

ASSEMBLY, No. 5022

STATE OF NEW JERSEY 221st LEGISLATURE

INTRODUCED NOVEMBER 14, 2024

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman WILLIAM B. SAMPSON, IV

District 31 (Hudson)

Co-Sponsored by:

Assemblywoman Reynolds-Jackson

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/9/2024)

1 AN ACT concerning occupational heat stress standard and
2 supplementing Title 34 of the Revised Statutes.

3

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

6

7 1. The Legislature finds and declares:

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

16 b. From 1979 to 2022, more than 14,000 Americans have died
17 directly from heat-related causes, according to the United States
18 Environmental Protection Agency.

19 c. Four states already have safety and health standards that cover
20 workplace heat exposure. Washington has a state standard that
21 covers outdoor heat exposure. Minnesota has a state standard that
22 covers indoor heat exposure. Oregon and California both have state
23 standards that cover indoor and outdoor heat exposure. The United
24 States military has also issued heat protections.

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

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

33

34 2. As used in this act:

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

37 "Commercial farm" means:

38 (1) a farm management unit of no less than five acres producing
39 agricultural or horticultural products worth \$2,500 or more annually,
40 and satisfying the eligibility criteria for differential property taxation
41 pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48
42 (C.54:4-23.1 et seq.);

43 (2) a farm management unit of less than five acres, producing
44 agricultural or horticultural products worth \$50,000 or more annually
45 and otherwise satisfying the eligibility criteria for differential
46 property taxation pursuant to the "Farmland Assessment Act of
47 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.); or

1 (3) a farm management unit that is a beekeeping operation
2 producing honey or other agricultural or horticultural apiary-related
3 products, or providing crop pollination services, worth \$10,000 or
4 more annually.

5 “Commissioner” means the Commissioner of the Department of
6 Labor and Workforce Development or the commissioner’s designee.

7 “Department” means the Department of Labor and Workforce
8 Development.

9 “Employ” means to suffer or to permit to work.

10 “Employee” means any individual employed by an employer.

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

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

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

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

28 “Occupation” means any occupation, service, trade, business,
29 industry or branch or group of industries or employment or class of
30 employment in which employees are employed.

31 “Occupational safety and health standard” means a regulation or
32 rule that requires the following: a condition that is reasonably
33 appropriate or necessary to make employment and places of
34 employment safe and healthful; or the adoption or use of a means,
35 method, operation, practice, or process that is reasonably appropriate
36 or necessary to make employment and places of employment safe and
37 healthful.

38 “Place of employment” means a place in or about which an
39 employee is allowed.

40

41 3. a. On or before June 1, 2025, the commissioner shall establish
42 by rule a heat stress standard that contains the following:

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

46 (2) A requirement that each employer develop, implement, and
47 maintain an effective heat-related illness and injury prevention plan
48 for employees.

1 b. The heat-related illness and injury prevention plan referred to
2 in subsection a. of this section shall, to the extent permitted by federal
3 law, be developed and implemented with the meaningful
4 participation of employees and employee representatives, including
5 collective bargaining representatives; shall be tailored and specific to
6 the hazards in the place of employment; shall be in writing in both
7 English and in the language that each employee understands, if that
8 language is not English; and shall be made available at a time and in
9 a manner set forth by the commissioner in rule, to employees,
10 employee representatives, including collective bargaining
11 representatives, and to the commissioner. The commissioner shall
12 develop a model heat-related illness and injury prevention plan,
13 consistent with the provisions of this act, that includes, but is not
14 limited to:

- 15 (1) model training for employees and supervisors; and
- 16 (2) sections within the plan tailored to the specific hazards in
17 places of employment with high risks of exposure to heat.

18 Employers may adopt the commissioner's model heat-related
19 illness and injury prevention plan, modify that model plan, or develop
20 their own heat-related illness and injury prevention plan, consistent
21 with the provisions of this act.

