

ALERT

Employment Mandates Pass, on Way to Governor Newsom



Two California Chamber of Commerce **job killer** bills made it out of the Legislature late on August 31, the last night of the session, and are headed to the Governor's desk.

Governor Gavin Newsom has until September 30 to sign or veto these bills.

California's businesses are enduring historic economic hardship and challenges, and have been struggling simply to continue operations and avoid going completely out of business. It is more critical than ever that they are not saddled with new and unworkable mandates that will slow the economy and further cripple the state's job creators.

The CalChamber is asking members

to contact the Governor and urge a veto on **SB 1383 (Jackson; D-Santa Barbara)** and **AB 3216 (Kalra; D-San Jose)**.

SB 1383

SB 1383 significantly burdens small employers by requiring small employers with only five employees to provide eligible employees with 12 weeks of mandatory family leave, which can be taken in increments of 1–2 hours, and threatens these small employers with costly litigation if they make any mistake in implementing this leave.

The bill also is problematic because the leave it mandates is enforced through a private right of action that includes compensatory damages, injunctive relief,

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Remember Masks, Social Distance Over Holiday Weekend



The California Chamber of Commerce is urging all California businesses to remind their employees of the importance of wearing masks and maintaining social distancing as they enjoy their upcoming holiday weekend.

"Keeping California open for business requires a sustained commitment from all of us—employers, workers, and our family members and friends," said CalChamber President and CEO Allan Zaremborg.

"It is critical that we all do everything possible to tamp down the infection rate—including wearing masks, avoiding mixing with those outside our immediate family and maintaining physical distancing. Six feet and a mask at work and while away from work are critical to protecting jobs and our economy," Zaremborg said.

"Businesses need workers to stay healthy so customers have access to the services they want and need and so that workers will have jobs necessary to support their families," he added.

The Centers for Disease Control and Prevention (CDC) provides the following information on mask wearing and social distancing which employers are encouraged to share with their employees:

- CDC recommends that people wear

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State Releases Blueprint for a Safer Economy

Focus on New Cases, Positive Tests, Slower Transitions



Last week, Governor Gavin Newsom released a new *Blueprint for a Safer Economy* color coded to help businesses and Californians see how the state rates their area's efforts at reducing COVID-19 and which activities are allowed or restricted.

The two main metrics for determining a county's risk level and prevalence of the virus are the rate of new COVID-19 cases per 100,000 people per day (seven-day average) and the rate of people testing positive for the virus.

To see the *Blueprint* and industry details, visit covid19.ca.gov.

If a county has more stringent criteria than the state, the more restrictive requirements prevail.

Tiers/Risk Levels

As of August 31, the tiers, risk levels, counties in the tier and a sampling of allowed activities were as follows:

- **Tier 1: Purple: Widespread.** More than 7 new daily cases per 100,000 residents or a positive test rate of more than 8%. Most nonessential indoor business operations are closed. Counties may open some businesses and activities with modifications, including all retail, shopping centers at maximum 25% capacity,

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Labor Law Corner

How Part-Time Return to Work Affects Employee's UI Benefits



Ellen S. Savage
HR Adviser

My employee has been on furlough and collecting unemployment insurance (UI). If I bring her back to work part time, what is the maximum number of hours she can work before she loses her UI benefits?

Rather than looking at the number of hours worked, California adjusts UI benefits based on what the employee's earnings are when she returns to partial work.

When an employee is receiving UI

benefits and then begins to work some limited hours again, she must report her earnings every two weeks to the Employment Development Department (EDD).

Depending on how much is earned each week, EDD will use one of two formulas to determine if the employee is still entitled to collect some portion of her weekly UI benefit amount.

Note that the calculation is based only on the UI benefit provided by the state of California. Any federal supplement—such as the additional \$600 that was provided under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act or the \$300 additional federal benefit that will take its place—is not taken into account.

Formula 1

Weekly Earnings of \$101 or More

If the employee's weekly earnings when she returns to work are \$101 or more, the first 25% does not count against UI benefits. The remaining 75% is subtracted from the previous full weekly benefit amount, and the employee is paid the difference.

Take for example an employee whose weekly California UI benefit when completely unemployed was \$315. That employee returns to work part-time and

earns \$200 in a particular week. EDD subtracts 25% (\$50) from the \$200 earnings. The remaining \$150 is subtracted from the previous \$315 benefit amount, meaning the employee would receive \$165 in UI benefits that week.

Formula 2

Weekly Earnings of \$100 or Less

If the employee's weekly earnings when she returns to work are \$100 or less, the first \$25 does not count against UI benefits. The remaining amount is subtracted from the full weekly benefit amount, and the employee is paid the difference.

So for example, an employee whose weekly California UI benefit when completely unemployed was \$290 returns to work part-time and earns \$80 in a particular week. EDD subtracts \$25 from those earnings. The remaining \$55 is subtracted from the previous \$290 benefit amount, meaning the employee would receive \$235 in UI benefits that week.

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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Alert (ISSN 0882-0929) is published weekly during legislative session with exceptions by California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Subscription price is \$50 paid through membership dues.

Send email address changes to alert@calchamber.com. Publisher: Allan Zaremborg. Executive Editor: Ann Amioka. Art Director: Neil Ishikawa. Capitol Correspondent: Sara Proffitt.

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CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor Law

HR Boot Camp Virtual Seminar.

CalChamber. September 10–11,
Online. (800) 331-8877.

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

Business Resources

Proposition 65 Annual Conference. Prop.
65 Clearinghouse. September 21,
Online. (415) 391-9808.

International Trade

EXIM 2020 Annual Conference.

Export-Import Bank of the United States. September 9–11, Virtual Conference. (800) 565-3946.

Legal Strategies for Success – Governance, Compliance and Representation

Agreements. U.S. Commercial Service. September 10, Webinar Series. (800) 872-8723.

Conversation with Mexican Ambassador to the U.S. Los Angeles World Affairs Council & Town Hall. September 11, Webinar. (424) 258-6160.

Asia EDGE (Enhancing Development and Growth through Energy) Trade Mission. U.S. Commercial Service. September 13–22, Bangkok, Ho Chi Minh City, Hanoi, Jakarta. (202)

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The Workplace

Remote Work: Workers' Comp Liabilities



In **Episode 85** of The Workplace podcast, CalChamber Executive Vice President and General Counsel Erika Frank and workers'

compensation expert Randy Pollak discuss current workers' compensation trends, and talk about what workers' compensation liabilities exist when employees work remotely.

Workers' Comp Claim Trends

Governor Gavin Newsom's **May 6** executive order that a COVID-19-related illness be presumed to have arisen in the workplace (if certain requirements are met) expired in July,* and employers are in a "middle zone," Pollak, managing partner at Pacific Compensation Insurance Company, tells Frank.

At the moment, employers have not seen much litigation, but the story may still evolve with time, he says. [Note: The podcast was recorded on August 18, 2020.]

While the executive order was active, employers did not see much litigation, as many of the workers' compensation claims were relatively mild, with employees experiencing cold and flu-like symptoms, Pollak explains.

More serious claims were accepted and therefore there was no need for litigation, he says.

Liabilities for Remote Work

With so many companies shifting employees to work remotely, could an employer be liable if a worker is injured at home, Frank asks?

Yes, with some requirements, Pollak replies.

Although the pandemic has led to an increase in remote work, working remotely is not a new concept and there is good case law that has set parameters on employer liability, he says.

An employer may be liable for injuries happening at home if the injury happened within the course of employment/rising out of the employment, and the employer implicitly or explicitly requires the employee to work from home, Pollak explains.

Generally, the employee has to satisfy the requirement that the injury happened in the course of employment—a very easy standard, he says.

This liability has existed for a long time, Pollak points out, but some employers who have only recently started employing remote workers may not be fully aware of it.

When a Worker Alleges Injury

If a worker reports to their employer that they have been injured, the employer should not delay and should provide the employee with a claim form, Pollak says.

It does not matter if the employer thinks the injury is covered or not, if a worker alleges they have been injured, the employer is required to provide a claim form, he stresses.

The same also is true for COVID-19-related claims. A claim form must be issued to the employee, even if the employee has not yet procured a positive COVID-19 test, he explains.

In some cases, employers must also report injuries to their insurance carriers, regardless of whether the employee fills out the claim form. Pollak suggests that employers consult with their carriers as to what exactly needs to be reported as there could be other issues at play.

