

FLOOR LETTER

September 3, 2025

TO: Members, California State Senate

SUBJECT: **AB 446 (WARD) SURVEILLANCE PRICING
OPPOSE – AS AMENDED JULY 29, 2025**

The California Chamber of Commerce and the undersigned organizations respectfully **OPPOSE AB 446 (Ward) UNLESS AMENDED**. **AB 446** now contains contradictory language on whether discounts are—or are not—regulated by the bill. We believe this conflict must be addressed before it can be made law.

AB 446's Terms Now Both Allow Discounts and Prohibit Discounts at Grocery Establishments.

After amendments in the Senate Appropriations Committee, **AB 446** prohibits “surveillance pricing,” which it defines as “offering or setting a customized price increase for a good for a specific consumer or group of consumers, based, in whole or in part, on personally identifiable information collected through electronic surveillance technology.” The key change in these amendments,¹ underlined above, was to add the word “increase” - which should limit the bill to targeted price increases, and removed discounts from the bill.

However, a later subdivision of **AB 446** states that only certain discounts are not considered surveillance pricing (proposed subdivision 7202(b)(d)). In other words, where subdivision 7200(c) says discounts will not make a grocer liable for surveillance pricing, subdivision 7202(b)(d) says that discounts will make a grocery establishment liable unless they meet very specific criteria. Notably, the amendments also limit the bill to “grocery establishments” - which excludes some of the previously covered industries, and resulted in Cal Chamber removing the economy-wide Cost Driver tag

This outstanding conflict means that grocery establishments trying to comply with **AB 446** cannot tell whether their discounts are, or are not, covered by the bill. Knowing that **AB 446** causes their discounts to potentially get them sued—and being unable to determine what a court will determine is compliant with **AB 446**—we continue to be concerned that **AB 446** will force concerned businesses in California to cease offering certain discounts in California.

To resolve this issue, we would request that either one of the two following solutions is adopted:

- 1) The discount-focused language that remains in **AB 446** be deleted (Proposed subdivisions 7202(b)(2)-(5) and 7202(d)); or
- 2) Language is added to clarify that the discount-focused language in subdivisions 7202(b)(2)-(5) are intended as example, and not to prohibit un-included forms of discounts. In addition, subdivision 7202(d) would still need to be deleted for consistency.

Without this issue being addressed, **AB 446** will create confusion and litigation risks for businesses as they attempt to navigate a statute with two obvious and conflicting interpretations in its language. For these reasons, we must **OPPOSE AB 446 (Ward) UNLESS AMENDED**.

Sincerely,



Robert Moutrie
Senior Policy Advocate
on behalf of

¹ Notably, the amendments also limit the bill to “grocery establishments” - which excludes some of the previously-covered industries, and resulted in Cal Chamber removing the “Cost Driver” tag from this bill.



Associated Equipment Distributors, Jacob Asare
 Brea Chamber of Commerce, Lacy Schoen
 Building Owners and Managers Association of California, Sklyer Wonnacott
 California Business Properties Association, Skyler Wonnacott
 California Chamber of Commerce, Robert Moutrie
 California Grocers Association, Daniel Conway
 California Retailers Association, Ryan Allain
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 Folsom Chamber of Commerce, Bill Romanelli
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 Greater High Desert Chamber of Commerce, Mark Creffield
 Greater San Fernando Valley Chamber of Commerce, Nancy Hoffman Vanyek
 Hollywood Chamber of Commerce, Aaron Taxy
 Internet Works, Peter Chandler
 La Cañada Flintridge Chamber of Commerce and Community Association, Pat Anderson
 Lake Elsinore Valley Chamber of Commerce, Kim Joseph Cousins
 Long Beach Area Chamber of Commerce, Celeste Wilson
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 NAIOP California, Skyler Wonnacott
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 Simi Valley Chamber of Commerce, Anthony Angelini
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 Torrance Area Chamber of Commerce, Donna Duperron
 United Chamber Advocacy Network, Mark Smith