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

- 25 (1) initial and regular monitoring for employee exposure to heat
26 to determine whether an employee's exposure has been excessive;
- 27 (2) providing potable water, available immediately and in
28 immediate and safe proximity to impacted employees, with a
29 temperature that is either cool, meaning 66 degrees to 77 degrees
30 Fahrenheit, or cold, meaning 35 degrees to 65 degrees Fahrenheit;
- 31 (3) providing paid rest breaks and access to shade, cool-down
32 areas or climate-controlled spaces;
- 33 (4) providing an emergency response for any employee who has
34 suffered injury as a result of being exposed to excessive heat;
- 35 (5) limiting the length of time an employee may be exposed to
36 heat during the workday;
- 37 (6) for outdoor and indoor non-climate-controlled environments,
38 implementation of a heat alert program to provide notification to
39 employees when the National Weather Service forecasts that
40 excessive heat is likely to occur in the following day or days in a
41 locality where an employer has employees in the State, and when that
42 notification occurs, also taking the following actions:
 - 43 (a) postponing tasks that are non-essential until the excessive
44 heat condition subsides;
 - 45 (b) instituting or increasing rest allowances;
 - 46 (c) reminding workers to drink liquids in small amounts
47 frequently to prevent dehydration; and

- 1 (d) to the extent practicable, monitoring the environmental heat
2 index at job sites and resting places;
- 3 (7) preventing hazards, including through the use of:
- 4 (a) engineering controls that include the isolation of hot
5 processes, the isolation of employees from sources of heat, local
6 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 (b) administrative controls that limit exposure to a hazard by
10 adjustment of work procedures or work schedules, including rotating
11 employees, scheduling work earlier or later in the day, using work-
12 rest schedules, reducing work intensity or speed, and changing
13 required work clothing; and
- 14 (c) personal protective equipment, including water-cooled
15 garments, air-cooled garments, reflective clothing, and cooling vests;
- 16 (8) coordinating risk assessment efforts, plan development, and
17 implementation with other employers who have employees who work
18 at the same work site; and
- 19 (9) allowing employees to contact the employer directly and
20 efficiently to communicate if the employee feels like the employee is
21 suffering from a heat-related illness.
- 22 d. The heat-related illness and injury prevention plan referred to
23 in subsection a. of this section shall contain at a minimum annual
24 training and education to employees who may be exposed to high
25 heat levels, including training and education regarding the following:
- 26 (1) the identification of heat-related illness risk factors;
- 27 (2) personal factors that may increase susceptibility to heat-
28 related illness;
- 29 (3) signs and symptoms of heat-related illness;
- 30 (4) different types of heat-related illness;
- 31 (5) the importance of consumption of fluids;
- 32 (6) available engineering control measures;
- 33 (7) administrative control measures;
- 34 (8) the importance of reporting heat-related symptoms being
35 experienced by an employee or another employee;
- 36 (9) record-keeping requirements and reporting procedures;
- 37 (10) emergency response procedures; and
- 38 (11) employee rights under this act and department rules
39 promulgated to implement this act.
- 40 e. The heat-related illness and injury prevention plan referred to
41 in subsection a. of this section shall contain at a minimum special
42 training and education to employees who are supervisors, in addition
43 to the training and education provided to all employees under
44 subsection d. of this section, which shall include training and
45 education regarding the following:
- 46 (1) proper procedures a supervisor is required to follow under this
47 section with respect to the prevention of employee exposure to
48 excessive heat;

- 1 (2) how to recognize high-risk situations, including how to
2 monitor weather reports and weather advisories, how to avoid
3 assigning an employee to a situation that could predictably
4 compromise the safety of the employee, and how to initially and
5 regularly monitor for employee exposure to heat to determine
6 whether an employee's exposure has been excessive; and
- 7 (3) proper procedures including emergency response procedures
8 to follow when an employee exhibits signs or reports symptoms
9 consistent with possible heat-related illness.
- 10 f. The heat-related illness and injury prevention plan referred to
11 in subsection a. of this section shall require that the education and
12 training referred to in subsections d. and e. of this section:
- 13 (1) be provided by an employer for each new employee before
14 starting a job assignment;
- 15 (2) provide employees opportunities to ask questions, provide
16 feedback, and request additional instruction, clarification, or another
17 follow-up;
- 18 (3) be provided by an individual with knowledge of heat-related
19 illness prevention and of the plan of the employer required under
20 subsection a. of this section; and
- 21 (4) be appropriate in content and vocabulary commensurate to the
22 language, education level, and literacy of each employee.
- 23 g. A requirement that each employer shall maintain the
24 following:
- 25 (1) records related to the heat-related illness and injury
26 prevention plan referred to in subsection a. of this section, including
27 heat-related illness risk and hazard assessments and identification,
28 evaluation, correction and training procedures;
- 29 (2) data on all heat-related illnesses, injuries and fatalities that
30 have occurred at the place of employment, including but not limited
31 to: the type of heat-related illness or injury experienced and
32 symptoms experienced, the cause of death, the time at which
33 manifestation of illness, injury, or death occurred, environmental
34 measures, including temperature and humidity levels, at time of
35 manifestation of illness, injury or death, a description of the location
36 where the manifestation of illness, injury or death occurred; and
- 37 (3) data on environmental and physiological measurements
38 related to heat.
- 39 h. A requirement that each employer make the records and data
40 referred to in subsection g. of this section available, on request for
41 examination and copying at no cost, to employees, their authorized
42 representatives, including collective bargaining representatives, and
43 to the commissioner. The employer shall preserve the records and
44 data for a minimum of three years.
- 45 i. Employers shall be required to comply 30 days after the
46 effective date of this act with provisions in section 4 of this act
47 preventing retaliation and, with the provisions of the heat stress

