

ALERT

Governor: State Can Begin to Modify Stay Home Orders *Some 'Lower-Risk' Businesses OK to Reopen*



Governor Gavin Newsom this week released guidelines under which a limited number of “lower-risk” industries can prepare to reopen.

Emphasizing that data shows that Californians’ adherence to stay-at-home orders since the middle of March has stabilized the number of COVID-19 hospitalizations and patients in intensive care units, the Governor said the state can start moving to the next stage of gradually reopening.

Last week, following up on his April 14 announcement of [six key indicators](#) for deciding when to modify the stay-at-home order, the Governor outlined four “[Resilience Roadmap Stages](#)” for the process of reopening the economy.

Four Resilience Stages

As identified in the [presentation](#) by State Public Health Officer Dr. Sonia Angell on April 28, the four stages are:

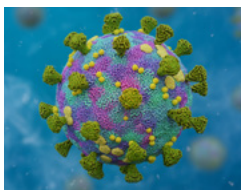
- **Stage 1: Safety and Preparedness.** Making sure the state is prepared to care for the sick within hospitals, has sufficient testing capacity, contact tracing capability, adequate inventory of personal protective equipment, is making essential workplaces as safe as possible, and has prepared sector-by-sector safety guidelines for an expanded workforce.

The [report card](#) released May 4 summarized the state’s progress in these areas.

- **Stage 2: Lower-Risk Workplaces.** Gradually opening some workplaces—such as some retail, manufacturing and logistics businesses—with modifica-

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Governor’s Workers’ Compensation Order: Presume COVID-19 Illness Arises from the Job



Governor Gavin Newsom this week signed an executive order establishing a rebuttable presumption

that any COVID-19 related illness of an employee who worked outside the home, not just those who are essential workers, was the result of employment for workers’ compensation purposes if certain requirements are met.

The presumption dates back to March 19, 2020 and will continue for 60 days from the date of the order (May 6, 2020).

In announcing his signing of the executive order at his May 6 COVID-19 briefing, the Governor said that as the state moves into the next phase of recovery from the COVID-19 crisis, he wanted people to be confident that benefits would be available to them after other benefits are exhausted.

The concern is that the order covers any employee working outside the home. As the economy begins to open up, more workers will be working outside the home, thereby increasing the number of employees to whom this order applies. Notably, as the economy reopens, it also

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The Workplace Tips for Reopening Your Workplace



In [Episode 69](#) of The Workplace podcast, CalChamber Executive Vice President and General Counsel Erika Frank, and

employment law expert Jennifer Shaw offer tips and insights on how employers can prepare to bring teleworkers back into the office once COVID-19 stay-at-home orders are lifted.

Set Expectations for Returning to Work

Some employees who are working remotely due to the COVID-19 pandemic may assume that since they have been performing their duties from home to the satisfaction of their employer, they may continue to work from home once the office reopens and may ask if they can continue to telework, Frank says.

Employers are not legally required to allow employees to telework unless there is an accommodation issue, Shaw explains. And even if there is an accommodation request, some essential job duties cannot be performed from home, and thus the request may sometimes be denied.

The COVID-19 crisis, however, has complicated the “essential job duties” reasoning since workers who have not traditionally been afforded the ability to work from home are now doing so. Due

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Labor Law Corner

COVID-19 and Form I-9 Requirements



Sunny Lee
HR Adviser

Our offices are closed due to COVID-19 and the shelter-in-place order. We hired an employee who will be working at home remotely until we are able to open the office back up again. How do we physically examine documents to complete the Form I-9?

The Department of Homeland Security (DHS) provided much-needed guidance on the issue of employees hired and working remotely in a [March 20, 2020](#) announcement related to COVID-19 and the national emergency.

Deferral of Examination

Due to COVID-19, the employer's physical examination of original documents in the presence of a new hire who will be working remotely at home has been deferred for 60 days or three days after the termination of the national emergency, whichever occurs first.

