#### VOLUME 45, NUMBER 30 · OCTOBER 18, 2019





# Legislative Year: Mixed Bag



Governor Gavin Newson finished signing/vetoing all bills on October 13. The California Chamber of Commerce was tracking 62 bills on his desk, 32 supported and 30 opposed. So how

did we do?

Out of the 30 opposed bills, the Governor vetoed 11, including job killer **SB 1 (Atkins; D-San Diego)** that could have impacted voluntary water agreements, existing water projects, and water flows for agriculture, as well as development. Some of the other significant bills vetoed included:

• AB 1451 (Low; D-Campbell),

which would have limited the ability to qualify an initiative or recall petition for the ballot.

• AB 1478 (Carrillo; D-Los Angeles), which would have added another private right of action to various Labor Code provisions.

• AB 171 (Gonzalez; D-San Diego), which would have created inconsistent standards for sexual harassment that would result in more unnecessary litigation.

• AB 589 (Gonzalez; D-San Diego), which would have required all employers to provide employees with an unnecessary notice about their rights regarding immigration-related documents.

• SB 218 (Bradford; D-Gardena), which would have lifted the existing preemption under the Fair Employment See Legislative Year: Page 4 CalChamber Files Lawsuit to End Prop. 65 Warnings for Acrylamide



On behalf of its members, the California Chamber of Commerce filed a lawsuit on October 7 to stop the multitude of Proposition 65 warnings for the presence of acrylamide in food. The lawsuit

filed against California Attorney General Xavier Becerra, who is responsible for enforcing Proposition 65, asks the U.S. District Court, Eastern District of California to stop the Attorney General and private enforcers from proceeding with Proposition 65 litigation over acrylamide in food.

"The effect of too many bogus warnings is no warnings," said CalChamber President and CEO Allan Zaremberg in a statement. "This case is about clarifying for both businesses and consumers that food does not require Proposition 65 warnings for acrylamide. This will reduce unnecessary fear for consumers and litigation threats for businesses."

#### **Misleading Warnings**

Currently, Proposition 65 requires any business that produces, distributes or sells food products containing acrylamide to provide a warning unless the business can See CalChamber Files Lawsuit: Page 14

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### Lt. Governor Leads Trade Delegation to Mexico



Lt. Governor Eleni Kounalakis addresses the delegation during the meeting at the Mexico Ministry of Foreign Affairs on the third day of the October 1–4 mission. At right is Ambassador Mario Chacon, Mexico's Director General for North America. See story on Page 15.



#### Labor Law Corner Canceling Shifts on Short Notice May Lead to Reporting Time Pay



Michelle Galbraith HR Adviser

How much notice must I give my employees that I'm canceling a shift in order to avoid paying reporting time?

Anytime an employee reports to work but is given less than half of the employee's regular shift, the employer owes that employee reporting time pay.

The reporting time payment is equal to half of the scheduled or regular shift, no less than two hours and no more than four.

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#### What 'Reporting to Work' Means Now

Traditionally, reporting time pay was required when an employee physically showed up to work and was sent home or given fewer than half the scheduled hours.

But as technology has advanced, and employees can check shift schedules online or via phone or text, it has become less clear what constitutes "reporting to work" so as to trigger reporting time pay.

For example, in a recent case, an employer that required its employees to call in two hours before the scheduled start of their shifts to determine whether they would be needed that day was ordered to pay reporting time pay if the employees were not given a shift. The court held that the act of calling in constituted "reporting" to work, even though the employees may never have left their houses. This is because reporting time pay is designed not only to discourage employers from scheduling employees when there is insufficient work, but also to compensate employees for the costs of preparing to work (such as arranging child care, commuting, or turning down hours at other jobs).

If an employee learns immediately prior to leaving for work—or in the middle of a commute—that a shift has been canceled, that employee still will have incurred expenses related to preparing for work.

#### Some Local Requirements

Employers also should be aware that municipalities may set their own requirements for short notice changes to employee schedules; for example, some San Francisco retail workers are entitled *See Canceling Shifts: Page 4* 

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Ann S. Amioka Vice President, Communications September 30, 2019





#### <u>The Workplace</u> The Good, the Bad and the Ugly of Hosting an Off-Site Work Event



Off-site work events can help create a more collaborative workforce, but they also come with a range of liability risks. In Episode 33 of

The Workplace podcast, CalChamber Executive Vice President and General Counsel Erika Frank and employment law expert Jennifer Shaw cover the benefits and drawbacks of hosting an off-site work event.

#### 'It's Who You Are With'

"Off-sites," or company retreats, can take place in a wide range of locations from the fancy, such as Napa, to the practical, such as a regular company board room, Frank says.

Perhaps due to a good economy and in an effort to retain workers, companies are trying to outdo each other in planning work trips, Shaw explains. Whether it's a weekend in Cabo or renting a chalet in Lake Tahoe, "it all sounds great until something goes wrong," she says.

The main reason things go wrong? People forget the adage when talking about workplace conduct, Shaw says: "It is not where you are, it is who you are with."

Simply put, when taken away from the worksite, people forget that work rules still apply. And companies often complicate the matter, Shaw explains, by serving alcoholic beverages and planning late-night activities.

#### The Good

Company retreats can be great for

team building. Especially for companies with telecommuting or flexible schedule workers, a company retreat can connect employees face-to-face and build personal connections, Shaw points out.

Moreover, retreat activities, such as having a cake-making competition for example, can help level employee ranks, erasing lines of authority, and thus developing better, stronger, more trusting work relationships, she tells Frank.

"When you are doing little fake cake wars, and it's you and your boss against somebody else and their boss, all of a sudden you're just four people having fun," Shaw says.

