CITY OF LONG BEACH

Memorandum

Date: June 6, 2025

From: Thomas B. Modica, City Manager

To: Mayor and Members of the City Council

Subject: **Grocery Store and Drug Retail Establishment Staffing Requirements Item Follow Up**

On April 1, 2025, City Council requested the City Manager to evaluate options for establishing labor standards and requirements related to staffing and operations for self-checkout stands in grocery retail stores and retail drug establishments, in an effort to address retail theft and advance public safety and welfare. The City Manager's office coordinated an interdepartmental team with staff from the City Attorney's office, Police Department, Economic Development Department, and Financial Management Department to research options in response to City Council's request. Members of the team also met with proponents of the initiative and offered to meet with representatives of the California Grocers Association to learn more about the proposal. This memorandum provides information in response to Council's request.

Overview of the Council Proposal

The stated intent of the Council action is to develop an ordinance establishing labor and operational standards for grocery and retail drug stores that utilize self-checkout technology. As outlined in the Council item, the proposed standards would apply to any food or drug retail establishment that operates self-checkout stations, with additional size-based thresholds for grocery stores. The ordinance would include a 15-item limit on transactions conducted through self-checkout and require a minimum staffing ratio of one employee for every two self-checkout stations. The item also recommends establishing enforcement mechanisms, including the authority to impose civil penalties for violations. Under the proposed framework, penalties could include a fine of $100 per employee per day that the violation remains uncorrected, up to a maximum of $1,000 per employee per day. City staff is not aware of any other city passing this type of ordinance.

The Council item states that a proposed ordinance to increase staffing requirements at establishments that utilize self-checkout technology is necessary to address the issue of retail theft. For example, the item references a survey of 93 retail businesses in various countries, reporting that self-checkout operations account for 20 to 25 percent of total losses at those establishments. Furthermore, the item argues that the use of self-checkout technology not only increases retail theft but also leads to unsafe work environments for employees and customers, and that inadequate staffing and loss prevention at these businesses puts a strain on local law enforcement resources in Long Beach.

Proponents of the proposal, known as “Safe Stores are Staffed Stores” ordinance, argue that retail workers face growing challenges in retail stores, including an increase in petty theft and incidents that involve threats and escalating violence, which create a mental health and safety crisis for frontline employees. They report that grocery store workers are not allowed to call the police or file reports themselves, as these decisions are made by managers. Advocates also argue that adequate staffing is the most effect deterrent to theft and that self-checkout systems account for nearly half of all malicious losses in retail.

The Council item received 23 in-person public comments—16 in support and 7 in opposition—as well as 13 written comments, with 5 in support and 8 in opposition.

Legal Standard

The City has the authority under the California Constitution to regulate private businesses to protect the health, safety, and welfare of the community. While this “police power” allows the City to regulate broad aspects of the community, in order to be valid, a city ordinance must be “rationally related to a legitimate governmental purpose.” In other words, the City must show that there is a reasonable factual connection between the regulation and its goal of protecting public safety.

There are two main legal challenges that ordinances like this may face. The first is a claim that the ordinance violates the Equal Protection Clause. In such cases, courts apply the rational basis review standard as stated above. The second is a claim that the ordinance violates the Contracts Clause, which is subject to the higher legal standard of strict scrutiny. This requires that regulation be narrowly tailored to a compelling governmental interest using the least restrictive means.

The proposed ordinance as currently conceived does not appear to provide a basis for a Contracts Clause legal challenge. Therefore, the City’s use of its police powers for this ordinance is more likely to be evaluated under the rational basis standard to determine whether its use of the City’s police powers serves a legitimate public purpose. This is a fact-specific inquiry. For the ordinance proposed in the Council item, the City Council should consider whether the proposed regulation is supported by facts reasonably connected to the goal of protecting public safety.

Local ordinances in California that aim to raise minimum employment standards are likely to face legal challenges from the California Grocers Association. For example, in response to the grocery store hero pay ordinances passed during the COVID-19 pandemic, the California Grocers Association filed at least seven legal challenges against various California cities, contesting the validity of those ordinances. Further, the California Grocers Association strongly opposed state legislation last year with similar language to the proposed ordinance. Therefore, it is likely that the City would face a legal challenge and need to defend such an ordinance in court.

