

# The St. James Tearoom

RE: EIB25-11 (R) Proposed New Regulations 11.5.7 NMAC - Heat Illness and Injury Prevention

Good morning,

I am the Human Resources Manager at a local restaurant here in New Mexico. I have been informed of the proposed Heat Illness and Injury Prevention Rule and have reviewed the fact sheet as well as other articles on the proposition. The fact sheet informs us that the industries that are mainly affected by heat illnesses and injuries are construction workers and agricultural workers. According to the Food Industry Self-Insurance Work Comp Fund there were only two verified heat exposure claims in the last five years in restaurants. One involved an incident during COVID-19 when an employee was working outside while wearing a mask, the other was a worker over a kitchen fryer. This information suggests that these kinds of illnesses and injuries are rare in our industry as most restaurants do have air conditioning, improved ventilation, provide regular access to cold beverages, as well as cooling methods. The proposed rules seem more suited for outdoor industries that do not currently provide what the proposed regulations would be mandating.

The proposal paid resting breaks every two hours when the heat index reaches specific temperatures is a rigid requirement that also seems more relevant to outdoor work environments and not to restaurants that have cooling systems that generally remain at a constant temperature. Also, the rule concerning mandated breaks would cause an undue strain on existing employees, as they generally take time during their shifts for self-care, communicating with others when they are needing additional help for self-care. Restaurants also already contain limited staff so providing mandated and timed breaks would often require additional staff that poses an undue burden to obtain and compensate, since many in the restaurant industry have lower profit margins.

Another imposed strain would be that resources from core operations would also be diverted by the mandates on recordkeeping, training, and heat safety plans. This rule would take a large toll on HR departments of small businesses in monetary and regulatory costs, especially when we currently comply with such standards in our commitment to the health and safety of our employees.

I, therefore, implore you and respectfully request that you reconsider restaurants being a part of this rule as it would cause an undue and unnecessary burden on the restaurant industry and seems better suited for business industries that do not currently have access to cold drinks/hydration, shade, or cooling systems. Please exclude the restaurant industry from the proposed New Mexico Heat Injury and Illness Rule.

Thank you,  
Sonya Raines