

ALERT

CALIFORNIA CHAMBER OF COMMERCE

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Chamber Pushes to Allow 4-Day Workweek Option

Individual Flexibility If Worker/Employer Both Agree



Assemblyman Van Tran

The California Chamber of Commerce is **sponsoring** legislation to permit individual workers and their employers to mutually agree to a four-day workweek.

The bill, **AB 640 (Tran; R-Garden Grove)**,

will help employees achieve greater flexibility in work schedules — something survey after survey shows employees

want in a job.

“Permitting individual flexibility is one way employers can help workers find some relief from hectic days, long commutes, high gasoline prices and conflicting work and personal schedules,” said Julianne Broyles, Chamber director of employee relations and small business.

“But first California needs to change the law enough to permit four-day work weeks for individual workers who want to find a balance between their work and personal lives,” she said.

AB 640 will permit an individual employee, with the consent of his/her

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Tax Increase Legislation Moving Through Assembly



OPPOSE

California Chamber-opposed legislation to increase the maximum tax rates was heard in the Assembly Revenue and Taxation Committee this week.

AB 6 (Chan; D-Oakland/Vargas; D-San Diego) increases the tax burden on small and medium-sized businesses by increasing the maximum tax rates to 10 and 11 percent and the alternative tax rate to 8.5 percent.

Many of California’s small and medium-sized businesses report their income and pay their tax liability on personal income tax returns. Increasing the maximum rates for personal income tax to 10 and 11 percent is a direct increase in costs for these businesses.

The Chamber believes that increasing taxes on small and medium-sized businesses will not address or resolve California’s budget crisis. California is already the most expensive state in the country in which to do business.

AB 6 will make it even more expensive to do business here at a time when California’s policymakers should focus on economic growth and creating jobs.

Taxes are 19 percent higher in California than the average taxes in the other

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Surveys Show Employees Want Flexible Schedules

- Survey results released by Accountemps, an accounting staffing firm, in August 2004 concluded that employers can lessen the time management burden for workers by using flexible schedules. When asked what perk today’s workers appreciate most, 30 percent of chief financial officers said “flexible schedules” — more than retirement savings plans, extra time off and spot bonuses.
- Similarly, a third of workers responding to a 2003 study by the Menlo Park-based staffing services firm Office Team said greater schedule flexibility would result in more job satisfaction.
- When a New Jersey-based outplacement firm, Lee Hecht Harrison, asked out-of-work employees in 2003 what they wanted in their next job, 73 percent said flextime, up from 57 percent in 1999.
- Nearly four-fifths of men aged 21 to 39 say having a work schedule that allows for time with family is the most important goal in their lives, according to a study conducted by Harris Interactive polling group for the Radcliffe Public Policy Center. Seventy-one percent of those surveyed said they would give up some pay for more time with their families.

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Labor Law Corner

Employee Moving Out of State May Receive Unemployment Benefits



Dana Leisinger
Labor Law Advisor

We have an employee who used to work for us who is moving out of the state. Can he collect California unemployment benefits once he moves out of California?

California has an agreement with the other U.S. states to continue to pay benefits when there is a claim

for unemployment insurance and the claimant lives in a state other than the liable state. If the ex-employee moves out of the state, he/she can call the toll-free number — (800) 250-3913.

The claimant still must establish the validity of the claim, and will be asked to provide information on all other eligibility issues.

Eligibility Requirements

To be eligible for unemployment insurance benefits, a claimant must:

- Have made a claim for benefits in accordance with the regulations;
- Be unemployed through no fault of his/her own;
- Have earned \$1,300 in one quarter. Alternately, he/she must have high quarter wages of \$900 and total base period earnings of 1.25 times that amount;
- Be able to work and be available for work;
- Be actively looking for work; and
- Have registered for work and conducted a search for suitable work as directed.

Special Considerations

If *all* the wages are California-based during the prior 18 months, the claimant may file form DE 1101I, or use the EApply application. If there are wages from another state (during the prior 18 months), if the worker has worked for a federal employer or is separated from military duty and is calling from outside of California, however, he/she must call the toll-free number noted above.

More information on unemployment claims can be found in Chapter 18 of the California Chamber's *California Labor Law Digest*, and on the Employment Development Department website, www.edd.ca.gov.

The Labor Law Helpline is a service to California Chamber preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or e-mail: helpline@calchamber.com.

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Home page: www.calchamber.com.