Pollak advises that employers visit the [California Division of Occupational Safety and Health \(Cal/OSHA\)](#) website for detailed information on how to protect employees. The website moves beyond masks and social distancing tips, and goes into different kinds of safety protocols.

Employers, he says, should have a good faith mindset to protect their employees in this serious time, and should follow the law and correct procedure if someone is alleging a work injury.

"Aside from just the good will and the good aspect of taking care of your employees, it is a liability protection because once you follow the correct procedures, and doing the claim form and reporting it, then you have secured your ability to assert any defenses and avoid any kind of presumptions or anything like that that can occur with some kind of defect in your handling of that," Pollak explains.

**On August 31 the Legislature passed and sent to the Governor urgency legislation, SB 1159 (Hill; D-San Mateo), extending the presumptions of the Governor's executive order to January 1, 2023.*

CalChamber-Sponsored Seminars/Trade Shows

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482-3492 or (914) 682-6712.

Construction Indonesia 2020. PT Pamerindo Indonesia and Informa Markets. September 16–18, Jakarta, Indonesia. +49-3999905-0.

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

Protecting the Most Important Asset—Your IP. U.S. Commercial Service.

September 22, Webinar Series. (800) 872-8723.

Virtual 94th Annual World Trade Week. Los Angeles Area Chamber of Commerce. September 22, Online. (213) 580-7500.

China BRI: The Silk Road—Business, National Security and Geopolitical Impact of the Pandemic. National Association of District Export Councils. September 23, Webinar.

Virtual Tour of Los Angeles: Opportunities in Sustainability. SelectUSA.

September 24, Online. (800) 424-5249.

Security Mission for Economic Prosperity in El Salvador, Guatemala and Honduras. U.S. Department of Commerce, International Trade Administration. October 25–30. (703) 235-0103 or +503 2501-3060.

Hong Kong International Wine and Spirits Fair 2020. Hong Kong Trade Development Council. November 5–7, Hong Kong. (213) 622-3194.

IRS Issues Guidelines to President's Payroll Tax Deferral Order



The U.S. Department of Treasury and Internal Revenue Service (IRS) issued guidelines to President Donald

Trump's payroll tax deferral executive order the night of August 28.

The guidelines are available at: www.irs.gov/pub/irs-drop/n-20-65.pdf

President Trump signed an executive order on August 8 calling for a deferral of employees' portion of the Social Security payroll tax from September 1 through December 31, 2020.

The executive order applies to the 6.2% Social Security payroll tax normally deducted from an employee's pay and would affect workers whose biweekly pay is less than \$4,000 on a pretax basis. The determination of whether the deferral applies is to be made on a paycheck to paycheck basis.

Employers are responsible for withholding and paying any deferred taxes.

Specifically, employers "must withhold and pay the total Applicable Taxes that the [employer] deferred under this notice ratably from wages and compensation paid between January 1, 2021 and April 30, 2021 or interest, penalties, and additions to tax will begin to accrue on May 1, 2021, with respect to any unpaid Applicable Taxes."

Unanswered Questions

The guidance leaves a number of questions unanswered, such as:

• Is the payroll tax deferral voluntary for the employer or employee?

The notice makes clear that the employer is the affected taxpayer. While the notice does not explicitly say it is voluntary for the employer, it also does not make it mandatory. The notice makes no mention of nor seems to contemplate the employee making the election to defer. Therefore, this would appear to be a decision left to the employer.

• What happens if an employee no longer works for an employer once

the deferral is over? Is the employer responsible for the unpaid taxes?

The notice implies that the employer is responsible for the deferred taxes but provides that the deferred taxes are to be withheld from employees beginning in January. The notice goes on to state, "If necessary, the [employer] may make arrangements to otherwise collect the total Applicable Taxes from the employee." But the notice provides no further guidance as to what this might mean. It also provides no guidance on what happens if the person is no longer an employee and the employer is unable to collect the unpaid taxes.

• Must an employer decide by September 1 whether to defer withholding or not?

The notice is silent on whether an employer must defer the withholding for the entire deferral period (September 1 to December 31) or whether an employer can start deferring at any point during the deferral period.

State Releases Blueprint for a Safer Economy

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and hair salons and barbershops indoors. Restaurants/wineries and places of worship may open outdoors only, with modifications. Hotels and lodging may be open with modifications.

In the purple tier were 38 of the 58 counties.

• **Tier 2: Red: Substantial.** Between 4 and 7 new daily cases per 100,000 residents or positive test rate between 5% and 8%. Some nonessential indoor business operations are closed. Counties may open shopping centers at maximum 50% capacity. Restaurants, movie theaters and places of worship may open indoors at maximum 25% capacity or 100 people, whichever is fewer. Fitness centers at hotels/lodging may open at 10% capacity.

Counties in the red tier were: Calaveras, El Dorado, Lake, Lassen, Napa, Nevada, San Diego, San Francisco, Sierra.

• **Tier 3: Orange: Moderate.** Between 1 and 3.9 new daily cases per 100,000 residents or a positive test rate between 2% and 4.9%. Some business

operations are open with modifications. Restaurants, movie theaters and places of worship may open at maximum 50% capacity or 200 people, whichever is fewer. Wineries may open indoors at maximum 25% capacity or 100 people, whichever is fewer. At hotels/lodging, indoor pools may open and fitness centers may open at 25% capacity. Bars, breweries and distilleries may open outdoors, with modifications.

Counties in the orange tier were: Del Norte, Humboldt, Mariposa, Mono, Plumas, Shasta, Siskiyou, Trinity, Tuolumne.

• **Tier 4: Yellow: Minimal.** Less than 1 new case daily per 100,000 residents or less than 2% positive tests. Most business operations are open with modifications. Restaurants, movie theaters and places of worship may open at maximum 50% capacity. Wineries may open indoors at maximum 50% capacity or 200 people, whichever is fewer. Bars, breweries and distilleries may open indoors at maximum 50% capacity.

Counties in the yellow tier were:

Alpine and Modoc.

Offices are tagged for remote work at the purple and red tiers and to be open indoors while encouraging telework for the orange and yellow tiers.

For all tiers, professional sports are to be conducted without live audiences, with modifications.

Moving through Tiers

The California Department of Public Health (CDPH) will assess indicators weekly and will release its first weekly assessment on September 8.

Counties will remain at each tier level for at least three weeks and will advance to the next, less restrictive tier when the county has met the criteria for both measures of that tier for the previous two consecutive weeks.

Counties will be sent back to a more restrictive tier if either the case rate or rate of positive tests has been at the level for the more restrictive tier for two consecutive weeks.

Strong Campaign Needed to Stop Proposition 15 Split Roll Tax Proposal



The California Chamber of Commerce and a coalition of business and taxpayer groups are leading a strong effort to defeat the split roll property tax measure, Proposition 15 on the November ballot.

Proposition 15 is a \$12.5 billion a year property tax increase—the largest in state history—that is riddled with **flaws** that will hurt all Californians. Contrary to what its supporters claim, Proposition 15 will not help local governments and schools recover from the COVID-19 induced economic crisis.

The measure will also hurt the small businesses that employ half of all California employees.

The California Assessors' Association is opposing Proposition 15, stating that it will cost more than \$1 billion to implement in the first three years and would be impossible to administer

Moreover, groups representing two direct beneficiaries of the tax funds are not supporting the measure: the League of California Cities refused to support Proposition 15, while the California School Boards Association voted to remain neutral.

Broad Opposition

In addition to the CalChamber, the Californians to Save Prop 13 and Stop Higher Property Taxes coalition leading the campaign against Proposition 15 includes the California Taxpayers Association, California Business Roundtable, Howard Jarvis Taxpayers

Association and California Business Properties Association.

The bipartisan coalition opposing Proposition 15 consists of more than 1,500 organizations, businesses, elected officials and individuals, and a growing list of more than 200,000 advocates in support of Proposition 13.

Proposition 15 Fallout

Among the many problems with Proposition 15 that the campaign has identified are:

- **Hurts small businesses.** Most small businesses rent the property on which they operate and have a “triple net lease” under which they are responsible for paying property taxes, insurance and maintenance costs. Small businesses—such as restaurants, gyms, barber shops, daycare centers, grocery stores, nail salons—will pay higher rents if Proposition 15 passes.

- **Harms female- and minority-owned businesses.** Numerous studies show that increasing property taxes on small businesses will have a disproportionate negative impact on businesses owned by women and minorities.

- **Lacks accountability and transparency.** Flimsy reporting requirements in Proposition 15 will enable government agencies to hike where they are spending the new tax dollars. There is no independent oversight.

