



March 4, 2026

Honorable John P. Burke
Chairman, Senate Labor and Gaming Committee
Rhode Island State House
82 Smith Street
Providence, RI 02903

RE: S2320 - AN ACT RELATING TO HEALTH AND SAFETY -- DIVISION OF OCCUPATIONAL HEALTH

Dear Chairman Burke and Honorable Members of the Committee:

As the Executive Director of Rhode Island Business Leaders Alliance (the “Alliance”), I am grateful for the opportunity to provide the Senate Labor and Gaming Committee with this written testimony in response to S2320 - AN ACT RELATING TO HEALTH AND SAFETY -- DIVISION OF OCCUPATIONAL HEALTH, which would require employers to protect employees from extreme temperatures through rest breaks, PPE, training, and equipment. S2320 also mandates quarterly training for supervisors to recognize and mitigate heat- and cold-related risks.¹

While we can agree that extreme temperatures in the workplace can cause adverse health effects, the Alliance’s members have substantive concerns with this proposed legislation. The concerns focus on flexibility for individual employers and the need for a separate standard for the construction industry which has unique and discrete concerns which will be discussed below.

As a threshold matter, workplace safety and health issues are generally a matter of federal jurisdiction as specifically delineated in Section 18 of the Occupational Safety and Health Act (“OSH Act”) of 1970. Section 18(b) of the OSH Act states, in part that “any State which, at any time, desires to assume responsibility for development and enforcement therein of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard” must “submit a State plan for the development of such standards and their enforcement.” However, in Section 18(a) of the OSH Act, Congress also reserved for a

¹ This testimony was prepared by occupational safety and health subject matter experts from Littler Mendelson, PC. The undersigned thanks Felicia K. Watson, Esq. (<https://www.littler.com/people/felicia-k-watson>) and Peter Vassalo, Esq. (<https://www.littler.com/people/peter-vassalo>) for contributing their knowledge and expertise on this important issue. The undersigned also thanks Littler Associate Mia Acheson for her research assistance.

state the ability to “assert jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect.”

Because the federal Occupational Safety and Health Administration (“OSHA”) has yet to formally promulgate a safety and health standard related to workplace heat hazards, a state or local entity such as Rhode Island can regulate this area. However, as you may know there is an ongoing rulemaking proceeding within OSHA to promulgate a comprehensive national heat illness and injury prevention standard. Through development of such a standard, as opposed to state legislation, OSHA not only provides notice to and receives extensive comments from affected stakeholders, but rulemaking proceedings also require OSHA to gather evidence and determine economic and technical feasibility as well as whether the effects of heat illness in the workplace are “significant.” There is no evidence that the Rhode Island legislature has undertaken any similar analysis.

Last summer, OSHA conducted hearings on its August 24, 2024 proposed Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings standard (89 Federal Register 70698). The vast majority of the testimony, as well as post hearing comments to the rulemaking record, demonstrated a common theme: any approach to addressing workplace heat hazards must be performance-oriented and flexible enough to allow employers to tailor their heat prevention programs to the unique circumstances of their worksites. While the core concepts to a heat program include the incorporation of a “water, rest, and shade” regimen, how these controls are implemented must take into account the myriad conditions present at an individual worksite. OSHA is required by law to analyze and address each comment submitted to the rulemaking record and provide a rationale as to why a comment is adopted or rejected.

S2320 does not take into account ANY of the above circumstances. Instead, the legislation includes prescriptive and objective criteria that do not address unique site-specific circumstances for Rhode Island employers. Examples include:

- A definition of “extreme temperatures” that sets threshold temperatures at or above ninety degrees Fahrenheit (90° F), or at or below thirty-two degrees Fahrenheit (32° F), without any data to demonstrate that these thresholds represent serious health hazards.
- A requirement for access to paid rest breaks, adequate shade, warming or cooling stations, drinking water, personal protective equipment, and other protections from extreme temperatures in regard to heat and cold, without determining whether the above defined extreme temperatures actually merit this level of intervention.

- A 60-minute exposure threshold for employees working in a warehouse, outdoors, or in vehicles. This 60-minute exposure threshold is completely arbitrary, as effects from heat and extreme cold can manifest either sooner or later than a 60-minute exposure.
- A blanket quarterly training requirement that does not take into account temporary, seasonal, and high turnover workforces, which, if implemented, could lead to some workers missing a quarterly training cadence.

As commenters noted to OSHA, many employers have effectively handled workplace heat hazards for years, and their expertise in these hazards should be taken into account. Over and over again, flexibility is the key to an effective program. Within the concept of flexibility is training. Effective training should emphasize employees' personal risk factors, and how different behaviors can affect an employee when working in high heat conditions. These could include age, overall health, whether they have recently consumed caffeinated drinks or alcoholic beverages, medications, and a host of other factors.

Rest break requirements also require flexibility. Strict mandatory rest break requirements could jeopardize the actual work being performed and undermine the safety of the worksite. The Committee must be mindful that it is not always feasible to pull workers away from a task once it has begun, as doing so could jeopardize the task itself. For example, concrete pours require a worker to manage the task until it is complete. Mandatory breaks can also jeopardize employee safety when there may not be enough workers to safely perform a task due to imposed rest breaks. Similarly, the process of taking a break itself can expose a worker to unnecessary hazards, such as a roofer who must ascend or descend ladders to take a mandatory break. Mandatory breaks can deter workers from taking breaks when needed, as they may feel the need to continue working until the designated time for their break has arrived. Instead, employers should encourage their employees to take rest breaks as needed to prevent overheating.

Relatedly, water requirements must not be overly prescriptive. Any requirement dictating the specific quantity of water to be made available for, or consumed by, each worker on a construction site would be unduly burdensome. For example, given the size and the number of workers on each construction site, between the general contractor employees and each subcontractor, it would be virtually impossible to keep track of each worker's water consumption. Instead, water availability requirements must be flexible and employers to replenish water supplies in manner that ensures employees will have an ample supply of water or other acceptable beverages.

Finally, the proposed legislation does not take into account the differences in hazards between industries. For example, heat hazards in warehouses can be significantly different than in construction. Construction work in particular is simply too distinct from other general industries to be covered by the same rules. In addition, construction sites change continuously as projects

begin, are built out, and wrap up. Sometimes construction sites are a purely outdoor environment, sometimes they become an indoor environment, but oftentimes construction sites are a combination of both environments. The administrative and engineering controls that construction employers implement must adapt as each project progresses.

For the reasons discussed above, we respectfully request that S2320 be withdrawn and that the General Assembly allow the ongoing OSHA rulemaking process, with its embedded processes that allow for robust consideration of notice and comment, to proceed accordingly. When OSHA finalizes and issues its national heat illness and injury prevention standard, Rhode Island's state standard will be preempted. Accordingly, at a time when Rhode Island is facing staggering budget deficits for the foreseeable future, the state should not waste a penny of taxpayer money developing a regulatory regime to enforce a state heat illness and injury prevention standard that will become obsolete in a matter of months or years.

Respectfully submitted by:

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