

ALERT

Agreement Reached to Reform Private Attorneys General Act

A Better, Fairer System for Workers, Employers

FixPAGA

The California Chamber of Commerce and the [Fix PAGA coalition](#), representing non-profits, social justice advocates, family farmers, health care providers and businesses, are supporting legislation to reform California's broken Private Attorneys General Act (PAGA).

The [agreement](#) was announced this week by Governor Gavin Newsom, Senate President pro Tempore Mike McGuire and Assembly Speaker Robert Rivas after months of discussions between labor advocates and the coalition.

"We came to the table and hammered out a deal that works for both businesses and workers, and it will bring needed improvements to this system. This proposal maintains strong protections for workers, provides incentives for businesses to comply with labor laws and reduces litigation," Governor Newsom said.

If passed by the Legislature, the legislation would reform PAGA to ensure workers retain a strong tool to resolve labor claims and receive fair compensation, while limiting the shake-down lawsuits that hurt employers and employees.

"This package provides meaningful reforms that ensure workers continue to have a strong vehicle to get labor claims resolved, while also limiting the frivolous litigation that has cost employers billions without benefiting workers," CalChamber President and CEO Jennifer Barrera

said. "We thank Governor Newsom, Senate President pro Tempore McGuire and Assembly Speaker Rivas for navigating this agreement, and we encourage the Legislature to pass this package quickly."

Legislation Details

The core elements of the reform package are:

- **Employee Share of Penalty**

Increases share employees receive from any penalty from 25% to 35%.

- **Standing**

Requires the employee (plaintiff) to personally experience the alleged violations brought in a claim.

Alleged violations must have occurred within the last year (presently, there is no time limitation).

- **Penalty**

Caps Penalties: For employers who proactively take steps to comply with the Labor Code before receiving a notice, the maximum penalty that can be awarded is 15% of the applicable penalty amount.

Caps Penalties: For employers who take steps to fix policies and practices after receiving a PAGA notice, the maximum penalty that can be awarded is 30% of the applicable penalty amount.

Reduces the maximum penalty where the alleged violation was brief or where it is a wage statement violation that did not cause confusion or economic harm to the employee (i.e. misspelling of company name or forgetting to add "Inc." on the pay statement).

Levels the playing field for employers who pay weekly by ensuring a penalty is adjusted. Presently, such employers are penalized at twice the amount because penalties accrue on a per pay period basis.

Addresses derivative claims.

Creates a new penalty (\$200 per pay period) if an employer acted maliciously, fraudulently, or oppressively.

- **Employer Right to Cure**

Expands which Labor Code sections can be cured, so employees are made whole quickly.

Protects small employers by providing a more robust right to cure process through the state labor department (Labor and Workforce Development Agency) to reduce litigation and costs.

Provides an opportunity for early resolution in court for larger employers.

- **Strengthening Enforcement Agency**

The Administration will pursue a trailer bill to give the California Department of Industrial Relations (DIR) the ability to expedite hiring and filling vacancies to improve and expedite enforcement of employee labor claims.

- **Judicial Discretion (Manageability)**

Codifies that a court may limit both the scope of claims and evidence presented at trial.

- **Injunctive Relief**

Allows for injunctive relief.

PAGA Awards Split

A [recent report](#) found that since 2013 there have been nearly \$10 billion in

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Labor Law Corner

Assistive Animal at Work Still Subject to Minimum Standards



Lisa Guzman
Employment Law
Expert

One of our employees has asked to bring an emotional support dog to the office. I know about service dogs in the workplace. Do we legally have to allow an employee to bring a support dog to work?

The answer is maybe. Employers may have to allow an employee to bring an emotional support animal to work as a reasonable accommodation.

ADA and FEHA

The federal Americans with Disabilities Act (ADA) and California's Fair

Employment and Housing Act (FEHA) protect job applicants and employees who have a disability or who are perceived as having a disability.

Under the ADA and FEHA, allowing an employee with a disability to bring an assistive animal to the worksite may constitute a reasonable accommodation.