Chamber Calendar

Luncheon Forum:

March 17 and April 21, Sacramento

International Luncheon Forum:

April 14, Sacramento

Volunteer Leaders Conference:

May 24, Sacramento

California Business Legislative Summit:

May 25, Sacramento

Seminars

For more information on the seminars listed below, visit www.calchamber.com/events.

International

World Trade Week Breakfast. Los Angeles Area Chamber of Commerce. May 4, Los Angeles. (213) 580-7538.

Workplace Safety

Cal/OSHA Management and Compliance Strategies. Dufour Seminars. March 30, Concord; April 6, Burbank. (866) 312-8885.



Visit www.calchamber.com for the latest business legislative news plus products and services to help you do business.

Central American Ambassadors Promote Benefits of Trade Agreement with U.S.

The California Chamber of Commerce hosted five ambassadors representing the nations included in the proposed U.S.-Central American Free Trade Agreement (CAFTA) at an International Luncheon Forum on March 8.

The ambassadors traveled through California this week to promote the approval of the U.S.-CAFTA by Congress.

Trade Agreement

The CAFTA was signed on May 28, 2004 in Washington, D.C. U.S. Trade Representative Robert Zoellick signed on behalf of the United States. Trade ministers from Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua signed on behalf of their countries.

On August 5, 2004, representatives from the United States and the Dominican Republic signed an agreement formally including the Dominican Republic in the agreement.

When the agreement is implemented, more than 80 percent of U.S. exports will be able to enter the Dominican Republic and CAFTA countries duty-free, with all products having duty-free access in 10 years.

The six nations represented by the

CAFTA will be the second largest U.S. export market in Latin America, behind Mexico. The United States exported nearly \$11 billion in goods to the five Central American countries included in CAFTA in 2003 — more than U.S. exports to Russia, India and Indonesia combined.

Two-way trade between the United States and the CAFTA-5 was more than \$23 billion. With the Dominican Republic added to the CAFTA-5, total two-way trade increases to \$32 billion. The U.S.-Dominican Republic-Central American Free Trade Agreement is awaiting U.S. Congressional approval.

CAFTA Ambassadors

The Central American ambassadors are on a nationwide tour in coordination with the U.S. Chamber of Commerce to promote the U.S.-CAFTA, and the benefits it will provide all the nations involved.

At the California Chamber luncheon, John Murphy of the U.S. Chamber noted that the free trade agreement will provide the United States and the participating nations with new economic growth, new money for employees and new jobs.

The U.S. Chamber is accompanying

the ambassadors on their trip through California, one of many tours the group is making to promote the free trade agreement. The U.S. Chamber is also leading a coalition of businesses throughout the country that is working for congressional approval of the U.S.-CAFTA.

Ambassador Tomás Duenas of Costa Rica was the first to discuss the numerous benefits of the U.S.-CAFTA.

“Trade is an indispensable element of growth,” Duenas told the 125 guests attending the California Chamber-hosted luncheon. “The U.S.-CAFTA is giving the opportunity to develop. More than a free trade agreement, this is a development commitment.”

Ambassador Jose Guillermo Castillo of Guatemala spoke to the audience about the benefits the free trade agreement will have on the agricultural industry.

“This creates a huge opportunity for agriculture,” said Castillo. “Through new products, jobs are created and development will continue in our region. The U.S.-CAFTA will bring opportunity for local business and international investment.”

Ambassador Antonio León Rodrí-

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From left: Ambassador Salvador Stadthagen of Nicaragua; Ambassador Mario Canahuati of Honduras; Cassandra Pye, deputy chief of staff to Governor Arnold Schwarzenegger; Ambassador Rene Antonio León Rodríguez of El Salvador; California Chamber President Allan Zaremberg (standing); John Murphy, U.S. Chamber; Ambassador Jose Guillermo Castillo of Guatemala; Barry Sedlik, undersecretary, Business, Transportation and Housing Agency; Ambassador Tomás Duenas of Costa Rica.



California Chamber Pushes to Allow 4-Day Workweek Option

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employer, to work up to 10 hours per day within a 40-hour workweek, “with no set workweek.” Overtime pay would not be required in such a case.

Current Law

In California, the law requires that overtime compensation be paid for work performed by an employee in excess of eight hours in a single day, regardless of whether the employee works fewer than 40 hours in that week.

California is one of only four states that do not conform wage laws to the national Fair Labor Standards Act (FLSA). The FLSA bases its overtime compensation requirements for salaried, non-exempt employees on total hours worked per week, rather than total hours worked per day.

