

ALERT

CalChamber Releases List of 2019 Job Creator Bills



The California Chamber of Commerce this week released its list of job creator bills,

calling attention to nine bills that will stimulate the economy and improve the state's jobs climate.

The 2019 job creator bill list includes the following proposed legislation:

2019 Job Creators

- **AB 23 (Burke; D-Inglewood) Workforce Coordination.** Establishes the Deputy of Business and Workforce Coordination, which will help provide California with a workforce that is employment-ready and trained in indus-

try sectors that have the greatest workforce needs.

- **AB 371 (Frazier; D-Discovery Bay) Creates Incentives for Freight Efficiency.** Creates and maintains job growth in the freight sector by providing incentives to purchase clean fleet technology, evaluating appropriate public and private resources that can be used to ensure freight competitiveness in California, and confirming that agencies are engaging in programs that maintain resilience against economic downturns.

- **AB 906 (Cooley; D-Rancho Cordova) Economic Development Plan.** Creates the California Economic Development Strategic Action Plan within the office of the Governor's Office

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CalChamber Names Retail Marketing Specialist as Grassroots Coordinator



Natalie Leighton

The California Chamber of Commerce has named Natalie Leighton, a retail marketing specialist, to spearhead its grassroots program.

Leighton works closely with the CalChamber public policy team to encourage local chambers, business owners and representatives from throughout the state to make their views known to lawmakers and regulators.

Planning is underway to revamp the CalChamber grassroots website.

Leighton brings to her grassroots assignment much experience in using social media and other contacts to get people involved. While assistant manager at Ascena Brands from November 2017 until joining the CalChamber, she collaborated with co-workers to engage customers and market promotions strategically.

As Educational Leadership Consultant for a nonprofit women's organization, she curated the organization's brand through social media on campuses through the country. She also recruited the 200 women for the founding class at the Cal Poly Pomona chapter, as well as planning events and overseeing the chapter's initial funding.

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Register Today: Summit/Host Breakfast



Just one week remains to register for the California Chamber of Commerce Capitol Summit and Host

Breakfast activities.

Agenda and registration information is available at www.calchamber.com/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 Zaremborg**;

- Comments by longtime political columnist **Dan Walters of CALmatters**; and

- A question-and-answer session with **Lenny Mendonca, chief economic adviser to Governor Gavin Newsom**. Zaremborg 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.

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Labor Law Corner

Let Workers' Compensation Insurer Check on Claim Validity



David Leporiere
HR Adviser

One of my employees came to me today and said his back was sore and that he hurt it while moving some equipment, so we sent him to the doctor to get treatment. Shortly after this employee left for the doctor's office, another employee came to me and told me the first employee actually hurt his back at home the night before, and was lying about getting hurt at work. Knowing what

the second employee told me, do I still have to process the employee's workers' compensation claim?

The short answer is "yes." California Labor Code Section 5401 requires an employer to provide its employees with the workers' compensation claim form (DWC-1) within one working day from the time the employer receives notice or knowledge of an injury that results in lost time from work, or requires more medical treatment than first aid.

As a result, if an employee tells you that he or she was injured at work, you must provide the employee with the claim form.

Investigation of Claims

You can, however, pass on the information you received to your insurance carrier and the insurance company has up to 90 days to investigate the claim to determine whether it arose out of employment and occurred in the course of employment.

If your insurance carrier determines that the employee was not hurt at work or while working, it can deny the claim. The

obligation to investigate the validity of a workers' compensation claim rests with your insurance carrier.

Employer Obligation

As the employer, your obligation is to process the claim to the insurance company and to provide it with whatever relevant information you believe will assist it in evaluating the claim properly.

There is no direct penalty for failing to provide the claim form to the employee, but failing to provide the claim form can extend the employee's statute of limitations for filing the claim and could jeopardize the insurance company's ability to actually deny the claim if the insurance company believes the injury did not occur in the course of employment.

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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CalChamber-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.

Classifying Exempt Employees. CalChamber. June 20, Webinar. (800) 331-8877.

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

International Trade

10th Annual Mexico Advocacy Day Luncheon. CalChamber and Consulate General of México, Sacramento. Sponsored by Automobile Club of Southern California. May 7, Sacramento. (916) 930-1233.

Mexico-CA, A Strategic Relationship: Challenges and Opportunities. Consul-

ate General of México in Sacramento and University of California, Davis Global Affairs. May 7, Davis. (530) 754-9707.