- **Leads to higher grocery bills.** By removing Proposition 13 protections for California farmers and ranchers, Proposition 15 will trigger higher property taxes for agriculture-related improvements. Among those affected will be dairies, processing plants, fruit and nut

growers, wineries and vineyards. Most food items will face higher property taxes several times in the journey from farm to processing, packaging, distribution and the grocery store.

- **Makes housing crisis worse.** The increased property tax on industrial and commercial developments will ultimately discourage new home construction, leading to higher rents and home prices.

- **Increases energy costs.** Voter-approved property tax protections for solar energy systems will give way to higher property taxes for all active solar energy systems, including solar energy facilities selling renewable energy to California utilities, starting in 2022.

Help Defeat Prop 15

The California Chamber of Commerce is urging members to provide financial support to help spread the word to voters that the split roll property tax hike will lead to a higher cost of living.

The CalChamber issues political action committee, CalBusPac, may accept contributions in any amount, but the funds may not be earmarked. Defeat of the split roll measure is a high priority for CalBusPac. Contributions may be sent to CalBusPac (ID #761010), P.O. Box 1736, Sacramento, CA 95812-1736. Download and mail the [contribution form](#) from www.calchamber.com/calbuspac or contact the CalChamber Public Affairs Department, c/o linda.wallace@calchamber.com.

CalBusPAC

Remember Masks, Social Distance Over Holiday Weekend

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masks in public settings and when around people who don't live in your household, especially when other social distancing measures are difficult to maintain.

- Masks may help prevent people who

have COVID-19 from spreading the virus to others.

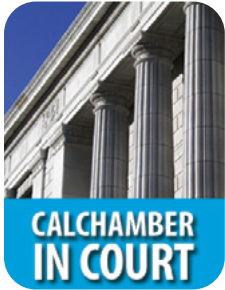
- Masks are most likely to reduce the spread of COVID-19 when they are widely used by people in public settings.

- Masks with exhalation valves or

vents should NOT be worn to help prevent the person wearing the mask from spreading COVID-19 to others (source control).

Read more at the [CDC website](#).

Progress on Prop. 65 Acrylamide Warnings



Challenges to Proposition 65 acrylamide warnings scored victories in two cases last month.

A California Superior Court judge ruled last month in favor of coffee

roasters and distributors in a decade-long lawsuit alleging they violated California's Proposition 65 cancer warning requirement.

In a separate case, a federal district court judge ruled that the California Chamber of Commerce can proceed with its lawsuit to stop Proposition 65 warnings for the presence of acrylamide in food and beverages.

Coffee Distributors Lawsuit

On August 25, Superior Court Judge Elihu M. Berle ruled that the coffee purveyors had met their burden of showing that acrylamide, found in coffee following the roasting and brewing process, doesn't cause cancer.

The judgment comes after the defendants were able to cite a [June 2019 regulation](#) issued by the California Office of Environmental Health Hazard Assessment (OEHHA) that stated that "Exposures to chemicals in coffee, listed on or before March 15, 2019 as known to the state to cause cancer, that are created by and inherent in the processes of roasting coffee beans or brewing coffee do not pose a significant risk of cancer."

Council for Education and Research on Toxics v. Starbucks Corp.

In 2010, the Council for Education and Research on Toxics (CERT) filed a lawsuit against dozens of coffee roasters and retailers, including Starbucks,

Costco, Trader Joe's and 7-Eleven Inc., among others, alleging they violated Proposition 65 by exposing Californians to acrylamide in their coffee products without first warning them.

Acrylamide is not a chemical that is added intentionally to food products, but rather is formed naturally in many types of foods and beverages when 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.

CalChamber Lawsuit

On August 27, U.S. District Judge Kimberly J. Mueller rejected the motion by Attorney General Xavier Becerra to dismiss the CalChamber lawsuit challenging the requirement for companies to warn consumers about the presence of acrylamide in food products.

Judge Mueller said the CalChamber had adequately shown enforcement of the requirement by the Attorney General to be a threat. She also cited the "desirability of avoiding piecemeal litigation" as one of the "balance of factors" in favor of the federal court retaining jurisdiction of the case, which the Attorney General had asked be left to state courts.

California Chamber of Commerce v. Becerra

In October 2019, the CalChamber, on behalf of its members, [filed a lawsuit](#) to stop the multitude of Proposition 65 warnings for the presence of acrylamide in food and beverages.

The complaint for declaratory and injunctive relief does not challenge the listing of acrylamide as a Proposition 65 chemical; rather the suit challenges

whether the state can require a warning of acrylamide in human food, since the scientific evidence shows that that assertion is not purely factual and is controversial.

At the time, CalChamber President and CEO Allan Zarembek pointed out that "overwarning" by placing a Proposition 65 warning on common food items like coffee or potato chips was leading to consumers ignoring Proposition 65 warnings altogether.

"The effect of too many bogus warnings is no warnings," he said. "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."

To date more than 500 notices on acrylamide have been sent to businesses, with many businesses having been sued by private enforcers.

For more information on *California Chamber of Commerce v. Becerra*, listen to The Workplace podcast episode "[Prop. 65 Warnings for Acrylamide in Food Not Backed by Current Scientific Data, Suit Argues.](#)"

Pending OEHHA Regulation

In an effort to avoid consumer confusion resulting from a proliferation of warnings on foods, OEHHA is [proposing regulations](#) to clarify what constitutes a Proposition 65 exposure that would compel warning for listed chemicals that are formed in food by cooking or heat processing.

The agency is accepting comments on the proposed regulation through October 6, 2020.

Staff Contact: Adam Regele

Promoting Equality, Diversity and Opportunity in The Workplace

See resources at calchamber.com/diversity.

CalChamber Joins Canadian Companies in North American Rebound Campaign



Promoting a collaborative manufacturing response to COVID-19 in North America is the goal of a

program started by the Canadian American Business Council (CABC) and joined by the California Chamber of Commerce along with manufacturers, businesses and chambers from all over the United States and Canada.

The program is called the [North American Rebound Campaign](https://rebound.cabc.co/). California entities interested in signing on may do so at <https://rebound.cabc.co/>.

In joining the North American Rebound Campaign, CalChamber Vice President for International Affairs Susanne T. Stirling said, "California and Canada are longtime friends and partners in many areas, including trade, investment, academic and scientific collaboration, and tourism. The California Chamber of Commerce enthusiastically supports free trade worldwide, expansion of international trade and investment, fair and equitable market access for products, and elimination of disincentives that impede the international competitiveness of business. During this worldwide pandemic, North America must stand together to further strengthen our economic ties and enhance opportunities to ensure continued growth and job creation."

More than any two countries in the world, the U.S. and Canada make things together as integrated economic partners. The U.S. sells more goods to Canada than to any country—more than it sells

to China, Japan and the United Kingdom combined.

A common cross-border manufacturing response in tackling the COVID-19 public health crisis will help the U.S. and Canadian economies rebuild and recover.

Campaign Objectives

The North American Rebound Campaign will work to achieve the following objectives:

- Securing the availability of personal protective equipment (PPE) in both countries;
- Designing Canada-U.S. manufacturing solutions to replenish and maintain strategic stockpiles of medical equipment;
- Continuing to ensure people and goods cross the border efficiently without interrupting critical supply chains;
- Expanding market opportunities between the U.S. and Canada in order to spur recovery and compete globally

Maintaining an open and efficient supply chain through and beyond COVID-19 will save lives and help the fight against this pandemic. It will provide the infrastructure required for jumpstarting the economy to compete with other regions of the world in the rapidly changing global economic environment.

Statistics

The United States and Canada enjoy the largest bilateral trade and investment relationship in the world. In 2019, two-way trade in goods between Canada and the United States topped \$612 billion. Exports to Canada were \$292 billion, making it the largest export destination for the U.S.

• Canada is the top export destination for 35 states.

• More than 8 million U.S. jobs depend on trade and investment with Canada.

• Canada is the United States' largest and most secure supplier of energy: oil, natural gas, electricity and nuclear fuel.

• 400,000 people cross the Canada-U.S. border daily (pre-COVID).

Canada has remained California's second largest export market since 2006, with a total value of more than \$16.6 billion in 2019 (9.6% of all California exports). California also exports \$9.2 billion in services to Canada. California imports \$26.8 billion from Canada.

