

ALERT

First 2023 Job Killer Sets Dangerous Precedent

Would Raise Costs to All Californians



Legislation creating a misguided policy that would exacerbate California's affordability crisis was named by the California Chamber of Commerce this week

as the first bill on the 2023 job killer list. **SBX1 2 (Skinner; D-Berkeley)** proposes to cap oil refiner profits and financially penalize oil companies when the state determines these companies are making too much money.

Worsens Affordability Crisis

The bill is effectively a tax on the manufacture of products critical to the daily lives of Californians and employers in the state and would not provide any relief at the pump. SBX1 2 would exacerbate California's affordability crisis, making the state an even more expensive place for everyone — businesses and residents alike.

"The predictable consequence of taxing the production of California oil and gas will be less production, higher prices and eventually more expensive

imports," said CalChamber Policy Advocate Brady Van Engelen in a [February 14 letter](#) to Senator Nancy Skinner, author of SBX1 2. "The policy this bill sets in motion would discourage employers in industries far beyond the energy sector from expanding or maintaining operations in California. It establishes a playbook for state government to arbitrarily determine what a 'reasonable' profit is. That is appropriately the role of the market in competitive industries, not government."

Deters Job Growth

Van Engelen continued: "At a time when we may be at risk of an economic contraction, we should collectively be identifying solutions that can reduce costs and bring more jobs to the State, which ultimately increases revenue. Unfortunately, this measure will do the exact opposite and likely deter job growth in a sector that historically has competitive high-paying wages."

CalChamber's letter points out that similar proposals have been tried and

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Appellate Court Backs Use of Arbitration in Employment



The U.S. Court of Appeals for the 9th Circuit this week invalidated a law contested by the California Chamber of Commerce, ensuring that arbitration can continue to be used as an


efficient forum in resolving disputes by employees and employers in California.

The CalChamber hailed the [ruling](#) in *Chamber v. Bonta* invalidating AB 51 (Lorena Gonzalez; D-San Diego), which prohibited employers from requiring employees to sign agreements to arbitrate any disputes arising from the employee's employment.

"This is a win for all Californians," said CalChamber President and CEO Jennifer Barrera. "Until there is meaningful reform to our litigation environment — including PAGA — arbitration remains an efficient, cost-effective way to resolve disputes in a timely and fair manner for both employers and employees."


The CalChamber led a large coalition of employers in challenging AB 51, arguing that it conflicted with federal law. If allowed to remain in effect, AB 51 would have resulted in more litigation, imposed significant delays in California's justice system and increased costs for businesses and workers alike.

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MAY 17-18, 2023

CAPITOL SUMMIT & SACRAMENTO HOST BREAKFAST



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Labor Law Corner

New Bereavement Leave Requirements for Private, Public Employers



Lisa Guzman
HR Adviser

What are the requirements of California's new bereavement leave law?

With 2023 in full swing, many employers are reviewing and updating employee handbooks and policies. The new year should include adopting or updating an existing bereavement leave policy to comply with California's new bereavement leave law.

Effective January 1, 2023, California requires employers to provide eligible employees with up to five days of leave upon the death of family member. The law

applies to all private employers with five or more employees and all public employers. (*Government Code Section 12945.7*).

Eligibility/Qualifying Family Members

An employee is eligible for bereavement leave if they have been employed for at least 30 days prior to the beginning of the leave. A qualifying family member is a spouse, child, parent, sibling, grandparent, grandchild, domestic partner or parent-in-law as defined in the California Family Rights Act. (*Government Code Section 12945.7 (a)(1)(3)*).

An employee can use bereavement leave for each qualifying occurrence. This means that an employee can take up to five days of bereavement leave for each death of a family member.

Timing of Leave

The five days of bereavement leave do not have to be taken consecutively; leave can be intermittent. However, the employee must complete the bereavement leave within three months of the date of the family member's death. (*Government Code Section 12945.7 (c) (d)*).

Documentation Required

An employer can request that an employee seeking bereavement leave provide documentation to support the leave. Documentation may include: death certificate, published obituary, or written

verification of death, burial or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or government agency.

If documentation is requested, an employee must provide it to their employer within 30 days of the first day of leave. Any documentation provided by an employee must be kept confidential and cannot be disclosed, except to internal personnel, legal counsel or as required by law. (*Government Code Section 12945.7 (f) (i)*).

