

ALERT

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CalChamber Aims to Reduce Unneeded Prop. 65 Warnings



SUPPORT

The California Chamber of Commerce and a large coalition of small businesses, trade associations and local chambers are **supporting** a bill that promotes using

a scientific exposure assessment when deciding whether to warn under Proposition 65.

The bill, **AB 543 (Quirk; D-Hayward)**, provides businesses with greater confidence in the utility of conducting scientific exposure assessments by stating that a business does not “knowingly and intentionally” expose individuals to

Proposition 65-listed chemicals and thus need not provide a warning if the exposure assessment meets certain requirements.

Proposition 65

Proposition 65 requires California businesses with 10 or more employees to provide a clear and reasonable warning before “knowingly and intentionally” exposing individuals to chemicals known to cause cancer and/or reproductive toxicity. Businesses may use a Proposition 65-listed chemical without providing a warning so long as the exposure does not exceed a specified threshold level.

Notwithstanding this so-called “safe harbor” from the warning requirement, businesses often provide warnings on

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CalChamber Names Santa Clara Chamber Exec as Silicon Valley/Bay Area Rep Starting April 1



Steve Van Dorn

Steve Van Dorn, president/CEO of the Santa Clara Chamber of Commerce & Convention-Visitors Bureau, will be leaving that post to join the California Chamber of Commerce team as corporate affairs

manager for the Silicon Valley/Bay Area on April 1.

“We’re looking forward to having Steve as our representative in this important region of our state,” said Dave Kilby, CalChamber executive vice president,

corporate affairs. “He’ll not only be the face of CalChamber, but will be our eyes and ears generating feedback from area businesses directly to our team in Sacramento. With Steve’s experience and knowledge of the business community, he’s the perfect person to join our team.”

In the new CalChamber position, Van Dorn will be responsible for increasing connections and improving relations with business leaders in the region, working to increase engagement with existing member companies and recruiting new CalChamber members.

He served on the CalChamber Board of Directors in 2013 and 2014 as the representative of the Western Association

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California Supreme Court Issues Key CEQA Decision



The California Supreme Court ruled this week that evidence that a project may have a significant effect on the environment does not, in and of itself, preclude the use of a categorical

exemption under the California Environmental Quality Act (CEQA).

The March 2 decision is a significant victory for the development community and ensures that lead agencies can continue to rely on categorical exemptions, even when the exempt project may have a significant impact on the environment.

Disputed Project

The case, *Berkeley Hillside Preservation v. City of Berkeley*, stemmed from the City of Berkeley’s approval of a large house in Berkeley. The residence would be built on two floors, would include an open-air lower level, and would cover about 16% of the lot.

The city’s zoning adjustment board (board) approved the use permit for the house, and found that the project was exempt under two categorical exemptions in the *CEQA Guidelines*, which, respectively, exempt from CEQA single-family residences in urbanized areas and infill development that meets certain criteria.

Several groups and individuals appealed the board’s determination,

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*Cal/OSHA Corner***Personal Protective Equipment Standards Get California Update**

Mel Davis
Cal/OSHA Adviser

Have there been any recent revisions to the General Industry Safety Orders, Article 10, Personal Protective Equipment?

The Occupational Safety and Health Standards Board, in its ongoing efforts to keep California current with national consensus standards and the federal Occupational Safety and Health Administration, initiated a review of the Construction Safety Orders (CSO), Section 1514, "Personal Protective Devices," and the

General Industry Safety Orders (GISO), Section 3380(a), "Personal Protective Devices."

The changes take effect April 1, 2015.

GISO Section 3380(a), in part, defines the scope of Article 10, "Personal Safety Devices and Safeguards" and also provides that protection for various parts of the body means the use of safety devices and safeguards [e.g. personal protective equipment (PPE)] must be of the proper type for the exposure.

Revisions

Beginning with the CSO, Section 1514(b), a statement has been added requiring that PPE be approved for its "intended use as provided in Section 1505***." Section 1505 contains the definition for approved where applicable in the CSO. Also, there is a revision clearly stating that the PPE is to be marked so as to facilitate the identification of the manufacturer.

