

**ATTORNEYS GENERAL OF NEW YORK, ARIZONA, COLORADO,  
CONNECTICUT, ILLINOIS, MAINE, MARYLAND,  
MASSACHUSETTS, NEW JERSEY, PENNSYLVANIA,  
AND THE DISTRICT OF COLUMBIA**

February 9, 2024

*Via Email*

**Hon. Bernie Sanders**

Chair, Committee on Health,  
Education, Labor, and Pensions  
U.S. Senate  
428 Dirksen Senate Office Building  
Washington, D.C. 20510

**Hon. Virginia Foxx**

Chair, Committee on Education  
and the Workforce  
U.S. House of Representatives  
2176 Rayburn House Office Building  
Washington, D.C. 20515

**Hon. Bill Cassidy**

Ranking Member, Committee on  
Health, Education, Labor, and  
Pensions  
U.S. Senate  
428 Dirksen Senate Office Building  
Washington, D.C. 20510

**Hon. Bobby Scott**

Ranking Member, Committee on  
Education and the Workforce  
U.S. House of Representatives  
2176 Rayburn House Office Building  
Washington, D.C. 20515

**Re: Asunción Valdivia Heat Illness, Injury, and Fatality Prevention  
Act (S. 2501/H.R. 4897)**

Dear Senators Sanders and Cassidy and Representatives Foxx and Scott:

We write in support of the Asunción Valdivia Heat Illness, Injury, and Fatality Prevention Act (S. 2501/H.R. 4897), which would direct the Occupational Safety and Health Administration (OSHA) to establish interim and permanent standards to protect workers from extreme heat. The legislation, named in honor of a farmworker who died of heat stroke after picking grapes for ten hours in 100-degree heat, would deliver critically-needed protections for American workers against heat-related illness and death. We urge its prompt passage.

Congressional action is necessary to address the increasing dangers workers are facing from extreme heat. The summer of 2023 was the hottest summer ever recorded in the Northern Hemisphere and brought soaring

temperatures and unrelenting extreme heat to the United States.<sup>1</sup> Phoenix, for example, experienced the hottest month ever observed in a U.S. city, sweltering through a record 31 days in a row at or above 110°F and ultimately recording a total of 55 days above 110°F from June through September.<sup>2</sup> While this past summer continued the long-term warming trend associated with climate change, exceptionally high sea surface temperatures, fueled in part by the return of El Niño, also contributed to the summer's record warmth.<sup>3</sup> Experts predict that summer 2024 will be even hotter because of both the escalating climate crisis and the enduring effects of El Niño.<sup>4</sup> Longer term, as the effects of climate change intensify, extreme heat events will grow in frequency, duration, and severity, resulting in increases in illness and death from both heat exposure and the secondary effects of extreme heat, such as air pollution and wildfires.<sup>5</sup>

Workers—especially those that spend significant time outdoors—are falling ill and even dying from heat-related illnesses, such as heat stroke and heat exhaustion. To cite just a few examples from the past year:

- In June 2023, a 46-year-old construction worker died from hyperthermia at an outdoor construction site in East Texas, when the region was experiencing daily high temperatures around 100°F.<sup>6</sup>

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<sup>1</sup> Press Release, NASA, *NASA Announces Summer 2023 Hottest on Record* (Sept. 14, 2023), <https://www.nasa.gov/news-release/nasa-announces-summer-2023-hottest-on-record/>; see also *Summer 2023 Was Hottest on Record, Scientists Say*, Reuters (Sept. 7, 2023), <https://www.reuters.com/business/environment/august-was-hottest-ever-recorded-third-straight-month-set-record-2023-09-06/> (citing the European Union Climate Change Service).

<sup>2</sup> Zach Levitt & Elena Shao, *Where This Summer Was Relentlessly Hot*, N.Y. Times (Oct. 8, 2023), <https://www.nytimes.com/interactive/2023/10/09/world/hottest-summer-global-map.html?mwgrp=c-dbar&smid=url-share>; Matthew Cappucci, *Phoenix Just Posted the Hottest Month Ever Observed in a U.S. City*, Wash. Post (Aug. 1, 2023), <https://www.washingtonpost.com/weather/2023/08/01/phoenix-record-hot-month-climate/>.

