

ALERT

Business Coalition Opposes Undermining Antitrust Law

AB 1776 Is Reckless, Rushed Proposal



Last week, the California Chamber of Commerce joined a broad coalition representing

nearly every sector of the California economy in criticizing a newly introduced bill as an extreme proposal to amend the state's antitrust law.

AB 1776 (Aguiar-Curry; D-Winters), which creates a new Single Firm

Conduct policy, "would enshrine in state law the rushed and reckless proposals brought forward by the California Law Revision Commission," the coalition said in a [February 17 statement](#).

Besides affecting nearly every business across the state, regardless of size, the proposed changes would impose "sweeping ideas to solve problems never actually identified after months of Commission work," the coalition said.

"The business community believes

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CalChamber Names Policy Advocate for Labor/Workers' Comp Issues



Andrea N. Lynch

Sacramento attorney Andrea N. Lynch joined the California Chamber of Commerce last week to lead the organization's advocacy on labor and employment and workers' compensation issues.

Most recently, Lynch was an attorney at Martenson, Hasbrouck & Simon LLP.

"We are pleased to welcome Andrea to our advocacy team," said Ben Golombek, CalChamber executive vice president and chief of staff for policy. "CalChamber members and the statewide business community will be well-served by the insights she will bring from her experience in priority areas such as workplace solutions, employment litigation and the Private Attorneys General Act."

Lynch's practice areas at the law firm also included Americans with Disabilities Act accessibility, labor law, compliance, workplace training, workplace investigations, affirmative action, and employment contracts.

Before joining the law firm, Lynch built a career in human resources. For more than a decade, she filled roles such as HR administrator, HR chief and HR consultant for several State of California agencies and other government entities.

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Building an Affordable California Initiative Gains Housing Conference Interest



Photo by Joha Harrison, Capitol Weekly

CalChamber President and CEO Jennifer Barrera explains how the Building an Affordable California Act initiative will expedite construction on housing and other essential projects during a panel discussion at the housing conference presented in Sacramento on February 24 by Capitol Weekly and the University of California Student and Policy Center. Later in the program, Assemblymember Buffy Wicks (D-Oakland), former chair of the Assembly Housing Committee, declared her [support](#) for the ballot measure.

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Labor Law Corner

What If an Employee Admits Using Marijuana Before Start of Shift?



Sharon Novak
Employment Law
Expert

One of our employees told us he smokes marijuana about 2 hours before his shift, and that he feels no effects from it when he starts work. Can we reprimand or fire him?

Employers must be very careful about disciplining employees who use cannabis products when not at work. As of January 1, 2024, with limited exceptions, California law protects employees who use cannabis off duty and away from the workplace. (Government Code Section 12954).

The California Civil Rights Department has issued an FAQ explaining the rights of employees and employers regarding off-duty use of marijuana. See [Discrimination in Employment: Use of Cannabis](#).

Protected Conduct

Employees are legally protected in their use of cannabis when they are not working.

Because smoking marijuana when an employee is off duty and off premises is protected conduct, an employee's admission of using marijuana before work does not, by itself, justify any discipline.

The key determination is whether the employee is *impaired* while working. Neither the employer's assumption that marijuana use before work impairs the employee's work performance nor the employee's belief that he "feels no effects" is relevant.

Impaired While On the Job

Employers may discipline employees for off-duty cannabis use if the employee is impaired while working.

An employee cannot be disciplined solely based on admitting off-duty use of cannabis. But an employer can act if there is credible evidence that the employee is *impaired* while working. The Civil Rights Department FAQ expressly states that the legal protections for off-duty use do not permit employees to "possess, be impaired by, or use cannabis on the job."

When an employee has acknowledged smoking marijuana before work, the employer must determine if there is any contemporaneous and specific evidence that the employee is impaired while carrying out their job duties. Evidence of impairment can include erratic behavior, slurred speech, lethargy, and inattention to job tasks.

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Human Resources

Common Wage Violations 2026.

CalChamber. March 5, Free Member Webinar. [Contact account manager](#).

Navigating Paid Sick Leave & Time Off Requests in California. March 19, [Webinar](#). (800) 331-8877.

Leaves of Absence. CalChamber. March 26–27, May 7–8, August 6–7, [Virtual Seminar](#). (800) 331-8877.

