

ALERT

State of State Address

Governor Lists Next Steps in Upcoming ‘Tough Calls’



“Hard decisions” are “coming due,” Governor Gavin Newsom said this week in his first State of the State Address.

Water, energy, high-speed rail, housing, health care and the “affordability crisis” were just a few of the long-standing issues the Governor touched upon in his upbeat talk to both houses of the Legislature, statewide officials, Supreme Court justices and special guests.

He also talked about California’s changing workforce, privacy and California’s aging population.

One Delta Tunnel



E. Joaquin Esquivel

Talking about the need for “a fresh approach” to meeting “California’s massive water challenges,” the Governor noted that the water supply is becoming “less reliable because of climate change” and there is a lot of demand from population growth due to a strong economy.

The Governor said he doesn’t support the twin tunnels that have been part of the California WaterFix plan for moving water through the Sacramento-San Joaquin Delta.

“But we can build on the important work that’s already been done,” the Governor continued. “That’s why I do support a single tunnel.”

To help what he called a need for a “portfolio approach to building water infrastructure and meeting long-term demand,” the Governor said he was naming E. Joaquin Esquivel as the new chair of the State Water Resources Control Board.

Esquivel was named to the state water board by Governor Edmund G. Brown Jr. in March 2017.

Housing

The Governor described housing as “perhaps our most overwhelming challenge right now” and again called for cities and counties to do more to plan for building more housing.

Huntington Beach was picked as the first city to be sued two weeks ago for failing to meet its affordable housing obligations because of the statute of limitations, Newsom explained.

He said he is inviting the leaders of 47 other cities “to sit down for a candid conversation,” adding that he doesn’t intend to file lawsuits against all of them, “but I’m not going to preside over neglect and denial. These cities need to summon the political courage to build their fair share of housing.”

The Governor also said he wanted to acknowledge “other factors beyond city planning that have limited our ability to provide housing.

“In recent years, we’ve expedited judicial review on CEQA [California Environmental Quality Act] for professional sports. It’s time we do the same thing for housing.”

He applauded efforts by home builders and labor leaders who are working “to forge

See Governor Lists Next Steps: Page 4

Reporting to Work: No Physical Presence Required



Last week, the Second District California Court of Appeal ruled that on-call employees are entitled to reporting time pay if they are required to contact the employer to see whether they must

actually report to work.

This significant wage and hour case (*Ward v. Tilly’s Inc.*, CA2/3 B280151 2/4/19) applies to employees governed by Wage Order 7 (Mercantile Industry).

In a class action lawsuit, retail employees claimed that they were entitled to reporting time pay because they were required to call in to find out whether they needed to physically report to work two hours before their scheduled shift would begin.

Potential Game-Changer

This ruling is a potential game-changer because this decision:

- Broadens the application of reporting time pay for retail employers—employees must be paid reporting time when they call in to find out if they have to work their shifts instead of physically reporting to work only to find there is no work to be performed.

- Departs from the general rule that on-call pay is only required if the employee is restricted in his or her activities while on-call.

See Reporting to Work: Page 4

Inside

[Failed Labor/Employment Bills Return: Page 3](#)

Labor Law Corner

Get Permission in Writing Before Posting Employee's Photo Online



Ellen S. Savage
HR Adviser

Can I choose to post photos of my employees on my company's website and social media page? Do I need each employee's consent first? What if an employee refuses?

Posting photos of your employees on the internet can raise serious privacy concerns in California. Some employees may be happy to see their smiling faces online, but others may object for a number of reasons.

An employee who has been the victim of stalking or who has a restraining order may not want others to know where he/she works. Another may be a private person who is not comfortable having his/her photo online. Other employees who don't like the way they look in photos simply may not wish to have their picture made public.

Regardless of the reason, posting photos online without the employee's permission may be illegal.

Right of Publicity Laws

Many states, including California, have so-called "right of publicity" laws that limit the way a person's image can be used for commercial purposes.

California Civil Code Section 3344 makes it illegal to use a photo or video of another person for any sort of marketing purpose in most situations without permission.