1 standard promulgated by rule in accordance with this section 60 days
2 after the rules containing the heat stress standard are adopted.

3 j. Notwithstanding the provisions of the "Administrative
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
5 contrary, the commissioner may adopt, immediately upon filing with
6 the Office of Administrative Law, the heat stress standard required
7 by this section, which shall be effective for a period not to exceed
8 365 days from the date of the filing. Before the expiration of the heat
9 stress standard, the commissioner shall thereafter amend, adopt, or
10 readopt the rules in accordance with the requirements of P.L.1968,
11 c.410 (C.52:14B-1 et seq.). In the event that the heat stress standard
12 is not amended, adopted, or readopted within 365 days, the existing
13 standard shall remain in effect.

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

16 l. A commercial farm, as defined in section 2 of this act, shall
17 be exempt from the requirements of this act other than those set forth
18 in section 15 of this act.

19 m. All operations that are directly involved in the protection of
20 life or property, such as evacuation, rescue, medical, structural
21 firefighting, law enforcement, lifeguarding, or the emergency
22 restoration of essential services, such as roads, bridges, utilities, and
23 communications, when employees are engaged in those operations,
24 shall be exempt from the requirements of this act.

25

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

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

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

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

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

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

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

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

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

3 c. Any employer that violates the provisions of this section shall
4 be subject to administrative penalties, which penalties the
5 commissioner shall be authorized to assess and collect as specified in
6 a schedule of penalties to be promulgated by the commissioner by
7 regulation to implement the provisions of this section. Any penalty
8 imposed pursuant to this section may be recovered with costs in a
9 summary proceeding commenced by the commissioner pursuant to
10 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
11 10 et seq.).

12 d. (1) Upon a violation of any of the provisions of this section,
13 an employee or former employee may institute a civil action in the
14 Superior Court for relief. All remedies available in common law tort
15 actions shall be available to a prevailing plaintiff. The court may also
16 order any or all of the following relief:

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

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

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

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

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

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

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

31

32 5. a. No provision of this act, or any regulations promulgated to
33 implement or enforce this act, shall be construed as:

34 (1) requiring an employer to diminish or reduce protections
35 provided by the employer pursuant to an employer policy or
36 collective bargaining agreement which are more favorable to
37 employee safety than those required by this act or which provide
38 rights or benefits to employees not covered by this act;

39 (2) preventing or prohibiting the employer from agreeing, through
40 a collective bargaining agreement or employer policy, to provide
41 protections which are more favorable to employees than those
42 required by this act or to provide rights, benefits, or protections to
43 employees not covered by this act; or

44 (3) superseding any law providing collective bargaining rights for
45 employees, or in any way reducing, diminishing, or adversely
46 affecting those collective bargaining rights, or in any way reducing,
47 diminishing, or affecting the obligations of employers under those
48 laws.

1 b. An employer signatory to a collective bargaining agreement
2 with a union shall be exempt from the requirements of this act where
3 there is a collective bargaining agreement in effect that establishes
4 any of the protections provided under this act and includes defined
5 temperature employee protection language if the agreement concerns
6 any of the following work:

- 7 (1) construction;
- 8 (2) construction maintenance;
- 9 (3) rock, sand, gravel, cement and asphalt operations;
- 10 (4) heavy-duty mechanics and surveying;
- 11 (5) construction inspection; and
- 12 (6) longshore and related craft work and port security in the Port
13 of New York and New Jersey.

