

Joint  
Council 7



TEAMSTER

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Serving members in Northern California, the Central Valley, and Northern Nevada

April/May/June 2020

*Teamsters are both “essential workers” and on the unemployment line*

## Staying Teamster-strong through COVID-19

By ROME ALOISE  
Joint Council 7 President

We are experiencing unprecedented and historic times. None of us have seen anything like this pandemic and hopefully, we won't have to experience it again. The threat of COVID-19 is something that many of us didn't really take seriously at first. As the virus spread, and our political leaders started to acknowledge its seriousness, our world, as we know it, has experienced incredible changes.

Many of our members are working long hours making sure essential items are in place for the general public and for medical facilities. Our sisters and brothers are, in some cases, putting themselves in harm's way to make sure they are providing the service that they were hired to do, and are stepping up in these uncertain times. Many have worked so many hours that when they are off work and trying to get the necessities for themselves and their families, everything is gone. They are truly heroes. Teamsters have stepped up as we always do to take care of the public and their families. I am extremely proud of our members.

In fact, Governor Newsom acknowledged the Teamsters Union and our members for doing extraordinary work. We have been successful in getting many of the companies that are still open and deemed “essential” to give some type of hazard pay or bonuses while our members must meet these extraordinary demands.

On the other end, we also have many members



*Many Teamsters are deemed essential and are working through the shelter-in-place orders. Meet Teamsters from (clockwise from top left): Reliance Metalcenter (Local 853), South SF Scavenger (Local 350), Butte County Economic Development (Local 137), Pipeline (Local 431), Eden Medical Center (Local 856), UPS (Local 665), UC Santa Cruz (Local 2010), DHL (Local 70).*

who have been laid off, as their companies have been forced to shut down either by the government edict or because their industries have been adversely affected by local or statewide “stay in place” orders. This, of course, is devastating for our members and their families.

We have been working with each company to figure out how to keep checks coming into our members' households. We have been able to push numerous employers to continue compensation for a limited amount of time. Others have agreed to allow the use of sick leave, vacation, or other PTOs to supplement unemployment benefits. Many of you have been getting hazardous or hero pay while working. This has all come about by the union working with many of your employers. Of course, some employers are, as of yet, unwilling to do anything.

It is amazing that some of our employers have acted so responsibly while others seem oblivious to what is happening and how it affects their workers. We intend to keep pounding away at the employers who are not cooperating and work with those who are.

Here are answers to some frequently-asked questions:

**Pension:** Even with the horrendous drops and dives of the stock market, the Western Conference of Teamsters Pension Trust Fund is in good shape and at no risk.

**Health Benefits:** Numerous employers have extended health benefits for part or all of the time many of our members have not been working. For those who need health benefits and are covered by Teamster plans, waivers may be available—depending on your plan. Please check with your health plan to find out what the plan is doing to provide coverage during the period you are not working.

**401K Accounts:** If you are in the SIP 401(k) plan, your investments have probably plummeted due to this uncertain stock market. I cannot give you investment advice, but I can tell you what I have done: I don't look at mine. Selling off when the market is down is bad, as it makes it difficult to reclaim what has been lost. I am just going to let it ride and hope that once things straighten out, the market will come back as it has before.

Unfortunately, we have lost at least two Teamsters to the virus. We mourn the loss of our brothers Pedro Zuniga, a member of Local 439 who worked at the Tracy Safeway Distribution Center, and Emmanuel Gomez, a Local 2010 member who worked at UCLA. Our Teamster family offers our sincere condolences and sympathies to their families.

Please be safe, take care of yourself and your family, and know that by sticking together, assisting each other, and following the rules, we will all get through this. This is what Teamsters do!



## Essential Teamster workers keep state humming



From top: Sunsweet (Local 856); Recology Recycle Center (Local 350), MV Transportation (Local 315), Hertz (Local 853), Reyes Coca-Cola (Local 70)



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## The pandemic highlights the need for issues Joint Council 7 has championed

Last year, Teamsters Joint Council 7 went all-in to pass AB5, legislation that established a strict new test for employee classification in California. The issues around misclassification are at the forefront in this pandemic, with hundreds of thousands of so-called “independent contractor” drivers finding themselves excluded from the social safety net. Without health insurance, unemployment insurance, or any other legal protections, workers in California find themselves left adrift.

The federal government stepped in to provide “Pandemic Unemployment Assistance” for workers excluded from state unemployment insurance. We can’t forget that this is our tax dollars going to bail out the trucking and “gig economy” companies who don’t pay into unemployment, which is paid by every Teamster employer. This subsidy is all the more outrageous given the fact that Uber, Lyft, DoorDash, and PostMates have \$110 million invested in a ballot measure for this November to exempt them from AB5.

One powerful example of this issue comes from San Francisco, where Joint Council 7 pushed the Board of Supervisors to pass a resolution requiring e-scooter companies to convert their workers from independent contractors to employees after AB5 passed. Spin did it first, and their workers joined Local 665. When the shelter-in-place order came down and the company shut operations, the union negotiated three months’ pay and health care for these workers. The workers at Bird signed cards to join the Teamsters, but the National Labor Relations Board shut down all elections at the end of March. In mid-April, the Bird workers were laid off in a 2-minute Zoom call and received no severance. Workers want and need unions now more than ever.