While the employee and the employer still must complete the Form I-9 within three business days of hire, the employee may submit documents to the employer that verify identity and work authorization remotely via a video link, fax or email.

If the employer is using this method when completing Section 2 of the Form I-9, the employer should insert "COVID-19" as the reason for the physical inspection delay in the additional information space and retain copies of the documents submitted.

When Normalcy Resumes

Once normal operations resume, all employees who used remote verification must within three business days provide original documents for inspection to the employer. The employer must then examine the original documents in the employee's presence and complete Section 3 of the Form I-9 by adding "documents physically examined" and the date in the additional information space.

These provisions apply only to employees who are operating remotely due to COVID-19. If employees are physically present at a work site, these provisions would not apply.

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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More at www.calchamber.com/events.

Labor Law

HR Boot Camp. CalChamber. June 12, Walnut Creek; August 21, Pasadena; September 10, Sacramento. (800) 331-8877.

What Businesses Need to Know About the California Consumer Privacy Act. CalChamber. June 18, Webinar. (800) 331-8877.

Leaves of Absence: Making Sense of It All. CalChamber. June 26, San Diego; August 13, Oakland. (800) 331-8877.

California Leaves for Expecting Employees. CalChamber. September 17, Webinar. (800) 331-8877.

International Trade

The WTO After COVID-19: The View from China. Asia Society Policy Institute. May 12, Webcast. (212) 288-6400.

Business Development Program. Small Business Administration, San Diego District Office. May 12, Webinar. (619) 557-7250.

Complying with the International Traffic

in Arms Regulations (ITAR). International Trade Administration. May 12, Webinar. (800) 872-8723.

How to Use Digital Media to Connect with Your Customers During COVID-19. Spain-U.S. Chamber of Commerce. May 12, Webinar. (212) 967-2170.

Foreign Corrupt Practices Act Online Seminar. Louisiana District Export Council. May 13, Webinar. Email JH.Jackson@trade.gov.

Office of Foreign Assets Control. International Trade Administration. May 14, Webinar. (800) 872-8723.

Upcoming ICT Sector Opportunities in Central America. U.S. Commercial Service. May 14, Webinar. (800) 872-8723.

How to Become a Seller on the Amazon Business Marketplace. Minority Business Development Agency. May 15, Webinar. (202) 482-0101.

CANCELED: 2020 Annual Export Conference. National Association of
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The Workplace

Small Employers and New Emergency Family Leave Act



In Episode 68 of The Workplace podcast, CalChamber Executive Vice President and General Counsel Erika Frank, and employ-

ment law expert Jennifer Shaw discuss the responsibilities small employers have under the Emergency Family Medical Leave Expansion Act (EFMLA), and how the new leave differs from the regular Family Medical Leave Act (FMLA).

EFMLA Applies to Small Employers

Part of the Families First Coronavirus Response Act passed in response to the COVID-19 pandemic crisis, the Emergency Family Medical Leave Expansion Act (EFMLA) provides paid protected leave to employees who cannot

work due to having to care for a child who cannot attend school or daycare due to reasons related to COVID-19.

Although they share similar names, the EFMLA and FMLA (Family Medical Leave Act) differ in a number of significant ways. Shaw explains that:

1. Unlike the regular FMLA, which applies to large employers with 50 or more employees within a 75-mile radius, the EFMLA applies to any employer with 500 or fewer employees. “The big guys are exempt, and the little guys are covered,” Shaw says.

2. Whereas the FMLA is available to workers employed with a company for at least 12 months, with 1,250 hours worked, the EFMLA is available to employees who have been at a company for only 30 days at the time of the leave.

3. Lastly, the EFMLA differs in that it is a paid leave—up to 10 weeks are paid by the employer, and two weeks are unpaid. The employee may choose to use

vacation, sick or accrued time off during the two unpaid weeks.

Employees are to be paid at two-thirds the employee’s regular rate of pay. Shaw adds that calculating the pay may be complicated if the employee receives bonuses, commissions or tips.

