

Viewpoint: Florida's New Heat Exposure Law May Impact Workers' Comp

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Florida House Bill 433, which was signed by Governor DeSantis in April and went into effect on July 1, 2024, prohibits cities and counties from requiring employers to provide their workers with shade, water breaks and other protections from hot temperatures. The law's sponsor, Tiffany Esposito, R-District 77, explained that the goal was to prevent counties from having differing regulations. However, there are currently no laws in Florida that require heat protection for outdoor workers.

Prior to the passage of this law, it was already difficult for Florida employers in the agricultural industries to find employees who meet qualifications through E-verify and H-2A Visa programs, which allow U.S. employers to fill temporary agricultural jobs with foreign nationals. Employers in the construction and infrastructure industries face similar struggles. With Florida's huge population surge in the last four years – an increase of over one million citizens and a large construction boom – HB 433 may put an additional strain on employers to fill those important jobs if workers are wary of laboring in the Florida sun and heat without guaranteed protections.

Potential Impact on Workers' Compensation Claims

Workers' compensation provides lost wages and medical benefits for injured workers if they sustain heat exposure injuries in the course and scope of employment. If a worker sustains a heat stroke or a related condition while working, it is the employee's burden to prove that the major contributing cause of their injury was the elevated temperature and not some personal or pre-existing condition under F.S. 440.09(1). This can be difficult if they experience a cardiac event, stroke or other medical issue that often accompany heat exhaustion.

Because personal conditions such as asthma can commingle with heat related injuries, these types of claims often end up in litigation. Litigated workers' compensation cases are significantly more expensive for employers than medical only claims, as they lead to attorney's fees and increased defense and settlement costs. With the passage of HB 433, employers and insurance carriers may see an increase in heat-related worker' compensation claims in the absence of safety regulations, which may in turn lead to increased costs.

OSHA May Intervene

On July 3, 2024, OSHA released a proposed rule that would require employers to provide water and rest when temperatures reach certain thresholds and to develop plans to prevent heat-related illnesses and monitor heat conditions. If passed, the OSHA rule may assist in reducing litigated workers' compensation claims filed against employers and carriers, as the safety regulations may mitigate heat-related injuries from occurring in the first place.

Ultimately, it would benefit both employers and employees to have a federal standard of heat protection that yields a clear set of guidelines for all jurisdictions.



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