Doing Business in Czech Republic and Slovakia Webinar. U.S. Commercial Service. May 15, Webinar. (800) 872-8723.

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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

Podcast Examines Proposed Expansion of Leaves of Absence Programs



The California Chamber of Commerce has released its ninth episode of The Workplace, a podcast on issues important to California employers and our economy. The subject of this week's episode

is proposed legislation that threatens to establish new challenges for employers by expanding California's already-long list of protected leaves of absence programs.

The podcast features Erika Frank, CalChamber executive vice president of legal affairs and general counsel, and Jennifer Barrera, CalChamber executive vice president.

- The first proposal discussed on the podcast is **AB 555 (Gonzalez; D-San Diego)**. The bill seeks to expand the number of paid sick days employers are required to provide from 3 days (24 hours) to 5 days (40 hours).

"It treats a large employer just the same as a small employer with the mandatory number of days that they would have to provide for an employee for paid sick leave," says Barrera.

Barrera and Frank agree that the other challenging part about the paid sick leave law is that so many local jurisdictions have adopted their own versions.

Barrera says "the challenge of an employer who is operating in multiple locations throughout the state is having to figure out which ordinance applies to their employee at which location and how that interacts with the state leave mandates that are being considered by the Legislature."

- A second bill discussed on the podcast is **AB 628 (Bonta; D-Oakland)**. Among other things, this bill proposes creating a new, unlimited, uncapped protected leave of absence for an employee who is the victim of sexual harassment and for a family member of an employee who is the victim of sexual harassment.

Barrera confirms that this law will

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Register Today: CalChamber Capitol Summit/Sacramento Host Breakfast

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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 lieu-

tenant 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 Breakfast

Scheduled for the evening of May 22 is the Sacramento Host Reception, a

prelude to the 94th Annual Sacramento Host Breakfast the next morning.

The CalChamber and the Sacramento Host Committee co-sponsor the reception and breakfast to provide networking opportunities for business leaders from industries throughout the state and international representatives.

Governor Newsom will be the featured speaker at the Sacramento Host Breakfast on May 23.

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

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.

May 10 Registration Deadline

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.



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of Business and Economic Development (GO-Biz), to develop a comprehensive agenda that evaluates various economic factors, including emerging and growing industries, to set statewide economic goals to increase California's national and international competitiveness.

• **AB 1195 (O'Donnell; D-Long Beach) Encourages Technological Innovation.** Gives credit under the Low Carbon Fuel Standard to innovative crude technologies, including carbon capture and sequestration, energy storage, and renewable natural gas or biogas. Creates jobs by encouraging the development of new technology to meet California's ambitious climate change goals.

• **AB 1303 (O'Donnell; D-Long Beach) Career Technical Education.** Increases funding for the Career Technical Education Incentive Grant program, which provides students with relevant, industry-aligned skills training and instruction to prepare them for California's changing job market.

• **AB 1545 (Obornolte; R-Big Bear Lake) Small Business Penalty Relief.** Recognizes the challenges small businesses face in implementing complex state rules by allowing adjustment of civil penalties based upon specific mitigating factors, which allows these small businesses to invest more financial resources into growing their workforce.

• **SB 601 (Morrell; R-Rancho**

Cucamonga) License Relief for Disaster Victims. Allows, but does not require, state agencies that issue business licenses to reduce or waive required fees if the applicant establishes that they were displaced or affected by a declared state or federal emergency within the preceding year, which allows impacted businesses the ability to invest more of their financial resources into re-establishing their business and jobs.

• **SB 621 (Glazer; D-Contra Costa) CEQA Streamline for Affordable Housing.** Would streamline litigation and thereby lower the cost to construct affordable housing projects meeting specified environmental criteria and certified under an environmental impact report by requiring that any California Environmental Quality Act (CEQA) actions challenging such projects be resolved by a court within 270 days. This reduction in litigation and costs will expedite these projects, provide more housing for workers, and additional jobs.

• **SB 659 (Borgeas; R-Fresno) CEQA Attorney's Fees.** Would minimize frivolous CEQA litigation challenging housing projects, thereby helping to streamline their construction and reducing costs, by requiring a court to award reasonable attorney's fees to a prevailing respondent or real party in interest in CEQA cases challenging the development of infill housing. This reduction in litigation and costs will expedite these projects, provide more housing for work-

ers, and additional jobs. The Senate Judiciary Committee narrowly approved SB 659—see story on [Page 5](#).