Because your company's website and social media page both likely exist to attract customers and potential employees, use of an employee's photo for such

marketing purposes without his/her permission could be a violation of Civil Code Section 3344. As a result, your company could become liable to your employee for monetary damages, attorney's fees and costs, as well as punitive damages.

Get Permission in Writing

Before posting a photo of an employee online, get express written permission from that employee. You may choose to get a blanket consent for all future use of the employee's image at the time of hire, although a better practice is to also obtain permission each time an image is used.

If an employee refuses to consent for whatever reason, do not use their image on your website or social media page.

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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Labor Law

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

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

International Trade

Annual State of International Trade and Customs Outlook Luncheon. Women in International Trade, Orange County. February 20, Costa Mesa. (949) 445-0618.

Canada Advocacy Day: NAFTA 2.0: A Trade Agreement for the 21st Century. CalChamber. February 20, Sacramento. (916) 930-1233.

International Trade Lunch with Consul General of Canada Rana Sarkar.

Hayward (CA) Chamber. February 27, Hayward. (510) 537-2424, ext. 3.

Aerospace Fair Mexico 2019. Mexican

Government. April 24–27, Zumpango, Mexico. +52 (55) 7098-5299.

93rd Annual World Trade Week: SoCal—The Engine of Global Trade and Economic Growth. Los Angeles Area Chamber. May 2, Los Angeles. (213) 580-7500.

CalChamber Calendar

Water Committee:

March 14, Santa Monica

Board of Directors:

March 14–15, Santa Monica

International Breakfast:

March 15, Santa Monica

Capitol Summit:

May 22, Sacramento

Host Breakfast:

May 22–23, Sacramento

Next Alert: March 1



Many Failed Labor/Employment Bills Getting Reintroduced in Current Session



Labor Law

The reintroduction of several bills from last year sure makes it feel like “Groundhog Day” at the State Capitol. Even though there still is one week to go before the February 22

deadline for introducing new bills, the expansive list of reintroduced labor and employment bills includes:

- **AB 9 (Reyes; D-San Bernardino – 2019) / AB 1870 (Reyes – 2018):** AB 9 is nearly verbatim of AB 1870, which was opposed unless amended by the California Chamber of Commerce last year. These bills extend the statute of limitations from one year to three years for all employment-related discrimination, harassment and retaliation claims filed with the Department of Fair Employment and Housing (DFEH).

Notably, Governor Edmund G. Brown Jr. vetoed AB 1870 because “the current filing deadline—which has been in place since 1963—not only encourages prompt resolution while memories and evidence are fresh, but also ensures that unwelcome behavior is promptly reported and halted.”

- **AB 35 (Kalra; D-San Jose – 2019) / AB 2963 (Kalra – 2018):** These bills require the Department of Public Health to report to Cal/OSHA elevated blood lead levels of workers.

CalChamber-opposed AB 2963 was vetoed by Governor Brown last year because “[T]he Department of Public Health already works collaboratively with employers to reduce worker exposure to lead and refers employers to the Division for enforcement, if needed, on a case-by-case basis. This bill would erode that collaborative approach, and require the

Division to take immediate enforcement action upon referral.”

- **AB 51 (Gonzalez; D-San Diego – 2019) / AB 3080 (Gonzalez – 2018):** AB 51 is similar to AB 3080 in that it would ban settlement agreements for labor and employment claims, as well as arbitration agreements made as a condition of employment, which would significantly expand employment litigation and increase costs for employers and employees.

AB 3080, a 2018 CalChamber job killer, was vetoed by Governor Brown. In his veto message, he stated: “Since this bill plainly violates federal law, I cannot sign this measure.”

- **AB 170 (Gonzalez; D-San Diego – 2019) and AB 171 (Gonzalez – 2019) / AB 3081 (Gonzalez – 2018):** AB 3081 from last year was considered the author’s omnibus sexual harassment bill. This year, the author took two of the three major provisions of AB 3081 and placed them into AB 170 and AB 171.

