Newly ID’d Job Killer Bills Move in State Legislature

The California Chamber of Commerce this week added four more bills to its job killer list, bringing the total number of bills identified this year to 28.

The job killer bills that will lead to higher energy prices and transform unemployment insurance into a political tool won approval from legislative policy committees this week. Still to be considered are one of the steepest tax increases ever considered in California and a bill exposing businesses to costly litigation for alleged gender-based price discrimination.

The new additions to the list are:

• **AB 345 (Muratsuchi; D-Torrance)**
  Would eliminate thousands of high-paying California jobs and require California to import even more foreign oil by banning new oil and gas development, re-drilling operations, and rework operations if they are located within 2,500 feet of specified structures and facilities and authorizes local governments to enact even farther setback requirements that can exceed 2,500 feet with no limitation.
  The CalChamber has identified AB 345 as a job killer because energy policies aimed at banning in-state natural gas and oil production will result in increased oil and gas imports, higher energy costs for residents, less tax revenue for the state, fewer in-state jobs and negative environmental and labor practices.
  AB 345 passed the Assembly Natural Resources Committee on April 22, 7-3, and will be considered next by the Assembly Appropriations Committee.

• **AB 1066 (Gonzalez; D-San Diego)**
  Would significantly increase costs on employers engaged in a trade dispute by allowing employees on strike to receive unemployment benefits if the strike lasts more than two weeks, incentivizing strikes and transforming unemployment insurance into a political tool in trade disputes.
  The CalChamber has identified AB 1066 as a job killer because it will expose employers to a significant cost increase.

CalChamber-Sponsored Bill to Protect Businesses from Predatory Lawsuits Passes

**AB 1607 (Boerner Horvath; D-Encinitas)** will provide notice about the Gender Tax Repeal Act to businesses when they obtain a business license.

The Gender Tax Repeal Act precludes businesses from charging different prices for services based upon gender and requires a select list of businesses (tailors, barbers, hair salons, dry cleaners) to post a notice of pricing for the standard services provided.

Sweetened Beverage Bill Tabled, Workers’ Comp Bill Falls Short

Two more job killer bills failed to advance this week in the face of strong concern about their negative impacts.

• The author of **AB 138 (Bloom D-Santa Monica)** announced he will not pursue the targeted tax on sweetened beverages this year.

• **SB 567 (Caballero; D-Salinas)**, setting a troubling precedent that would significantly increase costs for the workers’ compensation system, failed to win enough support to pass a Senate policy committee. The bill was granted reconsideration and could come back.

**AB 138: Sweetened Beverage Tax**

The CalChamber opposed AB 138 a job killer because it unfairly targets and discriminates against one category of taxpayers to fund health-related programs for all.

The targeted excise tax on distributors of sweetened caloric beverages will force distributors to reduce costs through higher prices to consumers or limit their workforce.

The day AB 138 was scheduled to be considered by the Assembly Revenue and Taxation Committee, the author said he is tabling the bill for this year.

Although the CalChamber agrees with efforts to improve individuals’ health and reduce the prevalence of diabetes, obesity, heart disease and dental issues, the bill was granted reconsideration and could come back.
California Law Prohibits Questions About Gender on Job Applications

For employers who must request information about sex or gender for legally required government reporting (such as EEO-1 Reports), the disclosure of that information must be voluntary. In addition, you can’t discriminate against someone who refuses to provide that information.

The prohibition on asking about gender was part of 2017 amendments to California’s Fair Employment and Housing Act that clarified and expanded protections for transgender individuals.

Also Off-Limits

Gender isn’t the only topic that is off-limits on applications. Although employers previously may have asked applicants to state what they were paid at prior jobs, that is no longer allowed in California. The salary history ban that went into effect in 2018 prohibits employers from asking an applicant about salary history.

Similarly, California’s ban-the-box law, which also went into effect in 2018, requires employers to wait until after a conditional offer of employment has been made to inquire about an applicant’s criminal background. That means no questions on applications about criminal background.

