

AMENDED IN ASSEMBLY AUGUST 2, 2010  
AMENDED IN ASSEMBLY AUGUST 17, 2009  
AMENDED IN ASSEMBLY JULY 14, 2009

**SENATE BILL**

**No. 477**

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**Introduced by Senator Florez**

February 26, 2009

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An act to add Section 6713 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 477, as amended, Florez. Employment: heat illness prevention.

Existing law permits the Occupational Safety and Health Standards Board within the Department of Industrial Relations to adopt occupational health and safety standards to protect the welfare of employees, and existing regulations provide for the prevention of heat-related illness of employees, as prescribed. Under existing law, it is a misdemeanor for an employer to violate a safety standard if the violation has a substantial probability of resulting in death or serious physical harm.

This bill would incorporate certain of these regulatory provisions into statute. The bill would additionally specify requirements for employers to provide employees access to shade when the temperature exceeds 85 75 degrees Fahrenheit and to implement designated high-heat *and extreme-heat* procedures when the temperature equals or exceeds 85 or 95 degrees Fahrenheit, *respectively*. The bill would prohibit an employer from allowing an employee or a supervisor to engage in outdoor work without receiving training on specified topics and would

require the employer to designate a person to ensure that emergency procedures are invoked when appropriate.

Because this bill would specify 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 6713 is added to the Labor Code, to read:  
2 6713. (a) The following definitions apply for purposes of this  
3 section:  
4 (1) “Acclimatization” means temporary adaptation of the body  
5 to work in the heat that occurs gradually when a person is exposed  
6 to it.  
7 (2) “Environmental risk factors for heat illness” means working  
8 conditions that create the possibility that heat illness could occur,  
9 including air temperature, relative humidity, radiant heat from the  
10 sun and other sources, conductive heat sources such as the ground,  
11 air movement, workload severity and duration, protective clothing,  
12 and personal protective equipment worn by employees.  
13 (3) “Heat illness” means a serious medical condition resulting  
14 from the body’s inability to cope with a particular heat load, and  
15 includes heat cramps, heat exhaustion, heat syncope, and heat  
16 stroke.  
17 (4) “Personal risk factors for heat illness” means factors such  
18 as a person’s age, degree of acclimatization, health, water  
19 consumption, alcohol consumption, caffeine consumption, and  
20 use of prescription medications that affect the body’s water  
21 retention or other physiological responses to heat.  
22 (5) “Shade” means blockage of direct sunlight. One indicator  
23 that blockage of direct sunlight is sufficient is when objects do not  
24 cast a shadow in the area of blocked sunlight. Shade is not  
25 sufficient when heat in the area of shade defeats the purpose of

1 shade, which is to allow the body to cool. Shade may be provided  
2 by any natural or artificial means that does not expose an employee  
3 to unsafe or unhealthy conditions. A car sitting in the sun does not  
4 provide acceptable shade to an employee inside it, unless the car  
5 is running with air-conditioning.

6 (6) "Temperature" means the dry bulb temperature in degrees  
7 Fahrenheit obtainable by using a thermometer to measure the  
8 outdoor temperature in an area where there is no shade. While the  
9 temperature measurement shall be taken in an area with full  
10 sunlight, the bulb or sensor of the thermometer shall be shielded  
11 while taking the measurement, with the hand or some other object,  
12 from direct contact by sunlight.

13 (b) An employer shall provide employees with continuous, ready  
14 access to fresh, pure, suitably cool potable drinking water meeting  
15 the requirements of Sections 1524, 3363, and 3457 of Title 8 of  
16 the California Code of Regulations, as applicable. Where drinking  
17 water is not plumbed or otherwise continuously supplied, the  
18 employer shall provide it in sufficient quantity at the beginning of  
19 the work shift to provide one quart per employee per hour for  
20 drinking for the entire shift. An employer may begin the shift with  
21 smaller quantities of water if the employer has an effective  
22 procedure for replenishment during the shift to allow employees  
23 to drink one quart or more per hour. The frequent drinking of water,  
24 as described in subparagraph (C) of paragraph (1) of subdivision  
25 (e), shall be encouraged by the employer.

26 (c) (1) When the outdoor temperature in the work area exceeds  
27 ~~85~~ 75 degrees Fahrenheit, an employer shall have and maintain  
28 one or more areas with shade at all times while employees are  
29 present that are either open to the air or provided with ventilation  
30 or cooling. The amount of shade shall be sufficient to  
31 accommodate, ~~at minimum, 25 percent~~ all of the employees on  
32 the shift at any time, so that they can sit in a normal posture fully  
33 in the shade without being in physical contact with each other. The  
34 shaded area shall be located as close as practicable to areas where  
35 employees are working.

36 (2) When the outdoor temperature in the work area does not  
37 exceed ~~85~~ 75 degrees Fahrenheit, an employer shall either provide  
38 shade as described in paragraph (1) or provide timely access to  
39 shade upon an employee's request.