Misclassification is only one scheme employers have come up with to weaken worker power and cut costs. Subcontracting, using temp agencies and exploiting immigrant labor, are others. Led by fierce organizing campaigns from Joint Council 7 locals, we passed the strongest laws in the country protecting immigrant workers from retaliation when they speak up for their rights. We led the call for a state law holding employers jointly liable when their subcontractors break labor laws. We rewrote the national joint employer standard, catapulting our work to the top of the national Chamber of Commerce’s hit list. We took on Silicon Valley – long a fortress against unions – and thousands of subcontracted bus drivers joined together in the Teamsters union. This raised wages for every bus driver—public and private—throughout the entire Bay Area.

COVID-19 has shown how immigrant and subcontracted workers in food processing plants, Amazon and other warehouses are more vulnerable when they don’t have a union. Here at Joint Council 7, we mourn the death of brother Pedro Zuniga who worked at the Safeway distribution center in Tracy. Over 50 other members there tested positive, threatening the entire food supply chain in Northern California, Northern Nevada, and Hawaii.

Local 439’s leadership pushed Safeway to make important changes in the warehouses, but our work didn’t stop there. Using the political relationships we’ve developed, we contacted the Newsom administration,

bringing in Cal-OSHA and the California Department of Public Health to push for stronger protections for our members. That’s why we do politics and that’s why workers need unions.

The COVID-19 pandemic has exposed another issue the Teamsters have led on—the reinvestment in public services. Every day, Teamster public employees show up and do the important work of providing vital services, yet they do it for underfunded government agencies. This will only be worse post-pandemic as we fight concessions at the bargaining table and cuts in services.

The Joint Council has partnered with other labor unions on another issue that is front and center right now: health care. It’s clear that the current system is not working well for most people. Our work has focused mainly on lowering costs, but the pandemic reveals the need to invest money back to the workers, including personal protective equipment, staffing, training, and education.

### The future of work

Last year I was honored when Governor Newsom appointed me to California’s Future of Work Commission. Over the course of several months, we studied the direct relationship between the decline in unions and an increase in income inequality. We looked at the rise in monopolies such as Amazon and the need for anti-trust action to break them up. We established the need to make sure workers have a voice when new technology is introduced on the job. And much more.

After all this work, the Commission was set to issue recommendations later this spring. But that was for a future of work that suddenly doesn’t exist anymore. We never imagined a future like this one.

Even when shelter-in-place restrictions get lifted, we are looking at estimates of 25% unemployment in this country; it’ll be even higher for low-wage occupations. Already, we’ve seen entire industries get crushed, including many where Teamsters work or deliver products. These include hotels and hospitality, restaurants, parking, rental cars, and other airline-related jobs.

The last time we had unemployment this high was the during the Great Depression. With 25% of the country unemployed, workers took to the streets demanding the right to legally organize unions, the 8-hour workday, overtime, social security, and an end to child labor. Before the Depression these ideas were considered too radical by members of both political parties.

Worker action changed all that. Congress was forced to pass a package of legislation called the “New Deal,” that addressed labor’s key priorities.

With the economic fallout from the COVID-19 pandemic, is it time for a new “New Deal?” Should we try and rebuild the system the way it was or make changes? Should we revisit the way workers join unions or get retirement and benefits? Should we reinvest in jobs and infrastructure? How should we pay for it and what share should corporations pay?

Finally, what role will workers play in answering these questions? We saw what happened when workers stood up last time. Are we going to stand up again? Will we stay united as Teamsters and fight? When we fight, WE WIN!

# The Coronavirus/COVID-19 outbreak—staying safe, accessing support

California closed down non-essential activities and has reaped the benefits of that decision with far fewer deaths and hospitalizations than projected. Even though we’ve passed the state’s “peak,” new cases are still coming and care needs to be taken to ensure that a second wave of the virus doesn’t occur.

It is estimated that more than half of all Californians will contract the coronavirus. Some may be asymptomatic, which means they won’t know they have it and yet can easily infect others. Most will have mild to moderate symptoms, which have now expanded beyond fever and cough to include chills, muscle pain, sore throat and headache. A small percentage, particularly people over 60 and those with underlying diseases, are more likely to have severe or fatal symptoms.

If you’ve lost your job due to temporary or permanent closure, or if you think you’re sick, see the chart below.

If you’re considered an “essential” worker, here are some steps to take to protect yourself and your loved ones.



Local 853 members at Kelloggs – at an appropriate distance.

## For all workers:

- Don’t go to work if you are feeling sick.
- Avoid contact with sick people.
- Avoid large gatherings or meetings.
- Try to stay six feet away from others on job sites and in work-related gatherings.
- Do not carpool.
- Do not share food.
- Always clean shared tools/equipment—before and after use.
- Always wear a mask and gloves when you may possibly be in close contact with others.

- Avoid touching your eyes, nose, or mouth with unwashed hands.
- If you cough or sneeze, do so into your elbow or cover your mouth and nose with tissues and clean your hands after.
- Don’t shake hands when greeting others.
- Clean your hands often by washing them with soap and water for at least 20 seconds or using an alcohol-based hand sanitizer (60% alcohol at minimum).