Subsection (d) has been repealed and a new (d) adopted with new wording that incorporates the intent of old (d) and includes requirements to be consistent with the counterpart federal standard [29 CFR 1926.95(a)]. This wording clarifies that specific areas of the body, such as the extremities, may require PPE. Also now included is the caveat that the

equipment must comply with the applicable Title 8 regulations.

Subsection (e) has been revised to ensure that the PPE is of such design and fit that they are comfortable and will not unduly encumber the employee's movements necessary to perform his or her work.

Section 3380(a)(1) of the GISO has been revised, deleting the term "protection," substituting the terms "protection" and "protective," the terms used within the regulation. Also, the note has been deleted, removing an outdated reference, and a new subsection (2) has been added, referencing Section 3206, the approval section for the GISO.

Subsection (d) has been revised to be consistent with the revisions to the CSO, making the regulation consistent with the counterpart federal standard.

The full text of the rulemaking and revised regulations can be seen at www.dir.ca.gov/oshsb/Personal_protective_devices_and_safeguards.html.

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.

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CalChamber-Sponsored Seminars/Trade Shows

More information at www.calchamber.com/events.

Labor Law

HR Boot Camp. CalChamber. April 23, San Diego; June 10, Santa Clara; August 18, Sacramento; September 2, Laguna Beach. (800) 331-8877.

Business Resources

Taking Action for Safety and Health. California Department of Industrial Relations. March 11, Madera. (510) 643-8902.

California Competes Tax Credits Workshop Webinar. Governor's Office of Business and Economic Development (GO-Biz). March 16, Online. (916) 322-0694.

34th National UI Conference. National Foundation for Unemployment Compensation and Workers' Compensation. June 17-19, San Diego. (202) 223-8904.

International Trade

Economic Summit. California Hispanic Chambers. March 20, Ontario. (916) 444-2221.

SelectUSA Investment Summit. Select USA. March 23-24, National Harbor, Maryland. (202) 482-6800.

Asia/Pacific Business Outlook. U.S. Commercial Service. April 13-14, Los Angeles. (310) 235-7212.

CalAgX Export Training Program. Fresno Center for International Trade Development. April 14, Salinas; April 15, Clovis; April 16, Sacramento. (559) 324-6401.

California-Mexico Trade Initiative. San Diego Regional Chamber. April 19-22, Mexico City, Mexico. (619) 544-1316.

MEXPORT Trade Show 2015. Otay
See CalChamber-Sponsored: Page 4



Off the Wall Photo Contest Winners



THE WINNERS! OFF THE WALL PHOTO CONTEST

The California Chamber of Commerce has named the winning entries in the Off the Wall Photo Contest.

A strong field of 54 contestants submitted photos of how they upcycled their outdated 2014 employment notices poster.

The entrants drummed up support via social network contacts to win the most popular votes.

In addition, a panel of CalChamber judges selected two other winners.

Popular Vote

Panel of Judges

Popular Vote

First place in the popular vote is Ashley Hall, legal secretary at the Glendale law firm of Knapp Petersen & Clarke. Her photo, "2014 fluttered away," shows butterflies on a tree trunk.

Placing second again this year is Francisco Cuellar, office services coordinator from the Los Angeles office of Browne George Ross LLP. His photo, labeled "aahhhhh!!!!" displays toy people running from a robot-like figure crafted from a 2014 poster.

Panel of Judges

CalChamber judges awarded first place to Melinda Ellis, finance manager of the First Christian Church of Napa, for her off the wall clutch handbag.

Second place goes to Joyce Goetz, office administrator at Bibles for America in Irvine, for her CalChamber poster skirt.

First place winners in both categories received an Apple® iPad Air 2 (\$499 value). Second place winners each received an Amazon Kindle Fire HD (\$199 value).*

To view all the entries, visit www.calchamber.com/postercontest.

2015 Poster Updates

Even a business that employs only one person in California must post and hand out required state and federal employment notices in each company location. More information is available at the CalChamber Store.

