

ALERT

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State Supreme Court to Hear Meal/Rest Period Case



The California Supreme Court decided this week to consider a key case affecting how employers should handle employee meal and rest breaks.

Until the state high court issues its ruling, the California Chamber of Commerce is advising members not to rely on or follow the 4th District Court of Appeal ruling in the case of *Brinker Restaurant Corporation et al. v. The Superior Court of San Diego County*.

The appeal court ruled in July that state law requires only that employers provide meal periods. The decision clarified a point of much concern for employers: whether the requirement to provide a meal or rest break meant employers had to force the employees to take the break.

The appeal court denied class certification for almost 60,000 restaurant employees because the lower court did not properly consider the elements of the employees' claims in determining if they were susceptible to class treatment.

The CalChamber is advising that members:

- contact legal counsel to ensure that policies reflect the most prudent practices relating to meal and rest breaks and tracking of employee time;
- always track all hours worked and not worked of all non-exempt employees; and
- make sure supervisors and managers consistently enforce the employer's policies and procedures, in particular, as they relate to meal and rest breaks for non-exempt employees.

For more information on the July ruling, see the *HR Watchdog* blog at www.hrcalifornia.com.

Staff Contact: Jessica Hawthorne

Workplace Poster Needs Updating; 'Required Notices Kit' Available

An update to the Equal Employment Opportunity (EEO) workplace poster includes required changes, according to the Office of Federal Contract Compliance Programs.

The changes required to be posted, approved in August, include new information on: sexual harassment, workers' compensation rights and benefits, state disability insurance, paid family leave and unemployment insurance.

An employer could be fined up to \$17,000 for failing to post 16 required notices in a conspicuous place in the workplace, where all employees and applicants can see them.

The law also requires employers to provide and distribute literature that informs employees of their rights and responsibilities regarding leaves of absence and unemployment benefits.

Required Notices Kit

The change will be part of the *2009 Required Notices Kit*, available from CalBizCentral, presented by the California Chamber of Commerce. The *Kit* includes a *2009 California Employee Poster* and 20 copies of all five required pamphlets.

See *Workplace*: Page 4

CalChamber Positions on November Measures

Ballot Number	Subject	CalChamber Position
Prop. 1A	High-speed rail bond	Oppose
Prop. 2	Treatment of farm animals	Oppose
Prop. 3	Children's hospital bond	Support
Prop. 4	Parental notification on abortion	No Position
Prop. 5	Rehabilitation of non-violent offenders	Oppose
Prop. 6	Public safety spending/criminal penalties	No Position
Prop. 7	Renewable energy generation	Oppose
Prop. 8	Gay marriage	No Position
Prop. 9	Victims' rights	No Position
Prop. 10	Alternative energy bonds	Oppose
Prop. 11	Redistricting reform	Support
Prop. 12	Veterans' home loan bond	Support

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Cal/OSHA Corner

Employers Must Ensure Medical Personnel, First Aid Materials Available



Mel Davis
Cal/OSHA Consultant

As an employer, what am I required to provide in the way of medical services and first aid?

Section 3400 of the General Industry Safety Orders requires that the employer “ensure” the ready availability of medical personnel for advice and consultation “on matters of industrial health or injury.”

For most places of employment, the presence of an infirmary, clinic, hospital or emergency service providers, such as the fire department and available emergency medical technicians, in near proximity to the workplace is sufficient to meet this requirement. When these facilities or persons are not in the near proximity, then a person or persons shall be “adequately” trained to render first aid.

If the workplace is one where employees may be exposed to injurious corrosive materials, the regulation requires there be suitable facilities for quickly drenching/flushing the eyes or body in an emergency.

If an ambulance service normally isn’t available within 30 minutes, Cal/OSHA may require stretchers and blankets, or other adequate warm covering. When the worksite is at an isolated location, the regulation also requires provisions be made in advance for prompt medical attention to serious injuries.

First Aid Kit

Adequate first aid materials must be “readily” available for all employees at the worksite, according to the regulation. The first aid materials at the worksite are to be approved by a consulting physician. Over-the-counter medications, whether aspirin or allergy pills, can be included in a workplace first aid kit if they are recommended by the company physician.

