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7 Ballot Measures Threaten California Business Climate



Voters may face as many seven ballot measures damaging to California's business and

political climate in November. Any one of these measures should motivate millions in opposition spending by affected industries. More than a few are likely to qualify for the ballot.

Conventional wisdom teaches that gubernatorial elections deliver older and more conservative voters to the polls, which normally drives liberal and antibusiness initiative entrepreneurs to aim their measures for presidential election years, like 2016 or 2020. But this formerly reliable rule has crumbled in the face of a low qualification threshold, interest group imperatives, and impatient wealthy donors. It's open season on the deep pockets!

Increase Taxes

In 2016, California voters extended top income tax rates (already the highest in the nation) through 2030, increased tobacco taxes by \$2 a pack, and imposed new taxes on marijuana use and production. Elsewhere, voters in hundreds of local jurisdictions raised sales, property and excise taxes for a variety of municipal or school services.

For certain unions and special interest groups, this isn't enough. Two proposed

7 Ballot Measures: Page 4

CalChamber Co-Hosts Canada Day Luncheon on NAFTA Changes and State Agriculture



Photo by Sara Espinosa

Lawrence MacAulay, Canadian minister of agriculture and agri-food, opens a CalChamber co-hosted luncheon on February 22 about what changes in the North American Free Trade Agreement (NAFTA) could mean for California agriculture. Story on Page 5.

DACA Decision: California Employer Update



The U.S. Supreme Court's recent denial of a Trump administration bid to expedite a legal challenge to the Deferred Action for Childhood Arrivals (DACA) program means, for the time being, California

employers can continue to legally employ Dreamers with DACA status.

Status quo for the DACA program also means that Congress is unlikely to take up comprehensive immigration reform anytime soon. This issue is critical to California employers because more than 200,000 Dreamers live and work in the state.

"As we've said for years, we need a permanent legislative fix on immigration," said Allan Zaremberg, California Chamber of Commerce president and CEO. "California's workforce and our ability to compete in the global economy requires comprehensive reform that will bring certainty to employers, employees and families."

DACA protects some 700,000 young immigrants who came to America as children from deportation and allows them to legally work in the United States. President Donald R. Trump rescinded the program last September, effective next week, expecting Congress to resolve the issue legislatively.

While Congress has struggled with a See DACA Decision: Page 4

Inside

W-2 Phishing Scam Warning: Page 3



Labor Law Corner Smaller Firm Employee: Job-Protected Leave as New Parent, Not as Son



David Leporiere HR Adviser

I operate a fairly small business (we have 35 employees), and I recently had an employee come to me asking to take a few weeks off to care for his father. He says there's a new law in California that allows employees of smaller companies time off to care for their family members. Am I obligated to give this employee the time off he's requesting?

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Email: alert@calchamber.com. Home page: www.calchamber.com. The short answer is "no." However, California did recently enact a law that does require businesses of your size to provide up to 12 weeks off for a different reason.

Protected Leave

The "California Parental Leave" law (New Parent Leave Act) has some similarities to the federal Family and Medical Leave Act and the California Family Rights Act. The new law requires employers with 20–49 employees to provide up to 12 weeks of unpaid, jobprotected leave to its employees to bond with a new born child, or a child placed through adoption or foster care.

To be eligible, the employee asking for the time off must have worked for the employer for at least one year, have worked at least 1,250 hours in the 12 months preceding the request for the time off, and work within 75 miles of at least 20 other employees of this employer.

As a result, your employee is not entitled to take time off to care for his father, but would be eligible to take time off if he became a new parent. The time off under California's New Parent Leave Act must be taken within one year of the birth, adoption, or placement through foster care.

Partial Wage Replacement

Your employee may have been confused by California's Paid Family Leave (PFL) program, a state-sponsored insurance program within the State Disability Insurance (SDI) program. PFL covers employees at organizations of any size. PFL provides employees with partial wage replacement for up to 6 weeks in any 12-month period while absent from work to care for a seriously ill or injured family member or bonding with a minor child within one year of the child's birth or placement in connection with foster care or adoption.

Like SDI, PFL does not create the right to a leave of absence. PFL does not require you to create a leave of absence policy or guarantee reinstatement rights other than those already mandated by law. If you withhold SDI contributions from employees' paychecks, you are also withholding for PFL.

