

# ALERT

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 **CalChamber**  
CALIFORNIA CHAMBER OF COMMERCE

## Chemical Products Rule Still Lacks Cost Analysis

*CalChamber Urges Agency to Go Back to Table*



The latest draft of a sweeping proposal to regulate chemicals in California consumer products still lacks the meaningful economic analysis that the California Chamber of Commerce has been requesting from the beginning.

The inability of the state Department of Toxic Substances Control (DTSC) to

provide an economic analysis shows that the fledgling program is incomplete, the CalChamber said in a June 6 letter to the department's regulations coordinator.

The CalChamber urged the department to "go back to the table and, at a minimum, conduct a meaningful and comprehensive economic impact assessment" of the fully implemented Safer Consumer Products Regulation, frequently referred to as the green chemistry regulation.

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## Comprehensive U.S. Immigration Reform Critical for California



The California Chamber of Commerce is highlighting the need for comprehensive national immigration reform this year. America's current immigration system is broken and does not meet the

needs of citizens or businesses.

There are four significant immigration issues that are critical to creating certainty in California's economy. These top issues include fixing the inadequate H-1B visa program, reforming the guest worker program, enhancing border security in a way that does not hamper trade with Mexico, and resolving uncertainty over the legal status of the largest undocumented population in the country.

Immigration reform is especially important to California as there are approximately 2.6 million undocumented immigrants in the state—23% of the nation's total. Half of those undocumented immigrants have lived here for more than 10 years.

The uncertainty over their legal status is a drag on the economy. Resolving the issue would stimulate consumer spending and investment.

### State Needs

California is home to the technology industry, which relies on highly skilled talent to innovate, design, manufacture,

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## CalChamber.com: A Site to See



CalChamber's redesigned home page makes finding what you need even easier: quick navigation to everything CalChamber offers; instant access to Advocacy, HRCalifornia and CalChamber Store; latest news and HR Watchdog blog in one location. Visit [calchamber.com](http://calchamber.com) and experience the difference for yourself.

### Inside

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## Labor Law Corner

# Make-Up Time Requests: State Law, Wage Orders Spell Out Process



**Gary Hermann**  
HR Adviser

*Can an employer refuse to grant a request for make-up time to an employee, covered by a sick leave policy, who is taking time off for a doctor's appointment?*

An employer is not obligated to grant any request for make-up time, and the use of sick leave is governed strictly by the provisions of an employer's policy.

If an employer also has a sick leave policy that might cover the time off, there is no prohibition against an employer

allowing the use of make-up time instead. On the other hand, there is no requirement that obligates an employer to authorize the use of make-up time.

The make-up time provisions are spelled out in California Labor Code Section 513 and Section 3 of the Industrial Welfare Commission Wage Orders.

### Written Request

An employee must submit a written request to make up work time that is or would be lost as a result of a personal obligation of the employee. The employer may approve or disapprove the request.

The hours of that make-up work time must be performed in the same workweek in which the work time was lost.

Only hours worked in excess of 11 in one day or 40 in the workweek are counted for overtime purposes in the

week make-up time is used.

An employee must provide a signed written request for each occasion that the employee makes a request to make up work time pursuant to this section.

### No Solicitation

An employer is prohibited from encouraging or otherwise soliciting an employee to request the employer's approval to take personal time off and make up the work hours within the same week pursuant to this section.

*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](http://www.hrcalifornia.com).*

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## CalChamber-Sponsored Seminars/Trade Shows

More information: [calchamber.com/events](http://calchamber.com/events).  
**Labor Law**

Strategies for Employer Compliance Under the Affordable Care Act Webinar.

CalChamber. June 20. (800) 331-8877.

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

HR Boot Camp: Toughest Challenges. CalChamber. September 11, San Diego. (800) 331-8877.

Put It in Writing: Employee Handbooks Webinar. CalChamber. September 19. (800) 331-8877.

California Rules for Pay/Scheduling Nonexempt Webinar. CalChamber. October 17. (800) 331-8877.

### Business Resources

Internship Program Workshop. University of the Pacific and Collegial Services.