The first aid material will be:

- Kept in a sanitary and usable condition;

- Replenished as necessary.

More specific first aid requirements appear in the Construction Safety Orders, Section 1512. These regulations require minimum first aid supplies to be determined by “an employer-authorized, licensed physician” or according to a table based on the number of employees.

For workplaces of 1–15 employees, the
See Employers: Page 4

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Ann A. Amioka

Ann Amioka
Vice President, Communications
September 15, 2008



Small Business Advocate of Year

Long Beach Lawyer Gets Results with Community-Oriented Approach

Lori Lofstrom describes the Long Beach business community as cohesive and well-informed, attributes that have helped the Long Beach Area Chamber of Commerce make an impact at both the local and state levels.

Lofstrom, owner of the franchise law firm Holmes Lofstrom, P.C. and a recipient of the California Chamber of Commerce 2008 Small Business Advocate of the Year Award, has been involved with the Long Beach Area Chamber for seven years.

In that short time, she has served as the president of the Women's Business Council, as a board member, chair of the Government Affairs Council (GAC) and now chair-elect of the chamber.

Community Approach

While GAC chair in 2007, Lofstrom tracked 41 bills and 20 issues having an impact on the local business community.

Using a community-oriented approach by including all local stakeholders—city council members, small business owners, the water district, police and fire departments and community members—in political discourse, Lofstrom has helped the 1,200-member Long Beach Area Chamber grow into a relevant voice in the area.

"She is a tireless advocate for our business community at the local and state levels," said Randy Gordon, Long Beach Area Chamber president/chief executive officer.

Battling Big-Box Ordinance

In 2007, Lofstrom led the successful charge to form Long Beach Consumers for Choice, which gathered more than 33,000 signatures to overturn a big-box ordinance.

"That was a big issue that we didn't want the city council taking pre-emptive steps to tell people where they should and shouldn't shop, and what kind of business should and shouldn't come into the city," she said.

A common concern about large department stores moving into communities is that smaller businesses will be forced to shut their doors. Lofstrom and many other local business leaders disagreed. They pointed to studies



Lori Lofstrom

that show there is no impact on small business in such cases and that the real negative impact of not allowing such stores to join the community is the loss of all the new jobs that would be created.

In addition, Lofstrom and Long Beach Consumers for Choice argued that residents who buy groceries at large big-box type stores save thousands of dollars each year.

"Eventually, I think that we made a pretty compelling case," she said.

The Long Beach City Council took note and voted against a big-box ordinance.

Water Conservation

Lofstrom also has been at the forefront of the state water issue for the chamber. In 2007, she spoke at a press conference with Governor Arnold Schwarzenegger to detail the importance of preserving the Sacramento-San Joaquin Delta.

The speech applauded the Governor's plan to invest in an improved Delta and a full-scale investment into the long-term viability of the state's water supply.

"We're all kind of in this together and it's a statewide issue and we need to support changes that are going to help conserve and preserve our water supply," she said.

Lofstrom said with few reserves currently in place, that the state's water situation is something that will have to be constantly monitored.

Cooperation

During 2007, the GAC was busy with the big-box ordinance, water supply, fighting homelessness (the city council is reviewing a 10-year plan supported by the Long Beach Area Chamber to end homelessness in the next decade) and several other issues.

The GAC is a cohesive 30-member board made up of people from all different-sized businesses. Members of the local water district, transportation officials and elected officials typically attend the GAC's monthly meeting.

All board members are then briefed on what is happening in local districts as well as any Assembly or Senate races.

"We have actually worked real well on some of the proposed legislation and made the Legislature aware of the business community's position on particular bills, such that we could help them stop the impact or any unintended consequence," Lofstrom said.

The GAC supported state issues such as workplace flexibility, AB 510 (Benoit; R-Bermuda Dunes), the CalChamber-sponsored legislation rejected by an Assembly policy committee this year.

The GAC opposed the health care tax on business, AB 8 (Núñez, D-Los Angeles), the CalChamber-opposed "job killer" vetoed in 2007.