#### The Bad, the Ugly

So, Frank asks, where do retreats go awry?

Usually, Shaw replies, it's when people "let down their hair a little too much."

But, "not everybody has this reaction," she says.

If 30 people are invited to a retreat, not all will misbehave. It's usually one or two people who overdo it, Shaw says. Other problems may arise depending on whether spouses, children, or guests are permitted to join the retreat, she explains. Issues arose at one retreat, for example, when an employee brought a female guest who was not his wife.

When planning a corporate retreat, employers should think of which employees will be invited, what accommodation will be provided, and whether guests or spouses will be invited, Shaw advises. The retreat can be held off-site, but employers should be smart about what activities are planned, she adds. Not all problems arise out of bad behavior. Depending on the activity, workers' compensation claims may arise if employees are hurt during retreat activities. Employers should have employees sign liability waivers, but workers' compensation risks will remain, Shaw explains.

In fact, Shaw recommends hiring a professional company to run the retreat, so employers don't have to figure it all out themselves.

"It's money well-spent," she says. "If you're already going to spend the money on the hotel and the food, and the drink and the activities, get the pros in."

Ultimately, Shaw says, off-sites can enhance work connections, but they shouldn't be used to get to know your employees.

"The only reason to do [off-sites] is because you care about getting your team working as a team. If that's not the goal, it's a waste of money and you're buying a lot of potential liability," she tells Frank.

Shaw encourages employers to think carefully about what activities to do, what the best type of retreat is for their group, and about a geographic location that makes sense for everyone.

"The more thought that is put into them, the better the result," she says.

#### Subscribe to The Workplace

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

### CalChamber-Sponsored Seminars/Trade Shows

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

- HR Symposium. CalChamber. November 8, Huntington Beach. (800) 331-8877.
- Independent Contractors—*Dynamex*, AB 5 and Beyond. CalChamber. November 14, Webinar. (800) 331-8877.
- HR Boot Camp. CalChamber. December 12, Oakland. (800) 331-8877.

#### International Trade

U.S.-U.A.E. Business Council Trade Mission to the U.A.E. U.S.-U.A.E. Business Council. October 21–23, United Arab Emirates.

- Global Trade in a Changing World. World Trade Center, Northern California. October 24, Sacramento. (916) 447-9827.
- Business Conference. GetGlobal. November 5, Long Beach.
- China International Import Expo. China International Import Expo Bureau. November 5–10, Shanghai. +86-21-968888.
- Global Trade Awards Gala. Women Leaders in International Trade – Los

Angeles. November 7, Manhattan Beach. (213) 545-6479.

Hong Kong International Wine and Spirits Fair 2019. Hong Kong Trade Development Council. November 7–9, Hong Kong.

See CalChamber-Sponsored: Page 14

Next Alert: November 1



#### <u>Public Affairs Conference</u> Legislators Look Back at 2019 Session, Offer Preview of Next Year



### Legislative Year: Mixed Bag

#### From Page 1

and Housing Act and allowed LA County to enforce state law.

One of the opposed bills that Governor Newsom signed was job killer **AB 51 (Gonzalez; D-San Diego)**, which bans employment arbitration agreements made as a condition of employment. This bill is similar to a bill last year that Governor Jerry Brown vetoed on the basis that it "clearly violated federal law," meaning the Federal Arbitration Act (FAA). As indicated by both the author and opponents during the legislative process, the legality of this bill will undoubtedly be challenged in litigation.

#### **Support Bills**

Out of the 32 bills we supported, Governor Newsom signed 25 of the bills. Some of the notable bills he signed focused on cleaning up the California Consumer Privacy Act (CCPA) and protecting small businesses, including:

 AB 25 (Chau; D-Monterey Park), which delays the application of the CCPA to employment-related data for one year.
AB 874 (Irwin; D-Thousand

**Oaks**), which clarifies the definition of personal information and fixes a provision of the CCPA that violated the First Amendment.

• AB 1355 (Chau; D-Monterey Park), which delays the application of the CCPA with regard to business-to-business data for one year, clarifies the definition of personal information, and corrected a drafting error with regard to the private right of action in the CCPA.

#### An afternoon panel discussion on October 15, the first day of the 2019 CalChamber Public Affairs Conference, gives attendees the legislators' perspectives on the just-completed legislative year, plus what to expect in 2020. From right are: Senator Tom Umberg, and Assemblymembers Rudy Salas, Tasha Boerner Horvath, Cottie Petrie-Norris, Vince Fong, Heath Flora and Tom Daly, and CalChamber President and CEO Allan Zaremberg, moderator. Watch for more photos online and in the next *Alert*.

#### • AB 1607 (Boerner Horvath;

**D-Encinitas**), which provides small businesses with notice of the law regarding price differentials based upon gender for such services as dry cleaning and haircuts so that they can protect themselves from predatory lawsuits.

#### Successful Overall

Overall, CalChamber had a successful legislative year. 29 of the 31 job killers were stopped in the Legislature and only SB 1 and AB 51 made it the Governor's desk, where he vetoed one. Out of the 113 bills we opposed this year, 93 were ultimately stopped or vetoed.

Time to prepare for next year! This article first appeared as a Capitol Insider blog post. Staff Contact: Jennifer Barrera

### Canceling Shifts May Lead to Reporting Time Pay

#### From Page 2

to "predictability pay" of between one and four hours of regular wages when their schedule changes with less than a week's notice.

However, absent requirements such as those in San Francisco, there is no specific number of hours of notice that an employer must give an employee to safely avoid paying reporting time pay. Employers should consult with counsel if they need to cancel shifts on short notice.

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.