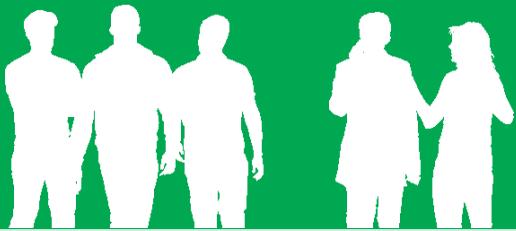
## Employers should also:

- Create at least 6 feet of space between workers by staging and staggering crews.
- Plan for office staff to have the ability to work from home.
- Provide soap and running water on all jobsites for frequent hand-washing. If that is impossible, provide hand sanitizer.
- Clean and disinfect high-touch surfaces on job sites and in offices—such as hand rails, door knobs, and portable toilets—frequently, per CDC guidelines: [www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html](http://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html)

## Federal and state programs to provide support for those who are not working

Program	Why	What	Benefits	More Info
STATE Unemployment Insurance	If you have lost your job or had your hours reduced for reasons related to COVID-19	Partial wage replacement benefit payments to workers who lose their job through no fault of their own.	Ranges from \$40-\$450/week for up to 26 weeks	<a href="http://www.edd.ca.gov/unemployment/eligibility.htm">www.edd.ca.gov/unemployment/eligibility.htm</a>
STATE Paid Family Leave (PFL)	If you’re unable to work because you are caring for an ill or quarantined family member with COVID-19 (certified by a medical professional)	Up to six weeks of benefit payment to eligible workers who have a full or partial loss of wages because they need time off work to care for a seriously-ill family member.	Approx. 60-70% of wages (depending on income); ranges from \$50-\$1,300/week for up to 6 weeks.	<a href="http://www.edd.ca.gov/disability/am_I_eligible_for_PFL_benefits.htm">www.edd.ca.gov/disability/am_I_eligible_for_PFL_benefits.htm</a>
STATE Paid Family Leave (PFL)	If you’re unable to work because you are caring for an ill or quarantined family member with COVID-19 (certified by a medical professional)	Up to six weeks of benefit payment to eligible workers who have a full or partial loss of wages because they need time off work to care for a seriously-ill family member.	Approx. 60-70% of wages (depending on income); ranges from \$50-\$1,300/week for up to 6 weeks.	<a href="http://www.edd.ca.gov/disability/am_I_eligible_for_PFL_benefits.htm">www.edd.ca.gov/disability/am_I_eligible_for_PFL_benefits.htm</a>
STATE Paid Sick Leave	If you or a family member are sick or for preventative care when civil authorities recommend quarantine	The leave you have accumulated or your employer has provided to you under the Paid Sick Leave law.	Paid to you at your regular rate of pay or an average based on the past 90 days.	<a href="http://www.dir.ca.gov/dlse/paid_sick_leave.htm">www.dir.ca.gov/dlse/paid_sick_leave.htm</a>
STATE Workers’ Compensation	If you are unable to do your usual job because you were exposed to and contracted COVID-19 during the regular course of your work.	Temporary disability (TD) payments would begin when your doctor says you can’t do your usual work for more than three days or you are hospitalized overnight.	TD generally pays 2/3 of the gross wages you lose while recovering from a work-related illness or injury, up to a maximum weekly limit for up to 104 weeks.	<a href="http://www.dir.ca.gov/dwc/FileAclaim.htm">www.dir.ca.gov/dwc/FileAclaim.htm</a>
FEDERAL Federal Emergency Paid Sick Leave Benefit	A) If you are personally subject to quarantine order, experiencing COVID-19 or not or are caring for a quarantined family member. B) If you are caring for a quarantined family member or for a child whose school/daycare is closed.	A & B) Applies to employees of public or private employers with less than 500 employees.	A) Two weeks (up to 80 hours) of paid leave at the employee’s regular rate of pay—capped at \$511/week. B) Two weeks leave paid at 2/3 of regular rate of pay up to \$200/day.	There are no forms for workers to complete. Talk to your employer; it’s a good idea to have a doctor’s note.
FEDERAL Family and Medical Leave Act (Expanded & Original)	A) If you are experiencing COVID-19 symptoms or are quarantined by a health care provider. B) If you are caring for a child whose school/daycare is closed.	A) If your employer has more than 50 employees and you have worked 1250 hours in the last 12 months. B) If you’ve been employed for more than 30 days and your employer has less than 500 employees.	A) Up to 12 weeks of job-protected, unpaid leave within a 12 month period b) 12 weeks protected leave with 10 paid at 2/3 of regular pay, up to \$200/day	

# AROUND THE LOCALS



## LOCAL 853

### **Local 287 joins forces with Local 853**



*Members of Local 287 met in January to learn about the pros and cons of merging with Local 853.*

In a secret ballot mail vote held in February, the members of Local 287 voted overwhelmingly to merge into Local 853. The merger became effective on May 1.

After an explanation of the merger was mailed to each member, the Local held an open meeting for all Local 287 members. Nearly 300 members turned out to ask Local 853 Secretary-Treasurer Rome Aloise questions about the pros and cons of a merger.

“Local 287, one of the older Locals in Northern California, has a storied and honorable past and a reputation of fighting hard for their members,” says Aloise. “The Local’s leadership realized that they weren’t able to fully take advantage of the organizing possibilities in Silicon Valley and they wanted to play a more prominent role in the political world in Santa Clara County.” By combining forces, Aloise says that employers will know that the Teamsters can take them on, if need be.

Plans include upgrading the existing building so that it can be used as a gathering place for political events. “We want to make the San Jose office a place that members are proud of, much the same as Local 853’s Oakland office,” added Aloise. All business agents and clerical staff will be retained and will work as Local 853 employees moving forward.

## LOCAL 896

### **Best Teamster Coke contract in 30 years**

Local 896 members at Coke in San Leandro recently ratified their new four-year contract eight months early.

Improvements include significant increases in wages, pension, and health and welfare, Teamster 401K participation, ratification and signing bonuses, and zero concessions.

For the first time in both Coke and Local 896 history, the members here ratified the contract unanimously.