CalChamber-opposed AB 3081 was vetoed by Governor Brown on the basis that “This bill creates a new, ill-defined standard of joint liability between labor contractors and client employers, prohibits both entities from retaliating against an employee who has filed a harassment claim, and establishes a 30-day notice requirement before certain workers can file a civil action against a client employer. Most of the provisions in this bill are contained in current law and are therefore unnecessary. To the extent there are new provisions, they are confusing.”

The justifications provided by Governor Brown for his veto of AB 3081 are applicable to AB 170 and AB 171 since these provisions remain in the reintroduced bills.

- **AB 403 (Kalra; D-San Jose – 2019) / AB 2946 (Kalra – 2018):** AB 403 is almost identical to AB 2946, opposed by

the CalChamber last year. These bills undermine the essence of the Division of Labor Standards Enforcement (DLSE) complaint process by requiring a one-sided attorney’s fee provision that will incentivize further litigation.

AB 2946 failed to pass the Assembly in 2018 with only 19 aye votes.

- **SB 142 (Wiener; D-San Francisco – 2019) / SB 937 (Weiner – 2018):** SB 937 was reintroduced as SB 142 this year. These bills would significantly amend current law regarding lactation accommodations by implementing new building code standards, location standards, employer policy requirements, document retention, and supplementary Labor Code penalties.

Notably, CalChamber-supported **AB 1976 (Limón; D-Santa Barbara)** was just signed by Governor Brown last September and establishes new mandates regarding lactation accommodations.

And in his veto message for CalChamber-opposed SB 937, Governor Brown stated, “I have signed AB 1976 which furthers the state’s ongoing efforts to support working mothers and their families. Therefore, this bill is not necessary.”

- **SB 171 (Jackson; D-Santa Barbara – 2019) / SB 1284 (Jackson – 2018):** SB 171 is essentially the same as CalChamber-opposed SB 1284, which required California employers to submit pay data to state agencies that could give the false impression of pay disparity where none may exist.

SB 1284 was held on the Suspense File in the Assembly Appropriations Committee.

While the groundhog predicted early spring for us this year, apparently the Legislature didn’t get the memo, because it sure feels like it’s going to be a long winter for businesses in California.

Staff Contact: Laura Curtis

MAY 22-23, 2019

CAPITOL SUMMIT & SACRAMENTO HOST BREAKFAST

CALIFORNIA CHAMBER OF COMMERCE

Governor Lists Next Steps in Upcoming ‘Tough Calls’

From Page 1

a compromise to accelerate production.”

To help renters, he called for new rules “to stabilize neighborhoods and prevent evictions, without putting small landlords out of business.” He told legislators: “get me a good package on rent stability this year and I will sign it.”

Health Care

California’s ability to invest “in everything we care about is constrained by the pressure of rising health care costs,” the Governor declared.

Federal elimination of the individual mandate has been followed by increases in Covered California premiums.

“When it comes to the individual mandate, California must act where Washington failed,” said the Governor.

By doing so, he said, California will be able to increase its subsidies for individuals and families.

“As we pursue the long-term goal of single-payer financing,” he said, “let us make a down-payment now by expanding Medi-Cal coverage to all Californians up to age 26, regardless of their immigration status.”

Commenting that access is only part of the solution and cost is another, the Governor highlighted the need to address rising costs throughout the system, “like the consolidation of hospitals and other health providers,” and continue bringing down the cost of prescription drugs.

Newsom reminded listeners that his first act as Governor was to “lay the foundation for a single-purchasing” system for prescription drugs (see January 11 *Alert*).

Energy

Governor Newsom commented that the

entire energy market is evolving, with more and more of the state’s electricity being procured outside of investor-owned utilities. Changes he cited included rooftop solar, wind generation, smart grid technologies and community choice aggregators.

Pointing out that regulations and insurance practices created decades ago didn’t anticipate the changes, the Governor called for mapping out longer-term strategies, “not just for the utilities’ future, but for California’s energy future, to ensure that the cost of climate change doesn’t fall on those least able to afford it.”

He also said he has put together a team of bankruptcy lawyers and energy financial experts to work with his strike team to develop and present within 60 days a “comprehensive strategy” for dealing with the Pacific Gas & Electric Company’s bankruptcy.

