

ALERT

CALIFORNIA CHAMBER OF COMMERCE

VOLUME 31, NUMBER 25 • AUGUST 19, 2005



Emergency Heat Stress Rules Get Cal/OSHA OK

Regulations Call for Shade, Water, Education

The Cal/OSHA Standards Board voted unanimously last week to adopt emergency regulations to prevent heat stress illnesses or fatalities.

In announcing the adoption of the regulations, Cal/OSHA said the regulations “apply equally to all who work outdoors in conditions that induce heat stress — from the farm worker to the roofer to the laborer paving the highway.”

The regulations went to the Office of Administrative Law (OAL), which has up to 10 days to review them.

Once approved by OAL, the emergency regulations will be in effect for 120

days, during which time Cal/OSHA and the Labor and Workforce Development Agency will work to create and adopt permanent regulations.

Emergency Rules

The proposed emergency regulations:

- Require that access to a shaded area is available to any worker suffering from heat illness or needing shade to prevent the onset of illness;
- Re-state existing law requiring water to be available at all times and ensure workers understand the importance of

See Emergency: Page 4

‘Sue-Your-Boss’ Legislation to Go to Assembly Floor



California Chamber of Commerce-**opposed** legislation creating two new types of class action “sue your boss” lawsuits passed the Assembly Appropriations Committee on August 17 on a 10-5, party-line vote. The bill will be considered next by the full Assembly.

“SB 174 is a ‘job killer’ that provides new incentives for plaintiffs and their attorneys to file meritless lawsuits about minimum wage and overtime,” said Julianne Broyles, Chamber director of employee relations and small business.

“This bill undermines some of the work that went into fixing the original ‘sue your boss’ legislation, by creating yet another way to file frivolous lawsuits against employers.”

The Chamber designated **SB 174 (Dunn; D-Garden Grove)** a “job killer” because it increases employer liability by providing new incentives for plaintiffs and their attorneys to file lawsuits by establishing new types of “sue your boss” lawsuits.

SB 174 provides new incentives to file lawsuits because the bill proposes to grant what is essentially class action status to one worker’s wage and hour claim without having to meet any of the current

See New: Page 4

Small Business Leaders Gather at Chamber



At the California Chamber Small Business Leaders Summit on August 9, Senator Charles Poochigian (R-Fresno) comments on the current legislative session, legislative obstacles facing business owners and his Chamber-sponsored legislation to prevent lawsuit abuse under the Americans with Disabilities Act. More photos on Page 3.

Inside

Updates on More ‘Job Killers’: Pages 6-7

Labor Law Corner

State Law Requires Employers to Provide Current Employment Statistics



Gary Hermann
Labor Law Advisor

I received a letter from the Bureau of Labor Statistics regarding the current employment statistics program. The letter requested detailed payroll information for every pay period that includes the 12th of the month. Is it mandatory that I provide this information?

Yes. Under Section 320 of the California Unemployment Insurance Code, the director of employment development is required to make reports to the secretary of labor regarding:

- unemployment;
- hours, wages and earnings;
- the location and nature of industrial, business or other activity of each establishment for the conduct of business;
- performance of services; or
- industrial operations.

Statistical Data Only

Information reported by any reporting employer as required under Section 320 shall be published in statistical form only. The information and the identity of the reporting employer shall not be published or otherwise given to the public or any other governmental agency without prior written permission of the reporting employer.

No publication of statistical data shall be made which might reveal the identity of any reporting employer, without specific written permission of that reporting employer.

Penalties for Failure to Submit

If any reporting employer fails to submit to the Employment Development Department (EDD) any annual or monthly reports within the time required, or if EDD is not satisfied with the submitted report, EDD may issue a written demand that an annual or monthly report be submitted and the reporting employer is required to submit that report within 30 days after the date the demand is mailed.

An employer that fails to submit the information or supplies false or fraudulent information may be liable for a civil penalty of up to \$1,000. Failure to supply the information is a misdemeanor subject to a fine of up to \$1,000 or up to a year in prison, at the court's discretion.

California Chamber Officers

Eugene J. Voiland
Chair

Donna F. Tuttle
First Vice Chair

Russell Gould
Second Vice Chair

To be elected
Third Vice Chair

John W. Koeberer
Immediate Past Chair

Allan Zaremborg
President

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 \$199 paid through membership dues. Periodicals Postage Paid at Sacramento, CA.

