CONCURRENCE IN SENATE AMENDMENTS
AB 1336 (Addis)
As Amended August 29, 2025
Majority vote

SUMMARY

Creates a rebuttable presumption that a heat-related injury arose out of the course of employment where an employer in the agriculture industry, as defined, failed to comply with existing heat illness prevention standards.

Senate Amendments

1) Clarify that a Workers' Compensation Appeals Board (WCAB) determination concerning applicability of the presumption does not affect the investigation brought against the employer by Cal/OSHA, and is not admissible in proceedings before the Occupational Safety and Health Appeals Board.

2) Sunset the provisions of the bill on January 1, 2031.

COMMENTS

1) *Workers' compensation and presumptions*: At its core, the workers' compensation system relies on a so-called "grand bargain." If a worker is injured on the job, the employer must pay for the worker's medical treatment, including monetary benefits if the injury is permanent. In exchange for receiving the guarantee of such treatment, the worker surrenders the right to sue the employer for monetary damages in civil court. To receive such care and/or benefits, the worker must be able to demonstrate that it is more likely than not that the injury arose “out of and in the course of employment."

   Occupational injury presumptions (henceforth, "presumptions") reverse this burden of proof. In other words, presumptions shift the dynamic of a claim from a worker having the burden of proving that their injury is work-related to an employer having the burden to prove that the injury is not work-related. Presumptions have never been intended to imply or create work-related injuries when the injuries in question are not work-related. As a matter of law, employers have the opportunity to rebut the presumption by establishing that the injury or condition was not the result of employment. As a practical matter, however, presumptions are rarely rebutted.

   With few exceptions, all existing presumptions for workers' compensation claims apply exclusively to peace officers or firefighters, and are limited to a subset of injuries common in those professions, such as hernias, cancer, and heart disease. This means any additional costs resulting from potentially fraudulent claims made under these presumptions are borne by the state, rather than a private employer.

   This bill would create a new presumption applicable to heat-related injuries suffered by agricultural workers only if their employer was determined to be out of compliance with heat-illness prevention standards promulgated by Cal/OSHA at the time of the injury. In many ways, this presumption would represent a considerable departure from the scope and structure of existing presumptions.

2) *Cal/OSHA enforcement of heat illness standards*: The author of this bill asserts that farmworkers continue to suffer from heat-related illnesses and death in part due to failure by agricultural employers to sufficiently comply with Cal/OSHA heat illness prevention standards.

   In 2019, Cal/OSHA conducted more than 4,000 heat-related inspections, and cited employers for noncompliance with the heat illness prevention standards in 47% of the inspections. However, persistent issues with staffing and funding at Cal/OSHA have limited the state's ability to conduct inspections in order to adequately enforce the standards. According to reporting by Capital & Main, from 2017 to 2023, the number of field inspections conducted by Cal/OSHA dropped by nearly 30%, and the number of violations issued to employers fell by more than 40%.

3) *SB 1299 and Governor's Veto Message*: This bill is virtually identical to SB 1299 (Cortese, 2024), which passed out of both houses of the Legislature before being vetoed by the Governor. In his veto message, the Governor expressed incredulity that the creation of a heat-illness presumption in the workers' compensation would be an effective means of protecting California farmworkers against the risks of heat-related illness, arguing:

   > Current laws establishing, regulating, and enforcing heat illness prevention standards fall under the jurisdiction of Cal/OSHA, not the Division of Workers' Compensation, and the workers' compensation system is not equipped to make determinations about employers' compliance with Cal/OSHA standards. […] [C]onditioning a workers' compensation presumption on compliance with standards set and enforced by another regulatory division is not an effective way to improve working conditions.
   >
   > For these reasons, I cannot sign this bill.

4) *A novel presumption with little precedent*: This bill takes a novel approach to presumptions in that it only requires the presumption to apply if the agricultural employer has violated Cal/OSHA heat illness prevention standards. Presumptions, to the extent they have been deemed appropriate, are typically intended to ensure treatment and/or compensation are received when the causal link between a particular employment and resulting injury can be difficult to demonstrate, but robust evidence supports that the injury is generally related to that employment. Staff notes that presumptions have never before been used to incentivize behavior or to punish noncompliance with other labor laws or standards.

   Under existing presumptions, it is also not necessary for WCAB to make a determination of fact before the presumption applies – the presumption applies as soon as the injury occurs at which time the employer can attempt to rebut it. In this case, however, the presumption is only applicable under the limited circumstances in which a violation of the heat illness prevention standards has occurred, meaning such a determination must be made by WCAB before the presumption can take effect.

   Finally, this bill would, uniquely, expand presumptions to the private sector. With very narrow exceptions for privately employed firefighters for public facilities, presumptions of compensability have been granted only to public safety officers – fire and peace officer employees. Thus, the costs of presumptions are borne only by state and local government, and only for the narrow class of employees, broadly referred to as public safety employees, whose jobs regularly require them to confront unabated hazards. To date, the only conditions

under which presumptions have been expanded to the private sector have been under the narrow and temporary circumstances of the COVID-19 presumption, which sunset on January 1, 2024.