### Annual Meeting

In compliance with Article VII of the bylaws, notice is hereby given that the annual meeting of the members of the California Chamber of Commerce, a mutual benefit corporation operating under the laws of the State of California, will be held on Friday, December 6, 2019, at 9 a.m. in Salon III at the Ritz-Carlton, 600 Stockton Street, San Francisco, California, for the transaction of whatever business may be necessary.



# Final Status Report on Major Business Bills

The following list summarizes the final status of California Chamber of Commerce priority bills that were sent to the Governor this year.

The CalChamber will publish a record of legislators' votes on key bills affect-

ing the California business climate on November 1. Generally, the bills selected for the vote record have appeared in one of the status reports.

Bills signed by the Governor will become law on January 1, 2020 unless

otherwise stated. Urgency, tax and budget-related measures go into effect immediately upon being signed, so the date the bill was signed is noted.

### Subject—CalChamber Position

Status

### Agriculture, Food and Resources

<b>Endangered Species Exemption.</b> SB 62 (Dodd; D-Napa) Saves agricultural operations time and resources by extending the safe harbor provision to 2024 for accidental take of an endangered species during lawful routine and ongoing agricultural activities. Support.	Signed—Chapter 137
<b>Agriculture Economy.</b> AB 417 (Arambula; D-Fresno) Helps agriculture and rural economies target investments, attract and retain businesses, and gather information on various local assets that will lead to improved economic conditions. Support.	Vetoed
<b>Migratory Birds.</b> AB 454 (Kalra; D-San Jose) Before amendments, restricted land use by imposing new requirements on the taking of birds that are not endangered. Opposition removed due to May 16, 2019 amendments. Neutral.	Signed—Chapter 349
<b>Farmworker Housing.</b> AB 1783 (Robert Rivas; D-Hollister) Imposes a more rigorous process on the development of farmworker housing than all other types of affordable housing development by restricting the location of such housing and who can manage the housing. Oppose.	Signed—Chapter 866

### Air Quality

<b>Targeted Mandate that Will Increase Transportation Costs.</b> SB 44 (Skinner; D-Berkeley) Before amend- ments, severely impacted transportation costs by directing CARB to develop a strategy to reduce all motor vehicle emissions by 40% by 2030 and 80% by 2050 by disproportionally targeting diesel medium- and heavy-duty trucks. Threatened jobs by requiring an immediate strategy for reduction of diesel vehicles without sufficient alternate technology. Opposition and job killer tag removed due to May 1, 2019 amend- ments that require CARB to first consult with the Department of Transportation, the State Energy Resources Conservation and Development Commission, and GO-Biz to develop recommended goals and be consistent with the state's Sustainable Freight Plan. It also requires CARB to identify advantages to fleets for early adop- tion. These amendments better align meeting California's ambitious climate goals with ensuring the state's continued economic vitality. CalChamber now supports the bill. Support/Former Job Killer 2019.	Signed—Chapter 297
<b>Creates Regulatory Burdens.</b> AB 423 (Gloria; D-San Diego) Before amendments, proposed to unnecessar- ily increase the authority of a local air district to collect additional data, required additional monitoring, and required additional reporting from businesses, much of which is duplicative of existing authority, resulting in increased costs. Opposition removed due to August 30, 2019 amendments. No Position.	Signed—Chapter 744



Status

### Banking and Finance

<b>Significant Risk to Taxpayer Dollars and Community Investment.</b> AB 857 (Chiu; D-San Francisco) Before amendments, jeopardized taxpayer dollars, community banks, and funding for small businesses that create jobs in local communities, by allowing the creation of local public banks which will impose significant costs and risks to taxpayer revenue for operations and capital, as well as unfairly compete with local community banks. Job killer tag removed due to recent amendments but CalChamber still opposes as public banks	Signed—Chapter 442
nity banks. Job killer tag removed due to recent amendments but CalChamber still opposes as public banks would compete with existing commercial banks. Oppose/Former Job Killer 2019.	

### California Environmental Quality Act (CEQA)

<b>CEQA Exemption for Fire Prevention.</b> SB 632 (Galgiani; D-Stockton) Temporarily exempts from CEQA any fire prevention vegetation treatment activities conducted pursuant to the Board of Forestry and Fire Protection Programmatic Environmental Impact Report. Support.	Signed—Chapter 411
<b>Expedites CEQA Process to Rebuild Housing.</b> AB 430 (Gallagher; R-Nicolaus) Establishes a streamlined, ministerial approval process for certain housing developments that will be constructed in specified counties if certain criteria are met. Support.	Signed—Chapter 745
<b>CEQA Exemption for Fire Safety.</b> AB 394 (Obernolte; R-Big Bear Lake) Temporarily exempts projects or activities from CEQA recommended by the State Board of Forestry and Fire Protection that provide critical fire safety egresses for existing residential subdivisions. Support.	Vetoed

# Climate Change

<b>Encourages Technological Innovation.</b> AB 1195 (O'Donnell; D-Long Beach) Allows 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. Support/ <b>Job Creator 2019</b> .	Vetoed
<b>Improves Transparency.</b> AB 1237 (Aguiar-Curry; D-Winters) Provides additional transparency by requiring agencies receiving greenhouse gas funds to post recipients online in an easy-to-access format. Support.	Signed—Chapter 357
<b>Waives Transparency Requirements.</b> SB 85 (Committee on Budget and Fiscal Review) Contains trailer bill language that waives, without adequate justification, open meeting laws for advisory committee on cap and trade, which can result in a lack of public input and decisions being made in secret without adequate peer and public review. Oppose.	Signed 6/27/19— Chapter 31

### Crime



Status

### Economic Development/Local Government

Creation of Onerous and Unnecessary Requirements for Economic Subsidies for Warehouse	Signed—Chapter 803
Distribution Centers. AB 485 (Medina; D-Riverside) Before amendments, forced businesses to reveal	
proprietary information and imposed onerous requirements on local governments that would delay or thwart	
economic development projects that are crucial to local economies, particularly in economically distressed	
areas. Opposition removed due to June 17, 2019 amendments, which narrowed the requirements of this bill.	
No Position.	