Frank recommends that employers refer to the [U.S. Department of Labor \(DOL\) FAQ](#) page to obtain more information on calculating an employee’s “regular rate of pay.” The EFMLA leave also can be taken intermittently.

Staffing Agencies

The EFMLA also applies to companies that employ temporary employees through staffing agencies.

Even if using a staffing agency, a company is still controlling the duties performed by workers and is considered a “joint employer,” Shaw explains.

Governor’s Order Presumes COVID-19 Illness Arises from the Job

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increases the likelihood of contracting the virus in the community, not at work.

CalChamber Statement

In a statement following the Governor’s briefing, the California Chamber of Commerce commented:

“It appears that the Pandemic Unemployment Assistance Program provides federally funded benefits to an existing employee who is experiencing symptoms of coronavirus and cannot go to work. The Executive Order issued today will unnecessarily and significantly drive up costs for California employers through increased workers’ compensation insurance rates at a time when they are struggling to keep Californians employed.”

“It seems that the Governor’s goals can be achieved using federal dollars without placing even more financial strain on California employers. Imposing a legal presumption that any employee who contracts the coronavirus is covered by workers’ compensation benefits shifts the cost of this pandemic to employers.”

Recently, the Workers’ Compensation Insurance Rating Bureau released a

study which found the annual cost of COVID-19 claims on Essential Critical Infrastructure (ECI) workers under a conclusive presumption ranges from \$2.2 billion to \$33.6 billion with an approximate mid-range estimate of \$11.2 billion, or 61% of the annual estimated cost of the total workers’ compensation system before the impact of the pandemic.

“The private sector did not cause this crisis and it should not be the safety net used to pay for this crisis—that is the role of government,” the CalChamber statement concluded.

Executive Order

According to the [executive order](#), all the following conditions must be satisfied for the employee to receive the workers’ compensation benefits:

a) The employee tested positive for or was diagnosed with COVID19 within 14 days after a day that the employee performed labor or services at the employee’s place of employment at the employer’s direction;

b) The day referenced in subparagraph (a) on which the employee performed labor or services at the employee’s place

of employment at the employer’s direction was on or after March 19, 2020;

c) The employee’s place of employment referenced in subparagraphs (a) and (b) was not the employee’s home or residence; and

d) Where subparagraph (a) is satisfied through a diagnosis of COVID-19, the diagnosis was done by a physician who holds a physician and surgeon license issued by the California Medical Board and that diagnosis is confirmed by further testing within 30 days of the date of the diagnosis.

The executive order notes that the presumption that the COVID-19-related illness is job related is disputable but without evidence to the contrary, the Workers’ Compensation Appeals Board is bound to find the illness is caused by work.

Benefits available under the state workers’ compensation system for eligible claims include full hospital, surgical, medical treatment, disability indemnity, and death benefits.

See related story on the Pandemic Unemployment Assistance Program on [page 4](#).

Pandemic Unemployment Assistance Program Provides Benefits to Employees Who Have Symptoms or Are Ill with the Coronavirus



As a part of his roadmap to reopening the economy, California Governor Gavin Newsom recently raised

the issue of a wage replacement mandate on businesses for employees who are sick with COVID-19 symptoms, to encourage them not to come to work.

As the California Chamber of Commerce has previously stated, the private sector cannot be the safety net for this crisis; that is the role of government. Employers in California are also victims of the pandemic.

Shifting the financial burden of this virus onto the private sector will exacerbate the harm suffered by businesses and could prevent them from reopening and rehiring their workers.

What's more, in this case, the federal government is already paying to compensate workers who have gotten ill from COVID-19.

Pandemic Unemployment

As a part of the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) passed on March 27, 2020, the federal government approved a fund called Pandemic Unemployment

Assistance (PUA). The purpose of this fund was to provide equivalent benefits to individuals not entitled to unemployment insurance, like independent contractors or business owners who have suffered a pandemic-related loss of revenue. But what has not been widely known or reported is that the PUA also provides benefits for *employees* who still have a job yet have been affected by COVID-19.

