

ALERT

VOLUME 39, NUMBER 7 • MARCH 8, 2013



‘Job Killer’ Rolls Back Workers’ Comp Reforms



The California Chamber of Commerce has identified the first “job killer” bill of the year. **SB 626 (Beall; D-San Jose)** severely undercuts the recent balanced

workers’ compensation reform deal agreed to by labor unions and employers.

The bill proposes dramatic cost increases for California employers and would leave them worse off than before the reforms of last year were enacted.

2012 Reforms

In 2012, labor unions and the business community came together to reform the California workers’ compensation system, passing CalChamber-supported SB 863 (De León; D-Los Angeles).

The goal of this reform package was to provide injured workers with needed benefit increases, but offset these increased costs by closing certain loopholes and making the workers’ compensation system operate more efficiently with fewer disputes and litigation.

See Job Killer Rolls Back: Page 4

Legislation Diverts Unemployment Insurance Funds



OPPOSE

A California Chamber of Commerce-**opposed** bill that diverts employer-paid unemployment insurance (UI) taxes to a new program to provide income to individuals seeking to start their own business will be considered soon by the Assembly Insurance Committee.

AB 152 (Yamada; D-Davis) seeks to resurrect the Self Employment Assistance (SEA) Program to allow unemployed individuals to collect benefits from the Unemployment Insurance Trust Fund for engaging in undefined “self employment assistance activities” in order to start their own business.

In 1994—the only year in which California operated an SEA program—California’s program yielded no participants successful in starting their own business, but required a significant investment of resources.

Costly Program

The proposed program will be costly because of the functions necessary to develop and maintain it, such as developing regulations, outreach, maintenance, reporting and documentation.

See CalChamber Opposes: Page 6

Small Business Health Care Tax Credit: Deadline Approaching to File Claim



California small businesses may qualify for a health care tax credit available under the federal reform law. See Page 3.

Inside

Consumer Product Draft Rules Need Economic Analysis Now: Page 5

Cal/OSHA Corner

Five General Safety Training Standards Apply to Most Companies



Mel Davis
Cal/OSHA Adviser

We are a small human resources consulting firm and are developing our Injury and Illness Prevention Program (IIPP). Could you give some examples of the necessary training items that should be included for our particular industry IIPP?

Typically, when companies begin to deal with California's/Cal/OSHA safety standards contained in the California Code of Regulations, Title 8, there are

five general requirements that apply to all California industries and training for company personnel.

Other requirements may apply depending on the size of the company and whether it is rated as a high- or low-hazard industry.

Five Basic Standards

There are five basic General Industry Safety Order (GISO) standards that apply to almost every company. These are:

- The Injury and Illness Prevention Program (GISO Section 3203);
- Emergency Action Plan (GISO Section 3220);
- Fire Prevention Plan (GISO Section 3221);
- Hazard Communication Program (HAZCOM, GISO Section 5194);
- Repetitive Motion Injuries (Ergonomics, GISO Section 5110).

The HAZCOM standard may appear to be out of place in the office environment, but if there are cleaning or duplicating materials or other chemicals that are used and have manufacturer's warnings in the form of material safety data sheets (MSDS), employees are to have access to the data sheets.

Because of the number of processes,

machines, and industries addressed in the California Code of Regulations, Title 8, the IIPP was written in performance language. It would be humanly impossible to address every circumstance in which an employee is to be trained for every industry and task in California.

Therefore it is incumbent on the employer to inform and train the employee to recognize the hazards he/she will encounter in his/her specific workplace. Means and/or methods to mitigate these hazards shall be incorporated into the IIPP.

Guidance

The California Chamber of Commerce *HR Handbook for California Employers* contains a guide for developing an IIPP, including some safety checklists and forms. Additional information about safety compliance also is available in the *California Labor Law Digest* and on HRcalifornia.com.

The Labor Law Helpline is 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.

California Chamber Officers

Frederick E. Hitchcock
Chair

Anne Buettner
First Vice Chair

Joseph M. Otting
Second Vice Chair

Michael W. Murphy
Third Vice Chair

Timothy S. Dubois
Immediate Past Chair

Allan Zarembeg
President and Chief Executive Officer

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. Periodicals Postage Paid at Sacramento, CA.