Accomplishment

Gordon said Lofstrom's leadership on the GAC committee has paid off.

"Under Lori's leadership, the chamber spearheaded more issues and accomplished more results in 2007 than in the past three years combined," he said.

Lofstrom feels a sense of accomplishment in the way the chamber has become more "astute" politically.

"I think we are looked at as a leader in the Long Beach community," she said. "I feel like I have been a very small part of that."

Workplace Poster Needs Updating; 'Required Notices Kit' Available

From Page 1

The **Required Notices Kit** includes:

- the updated EEO poster;
- minimum wage (federal and state);
- USERRA military leave benefits;
- safety and health (Cal/OSHA)

requirements;

● notice of workers' compensation carrier;

- time off to vote;
- emergency phone numbers;
- payday notice;
- discrimination and harassment

(Department of Fair Employment and Housing);

- whistleblower protection;
- polygraph protection;
- family/medical leave and pregnancy

leave (federal and state), including the Family Medical Leave Act amendment addendum; and

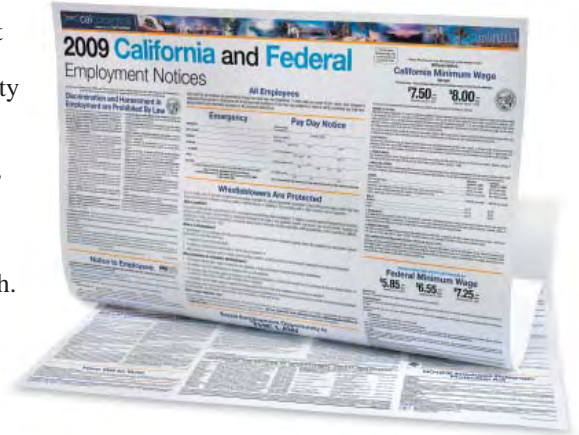
● unemployment insurance, disability insurance and paid family leave.

Laminated or non-laminated posters are available, with all materials in English or Spanish. If any of a company's employees are Spanish-speaking, the employer must provide many of the required notices in Spanish.

More Information

More information on the **Required Notices Kit** is available at www.calbizcentral.com or by calling (800) 331-8877.

Staff Contact: Jessica Hawthorne



Employers Must Ensure Medical Personnel, First Aid Materials Available

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table lists: adhesive dressings, one-inch wide adhesive tape rolls, eye dressing packet, two-inch gauze bandage roll or compress, two-inch and four-inch sterile gauze pads, triangular bandages, safety pins, tweezers and scissors, "appropriate record forms" and an up-to-date first aid book.

Larger Employers

The regulation lists additional supplies for workplaces with more employees.

The regulation requires that there be first aid-trained personnel at the worksite. It also prohibits the employer from putting the following materials in the first aid kit unless an employer-authorized, licensed physician specifically approves them in writing: drugs, antiseptics, eye irrigation solutions, inhalants, medicines or proprietary preparations.

Besides construction, other employers in high-hazard industries, such as the electrical industry (high voltage

transmission and supply), mining and tunneling, logging, to name a few, are to have first aid-trained personnel on all worksites in addition to the employees being trained in CPR.

The Labor Law Helpline is a service to California Chamber of Commerce 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 submit your question at www.hrcalifornia.com.

CalChamber-Sponsored Seminars/Trade Shows

For more information, visit www.calchamber.com/events.

Business Resources

9th Workplace Excellence Awards. San Diego Society for HR Management. November 12, La Jolla. (619) 589-0111.

International Trade

Trade Mission to Panama. U.S. Commercial Service. October 26-29, Panama. (727) 893-3738.

Luncheon with Congressman Farr. Monterey Bay International Trade Association. October 30, Santa Cruz. (831) 427-0182.

Fabric/Accessory Suppliers Exhibition. Sri Lanka Consulate General. November 6-8, Sri Lanka. (213) 387-0213.

Trade Mission to India. FedEx. November 9-15, New Delhi. tradeevents@fedex.com.

New Consuls General Annual Luncheon. San Francisco Global Trade Council. November 10, San Francisco. (415) 395-9100.