POSTMASTER: Send address changes to *Alert*, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Publisher: Allan Zaremborg. Executive Editor: Ann Amioka. Associate: Danielle Kando-Kaiser. Art Director: Andrew Larsen. Graphics Assistant: Jason Untalan. Capitol Correspondent: Kearsten Shepherd.

Permission granted to reprint articles if credit is given to the California Chamber of Commerce *Alert*, and reprint is mailed to *Alert* at address above.

E-mail: alert@calchamber.com.

Home page: www.calchamber.com.

Chamber Calendar

Board of Directors:
September 8-9, La Jolla

Seminars

For more information on the seminars listed below, visit www.calchamber.com/events.

Business Resources

2005 Northern California Human Resources Association (NCHRA) Annual Conference and Trade Show. NCHRA. September 26-27, Oakland. (415) 291-1992.

Government Relations

Southwest California Legislative Summit. Temecula Valley Chamber of Commerce. September 30, Temecula. (866) 676-5090.

International

U.S.-Kazakhstan Trade Conference — Industrial and Innovation Strategy: New Business Opportunities. Embassy of Republic of Kazakhstan. September 8-9, San Diego. (202) 857-9736 or (415) 596-0804.

The Labor Law Helpline is a service to California Chamber 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 e-mail: helpline@calchamber.com.

Clarification

The August 5 *Labor Law Corner* (“Employers Can Require Use of Sick Time for Some Medical Visits”) should have stated that if an employee with a workers’ compensation claim is still “temporarily disabled” and must miss time from work, the worker should not be assessed sick leave but, rather, should receive workers’ compensation benefits (paid by the workers’ compensation insurance carrier unless the employer is self-insured) at the temporary disability (TDI) rate for the time lost.

Chamber Summit Puts Spotlight on Small Business Concerns



Ada Carrillo, acting executive director of the Employment Training Panel (ETP), explains how associations can help small business members obtain ETP training funds.



Fred Aguiar, secretary of state and consumer services, shares the agency's perspective on improving small business capability to contract with the state at the California Chamber Small Business Leaders Summit.



California Chamber President Allan Zaremberg (right) discusses upcoming legislation, reforms on the special election ballot in November and other issues of immediate importance for small business leaders at the Small Business Leaders Summit hosted by the Chamber on August 9. With Zaremberg are Julianne Broyles, Chamber director of employee relations and small business, and John Neal, chair of the Chamber's Small Business Committee.

HR Best Practices Series – Newly Updated

Provide an easy, cost-effective way for you to handle HR issues.

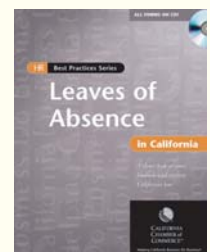
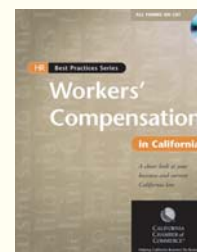
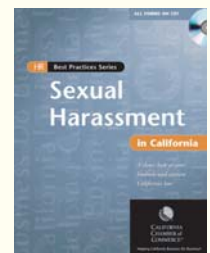
Intuitive, user-friendly format contains:

- In-depth, targeted information on how to implement and apply the law
- A section explaining new and important legislative developments
- Easy-to-follow tables, explaining how to use the forms on the accompanying CD

Act now and **get 25% off the entire series** – It's like getting 4 books for the price of 3. Order the whole series for the **discounted price of \$237** (regular price: \$316).



CALIFORNIA
CHAMBER OF
COMMERCESM



To purchase, call **1-800-331-8877** or visit **www.calchamberstore.com**.

Mention priority code BPS to get the discount. Note: Series offer supercedes membership discount; they cannot be combined.

Emergency Heat Stress Rules Get Cal/OSHA OK

From Page 1

frequent consumption of water; and

- Require education of employees and supervisors likely to be exposed to heat stress on how to prevent heat illness and what to do should it occur.

Refinements Suggested

The California Chamber and other employer groups are seeking refinements to the emergency regulations before they are adopted and implemented to prevent unintended consequences.