POSTMASTER: Send address changes to Alert, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Publisher: Allan Zarembeg. Executive Editor: Ann Amioka. Associate Editor: Sara Espinosa. Art Director: Neil Ishikawa. Capitol Correspondent: Christine Haddon. Photographer: Megan Wood.

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.*

CalChamber-Sponsored Seminars/Trade Shows

More information: calchamber.com/events.
Labor Law

HR Boot Camp Seminar. CalChamber. April 10, Bakersfield; May 8, Sacramento; June 6, Santa Clara. (800) 331-8877.

HR Strategies Webinars. CalChamber. March 22: Role of HR in Business Process; April 18: Managing Your Workplace Harassment Risk; May 16: Flexible Work Options; June 20: Multigenerational Workforce Challenge. (800) 331-8877.

Leaves of Absence: Making Sense of It All. CalChamber. May 9, Sacramento. (800) 331-8877.

California Employers and Workplace Privacy Webinar. CalChamber. July 18. (800) 331-8877.

See CalChamber-Sponsored: Page 4

CalChamber Calendar

*Legislative Briefing and
Sacramento Host Breakfast:
May 21-22, Sacramento*

**Quick Answers
to Tough
HR Questions**

 **HRcalifornia**®



Deadline Approaching to Claim Small Business Health Care Tax Credit

As the March 15 corporate tax filing deadline approaches, California's small businesses need to know they may qualify for an important health care tax credit available under the Affordable Care Act.

Designed to help small businesses and tax-exempt organizations that primarily employ moderate- and lower-income workers either maintain existing coverage or offer health insurance to their employees for the first time, the Small Business Health Care Tax Credit provides a credit equaling up to 35% of the health insurance premium costs that a small business incurred for insuring its employees.

Tax Credit Underutilized

In an interview with CalChamber News, certified public accountant and tax expert Conrad Davis of Crowe Horwath LLP explains that more businesses need to be made aware of this benefit of the law aimed at small employers.

"Right now the credit is underutilized," Davis says. "The studies show that not as many businesses that are eligible are participating."

According to a recent study, more than 375,000 small businesses in California are eligible for health insurance tax credits for a total value of more than \$1.8 billion.

Qualifying

According to the Internal Revenue Service (IRS), small employers that pay at least half of the premium for employee health insurance coverage

may be eligible for the Small Business Health Care Tax Credit.

To qualify, an employer must have fewer than the equivalent of 25 full-time workers and have average annual wages below \$50,000 and pay for 50% or more of employees' health insurance premiums.

For the 2012 tax year, the IRS is offering a tax credit that is worth up to 35% of a small business' premium costs (25% for tax-exempt employers).

In 2014, the credit increases to up to 50% (35% for tax-exempt employers) and also must be purchased through the state's insurance marketplace, Covered California.

Important Opportunity

California Board of Equalization member George Runner calls this credit an important opportunity for businesses that form the economy's backbone.

"To me, this is a great window that people ought to take advantage of," Runner says.

The Small Business Health Care Tax Credit took effect immediately after the 2010 passage of the Affordable Care Act and small businesses can now claim the credit on their 2012 income tax return.

Businesses that have already filed a tax return and later determine they are eligible for the credit can file an amended tax return starting with their 2010 return.

As the law takes shape, Davis says it's vital for small businesses to consult their

tax advisers about this benefit.

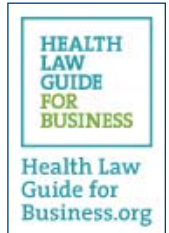
The Small Business Health Care Tax Credit is providing California small businesses one more avenue to maintain a healthy, productive workforce.

Health Law Guide for Business

For more information on the tax credit and other benefits available under the health care law, visit www.HealthLawGuideforBusiness.org/taxcredits.