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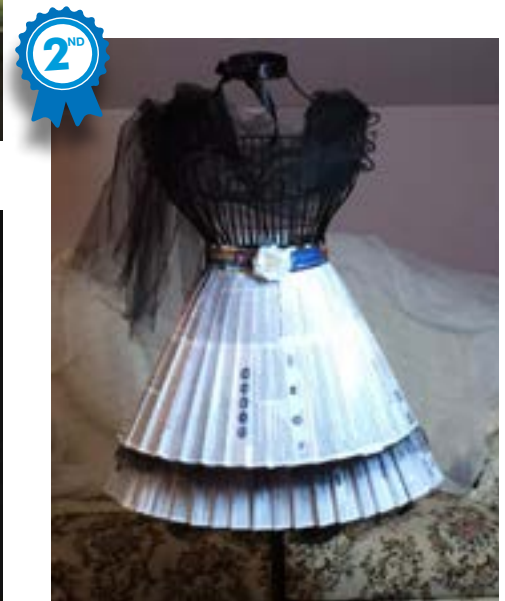
Fluttered away, Ashley Hall



Clutch handbag, Melinda Ellis



Aahhhhh!!!!, Francisco Cuellar



CalChamber poster skirt, Joyce Goetz

Go to CalChamber.com/postercontest to see all the entries.



California Supreme Court Issues Key CEQA Decision

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arguing that the city should have prepared an environmental impact report (EIR) for the project. The city council affirmed the permit approval, dismissed the appeal, and determined that the project was exempt from CEQA.

Lawsuit

Berkeley Hillside Preservation, a citizens group, filed suit, asserting that the city was precluded from relying on the categorical exemptions because an “exception” to the exemptions applied. Specifically, the group argued that the city could not rely on categorical exemptions because, according to the *CEQA Guidelines*, “[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.”

The trial court rejected the group’s contentions, holding that the exception did not preclude application of the categorical exemptions because, notwithstanding evidence that the project would have a potentially significant environmental impact, the project did not present

any unusual circumstances.

The appellate court reversed, holding that the mere fact that the project may have an impact on the environment is *itself* an unusual circumstance that precludes use of the exemptions.

Supreme Court Ruling

The California Supreme Court reversed the appellate court ruling and held in favor of the city. Specifically, the Supreme Court held that the plain language of the exception supports the view that, for the exception to apply, it is not alone enough that there is a reasonable possibility the project will have a significant environmental impact; instead, in the words of the *Guidelines* itself, there must be “a reasonable possibility that the activity will have a significant effect on the environment *due to unusual circumstances*.”

According to the Supreme Court, Berkeley Hillside Preservation’s interpretation of the exception would give no meaning to the phrase “due to unusual circumstances.” The court noted that had that been the actual intent, “the phrase ‘due to unusual circumstances’ would, no doubt, have been omitted from the regula-

tion; rather than confuse the issue with meaningless language, the regulation would clearly and simply provide that the exception applies ‘if there is a reasonable possibility that the activity will have a significant effect on the environment’” without the phrase “due to unusual circumstances.”

Significance

Had Berkeley Hillside Preservation prevailed in this case, lead agencies would no longer have the ability to rely on categorical exemptions because the legal interpretation for which the group was arguing, if adopted, would have set such a low bar to overcome that categorical exemptions would have been rendered meaningless.

Instead, lead agencies would have been required to prepare an environmental impact report, a much more expensive and complicated level of environmental review, even for projects that would otherwise clearly fit within the definition of categorical exemptions.

A copy of the Supreme Court’s decision can be found at www.courts.ca.gov/opinions/documents/S201116.PDF.

Staff Contact: Anthony Samson

CalChamber-Sponsored Seminars/Trade Shows

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Mesa Chamber. April 23, San Diego. (619) 661-6111.
Ex-Im Bank’s Annual Conference. Export-Import Bank of the United States. April 23–24, Washington, D.C. (703) 536-4992.
China-U.S. Business Summit. China-U.S. Business Summit Organizing Committee. April 26–28, Los Angeles. (626) 810-0820.
Making Hay: The Future of U.S. Competitiveness. Monterey Bay International Trade Association. April 30, San

Jose. (831) 335-4780.
World Trade Week Kickoff Breakfast. Los Angeles Area Chamber. May 5, Beverly Hills. (213) 580-7569.
SelectUSA Road Show in Mexico. SelectUSA. May 12–14, Merida, Mexico City and Tijuana, Mexico. (202) 482-6800.
SelectUSA Greater China Road Show. SelectUSA. May 18–29, Hong Kong, Shenzhen, Dongguan, Guangzhou, Shanghai, Shenyang and Dalian, China. (202) 482-6800.

