

REFERENCE TITLE: working conditions; heat illness; prevention

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2684

Introduced by
Representative Cano

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 23-206; RELATING TO WORKING CONDITIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 2, article 1, Arizona Revised
3 Statutes, is amended by adding section 23-206, to read:

4 **23-206. Heat illness prevention; rules; definitions**

5 A. THE INDUSTRIAL COMMISSION OF ARIZONA SHALL ADOPT RULES
6 ESTABLISHING REASONABLE STANDARDS AS PROVIDED IN THIS SECTION THAT ARE
7 DESIGNED TO PROTECT EMPLOYEES FROM HEAT ILLNESS WHILE ENGAGED IN OUTDOOR
8 WORK. THESE STANDARDS APPLY TO ALL INDOOR AND OUTDOOR PLACES OF
9 EMPLOYMENT AND TO ALL EMPLOYERS THAT FALL WITHIN THE JURISDICTION OF THE
10 DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, EXCEPT THAT ONLY EMPLOYERS
11 ENGAGED IN THE FOLLOWING INDUSTRIES ARE REQUIRED TO COMPLY WITH THE
12 STANDARDS ESTABLISHED PURSUANT TO SUBSECTION D OF THIS SECTION:

13 1. AGRICULTURE.

14 2. CONSTRUCTION.

15 3. LANDSCAPING.

16 4. OIL AND GAS EXTRACTION.

17 5. TRANSPORTATION OR DELIVERY OF AGRICULTURAL PRODUCTS,
18 CONSTRUCTION MATERIALS OR OTHER HEAVY MATERIALS, INCLUDING FURNITURE,
19 LUMBER, FREIGHT, CARGO, CABINETS AND INDUSTRIAL OR COMMERCIAL MATERIALS,
20 EXCEPT FOR EMPLOYMENT THAT CONSISTS OF OPERATING AN AIR-CONDITIONED
21 VEHICLE AND THAT DOES NOT INCLUDE LOADING OR UNLOADING.

22 B. STANDARDS ADOPTED PURSUANT TO THIS SECTION MUST REQUIRE EACH
23 EMPLOYER TO PROVIDE POTABLE WATER AS FOLLOWS:

24 1. AN EMPLOYER SHALL PROVIDE EMPLOYEES, AT NO COST TO THE
25 EMPLOYEES, ACCESS TO DRINKING WATER IN QUANTITIES SUFFICIENT TO MAINTAIN
26 ADEQUATE LEVELS OF HYDRATION AT VARYING LEVELS OF HEAT, USING A BASELINE
27 OF ONE CUP OF COOL WATER PER FIFTEEN TO TWENTY MINUTES, AS WELL AS
28 ELECTROLYTES IF EMPLOYEES ARE SWEATING FOR MORE THAN TWO HOURS.

29 2. THE WATER MUST BE LOCATED AS CLOSE AS PRACTICABLE TO THE AREAS
30 WHERE EMPLOYEES ARE WORKING AND MAY NOT BE FARTHER THAN FOUR HUNDRED FEET
31 WALKING DISTANCE FROM AN EMPLOYEE'S WORK AREA.

32 3. EMPLOYERS MAY BEGIN THE SHIFT WITH SMALLER QUANTITIES OF WATER
33 THAN REQUIRED PURSUANT TO THIS SUBSECTION IF EFFECTIVE PROCEDURES ARE
34 ESTABLISHED FOR REPLENISHMENT DURING THE SHIFT AS NEEDED.

35 4. THE EMPLOYER SHALL PROVIDE WATER THAT IS FILTERED, FRESH, PURE
36 AND SUITABLY COOL AND SHALL PROVIDE THE WATER TO EMPLOYEES FREE OF CHARGE.

37 5. THE EMPLOYER SHALL ENCOURAGE THE FREQUENT DRINKING OF WATER AS
38 DESCRIBED IN SUBSECTION H, PARAGRAPH 3, SUBDIVISION (C).