High-Speed Rail



Lenny Mendonca

The Governor acknowledged the high cost and long time it would take to complete the high-speed rail project as currently planned. He pointed out, however, that the state can complete a high-speed rail link between Merced and Bakersfield.

Completing that link, he said, can be paired with “opportunity zones, to form the backbone of a reinvigorated Central Valley economy.”

He continued, “Abandoning high-speed rail entirely means we will have wasted billions of dollars with nothing

but broken promises and lawsuits to show for it.”

He said he had no interest in returning the \$3.5 billion in federal funding that was allocated to the project.

Besides new transparency measures “to hold contractors and consultants accountable to explain how taxpayer dollars are spent,” the Governor appointed his economic director, Lenny Mendonca, as the next chair of the High-Speed Rail Authority.

Education



Tony Thurmond



Linda Darling-Hammond

Citing the investment the state is making in schools (\$80 billion proposed for next year), the Governor said California still ranks 41st in the nation in per pupil funding, but “the measure of a school system’s excellence is more than the sum of its budgets.”

In addition to “an honest conversation about how we fund our schools at a state and local level,” California needs “clear and achievable standards of transparency, more information sharing, and accountability for all public schools—traditional and charter,” the Governor said.

See *Governor Lists Next Steps*: Page 6

Reporting to Work: No Physical Presence Required

From Page 1

Rationale

While this case was brought under Wage Order 7, it is only a matter of time before other courts adopt the same rationale for other wage order claims. The court explained:

“As thus interpreted, the reporting time pay requirement operates as follows: If an employer directs employees to present themselves for work by physically

appearing at the workplace at the shift’s start, then the reporting requirement is triggered by the employee’s appearance at the job site. But if the employer directs employees to present themselves for work by logging on to a computer remotely, or by appearing at a client’s job site, or by setting out on a trucking route, then the employee ‘reports for work’ by doing those things.”

Employers governed by Wage Order 7 should consult with legal counsel to

determine what impact this decision may have on their workplace policies.

California Chamber of Commerce employment law experts will cover this significant court ruling in an upcoming issue of our *HRCalifornia Extra* newsletter. To subscribe to this free newsletter, visit www.calchamber.com/newsletters.

Not a member? See what CalChamber can do for you at www.calchamber.com/membership.

Staff Contact: Erika Frank

CalChamber Supports Proactive, Scientific Approach to Green Chemistry Program



The California Chamber of Commerce remains committed to a continued bipartisan effort to improve California's green chemistry program with all stakeholders,

CalChamber Policy Advocate Adam Regele explained this week at a legislative informational hearing.

The Senate Environmental Quality and Assembly Environmental Safety and Toxic Materials committees convened on February 12 to evaluate the effectiveness of this program 10 years after passage of the legislation creating it as the California Safer Consumer Products Program.

The committees also reviewed the Public Health Institute's evaluation of the program, also known as the green chemistry initiative.

Although CalChamber agrees with the overall sentiment shared in the Public Health Institute report that the Safer Consumer Products Program is innovative, proactive and scientifically driven, the CalChamber disagrees with some of the conclusions and recommendations in the report.

CalChamber has been an active member of the Green Chemistry Alliance, a collection of trade associations and businesses that have been working to ensure effective implementation of the California green chemistry program since its inception and supported bipartisan efforts to create the Safer Consumer Products Program.

Coalition members continue to support this regulatory program that proactively and scientifically advances the safe use of chemicals in California.

Green Chemistry Initiative

In 2008, California enacted two

ground-breaking laws designed to protect Californians from toxic chemicals in products and to provide consumers with more information about chemical hazards:

- **AB 1879 (Feuer; D-Los Angeles)** created the Safer Consumer Products Program, requires the state Department of Toxic Substances Control (DTSC) to evaluate chemicals of concern in consumer products and potential alternatives to those chemicals, and to reduce the hazards of chemicals in products.



CalChamber Policy Advocate Adam Regele testifies at a February 12 legislative informational hearing on the green chemistry program.

- **SB 509 (Simitian; D-Palo Alto)** established a Toxics Information Clearinghouse for data on chemical hazard traits, as defined by the California Office of Environmental Health Hazard Assessment (OEHHA).

