

ALERT

CalChamber White Paper Recaps New Laws for 2019



The California Chamber of Commerce has released the list of new employment laws scheduled to take effect in 2019 and later that will affect daily operations and policies of

California employers.

Three of the new 2019 laws are featured in the latest edition of the CalChamber *Capitol News Report*. The video provides details about expansion of sexual harassment prevention training

requirements and the need to provide lactation accommodations in the workplace, as well as providing information about a mandate requiring that women be placed on corporate boards.

Sexual Harassment Training

In the video, CalChamber Executive Vice President and General Counsel Erika Frank discusses new sexual harassment prevention training requirements that will have an impact on virtually every business in the state and all the employees and supervisors of those businesses.

Current law requires employers with

See CalChamber White Paper: Page 6

CalChamber Poll: Optimism on Jobs, Anxiety over Cost of Living



California voters are feeling better about the economy, but are still anxious about the cost of living, according to the recently released 2018 CalChamber Poll.

Nearly two-thirds of voters say that more new jobs have been created where they live, up steadily from just 43% in 2015. Job increases have been noticed in every region of the state, including inland California.

In addition to more new jobs overall, voters statewide say that most of the jobs being created lead to higher pay, as opposed to being dead-end jobs. A majority of residents in every region of the state, except the Inland Empire, agreed that most new jobs created may lead to the middle class.

Housing Worries

While optimistic on the job front, voters are worried about affordability. More than three-quarters of voters agree that “earning enough income to enjoy a middle class lifestyle is becoming almost impossible in my part of California.” This sentiment was felt acutely by women, young earners, renters, and families with children living at home.

See CalChamber Poll: Page 7

CalChamber Public Affairs Conference Hosts Panel of Incoming Legislators



An afternoon session on the first day of the CalChamber Public Affairs Conference on November 27 gives attendees a chance to get better acquainted with (from left) Assemblymember-elect Robert Rivas (D-Hollister), Senators-elect Susan Rubio (D-Baldwin Park) and Bob Archuleta (D-Pico Rivera), Assemblymembers-elect Cottie Petrie-Norris (D-Laguna Beach) and Tasha Boerner Horvath (D-Encinitas), Senator Ling Ling Chang (R-Diamond Bar) and Assemblymember-elect Tyler Diep (R-Westminster). [See inside for more photos.](#) Newly elected and returning legislators will convene in Sacramento on Monday, December 3.

Photo by Matt Lara

Inside

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Labor Law Corner

State Meal/Rest Break Rules Include Limited, Industry-Specific Exceptions



Erika Pickles
Employment Law
Counsel/HR Adviser

Are there any exceptions to California's meal and rest break rules?

As California employers know, employees in California are entitled to a 30-minute off-duty unpaid meal break for shifts greater than five hours, and a second 30-minute meal break for shifts over 10 hours.

In addition, employees are entitled to a 10-minute off-duty paid rest break for every four hours worked or major fraction thereof.

Although California's meal and rest break requirements apply to the vast majority of employees working in California, there are some limited exceptions to those requirements.

Exceptions

Most of the exceptions are found in the Industrial Welfare Commission Wage Orders and are specific to certain industries or types of employees.

For example, different rules apply to certain residential care employees (Wage Order 5), employees in the health care industry (Wage Orders 4 and 5), employees in the motion picture industry (Wage Order 12), and employees in the on-site occupations of construction, drilling, logging and mining (Wage Order 16).

Employers should review the wage order that applies to their business to determine if any exceptions may apply to their employees.

Industry-Specific Exceptions

These exceptions can come from other places as well. For instance, California recently passed two laws that alter the meal and rest break requirements for certain employees in two industries:

- AB 2605 created a limited exception for required rest breaks in the petroleum industry, allowing employers to require that employees holding safety-sensitive positions at petroleum facilities be on-call and carry instant communication devices during rest periods. This exception applies only at petroleum facilities covered under Wage Order 1.

- AB 2610 established a meal period exception for commercial drivers who transport commercial feed to customers in remote, rural areas. These drivers are excluded from the obligation to provide a meal period within the required time period if the driver receives no less than one and one-half times the state minimum wage and overtime compensation when required by law.