Special thanks go to Local 853 President Dennis Hart for his invaluable participation and the use of the local’s hall, Local 853 Business Agent Jesse Casqueiro, and Local 70 Business Agent Mark Hawkins. Additional thanks go to Steward/Committee members Sergio Garcia, Ken Gomes, and Eddie Aleman. “This was a true team effort and could not have been done without everyone’s participation,” said President Brian Indelicato.

## LOCAL 665

### **Taking to the streets**

#### **750 Bush–parking demos spark win**

On March 1, 2020 a non-union company took control of the 750 Bush Garage in San Francisco, displacing union members and paying low wages without union benefits to workers taking over the location. Teamsters Local 665 responded with a location strike that morning at 6 a.m. For two days, members and supporters showed up in full force.

“Thank you to all who showed support by coming to the location and picking up a picket sign during the two-day strike,” said President Tony DeLorio. “Thanks to you, the building owner has agreed to bid out the location to a union-friendly company.”

#### **Bauers**

On February 12, Local 665 members went on strike at tech shuttle bus company Bauer’s Transportation in San Francisco and Santa Clara. The company has refused to sign on to the Master Shuttle Agreement,



*Local 665 members and allies rally at the 750 Bush parking garage for a union-friendly operator.*

keeping our members from obtaining wage and benefit increases negotiated by Locals across the Joint Council that represent many bus companies performing the same classification of work.

“Thank you to all who showed support and fought to keep the highest in standards for compensation to the drivers working in this industry,” added DeLorio.



*Teamsters picketed Bauers in February to urge them to sign on to Master Agreement.*

## Local 2010

### **UC avoids layoffs throughout current academic year**

In a meeting with the UC Office of the President (UCOP) on April 13, Teamsters 2010 leadership received positive clarification on two important issues concerning the UC’s approach to layoff and Administrative Time Off (ATO) due to the COVID-19 crisis for the coming weeks:

First, UC confirmed that the recently-issued policy of no COVID-related layoffs through June 30, 2020, means that career employees who are directed not to report to work onsite and are not able to telework, will stay on paid status and will not have their wages or benefits reduced.

UC also confirmed that it will provide UC workers the 80 hours of paid leave for COVID-related reasons as provided in the Families First Coronavirus Response Act (FFCRA). Healthcare workers may be excluded; Local 2010 continues to advocate that those workers should not be exempted and should receive the 80 hours if needed.

The union will share UCOP’s guidance on eligibility criteria and possible exclusions as soon as it is made available.

## LOCALS 137, 533 and 853

### **Largest economic settlement with Sysco in the nation**

In March, the members who work at Sysco Foods in Northern California and Nevada ratified a new six-year agreement that offers the largest economic settlement with the company in the nation. The negotiations took more than four months to complete, in large part due to the company's aggressive attempt to remove language that protects working conditions. The offer was only possible because of a coordinated effort between the IBT Warehouse Division, Joint Council 7, and Locals 137, 853 and 533.

"Our coordinated effort sent a strong message to

the largest wholesale foods distributor in the country that when you come into California/Nevada with the intent of taking away hard-earned Teamster benefits, you'd better expect a fight," said Local 137 Secretary-Treasurer Russ Butler. "The negotiating committees fought long and hard, protecting everything our members have earned over the years while increasing job protections."

Special thanks to the rank and file negotiating committees who worked tirelessly on behalf of all the Sysco Foods members.

## LOCAL 137

### **Members at Recology-Humboldt ratify new contract**

Teamsters Local 137 is proud to report that negotiations with Recology of Humboldt County has resulted in the best settlements ever. An addition to significant wage and pension increases, Recology agreed to pick up 100% of the premium on the Teamster health plan, a major new benefit.

Over the last two years, Recology acquired two

independent waste companies in Arcata and Ferndale more than doubling the Local's membership in Humboldt County. This was the first negotiations with the company since those members were successfully incorporated into the existing Recology contract. The new members now know the power and resulting benefits of being Teamsters.

## LOCAL 856

### **The Grand Hyatt at SFO employees form union**



Workers at the SFO Grand Hyatt voted for Teamster representation in February.

In February, front desk and reservations employees at the new Grand Hyatt at SFO voted to form a union with Teamsters 856—joining the over 1,000 hospitality workers already represented by the 17,000-member strong local.

The Grand Hyatt at SFO opened its doors last fall and is the only hotel on the San Francisco International Airport's property.

This win is another victory for the Teamster Organizing Network—a coalition of Teamster Locals across California and Nevada whose goal is to help working people gain a voice on the job and build Teamster power in core industries.

"We welcome workers from the Grand Hyatt at SFO to our union and look forward to getting to the bargaining table to negotiate their first Teamster contract," said Local 856 President Mike Lagomarsino.

On the day cards were counted at the hotel, Assemblymember Kevin Mullin (District 22) was present to verify the tally and announce that the employees had authorized Local 856 as their exclu-

sive bargaining representative.

"Not only do Grand Hyatt at SFO workers join over 1,000 hotel employees represented by our local, they also join thousands of Teamsters 856 members who serve the traveling public at SFO working in aircraft maintenance and customer service at airline carriers and car rental companies," said Local 856 Secretary-Treasurer Peter Finn. "The addition of these workers to our local proves that SFO is truly Teamsters 856 strong."

### **Alameda County Prosecutors join Teamsters**

The 150-member Alameda County Prosecutors Association affiliated with Teamsters 856 in late March. The district attorneys work each day to keep the community safe by ensuring justice for victims and the 1.6 million residents of Alameda County.