### Education

<b>Career Technical Education.</b> AB 1303 (O'Donnell; D-Long Beach) Before amendments, increased fund- ing 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. As amended June 24, 2019 to deal with school facilities, CalChamber has no position. No Position/Former Job Creator 2019.	Signed—Chapter 541
<b>Workforce Coordination.</b> AB 23 (Burke; D-Inglewood) Establishes the Business Workforce Coordination Unit, which will help provide California with a workforce that is employment-ready and trained in industry sectors that have the greatest workforce needs. Support/Job Creator 2019.	Vetoed
<b>Education Accountability.</b> AB 1240 (Weber; D-San Diego) Encourages schools to prioritize both career and college preparation for students, which will help reduce dropout rates, increase graduation rates, and better prepare students for the workforce. Support.	Signed—Chapter 783

### **Elections and Fair Political Practices**

<b>Prohibits Compensation on a Per Signature Basis.</b> AB 1451 (Low; D-Campbell) Makes it a misdemeanor for a person to pay for signature collection on a per-signature basis for state or local initiatives, referendums or recall petitions. The current process serves as a check and balance on government. By making it harder to qualify ballot measures, Californians would be denied the right to address grievances with government through initiatives, referendums and recalls. Oppose.	Vetoed
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### Energy

<b>Promotes Transparency.</b> AB 1083 (Burke; D-Inglewood) Increases transparency and guides development of energy policy by having the California Council on Science and Technology review and provide analysis on pending legislation, thereby disclosing impacts to ratepayers. Support.	Signed—Chapter 818
<b>Significant Rate Increase.</b> SB 70 (Nielsen; R-Tehama) Before amendments, threatened significant increases in energy rates by requiring that most utility lines be buried underground. Conflicts with other laws mandating flexibility in climate adaptation and designed to maximize prevention in the most cost-effective manner. Opposition removed due to April 30, 2019 amendments. Neutral.	Signed—Chapter 400



Status

# **Environmental Regulation**

<b>Negatively Impacts Water Management and Increases Litigation.</b> SB 1 (Atkins; D-San Diego) Undermines current state efforts to move forward with Voluntary Agreements through a rigid approach to water management that fails to appreciate science-based decision-making to manage and provide reliable water supplies for California and protect, restore, and enhance the ecosystems of the Bay-Delta and its tributaries. It further increases the potential for costly litigation by forcing a federal agency to operate the Central Valley Project subject to the California Endangered Species Act when that state law is preempted by the federal Endangered Species Act. It further creates significant regulatory uncertainty and litigation risks to regulated entities by giving certain state agencies authority to adopt rules and regulations without any of the Administrative Procedure Act safeguards when the agency, in its discretion, determines that the federal rules and regulations in effect on January 19, 2017 are "less protective" than existing federal law. Oppose/Job Killer 2019.	Vetoed
<b>Promotes Foreign Oil Imports.</b> AB 1440 (Levine; D-San Rafael) Before amendments, discouraged in-state production of oil and gas in favor of even more foreign oil imports by eliminating the duty of the California Division of Oil, Gas, and Geothermal Resources to develop oil and gas wisely in California. Opposition removed due to May 29, 2019 amendments. No Position.	Vetoed
Hazardous Materials Business Plans Submittals. AB 1429 (Chen; R-Yorba Linda) Allows hazardous waste facilities that are not required to submit tier II information, to submit Hazardous Materials Business Plans one time every three years unless those facilities exceed federal reporting thresholds, in which case, annual reporting would be mandatory. Support.	Signed—Chapter 66
Acute Toxicity Study Bill. AB 733 (Quirk; D-Hayward) Provides the California Department of Toxic Substances Control (DTSC) with authority to evaluate whether alternative tests can be used to identify whether substances are hazardous waste or extremely hazardous waste, which is a positive first step toward reducing the number of products that are treated as hazardous waste when disposed of at retail. Support.	Vetoed

### Health

<b>Large Group Rate Review.</b> AB 731 (Kalra; D-San Jose) Threatens employers with higher premiums by driving up administrative costs and imposing a burdensome rate and methodologies review process for health plans and insurers in the large group market. Oppose.	Signed—Chapter 807
<b>Health Benefit Mandate.</b> AB 744 (Aguiar-Curry; D-Winters) Increases health care premiums for employers and enrollees by eliminating the cost savings benefit of telehealth and requiring telehealth services to be reimbursed on the same basis and to the same extent as in-person medical services. Oppose.	Signed—Chapter 867
<b>Increases Health Care Costs.</b> SB 227 (Leyva; D-Chino) Increases health care costs by imposing arbitrary and significant additional fines specifically for hospital violations of nurse-to-patient staffing ratios and staffing assignments that are already reviewed by the Department of Public Health and penalized if violated. Oppose.	Signed—Chapter 843
<b>Increases Health Care Premiums.</b> SB 163 (Portantino; D-La Cañada Flintridge) Increases costs and undermines the ability of health care issuers to promote and manage applied behavorial analysis for children with autism by making a number of changes to how the autism services are provided. Oppose.	Vetoed
<b>Health Care Coverage Mandate.</b> SB 600 (Portantino; D-La Cañada Flintridge) Increases health care premi- ums by mandating coverage for fertility preservation services due to infertility caused by necessary medical treatment. Oppose.	Signed—Chapter 853