Health Law Guide for Business was established in partnership with the Bay Area Council, California Chamber of Commerce, California Hispanic Chambers of Commerce, California Restaurant Association, California Small Business Development Centers, Los Angeles Area Chamber of Commerce, Pacific Business Group on Health, Silicon Valley Leadership Group, Small Business California, Small Business Majority, and The California Endowment.

It is a first-of-its-kind website devoted to informing California's business community about business-specific provisions of the health care law. As an information hub for California businesses, the media and employees, Health Law Guide for Business provides accurate information on the health care law that's most important for employers to run and operate their businesses.



Small Business Advocate Award: Nominations Due April 15

The California Chamber of Commerce is seeking nominations for its Small Business Advocate of the Year Award.

Each year, the CalChamber recognizes several small business owners who have done an exceptional job with their local, state and national advocacy efforts on behalf of small businesses.

Application

The application should include information regarding how the nominee has significantly contributed as an outstanding advocate for small business in any of the following ways:

- Held leadership role or worked on statewide ballot measures;
- Testified before state Legislature;
- Held leadership role or worked on local ballot measures;
- Represented chamber before local government;
- Actively involved in federal legislation.

The application also should identify specific issues the nominee has worked on or advocated during the year.

Additional required materials:

- Describe in approximately 300 words why nominee should be selected.

- News articles or other exhibitions as supporting materials.

- Letter of recommendation from local chamber of commerce president or chairman of the board.

Deadline

Award nominations are due to the CalChamber Local Chamber Department by April 15. The nomination form is available on the CalChamber website at www.calchamber.com/smallbusiness or may be requested from the Local Chamber Department at (916) 444-6670.

'Job Killer' Rolls Back Workers' Compensation Reforms

From Page 1

The reforms achieved this balance— injured workers are guaranteed nearly \$1 billion in benefit increases, while employer costs are projected to be reduced after regulatory implementation of system reforms.

The proposals contained in this reform were forged and vetted by representatives of both labor and employers through a multi-year process of research, discussion and extensive negotiations.

Assault on Reforms

SB 626 eliminates the entire balance of the deal and would erase hundreds of millions of dollars in projected savings. Specifically, SB 626 would roll back reforms dealing with timely, high-quality medical treatment and a more predictable—and less litigious— permanent disability system.

SB 626 assaults the reforms on many fronts:

- It eliminates the cornerstone cost-saving provision contained in SB 863— independent medical review. Under SB 626, independent medical review decisions would be fully appealable to the Workers' Compensation Appeals

Board, taking medical necessity decisions away from physicians and putting them back in the hands of judges. It would also result in treatment delays for injured workers. The savings associated with independent medical review are estimated at around \$400 million.

- It repeals a provision in SB 863 that eliminates impairment ratings for psychiatric add-ons in some, but not all, cases. Numerous data-driven analyses demonstrated applicant attorneys had excessively abused this add-on to artificially inflate permanent disability ratings.

- It repeals a provision in SB 863 that prohibits a chiropractor from being a primary treating physician once the maximum number of chiropractic treatments has been received.

- It unnecessarily limits utilization review and independent medical review by requiring that the reviewing physician hold the same license as the physician requesting treatment. Current law requires reviewers to be competent to evaluate the specific clinical issues involved in the medical treatment and utilize relevant, evidence-based medical treatment guidelines, which are not state-specific.

Leaves Employers Worse Off

Not only will employers face pre-reform escalating costs if this bill is enacted, but they also will be burdened by an additional \$1 billion in benefit increases with no expectation that this cost will be offset by system savings.

SB 626 is a giant step backwards for California employers during the current fragile economic recovery. Additionally, SB 626 reverses a bipartisan labor-employer compromise. These types of agreements between key stakeholders that enjoy overwhelming bipartisan approval should be encouraged and protected, not attacked and diluted.

2013 Job Killers

The CalChamber will continue to add legislation to the "job killer" list throughout the year as bills are amended or new language is introduced. For more information on past job killers, visit www.calchamber.com/jobkillers.

Take Action

An easy-to-edit letter opposing SB 626 is available at www.calchambervotes.com.
Staff Contact: Jeremy Merz

CalChamber-Sponsored Seminars/Trade Shows

From Page 2

Business Resources

Networking/Recruiting Fair for

Employers. University of California (UC), Merced. March 13; University of the Pacific, Stockton; March 14; UC Merced; March 15; Fresno State University. (209) 228-7272.