The recently-formed Association chose to affiliate with Teamsters 856 as result of the union's reputation for negotiating and enforcing strong contracts for law enforcement professionals throughout Northern California, including other deputy district attorneys serving Marin, Sonoma, and Mendocino counties.

"This is a historic event for the Alameda prosecutors," said Teamsters 856 Representative Matthew Finnegan. "I am proud Local 856 could help them organize and become recognized."

"We are excited to get to the negotiations table and secure protections for these dedicated professionals that are only afforded by a strong Teamsters 856 contract," said Teamsters 856 Secretary-Treasurer/Principal Officer Peter Finn.

## LOCAL 350

### **Acknowledging the value of garbage collectors gains one member national attention**



Aaron Meier is rightfully proud to be a garbageman.

Aaron Meier empties about 800 garbage cans every day, rain or shine. He first caught the world's attention with a series of tweets in mid-March as Americans were just beginning to come to terms with the pandemic and what it would mean for their livelihoods.

"I'm a garbageman, I can't work from home and my job is an essential city service that must get done," tweeted Meier, a Local 350 member who works for Recology Sunset in San Francisco. His tweets not only garnered more than half a million "likes," but got him a segment on ABC's Good Morning America to tell his story—and that of his fellow workers, who are working through the pandemic.

"It's a tough job, from getting up pre-dawn to the physical toll it takes on my body to the monotonous nature of the job, at times it's hard to keep on going."

He continued: "Right now though, right now I am feeling an extra sense of pride and purpose as I do my work. I see the people, my people, of my city, peeking out their windows at me. They're scared, we're scared. Scared but resilient."

"Us garbagemen are gonna keep collecting the garbage, doctors and nurses are gonna keep doctoring and nurse-ering. It's gonna be ok, we're gonna make it be ok. I love my city. I love my country. I love my planet Earth. Be good to each other and we'll get through this," Meier concluded.

Meier's hours have shifted even earlier in the morning to limit his exposure to others, but his positivity and sense of duty remain.

"If it doesn't get done," he said of his work, "nobody in the city could get their work done because they'd have garbage in their way."

"It started feeling more important to me – like I needed to help the people of my city – and I'm doing it for them," Meier added.

## California Teamsters Public Affairs Council

The California Teamsters are represented at the California Legislature and before state administrative agencies by the California Teamsters Public Affairs Council. Shane Gusman and Matt Broad are the Legislative Representatives and Stacey Swett is the Office Manager.

### Per Capita Tax

All Teamsters affiliated with Joint Councils 7 and 42 support the California Teamsters Public Affairs Council through a per capita tax of 25 cents per member per month, from union dues. Forty percent (40%) of this is set aside from which the Executive Committee makes campaign contributions (35% to the Political Action Committee and 5% to the Issues Political Action Committee).

### Executive Committee

Rome Aloise, President of Joint Council 7 and Randy Cammack, President of Joint Council 42 serve as co-chairs of the Executive Committee, which supervises the staff of the Council.

### Policy Committee

The Policy Committee shall consist of the Principal Officers of every local union represented by Joint Council 7 and Joint Council 42. The committee is responsible for the development of the Council's long-term political, legislative and education policy, screening candidates and making recommendations for endorsement for statewide offices.

Any questions about the California Teamsters Public Affairs Council may be addressed to California Teamsters Public Affairs Council, 1127 11th St., #512, Sacramento, CA 95814. Phone: 916-446-0291, Fax: 916-446-9321. Email: [stacey@teamsterctpac.org](mailto:stacey@teamsterctpac.org).



## Supreme Court: Employees must be paid for time spent undergoing exit searches

In February, the California Supreme Court issued a landmark ruling for workers, holding that employees must be paid for time spent waiting for and undergoing mandatory exit searches after the end of a work shift. The case, *Frleiken v. Apple, Inc.*, involved a class of retail employees subject to these searches at Apple's 52 California stores.

Apple's exit search policy required supervisors to search retail employees' bags, packages, backpacks, purses, and even to verify the serial number of personal Apple products. These mandatory searches took from five to twenty minutes, depending on how long employees were required to wait for security personnel or a manager to conduct the search. This time spent waiting for and undergoing the searches was unpaid.

Under California's Wage Orders "hours worked" is defined as the time during which an employee is subject to the control of an employer, including all the time the employee is permitted to work, whether or not required to do so. The Court found that the time Apple store employees spent waiting for and undergoing the exit searches was compensable as "hours worked."

The state Supreme Court has previously ruled that "compulsory travel time" is compensable. Under that

2000 decision, employees who were required to travel from a gathering point to their worksite must be compensated for the travel time if they are not permitted to travel to the worksite in their own car. On the other hand,



time spent on transportation that an employer provides as an option, but does not require, is probably not compensable.

In *Frleiken*, the Court reversed a lower court ruling, finding that employees were not under Apple's control. Specifically, the employees undergoing exit searches were subject to the employer's control because the searches were (1) mandatory as a practical matter, (2) employees are required to stay on Apple's premises until the exit search is completed, and (3) Apple required employees to perform specific tasks like locating a security or security guard to complete the exit search. The Court rejected Apple's argument that the searches were not

"unavoidable" or "required" because employees were not required to bring bags, packages or personal Apple technology to work with them.

In a bit of irony, the Court used Apple's marketing campaign against the company. Apple argued that employees brought phones out of mere personal convenience, not necessity. The Court pointed out that personal Apple technology devices, such as the iPhone, are now so pervasive in daily life that "the proverbial visitor from Mars might conclude they were an important feature of human anatomy." The Court noted the irony and inconsistency with Apple's

argument, as its argument "everywhere except in defending against this lawsuit is that use of Apple's products for personal convenience is an important and essential part of participating fully in modern life."