In addition, in September 2018, the federal Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a Notice of Administrative Determination of Pre-

emption finding, stating that the Federal Hazardous Material Transportation Law and the Hazardous Materials Regulations preempt California meal and rest break laws for drivers of motor vehicles that are transporting hazardous materials.

Proposition 11

Lastly, California voters passed Proposition 11, the Emergency Ambulance Employee Safety and Preparedness Act, on the November 6 ballot.

Proposition 11 amended the California Labor Code to create special requirements for "emergency ambulance employees" who work for private ambulance companies.

Emergency ambulance employees covered by the new law include emergency medical technicians (EMTs), dispatchers, paramedics, or other licensed or certified ambulance transport personnel who contribute to the delivery of ambulance services. This new law allows emergency ambulance employees to remain on call throughout the duration of their shifts, including during paid meal and rest breaks.

Employers with questions about whether any exceptions to California's meal and rest break requirements may apply to their employees should consult with legal counsel.

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.

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Next Alert: December 14

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CalChamber President Zaremborg Joins Governor-Elect's 'All In' Transition Effort



Photo courtesy Barry Broome

CalChamber President and CEO Allan Zaremborg and then-candidate Gavin Newsom at an October event.

Governor-Elect Gavin Newsom has asked California Chamber of Commerce President and CEO Allan Zaremborg to join the "All in California" program, a group of two dozen California leaders who will provide the new Governor with diverse ideas and perspectives as he prepares to step into his new role.

"I am grateful for the opportunity to assist Governor-Elect Newsom in every way

possible during the transition period and look forward to doing all I can on behalf of the business community to help our new Governor succeed," said Zaremborg.

Upon announcing the list of appointees, Governor-Elect Newsom said, "These respected leaders will help me as I search for innovative ideas and talent across this state."

Newsom said his goal in creating the advisory group is to "create an inclusive, people-powered transition that reflects the diversity and values" of California.

Ambassadors

According to a November 16 news release from the Governor-elect, leaders in addition to Zaremborg who have agreed to be "All in California" Ambassadors, include:

- San Francisco Mayor London Breed
- San Francisco Mayor Willie Brown (Ret.)
- State Senate President pro Tempore John Burton (Ret.)
- Laphonza Butler, President, Service Employees International Union (SEIU)
- California State Treasurer John Chiang
- California State Superintendent of Public Instruction Delaine Eastin (Ret.)

- California State Controller Betty Yee
 - Los Angeles Mayor Eric Garcetti
 - Long Beach Mayor Robert Garcia
 - Alice Huffman, California NAACP President
 - State Senator Christine Kehoe (Ret.)
 - Monica Lozano, former chair, U.S. Hispanic Media, Inc.
 - Congressman George Miller (Ret.)
 - California Secretary of State Alex Padilla
 - Incoming House Speaker Nancy Pelosi
 - Art Pulaski, Executive Secretary-Treasurer and CEO, California Labor Federation
 - Los Angeles County Supervisor Mark Ridley-Thomas
 - Oakland Mayor Libby Schaaf
 - Sacramento Mayor Darrell Steinberg
 - Los Angeles County Supervisor Hilda Solis
 - Tom Steyer
 - Fresno Mayor Ashley Swearengin (Ret.)
 - Stockton Mayor Michael Tubbs
 - Los Angeles Mayor Antonio Villaraigosa (Ret.)
- Governor-Elect Newsom will be sworn in on Monday, January 7, 2019.

CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor Law

HR Boot Camp. CalChamber. December 7, Oakland – SOLD OUT; February 22, 2019, Modesto; March 29, 2019, San Diego; April 12, 2019, Oakland; April 26, 2019, Costa Mesa; May 9, 2019, Sacramento; June 14, 2019, Walnut Creek; August 22, 2019, Pasadena; September 12, 2019, Sacramento. (800) 331-8877.

2019 Employment Law Updates. CalChamber. January 8, 2019, San Diego; January 9, 2019, Costa Mesa; January 10, 2019, Glendale; January 11, 2019, Sacramento; January 16, 2019, San Jose; January 17, 2019, Oakland; January 24, 2019, Los Angeles; January 29, 2019, San Francisco; January 30, 2019, Sacramento;

January 31, 2019, Webinar. (800) 331-8877.