IRS Offering Taxpayer Appointments

Three IRS Taxpayer Assistance Centers in California are among 44 nationwide that are offering appointments for businesses seeking help.

The IRS is testing the appointment process to see if it will eliminate the long lines that sometimes occur at many assistance centers and help ensure each taxpayer’s issue is resolved.

Appointments may be made by telephone or email:

- Fresno, (559) 444-2044, Fresno.Appointment@irs.gov;
- Long Beach, (562) 491-7751, Long.Beach.Appointment@irs.gov; and
- Redding, (530) 224-0695, Santa.Rosa.Appointment@irs.gov.

Links to local IRS offices in California and instructions for requesting appointments are at www.irs.gov/uac/Contact-My-Local-Office-in-California.



Port Slowdown Highlights Need for Passage of Trade Promotion Authority



Susanne Stirling

The recent port slowdown made headlines across the country and is estimated to have cost the national economy about \$2 billion a day. And, no wonder.

Recently the Associated Press pointed out, “West Coast seaports handle roughly one-quarter of U.S. international trade, an amount worth about \$1 trillion annually.”

Clearly, trade is an important engine for economic growth and jobs. With more than 30% of U.S. gross domestic product (GDP) tied to international trade and investment and 95% of the world’s population abroad, U.S. engagement in the international marketplace is more important to the nation’s economy than ever.

That is why CalChamber members are eagerly awaiting passage of Trade Promotion Authority (TPA) by the U.S. Congress and the President.

Negotiating Authority

Trade Promotion Authority (formerly called fast track trade negotiating authority) is the process by which Congress gives authority to the President and/or U.S. Trade Representative to enter into trade negotiations in order to lower U.S. export barriers.

Traditionally, it follows the conclusion of negotiations for a trade agreement; enabling legislation is submitted to Congress for approval. Every President since Franklin Delano Roosevelt has been granted the authority to negotiate market-

opening trade agreements in consultation with Congress.

In 2002, the landmark Trade Act, H.R. 3009, was signed. This act helped put U.S. businesses, workers and consumers back in the game of international trade by granting the President TPA. The act was extended for two years in August 2005, clearing the way for free trade negotia-

Commentary By Susanne Stirling

tions to get underway with other countries. Trade Promotion Authority expired in June 2007 and now must be extended by Congress once again.

Now is the time for Congress to extend TPA so that the President may negotiate new multilateral, sectoral and regional trade agreements, ensuring that the United States continues to gain access to world markets resulting in an improved economy bolstered by more jobs.

New Trade Pacts

Having Trade Promotion Authority will then allow the U.S. to finalize the Trans-Pacific Partnership Agreement (TPP), which will be an agreement of 12 nations on the Pacific Ocean stretching from Japan to Chile, covering 40% of the world economy. The agreement would significantly improve U.S. companies’ access to the Asia-Pacific region, which is projected to import nearly \$10 trillion worth of goods in 2020.

A study by the Peterson Institute for International Economics estimates the trade agreement could boost U.S. exports by \$124 billion by 2025, generating hundreds of thousands of American jobs.

Further, TPA would encourage the continued negotiations of the Transatlantic Trade and Investment Partnership (TTIP). The United States-European Union is the largest regional trading and investment relationship in the world, with more than \$1.5 trillion in goods, services, and income receipts flowing between the U.S. and the EU annually. The TTIP will eliminate tariffs, promote regulatory cooperation, and open up services, investment, and procurement.

Competitive Success

America’s standing as a world leader depends directly upon our competitive success in the global economy. For over the past half century, the United States has led the world in breaking down barriers to trade and in creating a fairer and freer international trading system based on market economics and the rule of law. Increased market access achieved through trade agreements has played a major role in our nation’s success in exporting.

Susanne Stirling is vice president, international affairs, for the California Chamber of Commerce.

Santa Clara Exec to Start April 1 as CalChamber Silicon Valley/Bay Area Rep

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of Chamber Executives during his terms as chairman-elect and chairman.