As with SDI, PFL is administered by the state Employment Development Department, and employees apply directly to the EDD for benefits. The EDD is also responsible for the process of confirming if the absence qualifies for benefits. The EDD can require medical and other documentation in support of the claim.

More information about PFL and the eligibility requirements is available to California Chamber of Commerce members in the HR Library on HRCalifornia.

Column based on questions asked by callers on the Labor Law Helpline, 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

More at www.calchamber.com/events. Labor Law

Leaves of Absence: Making Sense of It All. CalChamber. March 15, Sacramento; March 22, Pasadena; June 21, San Diego; August 10, Oakland. (800) 331-8877.

HR Boot Camp. CalChamber. April 11, Oakland; April 26, Costa Mesa; June 5, Santa Clara; August 21, Sacramento; September 5, Long Beach. (800) 331-8877.

Business Resources

TECHSPO LA 2018. TECHSPO. June 13–14, Santa Monica. (800) 805-5385.

International Trade

- Comprehensive Export Training. Orange County Center for International Trade Development. April 13–14, Santa Ana. (714) 564-5413.
- Asia Pacific Business Outlook Conference. University of Southern California Marshall School of Business. April 16–17, Los Angeles. (213) 740-7130.
- Chile California Clean Energy Conference. CalChamber. April 18, Sacramento. (916) 444-6670.
- Business Forum: Innovations in Safety and Security. U.S. Consulate in Hong See CalChamber-Sponsored: Page 3





IRS, FBI Warn Employers to Beware of W-2 Phishing Scam



The Internal Revenue Service (IRS) and the Federal Bureau of Investigation (FBI) recently

warned payroll and human resources professionals of a dangerous Form W-2 phishing scam that victimized hundreds of organizations and thousands of employees during the last two tax seasons—and this season is no different.

The scam goes like this: Cybercriminals identify your company's chief operating officer or other high-level executives, pose as the executive and send emails to payroll personnel. In these emails, the fraudsters request copies of employee Forms W-2 or ask for a list of all employees and Social Security numbers (SSNs). Using a technique called business email compromise or business email spoofing, these emails look like they were sent from within your organization.

No Typical Email

According to the IRS, the initial email may be a friendly, "Hi, are you working today?" type of exchange before the fraudster asks for all Form W-2 information. But that isn't always the case.

Last year, one actual email simply asked payroll, "[S]end me the updated list of employees with full details (Name, Social Security Number, Date of Birth, Home Address, Salary) as of 2/22/2016."

Criminals then use the stolen personal

information and data on the W-2s, such as SSNs, to file fraudulent tax returns for refunds. Or they sell the information on the "Dark Net."

Last year's scams affected all types of employers—small and large businesses, public schools and universities, hospitals, tribal governments and charities. In 2017, reports about this scam to *phishing@irs. gov* from victims and nonvictims jumped to approximately 900, up from 100 the previous year. More than 200 employers were victimized in 2017, which translated into hundreds of thousands of employees who had their identities compromised.

Action Items

Employers need to educate payroll, HR and finance personnel of the W-2 scam. The IRS also urges employers to:

• Consider limiting the number of employees who have authority to handle Form W-2 requests; and

• Require additional verification procedures to validate the actual request before emailing sensitive data such as employee Form W-2s.

Employers also should immediately notify the IRS if they are victimized. The IRS can then take steps to help prevent employees from being victims of taxrelated identity theft. Unfortunately, because of the nature of these scams, some businesses and organizations don't realize for days, weeks or months that they were scammed.

The IRS has a special email notification

CalChamber-Sponsored Seminars/Trade Shows

From Page 2

Kong and the U.S. Commercial Service. April 18–20, Hong Kong. (703) 235-0103.

- Expo Seguridad. California Centers for International Trade Development. April 24–26, Mexico City. (951) 571-6458.
- Expo Seguridad Mexico Trade Show. Governor's Office of Business and Economic Development. April 26–28, Mexico City. (916) 322-0694.
- World Trade Week Kickoff Breakfast. Los Angeles Area Chamber. May 4, Los Angeles. (213) 580-7569.
- Water and Agriculture Technology Business Mission to Israel. U.S. Chamber. May 8–10, Israel. (202)

463-3584.