Small Business Seminar. California State Board of Equalization. March 26; Pomona; April 4; Long Beach. (888) 847-9652.

Beverly Hills Tomorrow. Beverly Hills Chamber of Commerce. April 9, Beverly Hills. (310) 248-1000.

Responsible Sourcing Summit. UL. April 17–18, Santa Monica. (310) 215-0554.

Innovation Economy Expo. Innovation Economy Konnect, Inc. May 9, Ontario. (310) 613-4131.

Government Relations

Condoleezza Rice: Advancing Women's Leadership. University of the Pacific. March 21, Stockton. (209) 946-2030.

International Trade

Asia Pacific Business Outlook. U.S. Commercial Service. April 8–9, Los Angeles. (213) 740-7130.

Hannover Messe 2013: Integrated Industry. Deutsche Messe. April 8–12, Hannover, Germany.

China-U.S. Business Summit 2013. China-U.S. Business Summit Committee. April 28–30, Los Angeles.

(562) 437-8885.

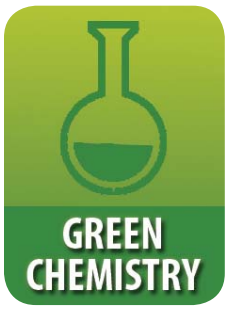
World Trade Week Kickoff Breakfast. Los Angeles Area Chamber. May 2, Los Angeles. (213) 580-7569.

China International Technology Fair. Shanghai International Technology Exchange Center. May 8–11, Shanghai, China.

2013 USC Global Conference. University of Southern California. May 23–25, Seoul, Korea. (323) 442-2830.

The BRICS (Brazil, Russia, India, China, South Africa) Countries Conference. Monterey Bay International Trade Association. May 24, Monterey. (831) 335-4780.

Consumer Product Draft Regulations Need Economic Impact Analysis—Today



A sweeping state proposal to regulate chemicals in California consumer products should include a peer-reviewed economic analysis, according to the California Chamber of Commerce.

The regulation also should include a more defined set of obligations for those businesses that eventually are regulated by the state Department of Toxic Substances Control (DTSC), and eliminate the requirement that they respond to public comments on documents those businesses provide to the agency, the CalChamber said.

DTSC has argued that it will be in a better position to calculate the economic impacts and elaborate on what it wants from regulated businesses once implementation is underway.

Draft ‘Too Vague’

The CalChamber, in a letter commenting on the draft green chemistry regulations the DTSC released January 29, pointed out that a state law adopted in 2011 requires that an economic impact analysis be done *before* adoption of the final regulation, not afterwards as the department has proposed to do.

DTSC has, “draft after draft, refused to narrow the list of chemicals it may choose to regulate or to define how it will select chemicals from that list and identify product categories for regulation,” the CalChamber said in its comment letter.

If DTSC cannot now determine the range of economic impacts the draft regulation might have, the CalChamber said, it is an indication that the draft proposal “is too vague to be implemented, as the business community has argued from the beginning.”

The 2011 law was supported by the CalChamber as a regulatory reform that requires an economic analysis of all

major regulations at the beginning of the regulatory process, thus providing more transparency and better data on which to base selection of the most cost-effective regulatory alternative (SB 617-Calderon; D-Montebello; Chapter 496).

Department Reasoning Faulty

In response to concerns voiced by legislators in October 2012, DTSC Director Deborah Raphael said the department would conduct a thorough economic analysis when it selected the priority products to be subject to regulation.

Raphael said that the DTSC-proposed regulations “establish a process only” and “do not impose any duties on any business in California,” so therefore the economic impact of the regulations “cannot be known” until implementation has begun.

The CalChamber pointed out that other regulations, such as the California Environmental Quality Act, “set forth a process without imposing an automatic duty on a business.”