Leaves of Absence: Making Sense of It All. CalChamber. March 8, 2019, Sacramento; June 21, 2019, San Diego; August 16, 2019, Oakland. (800) 331-8877.

Business Resources

BusinessH2O Water Innovation Summit: Best Practices from the U.S. and Israel. U.S. Chamber of Commerce. December 10–11, Phoenix, Arizona. (202) 463-5484.

International Trade

Discover Global Markets: Indo-Pacific. U.S. Commercial Service. December 10–12, Salt Lake City, Utah. (208) 364-7791.

Annual Export Conference. National Association of District Export

Councils. May 21–22, 2019.

SelectUSA Investment Summit. SelectUSA. June 10–12, 2019, Washington, D.C. (800) 424-5249.

CalChamber Calendar

Environmental Policy Committee:

December 6, San Francisco

Water Committee:

December 6, San Francisco

ChamberPAC Advisory Committee:

December 6, San Francisco

Board of Directors:

December 6–7, San Francisco

International Trade Breakfast:

December 7, San Francisco

Annual Meeting:

December 7, San Francisco

Newly Elected State Legislators Make Debut

An opportunity to get better acquainted with members of the 2019 legislative freshman class was among the agenda items on the first day of the 2018 California Chamber of Commerce Public Affairs Conference on November 27 in Huntington Beach.

CalChamber President and CEO Allan Zaremberg served as moderator of the “New Kids on the Block” legislative panel (see photos below), which also included current Senator Ling Ling Chang, a previous Assembly member who took office

following a special election in June.

More conference photos will appear online and in the next edition of *Alert*.

See #PAConference18 for tweets posted during the conference.



CalChamber President and CEO Allan Zaremberg



Senator Ling Ling Chang (R-Diamond Bar)



Senator-Elect Bob Archuleta (D-Pico Rivera)



Senator-Elect Susan Rubio (D-Baldwin Park)



Assemblymember-Elect Robert Rivas (D-Hollister)



Assemblymember-Elect Cottie Petrie-Norris (D-Laguna Beach)



Assemblymember-Elect Tasha Boerner Horvath (D-Encinitas)



Assemblymember-Elect Tyler Diep (R-Westminster)

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State-Run Retirement Savings Plan Gets OK; Mandatory Enrollment Coming in 2020



California employers that don't already offer a workplace retirement savings vehicle will be required to either begin offering one via the private market or provide their employees access to CalSavers, a state-run retirement savings plan, as early as June 2020.

The CalSavers pilot program is open for employers to enroll; however, mandatory enrollment and contributions do not go into effect until 2020. Employers need not register until then, or later for smaller employers.

Emergency regulations governing the CalSavers program were recently approved by the Office of Administrative Law.

CalSavers is the result of 2016 legislation enacting the Secure Choice Retirement Savings Program (SCRSP) for private sector workers whose employers do not offer a retirement plan.

The legislation requires employers

with five or more employees that do not offer specified retirement plans to put a payroll arrangement into place that requires employees to contribute a portion of their salary or wages to a retirement savings plan in the SCRSP, unless they opt out.

Employers that already offer a qualified retirement savings program will not be mandated to have their employees enrolled in the SCRSP. Employers retain the right at all times to set up and offer their own qualified retirement plan.

Registration Opens July 2019

According to the [CalSavers](#) website, employers will be able to start registering on July 1, 2019. Compliance will be phased in over a three-year period based on the size of the employer.

It is intended that employers' responsibility is simply as a pass-through, to deduct and submit contributions from employee wages.

The program will be funded by an automatic 5% payroll deduction, the default contribution determined by the Secure Choice Investment Board. Employers will be required to automati-

cally deduct contributions from employee paychecks and to transmit payroll contributions to the program.

The employer makes no contribution into the retirement account.