CalChamber Analysis of Report Findings

Developing the complex regulatory scheme to implement the Safer Consumer Products Program took more than five years. Therefore, the efficacy of the program is more accurately judged over the last five years, not 10.

Second, CalChamber disagrees that DTSC lacks the authority to collect necessary chemical information from companies, as stated in the report. California regulations outline how the DTSC

may request information on chemicals in products through emailed/mailed correspondence and/or information call-ins with manufacturers, importers, assemblers or retailers of a chemical, product or group of chemicals or products.

Third, although CalChamber agrees that providing additional staff and resources to DTSC would improve the program's efficiency, last year's budget allocated \$1.2 million to DTSC for the Safer Consumer Products Program. The

benefits of this additional money to the program have not yet been fully realized and are not reflected in the report.

Finally, Regele strongly disagreed with the report's recommendation that the Legislature should once again intervene with chemical or product ban bills that circumvent the work the DTSC is doing under this program.

"The one big take away I heard today is that everyone supports the Safer Consumer Products Program," Regele said. "We all want to see it improve, both the efficiency and expediency. However, we do value the outcome being correct."

He went on to state that the politicization from one-off legislative chemical and product bans will not lead to safer outcomes and that the Safer Consumer Products Program allows the scientists, not politicians, to dictate which chemicals are safe.

Green Chemistry Alliance

The Green Chemistry Alliance, of which the CalChamber is a founding member, supports the following principles to ensure the success of the Green Chemistry Program:

- Promote safe and sustainable products through the application of sound scientific methods of review;
- Seek a workable and scientifically defensible process for "safer alternatives";
- Avoid duplicative and conflicting regulatory and reporting requirements;
- Ensure protection of Confidential

See *CalChamber Supports*: Page 6

Governor Lists Next Steps in Upcoming ‘Tough Calls’

From Page 4

He announced he has picked nationally recognized education expert Linda Darling-Hammond to be the new president of the State Board of Education and work with State Superintendent of Public Instruction Tony Thurmond “to lift up all of our students.” Darling-Hammond is professor emeritus at the Stanford University Graduate School of Education.

Homelessness



Darrell Steinberg

The Governor described the “homelessness epidemic” as an “urgent moral issue” that has increasingly become a “public health crisis.” He drew connections between homelessness and

mental illnesses.

Mayors, county supervisors and city councils around the state “are working hard to reduce homelessness and its underlying causes. We’ve got to have their backs,” Newsom said.

He announced he is appointing a new Commission on Homelessness and Supportive Housing, led by Sacramento Mayor Darrell Steinberg. Steinberg was Senate president pro tem from 2008 to 2014.

Newsom asked for legislators’ support in putting \$500 million into immediate funding for “navigation centers”— emergency shelters with services on site, and another \$100 million for “whole person

care,” replacing a fragmented approach with one that is more integrated and comprehensive.

Workforce

The Governor described the world of work as being in a “perpetual state of flux” and said it’s time to develop “a new modern compact for California’s changing workforce.”

He added, “This is much bigger than *Dynamex*,” referring to the April 2018 California Supreme Court ruling that created a one-size-fits-all test for deciding who is an independent contractor (see February 8 *Alert* for more on the I’m Independent coalition activities).

“California needs a comprehensive statewide strategy to uplift and upskill our workers, to ensure technological advancements in AI, block chain, big data, are creating jobs, not destroying them, and to reform our institutions so that more workers have an ownership stake in their sweat equity,” the Governor said.

He said he will appoint a new Commission on California’s Workforce and Future of Work through which labor and business leaders from the public and private sectors will “come up with new ideas to expand worker opportunity without extinguishing innovation or flexibility.”

‘Data Dividend’

Saying he applauds the Legislature for passing the first-in-the-nation digital privacy law last year, the Governor said California consumers also should be able to “share in the wealth that is created from their data.”

The Governor said he has asked his team to develop a proposal for a new “data dividend” for Californians “because we recognize that your data has value and it belongs to you.”