Payment for Leave

Whether leave is paid or unpaid depends on an employer's existing bereavement leave policy.

If an employer does not have an existing leave policy, all five days may be unpaid. While on leave, however, an employee is entitled to use vacation, personal leave, accrued and available sick leave or compensatory time off that is otherwise available to the employee.

If a company has an existing bereavement leave policy, the law requires employers to provide leave according to their policy. If the employer policy provides less than five days of leave, the employer must provide additional bereavement leave so that an employee has no less than five days of bereavement leave.

For example, if an employer's existing bereavement leave policy provides

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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: Jennifer Barrera. 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.

Business Resources

California's Recycling Overhaul — A Breakdown: of SB 54's Circular Economy. CalChamber. March 8, Online. (800) 331-8877.

California Privacy Rights Act (CPRA) Compliance Webinar. CalChamber and Mariner Strategies. March 15, Online. (800) 331-8877.

Labor and Employment

Leaves of Absence: Making Sense of It All Virtual Seminar, February 23–24, April 13–14, Online. (800) 331-8877.
HR Boot Camp Virtual Seminar. CalChamber. March 9–10, May 4–5, Online. (800) 331-8877.

International Trade

9th U.S.-Japan Hi-Tech Industrialization Forum, National Institute of Informatics, VisionX Foundation. February 21, San Jose and Online.

China Clean Beauty Trade Mission. U.S. Commercial Service. February 21–22, Online. Cindy.Ma@trade.gov.

Canada Advocacy Day Luncheon: Green Investing in the Golden State.

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Next Alert: March 3

CalChamber Webinar to Cover California Privacy Rights Act Compliance



A compliance webinar on the California Privacy Rights Act (CPRA) will be

presented by the CalChamber on Wednesday, March 15, 10 a.m.–11 a.m. (Pacific).

Webinar attendees will have the chance to listen and ask questions via Zoom as privacy and data security legal experts from the California Chamber of Commerce and Mariner Strategies, LLC explain the evolving field of data privacy regulations and consumer privacy rights.

Privacy Law Overview

In 2018, California enacted the first comprehensive data privacy law in the nation, the California Consumer Privacy Act (CCPA), providing consumers with various rights regarding the data companies collect about them and how that data is used or disclosed. The CCPA became operative on January 1, 2020.

Ten months later, California voters expanded that law by passing Proposition 24, the California Privacy Rights Act (CPRA) of 2020. The CPRA took full effect as of January 1, 2023.

Notably, the law requires covered companies to adequately train employees who may receive consumer inquiries.

Businesses already in compliance with the CCPA can learn about the new or changed obligations and rights that took effect under Proposition 24 on January 1, 2023.

This training will cover these frequent questions:

- What does the law do and to whom does it apply?
- What rights do consumers have and, inversely, what obligations do businesses have?

- How much time do you have to respond to those consumer requests?
- How can you get a comprehensible compliance system in place, even if you don't have a big legal department or a budget to staff all this?
- How do you ensure compliance with any regulations enacted by, or anticipated from, the California Privacy Protection Agency, including regulations previously enacted by the Office of the California Attorney General?
- What happens if you are found non-compliant?
- What does the future hold for privacy legislation and regulation in California?

Who Should Attend

Large companies are not the only ones subject to the CCPA/CPRA requirements. With few exceptions, **any company that buys, sells, or shares personal information of 100,000 or more California residents or households per year** (effectively, 274 consumers per day) is subject to the current requirements.

Other covered entities include companies that either derive at least 50% of their revenue from selling or sharing consumers' personal information or otherwise made more than \$25 million in gross revenue in the preceding calendar year.

This webinar is appropriate for all of the following:

- C-suite executives;
- Chief privacy officers;
- Privacy compliance personnel;
- Legal counsel;
- Customer service and call center representatives and any employee that receives written or oral requests from consumers, including retail employees, online live chat agents, and email support

personnel — in addition to all managers and supervisors for these roles.

Presenters

• **Ronak Daylami**, an attorney and CalChamber policy advocate specializing in privacy issues. As chief consultant to the Assembly Privacy and Consumer Protection Committee, she advised the author during the negotiations leading to passage of the CCPA.

• **Andrew Kingman**, president of Mariner Strategies, LLC. Among other clients, he represents the State Privacy & Security Coalition, which works on data privacy and cybersecurity issues in all 50 states.