Local ordinances also limit an employer’s ability to ask about criminal background before a conditional offer is made.

Review Job Applications

Employers should review job applications to make sure they have been updated to remove any questions about sex or gender, salary history or criminal background.

California Chamber of Commerce members can find more information about applications, including sample job applications, on HR California.

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.

California Chamber Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor Law

HR Boot Camp. CalChamber. May 9, Sacramento – SOLD OUT; June 14, Walnut Creek; August 22, Pasadena; September 12, Sacramento. (800) 331-8877.
Employer To-Due List for Pregnancy Disability Leave. CalChamber. May 16, Webinar. (800) 331-8877.

International Trade


CalChamber Calendar

Capitol Summit: May 22, Sacramento
International Forum: May 22, Sacramento
Water Committee: May 22, Sacramento
Host Breakfast: May 22–23, Sacramento
Board of Directors: May 22–23, Sacramento
The Workplace

Latest Podcasts Examine Taxes, FAQs on Labor Law Helpline

Taxes, Taxes and More Taxes

Even though California is enjoying its ninth straight year of economic growth and the state has a solid budget surplus and a brimming Rainy Day Fund, California legislators can’t seem to resist the temptation to raise taxes.

In Episode 7 of The Workplace podcast presented by the California Chamber of Commerce, CalChamber President Allan Zaremberg and Loren Kaye, president of the California Foundation for Commerce and Education, highlight just a handful of the more than $15 billion in new taxes policymakers are considering. On the list of possible items lawmakers would like to tax is everything from medicine to tires and businesses.

One proposal alone, SB 37 (Skinner; D-Berkeley), contemplates one of the steepest corporate tax rates ever considered in California. The measure seeks to raise corporate taxes by $5 billion.

Kaye highlights another proposal, SB 468 (Jackson; D-Santa Barbara), which dangerously attempts to do away with one of the most important corporate tax incentives in the state — the research and development (R&D) tax credit, which fuels development in technology, agriculture, and manufacturing, among other sectors of the economy.

Zaremberg sums up the episode by commenting on projections of another $13 billion in surplus revenues coming in from anticipated Initial Public Offerings, further underscoring that there is no need to raise new revenue by adding more taxes.

“We have more revenue coming in, but there’s no shortage of people who want to raise the average person’s taxes,” Zaremberg says.

What’s Your Question for the Labor Law Helpline?

California’s complex employment laws prompted 22,000 calls to the CalChamber Labor Law Helpline in 2018. In Episode 8 of The Workplace podcast, CalChamber President Allan Zaremberg and Erika Frank, CalChamber executive vice president of legal affairs and general counsel, discuss the most frequently asked questions—a good indicator of the compliance issues that are the most challenging for California businesses.

“There are so many questions that are out there for the California employer,” says Frank. “It’s quite challenging without having resources available.”

What’s hot on the helpline today? Frank says the Labor Law Helpline is ringing off the hook with questions about the new mandatory sexual harassment training requirements.

The new law requires that all employers with five or more employees provide 1-hour training for employees and 2-hour training for supervisors.

“We are realizing through all of the questions we are receiving, employers are starting to know more about it, starting to hear about it, but the devil is always in the details, and there’s a lot of questions about who can do the training, when does the training needs to be completed,” Frank says.

Among the most common topic areas that generate calls for the Helpline are: meal and rest breaks, California paid sick leave rules, overtime rules, and leaves of absence.

“Our Helpline advisers are former labor commissioners and attorneys. While none of us can provide legal advice, we can help employers by giving them the information they need and helping them understand what the legal requirements are,” says Frank.

Zaremberg mentions the fact that California laws are so different from the rest of the country that many of them surprise callers.

Frank agrees and points out that things are further complicated because a number of localities also have their own ordinances.