Classifying Bills as Job Creators

Since beginning the list in 2008, CalChamber has strongly supported policies to improve California's business climate and nurture the economy.

If adopted, job creator legislation would encourage employers to invest resources back into the California economy and their local communities rather than spend them on unnecessary government-imposed costs. Job creating legislation promotes the following policies:

- Keeping taxes on new investment and business operations low, fair, stable and predictable;
- Reviving local economic development tools;
- Reducing regulatory and litigation costs of operating a business—especially when hiring and keeping employees;
- Reducing the cost and improving the certainty and stability of investing in new or expanded plants, equipment and technology;
- Investing in public and private works that are the backbone for economic growth; and
- Ensuring the availability of high-quality skilled employees.

For more information on the 2019 job creator bills, visit www.calchamber.com/jobcreators.

Podcast Examines Proposed Expansion of Leaves of Absence Programs

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create another challenge for employers because AB 628 would create a “brand new leave on top of all the other additional leaves that we have in California.”

• Frank and Barrera also discuss **SB 135 (Jackson; D-Santa Barbara)**, which seeks to expand the California Family Rights Act (CFRA). Currently the law applies to employers with 50 more employees, but this bill will change the law to apply to employers with just five or more employees.

Frank says that this new mandate would be especially difficult for small employers to manage because of work-

load issues that arise when employees take leave. There are also costs because workload doesn't disappear when an employee is on leave. Barrera points out that employers either have to pay other employees overtime to get the job done or hire someone on a short-term basis, often at a premium.

On top of balancing all the leave programs that are proposed, these bills would also be troublesome for employers due to the fact that they are enforced through a private right of action, which includes recovery of attorney's fees.

Both Frank and Barrera discuss the fact that it is early in the legislative

session and much could change on these measures over the next few months.

As these bills make their way through the legislative process, it is important for employers to be aware of the types of proposals policy makers are considering.

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

CalChamber Job Creator Housing Bill Narrowly Passes Senate Committee



Legislation identified by the California Chamber of Commerce as a job creator

because it will minimize frivolous litigation that blocks infill housing projects won bipartisan approval from a Senate policy committee and is headed for a vote by the entire Senate.

The Senate Judiciary Committee approved **SB 659 (Borgeas; R-Fresno)** on a vote of 5-4 on April 30.

In testimony to the committee, CalChamber Policy Advocate Adam Regele noted that the bill is “narrowly crafted to protect crucial housing from meritless frivolous lawsuits.”

The California Environmental Quality Act (CEQA) is used sometimes by special interest and community groups to delay, scale back or halt projects for reasons unrelated to the environment.

SB 659 acknowledges the urgency of timely housing construction and seeks to discourage frivolous CEQA litigation filed to block or slow critically needed infill housing projects by awarding reasonable attorney’s fees to the prevailing party.

By discouraging frivolous CEQA litigation, SB 659 will expedite construction

for infill housing projects, reduce costs associated with CEQA litigation, and create more jobs.

Housing Crisis

California is in the depths of a serious housing crisis. Various reports estimate the state’s housing deficit is between 3 million and 4 million housing units.

The supply and demand imbalance has driven up home costs, making homeownership in the state an impossible dream for many Californians to achieve. The imbalance has forced hundreds of thousands of Californians into long commutes, living in crowded households, or homelessness.

Environmental Protections

CEQA serves an important goal of preventing public agencies from approving projects with potentially significant impacts if there are feasible mitigation measures that would eliminate or substantially reduce those impacts.

Notwithstanding these benefits, CEQA is used sometimes for reasons unrelated to the environment at little cost to the plaintiff.

For example, a group of neighbors in San Francisco have raised more than \$100,000 through a GoFundMe website to hire a CEQA attorney to block a

proposed homeless shelter in their neighborhood.

Although SB 659 would not preclude them or anyone from filing a CEQA cause of action, it would help to ensure that parties do so for legitimate environmental concerns and as CEQA was intended—not because a party does not want a project built.

Until significant changes are made to the underlying process, the CalChamber supports efforts to identify ways to expedite the development of critical housing projects.

SB 659 is one such effort that is limited to infill housing projects and does not affect any of the substantive requirements of CEQA or streamline judicial review. Accordingly, all the environmental safeguards built into CEQA are preserved under this bill.