### Status

### Housing and Land Use

<b>Statewide Rent Caps.</b> AB 1482 (Chiu; D-San Francisco) Before amendments, placed rent caps on all rental housing in the State of California, including new construction, regardless of whether costs from utilities increase or capital improvements are made, thereby disincentivizing maintenance on existing units and new housing construction. Opposition removed due to September 5, 2019 amendments. No Position.	Signed—Chapter 597
<b>Costly Rental Mandate.</b> SB 329 (Mitchell; D-Los Angeles) Imposes additional and unnecessary costs on rental property owners by prohibiting rental property owners from refusing to accept tenants because they have a Section 8 voucher. Oppose.	Signed—Chapter 600
<b>Streamlines Housing Development.</b> SB 330 (Skinner; D-Berkeley) Incentivizes more housing development by providing fee certainty for housing development projects by prohibiting local jurisdictions from changing fees midway through the development permitting process. Support.	Signed—Chapter 654
<b>Promotes Construction of Accessory Dwelling Units (ADU).</b> SB 13 (Wieckowski; D-Fremont) Encourages more affordable housing by limiting what development impact fees typically charged for new ADUs can be levied and precludes local jurisdictions from adopting overly restrictive local provisions, such as owner-occupant requirements. Support.	Signed—Chapter 653
<b>Photovoltaic Housing Mandate Relief.</b> AB 178 (Dahle; R-Bieber) Allows victims of natural disasters whose homes were damaged or destroyed to rebuild without having to install costly photovoltaic panels that will only raise the already-heavy cost to rebuild. Support.	Signed—Chapter 259
<b>Requires Disability Access in New Home Construction.</b> SB 280 (Jackson; D-Santa Barbara) Before amend- ments, mandated new building standards requiring disability access design features in all new single-family homes. At a time when California is struggling with a historic housing crisis, legislative mandates calling for the redesign of all single-family homes will only serve to drive up new home costs. Opposition removed due to April 10, 2019 amendments. Neutral.	Signed—Chapter 640
<b>Wildfires: Defensible Space Education.</b> SB 190 (Dodd; D-Napa) Requires the State Fire Marshal to produce educational and application tools that will increase public awareness and implementation of vital fire safety measures that will help California residents maintain adequate defensible space around their structures. Support.	Signed—Chapter 404

# Immigration

<b>New Labor Code Requirement.</b> AB 589 (Gonzalez; D-San Diego) Creates new onerous requirements for employers to provide a worker bill of rights document to all employees, have them sign it, give them a copy of the signed document, keep the original for three years, and post the document. Additionally, creates civil fine and duplicative misdemeanor liability for conduct that is already a felony under California law and prohibited federally. Oppose.	Vetoed
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# Industrial Safety and Health

<b>Usurps Cal/OSHA Prioritization.</b> AB 35 (Kalra; D-San Jose) Requires a workplace investigation by Cal/ OSHA, within three days, whenever the Department of Public Health records an employee's blood lead level at 20 micrograms, a level well below present regulatory standards. Also redirects Cal/OSHA resources by compelling full investigations when such may not be necessary and will undermine existing Cal/OSHA priori- ties. Oppose Unless Amended.	Signed—Chapter 710
ues. Oppose Oness Amended.	



Subject—CalChamber Position	Status
<b>Targeted Employer Training.</b> AB 203 (Salas; D-Bakersfield) Seeks to address a regional safety concern regarding Valley Fever by requiring a targeted training program for employees in industries and occupations that are most at risk. Support.	Signed—Chapter 712
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Insurance
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Insurance Issues Presentations for New Legislators. AB 1591 (Cooley; D-Rancho Cordova) Creates vetoed semi-annual presentations by Insurance Commissioner to legislative committees with jurisdiction over insurance to provide critical information regarding role of National Association of Insurance Commissioners in setting insurance standards. Support.	
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# Labor and Employment

<b>Independent Contractor Status.</b> AB 5 (Gonzalez; D-San Diego) The <i>Dynamex</i> decision should not be a one size fits all and the professions and individuals identified in AB 5 should be exempted from its application; however, additional, similarly situated industries/professions/and independent contractors should also be included in the exemptions. Support If Amended.	Signed—Chapter 296
<b>Unfair Expansion of Penalties Against an Employer for Alleged Wage Violation.</b> AB 673 (Carrillo; D-Los Angeles) Before amendments, unfairly penalized an employer twice for the same Labor Code violation and created a new private right of action, allowing three different avenues of recovery for the same alleged violation while reducing revenue to the State. Opposition and job killer tag removed due to May 24, 2019 amendments. No Position/Former Job Killer 2019.	Signed—Chapter 716
<b>Expansion of Job-Protected Leave.</b> AB 1478 (Carrillo; D-Los Angeles) Significantly amends current law regarding job-protected leave for jury duty, victims of a crime, domestic violence, sexual assault or stalking by creating a new private right of action for potential employer violations. Oppose.	Vetoed
<b>Extension of Statute of Limitations.</b> AB 9 (Reyes; D-San Bernardino) Unnecessarily extends the statute of limitations from one year to three years for all discrimination, harassment and retaliation claims filed with the Department of Fair Employment and Housing. Oppose.	Signed—Chapter 709
<b>Sexual Harassment Retaliation Requirements.</b> AB 171 (Gonzalez; D-San Diego) Places additional and duplicative, sexual harassment protections in the Labor Code, which are already protected under the Fair Employment and Housing Act (FEHA), exposing employers to additional liability including Private Attorneys General Act (PAGA) claims. Oppose.	Vetoed
<b>Labor Contractor Joint Liability.</b> AB 170 (Gonzalez; D-San Diego) Before amendments, expanded joint liability for labor contractors to all employment-related harassment claims. There is no basis for holding a business that contracts for services statutorily liable for the harassment of another's employees when there is no way in which that contractor can engage or force a labor contract company to comply with provisions of the Fair Employment and Housing Act or the Labor Code. Opposition removed due to September 10, 2019 amendments. No Position.	Signed—Chapter 415
<b>Lactation Accommodation.</b> SB 142 (Wiener; D-San Francisco) Significantly amends current law regarding lactation accommodations by implementing new location standards, employer policy requirements, document retention and supplementary Labor Code penalties. Oppose.	Signed—Chapter 720
<b>Call Centers.</b> AB 1677 (Weber; D-San Diego) Improperly seeks to penalize California companies who move their call centers out of the country. Oppose.	Vetoed