Workplace Violence Prevention Program Tips for 2026. CalChamber. April 16, [Webinar](#). (800) 331-8877.

HR Boot Camp. CalChamber. April 23–24, June 4–5, September 10–11, [Virtual Seminar](#). (800) 331-8877.

Wage & Hour 101: Nonexempt/Hourly Employees. CalChamber. May 21, [Webinar](#). (800) 331-8877.

Wage & Hour 101: Exempt Employees. CalChamber. June 18, [Webinar](#). (800) 331-8877.

Supervisor Essentials. CalChamber, July 16, [Virtual Seminar](#). (800) 331-8877.

Conducting California Workplace Investigations. CalChamber. August 27, [Virtual Seminar](#). (800) 331-8877.

Simplifying Local Ordinances: Helpful Resources for California Employers.

CalChamber. [Webinar recording](#). (800) 331-8877.

2026 Employment Law Updates.

CalChamber. [Webinar recording](#). (800) 331-8877.

International Trade

Agriculture Tech in South Africa, Export Training. Governor's Office of

Business and Economic Development (GO-Biz) and Zurcom International. February 19–May 7, [Virtual](#).

5th Annual California International Arbitration Week. California Lawyers Association. March 9–12, San Francisco. [Event website](#).

California Ag Tech Mission. GO-Biz and North Valley Thrive. March 19, Merced. [Join wait list](#).

Chile FIDAE Airshow: California Pavilion
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CalChamber Calendar

Women's Leadership Forum & Reception:
March 3, Sacramento

Board of Directors:
March 12–13, Half Moon Bay

International Trade Breakfast:
March 13, Half Moon Bay

US High Court Ruling Kicks Off New Round of Tariff Actions



Following a U.S. Supreme Court ruling last week that his administration does not have authority to impose tariffs under a national security law, President Trump turned to a different mechanism as other federal agencies explained the timeline for ending the rejected tariffs.

On February 20, the U.S. Supreme Court upheld a lower court's decision that President Trump's use of the statutory International Emergency Economic Powers Act (IEEPA) of 1977 exceeded his authority, thereby not granting the President the power he claimed to impose tariffs.

Tariffs are taxes and thereby authorized by Congress, the court said. IEEPA had previously been used only to impose sanctions.

The Supreme Court's [170-page, 6-3 ruling](#) was authored by Chief Justice John Roberts together with Justices Sonia Sotomayor, Elena Kagan, Ketanji Brown Jackson, Amy Coney Barrett, and Neil Gorsuch.

Justice Brett Kavanaugh wrote the dissent, joined by fellow conservative Justices Clarence Thomas and Samuel Alito.

Justice Brett Kavanaugh wrote the dissent, joined by fellow conservative Justices Clarence Thomas and Samuel Alito.

Refund Process

The Justices did not order refunds, nor did they address the extent to which the approximately 300,000 importers of record are entitled to refunds, or how the refund process would work — leaving the question to be answered by other entities such as the U.S. Court of International Trade, the U.S. Department of Treasury, and the U.S. Customs and Border Protection (CBP) as the administrator.

This process will have an impact on small importers in particular. The potential estimated refund amount is between \$130 billion and \$175 billion. The parties included in the lawsuit can sue for refunds and other importers presumably can apply for refunds under an existing CBP mechanism. It remains to be determined whether this process will be modified; observers predict the process will be overwhelmed, including by additional litigation.

Other Tariff Authorities

White House officials immediately said tariffs will remain as an option under different legal authorities, including:

- Temporary tariffs of up to 15% for 150 days can be imposed via Section 122 of the 1974 Trade Act — via the U.S. Trade Representative's Office.

- Product-specific tariffs under Section 232 of the Trade Expansion Act of 1962 can be imposed to protect national security — via the U.S. Department of Commerce.

- Country-specific tariffs under Section 301 of the Trade Act of 1974 can be imposed to protect U.S. commerce from harmful foreign trade practices — via the U.S. Trade Representative's Office.

- Reciprocal tariffs to match other countries may be imposed via Section 338 of the Trade Act of 1930 — allowing duties of up to 50% and allowing the President to act unilaterally within 30 days.

Steel and aluminum tariffs remain under Section 232, and Chinese tariffs remain under Section 301.