Key Vote

Senate Judiciary voted 5-4 on April 30 to send SB 659 to the Senate floor:

Ayes: Allen (D-Santa Monica), Borgeas (R-Fresno), Caballero (D-Salinas), Jones (R-Santee), Umberg (D-Santa Ana).

Noes: Jackson (D-Santa Barbara), Monning (D-Carmel), Stern (D-Canoga Park), Wieckowski (D-Fremont).

Staff Contact: Adam Regele



 CalChamber

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Job Killer Bill Increasing Litigation Stalls in Senate Policy Committee



Job killer legislation exposing businesses to costly litigation stalled in a Senate policy committee this week.

SB 320 (Jackson; D-Santa Barbara) failed

to advance from the Senate Judiciary Committee in an evening session during which several legislators expressed concern about the private right of action the bill contains as an enforcement mechanism.

The bill 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.

In testimony to the committee, CalChamber Executive Vice President Jennifer Barrera said SB 320 will expose small and large businesses to the same costly litigation that has been plaguing the business community on disability access.

To comply with SB 320, businesses will be forced into determining the gender of various products by engaging in gender stereotyping based upon traditional social expectations that scholars have urged businesses to avoid.

Coalition Opposition

Arguments outlined in a letter to Senate Judiciary from the CalChamber and a coalition of employer groups, manufacturers and local chambers of commerce include the following:

- **SB 320 exposes small businesses and large businesses to significant litigation similar to the construction disability access litigation plaguing California.**

The bill creates significant exposure to costly litigation for small and large businesses for any good or product that

is "substantially similar," or of a "like kind," but yet priced differently. SB 320 provides no definition of the terms "substantially similar" or "like kind," which will create ambiguity regarding which products to even compare and will result in litigation.

Enforcement of SB 320 is the same Civil Code section that has created the Americans with Disabilities Act (ADA) drive-by litigation scheme, providing a private right of action with a minimum statutory damage of \$4,000, per violation, with the right to attorney's fees.

Accordingly, under SB 320, a consumer could go to a separate retailer or even the same retailer daily and buy multiple items the consumer believes are substantially similar or like kind, yet priced differently (even 1 cent would be enough), and ask the business to settle for a minimum of \$4,000 or face costly litigation.

Although the business may very well be able to prove the price difference was based upon a gender-neutral reason—such as different manufacturer, high inventory, or even increased costs for marketing or display—the cost of litigation to prove that defense is significant.

A 1995 law, the Gender Tax Repeal Act, prohibits businesses from charging different prices based on gender for the same services and also authorizes a private right of action with the same minimum damages for any alleged violation as proposed by SB 320.

In 2017, policymakers enacted legislation to provide some legal protections for businesses under the Gender Tax Repeal Act, following reports that a handful of attorneys were using the 1995 law to target small, often immigrant-owned businesses, with letters threatening to sue if the businesses did not settle with the attorneys, often for thousands of dollars.

Expanding the Civil Code section to

thousands of goods will only expand the number of individuals who will target businesses and intentionally seek out alleged violations for personal financial gain.

- **SB 320 forces businesses to engage in gender stereotyping or increase consumer prices.**

Scholars have cautioned parents of the adverse consequences associated with assigning gender to toys, and a major retailer agreed in August 2015 to remove any gender labels in children's goods.

Nevertheless, SB 320 would force businesses back into gender stereotyping, such as assuming anything pink is for a female and anything blue is for a male, to make sure they do not charge a consumer a higher price for products that are substantially similar or of a like kind.

- **SB 320 will subject businesses to litigation even when they price a product targeted at females at a lower price.**

The bill prohibits a price difference for substantially similar or like goods on the basis of any gender. Accordingly, even if a product that, based on advertising or placement in the store, is undoubtedly targeted at females and has a lower price than the same product targeted at a man, the business still would be subject to litigation from a male consumer. There is no requirement for any economic harm.

Key Vote

SB 320 failed to move out of Senate Judiciary on April 30. The vote was 3-3:

Ayes: Jackson (D-Santa Barbara), Monning (D-Carmel), Umberg (D-Santa Ana).

Noes: **Borgeas (R-Fresno), Caballero (D-Salinas), Jones (R-Santee).**

Not voting: Allen (D-Santa Monica), Stern (D-Canoga Park), Wieckowski (D-Fremont).

The bill was granted reconsideration.

Staff Contact: Jennifer Barrera

Social Security Administration Resumes Sending ‘No-Match’ Letters



Employers haven't seen “no-match” letters from the Social Security Administration

(SSA) since 2012 but that's about to change.