July 17, Sacramento. 10% discount for CalChamber members. Use promo

code "Chambers" when registering. (925) 818-2280.

California HR Conference. Professionals in Human Resources Association. August 26-28, Anaheim. (310) 416-1210.

### International Trade

Spanish Language/Media Conference.

California Leadership Institute and Mentoring Bridges. June 21-22, Los Angeles. (916) 719-1405

U.S.-Saudi Auto Conference. U.S. Saudi Arabian Business Council. June 26, Birmingham, Michigan. (703) 204-0332.

Japan America Society of Southern

*See Seminars/Trade Shows: Page 7*

## CalChamber Calendar

*2013 PAC Workshop:*  
September 27, Burbank

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## CalChamber Helps Explain Federal Health Care Law Implementation

Newly scheduled webinars and a video series are part of an ongoing effort by the California Chamber of Commerce to explain important aspects of the federal Patient Protection and Affordable Care Act (PPACA) for businesses.

Even as health care plans gear up to begin enrolling people this fall to be covered in 2014, many questions remain about how the law will work.

### Webinars

Key employer provisions of the federal law will be covered in a June 20 webinar, *Strategies for Employer Compli-*



*ance Under the Affordable Care Act.*

The CalChamber will moderate the live 90-minute presentation by experts from Groom Law Group, a Washington, D.C.-based firm.

For more information or to register, visit [calchamber.com/june20](http://calchamber.com/june20), or call (800) 331-8877 and mention priority code REG.

The live or recorded webinar is free to CalChamber members and \$99 for nonmembers.

Planned for August 1 is a discussion of tax implications of the PPACA by Moss Adams. On August 15, Wells Fargo Insurance has partnered with the CalChamber to discuss employee benefits related to the PPACA.

### Videos

The CalChamber has produced and helped distribute a series of videos to explain the PPACA, particularly for smaller business operations.

The latest video produced in cooperation with The California Endowment

explains how Covered California, the state's first-in-the-nation online insurance marketplace, will work.

In the video, Peter Lee, executive director of Covered California, clarifies what small businesses (2–50 employees) need to know about the state's new insurance marketplace.

Lee also responds to questions posed by small business owners.

To view the video, visit [calchamber.com/videos](http://calchamber.com/videos).

Business-specific provisions of the PPACA are explained at *HealthLaw Guide for Business.org*, a website developed by The California Endowment with support from business partners, including the CalChamber.



## CalChamber Webinar to Examine Workplace Privacy Issues for Employers

The California Chamber of Commerce is making available a webinar to teach businesses about workplace privacy.

Employers must tread carefully when it comes to privacy rights. With ever-changing social media and other technological innovations in communication, the webinar will examine the limits employers can place on employee communications at work and outside of work.

### Webinar

The *What California Employers Should Know About Workplace Privacy Webinar* is being held on Thursday, July 20, 10 a.m.–11:30 a.m. PDT.

CalChamber's employment law experts will provide clarity on employee privacy rights related to:

- state and federal guarantees and limitations;
- pre-hire background and social media checks;
- drug and alcohol testing;
- social media in the workplace;
- drafting written policies; and
- employee monitoring.

Live webinar attendees will receive downloadable webinar slides, plus a recording of the live event when it becomes available July 28. Customers who purchase the recorded webinar or the kit (both the live and recorded webinars) will also receive downloadable webinar slides. Questions can be submitted only during the live event.

### CalChamber Presenters

Susan Kemp, CalChamber senior employment law counsel, has written and edited several CalChamber publications on topics such as employee handbooks, sexual harassment investigations, family and medical leave, and exempt/nonexempt employees. She is the manager of the CalChamber's Helpline and a frequent speaker on a variety of employment-related topics.

Erika Frank, CalChamber vice president, legal affairs, and general counsel, has lobbied the legislative and executive branches on taxation, civil litigation and lawsuit abuse issues, and submitted briefs on cases affecting

workers' compensation reform, the general conduct of business, employee relations, taxation, litigation reform and commercial free speech.