In 2021, the City of Long Beach adopted Emergency Ordinance No. ORD-21-0004 to protect public health, safety, and welfare during the COVID-19 emergency. The ordinance required grocery stores to provide premium pay to workers, based on the increased risk they faced from frequent, close contact with the public, including individuals who could spread the virus without showing symptoms. The court rejected the plaintiff's argument that the ordinance should be subject to the strict scrutiny test as an alleged violation of the Contracts Clause and assessed the ordinance using the rational basis standard. The ordinance was found to have a rational connection to the legitimate goal of retaining frontline workers and was considered a valid exercise of the City's police powers for the protection of public health, safety, and welfare.

Community Crime Trends and the Use of Public Safety Resources

Claims in favor of the proposed regulation suggest a significant rise in retail theft, particularly petty theft due to self-checkout stations, which is said to place a growing strain on Long Beach's public safety resources. The sources referenced in support of the proposed ordinance, which aim to show a connection between self-check out retail theft and public safety, include two 2022 global surveys of retailers and a 2023 analysis of California Department of Justice crime data at the state and county levels. These sources examine retail crime trends but do not include specific data regarding the role of self-checkout systems in increasing retail theft in Long Beach.

To link the impact of community-based retail theft on public safety resources to staffing levels at establishments with self-checkout stands, we looked at crime data to determine if it established trends specific to retail theft at self-checkout and demonstrate a strain on public safety resources. There is no mandated or standardized reporting system that differentiates between retail formats or staffing models at private businesses. As a result, the City does not have local data that demonstrates rising trends in this type of crime specific to self-checkout operations.

The Long Beach Police Department (LBPD) is committed to providing accurate, data-driven, and contextualized public safety statistics, and reports broader larceny and theft trends monthly as part of its broader efforts to keep the community informed through crime statistics. Shoplifting trends citywide have fluctuated over the past three years, with an increase between 2023-2024 and a decrease year-to-date between 2024-2025, as shown in the table below. Current LBPD crime statistics also show an 11.1 percent decrease in reported petty thefts (under $950) comparing year-to-date from 2024 to 2025. It is unclear whether the decreases in this calendar year are due to fewer incidents, a lack of reporting, or recent changes in statewide retail theft law and enforcement described below. Regardless, a decrease indicates a reduced demand on Long Beach's public safety services, including patrol response and investigations related to shoplifting and petty theft this year.

Year	YTD	Full Year
2023	417	1705
2024	819	2519
2025	753	-

Effective and timely communication regarding public safety resources is crucial for building trust and ensuring community wellbeing. When informed about available safety programs and crime prevention tips, residents and business owners become better equipped to protect themselves and support their communities. LBPD provides public safety resources to support businesses through initiatives such as the E3 Campaign (Enforcement, Engagement, and Education) implemented in late 2024. Materials focused on how to report a crime and general business safety tips are distributed on an ongoing basis and shared regularly across social media platforms (see attached).

Employing loss prevention specialists at retail establishments can also be helpful for businesses to reduce retail theft and minimize financial loss effectively. These specialists are trained to identify suspicious behavior by implementing security measures and responding swiftly to incidents, which help deter potential shoplifters and internal theft. By minimizing theft, loss prevention specialists help safeguard business assets and can create a safer shopping environment for customers and employees. Beyond the retail environment, loss prevention specialists aid law enforcement by providing incident reports and conducting preliminary investigations. Loss prevention specialists may also detain shoplifters and place them under private person's arrest, allowing police officers to carry out the remainder of the investigation and take appropriate enforcement action. Collaboration between loss prevention specialists and law enforcement can enhance the successful prosecution of retail theft offenders and may serve as a deterrent to future criminal activity within the business community.

Economic Impacts and Business Support Efforts

Part of the discussion during the Council item requested information about the potential economic impacts of the proposed ordinance, and several public commenters relayed the challenges faced by the grocery and drug retail business. Major grocery stores and pharmacy chains have closed locations nationwide in response to shifting market dynamics and economic pressures, including rising costs, thin profit margins, changing consumer behaviors from in-store to online shopping, and regulatory pressures. In Long Beach over the past few years, Ralphs (N. Los Coyotes Diagonal), Food 4 Less (E. South Street), Vons (Atlantic Avenue), 99 Cents and More (Orange Ave. and Carson St.) that sold grocery items, and CVS and Rite Aid retail pharmacies in Bixby North permanently closed. Rite Aid in Zaferia (330 E. Anaheim St.) also recently announced that it would close in June. It should be noted that proponents of the “Safe Stores are Staffed Stores” ordinance argue, conversely, that Long Beach’s grocery sector is growing, with the addition of numerous new stores in the city, such as Sprouts (4600 E. PCH) and Whole Foods Market (Long Beach Exchange).