Van Dorn has led the Santa Clara Chamber staff since November 2002, when he was named to the position after serving as director of sales and marketing for the organization.

He began his hospitality career in 1984 in sales for three hotels with the Hilton Hotels Corporation, moving on to sales positions with the Los Angeles and San Jose convention and visitors bureaus before joining the Santa Clara Chamber.

He earned a B.S. in business management from San Diego State University.

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Legislative Session Opens at Usual Pace; Action Around the Corner

Last Friday was the first milestone in what is expected to be an active legislative session—the deadline for legislators to introduce bills to be considered this year.

Overall, the number of proposals introduced is comparable to the first year of the 2013–14 legislative session.

- This year, 2,408 bills have been introduced—1,569 in the Assembly and 839 in the Senate.

- In 2013, there were 2,540 bills introduced as of the deadline—1,585 in the Assembly and 955 in the Senate.

The California Chamber of Com-

merce actively followed 85% of the bills introduced in 2013, and is projecting an equally busy time this year.

As is typical, many of the bills introduced so far are “spot bills”—placeholders for proposals still being written or to be developed in negotiations among interested stakeholders.

Based on news conferences and other public statements, action can be expected this year on bills that would increase labor costs, increase taxes, reduce Americans with Disabilities Act lawsuits, increase electricity and gas prices, and expand business tax credits.

The next deadline is March 16, the day by which spot bills must be amended in order to be eligible for consideration this year.

As the specifics of legislative proposals are laid out, the CalChamber will present updates so members and readers can know what to expect and have the chance to comment on issues of greatest concern to them.

To receive updates on hot legislative issues when action is needed, sign up for CalChamber’s *Inside the Capitol* e-newsletter at www.calchamber.com/newsletters.

CalChamber Aims to Reduce Unneeded Prop. 65 Warnings

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their products or facilities out of an abundance of caution, even if no chemical exposure is present or if the chemical exposure is occurring below specified threshold levels.

This is because if a business rightfully and lawfully elects not to warn on the basis that its scientific exposure assessment concludes that the exposure does not exceed the threshold level, its risk of being sued is actually greater than if it provides a warning unnecessarily.

Overwarning Problem

This unfortunate reality has resulted in what is often referred to as the “overwarning” problem, where California consumers are warned about chemical exposures that either don’t exist or are occurring at infinitesimal levels. The government, nongovernmental organizations and the business community have acknowledged that overwarning is a problem.

Even the California Supreme Court has noted that “the problems of over-

warning are exacerbated if warnings must be given even as to very remote risks.” *Dowhal v. SmithKline Beecham Consumer Healthcare*, 32 Cal.4th 910, 932-35 (2004), quoting *Carlin v. Superior Court*, 13 Cal.4th 1104, 1115 (1997).

AB 543

AB 543 is a modest improvement that encourages the use of a scientific exposure assessment by providing that a business does not “knowingly and intentionally” expose individuals to Proposition 65-listed chemicals and thus need not provide a warning if the exposure assessment:

- is documented in writing and prepared by or under the supervision of a qualified scientist;
- is conducted in accordance with existing regulations; and
- concludes that the business is not exposing an individual to a Proposition 65-listed chemical at a level requiring a warning.

By clarifying the circumstances in

which a business would not be deemed to have the requisite knowledge and intent necessary to support an alleged violation, AB 543 will create an incentive—where none currently exists—for a business to use science as the predicate for a decision to warn or not.

Accordingly, AB 543 will provide businesses with greater confidence in the utility of conducting scientific exposure assessments and, in doing so, will restore meaning to warnings that the law actually requires to advise consumers about chemical exposures exceeding Proposition 65 warning levels.

Next Steps

AB 543 was recently introduced; the soonest it can be considered by a legislative policy committee is March 26.

For background information, see the *2015 CalChamber Business Issues and Legislative Guide* article on Proposition 65 at www.calchamber.com/businessissues.

Staff Contact: Anthony Samson

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CalChamber Member Companies Among *Fortune* Magazine's 50 Best Workplaces

Seven California Chamber of Commerce member companies have been ranked among the "50 Best Small and Medium-Size Companies to Work For" by *Fortune* magazine.

