

AMENDED IN ASSEMBLY JULY 8, 2024  
AMENDED IN ASSEMBLY JUNE 11, 2024  
AMENDED IN ASSEMBLY JUNE 6, 2024  
AMENDED IN SENATE MAY 16, 2024  
AMENDED IN SENATE APRIL 9, 2024  
AMENDED IN SENATE MARCH 20, 2024

## SENATE BILL

**No. 1446**

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**Introduced by Senator Smallwood-Cuevas**  
(*Principal coauthor: Assembly Member Gipson*)  
(Coauthors: Assembly Members ~~McKinnor~~ Lowenthal, McKinnor, and Ortega)

February 16, 2024

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An act to add Part 9.6 (commencing with Section 2530) to Division 2 of the Labor Code, relating to private employment.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1446, as amended, Smallwood-Cuevas. Grocery retail store and retail drug establishment employees: self-service checkout and consequential workplace technology.

Existing law imposes certain requirements on grocery employers, as defined, upon the purchase or change in control of a grocery establishment, including requiring a successor grocery employer to retain eligible grocery workers for a specified period after transfer of the grocery establishment.

This bill would prohibit a grocery retail store or a retail drug establishment, as those terms are defined, from providing a self-service

checkout option for customers unless specified conditions are satisfied, including having no more than 2 self-service checkout stations monitored by any one employee and requiring the employee to be relieved of all other duties. The bill would require a grocery retail store or retail drug establishment that offers self-service checkout to include self-service checkout in the employer's illness and prevention program, as required by Division of Occupational Safety and Health regulations. The bill would require a grocery retail store or retail drug establishment that intends to implement consequential workplace technology, as defined, to notify workers, their collective bargaining representatives, and the public *at least 60 days in advance of the implementation of the technology* with a general description of the technology and the intended purpose ~~for of the technology~~ *technology, as specified*. This bill would establish remedies and penalties for a violation of the bill's provisions, including a civil penalty of \$100 for each day in violation, not to exceed an aggregate penalty of \$10,000.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Part 9.6 (commencing with Section 2530) is  
2 added to Division 2 of the Labor Code, to read:

3  
4 PART 9.6. GROCERY RETAIL STORES AND RETAIL DRUG  
5 ESTABLISHMENTS

6  
7 2530. For purposes of this part, the following definitions shall  
8 apply:

9 (a) "Consequential workplace technology" means ~~artificial~~  
10 ~~intelligence or automated decisionmaking systems~~ *technology* that  
11 ~~significantly impacts, eliminates, or automates~~ *eliminates,*  
12 *automates, or electronically monitors* the core job functions agreed  
13 upon between an employer and an employee upon hire or following  
14 a subsequent change in position or department. Consequential  
15 workplace technology includes, but is not limited to, self-checkout  
16 robotics, wearable sensors, ~~scanners, and electronic monitoring,~~  
17 *and scanners.*

18 (b) (1) "Grocery retail store" includes either of the following:

1 (A) A “grocery establishment,” defined as a retail store in this  
2 state that is over 15,000 square feet in size and that sells primarily  
3 household foodstuffs for offsite consumption, including the sale  
4 of fresh produce, meats, poultry, fish, deli products, dairy products,  
5 canned foods, dry foods, beverages, baked foods, or prepared  
6 foods. Other household supplies or other products shall be  
7 secondary to the primary purpose of food sales.

8 (B) A “superstore,” defined as a store in this state that is over  
9 75,000 square feet in size, that generates sales or use tax pursuant  
10 to the ~~Bradley-Burns~~ *Bradley-Burns* Uniform Local Sales and Use  
11 Tax Law (Part 1.5 (commencing with Section 7200) of Division  
12 2 of the Revenue and Taxation Code), and that devotes more than  
13 10 percent of sales floor area to the sale of nontaxable merchandise.

14 (2) For purposes of Section 2531 only, “grocery retail store”  
15 does not include a discount warehouse or retail store where more  
16 than one-half of the items carried by the discount warehouse or  
17 retail store are sold in large quantities or in bulk and the discount  
18 warehouse or retail store requires shoppers to pay a membership  
19 or assessment fee.