Store closures can have significant impacts on surrounding communities, leading to reduced access to essential goods, limited consumer choice, loss of jobs, and growing concerns about food deserts and economic disinvestment. Major grocery stores, pharmacy chains, and big box retailers are important anchors to the success of neighborhood shopping and regional retail centers. Anchor tenants draw regular and frequent foot traffic which benefits surrounding retailers like local cafes, restaurants, dry cleaners, salons, and more. Economic and community impacts include job creation, sales tax generation for City services, food access, community gathering places, support for local food producers, and retail development that sparks new investment and reinvestment in neighborhoods.

The City works in partnership with businesses, including major grocery stores, pharmacy chains, shopping center owners, and developers, to focus on what tools we can bring to the table collaboratively to make businesses successful. The City also provides critical services to improve the business environment through public safety, code enforcement, cleaning and beautifying public space, and recommending improvements to in-store strategies from layout and design to technology solutions and private security, such as those described above.

Regarding business attraction of grocers and pharmacies to the City, staff works closely with interested grocers and related businesses to ensure that prospects are informed of City services and resources. This includes assistance with site selection, scheduling a preplanning meeting, connecting to key City stakeholders, fielding utility questions, access to capital, and other services depending on individual business needs. In existing cases of vandalism, the City refers impacted businesses to apply for the Visual Improvement Program, which provides businesses with a grant to repair damages caused from vandalism. The City is also developing a safe and secure program to further support public safety investments along high-incident commercial corridors, including security camera technology, enhanced lighting, streetscape improvements, and signage.

Related Legislative Proposals

Over the past year, California enacted legislation to combat increases in retail theft and organized property crimes—the problem that the Council item seeks to address. In August 2024, Governor Gavin Newsom signed into law a legislative package comprising 10 bills aimed at strengthening public safety and addressing the challenges posed by organized retail theft. Key provisions of the legislative package include enhanced penalties for repeat offenders, aggregation of stolen property values to meet the threshold for felony grand theft, expanded authority to arrest suspects on suspicion of retail theft with probably cause, supporting organized retail crime task forces, and more.

Additionally, California voters approved Proposition 36 in November 2024, designed in part to reduce retail theft. Among other things, the proposition reclassified certain shoplifting and drug offenses as felonies, reversing aspects of the 2014 Proposition 47

that had downgraded some nonviolent felonies to misdemeanors. This measure further aims to address public safety concerns by imposing stricter sentences on drug dealers and establishing mandated drug treatment programs.

Furthermore, California law establishes broad protections for worker health and safety, enforced by the Division of Occupational Safety and Health (Cal/OSHA) within the Department of Industrial Relations. Employers are required to maintain safe and healthy workplaces through an Injury and Illness Prevention Program (IIPP) and to address potential risks of workplace violence. This includes implementing a Workplace Violence Prevention Plan, which must log all workplace violence incidents—regardless of whether law enforcement was contacted.

In 2024, the State Legislature considered Senate Bill 1446, which closely resembles the staffing and operations requirements outlined in the City Council request. SB 1446 would have required grocery and drug retail establishments to maintain a staffing ratio of at least one employee for every two self-checkout stations. The bill also authorized administrative penalties of $100 per day for noncompliance, up to a maximum of $10,000. The bill was heard in both labor and consumer protection committees; it was not included in the State's broader retail theft legislative package. SB 1446 failed to advance out of the Assembly.

Supporters of SB 1446, including United Food and Commercial Workers, the California Labor Federation, and other labor advocates, focused on the labor impacts of self-checkout and automation, arguing that the growing reliance on these technologies reduces the need for front-line staff, undermines good jobs, and creates potential security vulnerabilities. Opponents such as the California Grocers Association, California Retailers Association, and chambers of commerce argued that the bill represented an overreach of State authority into business operations and would impose additional burdens on already strained retailers.

A revised proposal, Senate Bill 442, is currently under consideration. Notably, the staffing requirement has been modified: rather than specifying a strict employee-to-self-checkout ratio, the bill would require grocery and drug retail stores to have at least one manual checkout lane staffed by an employee and available to any customer at the same time that self-checkout options are offered. SB 442 also significantly increases the potential penalties for noncompliance—up to $1,000 per day, with a maximum aggregate penalty of $200,000.

