



New York Farm Bureau

Jeff Williams

Director of Public

Policy

P.518.431.5618

jwilliams@nyfb.org

## MEMORANDUM OF OPPOSITION

**Senate Bill 1604-D (Senator Ramos) / Assembly Bill 8935-A (Assemblymember Bronson)**

**PROVIDES FOR THE REGULATION OF INDOOR AND OUTDOOR WORKSITES.**

**Date: 5/13/2024**

---

New York Farm Bureau, the state's largest agricultural advocacy organization, respectfully requests your opposition to the above referenced legislation. This legislation seeks to regulate high temperature in indoor and outdoor worksites by setting impractical standards for agricultural settings.

Food production must take place on a daily basis, and farmers, and their employees work outside in all types of weather throughout the year. In fact, during times of extreme temperatures, farmers consistently ratchet back employee exposure to elements to protect worker safety. In all cases, no matter what the weather, farmers provide drinking water as a course of doing business.

The heat and cold thresholds put forward in the legislation are not simply unrealistic based solely on temperature alone. In many cases, in New York, 80-degree weather is simply seen as a nice summer day and great working conditions. Likewise, a 60-degree day can be very comfortable, especially when doing physical activity. This legislation fails to take into consideration other weather conditions, like humidity, cloud cover, or windchill that can dramatically impact worker comfort. More data is definitely needed to justify these thresholds.

We recognize that this legislation is primarily directed at warehouse workers and delivery drivers, especially in New York City. We respectfully request that the sponsors exempt agriculture from this legislation or at the very least, amend the bill to increase and decrease temperature thresholds or recognize humidity, windchill, and exposure to the sun as a more realistic safety measure for farm operations.

Questions also arise when it comes to the definition of warehouse air conditioning requirements in the legislation. What is the definition of warehouse? Does it include 100-year-old barns used to store hay or equipment or packing sheds for fruit and vegetables attached to such barns? Obviously, these structures would be impossible to air condition.

Also, of note, this legislation excludes unionized businesses. Just because a farm or any other business is unionized does not mean that they have negotiated these labor standards as part of union contract. This legislation would allow unionized farms to have less protection for workers than non-unionized farms, which seems extraordinarily antithetical to the labor movement.

We have concerns about the required health monitoring and recordkeeping requirements in the legislation. Farmers, like construction managers and landscapers are not health care professionals. While of course, farmers can check in with workers on an informal basis, which they already do, this legislation requires a higher standard of health care knowledge than should be expected of business owners.

It is also completely unclear on how the mandated temperature-required paid breaks co-exist with the statutorily required breaks for hourly employees. Are all breaks mandated or can a break for hourly workers take the place of a heat-related break? Another pivotal question is how workers that work piece-rate would be compensated for a heat-related break, since there would be actually picking produce or vegetables during that time.

It must be mentioned that many agricultural workers come from very weather countries, via the federal H2A program, such as Mexico and Jamaica and working and would feel very comfortable working in New York in the summertime. If not, we also call the sponsors' attention to OSHA's Heat Adjustment Guidance for workers in their first few weeks in a new job. This 20 percent rule allows workers to acclimate to temperatures by working 20 percent of a full day their first day and then working 20 percent more each shift until they are ready to work a full workday. Farmers in New York State employ this guidance across commodities. <https://www.osha.gov/heat-exposure/protecting-new-workers>.

There are number of other issues that New York Farm Bureau has regarding this legislation, but those enumerated above are our primary concerns.

For these reasons, New York Farm Bureau respectfully requests your opposition to this legislation.