

CFFA HOSTS AG TOUR FOR ASSEMBLYWOMAN AKILAH WEBER



On August 11th, CFFA staff hosted an agricultural education tour for newly-elected Assemblywoman Akilah Weber (D-San Diego). Organized with the Agricultural Presidents' Council and **Kahn, Soares & Conway**, Dr. Weber visited **Syngenta's** seed research facility in Woodland and **Greene and Hemly** in

Courtland. During the stops, the Assemblywoman learned about varietal development processes, orchard and packing operations, and produce marketing. The tour touched on numerous topics, including genetics, nutrition, integrated pest management, labor safety, water resource management, and rural-to-urban outreach. Dr. Weber's colleague, Assemblyman Adam Gray (D-Merced), also joined in the legislative tour.

CFFA MEETS WITH SENATOR PADILLA REGARDING IMMIGRATION REFORM



On August 10th, CFFA President Ian LeMay led a conversation with Senator Alex Padilla (D-CA) on the need for comprehensive immigration reform. CFFA was joined by allied agriculture associations, such as California

Citrus Mutual, Nisei Farmers League, **California Apple Commission**, and the Fresno County Farm Bureau. Each entity expressed the collective need of the industry to see the current bill being considered, the Farm Workforce Modernization Act (FWMA), signed into law. FWMA has already passed out of the House of Representatives twice on a bi-partisan vote, first in 2019 and then again in 2021. It now sits in the U.S. Senate for consideration.

Senator Padilla expressed his support for reform, updated the group on what he thought would be the most opportune path for the bill, and committed to all parties that he would keep us apprised of any advancements to the legislation.

This was CFFA's second opportunity to engage Senator Padilla on member issues, and we look forward to future opportunities soon.

LABOR UPDATES VIA BARSAMIAN & MOODY

The goal of these articles is to provide employers with current labor and employment law information. The contents should neither be interpreted as, nor construed as legal advice or opinion. The reader should consult with Barsamian & Moody at (559) 248-2360 for individual responses to questions or concerns regarding any given situation.

[Update Your Covid-19 Prevention Plan](#)

[California Supreme Court Announces Meal and Rest Period Premium Pay](#)

[A Perfect Storm is Brewing at National Labor Relations Board \(NLRB\)](#)

US AGRICULTURE STRONGLY ENDORSES GARAMENDI/JOHNSON BILL

On August 10th, major national and California agriculture associations endorsed the Ocean Shipping Reform Act of 2021 (OSRA21), delivering a Letter of Support to the bills' sponsors, Congressmen John Garamendi (D-Northern California) and Dusty Johnson (R-South Dakota).

All levels of the U.S. government are focused on the current export and import transportation crisis. This year, over 160 Members of Congress have written urging prompt federal attention and intervention. The House Committee on Transportation & Infrastructure held a hearing on the ongoing crisis; President Biden issued Executive Order 14036 directing the Federal Maritime Commission (FMC) and Department of Justice to act. The FMC is continuing its investigations and audits of carriers.

The letter's signatories believe that OSRA21 will urgently adhere to the FMC's Interpretive Rule on Demurrage and Detention – which has gone unheeded by ocean carriers. OSRA21 also includes an alternative to the FMC's burdensome complaint process, with an innovative means to gain compliance with that rule. In addition, the bill obligates ocean carriers to carry export cargo, subject to safety and other reasonable conditions. It addresses current carrier practices which are limiting efficient use of containers, chassis and other equipment. Click here for: OSRA21 One-Page Summary.

“Currently, according to the Agriculture Transportation Coalition survey, on average, 22% of US agriculture foreign sales cannot be completed. Ocean carriers are declining to carry our cargo in favor of returning so many containers back to Asia empty, while unprecedented freight rate hikes, penalty charges, and unpredictable service are denying affordable, dependable U.S. agriculture export access to our best foreign markets. If we cannot deliver, affordably and dependably, our foreign customers will find --and are already finding -- alternatives to U.S. exports,” said Peter Friedman, AgTC Executive Director.

CFFA President Ian LeMay said, “California's fresh fruit exporters have spent decades developing overseas markets with a well-earned reputation for high quality products. Reasonable and fair ocean carrier practices are crucial for the continued success of our industry's exports as well as the country's overall economic recovery.”

