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To: Members of the Assembly Labor Committee
From: Elissa Frank, NJBIA Vice President of Government Affairs
Date: May 16, 2024

RE: NJBIA Opposition to A-3521- Establishes occupational heat stress standard and “Occupational Heat-Related Illness and Injury Prevention Program” in DOLWD

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On behalf of our member companies that make NJBIA the largest, most impactful association representing New Jersey businesses, I write to you in **opposition to Assembly Bill No. 3521** (Quijano) which would mandate expedited rules to address heat stress for employees in indoor and outdoor environments. NJBIA’s members include businesses in nearly every market sector throughout the State, many of whom would be subject to this legislation’s standard regulating heat exposure. For our members, the prevention of employee illness through exposure to heat is part of maintaining an effective workplace safety program. However, our members have found that it is extraordinarily difficult for them to comply with this legislation given its sheer impracticality, vagueness, costs, and industrial workplace-oriented standards that do not fit the needs of all businesses.

First, compliance with this legislation is impractical for most businesses in the State. This legislation requires that businesses “develop, implement, and maintain” a heat injury prevention plan within 30 days of the passage of this legislation. Even assuming *arguendo*, that a business was already following the requirements set forth in this legislation, changes in health and safety processes take time to ensure that changes to operations will increase safety. Sometimes, requiring that a business follow a new safety procedure has the unintended consequence of causing another hazard. For example, requiring that an employee wear PPE could, in a hot environment, cause an employee’s eye protection to fog up, preventing them from seeing. Changes to business operations need to be adequately studied by impacted businesses, and NJBIA believes businesses need more than 30 days to do so.

Additionally, this legislation requires that, during heatwaves, employers postpone work or increase the total number of workers to reduce the heat exposure of each worker. This provision would unnecessarily raise the cost of doing business in New Jersey by, effectively, requiring that businesses hire additional employees during heatwaves or cease business operations. In the context of New Jersey’s workforce shortage issue, under this bill, businesses may have no choice but to close business when it’s too hot.

Furthermore, this legislation is extremely vague, such that compliance is nearly impossible. For example, this legislation requires that employers “limit [the] length of time an employee may be exposed to heat,” but provides no length of time for compliance. Additionally, this legislation requires that an employer provide “. . . regular monitoring for employee exposure to heat . . .” but does not define what constitutes “regular monitoring.” NJBIA respectfully requests clarification of these ambiguities, so that businesses can properly plan.

Lastly, OSHA already has a general provision relating to worker safety that has been effective in protecting workers from unsafe conditions, including excessive heat. OSHA is also working on more specific heat-related standards, so we don’t believe there is a need for legislation at this time - particularly not knowing what NJDOL’s standard would become.

New Jersey doesn't need to become an outlier on yet another labor mandate when we are already making it as challenging and costly as possible to run a business in the state.

For these reasons, we respectfully request that you vote NO on A-3521. Thank you for taking our concerns and suggestions into consideration. If you have any questions or would like to further discuss this legislation, please do not hesitate to contact me at efrank@njbja.org.