including but not limited to: the type of heat-related illness or injury experienced and symptoms experienced, the cause of death, the time at which manifestation of illness, injury, or death occurred, environmental measures, including temperature and humidity levels, at time of manifestation of illness, injury or death, a description of the location where the manifestation of illness, injury or death occurred; and

(3) data on environmental and physiological measurements related to heat.

h. A requirement that each employer make the records and data referred to in subsection g. of this section available, on request for examination and copying at no cost, to employees, their authorized representatives, including collective bargaining representatives, and to the commissioner[1], as well as to the public. The employer shall preserve the records and data for a minimum of six years[1].

i. Employers shall be required to comply [1]immediately upon the effective date of this act with provisions in section 4 of this act preventing retaliation and,[1] with the provisions of the heat stress standard promulgated by rule in accordance with this section 30 days after the rules containing the heat stress standard are adopted.

j. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, the heat stress standard required by this section, which shall be effective for a period not to exceed 365 days from the date of the filing. Before the expiration of the heat stress standard, the commissioner shall thereafter amend, adopt, or readopt the rules in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

[1]k. An amusement park, as defined by section 2 of this act, shall be exempt from the requirements of this act.[1]

[1][[]4. An employer may not discriminate or retaliate against an employee for:

a. Reporting a heat-related illness or injury concern to, or seeking assistance or intervention with respect to heat-related health symptoms from, the employer, local emergency services, the federal government, the State, or a local government; or

b. Exercising any other rights of the employee under this act.[]][1]

[1]4. a. It shall be a violation of this act for an employer to retaliate through termination of employment, discipline, or in any other manner against any employee for exercising any rights granted by this act. There shall be a rebuttable presumption of unlawful retaliation under this section whenever an employer takes adverse action against an employee within 90 days of when that employee exercises the employee's rights protected under this act.

b. It is a violation of this act for an employer to retaliate or take adverse action against an employee if the employee:

(1) makes a complaint to an employer, to a coworker, to a community organization, before a public hearing, or to a State or federal agency that rights guaranteed under this act have been violated;

(2) seeks assistance or intervention with respect to heat-related health symptoms from, the employer, local emergency services, the federal government, the State, or a local government;

(3) refuses to work if the employee reasonably believes:

(a) that an employer has not met the minimum requirements under this act to prevent illness and injury; or

(b) that performing the required work in extreme temperature conditions may result in illness or injury;

(4) institutes any proceeding under or related to this act; or

(5) testifies or prepares to testify in an investigation or proceeding under this act.

c. Any employer that violates the provisions of this section shall be subject to administrative penalties, which penalties the commissioner shall be authorized to assess and collect as specified in a schedule of penalties to be promulgated by the commissioner by regulation to implement the provisions of this section. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

d. (1) Upon a violation of any of the provisions of this section, an employee or former employee may institute a civil action in the Superior Court for relief. All remedies available in common law

tort actions shall be available to a prevailing plaintiff. The court may also order any or all of the following relief:

(a) an assessment of a civil fine of not more than $500 for the first violation and not more than $1,000 for each subsequent violation;

(b) an injunction to restrain the continued violation of any of the provisions of this section;

(c) reinstatement of the employee to the same position or to a position equivalent to that which the employee held prior to unlawful discharge or retaliatory action;

(d) reinstatement of full fringe benefits and seniority rights;

(e) compensation for any lost wages, benefits and other remuneration; and

(f) payment of reasonable costs and attorney's fees.

(2) An action brought under this subsection d. shall be commenced within one year of the date of the alleged violation.[1]

[1][5. There shall be established a rebuttable presumption of retaliation if an employer takes an adverse action against an employee within 90 days of any conduct protected under this act.][1]

[1][6.] 5.[1] None of the provisions of this act shall be construed to diminish the rights, privileges, or remedies of any employee under a collective bargaining agreement.

[1][7.] 6.[1] There shall be established, within the Department of Labor and Workforce Development, an "Occupational Heat-related Illness and Injury Prevention Program," which shall be responsible for enforcing the provisions of this act, and the heat stress standard promulgated by rule pursuant to this act, and which shall provide outreach and education to employers and employees regarding this act and the heat stress standard.

[1][8.] 7.[1] The commissioner shall have the authority to:

a. Investigate and ascertain compliance with this act in any place of employment in the State;

b. Enter and inspect the place of business or employment of any employer in the State for the purpose of examining and inspecting any or all records of any employer that in any way relate to or have a bearing upon the question of compliance with this act; copy any or all of those records as the commissioner may deem necessary or appropriate; question any workers; and conduct any tests to determine whether this act has been violated; and

c. Require from any employer full and correct statements in writing, including sworn statements, with respect to compliance with this act as the commissioner may deem necessary or appropriate.