- CalChamber International Forum. CalChamber. May 23, Sacramento. (916) 444-6670 ext. 233.
- 21st Annual International Business Luncheon. World Trade Center Northern California. May 24, Sacramento. (916) 319-4272.
- SelectUSA Investment Summit. U.S. Department of Commerce. June 20–22, Oxon Hill, MD. (800) 424-5249.
- 83rd Thessaloniki International Fair. HELEXPO. September 8–16, Thessaloniki, Greece.
- China International Import Expo. China International Import Export Bureau. November 5–10, Shanghai, China.

address specifically for employers to report Form W-2 data thefts. Here's how Form W-2 scam victims can notify the IRS:

• Email *dataloss@irs.gov* to notify of the data loss and provide contact information, as listed below.

• In the subject line, type "W2 Data Loss" so that the email can be routed properly. Do not attach any employee personally identifiable information data.

- Include the following:
 - Business name;
 - Business employer identification number associated with the data loss;
 - · Contact name;
 - Contact phone number;
 - Summary of how the data loss occurred;
 - Volume of employees impacted.

Businesses and organizations that fall victim to the scam and/or organizations that only receive a suspect email but do not fall victim to the scam should send the full email headers to *phishing@irs.gov* and use "W2 Scam" in the subject line.

Employers can learn more at the IRS webpage on Form W-2/SSN Data Theft: Information for Businesses and Payroll Service Providers.

A **February 21 press release** from the FBI Internet Crime Complaint Center, *ic3.gov*, provides additional information about how to report the situation to state tax agencies and other law enforcement officials.

Staff Contact: Gail Cecchettini Whaley

CAPITOL SUMMIT & SACRAMENTO HOST BREAKFAST

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7 Ballot Measures Threaten California Business Climate

From Page 1

ballot measures would impose multibillion-dollar tax increases on businesses and upper income earners.

• The United Healthcare Workers union has proposed a 1% income tax surcharge on all income over \$1 million, which would raise up to \$2.5 billion annually for various health care programs. Wealthy taxpayers would pay a top rate of 14.3%, well above the highest income tax rate of any other state.

• A coalition of liberal interest groups is circulating a split roll property tax proposal, requiring that nearly all commercial and industrial properties, except production agriculture, be assessed to full market value, and then reassessed every three years thereafter. Tax bills for business would increase by \$10.5 billion a year.

Worsen Housing Crisis

California's notorious housing shortage contributes to many social ills, including poverty, long commutes, air pollution, and flight of middle class jobs and job seekers.

Tenant advocates, backed by the head of the Los Angeles AIDS Healthcare Foundation, are circulating a proposal that would exacerbate this shortage by repealing long-standing limitations on rent control.

Far from alleviating the housing shortage, this proposal would simply allow local politicians to benefit some existing renters at the expense of future renters and homeowners.

Regulate Industries

• A measure purporting to improve consumer control over personal internet privacy promises to be among the hardest fought and most expensive ballot battles.

A San Francisco investor proposes requiring businesses to provide to consumers upon request a copy of any personal information it has accumulated and allows consumers to opt out of any or all collection of their personal information—even if not personally identifiable. This measure undermines widespread business models in the industry and likely reduce many services now available to internet users.

• United Healthcare Workers is also soliciting signatures for a measure to establish price controls for privately operated kidney dialysis treatment. Intended to create leverage on dialysis clinics to increase unionized staff, passage of the measure would increase overall costs by shifting dialysis treatments from clinics to more expensive venues like emergency rooms or hospitals.

Stall Economic Development

For more than two decades, excise taxes on California gasoline and diesel remained flat, contributing to the erosion of purchasing power of those tax revenues and creating a backlog of maintenance and operational improvements for roads and highways. In 2017, the Legislature and Governor agreed on a \$5 billion annual boost in transportation revenues to repair roads and bridges and add capacity in some of the most congested corridors.

A San Diego politician has proposed repealing the excise tax increases and subjecting future increases to statewide voter approval, which would freeze in place hundreds of planned transportation improvements throughout California, without a plausible replacement revenue stream.

Disrupt State Governance

A Silicon Valley millionaire is again attempting to qualify a measure to break apart California, this time into three separate states, centered on the Bay Area, Greater Los Angeles and San Diego/ Orange County, with the rural area divided among the new states.