14 c. Employers and employees subject to a collective bargaining
15 agreement in effect on the effective date of this act shall not be
16 subject to the provisions of this act until the stated expiration date of
17 that collective bargaining agreement, or if a current collective
18 bargaining agreement expires within 90 days after the effective date
19 of this act employers shall not be bound by this act until the stated
20 expiration date of the subsequent collective bargaining agreement, if
21 the agreement concerns any of the following work:

- 22 (1) construction;
- 23 (2) construction maintenance;
- 24 (3) rock, sand, gravel, cement and asphalt operations;
- 25 (4) heavy-duty mechanics and surveying;
- 26 (5) construction inspection; and
- 27 (6) longshore and related craft work and port security in the Port
28 of New York and New Jersey.

29 d. To the extent any federal heat stress standard law, rule, or
30 regulation is more favorable to employees than any requirement of
31 this act, the commissioner shall update the New Jersey heat stress
32 standard rule to align with the federal standard.

33
34 6. There shall be established, within the Department of Labor
35 and Workforce Development, an “Occupational Heat-related Illness
36 and Injury Prevention Program,” which shall be responsible for
37 enforcing the provisions of this act, and the heat stress standard
38 promulgated by rule pursuant to this act, and which shall provide
39 outreach and education to employers and employees regarding this
40 act and the heat stress standard.

41
42 7. The commissioner shall have the authority to:

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

45 b. Enter and inspect the place of business or employment of any
46 employer in the State for the purpose of examining and inspecting
47 any or all records of any employer that in any way relate to or have a
48 bearing upon the question of compliance with this act; copy any or

1 all of those records as the commissioner may deem necessary or
2 appropriate; question any workers; and conduct any tests to
3 determine whether this act has been violated; and

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

7
8 8. Except as provided in section 4 of this act for penalties
9 concerning adverse action taken by an employer, when the
10 commissioner finds that an employer has violated this act or the rules
11 promulgated by the department to implement this act, the
12 commissioner may assess and collect an administrative penalty,
13 following the establishment, amendment, adoption, or readoption of
14 rules by the commissioner, of not less than \$500 and not more than
15 \$2,000 per employee employed at or during the time of the violation,
16 pursuant to a schedule of penalties established by the commissioner
17 through rules in accordance with the "Administrative Procedure
18 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Penalties shall be
19 adjusted every five years by the commissioner in direct proportion to
20 the rise or fall of the consumer price index as reported by the U.S.
21 Bureau of Labor Statistics, but the penalties shall not be set below
22 \$500 per employee. Any administrative penalty assessed under this
23 section against a corporation, partnership, limited liability company,
24 or sole proprietorship, shall be effective against any successor entity
25 that is engaged in the same or equivalent trade or activity, and has
26 one or more of the same principals or officers, as the corporation,
27 partnership, limited liability company, or sole proprietorship against
28 which the administrative penalty was assessed.

29
30 9. When determining the amount of the administrative penalty
31 imposed under section 8 of this act, the commissioner shall consider
32 factors, which shall include the history of previous violations by the
33 employer, the seriousness of the violation, the good faith of the
34 employer and the size of the employer's business. No administrative
35 penalty shall be levied pursuant to this section unless the commissioner
36 provides the alleged violator with notification of the violation and of the
37 amount of the penalty and an opportunity within 15 days following the
38 receipt of the notice to request a hearing before the commissioner.

39 If a hearing is requested, the commissioner shall issue a final order
40 upon the completion of the hearing. If no hearing is requested, the
41 notice shall become a final order upon expiration of the 15-day period.
42 Payment of the administrative penalty is due when a final order is issued
43 or when the notice becomes a final order. Any administrative penalty
44 imposed pursuant to this section may be recovered with costs in a
45 summary proceeding commenced by the commissioner pursuant to the
46 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
47 seq.). Any sum collected as a fine or penalty pursuant to this section
48 shall be applied toward enforcement of this act and administration costs

1 of the “Occupational Heat-related Illness and Injury Prevention
2 Program” established within the Department of Labor and Workforce
3 Development.

4
5 10. Any employer who willfully hinders or delays the
6 commissioner in the performance of the commissioner’s duties in the
7 enforcement of this act, or fails to make, keep, and preserve any
8 records as required under the provisions of this act, or falsifies any
9 record, or refuses to make any record accessible to the commissioner
10 upon demand, or refuses to furnish a sworn statement of the record
11 or any other information required for the proper enforcement of this
12 act to the commissioner or otherwise violates any provision of this
13 act or of any departmental rule promulgated or order issued under
14 this act shall, for a first violation following the establishment,
15 amendment, adoption, or readoption of rules by the commissioner, be
16 punished by a fine of not less than \$100 nor more than \$1,000 and,
17 for a second or subsequent violation, shall be punished by a fine of
18 not less than \$500 nor more than \$2,000. Penalties shall be adjusted
19 every five years by the commissioner in direct proportion to the rise
20 or fall of the consumer price index as reported by the U.S. Bureau of
21 Labor Statistics.