Webinar Details

- Formatted so participants can submit questions during the webinar.
- Provided: Downloadable webinar slides and supplemental material.
- Optimized for mobile viewing on tablets and smartphones.

Training Credits

Applicable individuals who attend the presentation will fulfill their CPRA training requirements.

The \$199 course is approved for 1.0 California recertification credit toward PHR, SPHR, GPHR, APHR and PHR/CA through the HR Certification Institute (HRCI); 1.0 MCLE credit; and also is approved by the Society for Human Resource Management (SHRM) for 1.0 Professional Development Credits for the SHRM-CP or SHRM-SCP.

To register for [California Privacy Rights Act \(CPRA\) Compliance Webinar](#) or for more information, visit the [CalChamber Store](#) or call (800) 331-8877.



CalChamber Member Feedback

"CalChamber's ability to produce results at the State Capitol for both large and small businesses is unrivaled. I have been a member and on the board of directors for years and it has been a great investment."

Ted J. Balestreri
Chairman and Chief Executive Officer
Cannery Row Company

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failed in every instance — at both the state and federal levels. The efforts were repealed in all cases for failing to generate additional revenue and doing nothing to impact the price of gasoline.

Cost Factors

The California Energy Commission pointed out in a September 2022 report that filling up the tank in California costs more for reasons that include “the isolated nature of the state’s transportation fuels market, a special gasoline recipe that reduces air pollution, environmental program costs, and taxes.”

Similarly, Professor Michael A. Mische from the University of Southern California Marshall School of Business attributed

the state’s high oil and gas prices to “real-world economics” and market factors such as the geopolitical environment, weather, operations, high dependency on foreign-sourced oil, California’s overly complex regulatory environment, high taxes, and mandatory special blends.

Transition

The CalChamber letter notes that many fossil fuel companies are transitioning to cleaner energy solutions, similar to the rest of the state’s energy mix and that transition process requires the very capital that SBX1 2 is trying to punish. Without these infusions of capital, the transition to a net-zero carbon future will become less likely or on a lengthier timeline, the letter states.

For example, refiners have been introducing cleaner blends tailored for California and have been re-engineering the refining process to further reduce emissions from the production of fuels produced in California. Both efforts require significant investments to retrofit the refining facility in alignment with California’s climate goals.

In the transition to a cleaner energy future, policymakers should be mindful that “demand for refined products still exists, and marginal reduction in emissions stemming from facilities that provide these fuels should be viewed as a necessary puzzle piece to our transition,” the letter comments.

Staff Contact: Brady Van Engelen

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Further, as stated in the legislative analysis of AB 51 and in the complaint itself, the Supreme Court has repeatedly held that state laws singling out arbitration agreements for disfavored treatment are preempted. This is the primary reason that a predecessor bill to AB 51, [AB 3080](#) (Lorena Gonzalez; D-San Diego), was

vetoed by Governor Jerry Brown in 2018.

CalChamber and the employer coalition filed their initial motion to invalidate and stop enforcement of AB 51 on December 6, 2019. On December 30, 2019, Judge Mueller issued a temporary restraining order, halting enforcement of AB 51 until the matter could be resolved.

A recent study comparing employ-

ment arbitrations and litigation found that employee-claimants were greater than three times more likely to win in arbitration, more likely to receive high monetary awards in arbitration, and more likely to spend less time in arbitration than in litigation. Maintaining arbitration as a manner to resolve disputes is a benefit to employees and employers.

New Bereavement Leave Requirements for Private, Public Employers

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for three days of paid leave, an employee is entitled to take two additional days of unpaid bereavement leave and may use accrued paid leave for the unpaid days. (*Government Code Section 12945.7 (e)*).

Collective Bargaining Agreement Exception

The bereavement leave law does not apply to employees who are covered by a valid collective bargaining agreement if the collective bargaining agreement expressly provides for all the following (*Government Code Section 12945.7 (k)*):

- Bereavement leave equivalent to that provided by this law;
- Wages, hours of work and working conditions of employees;
- Premium wage rates for all overtime worked;
- A regular hourly rate of pay at least 30% above the state minimum wage.

Anti-Discrimination Requirements

The bereavement leave law prohibits discrimination, interference or retaliation relating to an individual’s exercise of rights to bereavement leave. (*Government Code Section 12945.7 (g)(h)*).