Specifically, Section 2102 of the CARES Act provides wage replacement benefits to five categories of employees:

- 1) employees who are diagnosed with COVID-19;
- 2) employees who are experiencing symptoms of COVID-19;
- 3) an employee who has a family member who has been diagnosed with COVID-19 and is the caregiver;
- 4) an employee who is the primary caregiver for a child who cannot attend school or a childcare provider because of COVID-19; or
- 5) an employee who cannot get to the physical location of work because of a quarantine imposed due to COVID-19.

Benefit Amounts

If an employee satisfies any of these criteria, the PUA provides 39 weeks of benefits, equivalent to what an employee would receive if she or he did not have

a job and was receiving unemployment insurance benefits.

In California, the weekly maximum benefit for unemployment insurance is \$450, which the federal government has enhanced with a weekly benefit of \$600. Therefore, in California, an individual may receive a maximum of \$1,050 per week. (The additional weekly \$600 will expire on July 25, 2020 unless the federal government extends this funding.)

The California Employment Development Department (EDD), which is the agency that administers both unemployment insurance benefits as well as benefits under the PUA, has not yet publicized this opportunity for employees to receive these benefits offered and funded by the federal government.

As the Governor seeks to reopen the California economy in the coming weeks, it is important to ensure both employers and employees are aware of these benefits funded and provided by the federal government so that employees who are sick or need to provide care to family members do not come to work and can access wage replacement benefits.

This article originally appeared as a Capitol Insider blog post.

Staff Contact: Jennifer Barrera

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tions to lower the risk of COVID-19 transmission.

• Stage 3 Higher-Risk Workplaces.

The higher-risk environments identified included gatherings at personal care places (hair/nail salons and gyms); entertainment venues (movie theaters, sports without live audiences); and in-person religious services (churches, weddings).

• Stage 4: End of Stay-at-Home

Order. Marked by reopening of highest-risk workplaces "with all indicators satisfied once therapeutics have been developed" and including concerts, convention centers and live audience sports.

Guidelines

The Governor on Thursday released [guidelines for reopening](#) lower-risk

workplaces, advising retailers to increase pick up and delivery, encourage physical distancing and install hands-free devices; manufacturers to close breakrooms, create outdoor break areas and physically distanced seating; and warehouse delivery services to carry sanitation materials during deliveries and use personal protective equipment for each stop.

Reopening later in the current stage will be offices that haven't been able to telework, seated dining at restaurants, shopping malls, and outdoor museums.

At each stage of the reopening, the businesses and industries involved are being asked to make sure they meet the safety and preparedness milestones outlined in Stage 1.

Counties that want to go further than the state orders will be asked to self-certify that they are meeting the safety and

preparedness guidance in Stage 1. Further guidance for regional variations will be provided on Tuesday, May 12.

Web Resources

The state's one-stop website at [covid19.ca.gov](https://www.covid19.ca.gov) includes links to the latest data on total cases in California, total deaths and number of persons tested, as well as hospital data, county maps and cases by county. Just added this week is a section allowing visitors to search for a testing site by zip code. The resilience guidelines are available at [covid19.ca.gov/roadmap/](https://www.covid19.ca.gov/roadmap/).

The California Chamber of Commerce webpage at www.calchamber.com/coronavirus includes links to COVID-19-related federal, state and local resources, plus CalChamber podcasts and other guidance.

State-Mandated Cyber Insurance Bill Fails Passage



OPPOSE

Legislation **opposed** by the California Chamber of Commerce as an overbroad state mandate requiring contractors with state agencies to obtain cyber insurance

failed to pass the Assembly Privacy and Consumer Protection Committee this week.

The 11-member committee, chaired by Assemblymember Ed Chau (D-Monterey Park), failed to approve **AB 2320 (Chau; D-Monterey Park)** on May 5.