Computers and electronic products remained California's largest exports, accounting for 28.6% of all California exports to Canada. Exports of agricultural products and transportation equipment from California to Canada totaled \$2.47 billion and \$1.7 billion, respectively. Food manufactures totaled \$1.35 billion. California imports from Canada were composed of transportation equipment, food manufactures, chemicals, and reimports.

In California, the No. 4 country for foreign direct investment (FDI) through foreign-owned enterprises (FOEs) is Canada. Canadian FOEs in California provide more than 61,841 jobs through 1,583 firms, which amounts to \$5.9 billion in wages. The top jobs by sector are: manufacturing, professional/business services, financial activities, wholesale trade and retail trade. ([World Trade Center Los Angeles FDI Report, May 2020](#)).

Staff Contact: Susanne T. Stirling



Helping Business In A Global Economy

www.calchamber.com/international

CalChamber Status Update Report on Major Legislation for Business

The following list summarizes top priority bills for the California Chamber of Commerce and their status as of August 31, when the Legislature began its final recess.

Within each subject area, the list presents bills in order of priority with the highest priorities at the top.

September 30 is the last day for the Governor to sign or veto bills passed by

the Legislature before September 1 and in the Governor's possession on or after September 1.

The CalChamber will publish its final status report, showing the ultimate fate of bills sent to the Governor this year, in October.

Bills signed by the Governor will become law on January 1, 2021. Urgency, tax and budget-related measures go into

effect immediately upon being signed. In those cases, the date the Governor signed the bill is noted.

Each fall, the CalChamber publishes a record of legislators' votes on key bills affecting the California business climate. Generally, the bills selected for the vote record have appeared in one of the status reports. This year's vote record is scheduled to be published on October 23.

Status of legislative action on bills as of August 31, 2020. Dates listed are the date the bill was assigned to a committee, the latest date of committee action, or when the bill reached the Senate or Assembly floor, unless action is stated.

*Bill was introduced at the beginning of this year, but at the request of the author, did not move through the legislative process once the Legislature returned from the shelter in place order that was issued as a result of the COVID-19 pandemic.

Subject—CalChamber Position	Status
Agriculture, Food and Natural Resources	
Redundant Reporting Requirement. SB 86 (Durazo; D-Los Angeles) Imposes unnecessary and costly reporting requirements. Mischaracterizes the use and risk of a highly regulated pesticide critical to disease prevention in citrus. Oppose.	To Governor
Expansion of Authority. AB 6 (Reyes; D-San Bernardino) Increases the cost of doing business by expanding the Attorney General's authority to take a civil action under the Fish and Wildlife Code without being requested by the department resulting in the possibility of a civil action and an administrative action for the same violation. Oppose.	Senate Budget & Fiscal Review 8/28/20
*Dispute Resolution. AB 2607 (Mathis; R-Visalia) Helps landowners resolve disputes over regulatory conflicts with the Department of Fish and Wildlife. Support	In Assembly Water, Parks & Wildlife 3/5/20; Failed Deadline

Air Quality

Chooses Winners and Losers. AB 40 (Ting; D-San Francisco) Reduces customer choice in electric vehicles by banning the sale of all but a few manufacturers' vehicles unless they enter into an "agreement" with California. Oppose/ Former Job Killer 2019 .	Assembly Natural Resources 1/9/20; Failed Deadline
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Banking and Finance

New Onerous Burdens on Lenders. AB 2501 (Limón; D-Santa Barbara) Jeopardizes credit availability for consumer loans in future years. Imposes onerous obligations on financial lenders to carry home, mobile home, and auto loans for extended periods of time without receiving payments from borrowers. Oppose/ Job Killer 2020 .	Failed passage in Assembly 6/15/20
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Subject—CalChamber Position	Status
California Environmental Quality Act (CEQA)	
Expansion of CEQA. SB 950 (Jackson; D-Santa Barbara) Expands CEQA’s existing requirements by adding costly new mandates that will burden local agencies, add substantial time and costs to the CEQA process and provide project opponents with new legal arguments to delay or block housing and other projects. Oppose/ Job Killer 2020 .	Failed passage in Senate Environmental Quality 5/29/20; Failed Deadline
Expands CEQA’s Existing Requirements. SB 55 (Jackson; D-Santa Barbara) Adds substantial time and costs to the CEQA process and provides project opponents with new legal arguments to delay or block housing and other projects. Almost identical to SB 950. Oppose.	Assembly Rules 7/27/20
CEQA Streamlining. AB 3279 (Friedman; D-Glendale) Helps housing production in California by making modest changes to CEQA by reducing the deadline for a court to commence hearings from one year to 270 days, allowing a lead agency to decide whether a plaintiff prepares the administrative record, and authorizing a court to issue an interlocutory remand as a remedy for any alleged violations. Support.	Senate Appropriations Suspense File 8/20/20
CEQA Streamlining. SB 995 (Atkins; D-San Diego) Provides CEQA streamlining benefits for smaller housing projects that include a certain percentage of affordable housing and agree to certain labor provisions, as well as broadens the application and utilization of the Master Environmental Impact Report (MEIR) process, which allows cities to do more upfront planning. Support.	Failed Deadline for Senate Concurrence 8/31/20
Climate Change	
Imposes Significant Costs on Food Providers. AB 2954 (Robert Rivas; D-Hollister) Unnecessarily complicates and increases costs of farming and rangeland practices by imposing a statewide goal of carbon sequestration on all natural and working lands. Threatens to pit districts and crops against other districts and crops based on potential for carbon sequestration, threatening diversity of food production in California. Oppose.	Senate Environmental Quality 6/23/20
Exacerbates Housing Costs. SB 986 (Allen; D-Santa Monica) Adds to already-high costs of housing development by adding additional authority for California Coastal Commission to regulate greenhouse gases. Duplicates authority of sister agencies. Oppose.	Senate Natural Resources & Water 2/20/20; Failed Deadline
Education	
Expanding College and Career Access Pathways. AB 2019 (Holden; D-Pasadena) Expands existing College and Career Access Pathway Program to help improve high school graduation rates and college attendance rates, thereby helping to address California’s need for technical and high-skill workers. Support.	Senate Education 6/23/20
Federally Preempted Limitation on Arbitration. AB 3271 (Kiley; R-Roseville) Creates a federally preempted right for minors to disavow an arbitration clause—but no other provisions—in enrollment agreements signed by their parents. Oppose.	Senate Judiciary 7/1/20
Energy	
Energy Rate Increase. AB 1659 (Bloom; D-Santa Monica) Proposes to create a \$3 billion fund for various nonutility wildfire, water infrastructure, and other programs by imposing costs on California ratepayers. Oppose.	Senate Floor 8/30/20

Subject—CalChamber Position	Status
Threatens Grid Reliability and Safety. SB 378 (Wiener; D-San Francisco) Penalizes the use of approved grid safety procedures and creates conflicts and redundancies that will impact electricity rates and threaten grid reliability. Oppose Unless Amended.	Assembly Utilities & Energy 6/18/20
Rate Increase. SB 1403 (Hueso; D-San Diego) Increases spending in home energy efficiency program beyond current plan year expenditures, resulting in substantial additional costs that will be passed along to ratepayers in the form of increased rates. Oppose Unless Amended.	Assembly Utilities & Energy 6/29/20

Elections and Fair Political Practices

Legislature Remote and Proxy Voting and Appointment of Successors to Power. ACA 25 (Mullin; D-South San Francisco) Grants vast power to members of the Legislature, allowing them to attend remotely and even surrender their votes to individuals who were not elected to represent their districts. Further, this Assembly Constitutional Amendment (ACA) allows legislators to appoint successors to power, thereby subverting the will of the voters by denying citizens the right to vote for their representatives. Oppose Unless Amended.	Senate Rules 6/15/20
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Environmental Regulation

Threatens Oil and Gas Development Operations. AB 345 (Muratsuchi; D-Torrance) Threatens to eliminate thousands of high-paying California jobs and force California to import even more foreign oil by politicizing and undermining the California Geologic Energy Management (CalGEM) Division's ongoing regulatory process regarding new requirements near oil and gas extraction sites by predisposing what setback requirements should be before the agency even begins its analysis. Oppose/ Two Year Job Killer .	Failed passage in Senate Natural Resources & Water 8/5/20
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Gaming/Alcohol

Business Expansion. AB 2459 (Bigelow; R-O'Neals) Increases the number of liquor licenses in Mariposa and Napa counties for new restaurants. Support.	To Governor
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Hazardous Waste