The CalChamber “wholeheartedly disagrees” with the implied view of the DTSC “that if the economic impact cannot be assessed with certainty, or if the regulation merely proposes a process, a regulatory agency can skip this step altogether or at least wait until implementation is already underway before conducting its analysis.”

The CalChamber asked the DTSC to conduct “a meaningful, peer-reviewed economic impact analysis” of the proposed regulations *before* submitting them to the Office of Administrative Law (OAL).

OAL reviews regulations to be sure they are clear, necessary, legally valid, and available to the public, as required by the state’s administrative procedure law, before sending the rules on to the Secretary of State to be published in the California Code of Regulations.

Compliance Tools First

In addition, the CalChamber argued

in its comments that the DTSC should fulfill its statutory obligation and provide manufacturers, distributors and retailers with adequate compliance tools up front.

Without such tools, the first group of regulated entities effectively become “guinea pigs who will be subject to whims of the department while it figures out what it wants through trial and error,” the CalChamber commented.

Therefore, those first regulated businesses will be subject to higher costs, more burdensome information requests and greater uncertainty than those regulated in the future.

If DTSC believes that compliance tools cannot be provided up front, the CalChamber said, the department should build a review and revision period into the regulations, and commit to taking the time to create those tools and add necessary details to the regulations once the first round of compliance concludes.

Lastly, final regulations should include penalty relief so the first group of regulated entities can collaborate with the DTSC to fill out the details of the program without fear of possible financial penalties or formal declarations of being out of compliance, the CalChamber said.

Eliminate Onerous Burden

The CalChamber also called for eliminating the requirement for businesses to respond to public comments on draft reports the businesses must submit to the DTSC as part of the regulatory process. The requirement would impose a unique, substantial and inappropriate burden on businesses, the CalChamber said.

It should be the responsibility of the DTSC to use its scientific expertise and understanding of industry concerns in weighing the business reports against public comments and other feedback when determining the necessary and appropriate regulatory response, the CalChamber said.

Staff Contact: Mira Guertin

CalChamber Opposes Plan to Divert Unemployment Insurance Funds

From Page 1

Although the participants receive the same amount of benefits they would have received from the regular UI program, the administration costs of the SEA program must be shifted from other areas of UI program administration to create new functions and provide services to a unique set of beneficiaries.

The legislation proposes to use federal grant funding of \$5.3 million—which the CalChamber believes is inadequate to fully fund the program—for implementing, administering and promoting the SEA program.

The CalChamber believes the state should not be diverting resources from the mission of delivering timely benefits to eligible individuals to develop and manage a program that has proven unsuccessful in California.

Lacks Oversight

The bill lacks necessary controls to prevent fraud and abuse. Self employment assistance activities are not defined nor are these activities required to be designed to help lead to a successful business.

They won't know
unless you tell them.
Write your legislator.

calchambervotes.com

The bill does not require any particular activity, documentation or verification in order to qualify for the SEA program. Furthermore, the bill waives the requirement to look for work and be available for work. The bill makes it clear that training is not required for program participants and is optional.

The Workforce Investment Boards, which provide training for various programs, including the UI training benefit, will be required to divert funding from regular UI beneficiaries in need of job training and services, to training for the SEA program. Starting and growing a business is difficult even in the best of times and will be more challenging in today's extraordinarily difficult economy.

Although the CalChamber supports the entrepreneurial spirit, studies suggest that as many as 40% of new businesses

fail in their first year. One of the leading causes of failure is inadequate initial capitalization.

AB 152, if enacted, could leave a substantial number of program participants worse off than if they pursued more stable employment. State Employment Development Department resources are more appropriately devoted to delivering timely benefits to UI claimants and not expanding into costly program areas.

Action Needed

AB 152 will be considered by Assembly Insurance on March 20. Contact committee members and urge them to **oppose AB 152**.

An easy-to-edit letter is available at www.calchambervotes.com.

Staff Contact: Marti Fisher

CalChamber Joins Panel Discussion on Modernizing Environmental Law



Mira Guertin, CalChamber policy advocate, highlights businesses' need for certainty at a panel discussion on modernizing the California Environmental Quality Act (CEQA), presented by the Association of California Water Agencies on March 5 in Sacramento. Articles outlining the CalChamber perspective on CEQA reform are available at www.calchamber.com/environmental.