Definition of Assistive Animal

Under California law, which is broader than federal law, an "assistive animal" is "an animal that is necessary as a reasonable accommodation for a person with a disability." Assistive animals may include a:

- Guide dog trained for the blind or visually impaired.
- Signal dog trained for the deaf or hearing impaired.
- Service dog or other animal individually trained to the requirements of a person with a disability.
- Support dog or other support animal. (California Code of Regulations, Title 2, Section 11065(a)).

The FEHA regulations define a support animal as "one that provides emotional, cognitive or other similar support to a person with a disability, including, but not limited to, traumatic brain injuries or mental disabilities, such as major depression." (California Code of Regulations, Title 2, Section 11065(a)).

Support animals are not limited to dogs; they may include any type of animal that provides emotional, cognitive or other support to a person with a disability.

Although some assistive animals like guide dogs receive training, California

law does not require assistive animals, including emotional support animals, to have any special training.

Reasonable Accommodation

When an employee asks to bring an emotional support dog or other assistive animal to the workplace, it should be handled in the same manner as any other accommodation request. The employer must engage in a timely, good faith interactive process with the employee regarding their request.

An employer should have a dialogue with the employee about the reasonableness and effectiveness of their request, that is, will bringing a support dog to work effectively allow the employee to perform the essential functions of his or her job. In addition, an employer should determine if the employee's request poses an undue hardship on its business.

An employer may request a letter from the employee's health care provider stating that the employee has a disability and explaining why the employee requires the presence of the assistive animal in the workplace. (California Code of Regulations, Title 2, Section 11069(e)).

For reasonable accommodations extending beyond a year, an employer can require an annual recertification from the employee of the continued need for the animal. (California Code of Regulations, Title 2, Section 11069(f)).

Like all accommodations, a request to bring an assistive animal to work must be determined on an individual, case-by-case basis.

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More information at www.calchamber.com/events.

Labor and Employment

It's Getting Hot in Here: California's New Indoor Workplace Heat Illness Standards. CalChamber. June 27, Online. (800) 331-8877.

Wage & Hour Essentials: Laws for Non-Exempt Employees. CalChamber. July 25, Online. (800) 331-8877.

Wage & Hour Essentials: Exempt Employee Requirements. CalChamber.

July 26, Online. (800) 331-8877.
Leaves of Absence. CalChamber. August 8-9, Online. (800) 331-8877.
HR Boot Camp. CalChamber. August 22-23, Online. (800) 331-8877.

International Trade

Semicon West 2024 — The Premier Microelectronics Event. SEMI. July 9-11, San Francisco. (985) 240-5511.
Farnborough International Air Show: California Pavilion. Governor's Office
See CalChamber-Sponsored: Next Page

CalChamber, U.S., State, Local Chambers Urge Support for Digital Trade Rules



The California Chamber of Commerce has joined the U.S. Chamber and

more than 150 state and local chambers from 45 states in urging the Biden administration to reverse course and support the strong digital trade rules approved by Congress in past trade agreements.

The chambers made the request in a [June 12 letter](#) to the White House National Security Council and National Economic Council.

Digital trade supports more than 3 million U.S. jobs across companies of every size, sector and state. Companies in diverse fields — services, manufacturing, arts and entertainment, and agri-business — rely increasingly on the digital economy to find customers, sell goods and services, manage operations, coordinate research and development, strengthen compliance, and ensure secure payments.

Over the years, the United States and its allies have negotiated agreements — including the U.S.-Mexico-Canada Agreement (USMCA) — to support mutually beneficial cross-border data flows and to defend against digital protectionism. These agreements protect U.S. companies from unfair treatment.

Background

In October 2023, the U.S. Trade Representative (USTR) reversed long-standing U.S. support for digital trade

rules. The action risks undermining U.S. leadership and threatens the global competitiveness of many U.S. businesses.

USTR officials in Geneva announced the U.S. withdrawal of its previous proposals on data flows, data localization, and source code being discussed in World Trade Organization (WTO) negotiations on e-commerce. A USTR spokesman stated that the move was made “to provide enough policy space” for debates about digital trade to unfold.

As the U.S. Chamber has pointed out, the digital trade rules “form a breakwall against the rising tide of global digital protectionism, particularly the egregious digital measures imposed by authoritarian regimes.”