Regulatory Reform. AB 995 (Cristina Garcia; D-Bell Gardens) If amended, would create a science-based board responsible for recommending streamlining and other changes to improve timeliness of permit reviews and cleanup decisions. Creates fee task force to evaluate any fee increases imposed on business. Support If Amended.	To Governor
Firefighting Foam. SB 1044 (Allen; D-Santa Monica) Prohibits the use of PFAS chemicals in firefighting foam without a viable alternative to extinguish extremely high temperature liquid fires at refineries and airports. Opposition removed due to August 24, 2020 amendments. Neutral.	To Governor
Hazardous Waste Disposal. AB 2920 (Oberholte; R-Big Bear Lake) Encourages more businesses to properly manage and treat their wastes, lower costs on businesses and consumers and improve the efficiencies of the Department of Toxic Substances Control (DTSC) by allowing consolidated manifests that would permit disposal of certain materials using less truck trips. Support.	To Governor

Health Care

Increases Health Care Costs. AB 2203 (Nazarian; D-Van Nuys) Increases health care costs by capping cost sharing for insulin prescriptions at \$50 for 30-day supply and no more than \$100 total per month, regardless of the amount or type of insulin ordered. Oppose.	Senate Health 6/23/20
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Subject—CalChamber Position	Status
*Increases Health Care Premiums. SB 854 (Beall; D-San Jose) Increases health care premiums by mandating lowest-tier coverage of all Food and Drug Administration (FDA)-approved outpatient prescription medication related to treatment of substance use disorders and by eliminating all quality control and cost containment mechanisms. Oppose.	Senate Health 1/22/20; Failed Deadline
Prevents Health Systems from Executing Prudent Business Decisions. SB 977 (Monning; D-Carmel) Presumptively characterizes health system mergers, affiliations, sales or acquisitions as anticompetitive and gives the Attorney General unnecessary and overbroad power to reject this market activity. Oppose.	Assembly Floor 8/24/20
Wellness Programs. AB 648 (Nazarian; D-Van Nuys) Imposes stringent requirements on already federally regulated wellness programs and creates employer liability for violations of those requirements which will discourage and likely eliminate the potential or voluntary workplace wellness programs that benefit employees and contribute to a healthy workforce. Oppose.	Senate Health 6/23/20
*Locking Vial Mandate for Schedule II Drugs. SB 1084 (Umberg; D-Santa Ana) Increases prescription drug prices by requiring nonhospital pharmacies to dispense Schedule II and IIN drugs in a lockable vial in addition to distributing educational materials to the patient regarding the drug. The drug manufacturer would be required to reimburse the pharmacy for the lockable vial cost and that cost will likely be passed on to the consumer. Oppose.	Senate Business, Professions & Economic Development 5/12/20; Failed Deadline
Increases Health Care Costs. AB 2360 (Maienschein; D-San Diego) Amended so health plans are mandated to “provide access” rather than “establish” a maternal and child psychiatric telehealth consultation program. This should have a limited cost increase to employers since the California Health Benefits Review Program estimates 74% of commercial and California Public Employees’ Retirement System enrollees already have a psychiatric eConsult program. Oppose.	To Governor
Increases Health Care Premiums and Exceeds Medical Service Parity. SB 855 (Wiener; D-San Francisco) Increases health care premiums by mandating coverage for mental health conditions and substance use disorders beyond other medical services. Amended to delete the creation of a private right of action and class action for violations of its provisions. Oppose.	To Governor

Housing and Land Use

Inclusionary Housing Requirement. AB 725 (Wicks; D-Oakland) Before amendments, exacerbated California’s housing crisis by imposing a statewide, indirect inclusionary housing requirement that prohibited local jurisdictions from allocating more than 20% of their share of regional housing need for above moderate-income housing in areas zoned for single-family development. Opposition and job killer status removed due to January 6, 2020 amendments. No Position/ Former Job Killer 2019 .	To Governor
Prohibits Unlawful Detainer Actions. AB 828 (Ting; D-San Francisco) Leads to foreclosures and a divestment in California by prohibiting residential evictions, reducing tenant rent by 25% for a year, and requiring the tenant to make monthly payments to the landlord for any tenants financially impacted by COVID-19. Oppose.	Senate Judiciary 7/1/20
Shifts COVID-19 Economic Fallout onto Rental Property Owners. AB 1436 (Chiu; D-San Francisco) Forces rental property owners to forgo collecting rent for the entire duration of the state of emergency or until April 1, 2021 (whichever comes first) and prohibits owners from being able to try and collect unpaid rents for an additional 12 months after that, with no financial assistance for landlords who are unable to meet their financial obligations. Oppose/ Job Killer 2020 based on 08/14/2020 amendments.	Senate Rules 8/20/20
Development Ban. SB 474 (Stern; D-Canoga Park) Prohibits any residential or commercial construction in either Very High Fire Severity Zones or State Responsibility Area, which effectively bans any development activity for one-third of the State of California. Oppose.	Assembly Local Government 6/29/20

Subject—CalChamber Position	Status
Residential Security Deposits. AB 3260 (Wicks; D-Oakland) Adds significant risks to landlords and negatively impacts tenant by requiring landlords to allow new tenants to pay a security deposit over a 6-month period or obtain a security deposit insurance policy. Oppose Unless Amended.	Assembly Floor 6/8/20; Failed Deadline
Commercial Tenant Relief. SB 939 (Wiener; D-San Francisco) Leads to foreclosures and divestment in California by prohibiting commercial evictions and allowing commercial tenants to withhold rent for the entire duration of the COVID-19 state of emergency plus an additional 12 months, as well as unilaterally break leasing contracts. Oppose Unless Amended.	Held in Senate Appropriations Suspense File 6/18/20
Housing Production. AB 3155 (Robert Rivas; D-Hollister) Encourages construction of more entry-level homes in California by streamlining small-home projects that comply with local zoning and removing barriers to selling these homes, while also creating jobs for local construction workers. Support.	Assembly Appropriations Suspense File 6/2/20; Failed Deadline
Promotes Housing. AB 1561 (Cristina Garcia; D-Bell Gardens) Encourages local governments to consider the impacts their zoning decisions have on communities of color and extends the expiration date of building permits or other entitlements necessary for, or pertaining to, a housing development project. Support.	To Governor
Promotes Housing. SB 1120 (Atkins; D-San Diego) Increases housing production in California and encourages more small-scale neighborhood development by creating a ministerial approval process for duplexes and other specified acts. Support.	Failed Deadline for Senate Concurrence 8/31/20
Promotes Housing. SB 899 (Wiener; D-San Francisco) Streamlines affordable housing projects by permitting 100% multifamily affordable housing units (targeted at 80% of Area Median Income and below), regardless of local zoning restrictions, on land owned in fee simple by religious and educational institutions. Support.	Assembly Housing & Community Development 6/29/20
Promotes Housing. SB 902 (Wiener; D-San Francisco) Promotes housing and provides maximum local authority to local governments to increase the baseline zoning for residential properties and bypass California Environmental Quality Act (CEQA) review if they rezone for small developments of up to 10 units. Support.	Assembly Appropriations Suspense File 8/18/20
Promotes Housing. SB 1085 (Skinner; D-Berkeley) Increases housing production by mandating that a city or county grant a density bonus if the residential developer agrees to the specified percentage of units for persons and families of moderate income. Support.	To Governor
Promotes Housing. SB 1385 (Caballero; D-Salinas) Authorizes residential development on existing lots currently zoned for commercial office and retail spaces so long as the residential development maintains a minimum of 20 units per acre and abides by existing local planning and development ordinances, among other requirements. Support.	Failed passage in Assembly Local Government 8/11/20
Rental Assistance Program. SB 1410 (Caballero; D-Salinas) Helps tenants stay in their residences by creating a temporary emergency rental assistance program to provide rental payments for tenants who are unable to pay rent due to COVID-19. Support.	Assembly Appropriations Suspense File 8/18/20

Industrial Safety and Health

Unclear and Unfair COVID-19 Notice. AB 685 (Reyes; D-San Bernardino) Gut and amend calls for notice within one business day after any potential exposure to COVID-19 in the workplace, but exact requirements on employers remain vague regarding who receives notice and what documents must be provided. Also, California Department of Public Health to publish COVID-19 cases in specific worksites, but fails to separate good and bad employers or identify which cases are due to social spread. Oppose.	To Governor
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Subject—CalChamber Position	Status
Labor Contractor Joint Liability. AB 2043 (Robert Rivas; D-Hollister) Before amendments, expanded joint liability for contracted supervisors 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. Amended to remove problematic portions. Final text includes requirement for Cal/OSHA to distribute information to workers and compile information related to the results of investigative findings. Opposition removed due to July 28, 2020 amendments. Support.	To Governor

