

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: SB 732

INTRODUCER: Senator Rodriguez and others

SUBJECT: Heat Illness Prevention

DATE: January 19, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fink</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	_____	_____	<u>HP</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 732 creates s. 448.111, F.S., which provides responsibilities for certain employees and employers relating to heat illness prevention at work. These employers include industries where employees regularly perform work in an outdoor environment, including, but not limited to, agriculture, construction, and landscaping. These employers are required to:

- Train and inform supervisors and employees about heat illness, how to protect themselves and coworkers, how to recognize signs and symptoms of heat illness in themselves and coworkers, and appropriate first-aid measures;
- Provide preventative and first-aid measures to address signs or symptoms of heat illness;
- Ensure effective communication so that an employee may contact an employer, manager, supervisor, contractor, or emergency medical services provider if necessary;
- Provide a sufficient amount of cool or cold drinking water that is quickly and easily accessible to employees throughout the workday and remind employees to consume water;
- Ensure that each employee takes a 10-minute recovery period for every 2 hours that the employee is working in an outdoor environment under high-heat conditions;
- Provide accessible shade; and
- Conduct annual training approved by the Department of Agriculture and Consumer Services (FDACS) and the Department of Health (DOH).

The bill requires FDACS, in conjunction with DOH, to adopt rules to implement the bill.

The bill provides an effective date of October 1, 2022.

II. Present Situation:

The Federal Occupational Safety and Health Act of 1970 (OSH Act) has a General Duty Clause that requires employers to provide a place of employment that is “free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees.” The courts

have interpreted the OSH Act's General Duty Clause to mean that an employer has a legal obligation to provide a workplace free of conditions or activities that either the employer or industry recognizes as hazardous and that cause, or are likely to cause, death or serious physical harm to employees when there is a feasible method to abate the hazard. This includes heat-related hazards that are likely to cause death or serious bodily harm.¹

Heat is the leading cause of death among all weather-related phenomena, and it is becoming more dangerous as 18 of the last 19 years were the hottest on record.² 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. During the June 2021 heat wave in the Pacific Northwest, states reported hundreds of excess deaths and thousands of emergency room visits for heat-related illness.³ Workers in agriculture and construction are at the highest risk, but the problem affects all workers exposed to heat, including indoor workers without adequate climate-controlled environments.

Each year, more than 600 Americans die from hyperthermia, one of the nation's deadliest weather-related health outcomes. Agriculture workers die from heat-related illness at a rate 20 times greater than the general U.S. workforce. The Heat Illness Prevention campaign, launched by Commissioner of Agriculture Nikki Fried, provides farmworkers and agricultural employers with the knowledge they need to make healthy decisions in the field, helping save lives and preserving health.⁴

President Biden is launching an interagency effort to respond to extreme heat. The Departments of Labor, Health and Human Services, Homeland Security, and Agriculture; the Environmental Protection Agency; and the National Oceanic and Atmospheric Administration are announcing a set of actions that are intended to reduce heat-related illness, protect public health, and support the economy.

Specifically, the Department of Labor's Occupational Safety and Health Administration (OSHA) issued an Advance Notice of Proposed Rulemaking (ANPRM) on heat illness prevention in outdoor and indoor work settings. The ANPRM initiated a comment period allowing for OSHA to gather diverse perspectives and technical expertise on topics including heat stress thresholds, heat acclimatization planning, and exposure monitoring. This comment period was extended to Jan 26, 2022. Because this is still in the rulemaking phase, little is known in terms of specific rules. OSHA is also implementing an enforcement initiative on heat-related hazards in parallel with beginning rulemaking on a heat-specific standard. This initiative will prioritize interventions and inspections on days when the heat index exceeds 80°F.

¹ Occupational Safety and Health Administration, "Heat Standards," *see* <https://www.osha.gov/SLTC/heatstress/standards.html> (last visited Jan. 18, 2022).