The CalChamber has concerns about the workability of the privacy law and is seeking amendments (see February 8 *Alert* story about the [privacy coalition](#)).

Aging



Maria Shriver

California needs to prepare for a major demographic challenge, the Governor said: “The Golden State is getting grayer.”

It is time, the Governor said, for a new Master Plan on Aging

that must address person-centered care, the patchwork of public services, social isolation, bed-locked seniors in need of transportation, the nursing shortage and demand for In-Home Supportive Services that outpaces that program’s capacity.

Emphasizing that “we can’t talk about aging without focusing on Alzheimer’s,” the Governor said he is launching the Alzheimer’s Prevention and Preparedness Task Force to bring together renowned scientists and thinkers to develop “first-of-its-kind” research.

To head the task force, he named Maria Shriver, former first lady and a leading advocate for families dealing with Alzheimer’s.

CalChamber Supports Proactive, Scientific Approach to Green Chemistry

From Page 5

Business Information (CBI);

- Use a systematic approach in which chemicals, their uses, and potential alternatives are first prioritized based on hazard and exposure;
- Ensure balanced consideration of the unique applications, intended function,

performance, and useful life of the product in question as well as other lifecycle factors required by statute;

- Impose only cost-effective, sustainable, technologically and commercially feasible requirements;
- The implementation of such regulation should minimize compliance costs

and administrative burdens, and protect California jobs and consumers;

- Support a transparent process in accordance with the California Administrative Procedures Act.

Staff Contact: Adam Regele

Heat Illness Prevention in Indoor Workplaces



The California Division of Occupational Safety and Health (Cal/OSHA) is in the process of developing regulations to prevent heat illness in indoor workplaces.

A California Chamber of Commerce-led coalition has submitted written comments and oral testimony at each step of the process encouraging Cal/OSHA to establish rational policies that are not unnecessarily burdensome on employers while minimizing the risk of heat illness to workers in indoor workplaces.

Comments on the latest draft of the standard, released on January 29, are due on February 22.

The background information below is excerpted from the *CalChamber 2019 Business Issues and Legislative Guide* article written by CalChamber Policy Advocate Marti Fisher before her retirement at the beginning of this year.

- In 2016 the Legislature passed **SB 1167 (Mendoza; D-Artesia)**, directing Cal/OSHA to develop a regulation to prevent heat illness amongst indoor workers and submit it to the Cal/OSHA Standards Board by January 1, 2019. Formal rulemaking was to follow.

- In 2017 and 2018, Cal/OSHA held three stakeholder work group meetings, known as Advisory Committees, to review draft rules. Subsequently, three additional drafts were released to which stakeholders submitted written comments.

- A draft rule was circulated by Cal/OSHA to stakeholders October 24, 2018 with written comments submitted by the CalChamber-led coalition on November 20, 2018.

- All drafts of the rule and public written comments are available at www.dir.ca.gov/dosh/doshreg/Heat-illness-prevention-indoors/.

Background

In 2005, California became the first state—and still the only state in the nation—to adopt a heat illness prevention standard to protect outdoor workers (California Code of Regulations, Title 8, Section 3395). The outdoor heat illness prevention standard requires employers to provide outdoor workers with water,

shade, rest breaks, and training. Known as the high heat provisions, additional requirements apply when the outdoor temperature exceeds 95 degrees.

In 2016, CalChamber and a large coalition of businesses opposed SB 1167, which sought to establish a regulation to prevent heat illness for indoor workers. The coalition maintained that a specific regulation is unnecessary because current regulations (Title 8, Section 3203 Illness and Injury Prevention Program) require employers to identify and address workplace hazards, including the risk of heat illness in indoor workplaces.

Impact on Business

Cal/OSHA intends to classify all workplaces as either indoor or outdoor. The new regulation will apply to all indoor workplaces across all industries. However, some indoor workplaces will not be subject to the requirements if the temperatures are below the threshold, which as of the October 24, 2018 draft is in most cases 82 degrees.

The rule generally follows the framework adopted for outdoor heat illness prevention Section 3395 (water, rest, shade, training, written plan), to minimize the burden of compliance on employers, particularly those with both indoor and outdoor workplaces.