Subject—CalChamber Position	Status
<b>Imposes New One-Sided Attorney's Fee Recovery.</b> AB 403 (Kalra; D-San Jose) Undermines 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. Oppose.	Vetoed
<b>Prevailing Wage.</b> AB 520 (Kalra; D-San Jose) Codifies a limited definition of the term "de minimis" to determine what level of public subsidy triggers prevailing wage requirements on an otherwise private project, over- turning the established practice of viewing the subsidy in the context of the entire project. Oppose.	Vetoed
<b>Wage and Hour Penalties.</b> SB 688 (Monning; D-Carmel) Before amendments, imposed Labor Code penal- ties for wage violations in addition to the penalties already available under the Private Attorneys General Act (PAGA), and imposed personal liability for even unintentional or minor violations. Opposition removed due to April 25, 2019 amendments. No Position.	Signed—Chapter 723
<b>Janitorial Workers Training Requirements.</b> AB 547 (Gonzalez; D-San Diego) Before amendments, unnecessarily mandated additional registration, enforcement, and training requirements on employers and individuals in the janitorial business. Opposition removed due to September 6, 2019 amendments. No Position.	Signed—Chapter 715
Legal Reform and Protection	
<b>Ban on Arbitration Agreements.</b> AB 51 (Gonzalez; D-San Diego) Significantly expands employment litigation and increases costs for employers and employees by banning arbitration agreements made as a condition of employment, which is likely preempted under the Federal Arbitration Act and will only delay the resolution of claims. Banning such agreements benefits the trial attorneys, not the employer or employee. Governor Brown vetoed a similar measure last year and stated it "plainly violates federal law." Oppose/Job Killer 2019.	Signed—Chapter 711
<b>Local Enforcement of Fair Employment and Housing Act.</b> SB 218 (Bradford; D-Gardena) Creates uncer- tainty, inconsistency, and confusion with regard to the application and interpretation of the Fair Employment and Housing Act by allowing Los Angeles County to create a local agency with enforcement authority. Oppose.	Vetoed
<b>Attack on Arbitration.</b> SB 707 (Wieckowski; D-Fremont) Discourages the use of arbitration by subjecting employers to significant monetary, evidentiary, and criminal sanctions if the company fails to pay any cost or fee associated with arbitration, even if there is a valid fee dispute. Oppose.	Signed—Chapter 870
<b>Ban on No-Rehire Provisions.</b> AB 749 (Mark Stone; D-Scotts Valley) Unnecessarily bans the use of no-re- hire provisions in settlement agreements for all employees, including those who have engaged in unlawful or egregious behavior. Oppose.	Signed—Chapter 808
<b>Small Business Notice.</b> AB 1607 (Boerner Horvath; D-Encinitas) Provides notice to businesses at the time they get their license of the Gender Tax Repeal Act so that they can avoid predatory and costly lawsuits. Sponsor/Co-Sponsor.	Signed—Chapter 293

# Privacy and Cybersecurity

<b>Largely Exempts Employment Data.</b> AB 25 (Chau; D-Monterey Park) Largely exempts employee, job applicant, and contractor data from the California Consumer Privacy Act, which is a necessary fix to prevent huge, additional compliance costs for businesses for something never intended by this law designed for "consumers" and is necessary to prevent negative, unintended consequences. Support.	igned—Chapter 763
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Subject—CalChamber Position	Status
<b>Provides Two Clarifications of CCPA's Definition of "Personal Information.</b> " AB 874 (Irwin; D-Thousand Oaks) Adds reasonableness standard to the CCPA's definition of personal information to avoid requiring businesses to compile consumer data in a way that would be hugely wasteful and harmful to consumer privacy. It also eliminates an unconstitutional limitation on business dissemination of publicly available government records from the definition of personal information. Support.	Signed—Chapter 748
<b>Exempts Business-to-Business Dealings from CCPA.</b> AB 1355 (Chau; D-Monterey Park) In addition to a number of technical fixes, ensures that communications between businesses providing services or products to each other as well as the memorialization of such transactions will be largely exempt from the CCPA. Support.	Signed—Chapter 757
<b>Expansion of the California Consumer Privacy Act's (CCPA) Private Right of Action.</b> AB 1130 (Levine; D-San Rafael) Expands the CCPA's onerous private right of action, which requires no proof of injury. Oppose Unless Amended.	Signed—Chapter 750
<b>Removes Burdensome Requirement for Some Businesses.</b> AB 1564 (Berman; D-Palo Alto) For businesses that operate only online, this bill removes the CCPA requirement to provide a 1-800 number for consumers to exercise their CCPA rights, which is burdensome and in many circumstances is not a safe way to verify a consumer's identity. Support.	Signed—Chapter 759
<b>Protects Consumer Access to Vehicle Safety Information.</b> AB 1146 (Berman; D-Palo Alto) Reasonable fix to the California Consumer Privacy Act (CCPA) to ensure consumers exercising their rights to sale and deletion of data under the CCPA do not find themselves unable to receive information regarding necessary vehicle repairs relating to warranty work or a safety recall. Support.	Signed—Chapter 751
<b>Creation of Onerous and Unnecessary Burdens for Online Marketplaces.</b> AB 1790 (Wicks; D-Oakland) Before amendments, weakened protections against counterfeits and fraud on online marketplaces and required online marketplaces to impose and enforce an insurance mandate on all sellers, including small or occasional sellers, which is burdensome and unrealistic. Opposition removed due to September 6, 2019 amendments. Neutral.	Signed—Chapter 635