39 C. STANDARDS ADOPTED PURSUANT TO THIS SECTION SHALL REQUIRE EACH
40 EMPLOYER TO PROVIDE ACCESS TO SHADE OR A CLIMATE-CONTROLLED ENVIRONMENT AS
41 FOLLOWS:

42 1. WHEN THE TEMPERATURE IN THE WORK AREA EXCEEDS ONE HUNDRED
43 DEGREES FAHRENHEIT, THE EMPLOYER SHALL PROVIDE AND MAINTAIN AT ALL TIMES
44 WHILE EMPLOYEES ARE PRESENT ONE OR MORE AREAS WITH SHADE OR A CLIMATE-
45 CONTROLLED ENVIRONMENT THAT ARE EITHER OPEN TO THE AIR OR PROVIDED WITH

VENTILATION OR COOLING. THE AMOUNT OF SHADE OR CLIMATE-CONTROLLED ENVIRONMENT PROVIDED SHALL BE AT LEAST ENOUGH TO ACCOMMODATE THE NUMBER OF EMPLOYEES ON REST PERIODS SO THAT THEY CAN SIT IN A NORMAL POSTURE FULLY IN THE SHADE OR CLIMATE-CONTROLLED ENVIRONMENT WITHOUT HAVING TO BE IN PHYSICAL CONTACT WITH EACH OTHER. THE SHADE OR CLIMATE-CONTROLLED ENVIRONMENT SHALL BE LOCATED AS CLOSE AS PRACTICABLE TO THE AREAS WHERE EMPLOYEES ARE WORKING. SUBJECT TO THE SAME SPECIFICATIONS, THE AMOUNT OF SHADE OR CLIMATE-CONTROLLED ENVIRONMENT PRESENT DURING MEAL PERIODS SHALL BE AT LEAST ENOUGH TO ACCOMMODATE THE NUMBER OF EMPLOYEES ON THE MEAL PERIOD WHO REMAIN ONSITE.

2. WHEN THE TEMPERATURE IN THE WORK AREA DOES NOT EXCEED ONE HUNDRED DEGREES FAHRENHEIT, EMPLOYERS SHALL PROVIDE EITHER SHADE OR A CLIMATE-CONTROLLED ENVIRONMENT IN ACCORDANCE WITH PARAGRAPH 1 OF THIS SUBSECTION OR PROVIDE TIMELY ACCESS TO SHADE OR A CLIMATE-CONTROLLED ENVIRONMENT ON AN EMPLOYEE'S REQUEST.

3. AN EMPLOYER SHALL ALLOW AND ENCOURAGE EMPLOYEES TO TAKE A COOL-DOWN REST PERIOD IN THE SHADE OR CLIMATE-CONTROLLED ENVIRONMENT FOR PREVENTATIVE MEASURES. AN EMPLOYER SHALL COMPLY WITH ALL OF THE FOLLOWING WHEN AN EMPLOYEE TAKES A PREVENTATIVE COOL-DOWN REST PERIOD PURSUANT TO THIS PARAGRAPH:

(a) THE EMPLOYER SHALL ASK IF THE EMPLOYEE IS EXPERIENCING SYMPTOMS OF HEAT ILLNESS.

(b) THE EMPLOYER SHALL ENCOURAGE THE EMPLOYEE TO REMAIN IN THE SHADE OR CLIMATE-CONTROLLED ENVIRONMENT.

(c) THE EMPLOYER MAY NOT ORDER THE EMPLOYEE BACK TO WORK UNTIL ANY SIGNS OR SYMPTOMS OF HEAT ILLNESS HAVE ABATED, BUT NOT LESS THAN FIVE MINUTES IN ADDITION TO THE TIME NEEDED TO ACCESS THE SHADE OR CLIMATE-CONTROLLED ENVIRONMENT.

4. NOTWITHSTANDING PARAGRAPHS 1 AND 2 OF THIS SUBSECTION, EXCEPT FOR EMPLOYERS IN THE AGRICULTURAL INDUSTRY, COOLING MEASURES OTHER THAN SHADE OR A CLIMATE-CONTROLLED ENVIRONMENT, INCLUDING THE USE OF MISTING MACHINES, MAY BE PROVIDED INSTEAD OF SHADE IF THE EMPLOYER IS ABLE TO DEMONSTRATE THAT THESE MEASURES ARE AT LEAST AS EFFECTIVE AS SHADE IN ALLOWING EMPLOYEES TO BE COOLED.