In testimony to the committee, CalChamber Policy Advocate Shoeb Mohammed argued that the bill “raise[s] concerns, particularly for small businesses,” and detailed ambiguities with the language of the bill which could lead to duplicative insurance coverage, unreasonable coverage limits, and liability for losses that are not the result of a contractor’s breach of an agreement with a state agency.

Overall Lack of Clarity

CalChamber opposed AB 2320 because it is unclear. The bill did not clarify whether businesses with existing coverage are required to obtain duplicative cyber insurance policies, and it does not specify whether duplicative insurance is a requirement.

Additionally, the bill’s requirement that contractors purchase cyber insurance should be tied to whether the contract

itself involves receiving personal information, but the language of the bill does not address this.

Moreover, there is a lack of clarity as to whether the bill intends to be prospective only, or whether it has retroactive applicability.

Overbroad Insurance Requirements

CalChamber further opposed the bill because it would require a contractor to carry “cyber insurance sufficient to cover *all* losses resulting from *potential* unlawful access to or disclosure of personal information” (emphasis added).

This language is problematic because the term “all” losses could include losses that are not the result of the contractor’s breach of the agreement, and the term “potential” unlawful access or disclosure is not tailored by any measurable harm.

These concerns were also shared by Assemblymember Jay Obernolte (R-Big Bear Lake), who asked the author to respond to CalChamber’s comments relating to this broad language during the committee hearing.

Amount of Cyber Insurance Coverage Not Linked to Contract

CalChamber additionally opposed AB 2320 because it provided no guardrails to ensure that the value of any mandatory cyber insurance coverage is mathematically or logically linked to the value of the data, the amount of data, the value of the contract, or any other relevant metric.

As it relates to the amount of cyber insurance coverage, the bill says that it shall be “in an amount determined by the contracting agency” but provides no safeguards to ensure that the amount of coverage required by state agencies must be calculated in a logical and relevant manner.

Although CalChamber agrees with efforts to increase data protection and cyber security for people across the state, mandatory insurance requirements are most appropriately addressed during the request for proposal process. This is partly because state mandates drive up the barriers of entry for businesses that want to compete for these types of contracts, thus eliminating the number of businesses who can compete and therefore eliminating competition. Consequently, this also harms state agencies by driving up costs for these contracts, ultimately increasing costs for taxpayers.

Key Vote

AB 2320 fell short of votes needed to pass Assembly Privacy and Consumer Protection on May 5, 5-3:

Ayes: Chau (D-Monterey Park), Carrillo (D-Los Angeles), Medina (D-Riverside), Mullin (D-South San Francisco), Wicks (D-Oakland).

Noes: Kiley (R-Roseville), Gallagher (R-Yuba City), Obernolte (R-Big Bear Lake).

Not voting: Bauer-Kahan (D-Orinda), Berman (D-Palo Alto), Irwin (D-Thousand Oaks).

Staff Contact: Shoeb Mohammed

CalChamber-Sponsored Seminars/Trade Shows

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District Export Councils. May 19–20, Alexandria, Virginia. (407) 255-9824.
 Defense and Security Opportunities in Mexico. U.S. Commercial Service. May 19, Webinar. (800) 872-8723.
 Developing a Corporate Export Management and Compliance Program (EMCP). International Trade Administration. May 19, Webinar. (800) 872-8723.
 Complying with U.S. Export Controls. Women in International Trade Orange County. May 19–22, Webinar. (949) 445-0618.
 Infrastructure Projects in Argentina,

Uruguay, and Paraguay. U.S. Commercial Service. May 20, Webinar. (800) 872-8723.
 Overview of Fintech Law and the Mexican Road Toward Open Banking. U.S. Commercial Service. May 20, Webinar. (800) 872-8723.
 CANCELED: World Trade Day. Northern California World Trade Center. May 21, Sacramento. (916) 447-9827.
 Export Controls at Trade Shows. International Trade Administration. May 21, Webinar. (800) 872-8723.
 Alcantara Launch Center Business Opportunities in Brazil. U.S. Commercial Service. May 22, Webinar. (800)