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To listen or subscribe, visit www.calchamber.com/theworkplace.

CalChamber-Sponsored Seminars/Trade Shows

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Think Asia, Think Hong Kong. Hong Kong Trade Development Council. September 20, Los Angeles. (213) 622-3194.
Newly ID’d Job Killer Bills Move in State Legislature

From Page 1

during a time in which they are already
struggling with the financial impact of
labour negotiations and a strike, thereby
jeopardizing the employers’ ability to
maintain existing jobs and wages as
well as the increased wages and benefits
demanded by the union.

AB 1066 passed the Assembly
Insurance Committee on April 24, 8-2,
and will be considered next by the
Assembly Appropriations Committee.

• SB 37 (Skinner; D-Berkeley)
Proposes one of the steepest corporate tax
increases ever contemplated in California.
The bill requires that for taxable years
beginning on or after January 1, 2020,
the rate for corporations with net income
of $10 million or more be revised to
instead impose a tax rate from 10.84% to
14.84%, or for financial institutions, from
12.84% to 16.84%, based on the compen-
sation ratio of CEOs to employees of
the corporation. This measure would
bring the top tax rate for some compa-
nies to 22.26%, about 150% higher than
today’s rate. The bill goes beyond what
was contemplated in last year’s SB 1398
(Skinner; D-Berkeley), also tagged a
job killer, which failed to pass out of the
Senate policy committee.

The CalChamber has identified SB 37
as a job killer because the measure will
result in companies offsetting the costs
of these steep tax increases by reducing
their presence (and taxable exposure) in
California.

SB 37 has not yet been scheduled for
hearing.

• SB 320 (Jackson; D-Santa Barbara)
Exposes businesses to costly litigation
for a consumer’s assertion that any price
difference on “substantially similar”
goods, even a nominal amount, is based
on gender and therefore the consumer is
entitled to a minimum of $4,000.

The CalChamber has identified SB
320 as a job killer because of the private
right of action with an automatic $4,000
for any violation. Although a business
may very well be able to prove the price
charged for a particular product was
based on a gender-neutral reason, the cost
of litigation to prove that defense would
be significant.

SB 320 is scheduled to be heard in
the Senate Judiciary Committee on April
30. Similar versions of this proposal have
failed to pass through the Legislature.

For more information on the bill,
see the Capitol Insider blog post at
capitolinsider.calchamber.com.

2019 Job Killers

Track the current status of the job
killer bills on www.calchamber.com/
jobkillers or follow @CalChamber and
@CAJobKillers on Twitter.

CalChamber-Sponsored Bill Protects Businesses from Predatory Lawsuits

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Violation of the posting requirement
is a civil penalty of $1,000. Any alleged
violation in pricing, however, is subject
to a minimum statutory amount of $4,000
per violation, plus attorney fees.

Helps Small Business

Small businesses, unaware of this
requirement, have been subject to friv-
olous and costly litigation. In Riverside
County, an attorney targeted minori-
ty-owned businesses and demanded
outrageous settlement requests for minor
price differences, which were legitimately
based on skill, expertise and/or effort.

The small businesses ultimately
prevailed, but spent a significant amount
of time and money defending against
such litigation.

Providing notice to businesses of
this law at the outset, as proposed in AB
1607, will provide businesses with an
opportunity to protect themselves from
these lawsuits by:
• posting a notice of pricing, if
required; and
• making sure customers are aware of
the price differences for any service.

Education and awareness of this law
is critical for small businesses, who have
suffered from the abuse of its provisions.

Key Vote

AB 1607 passed the Assembly
Judiciary Committee on April 23, 12-0.
Ayes: Chau (D-Monterey Park),
Chiu (D-San Francisco), Gallagher
(R-Nicolas), Gonzalez (D-San Diego),
Holden (D-Pasadena), Kalra (D-San
Jose), Kiley (R-Roseville), Malenschein
(D-San Diego), Obernolte (R-Big
Bear Lake), Petrie-Norris (D-Laguna
Beach), Reyes (D-San Bernardino), M.
Stone (D-Scotts Valley).