### Registration

For more information or to register, call (800) 331-8877 or sign up for *What California Employers Should Know About Workplace Privacy Webinar* at [calchamber.com/training](http://calchamber.com/training).

Registration information for all webinars and seminars is available at [calchamberstore.com](http://calchamberstore.com). Products are available for purchase by any business; CalChamber preferred and executive members receive a 20% discount.





## Workshop to Present Key Strategies for Success in State/Local Elections

The California Chamber of Commerce will be holding a political action committee (PAC) training workshop September 27 at Woodbury University in Burbank, from 9 a.m. to 4 p.m.

The workshop will focus on key strategies for business success in state and local elections, and will cover candidate assessments and endorsements, new Fair Political Practices Commission (FPPC) regulations, and PAC management.

### Agenda

The agenda will include:

- A discussion of legal issues and requirements associated with a PAC led by attorneys Brian Hildreth, partner, Bell, McAndrews & Hiltachk, LLP, and Bradley Hertz, partner, The Sutton Law Firm.
- How to interact with the California



FPPC, featuring Lynda Cassady, chief of the FPPC Technical Assistance Division.

- Keynote presentations by legislators: Assemblyman Raul Bocanegra (D-Pacoima), Assemblyman Jeff Gorell (R-Camarillo), and Senator Alex Padilla (D-Pacoima).
- How to recruit, train and endorse candidates.

### Registration

Online registration is available at [www.regonline.com/calchamber2013pacworkshop](http://www.regonline.com/calchamber2013pacworkshop).

Questions may be directed to CalChamber Grassroots Coordinator Cathy Mesch at (916) 930-1295 or [cathy.mesch@calchamber.com](mailto:cathy.mesch@calchamber.com).

## Chemical Products Rule Still Lacks Cost Analysis

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### Faulty Reasoning

State law requires state agencies to complete an assessment of a proposed regulation's economic impact before submitting the proposal for review by the Office of Administrative Law (OAL).

In completing its revised "Economic and Fiscal Impact Statement," however, the DTSC states both that impacts are unknowable, and that total statewide costs for businesses and individuals to comply are "minimal."

The department wrongly asserts it can do a separate economic impact assessment for each stage of the process without being subject to deadlines set forth in state law.

The CalChamber letter pointed out that the whole purpose of the economic analysis is to inform the decision making of the regulatory agency and make sure the regulatory program is implemented in the most cost-effective way that still carries out the goals of the law being implemented.

Conducting an economic impact assessment on only one piece of a regulatory program at a time circumvents the purpose of the assessment.

### Legislative Charge

The legislation establishing the green chemistry program directed the DTSC to identify chemicals of concern, evaluate the potential alternatives to those chemicals, determine how best to limit exposure or reduce the level of hazards posed by those chemicals, and impose a regulatory response at the end of the process.

The full regulatory scheme envisioned by the Legislature will impose real obligations on real California businesses, and will have meaningful outcomes that can and must be estimated by DTSC before implementation, the CalChamber wrote.

"Nothing in the law allows adopting agencies to shirk their responsibility to conduct an economic impact assessment simply because the task is difficult or filled with uncertainties," the CalChamber commented.

### Inaccurate Impacts

A DTSC statement that the cost of its program to California business enterprises will not exceed \$10 million appears to reflect the department's view that the proposed regulation exists in a vacuum.

The CalChamber disagrees with this

view, and also noted that there is no information to support the department's contention of a "minimal" cost of the program to businesses and individuals.

In fact, one scenario outlined by the department projects a compliance cost of \$110 million for 100 manufacturers of four priority products during a single round of regulation.

The department also ignores costs of compliance for business entities further down the stream of commerce from manufacturers, including importers, assemblers and retailers.

### Foundation Economic Analysis

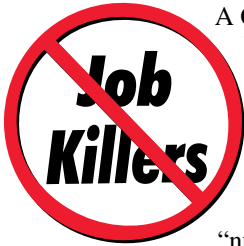
So far, the CalChamber-affiliated California Foundation for Commerce and Education has conducted the only true economic analysis of the impact of the green chemistry regulations.