D. STANDARDS ADOPTED PURSUANT TO THIS SECTION SHALL REQUIRE EACH EMPLOYER TO IMPLEMENT HIGH-HEAT PROCEDURES THAT DO ALL OF THE FOLLOWING WHEN THE TEMPERATURE EQUALS OR EXCEEDS NINETY DEGREES FAHRENHEIT:

1. ENSURE THAT EMPLOYEES ARE ABLE TO CONTACT THEIR SUPERVISOR BY ANY METHOD OF EFFECTIVE COMMUNICATION WHEN NECESSARY.

2. REQUIRE AN EMPLOYER TO EFFECTIVELY OBSERVE AND MONITOR EMPLOYEES FOR SIGNS OR SYMPTOMS OF HEAT ILLNESS BY IMPLEMENTING TWO OR MORE OF THE FOLLOWING POLICIES:

(a) A REQUIREMENT THAT THERE BE AT LEAST ONE SUPERVISOR OR SUPERVISOR'S DESIGNEE RESPONSIBLE FOR OBSERVING AND MONITORING EACH GROUP OF TWENTY OR FEWER EMPLOYEES.

(b) A MANDATORY BUDDY SYSTEM.

(c) REGULAR AND FREQUENT COMMUNICATION WITH AN EMPLOYEE, SUCH AS BY
OR CELLPHONE.

(d) OTHER EFFECTIVE MEANS OF OBSERVATION.

3. DESIGNATE ONE OR MORE EMPLOYEES ON EACH WORKSITE WHO ARE AUTHORIZED TO CALL FOR EMERGENCY MEDICAL SERVICES, AND IF NO DESIGNATED EMPLOYEES ARE AVAILABLE, ALLOW OTHER EMPLOYEES TO CALL ON THEIR BEHALF.

4. REQUIRE REMINDING EMPLOYEES THROUGHOUT THE WORK SHIFT TO STAY PROPERLY HYDRATED.

5. FOR EMPLOYEES EMPLOYED IN AGRICULTURE, REQUIRE PRE-SHIFT MEETINGS BEFORE THE BEGINNING OF EACH WORK SHIFT TO REVIEW THE HIGH-HEAT PROCEDURES, ENCOURAGE EMPLOYEES TO DRINK PLENTY OF WATER AND REMIND EMPLOYEES OF THEIR RIGHT TO TAKE A COOL-DOWN REST PERIOD WHEN NECESSARY.

E. STANDARDS ADOPTED PURSUANT TO THIS SECTION SHALL REQUIRE EACH EMPLOYER TO PROVIDE REST PERIODS AS FOLLOWS:

1. AN EMPLOYER SHALL PROVIDE REST PERIODS AWAY FROM THE HOT ENVIRONMENT THAT SHALL RANGE IN DURATION FROM FIFTEEN TO FORTY-FIVE MINUTES PER HOUR, DEPENDING ON THE WORKPLACE TEMPERATURE AND WORKER ACTIVITY LEVEL. AT CERTAIN WETBULB GLOBE TEMPERATURES, WORK MUST BE STOPPED ENTIRELY.

2. IF AN EMPLOYER FAILS TO PROVIDE A REST PERIOD PURSUANT TO THIS SUBSECTION, THE EMPLOYER SHALL PAY THE EMPLOYEE ONE ADDITIONAL HOUR OF PAY AT THE EMPLOYEE'S REGULAR RATE OF COMPENSATION FOR EACH WORKDAY THAT A REQUIRED REST PERIOD IS NOT PROVIDED.