Labor and Employment

Employees: Time Off. SB 1383 (Jackson; D-Santa Barbara) Significantly burdens small employers by requiring employers with only five employees to provide eligible employees with 12 weeks of mandatory family leave, which can be taken in increments of one to two hours, and threatens these small employers with costly litigation if they make any mistake in implementing this leave. Oppose/ Job Killer 2020 .	To Governor
COVID-19 Employment Leave Mandate. AB 3216 (Kalra; D-San Jose) Imposes an onerous and stringent process for specific employers to return employees to the workforce, which will delay rehiring and subject employers to litigation for any alleged mistakes. Oppose/ Job Killer 2020 .	To Governor
Increased Costs and Liability on Employers. SB 1399 (Durazo; D-Los Angeles) Significantly increases the burden on nonunionized employers in the garment manufacturing industry in California by eliminating piece rate as a method of payment even though it can benefit the employee, creating joint and several liability for contractors for any wage violations or the employer, and shifting the evidentiary standards in a Labor Commissioner hearing to limit the ability for an employer to defend against an alleged wage violation. These additional requirements will encourage companies to contract with manufacturers outside of California, thereby limiting the demand and workforce of garment manufacturers in California. Oppose/ Job Killer 2020 .	Assembly Floor 8/25/20
Disclosure of Company Pay Data. SB 973 (Jackson; D-Santa Barbara) Requires California employers to submit pay data to state agencies that could give the false impression of wage disparity where none may exist. Also creates confusion by allowing two different state agencies to enforce Equal Pay Act claims. Oppose.	To Governor
Increased Cost and Litigation on Warehouse Distribution Centers. AB 3056 (Lorena Gonzalez; D-San Diego) Creates Labor Code violation for all warehouse employers who utilize any performance metric based on speed, with no compliance pathway, leading to costly litigation under PAGA whenever a warehouse employer terminates an employee based on performance. Oppose.	Failed passage in Senate 9/1/20
Burdensome New Bereavement Leave Mandate. AB 2999 (Low; D-Campbell) Imposes a significant new burden on employers of every size by mandating that they provide employees up to 10 days of bereavement leave upon the death of a spouse, child, parent, sibling, grandparent, grandchild, or domestic partner, regardless of how long the employee has worked for the employer. The bill further opens up new avenues for litigation against California employers by establishing a brand-new private right of action (in addition to liability under Private Attorneys General Act and administrative enforcement through the Division of Labor Standards Enforcement). Oppose/ Job Killer 2020 .	Senate Judiciary 7/1/20; Failed Deadline
Independent Contractor Status. SB 900 (Hill; D-San Mateo) Makes additional changes to AB 5 from last session. However, additional similarly situated industries/professionals should also be included in the exemptions, and the "business-to-business" exemption enacted in AB 5 needs to be fixed to cover more individuals/entities. Support If Amended.	Senate Labor, Public Employment & Retirement 2/12/20; Failed Deadline

Subject—CalChamber Position	Status
Local Wage Standards. AB 3075 (Lorena Gonzalez; D-San Diego) Allows interference with corporate formation based on arbitrary, unclear and unfair standards. The bill would also result in chaotic and inconsistent enforcement of wage and hour laws by local jurisdictions by authorizing them to impose their own wage payment requirements as long as they are “at least as stringent” as state law requirements. Opposition and job killer tag removed due to July 21, 2020 amendments. No Position/ Former Job Killer 2020.	To Governor
Imposes New One-Sided Attorney’s Fee Recovery. AB 1947 (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.	To Governor
Prevailing Wage. AB 2231 (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, overturning the established practice of viewing the subsidy in the context of the entire project. Oppose.	To Governor
Independent Contractor Status. SB 806 (Grove; R-Bakersfield) Provides necessary flexibility to the ABC test so that individuals who choose to be independent contractors can continue to work and earn income. Support.	Failed passage in Senate Labor, Public Employment & Retirement 5/14/20
Required Disclosures. SB 1102 (Monning; D-Carmel) Establishes new unnecessary and burdensome requirements on all employers to provide information to employees and imposes duplicative and unnecessary disclosure requirements for employers of H-2A employees. Oppose.	To Governor
Mandated Scheduling Requirement. SB 850 (Leyva; D-Chino) Previously identified as a 2020 Job Killer. Author has indicated she is no longer pursuing the bill this year. Eliminates worker flexibility and exposes employers to costly penalties, litigation, and government enforcement, by mandating employers in the retail, grocery, or restaurant industry, including employers who have hybrid operations that include a retail or restaurant section, to provide a 21-day work schedule and then face penalties and litigation if the employer changes the schedule with less than 7 days’ notice. Oppose/ Previously Identified Job Killer 2020.	Senate Labor, Public Employment & Retirement 5/12/20; Failed Deadline.
Independent Contractor Status. AB 1850 (Lorena Gonzalez; D-San Diego) Makes additional changes to AB 5 from last session. However, additional similarly situated industries/professionals should also be included in the exemptions, and the “business-to-business” exemption enacted in AB 5 needs to be fixed to cover more individuals/entities. Support If Amended.	Senate Labor, Public Employment & Retirement 7/1/20; Failed Deadline
Independent Contractor Status. AB 2257 (Lorena Gonzalez; D-San Diego) Makes additional changes to AB 5 from last session. However, additional similarly situated industries/professionals should also be included in the exemptions, and the “business-to-business” exemption enacted in AB 5 needs to be fixed to cover more individuals/entities. Support If Amended.	To Governor
Meal and Rest Breaks: Remote Work. SB 729 (Portantino; D-La Cañada Flintridge) Provides relief to employers from PAGA lawsuits by specifying that an employee may not recover PAGA civil penalties for meal and rest period claims if the employee was working from home, through the end of 2022. Support.	Failed passage in Assembly Labor & Employment 8/31/20
Security Officers: Rest Periods. AB 1512 (Carrillo; D-Los Angeles) Authorizes security guards covered by a collective bargaining agreement to be required to remain on the premises, remain on call, and carry and monitor a communication device, during rest periods. Support.	To Governor
Expanded Leaves of Absence. AB 2992 (Weber; D-San Diego) Expands three separate leaves of absence on small and large employers with multiple threats of litigation despite the enormous financial strain all size employers are dealing with as a result of the COVID-19 pandemic. This increased burden will limit employers’ ability to recover, including rebuilding their workforce. Opposition and job killer tag removed due to May 11, 2020 amendments. No Position/ Former Job Killer 2020.	To Governor

Subject—CalChamber Position	Status
Rest Period Exemption. AB 2479 (Gipson; D-Carson) Extends an existing exemption to the rest period requirements for employees at a petroleum facility who work in safety-sensitive positions. No Position.	To Governor
Budget Trailer Bill. AB 1867 (Committee on Budget) is part of the Governor’s economic package. It goes into effect immediately upon signature. It does the following: 1) establishes the “small employer mediation pilot program,” which is designed as an amendment to SB 1383, the Governor’s family and medical leave expansion bill; and 2) establishes a “COVID-19 supplemental paid sick leave” requirement for food sector employees, employees who work for businesses with more than 500 employees, certain health care providers, and certain emergency responders. No Position.	To Governor
Budget Trailer Bill. SB 822 (Committee on Budget and Fiscal Review) is part of the Governor’s economic package. It goes into effect immediately upon signature. It does the following: 1) establishes the “small employer mediation pilot program,” which is designed as an amendment to SB 1383, the Governor’s family and medical leave expansion bill; and 2) establishes a “COVID-19 supplemental paid sick leave” requirement for food sector employees, employees who work for businesses with more than 500 employees, certain health care providers, and certain emergency responders. No Position.	To Governor

