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HOUSE BILL NO. 1980

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 10, 2025)

(Patron Prior to Substitute—Delegate Hernandez)

A BILL to amend the Code of Virginia by adding a section numbered 40.1-44.2, relating to the protection of employees; standards for heat illness prevention.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 40.1-44.2 as follows:

§ 40.1-44.2. Standards for heat illness prevention.

A. As used in this section:

"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.

"High-hazard industry" means an industry operating in the Commonwealth that has been identified pursuant to subsection B as having the highest incidences of preventable heat illness.

B. The Safety and Health Codes Board shall adopt regulations establishing (i) standards designed to protect employees from heat illness and (ii) a list of high-hazard industries to which such standards apply. Such standards shall require each employer in high-hazard industries to provide water, access to shade or climate-controlled environment, and rest periods, and to provide effective training regarding heat illness prevention, to implement high-heat procedures when the temperature equals or exceeds 90 degrees Fahrenheit, and to establish effective emergency response procedures.

C. The rules and regulations adopted by the Safety and Health Codes Board pursuant to this section shall be enforced as specified in §§ 40.1-49.3 through 40.1-49.7.

D. It is a violation of § 40.1-51.2:1 to discharge or discriminate in any other manner against employees for exercising their rights under this or any other provision offering occupational safety and health protection to employees.

E. A person aggrieved by a violation of this section or the regulations promulgated hereunder may bring in an appropriate court of the Commonwealth (i) an action based on a violation of this section or the regulations hereunder to enjoin such a violation, (ii) an action to recover statutory damages of \$1,000 per violation, or (iii) both such actions. If the court finds that an employer knowingly violated the provisions of this section or the regulations promulgated hereunder, the court shall award an additional \$1,000 as liquidated damages. An action brought pursuant to this section shall be commenced within one year after the cause of action has accrued.

2. That no later than January 1, 2026, the Safety and Health Codes Board (the Board), in consultation with the Department of Labor and Industry, shall develop a list of high-hazard industries pursuant to § 40.1-44.2 of the Code of Virginia, as created by this act. In developing such list, the Board shall consider the Virginia Occupational Safety and Health Program, the Survey of Occupational Injuries and Illnesses, the Occupational Safety and Health Administration's high-hazard industries list, histories of violations of Occupational Safety and Health Administration standards, and any other data sources deemed relevant to identifying injury and illness rates in employment. The Board shall reassess such list of high-hazard industries every five years after the initial list is developed.

3. That no later than May 1, 2026, the Safety and Health Codes Board (the Board), in consultation with the Department of Labor and Industry, shall develop and adopt regulations that require employers in high-hazard industries to implement standards for heat illness prevention pursuant to § 40.1-44.2 of the Code of Virginia, as created by this act. In developing such regulations, the Board shall consider standards created by the National Institute for Occupational Safety and Health, the American Conference of Governmental Industrial Hygienists, and the American National Standards Institute. The Board shall also convene an advisory panel to assist in developing such regulations, at least half of which shall be employee advocates and stakeholders.

SENATE SUBSTITUTE

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