F. STANDARDS ADOPTED PURSUANT TO THIS SECTION SHALL REQUIRE EACH EMPLOYER TO IMPLEMENT EFFECTIVE EMERGENCY RESPONSE PROCEDURES PURSUANT TO WHICH THE EMPLOYER SHALL BOTH:

1. ENSURE THAT EFFECTIVE COMMUNICATION BY VOICE, OBSERVATION OR ELECTRONIC MEANS IS MAINTAINED SO THAT EMPLOYEES AT THE WORKSITE CAN CONTACT A SUPERVISOR OR EMERGENCY MEDICAL SERVICES WHEN NECESSARY. AN ELECTRONIC DEVICE, SUCH AS A CELLPHONE OR TEXT MESSAGING DEVICE, MAY BE USED FOR THIS PURPOSE ONLY IF RECEPTION IN THE AREA IS RELIABLE.

2. RESPOND TO SIGNS AND SYMPTOMS OF POSSIBLE HEAT ILLNESS IF A SUPERVISOR OBSERVES, OR ANY EMPLOYEE REPORTS, ANY SIGNS OR SYMPTOMS OF HEAT ILLNESS IN ANY EMPLOYEE. THE SUPERVISOR SHALL TAKE IMMEDIATE ACTION COMMENSURATE WITH THE SEVERITY OF THE ILLNESS, INCLUDING FIRST AID MEASURES AND CONTACTING EMERGENCY MEDICAL SERVICES. IF THE EMPLOYEE EXHIBITS SIGNS OR SYMPTOMS SEVERE ENOUGH TO INDICATE HEAT ILLNESS, THE EMPLOYEE MAY NOT BE SENT HOME WITHOUT BEING OFFERED ONSITE FIRST AID OR PROVIDED WITH EMERGENCY MEDICAL SERVICES.

G. STANDARDS ADOPTED PURSUANT TO THIS SECTION SHALL REQUIRE THAT ALL EMPLOYEES WHO BEGIN EMPLOYMENT IN HIGH-HEAT ENVIRONMENTS, OR WHO WILL BE WORKING IN HOTTER CONDITIONS THAN USUAL, SUCH AS DURING A HEAT WAVE, BE GRADUALLY ACCLIMATIZED TO THE WORK OVER A PERIOD OF BETWEEN SEVEN AND FOURTEEN DAYS.

1 H. STANDARDS ADOPTED PURSUANT TO THIS SECTION SHALL REQUIRE EACH
2 EMPLOYER TO PROVIDE EFFECTIVE TRAINING TO EMPLOYEES AND SUPERVISORS THAT
3 MEETS ALL OF THE FOLLOWING REQUIREMENTS:

4 1. IS IN A LANGUAGE THAT THE EMPLOYEE OR SUPERVISOR UNDERSTANDS.

5 2. IS PROVIDED TO EACH SUPERVISOR BEFORE SUPERVISING EMPLOYEES
6 PERFORMING WORK THAT MAY REASONABLY RESULT IN EXPOSURE TO THE RISK OF HEAT
7 ILLNESS AND TO EACH NONSUPERVISORY EMPLOYEE BEFORE THE EMPLOYEE BEGINS
8 WORK THAT MAY REASONABLY RESULT IN EXPOSURE TO THE RISK OF HEAT ILLNESS.

9 3. COVERS ALL OF THE FOLLOWING TOPICS:

10 (a) THE ENVIRONMENTAL RISK FACTORS FOR HEAT ILLNESS AND PERSONAL
11 RISK FACTORS FOR HEAT ILLNESS, INCLUDING MEDICAL CONDITIONS, WATER
12 CONSUMPTION, ALCOHOL USE, THE USE OF MEDICATIONS THAT AFFECT THE BODY'S
13 RESPONSE TO THE HEAT AND THE BURDEN CAUSED BY PERSONAL PROTECTIVE
14 EQUIPMENT.

15 (b) THE EMPLOYER'S PROCEDURES FOR COMPLYING WITH THE STANDARDS
16 ADOPTED PURSUANT TO THIS SECTION, INCLUDING THE EMPLOYER'S RESPONSIBILITY
17 TO PROVIDE WATER, SHADE OR A CLIMATE-CONTROLLED ENVIRONMENT, COOL-DOWN
18 REST PERIODS AND ACCESS TO FIRST AID, AS WELL AS THE EMPLOYEE'S RIGHT TO
19 EXERCISE RIGHTS UNDER THESE STANDARDS WITHOUT RETALIATION.