The Trump administration also has listed other possible alternatives to raising revenue, including imposing import fees or license fees.

Later on February 20, President Trump issued an [executive order](#) ending the IEEPA tariffs, followed immediately by a [proclamation](#) "Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems."

The proclamation imposed a 10% tariff on all imports, effective February 24 for 150 days, with some exceptions while also initiating additional Section 301 investigations to address unfair foreign trade practices. The exceptions were for certain critical minerals, metals, energy products; natural resources/fertilizers that cannot be produced in the United States or otherwise produced in sufficient quantities to meet domestic demand; certain agricultural products, pharmaceuticals, certain electronics; certain vehicles and certain aerospace products, informational materials together with U.S.-Mexico-Canada Agreement (USMCA)-compliant goods of Canada and Mexico; and textiles and

apparel articles that enter duty-free under the Dominican Republic-Central America Free Trade Agreement.

In a social media post on Saturday, February 21, the President raised the 10% tariff to the maximum allowed, 15%.

And on Monday, February 23, U.S. Customs and Border Protection [listed the executive orders](#) imposing IEEPA tariff collections that would end as of 12:00 a.m. ET on February 24. CPB [also explained how it would implement](#) the temporary additional 10% duty on imports.

CalChamber Position

The California Chamber of Commerce continues to voice concern about tariffs or any other actions that increase the cost of doing business for California entrepreneurs. CalChamber has long been committed to supporting a national free trade agenda that fosters economic growth and job creation. CalChamber will continue to focus on eliminating tariff and nontariff barriers to support the expansion of American exports. Further, a focus on trade agreements instead will ultimately lower both tariff and nontariff barriers and help create long-term, sustainable economic growth.

CalChamber encourages the administration to adhere to the spirit of the ruling and not look to other avenues to impose tariffs but work to refund the tariffs in a smooth and orderly fashion, thereby offering certainty for the business community, especially small businesses.

CalChamber opposes protectionist measures which create uncertainty, disrupt global supply chains, raise consumer prices, limit choices of products for consumers, hinder the competitiveness of California businesses, and invite retaliation.

CalChamber believes strengthening economic ties and enhancing regulatory cooperation through agreements with our top trading partners that encompass both goods and services, including financial services, is essential to eliminating unnecessary regulatory divergences that may act as a drag on economic growth and job creation.

CalChamber seeks commercially

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What If an Employee Admits Using Marijuana Before Start of Shift?

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If there are no observable indicators of impairment, then the employer may not discipline the employee.

Reasonable Suspicion

If there are objective signs of impairment, the employer may test the employee for marijuana based on a reasonable suspicion standard.

California allows drug testing of employees when an employer has a reasonable suspicion that the employee is impaired by drug use. See “[When Drug Testing May Be Permitted](#)” on [HRCalifornia](#).

If an employee has acknowledged off-duty marijuana use, it is especially important for the employer — before testing — to articulate specific examples of the employee’s behavior which support a reasonable suspicion that he is impaired.

Otherwise, the employee may argue that he is being tested for simply admitting that he smokes marijuana before work, and that this is discriminatory.

Along with the protected status conferred on off-duty use of cannabis in 2024, the law also limits the types of testing that may be used to detect cannabis. Employers must ensure that the drug test being administered complies with the law, and that it detects only active THC.

These stricter requirements for cannabis testing are discussed in the [CalChamber Alert](#) article “[How State Cannabis Laws Affect Testing, Questions About Use.](#)”

Proactive Steps

There are proactive steps an employer should take regarding off-duty cannabis use.

Make sure your drug-free workplace

policy is current. The policy should distinguish between protected off-duty lawful use and unprotected on-duty impairment.

It is important to train managers and supervisors to recognize signs of impairment and document specific behaviors. Emphasize that discipline cannot be based on assumptions about cannabis use before work.

Remember that before an employee may be disciplined, their impairment must be observable and documented. The documentation may include a drug test that screens for active impairment.

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](#).

Business Groups Oppose Undermining of State Antitrust Law in AB 1776

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in the importance of a fair marketplace,” the coalition emphasized. “But we also believe legislators should ask why no economic analysis was conducted.”

Concerns

The coalition urged legislators “seek to validate the assertion that a lack of state-specific rules governing the conduct of any single company has actually harmed Californians through reduced competition.”