[1]**[**9. When**]** 8. Except as provided in section 4 of this act for penalties concerning adverse action taken by an employer, when[1] the commissioner finds that an employer has violated this act or the rules promulgated by the department to implement this act, the commissioner may assess and collect an administrative penalty, [1]within 365 days following the establishment of rules by the commissioner,[1] of not less than $500 and not more than $5,000 per [1]employee employed at or during the time of the[1] violation, pursuant to a schedule of penalties established by the commissioner through rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). [1]Penalties shall be adjusted every five years by the commissioner in direct proportion to the rise or fall of the consumer price index as reported by the U.S. Bureau of Labor Statistics.[1] Any administrative penalty assessed under this section against a corporation, partnership, limited liability company, or sole proprietorship, shall be effective against any successor entity that is engaged in the same or equivalent trade or activity, and has one or more of the same principals or officers, as the corporation, partnership, limited liability company, or sole proprietorship against which the administrative penalty was assessed.

[1]**[**10.**]** 9.[1] When determining the amount of the administrative penalty imposed under section [1]**[**9**]** 8[1] of this act, the commissioner shall consider factors, which shall include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer and the size of the employer's business. No administrative penalty shall be levied pursuant to this section unless the commissioner provides the alleged violator with notification of the violation and of the amount of the penalty and an opportunity within 15 days following the receipt of the notice to request a hearing before the commissioner.

If a hearing is requested, the commissioner shall issue a final order upon the completion of the hearing. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. Payment of the administrative penalty is due when a final order is issued or when the notice becomes a final order. Any administrative penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Any sum collected as a fine or penalty pursuant to this section shall be applied toward enforcement of this act and administration costs of the "Occupational Heat-related Illness and Injury Prevention Program" established within the Department of Labor and Workforce Development.

[1]**[**11.**]** 10.[1] Any employer who willfully hinders or delays the commissioner in the performance of the commissioner's duties in the enforcement of this act, or fails to make, keep, and preserve any records as required under the provisions of this act, or falsifies any record, or refuses to make any record accessible to the commissioner upon demand, or refuses to furnish a sworn statement of the record or any other information required for the proper enforcement of this act to the commissioner or otherwise violates any provision of this act or of any departmental rule promulgated or order issued under this act shall be guilty of a disorderly persons offense and shall, upon conviction for a first violation [1]within 365 days following the establishment of rules by the commissioner[1], be punished by a fine of not less than $100 nor more than $1,000 or by imprisonment for not less than 10 nor more than 90 days, or by both the fine and imprisonment and, upon conviction for a second or subsequent violation, shall be punished by a fine of not less than $500 nor more than $5,000 or by imprisonment for not less than 10 nor more than 100 days, or by both the fine and imprisonment. [1]Penalties shall be adjusted every five years by the commissioner in direct proportion to the rise or fall of the consumer price index as reported by the U.S. Bureau of Labor Statistics.[1]

[1]**[**12.**]** 11.[1] a. If the commissioner determines, after either an initial determination as a result of an audit of a business or an investigation pursuant to this act, that an employer is in violation of this act, the commissioner may issue a stop-work order against the employer requiring cessation of all business operations of the employer at one or more worksites or across all of the employer's worksites and places of business. The stop-work order may be issued only against the employer found to be in violation or non-compliance. The commissioner shall serve a notification of intent to issue a stop-work order on the employer at the place of business or, for a particular employer worksite, at that worksite, at least seven days prior to the issuance of a stop-work order. The stop-work order shall be effective when served upon the employer at the place of business or, for a particular employer worksite, when served at that worksite. The stop-work order shall remain in effect until the commissioner issues an order releasing the stop-work order upon finding that the employer has come into compliance and has paid any administrative penalty deemed to be satisfactory to the commissioner, or after the commissioner determines, in a hearing held pursuant to subsection b. of this section, that the employer did not commit the act on which the order was based. The stop-work order shall be effective against any successor entity engaged in the same or equivalent trade or activity that has one or more of the same principals or officers as the corporation, partnership, limited liability company, or sole proprietorship against which the stop-work order was issued. The commissioner may assess

a civil penalty of $5,000 per day[1], within 365 days following the establishment of rules by the commissioner,[1] against an employer for each day that it conducts business operations that are in violation of the stop-work order. A request for hearing shall not automatically stay the effect of the order. [1]Penalties shall be adjusted every five years by the commissioner in direct proportion to the rise or fall of the consumer price index as reported by the U.S. Bureau of Labor Statistics[1]

b. An employer who is subject to a stop-work order shall, within 72 hours of its receipt of the notification, have the right to appeal to the commissioner in writing for an opportunity to be heard and contest the stop-work order.