That study, released in October 2012, found the green chemistry requirements could cost California businesses and consumers more than \$170 billion in the first 25 years of implementation and lead to 123,000 lost jobs.

The study is available at [www.calchamber.com/cfcepolicy](http://www.calchamber.com/cfcepolicy).

Staff Contact: Mira Guertin

# Tenfold Penalty Increase Pending for 'Nuisance' Air Quality Violations



A California Chamber of Commerce-opposed "job killer" bill that dramatically increases penalties for unspecified "nuisance" air

quality violations is pending in the state Assembly.

**SB 691 (Hancock; D-Berkeley)** proposes a tenfold increase in existing strict-liability penalties for nuisance-based, non-vehicular air-quality violations without adequately defining what types and levels of pollution would trigger those penalties.

Among the groups that will be hurt by the new penalty ceiling are universities, public agencies, food processors, manufacturers and power producers.

## Liability

Someone accused of creating a nuisance can be held liable even if the event was accidental or unintentional. An

air district simply has to allege that several people have complained about an air emission, and the alleged violator would be subject to enormous liability.

Worse, the air district keeps the penalty money—a bounty incentive for high penalties.

Increasing the maximum penalty from \$10,000 to \$100,000 is a significant step that would impose a penalty based simply on allegations of annoyance, regardless of whether the emissions are harmful or in violation of an existing permit standard or requirement.

## No Defenses

In addition, the alleged violator has virtually no defenses to a strict liability

offense; the district has to prove only that a few people complained or were annoyed.

Although the proponents of SB 691 claim the bill is intended to apply only to "major events," the bill does not define "major event" or establish any criteria for this enhanced penalty. As a result, this increase will have an impact on large industries and individual citizens.

## Action Needed

SB 691 awaits assignment to a policy committee in the Assembly. The CalChamber is asking members to contact their Assembly representatives to urge them to **oppose SB 691**.

**Staff Contact: Mira Guertin**



CAJobKillers.com

# Comprehensive U.S. Immigration Reform Critical for California

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create jobs and grow the economy to enable success in the global marketplace. Employers cannot find enough "home grown" engineers and scientists and urge reforming the inadequate H-1B visa program.

If the industry can't find and bring enough skilled workers to California, it will go to where the engineers and scientists live—most likely offshore, which would not be a good outcome for the state.

California's unique and successful agriculture industry needs a temporary worker program that will provide a predictable workforce. Immigration reform should bring certainty to employers, employees and families.

## Reform Principles

The CalChamber supports the

following comprehensive reform principles:

- **Border security should be a line of defense** against those who enter illegally and against those who pose security threats to this country, but borders must also allow for legitimate commerce and travel.

Mexico is California's No. 1 export partner. Border security, while absolutely necessary to achieve a bipartisan solution in Congress, shouldn't be at the expense of trade and commerce with Mexico.

- **Temporary worker programs should be reformed** to meet the needs of employers for high- and low-skilled jobs that cannot be filled by U.S. workers. The current system leaves many hard-working immigrants in a state of limbo waiting for approvals while employers struggle to keep their most valued asset—a trained workforce.

- **Strict enforcement of employment verification has to be combined with 100% reliable employment eligibility information (E-Verify).** Employers and individuals who knowingly hire undocumented workers should be punished.

- **An earned pathway to legal status for undocumented workers should be created**, but should not permit line jumping in front of the current immigrant visa backlog. The processing of legal immigration needs to occur simultaneously to avoid creating incentives for illegal immigration.

America cannot compete and win in a global economy without attracting and retaining a talented workforce of big dreamers. Immigration reform is one of the compelling challenges of our time.

**Staff Contact: Marti Fisher**

# Legislative Outlook

An update on the status of key legislation affecting businesses. Visit [www.calchambervotes.com](http://www.calchambervotes.com) 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.

## Bill Protecting Businesses from Prop. 65 Drive-By Lawsuits Set for Hearing



A California Chamber of Commerce-**supported** job creator bill that aims to stop drive-by Proposition 65 lawsuits is scheduled to be considered by the Senate Environmental Quality Committee on June 19.

