CalChamber Urges Congress to Help Childcare Providers

California’s economy is slowly reopening, indicated by increased sales, fewer unemployment claims, and more traffic. But many residents who cannot work from home may yet be unable to work from the office or the shop because they cannot secure care for their children.

Recognizing this significant impediment to restaffing business operations and providing stability for employees, executives from 41 state chambers of commerce, including CalChamber President and CEO Allan Zaremberg, penned a letter urging Congress to provide temporary emergency assistance targeted to licensed childcare providers to help cover increased expenses and forgone revenue directly tied to maintaining public health.

Safe Place for Children

“Combined with state efforts to help restore lost capacity, your efforts will help ensure that children have a safe place to go as their parents return to work,” the letter concluded.

According to the chamber executives, existing childcare arrangements for many working parents have been particularly hard hit by the pandemic and the result-

See CalChamber Urges Congress: Page 6

Small Business Administration Updates: Disaster Loan Portal, Paycheck Protection Form

The U.S. Small Business Administration (SBA) announced this week that it has reopened the portal for eligible applicants hurt by COVID-19 to apply for the Economic Injury Disaster Loan (EIDL) and the EIDL Advance program.

The SBA, in consultation with the U.S. Treasury Department, also posted what it described as a revised, borrower-friendly Paycheck Protection Program (PPP) loan forgiveness application and an EZ version.

Disaster Loan/Advance

The SBA said it has improved the EIDL application and loan closing process, including new technology and automated tools.

The EIDL loans of up to $2 million are available to small businesses, private nonprofit organizations, and small agricultural and aquacultural enterprises facing considerable economic hardship due to COVID-19.

EIDL assistance can be used to cover payroll and inventory, pay debt or fund other expenses that aren’t already covered by a PPP loan. The interest rate is 3.75% for small businesses and 2.75% for nonprofit organizations.

See Small Business Administration: Page 3

U.S. Supreme Court Extends Sexual Orientation, Transgender Protections

This week, the U.S. Supreme Court issued a long-awaited ruling on whether a person’s sexual orientation or gender identity fall within Title VII of the Civil Rights Act of 1964’s sex discrimination protections.

The Supreme Court ruled on June 15 that any employment decision based, at least in part, on a person’s sexual orientation or gender identity constitutes unlawful discrimination under Title VII.

Supreme Court Review

Title VII prohibits discrimination in employment decisions based upon an individual’s race, color, religion, sex and national origins. The Supreme Court reviewed three employment decisions involving the following facts:

• A county government employee was fired for conduct unbecoming a county employee after he began participating in a gay recreational softball league;
• A skydiving instructor was fired shortly after a customer complained that the instructor revealed to her that he was gay; and
• A county government employee was fired for conduct unbecoming a county employee after he began participating in a gay recreational softball league;
• A skydiving instructor was fired shortly after a customer complained that the instructor revealed to her that he was gay; and

See U.S. Supreme Court: Page 5

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Tourism Industry Preparing for Recovery: Page 5
**Labor Law Corner**

**Paid Family Leave Claims Filed July 1 Gain 2 More Weeks of Benefits**

Your employee can choose to wait until July to file her Paid Family Leave (PFL) claim. For claims filed on or after July 1, 2020, the maximum duration of California’s PFL benefits will be extended from six weeks to eight weeks. The PFL program, administered by California’s Employment Development Department (EDD), provides partial wage replacement benefits to employees who take time off work to bond with a child within one year from birth or placement for foster care or adoption, or to care for a seriously ill family member.

It is important to note that this extension of benefits from six weeks to eight weeks is available only for PFL claims filed with EDD on or after July 1, 2020.

**Date Claim Filed Is Key**

For PFL claims for child bonding, the date of the child’s birth (or placement for foster care or adoption) does not affect the number of weeks of benefits. The determining factor is the date on which the PFL claim is filed. So, for example, a parent whose baby was born in February may choose to delay filing a claim for PFL benefits until July 1 in order to be eligible for the more generous eight weeks of benefits. No matter what date an individual applies for child bonding PFL benefits, however, the benefits are payable only for one year from the date of the child’s birth or placement for foster care or adoption.

Those who file for PFL before July 1, 2020 are eligible for only a total of six weeks of benefits. This is true even if the individuals have used some or all of their six weeks of benefits by June 30, and then take additional weeks of baby bonding time off after July 1, because it is the initial claim start date that determines whether there are six or eight weeks of benefits available.