Employers should review their employee handbooks and policies to ensure that any existing bereavement policies are updated to comply with the new bereavement leave law. If your company does not have a bereavement leave policy, now is a good time to add one to your employee handbook.

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.

2022 California Exports Reach Record High



Trade statistics released this month by the U.S. Department of Commerce

show that California remained a top exporting state in 2022.

California exports reached a record high in 2022, with companies here exporting \$185.55 billion worth of goods to the world. As usual, computer and electronic products made up the bulk of exports at 22.4% (\$41.59 billion). Nonelectrical machinery and chemicals made up 11.7% and 9.5% of total exports, respectively.

Trade Overview

In 2022, the United States exported a record total of \$2.06 trillion in goods to the world and imported \$3.24 trillion, creating a goods deficit of \$1.18 trillion. U.S. exports increased by 17.56% in 2022, while imports also increased by 14.65%.

U.S. exports increased across the board for the top 10 export partners. Mexico saw the largest increase in exports with an increase of 17.32% from 2021 to 2022.

U.S. imports increased from all top import partners with Canada and Mexico accounting for the largest increases of 22.34% and 18.27% from 2021 to 2022, respectively.

California's \$185.55 billion of exports in 2022 was an increase of 6.07% from the previous year's total of \$174.9 billion, according to the U.S. Department of Commerce statistics.

For 2022, California's import trade totaled \$508.75 billion, an increase of 8.17% from the previous year.

Trading Partners

California's top five export markets remained the same in 2022, in order: Mexico, Canada, China, Japan and South Korea.

There was some shuffling with the next five export partners to round out the top 10. Taiwan remained California's sixth largest export partner, but the Netherlands took over the seventh place, followed by Germany, India and Hong Kong, which moved down from ninth to 10th place.

- Exports from California to Mexico

totaled \$30.77 billion in 2022, maintaining the country's spot as California's top export partner. Exports increased by 13.10% compared to 2021.

- Canada remained California's second largest export destination with \$20.1 billion in exports. Exports to Canada increased by 11.4% in 2022 compared to 2021.

- California exports to China totaled \$18.15 billion in 2022, a 9.12% increase from the year before.

- Exports from California to Japan totaled \$11.607 billion in 2022. Exports decreased by 1.6% between 2021 and 2022.

- South Korean imports of California goods totaled \$11.58 billion in 2022, a 0.27% decrease compared to 2021.

- Taiwan remained California's sixth largest export partner in 2022, importing \$10.42 billion worth of goods, a 16.31% increase from 2021.

- Exports from California to the Netherlands totaled \$6.5 billion in 2022, a 6.5% increase from 2021.

- Exports from California to Germany totaled \$6.23 billion in 2022, a 17.95% decrease from 2021.

- India became California's ninth largest export partner in 2022, with \$6.04 billion worth of imports. Despite India's rising in rank, California exports to India decreased by 9.42% between 2021 and 2022.

- California exports to Hong Kong totaled \$5.55 billion in 2022, a significant decrease of 17.73% from the previous year.

Commodities

California Commodities

Exports in California's top category, computer and electronic products, increased by 4.86% to \$41.59 billion. Nonelectrical machinery exports also increased by 7.69%, totaling \$21.87 billion in 2022. Agricultural products and waste and scrap were the only export products in the top 10 that decreased from 2021 by 0.89% and 20.14%, respectively.

Petroleum and coal products were the export that increased the most in the top 10 products, increasing by 77.7%, from 2021 to 2022, totaling \$6.06 billion.

California's top 10 imported products all increased from the previous year, with

the top three products being computer and electronic products, transportation equipment, and electrical equipment. The largest increase in the top 10 imported products was in oil and gas, with imports increasing by 45.85% from 2021 to 2022.

The only imported product in the top 10 to decrease was miscellaneous manufactured goods, which decreased by 3.34% from 2021 to 2022.

U.S. Commodities

Top exported products from the United States were made up of chemicals, transportation equipment, and computer and electronic products. Of the top 10 products, oil and gas saw the largest increase of 55.49% from 2021 to 2022.

Top imported products into the United States were made up of computers and electronic equipment, transportation equipment, and chemicals. Of the top 10 imported products, oil and gas also saw the largest increase of 49.97% from 2021 to 2022.