# Recycling

<b>Unattainable Recycling Content Mandate.</b> AB 792 (Ting; D-San Francisco) Before amendments, required manufacturers of plastic beverage containers sold in California to meet an impossible 75% recycling content requirement by 2030 or pay fines. The amount of available rPET in the marketplace does not support any percentage requirement for recycled content in plastic containers above 25%. Opposition removed due to September 10, 2019 amendments. No Position.	Vetoed
<b>Raises Costs for Carpet Manufacturing.</b> AB 729 (Chu; D-San Jose) Harms the Carpet America Recovery Effort (CARE) Program, which has seen a 29% improvement in carpet recycling, by replacing the current carpet stewardship 35-cent assessment per cubic yard of carpet with a complicated, difficult-to-calculate and potentially costly differential assessment, thereby directly contradicting the process that CalRecycle approved in February 2019 and raising the cost of manufacturing new carpet in California. Oppose.	Signed—Chapter 680

# **Regulatory Reform**

License Relief for Disaster Victims. SB 601 (Morrell; R-Rancho Cucamonga) Allows state agencies that	Signed—Chapter 854
issue business licenses to establish a procedure to reduce licensing fees for businesses affected by emergencies	
to help California businesses rebuild after disasters. Support/Job Creator 2019.	



### Status

# Taxation

<b>Unnecessary Commission to Study Tax Expenditures.</b> SB 468 (Jackson; D-Santa Barbara) Before amend- ments, repealed several of California's most popular and most important tax exemptions and expenditures, which would raise taxes by \$20 billion. Job killer status removed due to May 7, 2019 amendments that elimi- nate the automatic repeal of these tax exemptions. CalChamber remains Oppose Unless Amended because bill will create an unnecessary commission to study tax expenditures that will cause uncertainty for businesses. Oppose Unless Amended/Former Job Killer 2019.	Vetoed
<b>Disaster Relief to Homeowners and Businesses Seeking to Rebuild.</b> AB 885 (Irwin; D-Thousand Oaks) Provides greatly needed assistance to victims of natural disasters who choose to reconstruct destroyed homes and business structures on the original site of the disaster, by exempting this reconstruction from being assessed at a higher tax rate. Support.	Vetoed

### Telecommunications

<b>Creates Patchwork of State Laws and Enforcement to Address Illegal Robocalls.</b> SB 208 (Hueso; D-San Diego) Unnecessarily regulates carriers' efforts to combat illegal robocalls in California even though the industry is already working hard with the Federal Communications Commission to solve the problem of robocalls, and adding a layer of CPUC regulation will complicate efforts to stop illegal robocalls by creating a patchwork of state laws. Oppose.	Signed—Chapter 471
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### Transportation and Infrastructure

### Water Supply and Quality

<b>Barrier to Water Supply.</b> SB 307 (Roth; D-Riverside) Prohibits new projects in a specific part of the state by adding more unnecessary and unreasonable permit requirements for water conveyance, preventing development of the new much-needed water supplies. Oppose.	Signed—Chapter 169
ment of the new much-needed water supplies. Oppose.	



### CalChamber Files Lawsuit to End Prop. 65 Warnings for Acrylamide

#### From Page 1

prove in court, with scientific evidence, that the level poses no significant risk of cancer. Many businesses have chosen to forgo the expense and uncertainty of litigation and settled with private enforcers while providing warnings for acrylamide.

The CalChamber's complaint argues that these warnings are misleading because "neither OEHHA [California Office of Environmental Health Hazard Assessment] nor any other governmental entity has determined that acrylamide is a known human carcinogen...."

The lawsuit has two goals: to protect companies' First Amendment rights while also protecting the rights of consumers to receive truthful information.

The CalChamber argues that companies should not be forced to provide unsubstantiated and highly controversial acrylamide warnings or face potentially costly enforcement actions initiated by the Attorney General or private enforcers.

Moreover, the CalChamber argues, by mandating warnings for acrylamide in food, Proposition 65 is forcing individuals and businesses to say something false and misleading.

#### Acrylamide

Acrylamide is not a chemical that is added intentionally to food products. Rather, it forms naturally in many types of foods when they are cooked at high temperatures, whether at home, in a restaurant or in a factory. Common sources of acrylamide in the diet (and subjects of Proposition 65 litigation) include baked goods, breakfast cereal, black ripe olives, coffee, grilled asparagus, French fries, peanut butter, potato chips, and roasted nuts.

Acrylamide has been present in food as long as humans have cooked food, but was discovered to be present in food only in 2002.