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**CalChamber-Sponsored Seminars/Trade Shows**


**Labor Law**

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

**Business Resources**

- International Trade
  - China’s Belt and Road Initiative: The
    - See CalChamber-Sponsored: Page 8
COVID-19: Monitoring Off-Duty Workers

Must Have a Reasonable Belief

Frank points out that even before shelter-in-place orders were issued, employers were asking whether they could force workers to self-quarantine if they had traveled by air.

Currently, employers should have a reasonable belief that the employee poses a risk to the workplace if they want to require the worker to self-quarantine or take medical tests, Shaw explains.

“That’s the whole reason why we can do things with COVID-19 that we can’t do with a regular medical condition,” she tells Frank. “All of the rules have sort of been turned on their head in terms of what employers can do in this area.”

Obligations

If an employer asks that a worker take a medical test, the employer will have to pay the costs of the test itself, and for the time it takes the employee to take the test, Shaw explains. But even something as simple as monitoring one’s temperature at home can incur reporting time pay obligations, at a minimum of two hours and a maximum of four hours, Shaw says.

“You are imposing a burden and obligation on the employee. So for a non-exempt employee, [employers] will have to pay for that time,” she says.

And the obligations can go on and on, Shaw adds.

Many employers want a one-size-fits-all template answer, but unfortunately each case must be assessed differently, she tells Frank.

Resources

Many online resources address COVID-19, but the best places to turn to are the U.S. Centers for Disease Control and Prevention website (www.cdc.gov) and the California COVID-19 government website (covid19.ca.gov), Shaw says.

The California COVID-19 website also features a resilience roadmap (covid19.ca.gov/roadmap) that breaks down recommendations by industry and outlines the steps businesses need to take to reopen or bring employees back to work.

Frank also recommends that employers regularly check the CDC website, as COVID-19-related information is constantly changing as health officials learn more about the virus. The website can be counted on to be updated with the most current information available.

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Small Business Administration Revises Loan/Paycheck Protection Forms

From Page 1

As part of their loan application, small businesses and nonprofits may request an EIDL Advance of up to $10,000 ($1,000 per employee). The EIDL Advance is designed to provide emergency economic relief to businesses that are experiencing a temporary loss of revenue. The emergency grants do not have to be repaid, and small businesses may receive an advance even if they are not approved for a loan.

Information on the EIDL is available at https://www.sba.gov/funding-programs/disaster-assistance. The COVID-19 EIDL and EIDL Advance application is available at https://covid19relief.sba.gov/#/.

Paycheck Protection Program

The Paycheck Protection Program is accepting applications until June 30, 2020. See the June 12 Alert story for a review of the changes signed into law at the beginning of this month.

The SBA’s EZ version of the PPP forgiveness application applies to borrowers that:
• Are self-employed and have no employees; or
• Did not reduce the salaries or wages of their employees by more than 25% and did not reduce the number or hours of their employees; or
• Experienced reductions in business activity as a result of health directives related to COVID-19 and did not reduce the salaries or wages of their employees by more than 25%.

The EZ application requires fewer calculations and less documentation for eligible borrowers, according to the SBA.

Both the EZ and the full forgiveness application give borrowers the option of using the original eight-week covered period (if their loan was made before June 5, 2020) or an extended 24-week covered period.

See the SBA’s PPP program web page for more information.
Lighting Regulation for Outdoor Agriculture Coming Into Effect in July

California businesses are struggling to adapt their markets and workplaces to a post-pandemic world. Like other state regulators, Cal/OSHA is still working on business as usual, which means the business community needs to stay vigilant!

The new Outdoor Agricultural Operations During Hours of Darkness standard (Sections 3441 and 3449, or “Outdoor Ag Lighting Reg”) will be going into effect soon and, if last year’s regulations have completely slipped your mind in this present storm—following is a refresher!

In 2019, the Standards Board passed the Outdoor Ag Lighting Reg, and we had been waiting as it wound its way through the Office of Administrative Law (OAL) review and came into effect. Well, the OAL approved it, and it will be going into effect on July 1, 2020—so it is time to get ready.

Requirements

When in effect, the Outdoor Ag Lighting Reg will require that if agricultural work is taking place before sunrise or after sunset, the employer must provide specified lighting across the workspaces, rest areas, and maintenance areas, among others.

