



June 25, 2024

TO: Members, Assembly Privacy and Consumer Protection Committee

**SUBJECT: SB 1446 (SMALLWOOD-CUEVAS) GROCERY RETAIL STORE AND RETAIL DRUG ESTABLISHMENT EMPLOYEES: SELF-SERVICE CHECKOUT AND CONSEQUENTIAL WORKPLACE TECHNOLOGY OPPOSE – AS AMENDED JUNE 11, 2024**

The California Chamber of Commerce, California Grocers Association and California Retailers Association, as well as the undersigned organizations, write to **OPPOSE SB 1446 (Smallwood-Cuevas)**, as amended June 11, 2024. **SB 1446** is deeply flawed on every level. From dictating store staffing and operations to deterring investment and innovation, this bill is detrimental to our customers and employees while being challenging to implement and enforce. For the reasons outlined below, we strongly oppose this legislation.

**Creates Conflict between Customers and Employees by Limiting Choices and Requiring Employees to Enforce State Law**

Limiting the number and type of items that can be purchased at self-checkout will be difficult to enforce and will only frustrate customers. Grocers and pharmacies currently staff and operate self-checkout lanes in a manner that reflects the clientele of that location. There's no one-size-fits-all approach. Setting a specific ratio of employees to self-checkout lanes undermines the flexibility that stores need to address the needs of their customers and employees. Further, this bill's restrictions regarding which items can go through self-checkout will vary store to store, increasing customer frustration and subjecting stores to thousands of dollars in penalties under the June 11, 2024 amendments. This bill would codify one of the worst situations our employees saw during the pandemic – when they were required to police their customers and enforce the law around masking and social distancing. It did not work then, and it will not work now.

**Is Not Included in the Legislature's Retail Theft Package and Instead puts Employees in Harm's Way**

**SB 1446** was not heard in Public Safety committee and is not part of Leadership's package on retail theft. Most people stealing from a grocery store or pharmacy don't bother to go through the self-checkout lane. By requiring an employee to be physically present at a self-checkout station in the name of combatting retail

theft, it creates the expectation that that employee will physically intervene if someone does try to steal at a self-checkout lane. Grocers and pharmacies have no interest in putting employees or customers in harm's way.

### **This is a One Off, Industry Specific AI Bill that is Not Part of the Larger Discussion Around Regulating Artificial Intelligence**

At a time when the legislature is seeking to develop a thoughtful and comprehensive framework for regulating artificial intelligence, this bill seeks to regulate one aspect of one industry with far reaching implications for Californians. **SB 1446** was not referred to Senate Judiciary and has not received sufficient vetting.

Most concerning is that the June 6, 2024 amendments swapped out an overreaching "assessment" for an ambiguous notice requirement. The bill requires covered entities to provide notice to all workers, their bargaining representatives, and the *public* 60 days before implementing "consequential workplace technology". "Consequential workplace technology" is a term created by SB 1446 that covers a whole host of things, including not only self-checkout, but *all* AI or automated decision-making systems that "impact" a core job function of an employee.

This is a significant requirement that reaches far beyond the stated goal of the bill. Its unintended consequences are problematic. For example, "electronic monitoring" is undefined. That could include security mechanisms, data storage, or routine systems like email or phone usage. Has an employer engaged electronic monitoring by maintaining a phone log? Does a covered employer need to tell the public every time it implements a new AI tool into its internal email system? Or if it is updating a function related to security? There is also concern about the unintended consequences to any internal investigations or safety. Arguably, everything could "impact" a core job function and the June 11, 2024 amendments add in a penalty structure that could amount to \$10,000 in penalties for any error. Providing over-disclosures of every such activity will be of little value to the public or employees as it will not only lend to notice fatigue but will also overshadow important notices.

### **Would Curb Investment and Innovation in California's Retail Industry**

The 60 day notice requirement is intended to deter the deployment of new technologies in grocery stores and pharmacies. Grocers and pharmacies are developing and beginning to deploy numerous technologies meant to enhance the customer and employees experience at the store. Often these technologies play a critical role in achieving policy priorities we have here in California such as improving energy efficiency, reducing food waste, and preventing retail theft. Grocery stores and pharmacies in California would fall behind those in other states when it comes to innovation.

### **Would Constrain the Supply Chain, Impacting the Price and Availability of Goods**

The definition of the covered establishments used includes both grocery stores and their warehouses. AI and automation are embedded in the modern supply chain. Californians have already seen the negative impacts that supply chain disruptions can have on them consumers. **SB 1446** would weaken California's role in the supply chain, potentially affecting jobs as well as prices for consumers.

For all these reasons, we **OPPOSE SB 1446**.

Sincerely,



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California Chamber of Commerce



Ryan Allain  
Director, Government Affairs  
California Retailers Association

CalAsian Chamber of Commerce  
California African American Chamber of Commerce  
California Black Chamber of Commerce  
California Chamber of Commerce  
California Grocers Association  
California Hispanic Chamber of Commerce  
California Retailers Association  
Central City Association of Los Angeles  
Civil Justice Association of California  
Consumer Technology Association  
Family Business Association of California  
Fresno Chamber of Commerce  
Inland Empire Economic Partnership  
Los Angeles Area Chamber of Commerce  
San Diego Regional Chamber of Commerce  
San Francisco Chamber of Commerce  
TechNet  
Valley Industry and Commerce Association

cc: Legislative Affairs, Office of the Governor  
Kenyamarie Mahone, Office of Senator Smallwood-Cuevas  
Consultant, Assembly Privacy and Consumer Protection Committee  
Liz Enea, Assembly Republican Caucus