JAIME ZEPEDA LABOR CONTRACTING, INC. ET AL., V. DIVISION OF LABOR STANDARDS ENFORCEMENT

On August 12th, the California Court of Appeal issued its opinion in *Jamie Zepeda Labor Contracting v. Department of Industrial Relations, Division of Labor Standards Enforcement*, regarding longstanding pay practices in the agricultural industry and the ability of the California Division of Labor Standards Enforcement (DLSE) to issue expensive

citations to employers. Since 1985, the DLSE has been able to issue citations to employers for minimum wage violations. In 2014, the Legislature gave the DLSE new authority to recover “waiting time penalties” for minimum wage violations. Waiting time penalties are assessed when an employer fails to pay final wages upon discharge, such as when the employee is fired or quits, and can reach up to a maximum of 30 days of pay.

In the *Zepeda* case, the Court of Appeal was asked to decide whether the DLSE could issue a citation for waiting time penalties even when an employer pays its workers all minimum wages owed on the regular weekly payday. The DLSE had previously determined that employees contracted by a farm labor contractor were legally discharged from employment after completion of each agricultural task, such as tying, pruning, weeding, and harvesting, and thus were owed final wages on the day of completion. DLSE then issued \$350,000 in waiting time penalties. Because of its importance to members, and the wider agricultural industry, CFFA, in conjunction with other agricultural industry advocacy groups, worked with the law firm Sheppard Mullin Richter and Hampton to file an *amicus curiae*, or “friend of the court,” brief to help educate the court on the industry’s perspective.

The Court of Appeal ruled the DLSE could not issue minimum wage citations for waiting time penalties when an employer pays its workers all minimum wages owed on the regular weekly payday. The court did not decide whether the DLSE’s argument that workers are discharged after completing “seasonal activities,” and the DLSE will probably continue to push this approach in its enforcement activities. Members are encouraged to ensure workers are paid promptly, especially around the conclusion of seasonal activities. Members should expect the next iteration of DLSE audits will look at any reason to impose waiting time penalties if minimum wages are not paid.

POST-DISASTER RECOVERY: HOW TO AVOID THE DISASTER FOLLOWING THE DISASTER

Pre-disaster planning and positioning are critical to ensuring your business is adequately covered to survive a post-disaster recovery period.

75% of U.S. businesses are underinsured. The Small Business Administration estimates that 40% of businesses fail to reopen after a fire or disaster. Another 25% are forced to close their doors permanently within the first year after the event. In many cases, the owners are not even aware of their peril, erroneously believing their coverage to be adequate. The impact of discovering that you are underinsured after a disaster can be devastating: it is the disaster after the disaster.

Regrettably, most underinsured policyholders discover their vulnerability at the worst possible time — when they’re in the middle of negotiating a settlement with their insurance carrier after a catastrophic loss. This is not a position that you, as a business owner, want to find yourself in.

To read the full article, please click [HERE](#). This information was provided and supported by **The Greenspan Co./Adjusters International**.

CFFA HARVEST EVENT SET FOR NOVEMBER 12TH

California Fresh Fruit Association PAC would like to invite you to join us for our 42nd Annual Harvest Event, taking place from 6-9 p.m. on Friday, November 12th at the Vintage Press Restaurant (216 N. Willis, Visalia).

Only 100 numbers will be sold and those who are lucky enough to claim one will have the chance to win one of many great prizes, including the \$5,000 grand prize!

Ticket cost is \$300 and includes dinner for two and one Reverse Raffle Drawing number. Ticket cost for one Reverse Raffle Drawing number is \$200. All proceeds benefit the Association’s political action committee, FruitPAC.

You may also register, sponsor, & pay for the harvest event online! Simply use the following link (<http://events.constantcontact.com/register/event?llr=tcpx4zdab&oeidk=a07ei640quy6c01bc24>) to reserve your raffle number & pay with a credit card via PayPal (you do NOT need to have a PayPal account in order to use this option).

Sponsorship Opportunities: Our Associate Members may also use our online registration to become event sponsors! The cost of a Silver Sponsorship is \$1,000 and includes two dinners & one raffle number. The cost of a Gold Sponsorship is \$1,500 and includes four dinners & two raffle numbers.

Both Sponsorship levels will also receive promotional consideration before, during, & after the event, in the form of recognition in OnTarget, our Harvest Event program, Annual Report & more! We hope that you will support this very important event.

For more information, please contact Adam Borchard (aborchard@cafreshfruit.com) or Allyson Calderon (acalderon@cafreshfruit.com).

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