In testimony to the Cal/OSHA Standards Board, Julianne Broyles, Chamber director of employee relations and small business, commented, "All regulatory standards must provide enough informa-

tion to the regulated community so that they know what they have to do in order to comply."

She cautioned against a "one-size-fits-all" application of the emergency regulation. The standard also "needs to indicate a point where employers will be considered to have done enough," Broyles said.

Committed to Safety

The Chamber and its members are committed to worker safety and health, and support laws and regulations that permit businesses to address occupational safety and health issues in a reasonable, sensible, flexible and cost-effective manner.

More Information

Victoria Bradshaw, secretary of the Labor and Workforce Development Agency, called the adoption of the emergency rules "a first step toward helping to prevent heat illness and further deaths." She added, "Among the provisions of the regulations, the real key is education for both workers and employers on how to avoid it [heat stress] in the first place."

Information about protecting workers from heat stress is available on the Department of Industrial Relations website at www.dir.ca.gov.

The "Cal/OSHA Corner" in the July 22 *Alert* also dealt with this subject.

Staff Contact: Julianne Broyles

New 'Sue-Your-Boss' Bill to Go to Assembly Floor

From Page 1

standards or scrutiny associated with a recognized, court-supervised class action lawsuit.

SB 174 sends the wrong message to businesses looking to establish or expand here. Instead, policymakers should be looking at ways to improve California's image as a place to start or grow a business as a way to create jobs in California.

Key Vote

SB 174 passed Assembly Appropria-

tions on a vote of 10-5:

Ayes: Chu (D-Monterey Park); Bass (D-Los Angeles); Berg (D-Eureka); Laird (D-Santa Cruz); Klehs (D-Castro Valley); Leno (D-San Francisco); Levine (D-Van Nuys); Saldaña (D-San Diego); Yee (D-San Francisco); Mullin (D-South San Francisco).

Noes: S. Runner (R-Lancaster); Emmerson (R-Redlands); Haynes (R-Murrieta); Nakanishi (R-Lodi); Walters (R-Laguna Niguel).

Absent/abstaining/not voting: Calde-

ron (D-Montebello); Nation (D-San Rafael); Oropeza (D-Long Beach).

Action Needed

The Chamber is urging all employers to write letters in opposition to SB 174 to their Assembly representatives.

For more information on SB 174 or to view the full "job killer" list, visit www.calchamber.com/jobkillers.

Staff Contact: Julianne Broyles

Chamber Member Honored as Veterans Employer of Year

PRIDE Industries, the nation's largest employer of people with disabilities and a member of the California Chamber of Commerce, has been honored for its efforts to provide jobs and learning and career building opportunities for all veterans, including those with disabilities.

Michael Ziegler, president and chief executive officer of the Roseville-based company, is a member of the Chamber Board of Directors.

PRIDE Industries was one of nine em-



ployers to receive the 19th annual Governor's Veterans Employer of the Year Award from the California Employer Advisory Council (CEAC) and the state Employment Development Department (EDD).

CEAC and EDD present the award to employers that give top priority to hiring, training and promoting veterans.

Founded in 1966, PRIDE Industries provides outsourcing services to reduce costs, add value to and meet the needs of integrated facilities, manufacturing and

logistics companies around the country.

It employs more than 4,300 individuals in 11 states, including more than 2,700 people with disabilities. It ranks as the third largest manufacturing and service company in the greater Sacramento region. Its employees work at military bases in California and across the country.

For more information on PRIDE Industries, visit www.prideindustries.com. For information on CEAC awards programs, visit www.ceac.org.

Join in the Chamber's bold new campaign to elect pro-jobs candidates



CALIFORNIA CHAMBER OF COMMERCE
POLITICAL ACTION COMMITTEE

A business-friendly majority in the state Legislature — one that can work with the Governor toward a pro-jobs agenda — is crucial to California's economic recovery. To help elect pro-jobs candidates and build toward this majority, the California Chamber of Commerce is engaging in an aggressive, bipartisan candidate recruitment program for the 2006 election cycle. As the public employee unions and the trial bar are well ahead of us in this arena, we need to act now to catch and surpass them. With more than 40 open seats in the state Senate and Assembly, this effort is critical.