1 (3) An employer shall ~~allow and encourage~~ *require* an employee  
 2 to take a cool-down rest in the shade for a period of not less than  
 3 ~~five~~ *ten* minutes at a time when an employee feels the need to do  
 4 so to protect himself or herself from overheating. The employer  
 5 shall permit access to shade pursuant to this ~~paragraph~~ *subdivision*  
 6 at all times.

7 (4) An employer other than an employer in the agricultural  
 8 industry may provide cooling measures in lieu of shade, such as  
 9 the use of misting machines, if the employer can demonstrate that  
 10 these measures are at least as effective as shade in allowing  
 11 employees to cool.

12 (d) An employer shall implement high-heat procedures when  
 13 the outdoor temperature equals or exceeds ~~95~~ 85 degrees  
 14 Fahrenheit. These procedures shall include, *in addition to the*  
 15 *procedures of subdivision (c)*, all of the following to the extent  
 16 practicable:

17 (1) Ensuring that effective communication by voice, observation,  
 18 or electronic means is maintained so that employees at the worksite  
 19 can contact a supervisor when necessary. An electronic device,  
 20 such as a ~~cell phone~~ *cellular telephone* or a text messaging device,  
 21 may be used for this purpose if reception in the area is reliable.

22 (2) Using a buddy system.

23 (3) Observing employees for alertness and signs or symptoms  
 24 of heat illness.

25 (4) Reminding employees throughout the work shift to drink  
 26 plenty of water.

27 (5) Supervising new employees closely by a supervisor or  
 28 designee for the first 14 days of the employee’s employment by  
 29 the employer, unless the employee indicates at the time of hire  
 30 that he or she has been doing similar outdoor work for at least 10  
 31 of the past 30 days for four or more hours per day.

32 (e) *An employer shall implement extreme-heat procedures when*  
 33 *the outdoor temperature equals or exceeds 95 degrees Fahrenheit.*  
 34 *In addition to the procedures of subdivision (d), the employer shall*  
 35 *require the employees to take mandatory rest breaks after every*  
 36 *hour worked. The employer shall permit access to shade pursuant*  
 37 *to paragraph (1) of subdivision (c) at all times.*

38 (e)

39 (f) (1) An employer shall provide training in the following  
 40 topics to all supervisory and nonsupervisory employees:

- 1 (A) The environmental and personal risk factors for heat illness,  
2 as well as the added burden of heat load on the body caused by  
3 exertion, clothing, and personal protective equipment.
- 4 (B) The employer’s procedures for complying with the  
5 requirements of this section.
- 6 (C) The importance of frequent consumption of small quantities  
7 of water, up to four cups per hour, when the work environment is  
8 hot and employees are likely to be sweating more than usual in  
9 the performance of their duties.
- 10 (D) The importance of acclimatization.
- 11 (E) The different types of heat illness and the common signs  
12 and symptoms of heat illness.
- 13 (F) The importance to employees of immediately reporting to  
14 the employer, directly or through the employee’s supervisor,  
15 symptoms or signs of heat illness in themselves or in coworkers.
- 16 (G) The employer’s procedures for responding to symptoms of  
17 possible heat illness, including the procedure for providing  
18 emergency medical services if they become necessary.
- 19 (H) The employer’s procedures for contacting emergency  
20 medical services and, if necessary, for transporting employees to  
21 a point where they can be reached by an emergency medical service  
22 provider.
- 23 (I) The employer’s procedures for ensuring that, in the event of  
24 an emergency, clear and precise directions to the worksite will be  
25 provided as needed to emergency responders.
- 26 (2) Prior to assigning a person to supervise employees working  
27 in the heat, an employer shall provide training to the person on the  
28 following topics:
  - 29 (A) The information described in paragraph (1).
  - 30 (B) The procedures that the supervisor is required to follow to  
31 implement the provisions of this section.
  - 32 (C) The procedures, including emergency response procedures,  
33 that the supervisor is required to follow when an employee exhibits  
34 symptoms consistent with possible heat illness.
  - 35 (D) Procedures to monitor weather reports and the methods to  
36 respond to hot weather advisories.
- 37 (3) An employer shall not allow an employee or a supervisor  
38 to begin outdoor work until he or she has completed the training  
39 required by this subdivision.
- 40 (f)

1 (g) An employer shall set forth the procedures described in  
2 subparagraphs (B), (G), (H), and (I) of paragraph (1) of subdivision  
3 ~~(e)~~ (f) in writing and shall make them available to its employees  
4 and to representatives of the division upon request. The procedures  
5 described in subparagraph (I) of paragraph (1) of subdivision ~~(e)~~  
6 (f) shall include designating a person to be available to ensure that  
7 emergency procedures are invoked when appropriate. The employer  
8 may include the procedures in its Injury and Illness Prevention  
9 Program required by Section 3203 of Title 8 of the California Code  
10 of Regulations or in a separate document.

11 SEC. 2. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section 17556 of  
17 the Government Code, or changes the definition of a crime within  
18 the meaning of Section 6 of Article XIII B of the California  
19 Constitution.