Since the employees were under Apple's control during the exit searches and the items searched are an insistent part of modern life, Apple was obligated to pay the employees for the time spent waiting for and undergoing a search. *Frleiken* is a significant reaffirmation that workers' time spent under control of an employer, even while off the clock, must be paid.

## LOCAL 533



### Local 533's Annual 2020 Picnic!

Saturday, July 18th at Wild Island (Sparks)

The park is open from 11am-7pm

Lunch will be from 12:30pm – 2:30 pm

\$5 per person.

Space is limited so get your money in soon!

(Note: Picnic is on if public health guidelines permit)



### YOUR LOCAL UNION PHONE NUMBERS

70 ..... 510-569-9317  
87 ..... 661-327-8594  
137 ..... 530-243-0232  
150 ..... 916-392-7070  
315 ..... 925-228-2246  
350 ..... 650-757-7290  
386 ..... 209-526-2755

431 ..... 559-486-5410  
439 ..... 209-948-9592  
517 ..... 559-627-9993  
533 ..... 775-348-6060  
665 ..... 415-728-0811  
853 ..... 510-895-8853  
856 ..... 650-635-0111

890 ..... 831-424-5743  
896 ..... 707-644-8896  
912 ..... 831-724-0683  
948 ..... 559-625-1061  
2010 ..... 510-845-2221  
2785 ..... 415-467-0450  
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## Legislature currently closed, situation fluid

By SHANE GUSMAN

Hello from the bunker in Sacramento. The first thing that is readily apparent in our collective response to COVID-19 is that there are so many heroes on the front lines providing vital services to communities all around the state, and many of these heroes are Teamsters. Governor Newsom even acknowledged this in one of his recent televised briefings, thanking our union and members for doing what needs to be done in this crisis.

Speaking of Governor Newsom, his administration has tried to be responsive to the thousands of issues and questions that have arisen on the impact of the shelter-in-place order including a myriad of issues about the ability of businesses and workers in some of our core jurisdictions to continue operating safely and legally. We continue to work with his staff to iron out these issues with the goal of keeping our members both economically secure and safe.

On the legislative front, everything is shut down and the situation is fluid. There are thousands of bills that have yet to have their first hearing in the various policy committees. That usually happens in March and April. With the Capitol closed for the foreseeable future, those scheduled hearings are clearly not going to happen. There is no plan, at least made publicly, by either the Assembly or the Senate governing what will occur when they do eventually return.

Complicating things is the constitutional require-

**“I want to thank the Teamsters....These are the truck drivers, the folks doing logistics in the warehouse.... Getting home late—not even time to get their own groceries.”**

*Gov. Gavin Newsom*

ment to pass a state budget by June 15. Assuming the Legislature comes back sometime in May, it leaves little time to do much else other than a cobbled together budget. There are many rumors floating around, but I wouldn't be surprised if COVID-19 and other disaster response related bills are all that gets done this year.

This all leaves our own proactive legislative agenda

in flux, but we will move forward early next year if we don't get the opportunity this session.

While most have been working in good faith to meet the incredible challenges we face, some interests have of course attempted to use the pandemic as an opportunity to weaken or eliminate all together the gains we have made for workers and unions here in the last few decades. Some element of just about every industry and employer group have asked the Governor for relief from one labor standard or another. Some want a roll back of the minimum wage. Others want to suspend collective bargaining rules so they can unilaterally implement changes in the workplace.

These interests have even convinced Senator Jerry Hill (D-San Mateo), the Senate Labor Committee Chairman, to introduce a bill to repeal parts of AB 5. The bill would, among other horrible things, eliminate employee status for many healthcare workers. These are the people risking their lives every day to fight this virus and Senator Hill's bill would rob them of protections like paid sick days, unemployment insurance, employee healthcare benefits, the right to join a union, and much more. This terrible bill is SB 900 and if we actually proceed with a shortened legislative session in the coming months, we will make it a top priority to kill it and every other bad antiworker policy being pushed by those who would take advantage of our current situation.

## IN MEMORIAM

### LOCAL 70

Hollett, Clarence  
Kelly, Allen  
Lantz, Harold  
Narciso, John  
Peebles, William  
Phillips, John  
Prater, Grady  
Scott, Daniel G.  
Simpson, John R.  
Studebaker, Jim  
Tarter, Larry  
Tracy, Arthur J.  
Vargas, Richard

### LOCAL 87

Dixon, Clarence  
Epps, Troy  
Jarrett, James  
Ramirez, Al

### LOCAL 315

Adams, Richard  
Davis, Joshua  
Elledge, Lyle  
Lee, Cooke  
Rechtferti, Steve

### LOCAL 386

Cardoza, Louis  
Clesson, Robert (Local  
386 Business Agent &  
President)  
Duncan, Tim  
Elenes, Christian  
Martin, Erik

Miller, Norbert  
Phillips, Gerald  
Pimentel, Robert  
Moore, David  
Olinares, Thomas  
Porterfield, Charles  
Walker, Randel  
Wilkinson, James

### LOCAL 431

Amende, Adrian  
“Edward”  
Foliart, Robert  
Gutierrez, Bill  
Rios, Guadalupe  
Roy, Bob  
Schutt, Raymond  
Woods, Jr., George

### LOCAL 439

Arkwright, Wayne  
Bautista, Rafael  
Corchado, Aaron  
Romero, Daniel  
Zuniga, Pedro

