

CONCURRENCE IN SENATE AMENDMENTS

AB 2243 (Eduardo Garcia and Luz Rivas)

As Amended August 25, 2022

Majority vote

SUMMARY

Requires the Division of Occupational Safety and Health (Cal/OSHA) to submit to the Occupational Safety and Health Standards Board (board) a proposal to consider revising the heat illness standard, as specified, and the wildfire smoke standard for farm workers to reduce the Air Quality Index (AQI) for PM2.5 to 301 or greater for the provision of respiratory protective equipment.

Senate Amendments

- 1) Change the effective date for Cal/OSHA to submit to the board a rulemaking proposal to consider revising specified heat and wildfire standards from before December 1, 2024, to before December 1, 2025.
- 2) Revise the timeline for distribution of the Heat Illness Prevention Plan to both new and incumbent employees.
- 3) Clarify that an employer need not implement fit testing and medical evaluations for respiratory protective equipment when the AQI is above 301.
- 4) Clarify that the revisions to the wildfire smoke standards for consideration are for farm workers only.
- 5) Delete the provision that in developing regulations, Cal/OSHA shall consider linguistically appropriate training programs for outdoor employees in administering first aid related to extreme heat related illnesses.

COMMENTS

According to the Community and Labor Center at the University of California, Merced, there are more than 381,000 people across California who work in the frontline essential agriculture industry. Farmworkers in particular are facing multiple health and safety threats- the COVID-19 pandemic, high heat, and inhaling smoke from large wildfires. A study in the American Journal of Industrial Medicine found that agricultural workers are 35 times more at risk for heat-related mortality than other industries.¹ In addition, studies reveal a wide range of health impacts from inhaling the fine particles in wildfire smoke. Some of the harmful effects of wild fire smoke include irritation "to the eyes, nose and lungs, [aggravation] of asthma and other respiratory illnesses and [increased] risk of death from lung cancer and heart disease.

According to the Author

"With increasingly longer, hotter, and more deadly heat waves, particularly in the region of the Coachella and Imperial Valley, we must do more to protect workers and update our outdoor

¹ Gubernot, D.M., Anderson, G.B. and Hunting, K.L. (2015), Characterizing occupational heat-related mortality in the United States, 2000–2010: An analysis using the census of fatal occupational injuries database. *Am. J. Ind. Med.*, 58: 203-211.

worker protection standards to align with our new reality. Temperatures in my constituency rise to 120 degrees and our current standards for worker protections only account for temperatures above 95. Additionally, air quality standards need to be updated to account for the unhealthy air above 200 AQI, especially since extreme heat events combined with unhealthy air have tremendous impacts on outdoor workers."

Arguments in Support

California Water Service is in support and states, "Across the state, we have approximately 1,200 employees, and their health and safety is of paramount importance to us. 365 days a year, you will find our employees in the field, working diligently on everything from conducting tests to ensure our customers' drinking water meets the highest levels of safety to installing new infrastructure so that our customers' service remains reliable.

With climate change driving an increased frequency and intensity of wildfires and warmer temperatures across the state, the potential dangers from wildfire smoke and ultrahigh heat will become more prevalent in coming years. [This] legislation will do much to help ensure our employees – and those of thousands of other entities across California – remain safe and healthy."

Arguments in Opposition

A coalition of employer associations, including the Associated General Contractors, are opposed to this bill and state, "AB 2243 is an end-run around Cal/OSHA's regulatory process that attempts to re-write two of Cal/OSHA's most recent regulations in ways which will not improve safety and Cal/OSHA specifically chose to reject in its drafting of these regulations. In addition, AB 2243's push to consider new standards is similarly wasteful – and, if the proponents wish to push those topics, they should be handled via the normal petition process at Cal/OSHA."

FISCAL COMMENTS

According to the Senate Appropriations Committee, the Department of Industrial Relations (DIR) anticipates increased costs from the bill related to rulemaking and investigations/enforcement. The annual magnitude is unknown, but likely significant (special fund). Specifically, CalOSHA and DIR's Occupational Safety and Health Standards Board (OSHSB) would incur costs to revise and adopt new heat illness and wildfire smoke standards, which must undergo a standardized regulatory impact analysis (SRIA), potentially generating substantial workload.

VOTES:

ASM LABOR AND EMPLOYMENT: 4-2-0

YES: Kalra, Jones-Sawyer, Reyes, Ward

NO: Flora, Seyarto

ASM APPROPRIATIONS: 12-4-0

YES: Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

NO: Bigelow, Megan Dahle, Davies, Fong

ASSEMBLY FLOOR: 47-19-12

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

ABS, ABST OR NV: Berman, Cooper, Daly, Gipson, Gray, Grayson, Maienschein, Mayes, O'Donnell, Petrie-Norris, Blanca Rubio, Villapudua

SENATE FLOOR: 31-9-0

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk

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