The bill includes a non-preemption clause, stating that it does not override any local ordinance that provides equal or greater protections to workers. It is important to note, however, that a non-preemption clause does not explicitly grant new authority to local governments. Cities would still need to rely on their general police powers to justify the imposition of staffing or operational requirements on private businesses, as described above. Without clear statutory authority from the State, any such local ordinance could be subject to legal challenges from affected industries.

Potential Options

Option 1: Status Quo

City Council could choose to let this issue play out without taking any direct action. The City would continue to support businesses through the ongoing public safety and economic development efforts discussed above, and state legislative efforts would take place without City involvement.

Option 2: Advocate for State Legislation

City Council could consider supporting the development of statewide standards for staffing and operational requirements at grocery and retail drug establishments through Senate Bill 442 or other legislative efforts. Statewide standards for retail sectors increasingly reliant on automation and self-checkout technologies would help prevent interjurisdictional competition and provide consistency across California. City Council would need to request that this type of position be included in the City's Legislative Agenda, which would then allow the City to engage in these legislative discussions.

Option 3: Modified Proposed Ordinance

City Council could choose to propose a modified ordinance that lessens some of the staffing and operational requirements outlined in the original proposal, similar to the state legislation currently under consideration. A modified ordinance could, for example, remove the employee-to-self-checkout ratio altogether or require fewer staff per self-checkout stand, such as three or four self-checkout stands per employee instead of the proposed two-to-one ratio.

Option 4: Original Proposal

City Council could choose to move forward with the ordinance as proposed in the original Council item. Council would need to assess the totality of factors supporting adoption of the proposed ordinance and could proceed if it finds there is a reasonable factual connection between the proposed regulation and its goal of protecting public safety.

Enforcement

Options 3 or 4 above to approve an ordinance to change staffing and operational models at private grocery store and drug retail establishments would need to clearly outline the preferred enforcement approach. An ordinance such as this could assign enforcement responsibility to the City, placing obligations on departments such as the City's Attorney's office and the Department of Financial Management's Business Services Bureau. Current staffing levels are insufficient to support new enforcement responsibilities that could be generated by such an ordinance and could require additional staffing in Business Licensing. If City enforcement obligations are to be included, additional staff resources

would need to be allocated, ranging between 3 to 5 more staff members and $500k-$1 million depending on the desired level of enforcement.

The proposed ordinance, instead, seeks to create a private right of action as the sole enforcement mechanism, as opposed to City enforcement. If the intent is to create a private right of action rather than City enforcement, the proposed terms should clearly establish a specific private right of action as the only enforcement mechanism. For reference, examples of such language can be found in Long Beach Municipal Code Sections 5.55.040, 5.91.120, and 18.25.170. Staff strongly encourage a private right of action, instead of increased City inspections and enforcement on this matter.

Next Steps

If City Council would like to continue with Option 1, nothing further is needed. But if City Council prefers to move forward with Options 2, 3, or 4, members would need to agendize an item at a future City Council meeting providing further direction to staff. If you have any questions, please contact Tyler Bonanno-Curley, Deputy City Manager, at tyler.curley@longbeach.gov, or Ashleigh Stone, Deputy City Attorney, at Ashleigh.stone@longbeach.gov.

ATTACHMENTS

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DEPARTMENT HEADS

LONG BEACH POLICE DEPARTMENT

How to Report Crime

- For emergencies, always call **9-1-1**.
- To report suspicious activity, call Police Dispatch at **562.435.6711**.
- In some cases, you may submit a police report online using the **LBPD's Online Police Reporting System**.

Online Crime Reporting

The LBPD's Online Police Reporting System allows you to submit a police report online in the following categories:

- Lost Property
- Hit and Run
- Vandalism
- Theft or Attempt Theft
- Annoying or Harassing Phone Calls

Scan the QR code to learn more about online crime reporting.

Scan the QR code to access additional LBPD resources.

www.longbeach.gov/police

Online Crime Reporting

If you are in immediate danger, please call 9-1-1.

The LBPD's Online Police Reporting System allows you to submit a police report online in the following categories:

- Lost Property
- Hit and Run
- Vandalism
- Theft or Attempt Theft
- Annoying or Harassing Phone Calls

Online Reporting System SHOULD NOT be used for:

- Violent crimes
- Debit/credit card fraud and/or identity theft
- Hate crimes
- Vandalism to multiple vehicles or locations
- If theft occurred inside of residence, business, or any other enclosed structure
- Stolen vehicles
- Theft of firearms, passports, medication, or vehicle registration tags
- Theft of property valued over $5,000
- Crimes that occurred outside the City of Long Beach
- If there is evidence that may lead to possible identification of suspect

To submit a report online, visit longbeach.gov/LBPDOnlineReporting or scan the QR code.