5) *Farmworker heat illness claims are denied at similar rates to other claims*: In a report evaluating the potential impacts of SB 1299, the California Workers' Compensation Institute (CWCI), a "nonprofit organization of insurers licensed to write workers' compensation in California, as well as public and private self-insured employers," analyzed the prevalence of farmworker heat illness claims and their relative rates of claim denial.

   CWCI identified a total of 659 workers' compensation claims filed by agricultural workers from 2019 to 2023, which constituted 0.65% of all workers' compensation claims from agricultural workers. According to the report, this "is comparable to other industries covered by the Cal/OSHA high-heat procedures, such as landscaping (0.65%), construction (0.67%), and mining, oil and gas extraction (0.56%)." For these claims, agricultural workers faced a claim denial rate of 11.0%, which is marginally lower than the claim denial rates of approximately 13% for other outdoor occupations covered by the Cal/OSHA high-heat standards, and of 14.7% for all workers' compensation claims.

   In other words, data from 2019 to 2023 seem to indicate a relatively small number of workers' compensation claims based on heat illness or injury among farmworkers, comprising a fairly typical percentage of overall claims from outdoor industries, and subject to more or less average rates of claim denial.

6) *Language of presumption may limit potential utility*: In a footnote in their letter of opposition, a coalition of groups representing business interests including the California Chamber of Commerce, the Agricultural Council of California, and the California Restaurant Association, points out that a semantic detail of this language could limit the potential utility a presumption of this nature could provide:

   > Proposed section 3212.81 provides that any injury "resulting" from an employer's failure to comply with applicable heat standards would fall under the presumption. If the worker has demonstrated that an injury "resulted" from their job, they have already met their burden of proof under the workers' compensation system and that injury would be covered without the need for a presumption.

   Demonstrating that an injury *resulted* from a violation of workplace safety standards seems to, by definition, necessitate demonstration that the injury was work-related to begin with. If the WCAB finds that a violation of the heat illness prevention standards occurred and that the injury resulted from that violation, it would not be necessary to rely on the presumption since the evidence would already support a compensable claim. As such, this language may significantly limit the applicability of the presumption.

According to the Author
"California farmworkers are indispensable to our food supply chain, our state's economy, and the communities they call home. AB 1336 protects them from the growing dangers of extreme heat and ensures that when workers suffer heat-related injuries, they are not only compensated, but receive the necessary medical care and support that they deserve."

Arguments in Support
The United Farm Workers (UFW), who sponsor the bill, argue:

> This bill […] would promote employer compliance with existing state outdoor heat illness prevention standards by creating a rebuttable presumption – if a farm worker's heat-related injury or death occurs in the same time frame as their agricultural employer is found to be noncompliant with the state heat illness prevention standards, the injury or death is presumed to have occurred in the course of employment. […]
>
> Nothing in AB 1336 changes workers compensation from a no-fault system. Nothing in the bill prevents Cal/OSHA from continuing with their responsibilities. Nothing in the bill changes the existing outdoor heat regulation – ensuring farm workers have access to water, shade and breaks. Nothing in the bill changes the worker compensation benefit levels for farm workers.
>
> *Rather, this bill is a market based approach to compliance that serves to supplement inadequate state efforts.*

Arguments in Opposition
A coalition of groups representing business interests including the California Chamber of Commerce, the Agricultural Council of California, and the California Restaurant Association, argue:

> The bill does not include mechanics as far as how establishing applicability of the presumption would work. The bill does not specify how it would be determined that an employer did in fact violate the applicable provisions of the heat illness prevention standard. If the bill contemplates that determination being made by the Workers' Compensation Appeals Board (WCAB), we have strong concerns with imparting that responsibility on an entity that specializes in workers' compensation claims, not workplace safety.

FISCAL COMMENTS

According to the Senate Appropriations Committee, "a one-time transfer of $5 million from the Workers' Compensation Administration Revolving Fund to the Farmworker Climate Change Heat Injury and Death Fund, which this bill would create, to pay administrative costs that would result from the bill [and] the Department of Industrial Relations (DIR) indicates that it would incur administrative costs in the millions of dollars annually to implement the provisions of the bill […]."

VOTES:

ASM INSURANCE: 12-4-1
YES: Calderon, Addis, Alvarez, Ávila Farías, Berman, Gipson, Harabedian, Krell, Nguyen, Ortega, Michelle Rodriguez, Valencia
NO: Wallis, Chen, Ellis, Hadwick
ABS, ABST OR NV: Petrie-Norris

ASM APPROPRIATIONS: 11-3-1
YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache
NO: Dixon, Ta, Tangipa
ABS, ABST OR NV: Sanchez

ASSEMBLY FLOOR: 61-16-2
YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas
NO: Alanis, Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Hadwick, Hoover, Patterson, Sanchez, Ta, Tangipa, Wallis
ABS, ABST OR NV: Lackey, Macedo

UPDATED

VERSION: August 29, 2025

CONSULTANT: Landon Klein / INS. / (916) 319-2086 FN: 0001875