² Occupational Safety and Health Administration, "Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings Rulemaking," *see* <https://www.osha.gov/heat-exposure/rulemaking> (last visited Jan. 18 2022).

³ *Id.*

⁴ Florida Department of Agriculture and Consumer Services, "Heat Illness," <https://www.fdacs.gov/Agriculture-Industry/Heat-Illness> (last visited Jan. 18, 2022).

III. Effect of Proposed Changes:

SB 732 creates s. 448.111, F.S., which provides responsibilities for certain employees and employers relating to heat illness prevention at work.

The bill outlines the applicability of these requirements to employers in industries where employees regularly perform work in an outdoor environment, including, but not limited to, agriculture, construction, and landscaping. However, these requirements do not apply to an employee who is required to work in an outdoor environment for fewer than 15 minutes per hour for every hour in the employee's entire workday. These requirements are also supplemental to all related industry-specific standards.

The bill requires employers of employees that regularly perform work in an outdoor environment to take certain measures to prevent heat illness in employees. The bill requires such employers to implement an outdoor heat exposure safety program approved by the Florida Department of Agriculture and Consumer Services (FDACS) and Department of Health (DOH). The employer must:

- Train and inform supervisors and employees about heat illness, how to protect themselves and coworkers, how to recognize signs and symptoms of heat illness in themselves and coworkers, and appropriate first-aid measures.
- Provide preventative and first-aid measures to address signs or symptoms of heat illness.
- Ensure effective communication so that an employee may contact an employer, manager, supervisor, contractor, or emergency medical services provider if necessary.
- Provide a sufficient amount of cool or cold drinking water that is quickly and easily accessible to employees throughout the workday and remind employees to consume water.
- Ensure that each employee takes a 10-minute recovery period for every 2 hours that the employee is working in an outdoor environment under high-heat conditions.

The bill requires employers to ensure access to cool drinking water at all times. This water must be free of charge and located as close as practicable. If drinking water is not plumbed to the location, the employer must provide at least one quart an hour per employee.

The bill also requires shade be provided for employees when the heat index exceeds 80 degrees Fahrenheit. If an employee demonstrates symptoms of heat illness, they shall be relieved from duty, and provided with at least 15 minutes of shade, or until symptoms have abated. If the symptoms do not abate in that 15 minute period, the employer must seek medical attention. If it is unsafe or unfeasible to provide shade, the employer must provide an alternative that is at least as effective.

The bill requires that employers provide annual heat illness training that has been approved by FDACS and DOH. Training information shall be written in English and translated into all languages understood by the employees and supervisors. The following training shall be provided:

- The environmental risk factors for heat illness;
- General awareness of personal risk factors for heat illness. An employee is responsible for monitoring his or her own personal risk factors for heat illness;

- The importance of loosening clothing and loosening or removing heat-retaining protective clothing and equipment, such as nonbreathable chemical-resistant clothing and equipment, during all recovery and rest periods, breaks, and meal periods;
- The importance of frequent consumption of cool or cold drinking water;
- The concept, importance, and methods of acclimatization;
- The common signs and symptoms of heat illness, including, but not limited to, neurological impairment, confusion, or agitation;
- The importance of immediately reporting to the employer, directly or through a supervisor, signs or symptoms of heat illness in the employee or a coworker, and the importance of immediately receiving medical attention if the employee or coworker exhibits any signs or symptoms of heat illness; and
- The employer's outdoor heat exposure safety program and related high-heat procedures. The bill requires supervisors to receive training on information they must provide and on procedures that must be followed when an employee experiences signs of heat illness.

The bill also requires FDACS, in conjunction with DOH, to adopt rules to implement this law.

The bill provides an effective date of October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Employers would bear the cost of providing these heat illness prevention measures such as water and shade, as well as potential lost productivity and profit.

C. Government Sector Impact:

These requirements would apply to public and private employers and employees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 448.111 of the Florida Statutes:

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.