Strong digital trade rules also prevent countries around the world from using regulation to lock out U.S. companies and workers from their markets.

In fact the digital trade rules have:

- Opened international markets for U.S. service providers, manufacturers, and agri-food companies that rely on the global reach of a range of U.S. services and technology providers to succeed;
- Helped small and medium-sized businesses to launch, grow, scale up, and access new markets; and
- Advanced the export of digital-delivered services, which in 2022 accounted for more than 67% of all U.S. services exports and 20% of all U.S. exports.

California and Digital Trade

Earlier this year, a [U.S. Chamber report](#) outlined how digital trade benefits

the U.S. economy, including breakdowns by state and congressional districts.

[California benefits from digital trade](#), according to that report, included the following (2022 data from Trade Partnership Worldwide’s *CDExports* database):

- 655,128 California jobs depend on digitally tradeable exports;
- the value of California’s digitally tradeable exports is more than \$142.675 billion;
- between 2013 and 2022, California’s digitally tradable exports grew 64%.

Europe was California’s top market for digitally tradeable services in 2022, following by Asia and Pacific economies (excluding China).

The top digitally tradeable services from California in 2022 were research and development/testing services; business management/ consulting services; royalties from industrial processes; financial management/advisory services; and royalties from computer software.

The numbers show that California’s need for a digital trade deal remains as strong as when CalChamber President and CEO Jennifer Barrera [co-authored a commentary in August 2022](#) recommending that the United States “negotiate an enforceable digital trade agreement with key partners who share our ambitions.”

Returning U.S. policy to the previous strong support for digital trade rules would be an important step in the right direction.

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

CalChamber-Sponsored Seminars/Trade Shows

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of Business and Economic Development (GO-Biz), July 18–22, Farnborough, United Kingdom. patricia.utterback@gobiz.ca.gov.

15th Annual California Mexico Advocacy Day. CalChamber and Consulate General of Mexico in Sacramento. August 7, Sacramento. intlevents@calchamber.com.

2024 Green Expo: California Pavilion.

GO-Biz. September 3–5, Mexico City. Diana.Dominguez@gobiz.ca.gov.

2024 California Pavilion @ Industrial Transformation Mexico. GO-Biz. Register interest by August 9. October 8–11, Leon, Guanajuato, Mexico. Diana.Dominguez@gobiz.ca.gov.

Japan International Aerospace Exhibition: California Pavilion. GO-Biz. October 16–18, Tokyo, Japan. emily.desai@gobiz.ca.gov.

Africa Health. GO-Biz awarding export vouchers. October 22–24, Cape Town, South Africa. Register interest. patricia.utterback@gobiz.ca.gov.

Cosmoprof Hong Kong. GO-Biz. Registration of interest required. November 12–14, Hong Kong, China.

Rebuild Ukraine 2024: Business in Ukraine and Poland. GO-Biz. November 12–15, Warsaw, Poland. patricia.utterback@gobiz.ca.gov.

CalChamber Opposes Bill Impeding Progress on Broadband for All



OPPOSE

nation of access to internet services.

AB 2239 (Bonta; D-Alameda) is scheduled to be considered on June 24 by the Senate Energy, Utilities and Communications Committee.

In a [letter to legislators](#), the CalChamber and coalition opposing AB 2239 explain how the bill runs counter to the goal of providing greater access to reliable broadband.

Discourages New Deployments

AB 2239 will discourage internet service providers (ISPs) from undertaking new deployments and upgrading to the latest technologies because of the standard it incorporates — a disparate *impact* standard, rather than a disparate *treatment* standard.

The disparate impact standard will almost certainly be challenged in court and is contrary to good public policy, the letter stated.

What makes the bill vulnerable to challenge is it purports to regulate an overly broad set of practices under a very open-ended standard of liability.

Legislation that slows broadband deployment is being **opposed** by the California Chamber of Commerce and associations committed to preventing digital discrimination of access to internet services.

AB 2239 is poor public policy because it sets an unworkable standard for ISPs that would leave them exposed to potential liability relating to new network investments.

Better Approach

A better approach, the letter stated, is the far more common disparate treatment standard. The disparate treatment standard is intent-based and would ensure AB 2239 creates a workable and enforceable framework in California without relying on disputed aspects of a Federal Communications Commission (FCC) order that is being challenged in federal court.