872-8723.
 Infrastructure Sector Business Opportunities in Peru. U.S. Commercial Service. May 26, Webinar. (800) 872-8723.
 Women’s Global Trade Empowerment Forum. U.S. Commercial Service. May 27–28, Dallas, Texas. (769) 610-1644.
 Deemed Exports. International Trade Administration. May 27, Webinar. (800) 872-8723.
 Opportunities in the Cybersecurity Sector in Argentina, Paraguay, and Uruguay. U.S. Commercial Service. May 27, Webinar. (800) 872-8723.

Varied Responses to Coronavirus Pandemic Affect Trade Between U.S., Canada, Mexico



Trade among the United States, Canada and Mexico is being affected in ways as varied as the responses to the COVID-19 pandemic in the three North American countries and their state or provincial jurisdictions.

Canada

The U.S.-Canadian border closed for the first time on March 21. The mutual closure date has been extended until May 21. The border is open only for essential goods and travel. There have not been significant issues and supply chains are working with good cooperation.

In a recent webinar hosted by the Northern World Trade Center, Canadian Consul General Rana Sarkar gave an overview of Canada's response to COVID-19.

Canada has a population of 38 million with 50,000 cases and a relatively low death rate. Provinces are in charge of related operations. A national program allows for individual income of \$2,000 for four months with 8 million applicants. There also have been wage subsidies, bridge loans and targeted programs for students, seniors and small businesses.

Sean Crawford of Crane Worldwide Logistics indicated Canadian cross-border volumes are down, but positive news is prices are stable and fluid. Customs are doing excellent work. Ports remain fluid and Canadian Rail is functioning too—with some limited obstacles. Air Canada is still operating; however, only the three cities of Vancouver, Ontario and Toronto are operating for international air cargo.

Mexico

Minister Gerardo Lamedea Díaz Pérez of the Trade Office from Mexico's

Ministry of the Economy said the main priority is to protect the people of Mexico, but also to protect the economy. There is no specific time frame, but Mexico would like to avoid disruption.

Non-Essential vs. Essential Businesses

In Mexico, there has been a shutdown on non-essential trade which has been extended until May 30. During the webinar, Monica Lupo, director of Grupo Prodonsa, emphasized two pending issues with Mexico. One is the shutdown started later in Mexico, so North America is on different timetables. In addition, there is a misalignment of sectors.

Mexico's strict shelter-in-place order shutdown of almost all manufacturing in the country means potential significant production interruptions.

The problem for businesses on both sides of the border is that the United States and Mexico don't agree on the
See Varied Responses: Page 7

CalSavers Extends Large Employer Registration Deadline



The COVID-19 pandemic continues to rapidly change California's regulatory landscape. To help employers through these uncertain times, the California Secure Choice Retirement Savings Investment Board has **extended the current deadline** from June 30, 2020, to September 30, 2020, for employers with more than 100 employees to register with the CalSavers program.

As **previously reported**, eligible employers had to register by a certain date, which was determined by how many employees they had. The emergency regulations don't extend the other two deadlines:

- Employers with more than 50 employees must register by June 30, 2021; and
- Employers with five or more employees must register by June 30, 2022.

Retirement Savings Program

Enacted in 2016, the CalSavers

program is a retirement savings program for private-sector workers whose employers don't offer a retirement program. CalSavers requires private-sector employers to register with the program that:

- Have five or more employees; and
- Don't maintain or contribute to a "tax-qualified retirement plan," which is a plan that qualifies for favorable income tax treatment under Internal Revenue Code Sections 401(a), 401(k), 403(a), 403(b), 408(k) or 408(p) (payroll deduction IRA programs that don't provide for automatic enrollment don't qualify).

