

AMENDED IN ASSEMBLY MARCH 21, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2243

Introduced by Assembly Member Eduardo Garcia
(Coauthors: Assembly Members Luz Rivas and Robert Rivas)
(Coauthor: Senator Stern)

February 16, 2022

An act to amend Section 6721 of the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2243, as amended, Eduardo Garcia. Occupational safety and health standards: heat illness: wildfire smoke.

Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973 (OSHA), requires employers to comply with certain safety and health standards, as specified, and charges the division with enforcement of the act. Under OSHA, certain knowing, negligent, or willful violations of safety and health standards are punishable as a misdemeanor. The existing Maria Isabel Vasquez Jimenez heat illness standard provides for the prevention of heat-related illness of employees in outdoor places of employment, as prescribed. There is also an existing standard for workplace protection from wildfire smoke.

This bill would require the division, before January 1, 2024, to submit to the standards board a rulemaking proposal to revise the heat illness standard to include an ultrahigh heat standard for employees in outdoor places of employment for heat in excess of 105 degrees Fahrenheit, as ~~prescribed~~; *prescribed, and require employers to distribute copies of the Heat Illness Prevention Plan, as provided.* The bill would similarly require a rulemaking proposal to revise the wildfire smoke standard to reduce the existing air quality index threshold for PM2.5 particulate matter at which control by respiratory protective equipment becomes ~~mandatory~~; *mandatory, and remove the requirement that an employer reasonably anticipate employees may be exposed to wildfire smoke.* The bill would require the standards board to review the proposed changes and adopt revised standards before July 1, 2024. *The bill would further require the division to consider regulations relating to protections related to acclimatization to higher temperatures, training programs for outdoor employees in administering first aid, and additional protections for piece-rate workers, as provided.*

Because this bill would require the adoption of additional safety standards, the violation of which would be a misdemeanor, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6721 of the Labor Code is amended to
- 2 read:
- 3 6721. (a) The heat illness prevention standards set forth in
- 4 Section 3395 of Title 8 of the California Code of Regulations shall
- 5 be known, and may be cited, as the Maria Isabel Vasquez Jimenez
- 6 heat illness standard.
- 7 (b) The division, before January 1, 2024, shall submit to the
- 8 standards board a rulemaking proposal to revise the following:
- 9 (1) The heat illness standard in subdivision (a), ~~to include to do~~
- 10 *the following:*

1 (A) *Include* an ultrahigh heat standard for employees in outdoor
2 places of employment for heat in excess of 105 degrees Fahrenheit.
3 The ultrahigh heat standard shall include additional mandatory
4 work breaks every hour, accessible cool water, shade structures
5 that include cooling features such as misters, and increased
6 employer monitoring of employees for symptoms of heat-related
7 illnesses.

8 (B) *Require employers to provide a copy of the Heat Illness*
9 *Prevention Plan to all new employees when temperatures exceed*
10 *80 degrees and to all employees on an annual basis.*

11 (2) The wildfire smoke standards set forth in Section 5141.1 of
12 Title 8 of the California Code of Regulations, to reduce the AQI
13 threshold for PM2.5 at which control by respiratory protective
14 equipment becomes mandatory to, at a maximum, an AQI of 200
15 or ~~more~~. *more, and to remove the requirement that the employer*
16 *reasonably anticipate that employees may be exposed to wildfire*
17 *smoke. The proposed threshold may be lower than 200 AQI or*
18 *more, as determined by the division.*

19 (c) The standards board shall review the proposed changes and
20 adopt revised standards before July 1, 2024.

21 (d) *The division shall consider developing regulations related*
22 *to the following;*

23 (1) *Additional protections related to acclimatization to higher*
24 *temperatures, especially following an absence of a week or more*
25 *from working in ultrahigh heat settings.*

26 (2) *Training programs for outdoor employees in administering*
27 *first aid related to extreme heat-related illnesses, particularly in*
28 *rural areas.*

29 (3) *Additional protections for piece-rate workers.*

30 ~~(4)~~

31 (e) As used in this section:

32 (1) “AQI” means air quality index.

33 (2) “*Piece-rate worker*” means a worker whose pay is
34 determined by the number of units produced.

35 ~~(2)~~

36 (3) “PM2.5” means solid particles and liquid droplets suspended
37 in air, known as particulate matter, with an aerodynamic diameter
38 of 2.5 micrometers or smaller.

39 SEC. 2. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

O