- The crime must have occurred in Long Beach
- You must be at least 18 years old
- You must have a valid e-mail address

We are currently experiencing a delay in processing report requests; we apologize for any inconvenience.

Long Beach Police Department

Call Police Dispatch at (562) 435-6711 to report suspicious activity or dial 9-1-1 for emergencies.

Safety Tips for Businesses

The Long Beach Police Department wants to help keep your business and your employees safe. Here are a few safety tips to reduce your risk:

- Make sure your business is well-lit, both inside and outside.
- Empty the cash register before closing and leave the drawer open.
- Remove electronics, especially tablets and cell phones, and lock them in a secure location.
- Remove all advertisements and other large items from the windows to increase visibility.
- Install a video surveillance and/or alarm system and ensure the system is operational.
- Re-locate cash registers and display shelves so the cashier has a clear view of the front door and the entire store. The cashier should also have a clear view of the parking area to observe any activity that is occurring outside the store.
- Place the register area away from the door.
- Encourage employees to make eye contact with and verbally acknowledge every customer who enters the business.
- If possible, have a minimum of two employees on duty at the same time during all hours of operation.
- Install a fish-eye viewer in the door where deliveries are made and in all interior office doors.
- All office doors should be solid core material with dead bolt locking mechanisms.
- Train your employees. Pose various “what to do in case of” scenarios so they know what to do and how to stay safe.
- Post “No Loitering” signs on the property.
- Ensure your address is clearly posted on the front and back of your business.

Stay connected with your patrol division!

LBPDNorth@LongBeach.gov
LBPDEast@LongBeach.gov
LBPDSouth@LongBeach.gov
LBPDWest@LongBeach.gov

Sign up for Alert Long Beach to receive emergency notifications.
http://bit.ly/AlertLB

Long Beach Police Department
Call Police Dispatch at (562) 435-6711 to report suspicious activity or dial 9-1-1 for emergencies.

Partner with the LBPD!

Take advantage of the resources and support from the Long Beach Police Department to keep your business safe. Scan the QR codes below for easy access to crime reporting tools and additional resources and information.

Scan the QR code to learn more about online crime reporting.

Scan the QR code to access additional LBPD resources.

www.longbeach.gov/police

LONG BEACH POLICE DEPARTMENT

Respect · Compassion · Service · Integrity · Accountability

SAFETY AND CRIME REPORTING INFORMATION FOR BUSINESSES

DID YOU KNOW THERE ARE SEVERAL WAYS TO REPORT CRIME?

- **For Emergencies:** Always call **9-1-1.**
- **Report Suspicious Activity:** Call Police Dispatch at 562.435.6711. You can report anonymously!
- **Online Crime Reporting:** The LBPD offers an Online Crime Reporting system for various incidents like:
  - Lost property
  - Hit and run
  - Vandalism
  - Theft or attempted theft
  - Annoying/harassing phone calls
- Visit: **longbeach.gov/LBPDOnlineReporting** to learn more and to report crime online.
- **Anonymous Tips:** Submit tips via **"LA Crime Stoppers"** by calling **800-222-TIPS (8477)** or visiting LACrimeStoppers.org.

STAY CONNECTED

- Stay in touch with your patrol division for updates:
  - **East:** LBPDEast@LongBeach.gov
  - **West:** LBPDWest@LongBeach.gov
  - **North:** LBPDNorth@LongBeach.gov
  - **South:** LBPDSouth@LongBeach.gov

BUSINESS SAFETY TIPS

- If your business is **equipped with security cameras** and you see suspicious or criminal behavior, if possible and safe to do so, let the subject(s) know over the camera's intercom that they are being recorded and that you have contacted law enforcement. Call **9-1-1** to report the crime in progress.
- **Secure** valuable electronics and cash registers after hours.
- Remove all advertisements and other large items from the windows to **increase visibility**.
- **Train staff** on emergency procedures and customer interaction to deter crime.
- Ensure your business is **well-lit inside and out**.
- Remove **electronics and empty cash registers** before closing.
- Use **solid core doors with deadbolts; install fish-eye viewers** in key areas.
- Post **"No Loitering"** signs and keep the business **front clear**.
- Ensure your **address is clearly posted** on the front and back of your business.
- **Remember:** Your vigilance and preparedness are key to creating a safer community for all. **"If You See Something, Say Something."**