Under a disparate treatment standard, broadband providers will not hesitate to undertake new deployments or upgrades or run consumer-friendly promotions for fear of being subject to frivolous claims and unwarranted liability.

With a disparate treatment standard, broadband providers will be held to account for actual discriminatory policies that purposefully disadvantage consumers based on race, ethnicity or another protected status.

The disparate treatment standard provides an important enforcement mechanism against actual and intentional discriminatory conduct. Unlike a disparate impact standard, a disparate treatment standard would not penalize ordinary-course business decisions and so would preserve incentives to deploy and modernize broadband infrastructure.

Federal Missteps

The letter points out that the FCC digital discrimination rules are the subject of legal challenges because the FCC chose to regulate a broad set of practices under disparate impact liability.

Given that questions about the validity of the FCC rules still await court review, it would be imprudent for California to in effect place the FCC rules in California law, the letter notes.

Issues identified with the FCC rules include their scope (which should be limited to broadband deployment); allowing respondents to raise legitimate business justifications (including technical and economic feasibility) as defenses; and the need for safe harbors to give regulatory certainty to companies that act in good faith.

Other Concerns

Other concerns about AB 2239 include:

- the need for procedural safeguards, such as reasonable time limits for resolving complaints;
- the need to make sure the California Public Utilities Commission is explicitly precluded from pursuing any general investigations or rulemaking on digital discrimination of access; and
- uncertainty over whether it will lead to frivolous claims; the bill should include a statement that it does not create a private right of action under its own terms or any other statute.

Staff Contact: Ben Golombek

PAGA Reform Agreement Makes Headlines



Below is a sampling of news coverage on this week's PAGA reform agreement:

- "California Business and Labor Make a Deal on Workplace Violation Lawsuits"— *CalMatters* (June 18, 2024)
- "California Moves to Modify Law Letting Workers Sue Employers"— *The New York Times* (June 18, 2024)
- "Business, Labor Leaders Agree to Deal on PAGA Ballot Initiative"— *PoliticoPRO* (June 18, 2024)
- "California to Change Labor Law That Cost Businesses \$10 Billion"— *Bloomberg* (June 18, 2024) and *Insurance Journal* (June 19, 2024)
- "Newsom, Labor Leaders Announce Deal to Keep Worker Protection Measure Off the Ballot"— *San Francisco Chronicle* (June 18, 2024)
- "Deal Reached on PAGA Reform"— *Daily Journal* (June 18, 2024)
- "Deal Reached to Drop PAGA Initiative From the November Ballot"— *Law.com* (June 18, 2024)
- "California Labor and Business Leaders Agree on Overhaul of Private Attorney General Act"— *Courthouse News Service* (June 18, 2024)
- "Newsom, Business and Labor Groups Strike Deal to Fix Troublesome Labor Law"— *San Joaquin Valley Sun* (June 18, 2024)
- "Business and Labor Groups Reach Deal to Get PAGA Off the California Ballot in November"— *KCRA-TV3* (June 18, 2024)
- "Labor, Business Reach Deal to Fix State's PAGA Law"— *Los Angeles Times* (June 18, 2024)
- "PAGA Reform Is Coming!"— *The National Law Review* (June 19, 2024)

California Works

State Community Colleges Shaping Future of Workforce, Helping Economic Mobility



This article is a part of a series of profiles of CalChamber member companies that are contributing to the state's economic strength and ability to stay competitive in a global economy. Visit [California Works](#) to learn more about this series and read past and future profiles.



California Community Colleges

Through diverse and innovative workforce development

programs and initiatives, California Community Colleges are directly shaping the future of the state's workforce by addressing industry needs, bridging skill gaps and providing students with practical training and opportunities for economic advancement and career success.

California's growing workforce needs are becoming increasingly complex and varied. The rapid advancement of technologies like artificial intelligence and the growing emphasis on an environmentally sustainable future have created a surge in demand for local skilled workers.

"We are transforming the way we think about workforce development to create a skilled workforce that meets regional demand and uplifts California's most diverse communities," said Chancellor Sonya Christian. "Entering into partnerships with industry ensures more students are better prepared to enter quickly into high-paying careers."