How Are Government Regulations Working (Or Not)?

Help CalChamber Identify Overlapping/Duplicative Regulations

The targets of regulations often know best how government requirements work in the real world. The California Chamber of Commerce would appreciate your help in identifying overlapping and duplicative state regulations affecting your business. Please email your comments to regs@calchamber.com.

CalChamber Legislative Briefing to Feature Insights on Top Issues

Business leaders from throughout the state are invited to attend the California Chamber of Commerce legislative briefing on May 21 in Sacramento.

Inside Scoop

The briefing will give attendees the opportunity to get the inside scoop from CalChamber President and CEO Allan Zaremberg about the politics behind major issues affecting employers' ability to stay competitive.

Also featured will be updates on CalChamber job creators and job killers.

Lunch is included in registration for the briefing, set for 10:30 a.m.–1 p.m.

Host Reception/Breakfast

In the evening following the briefing is the Sacramento Host Reception, a networking opportunity for business leaders from all industries in California to discuss key issues facing the state.

The reception is a prelude to the Sacramento Host Breakfast the following morning. The Host Breakfast provides a venue at which California's top industry and government leaders can meet, socialize and discuss the contemporary issues facing businesses, the economy and government.

Traditionally, the Governor of California and the chair of the

CalChamber Board of Directors speak on issues facing employers in California. Leaders from business, agriculture, the administration, education, the military and legislators from throughout the state are invited to join the discussion.

Registration

Registration for all three events is \$125. The briefing and reception option is \$100. The cost for the Host Breakfast only is \$50.

For more information or to register, visit www.regonline.com/2013calchamberlegislativebriefinghostbreakfast.

Staff Contact: Danielle Fournier



Family/Medical Leave Posting Mandatory for Some Public, Private Employers

New regulations expanding federal Family and Medical Leave Act (FMLA) protections took effect today, March 8.

The regulations issued by the U.S. Department of Labor (DOL) mandate a change to the federal FMLA poster entitled *Employee Rights and Responsibilities Under the Family and Medical Leave Act*. This is "Notice C" on the California Chamber of Commerce *California and Federal Employment Notices Poster*.

The new FMLA regulations (and the FMLA posting requirement) do *not* affect private-sector employers with fewer than 50 employees.

The FMLA applies only to the following covered employers:

- Private-sector employers, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
- Public agencies, including a local,

state or federal government agency, regardless of the number of employees; or

- Public or private elementary or secondary schools, regardless of the number of employees.

All covered employers must display the poster prepared by the DOL summarizing the major provisions of the FMLA and telling employees how to file a complaint. The poster must be displayed in a conspicuous place where employees and applicants for employment can see it.

A poster must be displayed at all locations even if there are no eligible employees.

CalChamber's *California and Federal Employment Notices Poster* contains this federal notice, along with the other notices required for California employers.

The *California and Federal Employment Notices Poster* with the revised federal FMLA notice is available at the CalChamber Store, www.calchamberstore.com.



Protect your business and employees.



California companies with 50 or more employees are required to provide two hours of sexual harassment prevention training to all supervisors **within six months of hire or promotion**, and every two years thereafter. CalChamber's online supervisor course meets AB 1825 training requirements and helps your company avoid work situations that put you at risk for costly lawsuits. Regardless of company size, we recommend training for all supervisors and employees. Learners start and stop anytime because the system tracks their progress.



Get a certificate for a **free 1-lb. box of See's Candies®** when you buy \$100 or more of California Harassment Prevention training seats.

Use priority code HPTSE2. Preferred and Executive members receive their 20% member discount in addition to this offer. Offer ends 4/30/13.



Online harassment prevention training in English or Spanish features videos covering realistic scenarios.

ORDER online at calchamber.com/harassment or call (800) 331-8877.

ADDRESS SERVICE REQUESTED

Where Advocacy Meets Compliance™

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

CALIFORNIA CHAMBER OF COMMERCE

ALERT

Periodicals
Postage
PAID
Sacramento, CA