CalChamber's primary concerns with the proposed rule are as follows:

- Many employers have both outdoor and indoor workplaces, with some or all employees transitioning between both. Therefore, indoor and outdoor rules must be harmonized so that employers with both indoor and outdoor workplaces can comply by integrating the plans into one heat illness prevention plan.

- The most recent proposal defines “indoor” essentially as a space under a ceiling and enclosed along its perimeter. This definition does not contemplate structures with chain link fences, guardrails or partial walls along perimeters. A clear and specific definition is required so that employers can identify a workplace as indoor or outdoor.

- The manner in which vehicles and equipment will be handled (for example, forklifts operated inside a warehouse, or outside, and tractors with fully or partially enclosed cabs) could present significant challenges for employers. Pick-

up and delivery operations where employees are in and out of vehicles that may not be air conditioned and may or may not be fully enclosed also require clear definition and direction for employers to properly apply the rules.

Today, employers subject to the outdoor heat rule include their equipment operators and vehicle drivers in their outdoor program. Cal/OSHA has not yet proposed a workable policy.

- Engineering controls for heat exposure in indoor workplaces must be not only feasible, but reasonable for employers to implement while protecting employees.

- Record retention should conform to general record retention requirements of the Injury and Illness Prevention Program (IIPP)—one year. In Cal/OSHA's October 24, 2018 proposal, records of indoor temperature assessments would have to be retained for more than 30 years.

Anticipated Action in 2019

The statutory deadline for Cal/OSHA to submit a proposal to the Cal/OSHA Standards Board was January 1, 2019. Subsequent to the board's receiving the proposal, many steps will be taken before formal rulemaking, which is anticipated to begin sometime in 2019.

As it has throughout the pre-rulemaking process, the CalChamber-led coalition will continue to provide thoughtful, rational comments and regulatory language to Cal/OSHA to ensure clarity that will lead to effective compliance by employers while improving employee safety.

CalChamber Position

California employers take the safety and health of their employees very seriously. CalChamber supports workplace safety policies that ensure new rules are feasible, based on sound science and assist the regulated community in its compliance efforts while protecting employees. CalChamber will continue to advocate for sound policy regarding heat illness prevention for indoor workplaces, and continue to oppose policies that are unnecessarily complex and burdensome for employers.

To participate in CalChamber's stakeholder working group, please send an email of interest with your contact information to heatillness@calchamber.com.
Staff Contact: Jennifer Barrera



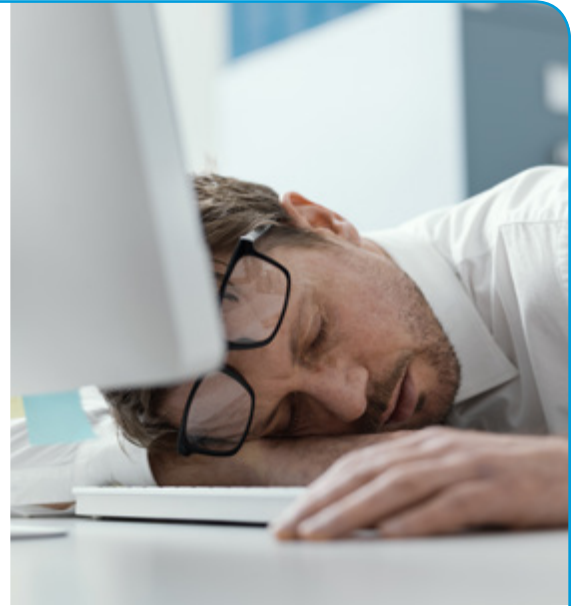
THURSDAY, FEBRUARY 21, 2019 | 10:00 - 11:30 AM PT

Give Meal and Rest Break Violations a Rest Webinar

Think it's OK in California if a nonexempt employee occasionally misses a meal break or takes a late lunch? What about letting that employee combine the two required 10-minute rest breaks?

Misunderstandings about California's meal and rest break rules—including requiring employees to stay onsite—expose employers to expensive litigation. Learn what you can do to avoid violations, down to the smallest detail.

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