As California's economy continues to shift and evolve to meet this growing demand, local communities need to remain nimble. Helping lead the charge are California Community Colleges.

With its 116 geographically diverse campuses throughout the state and online, the community college system is preparing tomorrow's workforce to ensure the Golden State remains

competitive and capable of driving economic growth in a dynamic global market.

Accessible, Versatile

Community colleges serve as versatile

universities to work certifications and career education programs, community college offerings provide more students with a broad range of accessible career options to meet their needs ... where they live.

With more than 200 specialized career education programs designed to equip students with in-demand skills, community colleges are preparing students for careers in fields such as health care, information technology, advanced manufacturing and wildfire management. Many do so from their home communities while also working or supporting family.

These programs and initiatives demonstrate how California's community colleges are not only adapting to but also driving the future of workforce development.

Partnering to Prepare a Climate-Ready Workforce

Through partnerships, the private and public sector can help prepare a climate-ready workforce capable of driving sustainable solutions while providing opportunities to more Californians. California Community Colleges are already forging these strategic partnerships including:

- The **Tesla START Program**

at Evergreen Valley College in San Jose and Rio Hondo College in Whittier. The program combines rigorous coursework with hands-on training providing students with the advanced technical skills needed for careers in California's growing electric vehicle (EV) industry.

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Top: Mt. San Antonio College fire academy instructor demonstrates proper firehose operations (February 8, 2020).
Bottom: Automotive technology students perform vehicle diagnostics (May 13, 2021). Photos courtesy California Community Colleges.

institutions, catering to a wide spectrum of educational needs. From providing traditional transfer pathways to four-year

California Community Colleges Shaping Future of Workforce

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• The **Blue Economy and Climate Action Pathways (BECAP)** certification program was launched in May 2024, positioning 13 community colleges partnered with AltaSea to drive one of the fastest-growing economic sectors in California involving the ocean. Soon students will be able to learn skills for high-paying, ocean-centric jobs.

Both START and BECAP tackle important environmental issues affecting the world while addressing industry workforce challenges and contributing to local economic growth.

“Through development of our Workforce Development program in tandem with regional partners, community colleges are uplifted to better serve our 2 million-plus students and can fill the needs of rapidly expanding industries and secure high-paying jobs,” said Vice Chancellor of Workforce and Economic Development Anthony Cordova.



Long Beach City College construction tech students take notes during lecture (May 4, 2022). Photo courtesy California Community Colleges.

As Cordova emphasized, the success of industry partnerships is crucial in developing tomorrow’s workforce. These programs deliver a significant economic impact promoting social mobility opportunities for students interested in pursuing career technical education.

Return on Investment

California Community Colleges are

critical economic drivers for communities and students alike, generating an **estimated \$128 billion** in economic impact annually.

The **data shows** that students who embark on their career journey at a California community college find success via means of high-paying in-demand employment in their field of study with 74% of career education students securing jobs in closely related fields of study.

For millions of students, California Community Colleges provide career and mobility opportunities to the state’s largest and most diverse populations. Through continued partnership and alignment with employers, these collaborations ensure that students receive relevant and high-quality training that meets the demands of the modern job market. California’s community colleges are building the next generation of the workforce.

Agreement Reached to Reform Private Attorneys General Act

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PAGA court case awards, but due to significant attorney fees, workers receive only a small portion of these awards. PAGA hurts virtually every industry and employer in California, including non-profits, local governments, family-run businesses and others.

Legislative Leaders Comment

“This agreement is important because it protects working people, who are the real engine behind California’s economic strength,” said Assembly Speaker Robert Rivas (D-Salinas). “It also recognizes companies that follow labor laws, and

it puts more muscle into enforcement. I grew up watching farmworkers and employers find common ground, so it means a lot to me that so many groups came together and found consensus. This is a hard-earned agreement, and that makes the positive outcomes we’ll see for businesses and workers even better.”