In March 2019, the SSA resumed sending these letters to advise employers that information submitted on an employee's *Form W-2* doesn't match SSA records.

A no-match letter, formally known as an [Employer Correction Request](#) (EDCOR), informs an employer that there is an error with at least one name and Social Security Number (SSN) combination on a *W-2* submitted by the employer. The SSA uses the letters to advise employers that corrections are needed in order for the SSA to properly post an employee's earnings to the correct record.

The letters don't identify the employee with incorrect information. To get that information, employers must first register for the SSA's [Business Services Online](#) (BSO) at www.ssa.gov/bsa. Once you have registered for BSO, you can log on to view and correct name and SSN errors.

Correcting Information

If you receive a no-match letter, you can take these steps to correct the information:

- Review the name and SSN in your files and compare with the SSA's records on the BSO to confirm that the information was reported correctly to the SSA;

i.e. that there wasn't a typographical error. If the information was reported incorrectly, you can correct it on a *Form W-2C*.

- If you correctly reported the information you received from the employee, notify the employee that you received a no-match letter and ask the employee to confirm the exact name and SSN as it appears on the employee's Social Security card. If the exact name or SSN was not previously reported, you can correct it on a *Form W-2C*.

- If the information reported by the SSA matches that on the employee's Social Security card, you can ask the employee to contact the local SSA office to resolve the issue, and notify you once it is resolved. If an employee can't resolve the no-match error for his or her name or SSN, consult legal counsel about how to proceed.

You have 60 days from receipt of the letter to submit a *Form W-2C* with the necessary corrections.

The no-match letters don't imply that the employer or employee intentionally reported incorrect information—they simply advise an employer that a discrepancy occurred in the SSA's records. Several possible reasons for a discrepancy include typographical errors, unreported name changes (such as changes due to marriage or divorce) and inaccurate employer records.

No Adverse Action

In addition, the letters don't address an employee's work authorization or

immigration status. A no-match letter is not proof that an employee is not authorized to work, nor should it be the basis for any adverse action against an employee. As the SSA warns in the no-match letters:

“You should not use this letter to take any adverse action against an employee, such as laying off, suspending, firing, or discriminating against that individual, just because his or her SSN or name does not match our records. Any of those actions could, in fact, violate State or Federal law and subject you to legal consequences.”

California law also protects employees who update their personal information, such as their name or SSN.

Employers who receive no-match letters can find resources, including FAQs and a [sample letter](#) to provide to employees whose information is identified as incorrect, on the SSA's website at www.ssa.gov/employer/notices.html.

California Chamber of Commerce members can read more information on [Verifying Social Security Numbers](#) in the HR Library on [HRCalifornia](#).
Staff Contact: Erika Pickles

CalChamber-Sponsored Seminars/Trade Shows

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Argentina ICT Modernization Reverse Trade Mission. U.S. Trade and Development Agency. May 21, San Jose. (703) 875-4357.

Annual Export Conference. National Association of District Export Councils. May 21–22, Arlington, Virginia. (407) 255-9824.

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

Doing Business in Baltics Webinar. U.S. Commercial Service. June 12, Webinar. (800) 872-8723.

Trade Mission to Israel for National Cyber Week. U.S. Chamber of Commerce. June 23–26, Tel Aviv. (202) 463-5553.

Think Asia, Think Hong Kong. Hong Kong Trade Development Council. September 20, Los Angeles. (213) 622-3194.

CalChamber Names Grassroots Coordinator

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Leighton earned a B.S. in business administration from Sonoma State University, where she specialized in wine business and marketing, and coordinated the guest speaker series for the Wine Sense Club. Her senior project examined Etsy's business model as a focus for analyzing the online creative marketplace.

Tell Your Story

CalChamber members interested in speaking to the media about issues affecting the business community should contact Leighton at (916) 444-6670 or email her at natalie.leighton@calchamber.com.

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Employer To-Due List for PDL and Baby Bonding

California law provides some of the country's strongest workplace protections for employees who are pregnant and/or new parents.

That said, employers have due dates too. There are certain "to-due" steps to follow when an employee requests Pregnancy Disability Leave (PDL) or when you become aware of the need for leave.

Given the number of laws involved, learn specifics for managing your compliance from CalChamber's employment law experts on May 16.

Cost: \$199.00 | Preferred/Executive Members: \$159.20



This webinar is mobile-optimized for viewing on tablets and smartphones.

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