Under current and very detailed California Industrial Welfare Commission wage orders, employers may institute alternative work schedules only if the affected employees agree to the arrangement in writing and by secret ballot.

Employers must hold discussion meetings at least 14 days before voting. Two-thirds of the company’s employees must agree to the change. Any deviation from the rigidly controlled process voids the election.

The rules also state that daily work schedules are limited to a maximum of 10 hours per day, with a four-hour daily minimum. Variances in schedules or the use of more than one schedule is prohibited without repeating the voting process.

Few Use Complex Process

The complex process in effect eliminates most employers and employees from choosing schedule options such as flextime, part-time, job sharing, telecommuting and compressed workweeks. Only a handful of California employers are trying to operate under the restrictive provisions in the Labor Code.

Employers that are offering a staggered work schedule without going through an election process are operating in violation of the law.

Exempt from daily overtime are employees covered by collective bargaining agreements — these include all state, county and city employees, such as those employed by school districts, water districts and a multitude of other governmental agencies.

Surrounding States

The states bordering California have more flexible rules.

- In Oregon, employees working overtime must be paid at 1.5 times their

regular rate of pay after working 40 hours in a single week.

- In Washington, most employees paid hourly are entitled to 1.5 times their regular rate of pay for any time worked over 40 hours in a seven-day workweek. Some salary- or commission-based employees also must be paid overtime.

- Arizona does not have state-set overtime rules and instead requires employers to use the 40-hour requirements set out in the federal FLSA.

- In Nevada, an employer must pay 1.5 times an employee’s regular rate of pay whenever an employee works more than 40 hours in a week or more than eight hours in any workday, unless the employee and employer have made a specific agreement providing for a scheduled 10-hour day with a four-day workweek.

Chamber Position

The Chamber strongly believes that permitting individual workers and their employers to arrange and use a four-day workweek will give employees more flexibility and employers the ability to be more responsive to employee work/life needs.

AB 640 awaits a hearing date in the Assembly Labor and Employment Committee.

Staff Contact: Julianne Broyles

Chamber Committee Hears Updates on UI Fund, Paid Family Leave



The California Chamber of Commerce Employee Relations Committee, chaired by John F. Llewellyn (right) of Forest Lawn Memorial-Parks & Mortuaries, hears updates from Employment Development Department Deputy Directors Greg Riggs (left), speaking about the status of the state Unemployment Insurance (UI) Trust Fund, and Casey Young, discussing the implementation of California’s unique paid family leave program. The UI Trust Fund has skirted insolvency in recent years. So far, use of the paid family leave program has been lower than projected.

Rural Roads More Dangerous, Study Says

Inadequate Funding Delays Projects Needed to Keep Pace with Traffic Increases

Fatality rates on California's rural roads rank among the highest in the nation, according to a new study, which highlights the safety fallout as inadequate funding delays projects to retrofit the roads for increased traffic.

California ranks second in the nation in number of fatalities and has the 10th highest fatality rate, according to the report from The Road Information Program (TRIP) and Transportation California, a business and labor transportation advocacy group.

Traffic Deaths

Fatalities are 2.5 times more likely to occur on rural roads, the report concludes. More than half of U.S. traffic deaths between 1999 and 2003 — 52 percent — happened on rural, non-interstate roads and highways, although these roads accounted for only 28 percent of travel.

In 2003 there were 2.72 deaths per 100 million miles traveled on non-interstate rural roads, compared with 0.99 deaths per 100 million miles on all other roads. Only Texas had more fatalities than California, according to the study.

The study underscores that driving patterns are changing and that road and highway programs are not keeping pace.

As more and more commuters use rural roads to escape urban traffic congestion, the rural road system cannot deal with the challenges that design and maintenance deficiencies present.

During the 12 years between 1990 and 2003, vehicle travel on rural roads increased by 27 percent and commercial truck travel increased 32 percent. During this same period, the nation's rural population increased only 11 percent.

That increase has been far greater in California due to the migration from urban areas as former city dwellers seek affordable housing.

Inadequate Funding

According to Transportation California, Congress' failure to enact a new federal highway bill, coupled with the continued draining of state and local highway funds, has led to inadequate funding for needed road safety projects that would save people's lives.

The report pointed out that narrow lanes, limited shoulders, sharp curves, exposed hazards, pavement drop-offs, steep slopes and limited clear zones all contribute to unsafe conditions when traffic volumes increase on roads designed for far less traffic.