“Today’s agreement is critical to the long-term success of workers and businesses here in the Golden State,” said Senate President pro Tempore Mike McGuire (D-North Coast) on June 18. “Commonsense reform of PAGA has been discussed for years, and thanks to the collaboration of all sides, including

the work of the Governor, this agreement will continue to provide strong worker protections and implement long talked-about reforms. Next steps include working with Speaker Rivas to move legislation forward in the days to come.”

The Legislature will consider the PAGA reform legislation soon. The deadline for measures to be withdrawn from the November 2024 ballot is June 27, 2024.

If the PAGA compromise measure is passed and signed by the Governor before June 27, the Fix PAGA coalition will remove its November 2024 PAGA reform measure from the ballot.



CalChamber Member Feedback

“CalChamber has undoubtedly contributed to the expansion and retention of the economic base in California by ensuring that elected officials are held accountable, and are responsive, to those creating jobs in their districts. I particularly appreciate the excellent work of the CalChamber Policy Team and their efforts against proposed job killer bills.”

Leslie L. Melburg
Senior Partner
Nichols, Melburg & Rossetto Architects + Engineers

2023 EEO-1 Report ‘Failure to File’ Deadline Is July 9



Although the **June 4 deadline** has passed, the Equal Employment Opportunity Commission (EEOC) urges employers who haven’t yet submitted and certified their mandatory EEO-1 Component 1 report to do so as **soon as possible** — and no later than **8 p.m. Pacific Time (PT) on Tuesday, July 9, 2024**.

Once this “**Failure to File**” deadline passes, employers are considered out of compliance with their filing obligations — and those out of compliance are on the EEOC’s radar: Recently, the commission **filed lawsuits against 15 employers** in 10 states for repeatedly failing to submit their mandatory reports.

Each year, all private-sector employers with 100 or more employees — and federal contractors with 50 or more employees meeting certain criteria — must file an EEO-1 Component 1 report, which includes workforce demographic data, such as information on the racial/ethnic and gender composition of their workforce by specific job categories. This data is used for a variety of purposes, including enforcement, analytics and research, and employer self-assessment.

Authorized by Title VII of the Civil Rights Act of 1964, the EEOC has collected this workforce demographic data for nearly 60 years — and can take employers to court for not fulfilling their filing obligations. The EEOC’s recent lawsuits for repeated failure to comply with mandatory federal reporting requirements affect a range of employer industries, including retail, construc-

tion, restaurant, manufacturing, logistics and services — demonstrating the federal agency’s commitment to ensuring compliance with the law.

This year, the EEOC **collected the 2023 EEO-1 Component 1 reports** from April 30, 2024, through June 4, 2024. Although the EEOC has not officially extended the filing deadline, it will accept reports until the “failure to file” deadline of 8 p.m. PT on Tuesday, July 9, 2024. After this, no additional 2023 EEO-1 Component 1 reports will be accepted, and required employers who failed to file will be out of compliance with their mandatory filing obligations.

CalChamber members can read more about **EEO Reporting Requirements** in the HR Library on *HRCalifornia*.

Not a member? See what CalChamber **can do for you**.

Staff Contact: Katie Culliton

Assistive Animal at Work Still Subject to Minimum Standards

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Minimum Standard

Welcoming an emotional support dog or other assistive animal into the workplace as an accommodation does not mean that an unruly, smelly or aggressive animal must be tolerated.

The law allows employers to set some limitations for having assistive animals in the workplace, such as requiring the animal to be housebroken, be free from

offensive odors and not engage in behavior that endangers the health or safety of anyone in the workplace. (California Code of Regulations, Title 2, Section 11065(a)(2)).

Employees who bring assistive animals to work may be required to confirm that the animal will behave appropriately in the workplace and meet the employer’s minimum standards.

If an assistive animal is offensive or disruptive within the first two weeks at

work, an employer may challenge that the animal meets its minimum standards. (California Code of Regulations, Title 2, Section 11069(e)).

Column based on questions asked by callers on the Labor Law Helpline, a service to California Chamber of Commerce preferred members and above. 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.



It’s Getting Hot In Here: California’s New Indoor Workplace Heat Illness Standards

Stay compliant with the new 2024 Cal/OSHA standards for indoor heat illness prevention. Join our experts on June 27 to ensure your workplace is safe and prepared.

Register Now