AB 1607 will be considered next by
the Assembly Appropriations Committee.

Staff Contact: Jennifer Barrera

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Governor, CalChamber Chair to Speak at Sacramento Host Breakfast in May

Governor Gavin Newsom will be the featured speaker on May 23 at the 94th Annual Sacramento Host Breakfast, co-sponsored by the California Chamber of Commerce and the Sacramento Host Committee.

Preceding the Governor at the podium will be 2019 CalChamber Chair Grace Evans Cherashore, executive chairwoman of Evans Hotels.

The Host Breakfast provides a venue at which California’s top industry and government leaders can meet, socialize and discuss the critical issues facing businesses, the economy and government.

Leaders from business, agriculture, the administration, education, the military and legislators from throughout the state are invited to join the discussion. Representatives of the California consular corps and foreign economic partners also will be in attendance.

Capitol Summit

Opening the Sacramento activities the morning of May 22 will be the CalChamber Capitol Summit, featuring policy and political updates, including:

- A straight talk on priority business issues by CalChamber President Allan Zaremberg;
- Comments by longtime political columnist Dan Walters of CALmatters; and
- A question-and-answer session with Lenny Mendonca, chief economic adviser to Governor Newsom. Zaremberg will serve as moderator.

- A policy issues panel with Sarah Boot, CalChamber policy advocate specializing in privacy/technology, telecommunications, economic development and taxation issues; and Erika Frank, CalChamber executive vice president, legal affairs and general counsel. The Honorable Mike Villines, a former Assembly Republican leader and owner of the Villines Group, LLC, will act as moderator.

Following the post-lunch policy issues panel discussion, Summit attendees will have time for self-scheduled visits with their legislative representatives.

International Forum

After the Summit, attendees also have the option to stop by the CalChamber International Forum (a separate RSVP is required).

Presented by the CalChamber Council for International Trade, the afternoon forum will focus on trade issues for the California trade/business community, including the consular corps, Export Council members, local chambers of commerce and other interested parties.

On the agenda are:

- Lieutenant Governor Eleni Kounalakis, the Governor’s representative for international affairs and trade development, speaking on California’s role in international trade. Ambassador Kounalakis is the first woman to be lieutenant governor of California. She served as President Barack Obama’s ambassador to Hungary from 2010 to 2013.
- Diane Farrell, deputy assistant secretary for Asia, U.S. Department of Commerce, explaining the U.S.-Indo-Pacific Initiative. Farrell is the principal adviser for all matters concerning international economics, trade, investment and commercial policy programs and agreements with Asia.
- Caroline Beteta, president and CEO of Visit California, providing a look at the state of tourism in California. Beteta is responsible for implementing Visit California’s $126 million global marketing program.

Sacramento Host Reception

Scheduled for the evening of May 22 is the Sacramento Host Reception. The CalChamber and the Sacramento Host Committee co-sponsor the reception to provide networking opportunities for business leaders from industries throughout the state and international representatives.

The reception also gives attendees the opportunity to discuss key issues facing the state with other business leaders and elected officials. The evening event is a prelude to the Host Breakfast the next morning.

Register by May 10

The registration fee to attend the Capitol Summit, Host Reception and Host Breakfast is $75 per person.

The registration deadline is Friday, May 10 OR until sold out. Space is limited.

For more information or to register, visit www.calchamber.com/summit.
Sweetened Beverage Bill Tabled, Workers’ Comp Bill Falls Short

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it disagrees with the proposed revenue source set forth in AB 138.

Specifically, AB 138 imposes a 2-cent excise tax per fluid ounce of a sugar-sweetened beverage on the sale or transfer of any sugar-sweetened beverage product by the distributor.