Employer Registration Deadlines

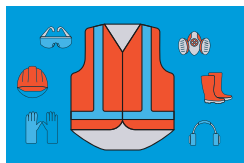
Deadlines for registering for the CalSavers program are as follows:

- Eligible employers that have more than 100 eligible employees, and do not offer a retirement savings program must register by June 2020.
- Eligible employers that have more than 50 eligible employees, and do not offer a retirement savings program must register by June 2021.
- All other eligible employers with five employees or more that do not offer a retirement savings program must register by June 2022.

The legislation provides employers with specified immunity from civil liability; however, employers are not shielded from federal liability should the program be determined to be subject to or preempted by the federal Employee Retirement Income Security Act of 1974 (ERISA).

Staff Contact: Marti Fisher

Workplace Injuries Reporting for 2017 Data Due on December 31, 2018



The Office of Administrative Law (OAL) has approved [Cal/OSHA's emergency regulations](#),

which will require certain California employers to submit their injury and illness log (Form 300A) information to a federal Occupational Safety and Health Administration (OSHA) database annually. This is in compliance with federal OSHA requirements.

Beginning in 2019, the Form 300A summary data from the previous year will need to be submitted every March 2.

Although Cal/OSHA opted to pursue emergency regulations this month, federal OSHA announced this past April that employers in states with their own plans would be required to comply. Cal/OSHA then declared an emergency for rulemaking purposes.

The emergency rulemaking process eliminates all public discussion of policy and allows comments during the public five-day comment period solely on the rule's compliance with the Administrative Procedures Act's requirements. This includes necessity, clarity and consistency with state and federal laws.

The first compliance date to submit the data from 2017 is December 31, 2018. Beginning in 2019, summary data will be due by March 2 of the year after the calendar year covered by the forms. For example, the data from 2018 will be due March 2, 2019.

The following employers must submit online Form 300A covering calendar year 2017 by December 31, 2018:

- All employers with 250 or more employees, unless specifically exempted by Section 14300.2 of Title 8 of the California Code of Regulations.
- Employers with 20 to 249 employees

in the specific industries listed in [Appendix H of the emergency regulations](#).

Instructions to submit the summaries online each year are on federal OSHA's [Injury Tracking Application webpage](#).

Cal/OSHA will proceed with the formal rulemaking process to make the emergency regulations permanent by submitting the required documentation to OAL. The rulemaking process also will include a public comment period and public hearing. The dates for the comment period and public hearing will be posted on [Cal/OSHA's proposed regulation page](#).

California Chamber of Commerce members can read more about Cal/OSHA requirements for reporting injuries in the [Cal/OSHA Requirements and Inspections](#) section of the HR Library on [HRCalifornia](#). Not a member? See how CalChamber can help you.

Staff Contact: Marti Fisher

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50 or more employees to provide supervisors with two hours of sexual harassment prevention training. Under SB 1343, by January 1, 2020, all employers with five or more employees will be required to provide two hours of sexual harassment prevention training to supervisors and one hour to non-supervisory employees within six months of hire or promotion, and every two years after that.

“Employers can satisfy this training in a number of ways,” Frank says. “They can offer live training or they can do computer-based training, which CalChamber offers.”

Beginning January 1, 2020, temporary and seasonal employees will be required to be trained within 30 days of hire or 100 hours worked, whichever is earlier.

Gender Representation on Boards of Directors

The video also features information on a highly controversial law mandating female representation on corporate boards.

Jennifer Barrera, CalChamber executive vice president of policy, explains that a publicly held corporation with principal executive offices in California will now be required to place at least one female director on its board by December 31, 2019.

Depending on the board’s size, up to three female members may be required by the end of 2021. Significant financial penalties apply if a company fails to achieve the required number of female directors.

When signing SB 826 (Chapter 954, Statutes of 2018) into law, Governor

ers to provide lactation accommodations for employees. Before the new law, a bathroom was a permissible lactation accommodation space per California law.

As of January 1, 2019, an employer must provide a reasonable lactation space other than a bathroom. The employer may be able to utilize a temporary space, so long as it meets the specifications of the new mandate.

CalChamber Policy Advocate Laura Curtis explains that the requirement “is really going to impact employers with 50 or less employees because they haven’t previously had to provide a lactation accommodation space other than a toilet stall.”