<sup>3</sup> NASA Announces Summer 2023 Hottest on Record, *supra* note 1.

<sup>4</sup> Ella Nilsen, *2024 Will Probably Be Hotter Than This Year Because of El Niño*, *NASA Scientists Say*, CNN (July 20, 2023), <https://www.cnn.com/2023/07/20/us/2024-hotter-than-2023-el-nino-nasa-climate/index.html>.

<sup>5</sup> See, e.g., Liza Gross & Peter Aldhous, *Dying in the Fields as Temperatures Soar*, *Inside Climate News* (Dec. 31, 2023), <https://insideclimatenews.org/news/31122023/california-farmworkers-dying-in-the-heat/> (recognizing the high number of heat-related farmworker deaths in areas of California with chronically bad air); Natalia Reyes Becerra, *Impacts of the Climate Crisis on Farmworkers*, *Am. Lung Assoc.* (Oct. 13, 2023), <https://www.lung.org/blog/climate-change-impacts-farmworkers> (noting the compounding effects of extreme heat and wildfire smoke, especially as climate change pushes harvest season into wildfire season).

<sup>6</sup> Adam Zuvanich, *Houston Man Working Outside Died from Overheating*, *According to Medical Examiner*, *Houston Pub. Media* (June 30, 2023), <https://www.houstonpublicmedia.org/articles/news/weather/2023/06/30/455869/houston-man-dies-working-outside-overheating/>.

- Also that month, a 66-year-old postal worker who delivered mail in Dallas, Texas for 35 years, died of heat stroke while working in extreme heat conditions.<sup>7</sup>
- In July 2023, a 26-year-old farmworker and father of two died of heat stroke after collapsing in a field near Yuma, Arizona as temperatures soared above 110°F.<sup>8</sup>
- That same month, a 29-year-old Guatemalan immigrant died while picking fruit on a farm in Homestead, Florida<sup>9</sup> during an unprecedented heatwave.<sup>10</sup>
- In August, a warehouse worker died amid hot working conditions at a Kroger Distribution Center in Memphis, Tennessee. He worked in the salvage department, a part of the facility that did not have air conditioning.<sup>11</sup>

In addition to the deaths and illnesses caused by acute exposure, repeated exposure to extreme heat poses significant long-term health risks, especially for outdoor workers. In recent decades, a global epidemic of chronic kidney disease of nontraditional origin (CKDnt) has been identified among farmworkers and other workers who labor outdoors in hot environments.<sup>12</sup>

Occupational exposure to extreme heat is also an issue of environmental justice. Workers of color and low-wage workers are disproportionately vulnerable to heat-related illness and death in the workplace.<sup>13</sup> Immigrants, undocumented workers, and people of color are

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<sup>7</sup> Ariel Wittenberg, *A Deadly Delivery Highlights ‘Falsified’ Heat Records at USPS*, Climatewire (Dec. 4, 2023), <https://subscriber.politicopro.com/article/eenews/2023/12/04/a-deadly-delivery-highlights-falsified-heat-records-at-usps-00128875>.

<sup>8</sup> Daniel Gonzalez, *Yuma Farmworker and Father of 2 Dies Amid Record Heat Wave*, Ariz. Republic (July 24, 2023), <https://www.azcentral.com/story/news/local/arizona/2023/07/24/yuma-farmworker-dies-arizona-heat-wave/70457694007/>.

<sup>9</sup> Arianna Otero, *Calls for Action After Immigrant Farmworker, 29, Dies in Miami-Dade Heat*, WLRN: Miami (July 20, 2023), <https://www.wlrn.org/south-florida/2023-07-20/efrain-lopez-garcia-heat-stress-death-farmworker>.