20 (c) THE IMPORTANCE OF FREQUENT CONSUMPTION OF WATER, UP TO FOUR
21 CUPS PER HOUR, WHEN THE WORK ENVIRONMENT IS ABOVE ONE HUNDRED DEGREES
22 FAHRENHEIT AND EMPLOYEES ARE LIKELY SWEATING MORE THAN USUAL.

23 (d) THE IMPORTANCE OF ACCLIMATIZATION.

24 (e) THE DIFFERENT TYPES OF HEAT ILLNESS, THE COMMON SIGNS AND
25 SYMPTOMS OF HEAT ILLNESS AND APPROPRIATE FIRST AID AND EMERGENCY RESPONSES
26 TO THE DIFFERENT TYPES OF HEAT ILLNESS.

27 (f) THE IMPORTANCE OF IMMEDIATELY REPORTING TO THE EMPLOYER,
28 DIRECTLY OR THROUGH THE EMPLOYEE'S SUPERVISOR, SIGNS OR SYMPTOMS OF HEAT
29 ILLNESS IN THEMSELVES OR IN COWORKERS.

30 (g) THE EMPLOYER'S PROCEDURES FOR RESPONDING TO SIGNS OR SYMPTOMS
31 OF POSSIBLE HEAT ILLNESS, INCLUDING HOW EMERGENCY MEDICAL SERVICES WILL BE
32 CONTACTED AND PROVIDED SHOULD THEY BECOME NECESSARY.

33 4. FOR SUPERVISORS, IN ADDITION TO THE REQUIREMENTS OF PARAGRAPH 3
34 OF THIS SUBSECTION, COVERS ALL OF THE FOLLOWING TOPICS:

35 (a) THE PROCEDURES THE SUPERVISOR IS REQUIRED TO FOLLOW TO
36 IMPLEMENT THE APPLICABLE STANDARDS ADOPTED PURSUANT TO THIS SECTION.

37 (b) THE PROCEDURES THE SUPERVISOR IS REQUIRED TO FOLLOW WHEN AN
38 EMPLOYEE EXHIBITS SIGNS OR REPORTS SYMPTOMS CONSISTENT WITH POSSIBLE HEAT
39 ILLNESS, INCLUDING EMERGENCY RESPONSE PROCEDURES.

40 (c) THE PROCEDURES FOR MOVING OR TRANSPORTING AN EMPLOYEE TO A
41 PLACE WHERE THE EMPLOYEE CAN BE REACHED BY AN EMERGENCY MEDICAL SERVICE
42 PROVIDER, IF NECESSARY.

43 I. IN ADOPTING STANDARDS PURSUANT TO THIS SECTION, THE INDUSTRIAL
44 COMMISSION OF ARIZONA SHALL CONSIDER CRITERIA RELATING TO RECOMMENDED

1 STANDARDS FOR OCCUPATIONAL EXPOSURE TO HEAT AND HOT ENVIRONMENTS
2 ESTABLISHED BY A NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.

3 J. THE RULES ADOPTED BY THE INDUSTRIAL COMMISSION OF ARIZONA
4 PURSUANT TO THIS SECTION SHALL INCLUDE ENFORCEMENT PROVISIONS.

5 K. AN EMPLOYER MAY NOT DISCHARGE OR DISCRIMINATE IN ANY OTHER
6 MANNER AGAINST EMPLOYEES FOR EXERCISING THEIR RIGHTS UNDER THIS SECTION.

7 L. A PERSON MAY BRING AN ACTION FOR A VIOLATION OF THIS SECTION IN
8 A COURT OF COMPETENT JURISDICTION TO DO EITHER OR BOTH OF THE FOLLOWING:

9 1. ENJOIN THE VIOLATION.

10 2. RECOVER ACTUAL MONETARY LOSSES FROM THE VIOLATION OR RECEIVE
11 \$500 IN DAMAGES FOR EACH VIOLATION, WHICHEVER IS GREATER.