**AB 227 (Gatto; D-Los Angeles)** protects small businesses from drive-by lawsuits by providing a 14-day right to cure for allegations for a failure to post a Proposition 65 warning.

The bill has been supported by a broad coalition of organizations that include numerous local chambers of commerce.

Proposition 65 requires that a private business with more than 10 employees post warnings when it knowingly exposes workers or the public to listed chemicals.

These warnings can take the form of placards in business establishments where listed chemicals exist or are released into the environment, or as part of the labeling of a consumer product that contains any of the 774 chemicals currently on the list.

AB 227 addresses one very avoidable cost that results from a handful of law firms targeting businesses with drive-by lawsuits, alleging the businesses lack the signage required by Proposition 65.

These lawsuits can easily cost thousands of dollars to litigate, causing many small businesses to settle out of court regardless of whether they actually needed to have signage posted at their business establishments, if the failure to post was made in good faith, or if the signage they did have was merely the wrong size.

The 774 chemicals on the Proposition 65 list range from those that pose limited or no risk based solely on their presence at a business—such as alcoholic beverages and aspirin—to others that pose an obvious and widely known risk, like diesel engine exhaust and tobacco smoke.

Hundreds of businesses are targeted in these lawsuits each year, costing millions of dollars in lost productivity and jobs.

AB 227 will help eliminate the inappropriate use of litigation, while ensuring that the public does receive Proposition 65 warnings when appropriate.

### Action Needed

The CalChamber is encouraging businesses to contact their senators and members of Senate Environmental Quality to urge **support** for **AB 227**.  
**Staff Contact: Mira Guertin**

## First Assembly Hearing on Tax Credit Sunset Proposal



A California Chamber of Commerce-**opposed** “job killer” bill that imposes an arbitrary maximum 10-year sunset on all future tax credits is set for hearing June 24 in the Assembly Revenue and Taxation Committee.

**SB 365 (Wolk; D-Davis)** creates uncertainty for California employers making long-term investment decisions by requiring tax incentives end 10 years after their effective date.

The CalChamber supports efforts of the state to consider the effectiveness of tax policies and programmatic expenditures.

SB 365, however, attempts to address this periodic review and good government structure related to tax policy by mandating a maximum 10-year sunset on all future tax credits.

For capital-intensive industries like manufacturing and research and development, investment decisions are made

many years into the future. The ability for corporate decision makers in these industries to plan anticipated costs over a span of many years is an important factor when determining locations for these investments.

Establishing an arbitrary maximum 10-year sunset puts the long-term viability of any credit in jeopardy and, in many cases, could ultimately render the credit’s value useless in a company’s final decision on a location.

### Amendments Needed

The CalChamber believes that the arbitrary maximum 10-year sunset requirement should be amended to allow tax credits introduced in the future to be evaluated on their own merit. A reasonable sunset should be applied only if appropriate.

**Staff Contact: Jeremy Merz**



# Direct Travel Spending in California Provides \$106.4 Billion Boost for Economy



Visitors to California spent \$106.4 billion in the state last year, generating close to a million jobs and \$11.4 billion in local, state and federal taxes, according to a recent travel and tourism industry report.

## State Travel Up

The tourism report shows that over the last decade, the number of visitors to the state has continued to increase and the travel industry has expanded for the third consecutive year following the 2007–2009 recessions.

A world-class destination, California attracted more than 15 million international travelers, which added about \$20 billion to the state's economy, and 62 million residents from other states, who spent more than \$38 billion. Californians traveling within the state accounted for another \$42 billion in tourism spending.

"The California Dream is alive and luring people from around the world and from across our country to come explore our great state," said Caroline Beteta, president and

CEO of Visit California, a nonprofit organization dedicated to promoting California as a premier travel destination, in a press release.

"This report confirms what we already knew, that travel and tourism is an economic engine that creates jobs and supports public services in every corner of our state."