By contributing to ChamberPAC, the Chamber's bipartisan political action committee, you can help pro-jobs candidates campaign and win in competitive races throughout the state. Even if these races are outside of your district, ChamberPAC provides a unique opportunity for you to pool your resources with those of like-minded employers to maximize the business community's impact on the 2006 elections. As you know, it takes a pro-jobs majority to continue California's economic turnaround.

Contributions — in any amount — will help strengthen the pro-business voice during the next election cycle. To join in this critical effort, please fill out the form below and send with your check to:

ChamberPAC (ID #950352)
California Chamber of Commerce
1215 K Street, Suite 1400
Sacramento, CA 95814

Please be sure to include the following information, which is required by law: contact name, occupation, employer, mailing address and phone number.

Thank you for your support!

For more information, please call (916) 444-6670, extension 275.

*Name _____

*Mailing Address _____

*Mailing City _____

*Mailing State _____ *Mailing Zip Code _____

*Phone _____ Work Phone _____

Fax _____ E-mail _____

*Occupation _____

*Employer _____

Contribution _____ Payment Method Check Credit Card

Credit Card Account # _____ Exp. Date _____

Signature _____

NOT DEDUCTIBLE AS A CHARITABLE EXPENSE.

Make check payable to: ChamberPAC, ID #950352, c/o California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814

*Required by law

Legislative Outlook

An update on the status of key legislation affecting businesses. Visit www.calchamber.com/position_letters for more information, sample letters and updates on other legislation. Staff contacts listed below can be reached at (916) 444-6670. Address correspondence to legislators at the State Capitol, Sacramento, CA 95814. Be sure to include your company name and location on all correspondence.

Author Puts 'Job Killer' Port Bill on Hold



A California Chamber of Commerce-**opposed** "job killer" port bill was put on hold by the author this week.

SB 760 (Lowenthal; D-Long Beach) is not expected to be considered further this year.

The bill, which was waiting to be heard by the Assembly Appropriations Committee, would have increased the cost of goods movement in California by assessing a \$30 fee per 20-foot equivalent unit on containers processed through the Los Angeles and Long Beach ports.

SB 760 would have put these ports at a competitive disadvantage for future business and would have put California in the position to lose market share in the goods movement industry as shippers searched

for more cost-effective alternative ports. The bill would have been damaging to the state's economy and ultimately would have cost jobs in the industry.

SB 760 not only would have increased the cost of goods movement in the state, but also would have made California ports less competitive in the goods movement segment of the national economy. Issues relating to port activity and goods movement must be managed in a manner that does not jeopardize job growth or job retention, and this bill would have had severe unintended consequences on the state's recovering economy.

Staff Contact: Bruce Magnani

Newly Labeled 'Job Killer' Bill Awaits Senate Committee Action



California Chamber of Commerce-**opposed** legislation that exposes employers to new types of "sue your boss" lawsuits awaits action by the Senate Appropriations Committee.

"The Chamber had been working to secure amendments that would remove employer objections to the bill," said Julianne Broyles, Chamber director of employee relations and small business. "Unfortunately, this bill has only gotten worse and must now be labeled a job killer by the Chamber."

AB 581 (Klehs; D-Castro Valley) was added to the "job killer" list because it makes California less desirable as a place to establish or expand a business. The bill opens new avenues to sue employers by establishing a broad new private right of action that permits joint labor-management committees to sue any employer for certain Labor Code violations that may have occurred up to four years previously, among other provisions.

Many organizations participate in joint labor-management committees that are set up for reviewing workplace health and safety issues. Some companies also include production issues that do not concern worker suspension or discharge.

These management committees are not involved in Labor Code enforcement because many employers believe such involvement is inappropriate for these committees.

Not only is such involvement in Labor Code enforcement inappropriate, but it also likely violates the National Labor Relations Act by creating the right of the committees to sue any employer in civil court for certain state Labor Code violations.

The bill also mandates that the court award the joint labor-management committee its attorney fees, costs and expenses if any violation is found.

AB 581 also poses a significant privacy violation against individual workers by granting joint labor-management committees free access to employees' names, work addresses and home addresses.

Action Needed

The Chamber is urging all employers to write members of Senate Appropriations, asking them to **oppose** AB 581.