Legal Reform and Protection

Legal Reform. AB 2143 (Mark Stone; D-Scotts Valley) Allows employers to maintain a safe workplace by prohibiting an employee who has engaged in criminal conduct from seeking reemployment. Support.	To Governor
Expanding False Claims Act to Include Tax Filings. AB 2570 (Mark Stone; D-Scotts Valley) Expands the False Claims Act to allow the Attorney General and private attorneys to sue taxpayers on perceived tax errors, creating inconsistent tax enforcement, litigation, and nuisance suits for taxpayers. Oppose.	Senate Judiciary 7/1/20
Strict Product Liability for Online Marketplaces. AB 3262 (Mark Stone; D-Scotts Valley) Under AB 3236, online marketplaces are strictly liable for all products sold by third parties on their electronic marketplaces when the electronic marketplace receives payment from consumers for new products sold on the electronic marketplace. Oppose.	Senate Inactive File 9/1/20
Expansion of California Public Records Act. SB 749 (Durazo; D-Los Angeles) Rewrites Public Records Act (PRA) to declare certain types of personnel and business-related records as <i>not</i> trade secrets and exempts them from the normal process under the PRA to litigate whether they qualify for the trade secret exemption. Would result in release of employment-related and supply chain-related information to domestic competitors, as well as foreign nations. Oppose.	Assembly Floor 8/25/20
Third Party Food Delivery. AB 3336 (Carrillo; D-Los Angeles) Before amendments, would have imposed onerous unnecessary and new requirements on Californians looking for work delivering food and restaurants seeking to reach new customers through delivery. This is not the time to be introducing new burdens on food delivery, restaurants, grocery stores and other retail locations, especially while those businesses are struggling to meet demand or stay open during the current crisis. Opposition removed due to August 24, 2020 amendments. Neutral.	To Governor
Limitations on Subscriptions and Auto Renewal Offers. AB 2811 (Berman; D-Palo Alto) Requires any business offering an auto-renewal or continuous service offer to provide the consumer with a notice explaining how to cancel an automatic renewal offer or continuous service offer given certain requirements are met. Oppose.	Senate Judiciary 7/1/20
*Increased Litigation. SB 873 (Jackson; D-Santa Barbara) Previously identified as a 2020 Job Killer. Author has indicated she is no longer pursuing the bill this year. Exposes businesses to costly litigation for a consumer’s assertion that any price difference on “substantially similar” goods, even a nominal amount, is based on gender and therefore the consumer is entitled to a minimum of \$4,000. Oppose/ Previously Identified Job Killer 2020.	Senate Judiciary 5/12/20; Failed Deadline

Subject—CalChamber Position	Status
Judicial Council Authority in State of Emergencies. AB 3366 (Committee on Judiciary) Before amendments, would have effectively tolled statute of limitations for all civil actions in California indefinitely whenever there is a state of emergency. Opposition removed due to May 28, 2020 amendments. No Position.	To Governor
Privacy and Cybersecurity	
CCPA Sunset Extension. AB 1281 (Chau; D-Monterey Park). Extends the California Consumer Privacy Act's existing exemptions for employee and business-to-business data for one year, to January 1, 2022. Support.	To Governor
CCPA Health Research Exemption. AB 713 (Mullin; D-South San Francisco) Promotes continued clinical trials and regulated biomedical research by exempting from the California Consumer Privacy Act (CCPA) information that has been deidentified in accordance with the Health Insurance Portability and Accountability Act (HIPAA). Support.	To Governor
Prohibition on Contact Tracing Technology. AB 1782 (Chau; D-Monterey Park) Prohibits the use of technology to assist in contact tracing efforts except in certain narrow circumstances, and subjects any business, nonprofit, school, or university to a private right of action, plus attorney fees and statutory penalties, for using technology to trace exposure and notify individuals who may have been exposed. Oppose.	Senate Appropriations Suspense File 8/19/20
Connected Televisions or Devices. AB 1395 (Cunningham; R-San Luis Obispo). Regulates all connected devices that use voice recognition features and dictates how those recordings must be treated, particularly with regard to sharing. Creates mandatory disclosures that, though mandatory, misrepresent how many devices truly work. Oppose.	Senate Judiciary 7/9/20
Contact Tracing Privacy Regulation. AB 660 (Levine; D-San Rafael) Creates vague and overbroad contractual requirements that limit the use of a consumer's personal information for purposes outside of mitigating the spread of disease and complying with warrants and subpoenas. Oppose.	Senate Appropriations Suspense File 8/19/20
DNA and Testing Privacy, COVID-19 Testing Companies. SB 980 (Umberg; D-Santa Ana). Prohibits direct-to-consumer genetic or illness testing services companies from disclosing a person's genetic information to a third party without obtaining prior consent, as specified. Imposes penalties and allows actions for relief to be filed by city attorneys or similar, as specified. Oppose.	To Governor
Free Trials, Automatic Renewals, and Continuous Service Offers. AB 2811 (Berman; D-Palo Alto). Requires businesses offering auto-renewal or continuous service offers to provide the consumer with a notice explaining how to cancel an automatic renewal offer or continuous service offer, given certain requirements are met. Oppose.	Senate Judiciary 7/1/20
Digital Health Systems as Health Care Providers. AB 2280 (Chau; D-Monterey Park) Classifies any Food and Drug Administration (FDA)-approved device or software that collects personal information for the purposes of the Confidentiality of Medical Information Act (CMIA) in any form to be a "health care provider" and appropriately regulated as such. Oppose.	Senate Judiciary 7/1/20
Mandatory Cyber Insurance. AB 2320 (Chau; D-Monterey Park) Requires a contractor doing business with a state agency to require, by contract, that the contractor maintain cyber insurance if the contractor anticipates receiving or has access to records containing personal information protected under the information practices act of 1977. Oppose.	Failed passage in Assembly Privacy & Consumer Protection 5/5/20
*Limits on Government Access to Consumer Data. AB 3116 (Irwin; D-Thousand Oaks) Places limitations on the data that government entities can demand from any entity that makes transportation devices and vehicles available to the public. This includes but is not limited to autonomous vehicles, bicycles, and scooters that are offered or placed for rent in public. Support.	Held in Assembly Appropriations Suspense File 6/2/20; Failed Deadline

Subject—CalChamber Position	Status
Product Regulation	
Cosmetic Product Ban. AB 495 (Muratsuchi; D-Torrance) Bypasses a legislatively mandated analytical process to judge the safety of consumer products and seeks to prohibit safe cosmetic products based upon the mere presence of a chemical in the product, no matter the level, that will lead to potential regrettable substitutions and job losses in the cosmetic industry. Oppose/ Two Year Job Killer .	Failed passage in Assembly Health 1/17/20
Unprecedented Product Regulation in California. SB 54 (Allen; D-Santa Monica) Before amendments, substantially increased the cost to manufacture and ship consumer products sold in California by providing CalRecycle with broad authority to develop and impose costly and unrealistic new mandates on manufacturers of all single-use packaging and certain single-use plastic consumer products under an unrealistic compliance time frame that failed to address California's lack of recycling and composting infrastructure. Job killer status removed due to September 6, 2019 amendments, but CalChamber still opposes. Oppose Unless Amended/ Former Job Killer 2019 .	Failed passage in Assembly 9/1/20
Ingredient Ban in Personal Care Products. AB 2762 (Muratsuchi; D-Torrance) Before amendments taking CalChamber to no position, the bill would have inconsistently prohibited certain specified ingredients in cosmetic products leading to products effectively banned or costly reformulations if even possible. No Position.	To Governor
Overreaching Performance Standard. AB 1672 (Bloom; D-Santa Monica) Before amendments, imposed a new performance standard on flushable wipe products that would effectively ban most flushable wipes from the North American market without a sound scientific basis. CalChamber removed opposition and now has no position on the bill due to July 1, 2020 amendments. No Position.	Senate Appropriations Suspense File 8/20/20
Feminine Care Product Regulation. AB 1989 (Cristina Garcia; D-Bell Gardens) Before amendments taking CalChamber to no position, the bill had unclear requirements on what manufacturers were required to disclose. After amendments, the expected scope of disclosure manufacturers were required to provide was unambiguous, ensuring consistency across products and helping consumers make informed decisions. No Position.	To Governor
Taxation	
Headcount Tax. AB 398 (Chu; D-San Jose) Punishes certain employers who create jobs and discourages hiring and employment growth by imposing a headcount tax of \$275 per employee. Oppose/ Job Killer 2020 .	Senate Governance & Finance 7/1/20
Massive Retroactive Tax Increase. AB 1253 (Santiago; D-Los Angeles) Seeks to increase California's personal income tax rate, already the highest in the country, for struggling small businesses and high-income earners, which will result in a recently reported \$6.8 billion in increased taxes. Oppose/ Job Killer 2020 .	Senate Governance & Finance 7/27/20
Small Business Hiring Tax Credit. SB 1447 (Bradford; D-Gardena) Encourages job growth and economic recovery by providing certain small employers with a tax credit of \$1,000 per new hire above an established baseline. Small businesses are entitled to up to \$100,000 in hiring tax credits. Support.	To Governor
Staggering Corporate Tax Hike. SB 37 (Skinner; D-Berkeley) Imposes a targeted tax on California business, which, for certain companies, would raise California's corporate tax rate—already one of the highest in the nation—up to a staggering 22.26%, which amounts to an increase of about 150% and would undoubtedly discourage companies from locating or further investing in the state. Oppose/ Two Year Job Killer .	Secretary of Senate 2/3/20
Targeted Tax on Oil and Gas Operators. SB 246 (Wieckowski; D-Fremont) Unfairly targets one industry by imposing a 10% oil and gas severance tax onto an oil and gas operator, adding another layer of taxes onto this industry that will significantly increase the costs of doing business, thereby increasing prices paid by consumers for goods and services in this expensive state as well. Oppose/ Two Year Job Killer .	Secretary of Senate 2/3/20

