



April 10, 2024

The Honorable Lola Smallwood-Cuevas
Chair, Senate Labor, Public Employment & Retirement Committee
1021 O Street, Suite 6730
Sacramento, CA 95814

Re: SB 1446 (Smallwood-Cuevas) Grocery establishment and retail drug establishment employees: self-service checkout and technologies affecting essential job functions. – OPPOSE

Dear Chair Smallwood-Cuevas,

On behalf of the California Retailers Association and the California Chamber of Commerce, we respectfully oppose SB1446, which would place unnecessary restrictions on retail grocery and pharmacy stores implementing self-checkout and autonomous retail technologies. The safety and well-being of retail employees and consumers is our top priority, but the stringent restrictions outlined in SB 1446 are misguided and unnecessary and will not result in reduced retail theft in stores.

This bill attempts to insert burdensome regulations on retailers who are already reevaluating how to best use self-checkout technologies, with some moving to new forms of technology to help deter theft and make the workplace safer. Specifically, this bill requires retailers to complete “a worker and consumer impact assessment” for every new technology that has a “significant” impact on job functions. Not only is the assessment unnecessarily intrusive into a retailer’s business practices, the “significant” language is undefined and vague. While it is important to consider the potential effects of new technologies on employees and consumers, overly burdensome regulations, such as those proposed in this bill, may stifle business growth, innovation, and competitiveness in an increasingly digital economy.

The requirement to provide a manual checkout station for every self-service checkout option presents logistical challenges for businesses, especially smaller retailers with limited space and resources. This requirement is allegedly needed for employee safety, which is an unfounded claim. Retail theft committed in stores has been brazenly committed regardless of whether there’s employees staffing checkout lanes or the presence of self-checkout lanes. Importantly, many retailers have policies that prevent employees from intervening in theft instances to protect their safety. It should also be noted that SB 1446 requires self-checkout to be included in their analysis of potential work hazards for the purposes of their injury and illness prevention programs. If self-checkout stations are potential hazards, then this is arguably already covered by existing law and the passage of SB 553 (Cortese, Chapter 289, Statutes of 2023), which takes effect July of this year. Adding the duplicative requirement to the injury and illness prevention program is unnecessary and

would add confusion to retailers who are already working on compliance with existing law. Because SB 1446 adds provisions to the Labor Code, any error in implementing this new law would expose the retailer to penalties under PAGA.

Furthermore, the limitations imposed on self-service checkout, such as restricting the number of items (10) that can be purchased and prohibiting the sale of items “subject to special theft-deterrent measures” undermine the convenience and efficiency that self-service options offer to consumers. As mentioned earlier, many retailers are already implementing or contemplating restricting the number of items in self-checkout lanes, but to place this type of restriction in statute opens the door for meaningless litigation and forces retailers to police the number of items going through self-checkout lanes, which could create a point of friction between a customer and a retail employee, something retailers try to avoid. Many customers appreciate the convenience of self-checkout, particularly for quick purchases, and imposing unnecessary restrictions may deter them from patronizing these establishments altogether.

Retailers agree that we need to do all we can to deter retail theft and organized retail crime in our stores and we are proud supporters of several proposals, that if signed into law, would have a meaningful impact on deterring retail theft in retail grocery stores and pharmacies throughout the state. We believe focusing on deterring retail theft, not imposing more regulations on retailers and pharmacies, will have the impact we all desire, which is a safe working environment for our retail employees and a safe shopping environment for our customers.

Please do not hesitate to contact Ryan Allain with California Retailers Association at Ryan@calretailers.com.

For this reason, we must oppose Senate Bill 1446.

Sincerely,



Ryan Allain
Director, Government Affairs
California Retailers Association

On behalf of:
Ashley Hoffman, California Chamber of Commerce

Cc: Members, Senate Labor, Public Employment and Retirement Committee