c. Within seven business days of receipt of the notification from the employer, the commissioner shall hold a hearing to allow the employer to contest the issuance of a stop-work order. The department and the employer may present evidence and make any arguments in support of their respective positions regarding the findings of the audit or investigation. The commissioner shall issue a written decision within five business days of the hearing either upholding or reversing the employer's stop-work order. The decision shall include the grounds for upholding or reversing the employer's stop-work order. If the employer disagrees with the written decision, the employer may appeal the decision to the commissioner, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. If the employer does not request an appeal to the commissioner in writing, the stop-work order shall become a final order after the expiration of the 72-hour period.

e. The commissioner may compromise any civil penalty assessed under this section in an amount the commissioner determines to be appropriate.

f. Once the stop-work order becomes final, any employee affected by a stop-work order issued pursuant to this section shall be entitled to pay from the employer for the first ten days of work lost because of the stop-work. Upon request of any employee not paid wages, the commissioner can take assignment of the claim and bring any legal action necessary to collect all that is due.

[1][13.] 12.[1] After each employer has, under section 3 of this act, implemented a heat-related illness and injury prevention plan in accordance with the requirements of the department's heat stress standard, each employer shall on or before May 1 of each subsequent year, or the next business day, if May 1 falls on a Saturday, Sunday or holiday, review and subsequently release and communicate to their employees and any authorized representatives of their employees, including their collective bargaining representatives, an updated version of the employer's heat-related illness and injury prevention plan. Employers' heat-related illness and injury prevention plans may not need revision, but employers

shall be required to conduct an annual review to determine whether revisions are necessary.

1[14.] 13.**1** The statute of limitations under this act shall be six years after the alleged cause of action accrues.

1[15.] 14.**1** a. Beginning immediately following enactment of this act, in each instance in which a place of employment experiences excessive heat, an employer shall:

(1) postpone tasks that are **1**[not urgent] non-essential**1** until the **1**[period of]**1** excessive heat **1**[has ended] condition subsides**1**;

(2) take all necessary measures to reduce the heat exposure of each worker, including but not limited to, shortening work shifts by increasing the number of shifts and the corresponding total number of workers;

(3) increase rest allowances**1**, which shall be paid**1**;

(4) permit workers to drink liquids in small amounts frequently to prevent dehydration;

(5) monitor the environmental heat at job sites and resting places;

(6) permit employees to contact the employer directly and efficiently to communicate if they believe they are suffering from a heat-related illness;

(7) conduct initial and regular monitoring for employee exposure to heat to determine whether an employee's exposure has been excessive;

(8) provide **1**32 ounces of**1** potable water **1**per hour to each employee, in immediate proximity of each employee,**1** with a temperature of less than 59 degrees Fahrenheit;

(9) provide paid rest breaks and access to shade, cool-down areas or climate-controlled spaces in accordance with heat index levels in the National Weather Service Heat Index Chart;

(10) provide an emergency response for any employee who has suffered injury as a result of being exposed to excessive heat; **1**and**1**

(11) **1**[acclimatize employees to areas where exposure to heat is present; and

(12)]**1** limit the length of time an employee may be exposed to heat during the workday.

b. "Excessive heat" shall be defined by the commissioner through the rules adopted pursuant to section **1**[10] 9.**1** of this act; provided, however, until rules are adopted, for the purposes of this section, "excessive heat" shall mean:

(1) for an outdoor place of employment, a heat index at or above **1**[90] 80**1** degrees Fahrenheit according to the National Weather Service Heat Index Chart; and

(2) for an indoor place of employment, the temperature equals or exceeds **1**[87] 80**1** degrees Fahrenheit when employees are present; the heat index equals or exceeds **1**[87] 80**1** degrees Fahrenheit when

employees are present; employees wear clothing that restricts heat removal, and the temperature equals or exceeds [1]⟦82⟧ 75[1] degrees Fahrenheit; or employees work in a high radiant heat area and the temperature equals or exceeds [1]⟦82⟧ 75[1] degrees Fahrenheit.

[1]⟦16.⟧ 15.[1] This act shall take effect immediately, except that the department rules establishing a heat stress standard shall be issued on or before June 1, [1]⟦2024⟧ 2025[1].