Small Companies

Small companies were defined by *Fortune* as those having between 25 and 249 employees. Of the 25 small companies that were ranked, five are CalChamber member companies:

• No. 10:

Insomniac Games

(Burbank, CA) is an independent video game developer that focuses on AAA console games. Ted Price, founder and CEO, has group lunches with random staff members on a weekly basis, and meets with staffers for 30-minute one-on-one conversations. Community day events invite fans to the studio for lunch and to meet the team. The company provides annual training for full-time salaried employees and provides unlimited paid days of conference attendance, as well as incentives to speak at conferences.



• No. 17:

Stellar Solutions

(Palo Alto, CA) is an aerospace consulting firm that invests in employee development programs such as college tuition reimbursement and annual training for full-time salaried employees. Many Stellar Solutions employees are aerospace engineers, and the company aims to find "dream jobs" for its engineers to work on. Those jobs currently include human space exploration, climate and weather satellites, and robotic space exploration satellites. Staff gets to work onsite with customers, which include federal agencies and defense contractors.



• No. 21: The

City of Rancho Cordova

runs like a business, opening an "office of new ideas" every other week where staff



present ideas for new programs and processes to a five-member advisory team. Lunchtime is extended by 30 minutes twice each week for exercising with colleagues. Employee development programs at the City of Rancho Cordova include college tuition reimbursement and annual training for full-time salaried employees. The city government also sends employees each year to the Continuing Education for Public Officials (CEPO) program, where participants immerse themselves in self exploration of their leadership style, leadership skills development and relationship building at a retreat site.

• No. 22:

Integrated Project Management

(Burr Ridge, IL) provides employees with 100% health care coverage for themselves and their dependents. The plan also includes dental, short-term disability and life insurance. Anyone who refers business to the consulting firm receives a development incentive that amounts to 3% of the first year's revenue from the new client. The company also provides college tuition reimbursement and new employees participate in a one-year mentoring program.



• No. 25: Xactly

(San Jose, CA) is a cloud software company that has its own philanthropic organization, XactlyOne, which organizes volunteer opportunities and projects for employees and family. All employees receive three days of paid time off for volunteering. The company provides college tuition reimbursement, and provides training programs that range from project management and Agile development methodologies to cross-cultural communication and leadership styles. Ninety-eight percent of employees agree that Xactly has great bosses, great communication, great rewards and great challenges.



Medium-Size Companies

Two CalChamber member companies made it to the "medium-size workplaces" (250 to 999 employees) portion of the ranking:

• No. 7:

Atlassian (San Francisco, CA)



was founded in Australia and is a leading provider of collaboration software. Nearly 40,000 large and small organizations, including Citigroup, eBay, Netflix and Coca-Cola, use Atlassian's tracking, collaboration, communication, service management and development products. The company invests in college or study tuition reimbursement and annual training for full-time salaried employees. Other employee development programs include: providing all employees with an internal blog space so employees learn from each other and share ideas openly; a quarterly "ShipIt" program that allows all employees to spend 24 hours every quarter working in teams to create new solutions for customers or internal improvements; and "RocketFuel," an interactive onboarding program that provides values, company history and other tools for new employees.

• No. 21:

AdRoll (San Francisco, CA)



is an advertising tech firm that specializes in digital ads and social media, and recently opened offices in New York, Sydney and Dublin. Employees are invited to teach colleagues in continued learning programs, and regular quarterly curriculum includes programming for nonprogrammers, project management and Zumba.

More Information

To view *Fortune*'s complete list, visit fortune.com/2014/09/18/50-best-small-and-medium-size-companies-to-work-for-2014/.

Simplify your training requirement and reward supervisors with free coffee.

California requires companies with 50 or more employees to provide two hours of sexual harassment prevention training to all supervisors within six months of hire or promotion, and every two years thereafter. **New for 2015:** Based on legislation effective 1/1/15, CalChamber's online courses for California supervisors and employees educate individual learners about preventing abusive conduct in the workplace (such as bullying), in addition to harassment protections for unpaid interns and volunteers.



CalChamber's two-hour California harassment prevention training course for supervisors meets state requirements. **Tablet and Desktop Ready!**



Get a **\$5 Starbucks eGift Card** for every California Harassment Prevention training seat you purchase by 3/31/15.

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