22
23 11. a. If the commissioner determines, after either an initial
24 determination as a result of an audit of a business or an investigation
25 pursuant to this act, that an employer is in violation of this act, the
26 commissioner may issue a stop-work order against the employer
27 requiring cessation of all business operations of the employer at one
28 or more worksites or across all of the employer’s worksites and
29 places of business. The stop-work order may be issued only against
30 the employer found to be in violation or non-compliance. The
31 commissioner shall serve a notification of intent to issue a stop-work
32 order on the employer at the place of business or, for a particular
33 employer worksite, at that worksite, at least seven days prior to the
34 issuance of a stop-work order. The stop-work order shall be effective
35 when served upon the employer at the place of business or, for a
36 particular employer worksite, when served at that worksite. The
37 stop-work order shall remain in effect until the commissioner issues
38 an order releasing the stop-work order upon finding that the employer
39 has come into compliance and has paid any administrative penalty
40 deemed to be satisfactory to the commissioner, or after the
41 commissioner determines, in a hearing held pursuant to subsection b.
42 of this section, that the employer did not commit the act on which the
43 order was based. The stop-work order shall be effective against any
44 successor entity engaged in the same or equivalent trade or activity
45 that has one or more of the same principals or officers as the
46 corporation, partnership, limited liability company, or sole
47 proprietorship against which the stop-work order was issued. The
48 commissioner may assess a civil penalty of \$2,000 per day, following

1 the establishment, amendment, adoption, or readoption of rules by
2 the commissioner, against an employer for each day that it conducts
3 business operations that are in violation of the stop-work order. A
4 request for hearing shall not automatically stay the effect of the order.
5 Penalties shall be adjusted every five years by the commissioner in
6 direct proportion to the rise or fall of the consumer price index as
7 reported by the U.S. Bureau of Labor Statistics.

8 b. An employer who is subject to a stop-work order shall, within
9 72 hours of its receipt of the notification, have the right to appeal to the
10 commissioner in writing for an opportunity to be heard and contest the
11 stop-work order.

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

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

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

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

36
37 12. After each employer has, under section 3 of this act,
38 implemented a heat-related illness and injury prevention plan in
39 accordance with the requirements of the department's heat stress
40 standard, each employer shall on or before May 1 of each subsequent
41 year, or the next business day, if May 1 falls on a Saturday, Sunday
42 or holiday, review and subsequently release and communicate to their
43 employees and any authorized representatives of their employees,
44 including their collective bargaining representatives, an updated
45 version of the employer's heat-related illness and injury prevention
46 plan. Employers' heat-related illness and injury prevention plans
47 may not need revision, but employers shall be required to conduct an
48 annual review to determine whether revisions are necessary.

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

3
4 14. a. Beginning 30 days following enactment of this act, in each
5 instance in which a place of employment experiences excessive heat,
6 an employer shall:

7 (1) postpone tasks that are non-essential until the excessive heat
8 condition subsides;

9 (2) institute or increase rest allowances, which shall be paid;

10 (3) permit workers to drink liquids in small amounts frequently to
11 prevent dehydration;

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

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

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

19 (7) provide potable water, available immediately and in immediate
20 and safe proximity to impacted employees, with a temperature that is
21 either cool, meaning 66 degrees to 77 degrees Fahrenheit, or cold,
22 meaning 35 degrees to 65 degrees Fahrenheit;

23 (8) provide paid rest breaks and access to shade, cool-down areas
24 or climate-controlled spaces;

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

27 (10) limit the length of time an employee may be exposed to heat
28 during the workday.

29 b. "Excessive heat" shall be defined by the commissioner
30 through the rules adopted pursuant to section 3 of this act; provided,
31 however, until rules are adopted, for the purposes of this section,
32 "excessive heat" shall mean:

33 (1) for an outdoor place of employment, a heat index at or above
34 85 degrees Fahrenheit according to the National Weather Service
35 Heat Index Chart; and

36 (2) for an indoor place of employment, the temperature equals or
37 exceeds 85 degrees Fahrenheit when employees are present; the heat
38 index equals or exceeds 85 degrees Fahrenheit when employees are
39 present; employees wear clothing that restricts heat removal, and the
40 temperature equals or exceeds 80 degrees Fahrenheit; or employees
41 work in a high radiant heat area and the temperature equals or
42 exceeds 80 degrees Fahrenheit.

