

House Democrats Propose Bill Requiring Workplace Heat Standard

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On July 10, 2019, U.S. House of Representatives Democrats released [a bill](#) that, if passed, would require OSHA to develop a federal standard on workplace heat stress. Under the proposed bill, OSHA would have two years to propose a heat protection standard to protect both indoor and outdoor workers. The bill requires the federal standard be at least as protective as “the most protective heat prevention standard adopted by a State plan[.]” This requirement would likely lead to the federal standard mirroring the California outdoor heat prevention regulation, the first of its kind and the most stringent state standard. The Cal/OSHA heat standard requires certain employers with outdoor places of employment to develop and implement a Heat Injury and Illness Program. Generally, the program requires employers to provide employees with water, shade, training on heat illness signs and symptoms, and to implement written procedures for compliance with the program.

The House bill would also require OSHA to issue an interim rule if the proposed rule is not promulgated within two years. The interim rule would:

- Establish exposure limits that would trigger protective actions to be taken by employers;
- Require employees to develop heat-illness prevention programs, to include employee monitoring; providing protective clothing, water, and shade; paid rest breaks; allowing employees time to acclimatize to heat conditions; and having an emergency response plan; and
- Include protections for employees from discrimination for exercising their rights under the standard.

In support of the standard, the bill points to the fact that climate change has led to increasing global temperatures. According to the bill, “18 of the 19 hottest years on record have occurred since 2001.” The bill also points to the 2018 National Climate Assessment, which found that “[t]he costs of lower labor productivity under rising temperatures is estimated to reach up to \$160,000,000,000 in lost wages per year in the United States by 2090.”

While there is currently no federal standard on heat stress, employers must still consider ways to

protect their employees from the heat. OSHA can, and does, cite employers for failing to protect their employees from heat under the general duty clause. Several states – [California](#), [Washington](#), and [Minnesota](#) – have developed heat standards under their state plans and the [Florida](#) legislature is considering a heat prevention bill. Given the push for the OSHA to develop a heat illness standard and states acting on the issue, employers with outdoor places of employment should consider developing heat illness prevention programs.

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