Staff Contact: Julianne Broyles

Bill Slowing Housing Development Awaits Assembly Floor Vote



California Chamber of Commerce-**opposed** legislation that slows the general plan process and increases opportunities for lawsuits to block the construction of new homes awaits consideration on the Assembly floor now that legislators have returned to the Capitol.

The Chamber considers **SB 44 (Ke-hoe; D-San Diego)** a “job killer” because it slows development of affordable housing and increases the opportunities for unnecessary litigation by forcing local government to integrate two incompatible planning processes.

The mandate contained in SB 44 could not come at a worse time. California must increase the supply of housing available to its citizens and the local planning process should be streamlined to help encourage growth. California employers are also having a hard time finding and retaining eligible employees due to the lack of affordable housing in the state.

SB 44 also increases opportunities for lawsuits intended to stop the development of new homes. Local general plans are frequently the target of California Environmental Quality Act (CEQA) lawsuits.

By forcing local governments to include an air quality element, SB 44 just adds one more opportunity for opponents of new homes to sue.

Action Needed

The Chamber is asking employers to write their Assembly representatives to urge a “no” vote on SB 44.

For a sample letter, visit the Government Relations section at www.calchamber.com.

Staff Contact: Charles Bacchi

Fax Bill at Odds with Federal Law Awaits Assembly Action



A California Chamber of Commerce-**opposed** “job killer” fax bill that would place California at odds with federal law awaits consideration by the full Assembly.

SB 833 (Bowen; D-Redondo Beach) has been labeled a “job killer” because it increases costs by placing onerous administrative and economic burdens on associations and employers by requiring express written consent from their own members and/or customers prior to sending certain fax communications.

President George W. Bush signed S. 714, the Junk Fax Prevention Act of 2005, in July. The federal legislation restricts so-called “junk faxes,” but maintains an exemption for existing business relationships. SB 833 does not provide for this exemption, putting California out of step with the rest of the country.

If SB 833 becomes law, it will provide yet another unique burden on California employers that does not exist elsewhere in the country. With President Bush’s signature on federal law that addresses the issue already, the Chamber is urging California legislators to stop the “job killer” that is being considered in California

— especially because it is an intrusion into legitimate business communications between employers and their customers.


Action Needed

Urge your Assembly representative to **oppose** SB 833. Sample letters are available in the Government Relations section at www.calchamber.com.

Staff Contact: Valerie Nera

Sexual Harassment Training Is Now Mandatory

California law, AB 1825, now mandates two hours of sexual harassment training for supervisors before January 1, 2006 for companies with 50 or more employees. Online training is an easy, cost-effective way to protect your company.

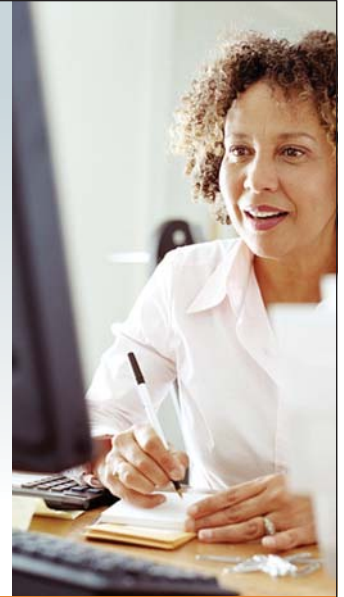
 **Preventing Harassment**
in the Workplace
(2 Hour Supervisor Version)

Here's why **Preventing Harassment in the Workplace** online training is the easy way to meet the mandatory requirements:



CALIFORNIA
CHAMBER of
COMMERCESM

- Significant savings over in-person training
- No need to spend time planning an in-person presentation
- Supervisors can train at their own pace
- Questions go directly to the course instructor
- Record-keeping tools track who has taken the course and automatically emails reminders to those who haven't completed it



To order, visit www.calchamberstore.com or call (800) 649-4921.

ADDRESS SERVICE REQUESTED

Helping California Business Do BusinessSM

P.O. BOX 1736 SACRAMENTO, CA 95812-1736
(916) 444-6670 FACSIMILE (916) 444-6685
www.calchamber.com



CALIFORNIA CHAMBER OF COMMERCE

ALERT

Periodicals
PAID
Postage
Sacramento, CA