

AB 1102 (LOW) LIABILITY PROTECTION SUPPORT





September 1, 2021

The Honorable Evan Low
California State Assembly
State Capitol, Room 4126
Sacramento, CA 95814

**SUBJECT: AB 1102 (LOW) LIABILITY PROTECTION
SUPPORT (AS PROPOSED TO BE AMENDED BY RN #2118465)**

Dear Assembly Member Low:

The California Chamber of Commerce is pleased to **SUPPORT** your **AB 1102 (Low)** as proposed to be amended by RN#2118465. **AB 1102** is an important step in California's efforts to increase COVID-19 vaccination rates because it eliminates any ambiguity about whether California employers may require employees to be vaccinated against COVID-19 if they so choose.

Encouraging vaccination is necessary to reopening California's economy and protecting our workers. As the delta variant continues to spread nationally, employers have considered mandating employees to be vaccinated against COVID-19. The United States Department of Justice (DOJ), Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) have all issued guidance indicating that it is legal for employers to require employees to be vaccinated if the employer so chooses. That guidance also provides that employers choosing to require vaccination must follow existing law under the Fair Employment and Housing Act (FEHA) with respect to reasonable accommodations for employees who have a disability or religious belief that prevents them from being vaccinated.

Despite this guidance, some employers are hesitant to require vaccination out of fear of litigation. There is concern that employees who do not wish to be vaccinated will sue, arguing that requiring vaccination is illegal. Employers are also concerned about the extent to which they may be liable to verify accuracy of an employee's proffered vaccination record. Agency guidance does not carry the same legal authority as a statute, and we have seen examples in the recent past of situations where the validity of such guidance has been challenged in court. A 2017 study by insurance provider Hiscox regarding the cost of employee lawsuits estimated that the cost for a small to mid-size employer to defend and settle a single plaintiff claim was approximately \$160,000, which is a steep cost for many businesses right now.

AB 1102 will eliminate any ambiguity about an employer's right to mandate vaccines by codifying the guidance issued by the DOJ, DFEH, and EEOC and confirming that it is legal under California law to require vaccination if an employer so chooses. **AB 1102** will also confirm that an employer is not required to verify that an employee's documentation is valid as long as it reasonably appears to be genuine and relates to the employee. **AB 1102** will protect employers from unmeritorious claims and increase California's vaccination rates.

For these and other reasons, we are pleased to **SUPPORT** your **AB 1102**.

Sincerely,

Ashley Hoffman

Policy Advocate
California Chamber of Commerce

Acclamation Insurance Management Services
Agricultural Council of California
Allied Managed Care
Beverly Hills Chamber of Commerce
California Association of Breakfast & Boutique Inns
California Association of Health Facilities
California Association of Sheet Metal and Air Conditioning Contractors National Association
California Beer and Beverage Distributors
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Citrus Mutual
California Credit Union League
California Construction and Industrial Materials Association
California Craft Brewers Association
California Farm Bureau
California Food Producers
California Fresh Fruit Association
California Grocers Association
California Hotel and Lodging Association
California New Car Dealers Association
California Restaurant Association
California Strawberry Commission
California Walnut Commission
Carlsbad Chamber of Commerce
Coalition of Small and Disabled Veteran Businesses
Danville Area Chamber of Commerce
Flasher Barricade Association
Fortuna Chamber of Commerce
Greater Riverside Chamber of Commerce
Hollywood Chamber of Commerce
Hotel Association of Los Angeles
Hotel Council of San Francisco
Leading Age California
Long Beach Hospitality Alliance
National Federation of Independent Business
Orange County Business Council
Orange County Hispanic Chamber
Pleasanton Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
San Diego County Lodging Association
San Diego Regional Chamber
San Francisco Chamber of Commerce
San Jose Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Silicon Valley Leadership Group
TechNet
Torrance Area Chamber of Commerce
United Ag
Valley Industry & Commerce Association
Walnut Creek Chamber of Commerce & Visitors Bureau
West Ventura County Business Alliance
Western Plant Health Association
Wine Institute

cc: Stuart Thompson, Office of the Governor

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