Subject—CalChamber Position	Status
Corporate Shaming Tax Disclosure. SB 972 (Skinner; D-Berkeley) Pierces the traditional shield of taxpayer confidentiality that has been respected by generations of political and government leaders by requiring the Franchise Tax Board to disclose all taxpayers' identities and tax credits if their gross receipts are \$5 billion or more. Oppose.	To Governor
Unnecessary Commission to Study Tax Expenditures. SB 956 (Jackson; D-Santa Barbara) Creates an unnecessary commission to study tax expenditures that will cause uncertainty for businesses due to the potential of increasing taxes by \$20 billion. Oppose.	Assembly Revenue & Taxation 6/29/20
Disaster Relief to Homeowners and Businesses Seeking to Rebuild. AB 2013 (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.	To Governor

Telecommunications

*Restrictions on Contacting Consumers. AB 3007 (Chau; D-Monterey Park) Prohibits businesses from using automated calls and texts to communicate with customers and business relations, and expands the application of this restriction to any device that stores phone numbers and can automatically dial or send text messages to those numbers "without significant human involvement," which is undefined. Oppose.	Assembly Appropriations 5/6/20; Failed Deadline
*Mandatory Financial Disclosures and Reporting Requirements for ISPs. SB 1058 (Hueso; D-San Diego) Creates a financial disclosure requirement in addition to an onerous annual reporting mandate that requires internet service providers (ISPs) to file annual emergency operations plans with the California Public Utilities Commission, but the regulatory scheme proposed by SB 1058 is preempted by federal law. Oppose.	Held in Senate Appropriations Suspense File 6/18/20
*Critical Infrastructure Reporting and Disclosure, Telecommunications. SB 1069 (Jackson; D-Santa Barbara) Creates onerous reporting requirements for telecommunications providers, including real-time information and annual reports regarding telecommunications. Oppose.	Held in Senate Appropriations Suspense File 6/9/20

Unemployment Insurance

Massive Unemployment Insurance Compensation and Tax Increase. AB 1107 (Chu; D-San Jose) Would significantly raise employers' payroll taxes to fund a 130% increase in unemployment payments just as California's businesses are struggling to survive this pandemic-caused shutdown. Gutted and amended May 26, 2020 to a different subject area. Job killer and oppose tag removed. No Position/ Former Job Killer 2020.	Senate Appropriations Suspense File 8/19/20
Increased Unemployment Insurance Costs and Payments. AB 3329 (Daly; D-Anaheim) Increases unemployment insurance payments in California in response to COVID-19 and costs California employers billions of dollars over the next 10 years. Assembly Insurance hearing canceled by author in response to employer concerns. Oppose.	Assembly Insurance 3/9/20; Failed Deadline
Unemployment Funds. AB 1066 (Lorena Gonzalez; D-San Diego) Gut and amend of former job killer baselessly attempts to place on employers Employment Development Department (EDD) delay in distributing unemployment insurance benefits by creating an unnecessary and vague statutory deadline for employers to respond to EDD requests. Deadline particularly unnecessary because regulations already provide specific deadlines for all EDD requests. Also adds potential for inefficient and unnecessary Attorney General enforcement of any overdue payments to EDD. Oppose.	To Governor

Subject—CalChamber Position	Status
<p>Increased UI Costs and Work Share Program Streamlining. AB 1731 (Boerner Horvath; D-Encinitas) Before amendments, would have increased pressure on UI fund by multiple billions of dollars per year by broadening eligibility, costing employers billions in the coming years. Would also provide appropriate streamlining of California’s work share program. Opposition removed due to August 25, 2020 amendments. Support.</p>	To Governor

Water Supply and Quality

<p>Levee Protection. AB 1958 (Cooper; D-Elk Grove) Allows local law enforcement to move visual or physical obstructions from levees to protect public safety. Support.</p>	Senate Natural Resources & Water 6/23/20
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Workers’ Compensation

<p>Establishes Costly “Conclusive Presumption” of Injury. AB 196 (Lorena Gonzalez; D-San Diego) Significantly increases workers’ compensation costs for employers by “conclusively” presuming (non-rebuttable) that contraction of COVID-19 by all “essential workers” is a workplace injury. Establishes an extremely concerning precedent for expanding presumptions into the private sector for COVID-19 issues, which the Workers’ Compensation Insurance Rating Bureau recently estimated will add billions in costs to California’s workers’ compensation system. Oppose/Job Killer 2020.</p>	Senate Floor 8/26/20
<p>Costly Presumption of Injury. AB 664 (Cooper; D-Elk Grove) Significantly increases workers’ compensation costs for public employers and public and private hospitals by establishing a disputable presumption that COVID-19 illness or death was caused by the workplace. Establishes an extremely concerning precedent for expanding presumptions into the private sector for COVID-19 issues, which the WCIRB recently estimated will add billions in costs to California’s workers’ compensation system. Job killer tag removed due to August 25, 2020 amendments. Oppose/Former Job Killer 2020.</p>	Senate Floor 8/26/20
<p>Workers’ Compensation: COVID-19. SB 1159 (Hill; D-San Mateo) Establishes a largely unworkable rebuttable workers’ compensation presumption for COVID-19 that would “trigger on” based on the number of infections at a specific place of employment over a rolling 14-day period. The complexity of this presumption mechanism is disastrously complex, would lead to litigation and increase costs across the entire workers’ compensation system, and would be on the books for four years. Oppose.</p>	To Governor
<p>Expands Costly Presumption of Injury. SB 893 (Caballero; D-Salinas) Significantly increases workers’ compensation costs for public and private hospitals by presuming that certain diseases (including COVID-19) and injuries are caused by the workplace and establishes an extremely concerning precedent for expanding presumptions into the private sector. Oppose/Job Killer 2020.</p>	Failed passage in Senate Labor, Public Employment & Retirement 5/14/20; Failed Deadline

Employment Mandates Pass, on Way to Governor Newsom

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declaratory relief, punitive damages, and attorney fees. Any employee who believes an employer did not properly administer the leave, interfered with the leave, or denied the leave, can file litigation.

Lastly, even though the leave required in SB 1383 is not “paid” by the employer, that does not mean the employer will not endure added costs. The leave is “protected,” meaning an employer must return the employee to the same position the employee had before going out on leave. This means holding a position open for three months or more.

This 12-week leave of absence on small employers cannot be viewed in isolation, but must be considered with regard to all of the other California-specific leaves employers must juggle, such as Pregnancy Disability Leave (up to four months); workers’ compen-

sation injury (amount of leave based upon doctor’s recommendation); and California Paid Sick Leave (minimum of 3 days), among many others.

AB 3216

AB 3216 imposes an onerous and stringent process for specific employers to return employees to the workforce, which will delay rehiring and subject employers to litigation for any alleged mistakes.

The bill establishes a new “right to recall” requirement that applies to certain hotels, event centers, airport hospitality operations, or the provision of building services to office, retail, or other commercial buildings. These rights also extend where an employer goes out of business and there is a change in control or ownership.

Among other things, AB 3216

requires covered employers not only to offer to rehire the employee who held the same position, but also to offer the position to any employee who “is or can be qualified for the position.” This is vague and unworkable and would appear to require the employer to offer almost any position to employees by order of seniority as virtually any employee “is or can be qualified” for a given position with appropriate training.

Lastly, since AB 3216 establishes a new section of the Labor Code, any violation (even a technical or minor one) would subject a business to liability under the Labor Code Private Attorneys General Act (PAGA).

Action Needed

The CalChamber is urging members to contact the Governor and ask him to **veto SB 1383 and AB 3216**.

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