A table of different lighting intensity and height requirements for different areas is provided in Section 3449, which is the center of the regulation.

Although many employers are already doing this, for some agricultural employers, compliance will require the purchase or rental of new generators and new lighting equipment—which could get costly and scarce—so start preparing and be ready when July 1 hits.

More information on its timeline and substance is available at Cal/OSHA’s website regarding the regulation.

As to the employers who are covered—it will hit any agricultural employers working in post-sunset and pre-sunset hours. That includes more crops than you might expect, including among others, such staples as wine grapes, tomatoes, onions, garlic, melons, and corn. Usually, these are harvested during the early morning or early evening in order to keep workers out of the heat and improve the crop.

Also Taking Effect

Which brings me to the next important point—also keep in mind the other requirements coming into effect this summer! A brief, nonexhaustive list includes:

- Wildfire Smoke Protection regulation (Section 5141.1);
- Outdoor Heat Illness regulation (Section 3395); and
- Cal/OSHA’s new COVID-19 guidance documents (https://www.dir.ca.gov/dosh/coronavirus/).

So, as the summer heats up—stay safe and prepare for these regulations!

Staff Contact: Robert Moutrie

Catch Up on Updates from the HRWatchdog Blog

Below is a sampling of recent posts from the HRWatchdog blog, presented by CalChamber.

- **COVID-19 Workers’ Comp Claim Presumption Flowchart.** Sacramento law firm Mullen & Filippi crafted a flow chart that includes a series of questions to further simplify how employers can determine whether COVID-19 is presumed as an industrial injury. The post also includes links to questions and answers from the California Department of Industrial Relations.

- **Cal/OSHA Expands Employer Injury and Illness Prevention Program Requirements.** The California Division of Occupational Safety and Health, commonly known as Cal/OSHA, continues to modify rules and guidance for businesses operating during the COVID-19 pandemic. General industry and several industry-specific rules and guidelines have been modified. Recently, Cal/OSHA modified its rules and guidance on all employers’ obligation to establish and implement an Injury and Illness Prevention Program (IIPP).

- **Local Minimum Wage Increases Coming July 1.** On June 2, the blog listed all localities with minimum wage hikes scheduled for July 1, followed by a mention of Santa Rosa, which considered delaying its scheduled minimum wage hike due to COVID-19 but decided to proceed as planned. For full details, see the post titled Santa Rosa’s Minimum Wage Ordinance Starts July 1.

Required Posters

The required local minimum wage posters are available at the CalChamber Store. Please visit the mandatory local poster updates page to see which posters apply for your employees, depending on where they work, whether at the company facilities, remotely from home or while traveling.

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Tourism Industry Preparing Itself for Recovery

The COVID-19 crisis has snuffed out 10 years of economic growth in California’s travel and tourism industry. The fallout from this crisis is not only unprecedented, but estimated to cost the state $72.1 billion in visitor spending this year and 613,000 tourism jobs last month alone. However, the tourism economy also offers a path to recovery.

In 2019, visitors spent $144.9 billion in California, according to Visit California’s latest economic impact report. That spending supported 1.2 million jobs throughout the state and $12.2 billion in tax revenues for state and local jurisdictions and was among the top three sources of funding for many cities and counties.

Household Savings
This revenue saved California households an additional $920 in taxes to maintain roads, libraries and local parks. The California State Controller reports that nearly every California city—482 to be exact—levied hotel taxes in the 2017–18 fiscal year.

As California’s post-coronavirus future begins to take shape, reviving visitor spending will play a vital role in restarting the economy and powering the state.

Tourism has a proven track record of recovering faster than other industries in the aftermath of a crisis. In fact, the travel industry adds jobs 60% faster than the private sector as a whole.

Past Recovery
In the aftermath of the September 11, 2001 attacks, the travel industry experienced a major downfall. At that time, Governor Gray Davis infused a one-time $8.3 million allocation to fuel an in-state marketing campaign designed to help the tourism industry—and the state—bounce back.

These efforts resulted in $3.2 billion in visitor spending, returning $304 directly to California businesses for every dollar invested. Despite the tragedy and the ensuing economic downturn, California was one of the only three states to grow its market share in 2001.

Support for Travel
During these unprecedented times, Visit California is working on initiatives to inspire community support and encourage people to begin safe and responsible travel when the time is right. Travel matters to California and will help propel economic recovery once businesses and destinations start reopening.