Improvements on Hold

Recommended safety improvements on hold due to lack of adequate funding include rumble strips, center-line rumble strips, improving signage and pavement markings, installing lighting, removing/shielding roadside obstacles, and improving/adding guardrails, widening lanes, paving shoulders and adding passing lanes.

Over the last two years, Proposition 42 provisions to fund state and local road improvements from gasoline sales tax revenues have been suspended, diverting more than \$2.4 billion from transporta-

Highest Traffic Fatality Rates

(per 100 million vehicle miles of travel, 2003)

State	Non-Interstate Rural	All Other Roads
Arizona	4.57	1.54
Florida	3.70	1.23
South Carolina	3.60	0.70
Montana	3.45	1.17
Kentucky	3.32	0.95
South Dakota	3.21	1.45
Pennsylvania	3.20	0.82
Missouri	3.19	1.04
New Jersey	3.12	0.90
California	3.11	1.00

Source: The Road Information Program analysis of National Highway Traffic Safety Administration and Federal Highway Administration data

tion projects. Proposition 42 is proposed to be suspended again in 2005 and perhaps again in 2006, increasing diverted funds to more than \$5 billion since voters approved Proposition 42 in 2000.

Without the flow of road maintenance funds, local counties have begun returning rural roads from asphalt to gravel to reduce maintenance costs.

The TRIP study is available at www.tripnet.org.

Staff Contact: Dave Ackerman

Tax Increase Legislation Moving Through Assembly

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western states, according to a survey conducted last year by Bain and Company for the California Business Roundtable.

Not enough has been done to address the important cost drivers that make California the most expensive state in which to do business. The appropriate and

prudent way in which the state can take control of its budget crisis is by curbing spending, not by increasing taxes.

Action Needed

Assembly Revenue and Taxation placed AB 6 on the suspense file. The Chamber is urging all employers to write

letters to the committee **opposing** AB 6.

For more information on AB 6 and a sample letter, visit the Bill Tracking page in the Government Relations section at www.calchamber.com and type "AB 6" into the search bill field.

Staff Contact: Erika Frank

Legislative Outlook

An update on the status of key legislation affecting businesses. Visit www.calchamber.com/position_letters for more information, sample letters and updates on other legislation. Staff contacts listed below can be reached at (916) 444-6670. Address correspondence to legislators at the State Capitol, Sacramento, CA 95814. Be sure to include your company name and location on all correspondence.

Chamber-Opposed Bill Passes Assembly Policy Committee



California Chamber-**opposed** legislation to dramatically alter vehicle sales in California has passed the Assembly Judiciary Committee.

AB 68 (Montañez; D-San Fernando) severely limits credit sources for the purchase of personal vehicles and harms many car dealers by curbing their ability to profit on certain types of sales.

AB 68 seeks to mandate a three-day cancellation provision on all used car purchases in the state of California, requiring car dealers to allow vehicle returns for a refund after the vehicle has been driven.

Under current law, car dealers have the flexibility to offer some type of contractual-based used vehicle return policy. Current law also provides consumers with a host of contract rescission rights when the dealer is guilty of wrongdoing.

AB 68 seeks to significantly regulate dealer financing of new and used vehicles, thereby eliminating credit sources for consumers. If the intent of this bill is to ensure that consumers do not pay in excess of what they should, restricting financing charges will not accomplish this goal.

Many consumers are able to obtain financing through car dealers that they

could not obtain via direct loans from banks or credit unions. If dealers are unable to receive competitive prices for the sale and assignment of conditional sale contracts, it stands to reason that many of these financing sources for consumers will not be available.

A similar bill by the same author, AB 1839, was labeled a “job killer” by the Chamber last year and never made it out of the Legislature.

Key Vote

AB 68 passed Assembly Judiciary on a party-line vote of 6-3:

Ayes: Evans (D-Santa Rosa), Jones (D-Sacramento), Laird (D-Santa Cruz), Levine (D-Van Nuys), Lieber (D-Mountain View), Montañez (D-San Fernando).

Noes: Benoit (R-Riverside), Haynes (R-Murrieta), Leslie (R-Tahoe City).

Action Needed

AB 68 will be heard next in the Assembly Appropriations Committee. The Chamber is urging all employers to write members of the committee in **opposition** to AB 68.

Staff Contact: Erika Frank

Central American Ambassadors Promote Benefits of Trade Agreement

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guez of El Salvador addressed attendees regarding the benefits the U.S.-CAFTA will have on labor in the participating countries.