Labor Law

On-Demand Web Seminar Library. CalChamber. Through December 31. Call for details. (800) 331-8877.

Annual Meeting

In compliance with Article VII of the bylaws, notice is hereby given that the annual meeting of the members of the California Chamber of Commerce, a mutual benefit corporation operating under the laws of the State of California, will be held on Friday, December 5, 2008, at 9 a.m. in Salon 3 at the Ritz Carlton, 600 Stockton Street at California Street, San Francisco, California, for the transaction of whatever business may be necessary.

CalChamber Calendar

Public Affairs Council November Retreat: November 12-14, La Jolla

**Next Alert:
November 7**

California Faces Unparalleled Drought

In early June, Governor Arnold Schwarzenegger declared a statewide drought and a local drought emergency in nine Central Valley counties.

Water levels in reservoirs throughout the state have been drawn down to compensate for the lack of rain and they are dropping at alarming rates—some to historic lows. The combined impact of recent court-ordered cuts in water deliveries, rainfall shortages and low reservoir carryover is creating unmatched challenges for growers and consumers.

‘Critically Dry’ Year

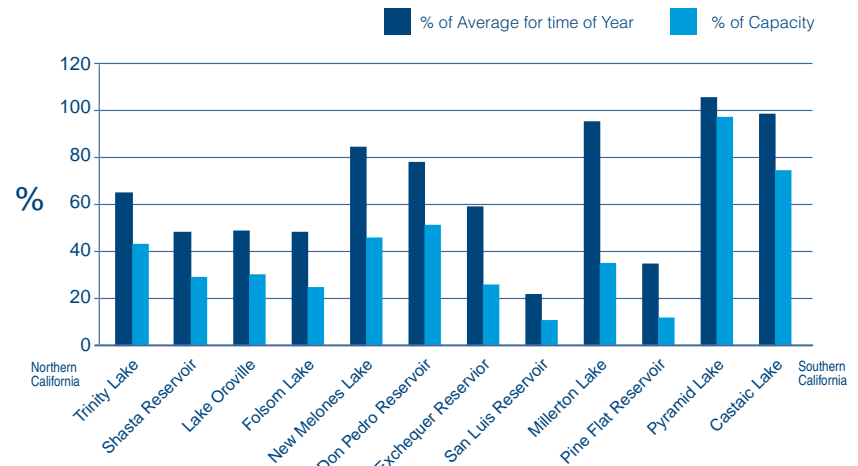
The California Department of Water Resources designated 2008 as a “critically dry” year for two major river systems in the state. In a survey of Association of California Water Agencies members, 79 percent of respondents said another dry year would require a stepped up response in 2009.

What this means for California’s water picture is that the economic and environmental losses the state has endured this year will be exacerbated by another dry year.

Ultimately, ongoing drought will result in an explosive fire season and consumers will see higher prices for produce and other food products, along with more pressure being put on the state’s groundwater resources. Current mandatory water restrictions in some parts of the state may turn into rationing in chronically water-short areas.

According to the Metropolitan Water District, the drought California is currently enduring is far from “business as usual” for the state. “We have entered a new and worrisome water era, where the problems

California Reservoir Levels at Historic Lows



Source: California Department of Water Resources (October 23, 2008)

of below-normal rain and snowfall are made much worse by water supply restrictions due to deteriorating environmental conditions,” said Metropolitan Board Chairman Timothy F. Brick.

Water Bond

The California Chamber of Commerce has been front and center of the movement to enact a water bond that will greatly improve water infrastructure in the state and protect us from future, severe water crises.

“This year’s drought and environmental issues have emphasized the fact that our state’s water system is in crisis,” said CalChamber President Allan

Zaremborg. “Waiting and watching will only deepen that crisis.”

The CalChamber believes that nothing short of a comprehensive set of solutions that address delivery, storage and conservation efforts will work to keep our state healthy, our economy growing, and California moving forward. The water system that contributed to California’s emergence as one of the world’s major economic powers is faltering and existing facilities are barely able to meet current public demand. The state’s future economic vitality depends on permanent changes and California needs to begin that work now.