A copy of the CalChamber's complaint can be found at *www. calchamber.com/prop65*. Staff Contact: Adam Regele

### CalChamber-Sponsored Seminars/Trade Shows

#### From Page 3

- Exporting Mechanics Webinar Series II: Duty Drawback and Refunds. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. November 12, Webinar. (202) 466-0222.
- Exporting Mechanics Webinar Series II: ECCN Classification Numbers. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. December 10, Webinar. (202) 466-0222.
- Exporting Mechanics Webinar Series II: Commodity Jurisidiction. National

Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. January 14, 2020, Webinar. (202) 466-0222.

- Exporting Mechanics Webinar Series II: Drop Shipments and Routed Transactions. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. February 18, 2020, Webinar. (202) 466-0222.
- Exporting Mechanics Webinar Series II: Cultural Sensitivity Program. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. March 10,

2020, Webinar. (202) 466-0222. 2nd Medical Device Research & Development Summit. March 23–24, 2020. Tel Aviv, Israel. +972-3-5626090, ext. 3.

### CalChamber Calendar

Water Committee: December 5, San Francisco Board of Directors: December 5–6, San Francisco International Trade Breakfast: December 6, San Francisco Annual Meeting: December 6, San Francisco

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# CalChamber, Business Leaders Join Lt. Governor in Trade Delegation to Mexico

Lieutenant Governor Eleni Kounalakis led a California government and business delegation from October 1–4 to Mexico City to collaborate and sign new agreements with Mexico on a number of key issues, including renewable energy, sustainable agriculture, clean technology, trade and commerce.

The mission was the first international delegation of the Newsom administration. Participants included about 20 state agency representatives and 20 private sector leaders, including two members of the California Chamber of Commerce Board of Directors— Stuart Woolf of Woolf Farming and Processing, and Jennifer Haley of Kern Oil & Refining Co.

The Governor's Office of Business and Economic Development (GO-Biz) helped organize and lead the mission. A special thanks to IEnova, Sempra Energy, University of California, Visit California, Wine Institute and the California Chamber of Commerce.

#### Welcome Reception

At the welcome reception on the first day of the conference, Christopher Landau, U.S. Ambassador to Mexico, spoke positively about the bilateral relationship between the U.S. and Mexico. Landau was accompanied by Minister Counsellors, who gave overviews of their issue areas.

Lt. Governor Kounalakis greeted the California delegation, and Susanne Stirling, CalChamber vice president of international affairs, also welcomed the group on the organization's behalf.

#### UC Casa California Conference

The second day, a conference entitled "México and California: Building Environmental Resilience Together," took place at La Casa de la Universidad de California en México (Casa California), the intersection of the free exchange of ideas between the UC and Mexico. Here, the Lt. Governor announced that California has created a Trade and Services Desk to promote two-way trade between the state and Mexico.

Stefano Bertozzi, director of the UC Mexico programs and dean emeritus of the School of Public Health at UC Berkeley, moderated the Plenary Panel entitled "Achieving Environmental Goals in an Unpredictable Climate." The session featured: Kate Gordon, director of the Governor's Office of Planning and Research; Marina Robles, secretary of the environment for Mexico City;



Jorge Torres (center), president of AmCham Mexico and president of FedEx Mexico, with Paola Avila, vice president, San Diego Chamber of Commerce (left), and Susanne Stirling, CalChamber vice president, international affairs.

Andrew McAllister, commissioner of the California Energy Commission; and Antonio del Rio, director of the Institute of Renewable Energy in Mexico.

After the panel, Mexico City and the California Energy Commission signed an agreement on energy and environmental policies. The memorandum of understanding (MOU) includes provisions that outline energy efficiency standards, environmental policy development and the optimization of the electric power grid.

Afterwards, the members of the California delegation chose to attend one of four sessions: "Achieving a Sustainable Clean Energy Future for Mexico and California," "Developing Common Adaptation Strategies to Climate Change," "Agriculture and Water: Linking Productivity Improvements and Environmental Outcomes in California and Mexico" or "Impact of Climate Change on Migration, Health and Labor."

To cap off the second day, Lt. Governor Kounalakis and Sergio Alcocer, Mexico's former undersecretary of North America and COMEXI Board member, conversed about a variety of issues, including immigration, climate change, cannabis and women in government.

#### **Business-Related Meetings**

On the third day, the delegation heard remarks from Francisco Bega, the outgoing Governor of Baja, on the increase in border crossings and economic development. Delegation members then departed to Mexico's Ministry of Foreign Affairs to

meet with Ambassador Mario Chacon, who discussed the 52 free trade agreements of which Mexico is a part and expressed support for the United States-Mexico-Canada Agreement (USMCA).

During the luncheon for the delegation, a group of California companies working in Mexico discussed the best practices for conducting business in the country. Afterwards, the Consejo Coordinador Empresarial (CCE), the Business Coordinating Council, talked about business prospects between California and Mexican companies.

More than 200 people, including Mexican officials and dignitar-

ies, business partners, UC alumni and CalChamber members, attended an evening gala in Casa California, the capstone of the days-long event.

#### **Final Meetings**

The delegation was greeted by Graciela Márquez Colín, secretary of the economy, at Mexico's Ministry of Economy on the last day of the trip.

A second MOU was signed that will expand California-Mexico relations in trade, environmental policy, energy, and investment. With a focus on cross-border agricultural efforts, the MOU includes provisions that will create more robust economic cooperation between Mexico and California in increasing renewable energy, clean technologies, workforce development and the digital economy.

A visit to the Ministry of Agriculture to meet with Mexico Agricultural Secretary Victor Villalobos Arambula concluded with the signing of a third MOU focused on cross-border agricultural efforts.

Stirling wrote a more in-depth, day-byday account of the trade mission. To read this series of blog posts, see the 2019 Mexico Trade Mission in the dropdown menu at *www.calchamber.com/international*. Staff Contact: Susanne Stirling



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