

NFIB 2020 Legislative Year The Good, Bad and Ugly

Candidly, the 2020 CA legislative session was not the best for small business.

With the Legislature adjourning for long periods of time because of the COVID-19 threat, the governor filled the void by taking the reins of government and imposed numerous Executive Orders (EOs). Some of those EOs were codified into law by the Legislature.

With the legislative session shortened by months because of COVID-19, the admonition from the legislative leadership was to focus solely on issues pertaining to the pandemic. However, legislators being legislators, issues found their way into the session that had little connection to the COVID pandemic. In the end, many bills strongly opposed by a myriad of business interests made their way to the governor and were ultimately signed into law.

NFIB made attempts to protect small business. NFIB partnered with Assembly Members James Ramos and Chad Mayes to sponsor AB 1035 which would have provided liability protections for small business while opening during the COVID-19 pandemic. Unfortunately, this bill was denied a hearing in the Senate and will be reintroduced in 2021.

Working with the Gov. Gavin Newsom's office, NFIB was able to obtain a favorable change to an existing executive order that allowed the NFIB sales force to sell memberships door-to-door. This was a favorable outcome allowing sales to move from telephone only, back to in-person selling.

Below is a highlight of key Good, Bad, and Ugly legislation for 2020.

GOOD

SB 1447: Sales and use tax credits for small business. Allows, for each taxable year beginning on January 1, 2020 and before January 1, 2021, a small business hiring credit to a "qualified small business employer." 1) Provides the credit shall equal \$1,000 for each net increase in "qualified employees." The credit is capped at \$100,000 per "qualified small business employer". 2) Defines a "qualified small business employer" as a taxpayer meeting both of the following requirements:
a) Employed 100 or fewer employees as of December 31, 2019; and,

b) Experienced a 50% decrease in gross receipts determined by comparing gross receipts for the three-month period beginning on April 1, 2020, and ending June 30, 2020. **SIGNED.**

AB 1577: Federal CARES Act tax conformity. Conforms state law to federal law to allow taxpayers to exclude the amount of Paycheck Protection Program (PPP) loans provided to California small businesses under the CARES Act for state tax purposes. **SIGNED**

BAD

AB 3216: Unemployment: rehiring and retention: state of emergency. Provides a right of recall and retention rights for workers who have been laid off due to a state of emergency and who work in a hotel, private club, event center, airport, or provide building services to office, retail or other commercial buildings. The bill imposes PAGA liability. AB 3216 was amended to limit scope of workers covered. NFIB continued to oppose because of threat of expansion in another legislative session. **VETOED.**

AB 1080/SB 54: Solid waste: packaging and products. Would enact the California Circular Economy and Plastic Pollution Reduction Act, which would have imposed a comprehensive regulatory scheme on producers, retailers, and wholesalers of single-use packaging, and priority single-use products, to be administered by the Department of Resources Recycling and Recovery (CalRecycle). A very costly and unworkable solution for the packaging of consumer products. **Both Measures Failed.**

UGLY

AB 685: COVID-19 exposure notifications. Requires employers to provide written notice and instructions to employees who may have been exposed to COVID-19 at their worksite and enhances the Division of Occupational Health and Safety's (Cal/OSHA) ability to enforce health and safety standards to prevent workplace exposure to and spread of COVID-19. Has a "name and shame" provision that could hurt businesses that are following all proper protocols. **SIGNED.**

SB 1159: Workers' compensation insurance. Codifies the governor's executive order that created a rebuttable presumption that "essential employees" who contracted COVID-19 were infected on the job, and establishes the scope and terms

of a similar presumption for infected employees outside of the executive order. Bill will increase costs to employers into multiple billions of dollars. **SIGNED.**

SB 1383: Extended Family Leave. Expands the California Family Rights Act (CFRA) to allow employees to use unpaid job protected leave to care for a domestic partner, grandparent, grandchild, sibling, or parent-in-law who have a serious health conditions. Defines "employer" as any person who directly employs five or more persons to perform services for a wage or salary. Another bill (AB 1867) provides a small business mediation program that sunsets in 2024. After mediation sunsets, a private right of action will replace mediation with potentially costly legal fees. **SIGNED.**