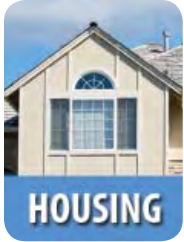
Staff Contact: Valerie Nera

The New Political Era
November 12–14, 2008
 The Lodge at Torrey Pines
 La Jolla, California

California Chamber of Commerce
 Public Affairs Council
 November Retreat

Registration and more information at www.calchamber.com

Housing Recovery Key for State Economy



The importance of new home construction to California's economy and the severe economic impacts of the recent housing market decline are illustrated in a recent report commissioned

by the California Homebuilding Foundation (CHF).

New housing construction contributed nearly \$40 billion a year to the state's economy in 2007, more than 1 percent of the state's output, and supports in excess of 266,000 jobs, according to the report conducted by the Sacramento Regional Research Institute (SRRRI).

When related activities are included in the equation, new home construction generates nearly \$354 billion in economic output, supports approximately 1.2 million jobs and is the single largest industry in California, accounting for 11 percent of all economic activity in the state, the institute concluded.

Worst Collapse Since WWII

The report, an update of the 2005 report, also titled *The Economic Benefits of Housing in California*, dramatically documents the extent of the homebuilding industry decline in just two years.

The recent housing downturn is the worst since World War II, according to the report. The 2005 study showed that new housing construction generated \$68 billion of output and nearly 487,000 jobs for California. The decline in permit levels, however, has reduced the 2007 values by more than 40 percent.

In 2005, single family and multi-family housing units totaled more than 212,000, according to the Construction Industry Research Board (CIRB).

In 2007, the permit number totaled just greater than 112,000, a decline of more than 50 percent. Projections for 2008 show a likely decline from that to approximately 70,000 permits.

Working Families at Risk

A recent news article announcing the state's 7.7 percent unemployment rate cited the construction industry as a leading cause for the continued rising rates after the construction industry suffered the most job losses over the last year, down 79,200 jobs since August 2007. The drop of 8.9 percent means a loss of nearly one in 10 construction jobs.

Last month, nearly 1,000 unemployed workers from the housing industry attended the state "talent transfer" job fair hosted by the state Employment Development Department to stimulate job opportunities for workers laid off from construction, mortgage and real estate jobs.

The benefits of new housing construction to the state's economy go beyond activities directly related to building housing units. New housing construction produces a ripple effect in California's economy as a result of the linkages between construction activities, suppliers of goods and services, and consumer spending.

On average, each additional dollar of construction results in nearly \$2 of economic activity and one new job. Therefore, when the housing industry loses nearly half of the jobs it once supported, numerous industries within California are hard hit, thus increasing state unemployment rates, the report noted.

State, Local Governments Ailing

Based on residential building permit data, about 161,000 new privately owned

housing units were authorized throughout California in 2006, according to the CIRB. That number dropped to 110,000 in 2007.

County governments net an average of \$1,706 in a one-time fiscal benefit and the state nets an average of \$15,858 in corporate and sales tax revenues from the sale and construction of a median-priced new home, according to a recent CHF study. In addition to the one-time payment, new homes generate an ongoing stream of \$190 a year to county governments, while the state nets nearly \$3,500 a year.

The net result of the decline on state and local governments has been enormous. The most recent state Department of Finance *Finance Bulletin* states that "the ongoing housing and financial crises continued to roil the California economy in August. The state lost payroll jobs for the sixth consecutive month, and the unemployment rate rose again. Home building slowed, but home sales stabilized."

Economy Relies on Housing

As California's economy continues to struggle and state and local governments grapple with dwindling budgets, the economy's reliance on homebuilding as an economic engine has never been more evident. The housing industry creates a notable contribution, not only to the state, but to all of the state's counties.

With housing being the state's single largest industry, solutions to California's economic woes will not succeed without making recovery of the housing industry the number one priority for state lawmakers.

The entire report is available at www.calchamber.com.

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

CalChamber: Attention to Business Costs Essential in Resolving UI Fund Insolvency

Collaboration Among Stakeholders Needed to Review Impact of Options

The California Chamber of Commerce is calling for cooperation in examining options to save the dwindling employer-funded state unemployment insurance (UI) fund from bankruptcy, noting that policymakers need to be mindful of the costs of doing business in the state.