CalChamber worked diligently with the office of the author, Assemblymember Monique Limón (D-Goleta), to try to develop the most workable approach.



CalChamber Executive Vice President and General Counsel Erika Frank explains the expansion of sexual harassment prevention training requirements in the latest *CalChamber Capitol News Report* video at www.calchamber.com/videos.

Edmund G. Brown Jr. acknowledged it could face significant legal challenges.

“Some company who’s impacted by the law could file a legal claim suggesting that it’s unconstitutional for a company to retain a member on their board of directors solely based upon their gender,” Barrera explains. “However, until that legal action happens, it is the law in California.”

Lactation Accommodation

Another new law requires all employ-

Full List of New Employment Laws

The white paper, *An Overview of New 2019 Laws Affecting California Employers*, is now available for nonmembers to download.

CalChamber members can [download the white paper](#) by logging onto *HRCalifornia*.

For a full discussion of the new laws, see the October *HRCalifornia Extra* or visit [HRCalifornia](#).

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CalChamber Poll: Optimism on Jobs, Anxiety over Cost of Living

From Page 1

Indeed, parents are among the most worried of Californians. For the fourth year running, 60% of families with children living at home agree that “my children will have a better future if they leave California.” A majority of California voters, including nearly half of homeowners, say they would pick up and move if another state offered a greater opportunity for homeownership than California.

Nearly half of voters, up from 35% in 2015, viewed the housing shortage as “very significant,” with another third of voters agreeing the housing shortage is “somewhat significant.” But even with strong concerns over the importance of this issue, voters are not sold on the solutions.

The only housing policy direction receiving broad consensus from voters is to create more jobs in areas of the state where housing is cheaper, which will require renewed state and local economic development efforts and the creation of local amenities in inland California.

Voters also were generally agreeable to policies that would reduce litigation over housing projects that local officials have already approved.

Tax Views

Even though voters have agreed to several statewide tax increases in the last six years, there is a limit to their tax-raising impulses.

Proposition 13 continues to be an object of affection for voters, viewed

favorably by more than 80% of voters. A majority also would oppose a split-roll property tax initiative.

Voters also by a 3 to 1 margin oppose new taxes on services like lawyers, lawn care or automotive repair, even if applied only to businesses.

Independent Contractors

Voters favor a resolution to the recent California Supreme Court decision on classifying independent contractors, with a strong majority agreeing that “workers should be allowed to have the choice to be an independent contractor if a worker wants more flexibility to set their own schedules, earn more income, and for their chosen quality of life.”

This argument was more persuasive than that “workers should be classified as ‘employees’ so that they can receive benefits and other workplace protections.”

Environment

California political leaders tout their commitment to reducing our carbon footprint, and voters strongly agree (77%) that it is important that the state “set its own policies to reduce greenhouse gas emissions.”

But when it comes to individual policies to achieve those goals, voters remain skeptical. They strongly oppose policies that would:

- increase electricity bills by 30% to 50% by 2030 (66%);
- purposely design roads to be more

congested or not increase highway capacity (66%);

- increase the price of housing (65%);
- increase the price of gasoline by \$1 to \$2 by 2030 (60%); and
- impose new fees for driving (54%).

When ranking environmental challenges, voters say the highest priority for legislative attention should be drought relief and prevention (24%) and managing forests to reduce wildfire risk (23%). Other issues were far less urgent, including encouraging clean energy development (16%), safe drinking water (11%), improving air quality (7%) and reducing greenhouse gas emissions (6%).

Voters are generally satisfied with the status quo in health care. More than 90% are satisfied with their current health insurance, whether provided by employers or the government, and by a nearly 4 to 1 margin prefer their own insurance to a government-run single payer approach.

Bipartisanship

Finally, despite the anger and frustration felt by many voters in today’s political climate, the dream of bipartisanship is not dead. More than three-quarters of voters strongly agree that politics is increasingly connected to anger and chaos, rather than achieving practical outcomes, but a like number also agree that it is important for elected officials to work together to find bipartisan solutions and solve problems.

Contact: Loren Kaye

Capitol Insider

presented by **CalChamber**

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