To mitigate the cost increase, the targeted taxpayer will likely pass the increase on to consumers through higher prices. Moreover, given that the intended effect of AB 138 is to deter consumers from buying sugar-sweetened beverages or concentrates, the bill will have a direct impact on the beverage industry and its employees, including potential workforce reductions.

The CalChamber has consistently stated that any tax increase should be broad-based and shared by all so the financial impact is mitigated.

SB 567: Workers’ Comp

The CalChamber opposed SB 567 as a job killer because it significantly increases workers’ compensation costs for public and private hospitals by presuming certain diseases and injuries are caused by the workplace and establishes an extremely concerning precedent for expanding presumptions into the private sector.

Injuries occurring within the course and scope of employment are automatically covered by workers’ compensation insurance, regardless of fault. SB 567 would require that hospital employees do not need to demonstrate work causation for specified injuries or illnesses in any circumstances. Instead, these injuries and illnesses are presumed to be work-related.

Presumptions of industrial causation for specific employees and injury types are not needed and create a tiered system of benefits that treats employees differently based on occupation and undermines the credibility and consistency of the workers’ compensation system.

Other problems with SB 567:

- The presumption is extended for up to 10 years (depending on the injury) after the hospital worker leaves employment. Generally, there is a one-year statute of limitations for workers’ compensation claims, ensuring claims will be resolved while evidence and witnesses still are available.

- Stale claims, faded memories, and unavailable witnesses not only impede an employer’s ability to defend against a claim, but also impedes the ability of the workers’ compensation system to properly evaluate a claim.

- SB 567 creates a troubling precedent. Although there is a long history of legal presumptions being applied to public safety employees in the workers’ compensation system, there has never been a presumption applied to private sector employees. SB 567 would be the first such presumption applied to private sector employees.

Workers’ compensation is designed to apply a consistent, objective set of rules to determine eligibility, medical needs and disability payments for all injured workers in California. The CalChamber does not believe the Legislature should take on the role of trying to identify likely injuries for every occupation in the state with the goal of creating special rules for those employees.

This is an unrealistic expectation in an insurance system that covers thousands of types of employees and employers.

- There is no evidence that hospital workers should be entitled to a separate legal standard for certain injuries and illnesses.

All employees, in every type of occupation, face risks inherent to their employment. This is anticipated by current labor law, which requires every employer to evaluate the specific risks faced by their employees and develop an Injury and Illness Prevention Plan that mitigates those risks.

- Narrower versions of the presumption proposed in SB 567 have failed with many bills not passing the legislative policy committee or failing a full vote in the Assembly or Senate. The only version to make it to the Governor was vetoed in 2014.

The vetoed bill applied only to a specific staph infection and extended the post-employment presumption of the illness being work-related for 60 days.

In contrast, SB 567 extends the presumption to a laundry list of illnesses and injuries, including cancer, where the post-employment presumption is 10 years.

Such a drastic shift in the law will create an astronomical financial burden on health care employers and the system, creating an appreciable impact on the cost of health care at a time when we are trying to make health care more affordable.

Key Vote

SB 567 failed to pass the Senate Labor, Public Employment and Retirement Committee, on April 24, 1-2: Ayes: Jackson (D-Santa Barbara).

Noes: Hill (D-San Mateo), Morrell (R-Rancho Cucamonga).

Not voting: Mitchell (D-Los Angeles), Pan (D-Sacramento).

The bill was granted reconsideration.

Staff Contacts: Valerie Nera, Laura Curtis
CalChamber International Luncheon Focuses on Understanding Brexit

Brexit is the latest phenomenon in the western world presently characterized by shock and schism, a leading scholar explained this week at the California Chamber of Commerce.

“Brexit is the most profound crisis that Europe has had since the end of the Second World War,” Dr. Matt Beech, senior fellow at the Institute of European Studies at the University of California, Berkeley, told nearly 100 guests at the CalChamber International Luncheon Forum on April 24. The luncheon was sponsored by Suburban Water Systems, a CalChamber member.