Visit California has compiled a comprehensive coronavirus resources page, with consumer research updated weekly, talking points, resources for federal aid programs and reopening protocols at [https://industry.visitcalifornia.com/marketing-communications/coronavirus](https://industry.visitcalifornia.com/marketing-communications/coronavirus).

Read more on the tourism industry’s response to the COVID-19 crisis and the benefits of travel and tourism to California’s economy at [https://travelmattersca.com](https://travelmattersca.com).

U.S. Supreme Court Extends Sexual Orientation, Transgender Protections

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• A funeral home employee who was hired as a male employee was fired after she informed her employer that she planned to live and work full time as a woman.

After reviewing these actions and reviewing the language of Title VII’s prohibition on sex discrimination, the Supreme Court determined that each of these employment actions was based, at least in part, on the employee’s sex.

For example, an employer tolerates female employees to be attracted to men, but doesn’t tolerate a man’s similar attraction to men. On this basis, the employer is using the employee’s sex (i.e., that he is a man) as part of the decision to terminate his employment.

Similarly with gender identity, an employer tolerates a biological female to identify as a female, but when they don’t tolerate a biological male to engage in the same action of identifying as female, the employer is using the biological male’s sex as part of the decision to terminate the employee’s employment.

California Protections
For California, this decision changes nothing. California’s Fair Employment and Housing Act (FEHA) already explicitly protects an individual from discriminatory employment decisions based upon their sexual orientation, gender identity and gender expression as protected classes.

However, employers with employees only covered by Title VII should consult with legal counsel to determine how this decision impacts their policies, procedures and decision making moving forward.

Staff Contact: Matthew J. Roberts
Manufacturing Leading Source of Jobs from Foreign Direct Investment

The first-ever California-specific report on foreign direct investment shows that manufacturing is the top source of employment from foreign-owned enterprises. Professional and business services, wholesale trade, and retail trade follow in the jobs ranking, according to the report, *Foreign Direct Investment in California, 2020.*

The report assesses the positive employment impact of foreign-owned enterprises in the state and its various regions and was released May 26 by the World Trade Center Los Angeles, an affiliate of the Los Angeles County Economic Development Corporation (LAEDC). Partners in creating the report were the California Governor’s Office of Business and Economic Development, and Loyola Marymount University’s Center for International Business.

According to the report, there are approximately 19,000 firms in California that have foreign ownership, employing approximately 731,000 residents, or 4.9% of the state’s employment. Those workers earned $65.6 billion in wages in 2019.

The top five countries whose business investments generate employment in California are: Japan (3,880 firms and 121,220 jobs), the United Kingdom (2,303 firms and 105,860 jobs), France (1,888 firms and 69,460 jobs), Canada (1,583 firms and 61,840 jobs), and Germany (1,535 firms and 61,040 jobs).

The 10 counties of Southern California capture the majority of the foreign direct investment (FDI) in the state, with the 15-county Bay Area following. The remaining FDI is spread across the other 33 California counties.


Staff Contact: Susanne T. Stirling

CalChamber Urges Congress to Help Childcare Providers

*From Page 1*

ing economic fallout. This disruption can be substantially mitigated by congressional action, ensuring that more Americans can quickly return to work and to support the nation’s overall economic recovery.

Similarly, the chambers urged states to continue implementing temporary regulatory actions to help licensed centers and homes quickly and safely adjust to meet operational challenges.

To protect public health, many camps and other facilities that care for large groups of children have canceled their summer programs. Childcare facilities in many states are operating under reduced capacity and social distancing orders.

In addition, the childcare industry is comprised of many small and very small businesses—many run by women and women of color—who are on the brink of collapse and may never reopen.

**Childcare Market Needs Help**

Although critical support was provided to small businesses early on in this crisis through the CARES Act, according to the National Association for the Education of Young Children (NAEYC) only one-quarter of the childcare market received a Paycheck Protection Program loan.

For those that have remained open and that will reopen, decreased capacity and new pandemic-related costs mean operating losses. That will eventually lead to more closures and even less available childcare.

Congress is expected to continue working on the next COVID-19 relief package upon return from its recess, around July 20.
Africa Gearing Up to Finalize Trade Bloc While U.S. Eyes Agreement with Kenya

Trade and investment opportunities in Africa are in the spotlight this summer as the African nations prepare for final implementation of their free trade area and the United States looks toward the start of discussions about a free trade agreement with Kenya.