The new states would obviously create new and unpredictable winners and losers—economically, socially and politically. Rather than working to knit the fabric of our state more tightly together, this proposal would tear it apart.

Initiative proponents will begin submitting petitions to counties in May for signature verification. It is not too soon to begin educating affected business and industry leaders about the consequences of these proposals. **Contact: Loren Kaye**

DACA Decision: California Employer Update

From Page 1

solution, immigrant advocates along with several states, including California, sued on constitutional grounds to block the President's shuttering of the program. In January, a district court judge barred the administration from ending the program for individuals with DACA status, but precluding new DACA applications from being accepted. The Migration Policy Institute (MPI) placed the number of California DACA recipients as of September 2017 at 197,900 with an estimated 384,000 individuals meeting all criteria to apply, for a program participation rate of 51%.

EdSource on September 5, 2017 reported that 242,339 young people received DACA status between 2012 and March 2017, according to MPI. According to EdSource, officials estimate that 72,300 undocumented students are enrolled at the state's public colleges and universities (60,000 at community colleges, 8,300 at California State University and 4,000 at the University of California) with about half having DACA protection at the time.

Tools to stay in touch with your legislators.

calchambervotes.com



Canada Day Luncheon Looks at Impact of NAFTA Changes on State Agriculture



The California-Canada economic partnership, ongoing

North American Free Trade Agreement (NAFTA) trade talks and what changes in the agreement could mean for agriculture in California were all discussed at a February 22 luncheon co-hosted by the California Chamber of Commerce. of America," Minister MacAulay said. "Today our ties are even stronger than ever. The relationship is highly strategic, important and highly beneficial to both of our great nations."

U.S. agricultural exports in North America last year exceeded \$38 billion, and Canada is California's No. 1 ag export destination, receiving \$4.1 billion in California exports annually. More than 1 million jobs in California depend on trade with Canada. all three countries over the last 25 years. "We have the largest economic area in the world," Minister MacAulay exclaimed. "The most successful economic area, the most prosperous economic area."

Although there are some areas of NAFTA that can be "tweaked," all parties must be sure not to "break the wheel," Minister MacAulay said.

"Our job is clear," Minister MacAulay said in closing, "trade can and should continue to be an instrument of growth



Karen Ross, California Department of Food and Agriculture

With the support of the Consulates General of Canada of San Francisco and Los Angeles, and the California Farm Bureau Federation, experts convened at the Sutter Club in Sacramento for a thoughtful reflection and discussion.

Canadian Agriculture Minister

Minister Lawrence MacAulay spoke first, saying he was delighted to be speaking with a group that understands the value of trade. MacAulay addressed three key areas vital to strengthening the relationship between Canada and the United States:

- Growing trade and economies;
- Importance of NAFTA;
- Building on these common interests.

"No two countries depend on each other for their prosperity and security more than Canada and the United States

Jamie Johansson, California Farm Bureau Federation

Putting these statistics in perspective, Minister MacAulay said this amounts to more than \$5 million in trade crossing the border while the group enjoyed lunch.

Minister MacAulay stressed that the United States, Canada and Mexico are becoming more integrated thanks to NAFTA. He used the example of a hamburger: the beef is raised in Alberta, the wheat for the bun is grown in the U.S. and the lettuce and tomato are from Mexico. "This kind of integration makes us more competitive in North America and around the world," MacAulay said.

Speaking about NAFTA, Minister MacAulay said there is a continued mutual benefit for both counties. "The bottom line is, if we grow our trade together, our relationship and our economies will follow," he said.

NAFTA has done so many things for



Jane Proctor, Canadian Produce Marketing Association

and prosperity for our two nations. When innovators on both sides of the border are free to produce and sell their products to each other and customers around the world, everyone wins."

State Food/Agriculture Secretary

California Department of Food and Agriculture Secretary Karen Ross followed Minister MacAulay, praising everything he said and took a Californiacentric view of what trade means and how it acts as a bridge.

"It's not just what trade means to agriculture, and a business," she said. "We lose sight too easily in this country about what trade means to our local communities, what trade means to diplomacy and building partnerships and resolving difficult issues around the world."



