September 16, 2025

The Honorable Governor Gavin Newsom
Governor, State of California
1021 O Street, Suite 9000
Sacramento, CA 95814

SUBJECT: AB 1136 (ORTEGA) EMPLOYMENT: IMMIGRATION AND WORK AUTHORIZATION REQUEST FOR VETO

Dear Governor Newsom:

The California Chamber of Commerce and the undersigned organizations respectfully urge you to **VETO AB 1136 (Ortega).**

We respect the efforts of this bill to ensure that those who are authorized to work in the United States remain able to do so without fear of losing their job and appreciate recent amendments. However, our outstanding requested amendment is the period of time during which an employer is required to rehire a former employee. Proposed subdivision (b) of Section 1019.6 would require employers to rehire employees for up to two years[1] after they were terminated for not having documentation of proper work authorization. While we encourage our members to hold positions open or rehire employees for a reasonable period of time where an employee is trying to renew an expired work authorization, two years is a significant period of time. Subdivision (c) similarly requires a rehire period of 12 months for any employee that is detained or incarcerated as a result of pending immigration or deportation proceedings. Again, we are concerned that twelve months is a significant period of time.

Further, we want to raise the issue of whether compliance with the bill's provisions would lead to "constructive knowledge" for an employer that an employee may not be authorized to work in the United States. Under federal law, employers are not permitted to employ someone where they

[1] Paragraph (1) of subdivision (b) requires the employer to rehire the employee into their same position if they can present new documentation within one year. Paragraph (2) provides that the employee can ask for up to one year of additional time to obtain documentation.

have constructive knowledge that the person is not authorized to work in the United States. That has been interpreted broadly by courts, including where the employer has information "cast[ing] doubt" about whether employee is authorized to work. *See Foothill Packing, Inc., 11 OCAHO 1240, 2015 WL 329579 at *8; Split Rail Fence Company, Inc. v. United States*, 852 F.3d. 1228, 1243 (10th Cir. 2017); *Mester Mfg. Co. v. INS*, 879 F.2d 561 (9th Cir.1989); *New El Rey Sausage Co. v. INS,* 925 F.2d 1153 (9th Cir.1991). If an employee utilizes the leave, for example, it may be deemed sufficient to constitute constructive knowledge that they are not authorized to work in the U.S.

For these reasons, we urge you to **VETO AB 1136 (Ortega).**

Sincerely,

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California Association of Winegrape Growers, Michael Miiller
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California Farm Labor Contractor Association, Kimberly Clark
California State Council of SHRM, Eric De Wames
Coalition of Small and Disabled Veteran Businesses, Jeffrey Langlois
Flasher Barricade Association (FBA), Kenneth Johnston
Housing Contractors of California, Bruce Wick
LeadingAge California, Amber King
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