<sup>10</sup> Alex Harris & Ashley Miznazi, *July 4th Broke World Heat Record. So Far, It’s Miami’s Hottest Year and a Sign of the Future*, Miami Herald (Oct. 3, 2023), <https://www.miamiherald.com/news/local/environment/climate-change/article277020973.html>.

<sup>11</sup> Erum Salam, *‘He Was Dripping with Sweat’: Kroger Worker Dies in Hot Work Conditions in Memphis*, The Guardian (Aug. 28, 2023), <https://www.theguardian.com/us-news/2023/aug/28/kroger-worker-dies-heat-temperature>.

<sup>12</sup> Env’t Def. Fund & La Isla Network, *Farmworkers and Heat Stress in the United States 20 (2023)*, [https://www.edf.org/sites/default/files/2023-07/EDF040\\_Heat%20Stress\\_V5.pdf](https://www.edf.org/sites/default/files/2023-07/EDF040_Heat%20Stress_V5.pdf).

<sup>13</sup> H.R. Rpt. 117-547 at 14 (Nov. 7, 2022), <https://www.congress.gov/117/crpt/hrpt547/CRPT-117hrpt547.pdf>.

overrepresented in the low-wage workforce and in industries at high risk for heat-related illnesses and injuries, such as agriculture and construction.<sup>14</sup>

The Asunción Valdivia Heat Illness, Injury, and Fatality Prevention Act would address short-term and longer-term hazards posed by extreme heat by enabling OSHA to act more nimbly to set both interim and final standards. First, the legislation would provide prompt relief for workers by directing OSHA to issue an interim standard within one year of the law's enactment. The bill would eliminate some of the obstacles that have resulted in unduly lengthy rulemakings by, for example, allowing OSHA to rely upon the findings of states and outside experts in developing its supporting rulemaking record. And by expressly providing that the interim standard would remain in place until OSHA promulgates a final standard, the legislation would ensure that workers continue to be protected during the latter rulemaking.

Second, the bill would provide OSHA with a clear mandate to issue a permanent standard that attains the highest degree of health and safety protections for workers to the extent feasible. The legislation would require OSHA to establish criteria under which employers must implement basic policies to prevent heat-related deaths and injuries, such as the provision of paid rest breaks, water or other suitable hydration, and shaded or cool areas to recover from the heat. To ensure that language barriers do not leave workers unprotected, employers would also need to make training and educational materials understandable to their employees. And to help increase the legal durability of a final rule, the legislation would authorize the agency to think creatively and update the standard over time, as technology improves or heat-related hazards worsen. The bill would also ensure stability by prohibiting backsliding on worker protections in future rules.

Moreover, implementing a protective heat standard would not require costly or technologically complex fixes. Simple actions such as providing workers with cool water to drink and a place to escape the heat for a period of time, for example, can go a long way toward preventing heat-related illness and death.

In conclusion, the Asunción Valdivia Heat Illness, Injury, and Fatality Prevention Act is critically important legislation that, if enacted, would save workers' lives. We strongly support its prompt passage.

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<sup>14</sup> *Id.*

Respectfully,



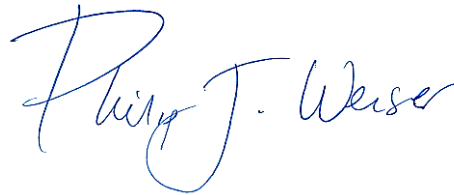
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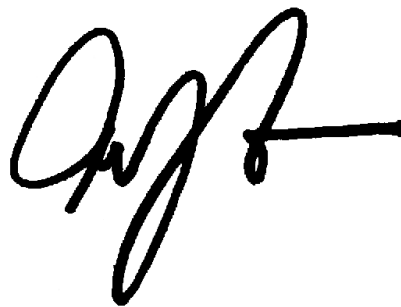
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cc: Senator Charles Schumer, Majority Leader  
Representative Mike Johnson, Speaker of the House  
Representative Alma Adams  
Senator Sherrod Brown  
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