Canada Day Lunch Looks at Impact of NAFTA Changes on State Agriculture

From Page 5

Secretary Ross lauded NAFTA for everything it has brought to its participants.

"The most successful winners of trade, when we think about agriculture and all the goods that we share around the world are the consumers and the voters," she said.

In closing, Secretary Ross said that agriculture is not a legacy or historic part of either country, "it is a vibrant, dynamic, critical element to all that is good and prosperous in our future."

NAFTA Importance Discussion

Rana Sarkar, the consul general of Canada in San Francisco, moderated a discussion with James D. "Jamie" Johansson, president of the California Farm Bureau Federation (CFBF), and Jane Proctor, vice president of policy and issue management with the Canadian Produce Marketing Association (CPMA).

Both groups reiterated their support for NAFTA and emphasized the importance of integrated supply chains across the continent.

The trading relationship between California and Canada remains strong with \$6.3 billion USD in agricultural trade in 2016, including \$4.1 billion worth of California agricultural exports to Canada.

"The fresh produce industry is committed to achieving a win-win-win agreement for all three NAFTA countries," said Proctor. "NAFTA has enabled the free flow of goods across our borders with over \$2.5 billion USD worth of fresh produce exported from California to Canada in 2016 and ensures that Canadians have a year-round supply of fresh and affordable produce. We appreciate the strong support shown by Minister Lawrence MacAulay and Canadian negotiators for our industry and all of Canadian agriculture during these negotiations."

CFBF President Johansson said, "California agricultural exports support 1 million jobs on farms and in cities, and that number will only increase with higher demand for California-grown products. Trade with Canada and Mexico under NAFTA has generally been positive for California farms, ranches and agricultural businesses. We support ongoing efforts to modernize the agreement for

CalChamber Position

The CalChamber actively supported the creation of the NAFTA among the United States, Canada and Mexico, comprising 486.9 million people with combined annual trade with the United States being around \$1.139 trillion in 2017. In

2017, goods exports totaled over \$525.46 billion while goods imports totaled nearly \$614.02 billion.

The CalChamber's long-standing support for NAFTA is based upon an assessment that it serves the employment, trading and environmental interests of California and the United States, as well as, Canada and Mexico, and is beneficial to the business community and society as a whole. Since 1993, trade among the three NAFTA countries has nearly quadrupled.

The CalChamber understands that NAFTA was negotiated more than

25 years ago, and, while our economy and businesses have changed considerably over that period, NAFTA has not. We agree with the premise that the United States should seek to support higherpaying jobs in the United States and to grow the U.S. economy by improving U.S. opportunities under NAFTA.

The provisions of the North American Free Trade Agreement with Canada and Mexico have been beneficial for American industries, agricultural enterprises, farmers, ranchers, energy companies and automakers. Any renegotiation of NAFTA must recognize the gains achieved and ensure that U.S. trade with Canada and Mexico remains strong and without interruption.

Now that the renegotiation process is underway, the California Chamber of Commerce urges a quick and efficient process, and one that does not hinder ongoing trade and investment among the three NAFTA members who must be kept united in the same end-goal of a successful renegotiation.

Staff Contact: Susanne T. Stirling



(From left) CalChamber Vice President Susanne T. Stirling, Canadian Ag Minister Lawrence MacAulay, CalChamber President and CEO Allan Zaremberg and Canadian Consul General Rana Sarkar meet at the CalChamber to discuss NAFTA on February 21, the day before the Canada Day luncheon.

the benefit of farmers, food businesses and consumers in all three nations."

Both groups pledged to continue working with NAFTA negotiators and legislators on both sides of the border to ensure a successful and reciprocal agreement for industry.

Friends of Canada Reception

At the Friends of Canada reception held in Sacramento at the Leland Stanford Mansion on Wednesday evening, February 21, Kevin Howlett, senior vice president, government relations and regional markets at Air Canada, commented that the airline is significantly involved in the California market.

With year-round service to four cities in the state including Los Angeles, San Francisco, San Diego and San Jose, the relationship between Air Canada and California is deep.

He also announced that Air Canada will launch two new routes in May: San Francisco to Edmonton and Sacramento to Vancouver.



State OKs Driverless Testing, Public Use Rules for Autonomous Vehicles



The California Department of Motor Vehicles (DMV) announced

this week that regulations governing the driverless testing and public use of autonomous vehicles on California roads have been approved by the Office of Administrative Law.