CalChamber Position

California is one of the 10 largest economies in the world with a gross state product of more than \$3.5 trillion. International trade and investment are major parts of our economic engine that broadly benefit businesses, communities, consumers and state government.

California's economy is diverse, and the state's prosperity is tied to exports and imports of both goods and services by California-based companies, to exports and imports through California's transportation gateways, and to movement of human and capital resources.

Although trade is a nationally determined policy issue, its impact on California is immense. California exports to more than 227 foreign markets. Trade offers the opportunity to expand the role of California's exports. In its broadest terms, trade can literally feed the world and raise the living standards of those around us.

The California Chamber of Commerce supports expansion of international trade and investment, fair and equitable market access for California products abroad, and elimination of disincentives that impede the international competitiveness of California business.

Staff Contact: Susanne T. Stirling

CalChamber-Sponsored Seminars/Trade Shows

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Consulate General of Canada in San Francisco, California Chamber of Commerce, Governor's Office of Business and Economic Development. February 22, Sacramento.

Exporting 101: Pathways to Developing International Markets. California Centers for International Trade Development. February 22, Online. (559) 243-7280.

How to Navigate Three Major Stumbling Blocks in Exporting to the EU. National Association of District Export Councils. February 22, Online. nadec@usaexporter.org.

2023 Taiwan Trade Shows. Taiwan Trade Center, San Francisco. March 6–November 8, Taiwan and Online. (408) 988-5018.

Trade Winds Southeast Asia. U.S. Commercial Service. March 9–16, Bangkok, Thailand. TradeWinds@trade.gov.

How to Leverage Hong Kong as a Hub to Grow Your Sales Across Asia. International Trade Administration, Getting to Global and U.S. Commercial Service. March 16, Online. (800) 872-8723.

Panama and CAFTA-DR Trade Mission. Foreign Agricultural Service, U.S. Department of Agriculture. March 19–23, Panama City, Panama. trade-missions@fas.usda.gov.

How to Sell into the Middle East and North Africa (MENA) Market via the Cross-Border Digital Sales Channels. International Trade Administration, Getting to Global and U.S. Commercial Service. April 13, Online. (800) 872-8723.

11th Annual Pan African Global Trade and Investment Conference. Center for African Peace and Conflict Resolution. April 26–30, Sacramento. info@panafricanglobaltradeconference.com.

Annual Export Conference. National Association of District Export Councils (NADEC). May 9–10, Washington, D.C. aburkett@naita.org.

U.S. to EU: How to Sell into European Union via eCommerce. International Trade Administration, Getting to Global and U.S. Commercial Service. May 18, Online. (800) 872-8723.

NAFSA Annual Conference & Expo. National Association of International Educators. May 30–June 2, Washington, D.C. (202) 737-3699. *Early bird registration opens March 1.*

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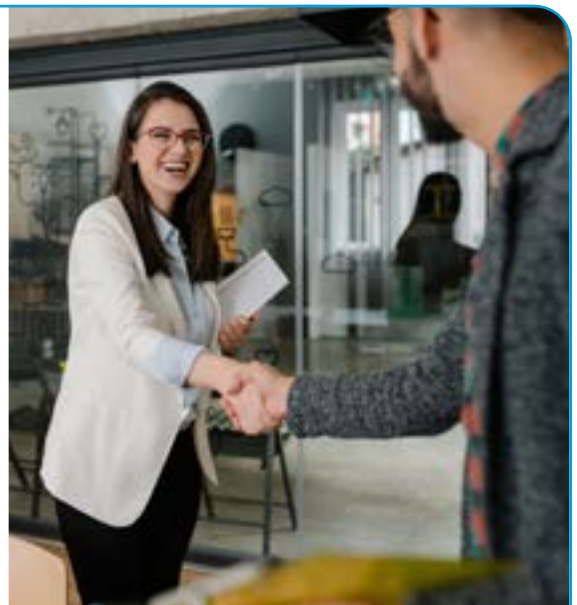


LIVE WEBINAR | MARCH 16, 2023 | 10 AM - 11:30 AM PT

Welcome Aboard: Compliance Tips for New Hires

While welcoming a new hire may seem like a mechanical process filled with paperwork, employers must make sure to follow their legal obligations under California and federal law.

Join our employment law experts to learn about requirements and best practices for properly onboarding new employees.



Includes an in-depth focus on the Form I-9 process.

LEARN MORE at calchamber.com/mar16