California's high unemployment rate has accelerated the solvency troubles of the UI fund. The state's unemployment rate reached 7.7 percent in August, prompting the CalChamber and Employment Development Department (EDD) officials to warn of the consequences to the UI fund at an October 8 Assembly Insurance Committee hearing.

The recent spike in unemployment forced the EDD to update its May projection that the UI fund would be in the red by the end of 2009. EDD now estimates the UI fund could be negative \$500 million by January 2009.

If the economy fails to improve, causing demands on the fund to outstrip tax receipts, California would be forced to borrow more money in order to meet its payment obligations to qualified individuals, as it did in 2004 when the fund was on the brink of bankruptcy.

Collaboration

The CalChamber is calling for collaboration in an effort to prevent such an occurrence.

"The business community has been in meetings recently, evaluating not only the

problem, but the options," CalChamber policy advocate Jason Schmelzer told the Assembly Insurance Committee.

The CalChamber has invited the labor community to have a sit-down discussion about moving forward with a plan and looks forward to working with the EDD and Governor Arnold Schwarzenegger's administration, Schmelzer said.

"We want stakeholder discussions with everyone at the table," Schmelzer said. A fundamental piece of the negotiations, he said, needs to be a discussion of the overall cost of doing business in California.

Impending Crisis

The housing crisis and its impact on related industries have significantly dampened the California economy.

"That's not to say that strictly the business climate is to blame for unemployment; that's clearly not the case," Schmelzer said. "But to say that there is not a correlation between business climate, tax burden, litigation climate, the cost of industrial space and the unemployment situation in states — I think it is relatively clear that there is a connection there."

In 2004, California took out an emergency loan of \$1.4 billion from the federal government for the first time in the state's history and increased taxes on employers to the maximum "F" level plus a 15 percent surcharge, the highest allowed by law.

Subsequent economic growth and job creation in California temporarily improved the fiscal health of the fund, which skirted insolvency at the end of 2004 with a razor-thin reserve of \$397 million. The surcharge remains in place.

Analyzing Impact of Options

Schmelzer highlighted the need for policymakers to be mindful of the cost burden various proposals place on employers. For example, the 2008-09 state budget includes \$5.8 billion in new tax liabilities for employers. Under consideration this year, but vetoed by the Governor, was a proposal (SB 974-Loewenthal; D-Long Beach) that would in essence have placed \$500 million in "fees" on imports and exports by imposing an illegal tax on containers moving through the state's ports.

"Businesses have a finite amount of resources that are available to them to do things such as create jobs and grow in the state. When that money is spent for them, as it is in many cases through these programs, they can't create jobs," Schmelzer said.

With the multitude of factors that are going to go into resolving the problem, the CalChamber looks forward to working with all stakeholders to improve the solvency of the UI fund.

Staff Contact: Jason Schmelzer



Political Communications to Employees

As the election approaches, the California Chamber of Commerce is reminding employers to brush up on the dos and don'ts of political communications with employees.

Business owners are within their rights to inform employees and stockholders about the potential impacts of proposed ballot measures.

The CalChamber has prepared a

brochure giving a quick overview of what employers can and cannot do, as well as when they need to report what they spend on political communications.

A pdf file of the *Guidelines to Political Communications to Employees* brochure is available on the CalChamber website at www.calchamber.com/guidelines.

Preventing Identity Theft: FACTA 'Red Flags' Compliance Training



The Federal Trade Commission has issued "red flag" warning signs of identity theft to implement the Fair and Accurate Credit Transactions Act (FACTA).

Every U.S. financial institution and creditor company **MUST** develop and implement a written identity theft prevention program by November 1, 2008. A "creditor company" may include auto dealers, utility and telecommunications companies, and non-profit and government organizations.

Protect your business and customers with this convenient online course. Educate employees and managers about how to identify, detect and respond to "red flags" of identity theft in the handling of consumer account information

*Offer cannot be combined with any other offer and applies to new orders only. Prepayment is required.



Select course at www.calbizcentral.com/training



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