As a reminder, employers who don't offer a qualifying retirement plan must:

- Register for the CalSavers program in compliance with the appropriate deadline based on the number of their employees.
- Within 30 days of registering, provide the CalSavers program administrator with a collection of personal information about each individual employee. This information includes: name, Social Security number, date of birth and contact information for each eligible employee.
- Ensure that each employee receives

a packet of information from the program administrator.

- Calculate the appropriate rate of deduction for each employee, based on a schedule contained in the regulation.
- Deduct each employee's contributions to the CalSavers program from their salary.
- Remit the employee's contributions to the program administrator within seven days of deduction.

To Register

Employers can register via the CalSavers website, www.calsavers.com, which also provides important information and resources for both employers and employees.

California Chamber of Commerce members can read more about [Private Retirement Savings Plans](#) in the HR Library on [HRCalifornia](#).

Not a member? See how CalChamber can help you.

Staff Contact: Matthew Roberts

West Coast Organizations Promote Trade as Way to Help Fuel Economic Recovery



PACIFIC
NORTHWEST
INTERNATIONAL
TRADE
ASSOCIATION



Washington Council on
International Trade

As West Coast governors join together to coordinate their response to the coronavirus pandemic, the three leading West Coast statewide organizations focused on trade are highlighting priorities to help provide relief for the millions of Americans who rely on trade.

The California Chamber of Commerce, the Pacific Northwest International Trade Association and the Washington Council on International Trade shared their support and principles for trade rebound this week in a [joint letter to President Donald J. Trump](#) with copies to U.S. Trade Representative Ambassador Robert Lighthizer, and the congressional delegations of California, Oregon and Washington.

As our economy slows, it is critical that we expand international trade and investment opportunities, promote market access for domestic products abroad, and eliminate disincentives that impede the global competitiveness of U.S. businesses and farmers.

Trade Powerhouse

California, Oregon and Washington are highly trade reliant. As producers of a wide array of products—from apples, soft-white wheat and nuts, to planes, athletic footwear and software—the West Coast states are a trade powerhouse.

To fuel the economic recovery, the three organizations ask the administration to eliminate tariffs, as the Congressional Budget Office found that current tariffs will cost the average household \$1,277 in 2020, offsetting the benefit of the recently distributed stimulus payments to individuals.

The letter emphasizes that the three organizations wholeheartedly support efforts to ensure China and other partners adhere to fair and transparent trade practices. The U.S. Trade Representative is currently considering a one-year extension of China tariff exclusions.

Nevertheless, the letter expresses concerns about the Buy America Executive Order under consideration. Although the pandemic has highlighted the importance of encouraging the reshoring of certain medical and pharmaceutical supply chains for national security purposes, now is not the time to make this shift. The organizations ask that the effort to enact the executive order be paused to

allow enough time for firms to implement changes carefully, ensuring there will be no damage to the domestic industries.

Trade Agreements Critical

Last, the three organizations ask the Trump administration and Congress to continue to advance bilateral, regional and multilateral trade agreements that are critical to consumers, workers, businesses, farmers and ranchers.

Specifically, the United States should:

- Complete the implementation of the U.S.-Mexico-Canada Agreement (USMCA);
- Ensure fulfillment of commitments under the “phase one” agreement with China and drive efforts toward a more robust and binding “phase two” agreement that establishes more transparent rules for commerce between the United States and Canada; and
- Reinvigorate efforts to establish free trade agreements with partners that share our trade philosophy, including the European Union, the United Kingdom and Japan. Trade agreements ensure the United States continues to gain access to world markets, which will result in an improved economy and additional American jobs.

In closing, the three organizations point out that there is a need to make it easier, not harder, for U.S. firms to export. The three priorities listed above are important ways that federal leaders can help our economy rebound from the current crisis and get Americans back to work.

Staff Contact: [Susanne T. Stirling](#)

Varied Responses to Coronavirus Pandemic Affect Trade

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definition of an “essential” business or service. Talks are now in progress to align the sectors, with a need to have the same list of essential businesses on both sides of the border.