### LOCAL 517

Dhesi, Jaspal  
Gilbert, Clyde  
Gonzales, Eric  
Mardarosian, Roxie  
Polk, Marion  
Richards, Harry (Ray)  
Rovai, Ted  
Taylor, Clarence

### LOCAL 533

Aufdenkamp, Mark  
Decoite, Robert  
Pless, Hugh  
Tea, Paul  
Thompson, Gill

### LOCAL 853

Cerniglia, George  
(GCC583)  
Currey, Jimmy  
Garcia, Rafael  
Graff, James  
McGeachy, Carl  
Pine, Frank  
Skelly, Jr., Frank  
Stoecker, Hanna  
Villalobos, Paul

### LOCAL 856

Boyle, Janis C.  
Haran, Betty J.  
Haregewoin, Fekabe  
Rusch, Leo A.  
Shepard, Sylvia A.  
Stewart, Michelle A.

### LOCAL 896

Dunn, Billie J.  
Esperanza, Ronald  
Larabe, John G.

### LOCAL 912

Arredondo, Sara  
Barcelo, Lupe  
Contreras, Anita

Lopez, Sofia  
McCabe, Jerome  
Meri, Catalina  
Molina Leonardo  
Valenzuela, Jane  
Wheat, Eric

### LOCAL 948

Acuna, Guillermina  
Alcaraz, Juvenal  
Adame, Ignacio  
Arnel, Harold  
Albor, Mario  
Avila, Gregorio  
Brumley Jr., Linden G.  
Bostic, Harol  
Bridge II, Alvie Odas  
Casillas, Frances  
Castellanos, Eduardo  
Campos, Guadalupe  
Cooper, Catherine  
Ernney, Robert G.  
Flores, Victoria Cortes  
Flores, Robert Manuel  
Gutierrez, Melchor  
Gutierrez, Reynaldo  
Hernandez, Blas  
Jeness, Duane  
Floyd, James R.  
Jenson, Lorraine  
Jimenez, Jose  
Leal, Johnny Joseph  
Luna, Leticia  
Lomeli, Joe  
Martinez, Frances

Mireles, Noe  
Magana, Lupe M.  
Marchese, Chris  
Maldonado, Irma  
Padilla, James  
Petty, Virginia (L948  
staff)  
Rios, Emilia  
Rodriguez, Armando  
Rodriguez, Isaura  
Reclusado, Bridget  
(L948 staff)  
Solis, Maria  
Sanchez, Alicia  
Wheaton, Leonard  
Wagner, Cecil  
Zapien, Marcos

### LOCAL 2785

Abrahamsen, Thomas  
“Tiger”  
Andersen, Steven  
Badella, Robert  
Borrelli, George  
Hickman, Robert L.  
Sturdevant, Jr.,  
Edward “Ed” Joseph  
Taylor, Victor  
Vega, Daniel

### GCC/DISTRICT COUNCIL 2

### GCC Local 388M

Adams, Cleo  
Adams, Grady  
Allen, Yolanda  
Banda-Carrillo,  
Miguel  
Becker, Jr., George H.  
(4N)  
Brownfield, Eric  
Calori, Frederick  
Ciraula, Anthony S.  
Coleman, Roger  
Collins, Edward  
Creekbaum, William  
Downs, Ron (4N)  
Flores, Eusebio (Steve)  
Galindo Calderon,  
Vicente  
Gonzales, Luis  
Hankins, Charles  
Harrison, Richard (4N)  
Henriquez, Erwin  
Hoover, L.G.  
Keach, Velma  
Kenny, Charles  
Leiker, Stephen  
Marion, Glenn  
McHale, Patrick J.  
Mungeon, Maurice  
Petersen, Michael A.  
(4N)  
Rizzo, Nicholas

Robles, Jose M.  
Semple, Russell  
Stanich, Stephen J.  
Vancil, Kurt  
Vaudry, Eugene  
Williams, Michael

### GCC/Local 541S

Irvine, William

### GCC/Local 543M

Biddle, Donald  
Conn, Richard  
Ramm, Edward J.  
Smith, Ronald  
Stoll, Dennis  
Tjaden, Glen

### GCC/Local 625S

Flugstad, George  
May, Lowell H.  
Roof, James R. (440M)  
Smolkovich, Nicholas

### GCC/Local 747M

Darling, Alan  
Field, Roger A.  
Finnegan, Dennis  
Johnson, Norman  
Lewis, Ronald  
Lind, Wayne  
Noll, Nhan Vu  
Perry, Michael  
Smith, Henry G.  
Solcum, Donald P.



## Navigating the Commercial Driver's License Drug and Alcohol Clearinghouse

For any commercial drivers license (CDL) holder it would be far better to avoid the need to use the following information. If you have any suspicion that your use of drugs or alcohol might put you in jeopardy of testing positive on a urine or breath test, please know that TAP and TARP are here to help you.

In 2020 the Department of Transportation (DOT) and Federal Motor Carrier Safety Administration did two notable things. They increased the random testing rate to 50% and, on January 6, launched the Drug and Alcohol Clearinghouse, an on-line database designed to eliminate loopholes that permitted commercial drivers to avoid complying with the DOT Drug and Alcohol Testing regulations.

Now that the Clearinghouse is in operation and the first cases have been handled by TAP and TARP, it is important to get accurate information out to all commercial drivers, their business agents and shop stewards.

### How is the Clearinghouse used?

First of all, no driver names or CDL numbers are automatically entered into the Clearinghouse.