Before these rules, autonomous vehicles could be tested in California only with an approved driver.

"This is a major step forward for autonomous technology in California," said DMV Director Jean Shiomoto. "Safety is our top concern and we are ready to begin working with manufacturers that are prepared to test fully driverless vehicles in California."

This second set of regulations for autonomous vehicles in California establishes rules for testing autonomous technology without a driver and how manufacturers can allow the public to use self-driving cars. The regulations take effect and DMV can begin issuing permits on April 2.

The DMV is required to adopt regulations that cover both the testing and deployment of autonomous vehicles. Testing regulations that require a driver behind the steering wheel took effect in September 2014. To date, DMV reports, 50 manufacturers have a permit to test autonomous vehicles with a driver. Manufacturers can continue to apply for a test permit with a driver.

Under the new regulations, vehicle manufacturers must obtain a driverless testing and/or a deployment permit from the DMV and comply with the permit requirements, if they wish to either test an autonomous vehicle without a driver or allow the public to use their autonomous technology.

Driverless Testing

Requirements for driverless testing include:

• Certify that local authorities, where vehicles will be tested, have been provided written notification.

• Certify the autonomous test vehicle complies with requirements that include a communication link between the vehicle and remote operator, a process to communicate between the vehicle and law enforcement, and an explanation of how the manufacturer will monitor test vehicles.

• Submit a copy of a law enforcement interaction plan.

• Certify the autonomous test vehicle meets all Federal Motor Vehicle Safety Standards (FMVSS) or provide evidence of an exemption from the National Highway Traffic Safety Administration (NHTSA).

• Certify the autonomous test vehicle is capable of operating without the presence of a driver and meets the autonomous technology description of a Level 4 (high automation) or Level 5 (full automation) under the Society of Automotive Engineers (SAE) definitions.

•Inform the DMV of the intended operational design domains.

• Maintain a training program for remote operations and certify each operator has completed training.

• Submit an annual disengagement report and submit collision reports to the DMV within 10 days.

Public Use

The requirements for deployment (public use) include:

• Certify the vehicle is equipped with an autonomous vehicle data recorder, the technology is designed to detect and respond to roadway situations in compliance with California Vehicle Code, and the vehicle complies with all FMVSS or provide evidence of an exemption from NHTSA.

• Certify the vehicle meets current

industry standards to help defend against, detect and respond to cyber-attacks, unauthorized intrusions or false vehicle control commands.

• Certify the manufacturer has conducted test and validation methods and is satisfied the vehicle is safe for deployment on public roads.

• Submit a copy of a law enforcement interaction plan.

• If the vehicle does not require a driver, the manufacturer also must certify other requirements, including a communication link between the vehicle and a remote operator, and the ability to display or transfer vehicle owner or operator information if there is a collision.

The adopted regulations do not include testing and deployment of autonomous trucks and other commercial vehicles. DMV says it will be collaborating with the California Highway Patrol to begin exploring the unique safety and regulatory considerations associated with these vehicles.

For the complete list of requirements, see the regulations, which are available on the autonomous vehicle webpage on the DMV website.

CalChamber Position

Creating a path to deploying autonomous vehicles without human drivers shows that California is interested in the future of autonomous vehicles in the state. Other states are taking steps to encourage the development of this technology without creating a prescriptive and burdensome regulatory environment. It is critical that final regulations facilitate—not impede the continued safe testing and, ultimately, deployment of autonomous vehicles.

The California Chamber of Commerce supports advancements in autonomous vehicle technology and opposes overly burdensome rules and regulations that threaten to stymie California's position as a leader in developing, testing and producing these vehicles. **Staff Contact: Amy Mmagu**

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hot topic for California employers, particularly this year with the addition of the New Parent Leave Act," says Erika Pickles, seminar co-presenter and CalChamber employment law counsel.

"Understanding the numerous laws and requirements that apply to employee leaves is crucial for employers to stay in compliance."

VARIOUS LOCATIONS STARTING IN MARCH | 8:30 AM - 3:30 PM

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of Absence: Making Sense of It All seminars. "Navigating the different leaves available to California employees is a





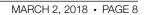
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