## Monetary Impacts

The increase in direct travel and tourism spending within the state has many benefits for the state's economy. For example, the travel industry:

- **Creates jobs:** total travel-generated employment increased by 2.7% in 2012. This is the second consecutive year of employment following the recession.

- **Generates Tax Revenue:** Direct travel spending added \$11.4 billion in tax revenue. Without this contribution, each household in the state would have to pay an additional \$890 in taxes each year.

- **Contributes to State Gross Domestic Product (GDP):** In 2012, the travel sector produced \$48.8 billion in GDP, which represents approximately 2.5% of the total state GDP.

## Regional Impacts

The report shows rural counties gain as much from tourism as urban areas do. In fact, the report states, travel is especially important to these areas, because manufacturing and traded services are less prevalent.

In addition, the counties with less total employment have a bigger share of travel-generated employment.

In 2012, visitors to:

- **The Central Valley** spent \$6.1 million in the area, supporting 64,300 jobs and generating \$376 million in tax receipts;

- **The Central Coast** spent \$6.8 million in the region, supporting 72,300 jobs and generating \$441 million in tax receipts;

- **Los Angeles County** spent \$23 million, supporting 160,800 jobs and generating \$1.47 billion in tax receipts;

- **The San Francisco Bay Area** spent \$25.8 million, supporting 183,500 jobs and generating \$1.7 billion in tax receipts.

## Tourism Report

The travel and tourism report was prepared by Dean Runyan Associates and details the economic impacts of travel to and through California from 1992 to 2012. Both statewide and county-by-county information are included.

The Dean Runyan Associates report "California Travel Impacts by County, 1992–2012, 2012 Preliminary State & Regional Estimates" is available at: [industry.visitcalifornia.com/media/uploads/files/editor/Research/CATravelImpacts2012.pdf](http://industry.visitcalifornia.com/media/uploads/files/editor/Research/CATravelImpacts2012.pdf).

## CalChamber-Sponsored Seminars/Trade Shows

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California (JASSC) 104th Anniversary Celebration. JASSC. July 2, Los Angeles. (213) 624-6217.

Trade Mission to Colombia. Los Angeles County Business Federation and Los Angeles Metro Hispanic Chambers. July 14–19, Bogota, Colombia. (818) 984-5080.

Go Global Webinars. U.S. Department of Commerce. July 16: Finding Buyers and Making Contacts; July 30 and August 13: Trade Financing; August 27: Documentation and Shipping; September 10 and September 24: Understanding Export Regulations; October 8: Avoiding and Resolving Problems. America's Cup: San Francisco 2013.

America's Cup. September 7–22, San Francisco.

China International Auto Parts Expo 2013. Consulate General of People's Republic of China, San Francisco. September 13–15, Beijing, China. (415) 852-5972.

Guy Fox Maritime Industry Salute Dinner. International Seafarers Center of Long Beach-Los Angeles. September 18, Aboard RMS Queen Mary. (310) 816-6510.

The Americas Business Forum. Los Angeles Area Chamber. September 25–26, Los Angeles. (213) 580-7570.

Expo Pakistan. Trade Development Authority of Pakistan. September 26–29, Karachi, Pakistan.

LIVE WEBINAR | THURSDAY, JUNE 20, 2013 | 10:00 – 11:30 A.M. PT



## Strategies for Employer Compliance Under the Affordable Care Act



It's decision time. Key components to the Patient Protection and Affordable Care Act (PPACA) take effect January 1, 2014, and the new rules are complicated.

June 20 marks the first of CalChamber's compliance webinars featuring top experts. On that date, **Brigen Winters and Tamara Killion of Groom Law Group in Washington, DC** will verify and clarify key employer provisions as you prepare to implement health care reform.

Moderated by CalChamber, the 90-minute live or recorded webinar is **free to CalChamber members** and \$99 for nonmembers.

**GROOM LAW GROUP**  
CHARTERED

A Washington, DC-based firm with expertise in health reform issues enacted as part of the PPACA

**REGISTER** at [calchamber.com/june20](http://calchamber.com/june20) or call (800) 331-8877 and mention priority code REG.

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