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SENATE BILL NO. 288

Offered January 14, 2026

Prefiled January 13, 2026

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

Patron—Aird

Referred to Committee on Commerce and Labor

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:

"Employer" means any employer subject to jurisdiction of the Virginia Occupational Safety and Health Program pursuant to 16VAC25-60-10.

"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 rash, heat edema, heat exhaustion, heat syncope, rhabdomyolysis, and heat stroke.

"Worker" means an employee, independent contractor, or other laborer whose worksite conditions are controlled by an employer.

B. The Safety and Health Codes Board shall adopt regulations establishing standards designed to protect workers from heat illness during indoor and outdoor work. Such standards shall include requirements for each employer to (i) provide water, access to shade or climate-controlled environments when practicable, rest periods, acclimatization to working in heat, and effective training regarding heat illness prevention; (ii) implement high-heat procedures when the temperature equals or exceeds 80 degrees Fahrenheit; and (iii) establish effective emergency response procedures. There shall be an exemption for heat exposure during the provision of emergency services that involve emergency law enforcement, emergency medical services, firefighting services, rescue and evacuation operations, or emergency restoration of essential utilities, including electric and telecommunication utilities.

C. The 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. No employer shall discharge or in any way discriminate against a worker because the worker has filed a safety or health complaint or has testified or otherwise acted to exercise rights under the safety and health provisions of this title for themselves or others. Any worker who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within 60 days after such violation occurs, file a complaint with the Commissioner alleging such discharge or discrimination. The worker shall be prohibited from seeking relief under this section if he fails to file such complaint within the 60-day time period. Upon receipt of such complaint, the Commissioner shall cause such investigation to be made as he deems appropriate. If, upon such investigation, he determines that the provisions of this subsection have been violated, he shall attempt by conciliation to have the violation abated without economic loss to the worker. In the event a voluntary agreement cannot be obtained, the Commissioner shall bring an action in a circuit court having jurisdiction over the person charged with the violation. The court shall have jurisdiction, for cause shown, to restrain violations and order appropriate relief, including rehiring or reinstatement of the worker to his former position with back pay plus interest at a rate not to exceed eight percent per annum.

E. In addition to any penalties provided by this title, and without regard to any exhaustion of alternative administrative remedies provided for in this title, a worker may bring in an appropriate court of the Commonwealth an action based on a violation of the regulations promulgated pursuant to subsection B to enjoin such a violation, to recover statutory damages of \$1,000 per violation, or both. The court shall also award reasonable attorney fees and costs to any prevailing worker. If the court finds that an employer knowingly violated the provisions of such regulations, the court shall award an additional \$1,000 as liquidated damages. An action brought pursuant to this subsection shall commence within one year after the cause of action has accrued.

2. That no later than May 1, 2027, 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 to implement heat illness prevention plans pursuant to § 40.1-44.2 of the Code of Virginia, as created by this act. In developing such regulations, the Board shall consider the 2021 Draft Heat Illness Prevention Standard of the Virginia Department of Labor and Industry and standards created by the

59 **Federal Occupational Safety and Health Administration, the National Institute for Occupational Safety**
60 **and Health, the American Conference of Governmental Industrial Hygienists, the American National**
61 **Standards Institute, the Maryland Occupational Safety and Health Division, the Oregon Occupational**
62 **Safety and Health Division, and the California Division of Occupational Safety and Health. The Board**
63 **shall also convene an advisory panel to assist in developing such regulations, at least half of the**
64 **membership of which shall be employee advocates and employee stakeholders.**