All employers of commercial drivers must now conduct annual limited queries for current commercial drivers. A limited query is simply an electronic search of the clearinghouse database for a driver's name and CDL number. If the name does not appear in a search, that means the driver's name and CDL number are not even listed in the Clearinghouse. That driver is "clear" and has "passed" the query.

If a driver violates the Drug and Alcohol Testing Regulations, the employer must enter the violation, the driver's name and CDL number into the Clearinghouse.

Full queries require driver consent and must be done for all prospective CDL drivers and any driver who violates the drug and alcohol regulations.

Any CDL holder who has violated the DOT drug and alcohol rules must register in the Clearinghouse if he or she plans to ever return to safety-sensitive duty as a commercial driver.

Employers must enter violation data even if the driver has not registered.

Only violations that occur after January 5, 2020 will be entered. It will take 3 years of entering violations in the Clearinghouse before employers will not be required to obtain three years of history from all of a driver's prior employers. Until 2023, employers must continue to obtain testing information from an employee's pre-



vious employers dating back three years.

### Summarizing the two kinds of queries:

1. **Full Queries** – After obtaining driver consent, employers must conduct a full query before hiring a commercial driver. Employers must also conduct full queries for any driver who has a drug or alcohol violation.

2. **Limited Queries** – Every year, employers must conduct a limited query for all commercial drivers to determine if the driver has a violation in the database. If a violation is found, a full query must be done to determine whether that driver is eligible to drive (by having completed the return-to-duty process following a violation).

A positive Query result will show any violation history, test details and whether the driver is eligible to return to duty. Violations remain in the Clearinghouse for a minimum of five years or until the follow-up testing schedule is completed, whichever is later.

Any driver who is notified of a violation and is employed by two or more employers must provide written notification of the violation to any other employers within 24 hours of receiving official notice, or prior to performing any safety-sensitive functions, whichever comes first. If a driver does not report a violation, it will be discovered during the mandatory annual query. Civil and criminal penalties are possible for not reporting a violation under Federal regulations. In cases where a driver has multiple employers, return-to-duty and follow-up testing must be done by each employer.

### What information does the employer enter into the Clearinghouse database?

1. The specific violation,
2. Negative Return-to-Duty alcohol and/or drug test result, and
3. Successful completion of follow-up testing.

This information is secure and only registered users can access information for designated purposes. For example: other agencies, such as the State Department of Motor Vehicles

and law enforcement can only receive driver's eligibility status. Drivers can access their own information free of charge but not information about other drivers, and an SAP cannot view a driver's dashboard and can only enter required information.

### What MUST a Commercial Driver do?

1. Register after being informed of a violation
2. Respond to a consent request by the current employer after a violation and to a potential employer to allow a full query. Failure to consent prohibits an employer from permitting the driver to operate a commercial motor vehicle.

Once registered, a driver can review his or her own Clearinghouse record and, in violation cases, invite a Substance Abuse Professional (SAP) to begin the evaluation, treatment and return-to-duty process.

To register, a driver will need to follow instructions found at: <https://clearinghouse.fmcsa.dot.gov/Resource/Index/Registration-Driver-Instructions>

Drivers will have the option of choosing email or U.S. Mail for registration purposes. Choosing U.S. Mail may delay the process for up to 2-3 weeks.

### What are the Consent requirements?

**Limited Query** – for annual check on currently-employed drivers, only general consent is required. It is outside the Clearinghouse and can be in writing.

**Full Query** – pre-employment and violations: specific electronic consent within the Clearinghouse must be provided.

Once a driver has registered, a query consent request will be displayed on that driver's dashboard. The driver must respond.

### How will this work at TAP and TARP?

If the driver is covered through a participating Trust Fund, the SAP evaluation can be done at no cost to the driver.

To begin the SAP evaluation, treatment, and return-to-duty process, a driver must be officially notified of

a violation by either the employer or MRO.

**Note:** A driver who believes a collected specimen will come back positive but who has not been officially notified cannot begin the DOT process.

**Note:** If a driver is seeking treatment because of a serious substance abuse problem, a non-SAP evaluation can be conducted and a referral to treatment can precede the DOT process.

### Steps

Once officially notified of a violation, the driver must:

- Register in the Clearinghouse
- Invite SAP on the driver's dashboard (call TAP or TARP for the name of an available SAP and let them know an invitation will be made).

Following the invitation:

- SAP will accept the driver/member's invitation.
- TAP/TARP Counselor/SAP will verify driver's health care plan to determine eligibility for SAP and substance abuse treatment. If driver is not eligible for services, only the employer can provide the name of an acceptable SAP. TAP/TARP cannot conduct the evaluation in these instances.
- SAP evaluation must be conducted in-person.
- SAP will ask to view the driver's dashboard, conduct mandatory in-person evaluation, recommend appropriate treatment and record the assessment within one business day.
- Some level of treatment must be recommended in all cases per DOT regulations.
- SAP will monitor driver's treatment process and obtain verification from the treatment provider.
- SAP will conduct a face-to-face follow-up assessment. If full compliance is determined, SAP will enter data within 24 business hours and advise employer of driver's eligibility for return-to-duty testing. (Whether employer allows driver to return to work is determined by company policy and/or CBA. Return-to-duty must be conducted by driver's next employer in cases of termination).
- If the SAP Return-to-Work process is not completed, the DOT violation stays on the driver's record forever and no employer can allow a driver to operate a commercial motor vehicle.

You can reach a counselor at:

TAP-800-253-8326

TARP-800-522-8277