In adopting the Commission’s unfinished work, the coalition noted, AB 1776 also:

- relies on poorly defined terms;
- lacks standardized tests for wrongdoing; and
- presumes there is illegal activity when it comes to a number of business practices that are widely considered typical and which benefit consumers by offering better services and prices.

“AB 1776 would significantly deepen California’s affordability crisis, driving

costly and unnecessary litigation and consumer costs ever higher and decimating the state’s innovation economy and the jobs that depend on its success,” the coalition concluded.

The coalition’s concerns mirror those raised by CalChamber in [earlier statements](#) about the Commission’s work.

Coalition

The following businesses, advocacy organizations, and local chambers of commerce joined CalChamber in its comments on the bill:

- Biocom;
- TechNet;
- California Association of REALTORS®;
- California Food Producers;
- California Life Sciences;
- California Retailers Association;
- Civil Justice Association of California;
- Computer & Communications Industry Association (CCIA);
- Motion Pictures Association;

- Silicon Valley Leadership Group;
- Greater Bakersfield Chamber of Commerce;
- Carlsbad Chamber of Commerce;
- Colusa County Chamber;
- Fontana Chamber of Commerce;
- Greater High Desert Chamber of Commerce;
- Laguna Niguel Chamber of Commerce;
- Lodi Chamber of Commerce;
- Long Beach Area Chamber of Commerce;
- Murrieta/Wildomar Chamber of Commerce;
- North San Diego Business Chamber;
- Oceanside Chamber of Commerce;
- Orange County Business Council;
- San Juan Capistrano Chamber of Commerce;
- Torrance Area Chamber of Commerce;
- West Ventura County Business Alliance;
- Yorba Linda Chamber of Commerce.

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meaningful outcomes in negotiations with regions around the world and supports bilateral, regional and multi-lateral trade agreements, which are critical to consumers, workers, businesses,

farmers and ranchers, and would allow the United States to compete with other countries that are negotiating agreements with each other.

A brief online [CalChamber survey of members in December 2025](#) reflected

the significant impact of federal tariffs on companies' supply chains, costs and hiring decisions.

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

CalChamber Names Policy Advocate for Labor/Workers' Comp Issues

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Lynch says her extensive HR background inspired her to pursue a legal career focused on employment law, serving clients at the intersection of human resources and the law.

During law school she was recognized for her advocacy skills, receiving awards for Best Respondents Team in Moot Court and Best Prosecution Team in Trial Advocacy. Her law school peers chose her as the graduation dinner speaker.

Lynch holds a B.A. from the University of Nevada, Las Vegas, where she was on the Dean's Honor List; an M.A. from the University of the Pacific, *magna cum laude*; and a J.D. from Lincoln Law School of Sacramento.

CalChamber-Sponsored Seminars/Trade Shows

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ion. GO-Biz. April 7–12, Santiago, Chile. [See flyer.](#) Diana.Dominguez@gobiz.ca.gov.

EXIM Annual Conference. Export-Import Bank of the United States. April 29–30, Washington, D.C. [Conference website.](#)

The World in Motion: Advancing Sports Tourism on a Global Stage. Inland Empire World Trade Conference Committee and San Bernardino International Airport. May 1, Highland. [Get tickets.](#)

SelectUSA Investment Summit. Select USA. May 3–6, National Harbor, Maryland. [Event website.](#)

NADEC Annual Trade Conference: Global Trade in Transition. National Association of District Export Councils. May 12–13, Nashville, Tennessee. [Event website.](#)

BeautyWorld Saudi Arabia: California Pavilion. GO-Biz. May 18–20. [See flyer.](#) Tricia.Utterback@gobiz.ca.gov.

Asia Tech x Singapore: California Pavilion. GO-Biz. May 20–22, Singapore. [Learn more.](#)

Farnborough Airshow. GO-Biz to lead delegation of economic developers. July 20–24, London, United Kingdom. [Event website.](#)

Semicon Taiwan: California Pavilion. GO-Biz. September 1–4, Taipei, Taiwan. Up to 8 California small businesses in semiconductor supply chain invited to apply. [See flyer.](#)

Aquatech: California Pavilion. GO-Biz with U.S. Commercial Service. September 1–3, Mexico City, Mexico. Registration deadline: June 1 or until spaces are filled. [See flyer.](#)

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