Dr. Beech provided attendees with an analysis of the potential implications for the United States and specifically, trade in California, with Britain’s potential withdrawal from the European Union.

He compared Brexit to an iceberg, something that can’t be understood until you’re up close and personal with it. “Brexit I think is very much like that tip of the iceberg. We see political, economic, and social shock and disruption—but beneath the water line of the iceberg which is Brexit is a profound conflict about culture, the like of which we’ve not seen in recent memory,” Dr. Beech said.

What Does It Mean for the U.S.?

Dr. Beech said the existential question Brexit asks is: Who are the English and who do they want to be? The United Kingdom is a unitary state composed by the countries of England, Wales, Scotland and Northern Ireland. While the UK includes these countries, Dr. Beech said in the grand scheme of things of the 66 million or so people, 55–56 million are English.

Brexit is “not just a judgment call; it’s a heart issue as much as a head issue,” Dr. Beech said.

In a profound way, the U.S. and UK trading relationship is very strong, Dr. Beech noted. Two-way trade between the United States and the United Kingdom was $129 billion in 2018 and the UK was the fifth largest importer of U.S. goods with a total value of $66.228 billion.

Top U.S. exports to the UK were transportation equipment, making up 23%, followed by primary metal manufacturing, chemicals, and computer/electronic products. The United States imported $60.8 billion from the UK in 2018.

Transportation equipment accounted for 25.6% of the total, followed by chemicals, non-electrical machinery, and reimports.

“Fundamentally, economically, it is a very strong relationship,” Dr. Beech said. Leaving aside services, there is a huge amount of export of goods and an increasing uncertainty, since the UK has not left the EU yet, but over the last three years, the countries continue to build on a firm foundation of trade.

To illustrate why the U.S.-UK relationship is so strong, Dr. Beech pointed to American firms’ presence in the UK and noted that British firms in the U.S. employ more than 2 million citizens.

These long-standing ties mean “these two countries can weather such a crisis” as Brexit, Dr. Beech said.

What Does It Mean for California?

Dr. Beech said there is an even more positive story to tell for California and Brexit.

“Economically, even in a time of great uncertainty, even in a time of shock and schism, based upon cultural values, shared language and economic interest, even though we often have some diverging interests in terms of foreign policy, for California there is an even more positive story to tell,” he said.

He classified California and the UK relationship as deep, because the UK is California’s 10th largest export market and the state did more than $5 billion in exports to the UK in 2017. “Even through the shock and the schism, the California economy and the businesses that are represented in California actually show that despite the uncertainty there is a sound relationship that will keep [UK] businesses in the United States, even though we are going through different seasons of change,” Dr. Beech said.

Post-Brexit Relationship

As for the post-Brexit relationship, Dr. Beech explained there is short- and medium-term uncertainty. This uncertainty is based upon gridlock—the UK Parliament can’t agree about how to navigate Brexit.

The U.S.-UK relationships are “profoundly robust” and although differences do exist, in the post-Brexit world, the UK will be competing against the United States.

“I think when countries trade together, the ties that bind are incredibly important…We are natural partners to trade with,” Dr. Beech said. “We should be more confident in saying there is so much as free people and free societies, having ties that bind us together, we are willing and well-placed to weather this storm.”

Dr. Matt Beech

Dr. Beech is a political scientist and historian who teaches post-war British political history, government and ideas, and is a Fellow of the Royal Historical Society and the Royal Society of Arts. Dr. Beech has appeared in the Washington Post, Financial Times, USA Today, Chicago Tribune, Le Figaro, BBC Radio, and CNBC Asia. Dr. Beech’s talk is funded by a Getting to Know Europe Grant (2017–2019) from the European Commission to the Institute of European Studies at UC Berkeley. The forum was held together with the World Affairs Council of Sacramento.

Staff Contact: Susanne T. Stirling
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