U.S. senators and business leaders are urging the Trump administration to press Mexico to change its definition of “essential businesses” to include industries that produce materials needed for food, medical and other critical goods important

during the current crisis.

In a [letter to Secretary of State Mike Pompeo](#), the senators—led by Senators Dianne Feinstein (D-Calif.) and John Cornyn (R-Texas)—joined U.S. manufacturers in their growing calls for Mexico to include supply chain needs in its guidance on what is an “essential” industry that can stay up and running. Mexico has shut down hundreds of factories that are tied to the production of critical goods, causing major supply chain disruptions.

“Both nations will only be able to reduce the economic impact of this global challenge through increased coordination, and ensuring functioning supply chains is a vital step in doing so,” the senators wrote.

Mexican officials have agreed to allow automotive plants to reopen. Baja California has lifted closure orders on some factories.

Staff Contact: [Susanne T. Stirling](#)

Tips for Reopening Your Workplace

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to this, Shaw recommends that employers think ahead and avoid making comments such as, “It’s amazing how you can do every part of your job from your living room!”

In doing so, the employer is supporting the idea that all functions of the job can be performed satisfactorily from home.

Shaw says employers can point out that while an employee is now working from home, it does not mean that the worker is performing their essential duties. At Shaw’s law firm, for example, the firm receptionist is working from home but is no longer answering phone calls—a duty that is typically an essential function of the position once the office reopens.

Shaw also recommends establishing a COVID-19-specific remote work agreement. This sets up the expectation that once the office reopens, remote employees will have to return to the office to work.

Reopening the Office

Now is the time for employers to think about and plan for how they will reopen their office once stay-at-home orders are lifted, Shaw says.

Frank emphasizes that it’s particularly hard to plan because there are so many unknowns and so much piecemealing of laws throughout the state.

In California, orders will be lifted in phases and will be industry specific, Shaw says. Therefore, the way a business reopens will depend on the type of business it is.

In planning, Shaw recommends that employers think about how they will be able to ensure the safety of their workers by:

- Following recommendations from the U.S. Centers for Disease Control (CDC).
- Assessing protection supplies and establishing a cleaning protocol. Are there enough sanitation wipes and masks? How will the office be sanitized or how often will the office be deep cleaned?
- Determining whether outside visitors will be allowed to come into the office. If allowed, will visitors be required to wash their hands and wear masks?
- Reconsidering workstation layouts to ensure employees are spaced more than 6 feet apart.
- Finally, evaluating whether work

shifts should be staggered or alternative workweeks (such as working 10-hour shifts, four days a week) should be adopted temporarily to minimize the number of employees present in the workplace at once. For example, Shaw says, can a manufacturing business that previously created Part A, Part B and assembled both parts into a product every day, spread out the work, creating Part A on Mondays, Part B on Tuesdays and assembling the product on Wednesdays?

As employers weigh their options, Frank reminds listeners that not all labor laws have been suspended due to the COVID-19 crisis, and therefore employers still must abide by employment laws governing meal and rest break periods, alternative workweek scheduling requirements, or, in the case of San Francisco, predictive scheduling requirements.

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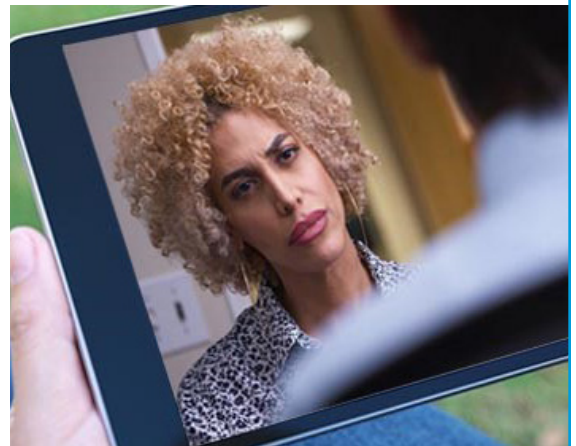
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