20 (c) “Manual checkout station” means a station that is not a  
21 self-service checkout station and at which an employee provides  
22 human assistance to a customer scanning, bagging, or accepting  
23 payment for the customer’s purchases.

24 (d) “Retail drug establishment” means a person, including an  
25 individual, a corporation, a partnership, a limited partnership, a  
26 limited liability partnership, a limited liability company, a business  
27 trust, an estate, a trust, an association, a joint venture, a  
28 proprietorship, a joint venture, an agency, an instrumentality, a  
29 corporate officer, an executive, or any other legal or commercial  
30 entity, whether domestic or foreign, that has 75 or more businesses  
31 or establishments located within the state and is identified as a  
32 retail business or establishment in the North American Industry  
33 Classification System within the retail trade category 45611.

34 (e) “Self-service checkout” means an automated process that  
35 enables customers to scan, bag, and pay for their purchases without  
36 human assistance.

37 (f) “Self-service checkout station” means a station at which a  
38 customer can engage in a self-service checkout for the customer’s  
39 purchases.

1     2531. (a) A grocery retail store or retail drug establishment  
2 shall not provide a self-service checkout option for customers  
3 unless all of the following conditions are satisfied:

4     (1) At least one manual checkout station is staffed by an  
5 employee of the establishment who is available to any given  
6 customer at the time that a self-service checkout option is made  
7 available to that customer.

8     (2) (A) The employer has established a workplace policy that  
9 limits self-service checkouts to purchases of no more than 15 items.

10    (B) The establishment shall include signage within the  
11 self-service checkout area indicating the number of items that are  
12 permitted through the self-service checkout station.

13    (3) Customers are prohibited from using self-service checkout  
14 to purchase either of the following:

15    (A) Items that require customers to provide a form of  
16 identification, including, but not limited to, alcohol and tobacco  
17 products.

18    (B) Items subject to special theft-deterrent measures, including,  
19 but not limited to, locked cabinets and electronic article  
20 surveillance tags, that require the intervention of an employee of  
21 the establishment for the customer to access or purchase the item.

22    (4) (A) No more than two self-service checkout stations are  
23 simultaneously monitored by any one employee of the  
24 establishment.

25    (B) An employee shall be relieved from all other duties when  
26 monitoring a self-service checkout station, including, but not  
27 limited to, operating a manual checkout station.

28    (b) A grocery retail store or retail drug establishment that offers  
29 self-service checkout shall include self-service checkout in their  
30 analysis of potential work hazards for purposes of their injury and  
31 illness prevention programs required by Section 3203 of Title 8  
32 of the California Code of Regulations.

33     2532. (a) If a grocery retail store or a retail drug establishment  
34 intends to implement consequential workplace technology, the  
35 grocery retail store or retail drug establishment shall notify workers,  
36 their collective bargaining representatives, and the public *at least*  
37 60 days in advance *of the implementation of the technology* with  
38 a general description of the technology and the intended purpose  
39 ~~for of the technology.~~ *technology pursuant to subdivision (c).*

(b) If a grocery retail store or retail drug establishment intends to implement consequential workplace technology for a purpose other than the intended purpose specified in the notice described in subdivision (a), the grocery retail store or retail drug establishment shall notify workers, their collective representatives, and the public of the other purpose 60 days in advance of the implementation of the technology pursuant to subdivision (c).

(c) (1) The grocery retail store or retail drug establishment shall notify workers and their collective bargaining representatives in writing by usual means of communication.

(2) The grocery retail store or retail drug establishment shall notify the public by posting the notice in a location accessible to the grocery retail store's or retail drug establishment's employees and customers.

2533. (a) An employer who violates this part shall be subject to a civil penalty of one hundred dollars (\$100) for each day in violation, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(b) Upon the filing of a complaint by an employee, the Division of Labor Standards Enforcement shall enforce this part, including investigating an alleged violation, and ordering appropriate relief.

(c) In addition to other remedies as may be provided by the laws of this state or its subdivisions, any public prosecutor, as defined by Section 180, may also institute an action for a violation of this part, including an action seeking injunctive relief.

REVISIONS:

Heading—Line 2.