43
44 15. The New Jersey Department of Agriculture in consultation
45 with the Department of Labor and Workplace Development and the
46 New Jersey Department of Health, with advice and input from the
47 New Jersey Agricultural Experiment Station at Rutgers University,
48 shall adopt a heat-related illness and injury prevention plan for all

1 commercial farm workers specific to operations conducted on
2 commercial farms. Any person responsible for operations conducted
3 on a commercial farm shall comply with that standard and plan. The
4 heat-related illness and injury prevention plan for all commercial
5 farm workers shall include, at a minimum, water and rest breaks,
6 access to shaded areas or climate controlled spaces, an emergency
7 response for any employee who has suffered injury as a result of
8 being exposed to excessive heat, worker and supervisor training, and
9 record-keeping requirements. Any violation of this act, or the rules
10 and regulations promulgated hereunder, by a commercial farm
11 operator shall be a violation of section 4 of P.L.1971, c.193
12 (C.34:9A-40). To the extent that this section may be contrary to or
13 inconsistent with the provisions of section 4 of P.L.1971, c.193
14 (C.34:9A-40), the provisions of this section shall supersede the
15 provisions of that law.

16

17 16. This act shall take effect immediately, except that rules
18 promulgated by the Departments of Agriculture and establishing a
19 heat stress standard shall be issued on or before June 1, 2025.

20

21

22

STATEMENT

23

24 This bill requires the Commissioner of Labor and Workforce
25 Development to establish by rule a heat stress standard that contains
26 the following:

27 (1) a standard that establishes heat stress levels for employees
28 that, if exceeded, trigger actions by employers to protect employees
29 from heat-related illness and injury; and

30 (2) a requirement that each employer develop, implement, and
31 maintain an effective heat-related illness and injury prevention plan
32 for employees. The Commissioner is required to develop a model
33 heat-related illness and injury prevention plan, consistent with the
34 provisions of the bill, that employers may adopt. Employers may
35 develop their own heat-related illness and injury prevention plan
36 consistent with the provisions of the bill.

37 The heat-related illness and injury prevention plan is required, to
38 the extent permitted by federal law, to be developed and implemented
39 with the meaningful participation of employees and employee
40 representatives, including collective bargaining representatives; will
41 be tailored and specific to the hazards in the place of employment;
42 will be in writing in both English and in the language that each
43 employee understands, if that language is not English; and will be
44 made available at a time and in a manner set forth by the
45 commissioner in rule, to employees, employee representatives,
46 including collective bargaining representatives, and to the
47 commissioner.

1 The bill provides that the commissioner may issue a stop-work
2 order against the employer requiring cessation of all business
3 operations of the employer at one or more worksites or across all of
4 the employer's worksites and places of business if the commissioner
5 determines, after either an initial determination as a result of an audit
6 of a business or an investigation pursuant to the bill, that an employer
7 is in violation of the bill's provisions.

8 Under the bill, after initially creating a heat-related illness and
9 injury prevention plan, employers will be required to conduct an
10 annual review to determine whether revisions to their plans are
11 necessary.

12 The bill requires that State law align with federal law should a
13 federal law or regulation establish a heat stress standard that is more
14 favorable to employees than State law.

15 The bill exempts amusement parks and certain operations that are
16 directly involved in the protection of life or property, such as
17 evacuation, rescue, medical, structural firefighting, law enforcement,
18 lifeguarding, or the emergency restoration of essential services, such
19 as roads, bridges, utilities, and communications, when employees are
20 engaged in those operations, from the bill's provisions.

21 The bill addresses its application to collective bargaining
22 agreements, including, but not limited to, circumstances in which the
23 heat standards do not apply to certain collective bargaining
24 agreements.

25 The bill provides the Department of Agriculture with the power to
26 develop a heat standard for commercial farm operators in
27 consultation with the Department of Labor and Workforce
28 Development and Department of Health and with advice and input
29 from the New Jersey Agricultural Experiment Station at Rutgers
30 University, and the bill otherwise excludes commercial farms from
31 its requirements.

32 Finally, the bill imposes monetary penalties for violations of its
33 provisions.