12 M. FOR THE PURPOSES OF THIS SECTION:

13 1. "ACCLIMATIZATION" MEANS THE GRADUAL, TEMPORARY ADAPTATION OF THE
14 BODY TO WORK IN THE HEAT WHEN A PERSON IS EXPOSED TO HEAT.

15 2. "ENVIRONMENTAL RISK FACTORS FOR HEAT ILLNESS" MEANS WORKING
16 CONDITIONS THAT CREATE THE POSSIBILITY THAT HEAT ILLNESS COULD OCCUR,
17 INCLUDING AIR TEMPERATURE, RELATIVE HUMIDITY, RADIANT HEAT FROM THE SUN
18 AND OTHER SOURCES, CONDUCTIVE HEAT SOURCES SUCH AS THE GROUND, AIR
19 MOVEMENT, WORKLOAD SEVERITY AND DURATION, PROTECTIVE CLOTHING AND PERSONAL
20 PROTECTIVE EQUIPMENT WORN BY EMPLOYEES.

21 3. "HEAT ILLNESS":

22 (a) MEANS A SERIOUS MEDICAL CONDITION RESULTING FROM THE BODY'S
23 INABILITY TO COPE WITH A PARTICULAR HEAT LOAD.

24 (b) INCLUDES HEAT CRAMPS, HEAT EXHAUSTION, HEAT SYNCOPES AND HEAT
25 STROKE.

26 4. "HEAT WAVE" MEANS ANY DAY IN WHICH THE PREDICTED HIGH
27 TEMPERATURE FOR THE DAY WILL BE AT LEAST ONE HUNDRED DEGREES FAHRENHEIT
28 AND AT LEAST TEN DEGREES FAHRENHEIT HIGHER THAN THE AVERAGE HIGH DAILY
29 TEMPERATURE IN THE PRECEDING FIVE DAYS.

30 5. "LANDSCAPING":

31 (a) MEANS PROVIDING LANDSCAPE CARE AND MAINTENANCE SERVICES,
32 INSTALLING TREES, SHRUBS, PLANTS, LAWNS OR GARDENS OR PROVIDING THESE
33 SERVICES IN CONJUNCTION WITH THE DESIGN OF LANDSCAPE PLANS.

34 (b) INCLUDES THE CONSTRUCTION, INSTALLATION OR MAINTENANCE OF
35 WALKWAYS, RETAINING WALLS, DECKS, FENCES, PONDS AND SIMILAR STRUCTURES.

36 6. "OIL AND GAS EXTRACTION" MEANS OPERATING OR DEVELOPING OIL AND
37 GAS FIELD PROPERTIES, EXPLORING FOR CRUDE PETROLEUM OR NATURAL GAS, MINING
38 OR EXTRACTING OF OIL OR GAS OR RECOVERING LIQUID HYDROCARBONS FROM OIL OR
39 GAS FIELD GASES.

40 7. "PERSONAL RISK FACTORS FOR HEAT ILLNESS" MEANS FACTORS SUCH AS
41 AN INDIVIDUAL'S AGE, DEGREE OF ACCLIMATIZATION, HEALTH, WATER CONSUMPTION
42 AND USE OF PRESCRIPTION MEDICATIONS THAT AFFECT THE BODY'S WATER RETENTION
43 OR OTHER PHYSIOLOGICAL RESPONSES TO HEAT.

44 8. "POTABLE WATER" HAS THE SAME MEANING PRESCRIBED IN 29 CODE OF
45 FEDERAL REGULATIONS SECTION 1910.141(a)(2).

1 9. "REST PERIOD" MEANS A COOL-DOWN PERIOD MADE AVAILABLE TO AN
2 EMPLOYEE TO PREVENT HEAT ILLNESS.

3 10. "SHADE" MEANS THE COMPLETE BLOCKAGE OF DIRECT SUNLIGHT THAT
4 ALLOWS THE BODY TO COOL. SHADE MAY BE PROVIDED BY ANY NATURAL OR
5 ARTIFICIAL MEANS THAT DOES NOT EXPOSE EMPLOYEES TO UNSAFE OR UNHEALTHY
6 CONDITIONS AND DOES NOT DETER OR DISCOURAGE ACCESS OR USE.