“This will benefit the U.S. economy, agriculture and the entertainment industry,” said Rodriguez. “The CAFTA will raise labor standards and bring about a commitment to labor rights. The number one right of CAFTA will be the right to have a job.”

Ambassador Mario Canahuati of Honduras commented on the impact the U.S.-CAFTA will have on the textile industry

in the United States and abroad.

“The U.S.-CAFTA is an instrument of commerce, but an instrument of development,” said Canahuati. “This will move us forward... so small businesses can participate and gain sustainable development, giving opportunity and creating more jobs.”

The Ambassador Salvador Stadthagen of Nicaragua concluded the event by speaking about the overall benefits of the U.S.-CAFTA for Central American countries.

“This is essential for stability in our region,” said Stadthagen. “Providing us

with economic development.”

International Breakfast

The California Chamber also hosted the Central American ambassadors in Los Angeles on March 11 at an International Breakfast.

For more information on U.S.-CAFTA or other U.S. free trade agreements, visit the International Relations section at www.calchamber.com.

For information on the coalition of businesses in support of the U.S.-CAFTA, visit www.usafta.org.

Staff Contact: Susanne Stirling

Chamber Provides Solution to New Military Leave Law, Notice Mandate

The California Chamber of Commerce is providing employers with options to satisfy the new federal requirements related to military leave.

The Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA) governs military leaves of absence and provides job protection, benefits and rights of reinstatement to employees who are absent from work due to service in the uniformed services.

On December 10, 2004, President George W. Bush signed the Veterans Benefits Improvement Act of 2004. The new law has two implications for employers:

- employers must post a new employee notice describing rights, benefits and obligations under USERRA; and

- continuation of health coverage must be extended from 18 to 24 months.

The U.S. Department of Labor issued the final version of the employee notice on March 10, 2005 — the deadline specified by Congress to produce the final notice (not the date by which employers must display it). The notice should be displayed within a reasonable time after it becomes available.

New Product

The Chamber is offering employers a supplemental product to coordinate with its **Required Notices Kit** to satisfy



this new USERRA requirement. The new **USERRA Kit** contains:

- the newly mandated USERRA notice;
- a pamphlet to give to employees going on military leave; and
- an informational booklet on USERRA for employers.

California Chamber members may download a pdf of the new notice from www.hrcaforia.com.

For more information on the new USERRA requirement, please visit www.calchamberstore.com.

Staff Contact: Robyn Souza

MAY 24-25, 2005

California Business Legislative Summit

SACRAMENTO CONVENTION CENTER

HOT ISSUES

- Updating Infrastructure (highways, housing, energy, ports)
- Stopping Lawsuit Abuse (including Americans with Disabilities Act reform)
- Battling Health Care Costs
- Building Strong Grassroots Political Action
- Removing Barriers to Workplace Progress
- Reforming Policy through Ballot Initiatives

Employers and business owners — Don't miss out on this opportunity to learn how you and your company can have an impact on decisions at the state level.

Register today at www.calchamber.com or for additional information, contact Amy Orr at (916) 444-6670, ext. 263 or e-mail events@calchamber.com.



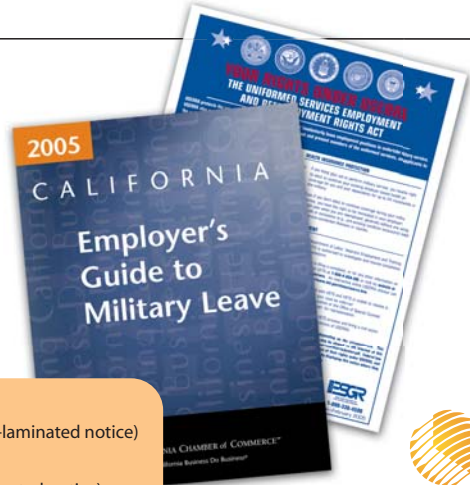
New military leave requirements

To help you comply, we are offering a supplemental product to coordinate with the *Required Notices Kit* and *Employer Poster*. The *USERRA Kit* contains:

- the newly mandated USERRA notice
- a pamphlet to give to employees going on military leave
- a booklet explaining USERRA requirements to employers

As a member benefit, the USERRA notice alone will be available to download free at www.hrcalifornia.com.

Prices do not include tax. Prepayment is required for orders under \$150.



\$10 (non-laminated notice)
\$12 (laminated notice)

Executive and Preferred members save 20% on product purchases.



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