The California Chamber of Commerce is a longtime supporter of stable and sustainable economic growth and development in sub-Saharan Africa.

**African Continental Free Trade Area**

The African Continental Free Trade Area (AfCFTA) originally was due to be implemented on July 1. Once in force, AfCFTA will be the largest free trade area in the world, uniting 1.3 billion people in a $3.4 trillion economic bloc.

It is the culmination of many negotiations held since 2015 among the leaders of the 54 African nations.

AfCFTA Secretary-General Wamkele Mene has postponed the final steps toward the bloc due to COVID-19 but is confident the agreement will go through in time. It will mean that intra-Africa trade, currently only a small portion of all African trade, will be key to the post-pandemic economic recovery.

The Director-General is hoping to create centers of manufacturing excellence across the continent as an opportunity for investors.

According to the International Monetary Fund, eliminating tariffs could boost trade in the region by 15% to 20%. The World Economic Forum estimates AfCFTA will allow the area to generate about $4 trillion for investments and commercial transactions of goods and services.

**African Growth and Opportunity Act**

The American Apparel & Footwear Association, which represents more than 1,000 name brands, retailers and manufacturers, urged Congress via a June 10 letter to renew the African Growth and Opportunity Act (AGOA) this year for another 10 years as a way to have continued certainty for U.S. investment on the continent—even though the expiration date is five years away.

AGOA—which gives 39 sub-Saharan African countries duty-free access to the U.S. market for thousands of goods—is set to expire in 2025. A 10-year extension now would send positive signals to AGOA member countries as the U.S. starts trade talks with Kenya.

The CalChamber supported the AGOA, which President Bill Clinton signed on May 19, 2000. President George W. Bush signed legislation on July 13, 2004 extending the AGOA from 2008 to 2015. Subsequent legislation has extended the agreement to 2025.

When initially enacted, the AGOA eliminated duties on imports from African nations into the United States if those nations made significant efforts to open their economies.

The Act embodies a trade and investment-centered approach to development. Enactment of the AGOA has stimulated the growth of the African private sector and provided incentives for further reform. Since its inception in 2000, AGOA has helped increase U.S. two-way trade with sub-Saharan Africa.

**U.S.-Kenya Agreement**

On March 17, 2020, the Trump administration sent a letter to Congress to notify members of the intent to enter into negotiations of a trade agreement with the Republic of Kenya.

A trade agreement between the United States and Kenya would be the first agreement between the U.S. and a sub-Saharan African country. A U.S.-Kenya trade agreement would also complement Africa’s regional integration efforts, which include the landmark AfCFTA.

From its location on the eastern coast of Africa, Kenya serves as a gateway to the region and a major commercial hub that can provide opportunities for U.S. consumers, businesses, farmers, ranchers and workers.

The Trump administration has said repeatedly it hopes its trade deal with Kenya can serve as a template that could be replicated with other countries on the African continent.

The first round of virtual FTA negotiations is scheduled for July 6.

**Agenda 2063**

All the initiatives above dovetail with Agenda 2063, Africa’s blueprint and master plan for transforming itself into the global powerhouse of the future.

In affirming their commitment to Agenda 2063, African leaders called for refocusing and reprioritizing Africa’s agenda from the struggle against apartheid and the attainment of political independence for the continent, to inclusive social and economic development, continental and regional integration, democratic governance, and peace and security, among other issues aimed at repositioning Africa to becoming a dominant player in the global arena.

**CalChamber Position**

The CalChamber believes that it is in the mutual economic interests of the United States and sub-Saharan Africa to promote stable and sustainable economic growth and development in sub-Saharan Africa, and that this growth depends in large measure upon the development of a receptive environment for trade and investment.

The CalChamber is supportive of the United States seeking to facilitate market-led economic growth in, and thereby the social and economic development of, the countries of sub-Saharan Africa.

In particular, the CalChamber is supportive of the United States seeking to assist sub-Saharan African countries, and the private sector in those countries, to achieve economic self-reliance.

**Staff Contact:** Susanne T. Stirling
CalChamber-Sponsored Seminars/Trade Shows

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Select LA Investment Summit. World Trade Center Los Angeles and the Los Angeles County Economic Development Corporation. September 17, Los Angeles. (213) 236-4853.

Save 20% or More on Mandatory Local Poster Updates

On July 1, 2020, minimum wage increases take effect in 14 California localities. This requires updated postings at each workplace or jobsite.
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