

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

SB 1089 (Smallwood-Cuevas)  
Version: April 22, 2024  
Hearing Date: April 23, 2024  
Fiscal: Yes  
Urgency: No  
ME

**SUBJECT**

Food and prescription access: grocery and pharmacy closures

**DIGEST**

This bill, as recently amended, requires grocery and pharmacy establishments, as defined, to satisfy specified notice requirements no later than 60 days prior to a closure, including providing written notice of the closure to specified entities and individuals, containing specified information, such as closure date and reason for the closure. This bill requires, for a pharmacy establishment closure, that the written notice to consumers include information of the pharmacy where prescriptions will be transferred to and information on transferring the prescription to a pharmacy of the consumer's choosing. This bill authorizes any person injured by a violation of most of these provisions to bring a civil action and imposes specified civil penalties for violations. The bill also authorizes the Attorney General, District Attorneys, and City Attorneys to bring a civil action for violations.

**EXECUTIVE SUMMARY**

This bill requires grocery and pharmacy establishments, as defined, to satisfy specified notice requirements no later than 60 days prior to closure, as specified, including providing written notice of the closure to specified entities and individuals. For example, this bill requires, for a pharmacy establishment closure, that written notice be given to consumers regarding where their prescriptions will be transferred to and information regarding how the consumer can transfer prescriptions. The bill requires that employees of covered establishments receive 60 day notice that their workplace will be closing if the establishment employs 5 or more workers. If the workplace employs less than 5 employees then the employer must provide the employees with 30 day notice of the closure of their workplace. The California WARN Act requirements must also be adhered to if these establishments are also covered by the California WARN Act. The bill also requires that there be a posting of the closure within 60 days of the closure of a covered establishment that lets the public know that the establishment is closing and the reason for the closure. The bill provides that injured consumers and employees are authorized to bring civil enforcement actions when most provisions of

this bill are violated. The bill also authorizes the Attorney General, District Attorneys, and City Attorneys to bring civil actions to enforce the bill. The bill is designed to ensure that community members are made aware that the establishment they rely on for groceries and prescriptions will be closing so they can seek out alternative locations to shop and fill their prescriptions. Employees are better able to prepare for their unemployment and job search when given ample notice of the closure of their place of work.

The bill is supported by a coalition of unions, legal services organizations, religious organizations, food security organizations, the Black Equity Collective, and California Black Power Network, and opposed by the California Community Pharmacy Coalition, the California Grocers Association, the California Retailers Association, and the California Chamber of Commerce. The bill passed out of the Senate Labor, Public Employment and Retirement Committee with a vote of 4 to 0. Should the bill pass out of the Senate Judiciary Committee it will next be heard in the Senate Appropriations Committee.

### **PROPOSED CHANGES TO THE LAW**

Existing federal law:

- 1) Establishes the federal Worker Adjustment and Retraining Notification (WARN) Act to provide workers with sufficient time to prepare for impending employment closures or mass layoffs. The Act requires employers to provide written notice at least *60 calendar days* in advance of covered plant closings and mass layoffs. (29 U.S.C. § 2101 *et seq.* and 20 CFR 639.3.)
- 2) Requires the 60-day prior to a closure or layoff notice be provided to employees or their representative, the state dislocated worker unit (in California that is the Employment Development Department, Workforce Services Division), and the chief elected official of local government where the closing or layoff is to occur. (29 U.S.C. § 2101 *et seq.* and 20 CFR 639.3.)
- 3) Applies the WARN Act requirements to employers with *100 or more full-time employees*, who must have been employed for at least 6 months of the 12 months preceding the date of the required notice, and when the closure or layoff involves 50 or more employees during a 30-day period. (29 U.S.C. § 2101 *et seq.* and 20 CFR 639.3.)
- 4) Makes an employer who violates the WARN provisions liable to each employee for an amount equal to back pay and benefits for the period of the violation, up to 60 days, but no more than half the number of days the employee was employed by the employer. (29 U.S.C. § 2104 (a).)

Existing state law:

- 1) Establishes the California Worker Adjustment and Retraining Notification (Cal-WARN) Act prohibiting an employer from ordering a mass layoff, relocation, or termination at a covered establishment unless, *60 days before* the order takes effect, the employer gives written notice of the order to employees, the Employment Development Department, the Local Workforce Investment Board, and the chief elected official of each city and county government within which the termination, relocation, or mass layoff occurs. (Labor Code §1400, *et seq.*)
- 2) Specifies that Cal-WARN requirements apply to a “covered establishment” that employs or has employed in the preceding 12 months, *75 or more full time and part-time employees*. As under the federal WARN, employees must have been employed for at least 6 months of the 12 months preceding the date of the required notice in order to be counted. Additionally, requires employers to include in the notice, elements required by the federal WARN. (Labor Code §1400.5 and §1401.)
- 3) Makes employers who fail to give notice as required by Cal-WARN subject to a civil penalty of \$500 a day for each day of the employer’s violation, as specified. Additionally, entitles employees to the following:
  - a) Receive back pay to be paid at employee’s final rate or 3 year average rate of compensation, whichever is higher;
  - b) Cost of any medical expenses incurred by employees that would have been covered under an employee benefit plan.  
(Labor Code §1402.)
- 4) Authorizes a person, including a local government or an employee representative, seeking to establish liability against an employer for violations of Cal-WARN to bring a civil action on behalf of the person, other persons similarly situated, or both, in any court of competent jurisdiction. Additionally, permits a court to award reasonable attorney’s fees as part of costs to any plaintiff who prevails in a civil action. (Labor Code §1404.)
- 5) Establishes grocery worker retention provisions requiring an incumbent (buyer) of an existing grocery establishment to retain employees for a *90-day transition period* during which an employee may only be discharged for cause, as specified, and considered for continued employment at the end of the transition period. (Labor Code §2500-2522.)
- 6) Requires the incumbent grocery employer to post a public notice of the change in control at the location of the affected grocery establishment within five business days following the execution of the transfer document. Notice shall remain posted during any closure of the grocery establishment and until the grocery establishment

is fully operational and open to the public under the successor grocery employer. (Labor Code §2508.)

- 7) Requires the above notice to include, but not be limited to, the name and contact information of the incumbent and successor grocery employers, and the effective date of the change in control and requires that the notice be posted in a conspicuous place at the establishment where it can be readily viewed by both employees and customers. (Labor Code §2508.)
- 8) Defines “grocery establishment” to mean a retail store in this state that is over 15,000 square feet in size and that sells primarily household foodstuffs for offsite consumption, including the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods. Other household supplies or other products shall be secondary to the primary purpose of food sales. A distribution center owned and operated by a grocery establishment and used primarily to distribute goods to or from its owned stores shall be considered a grocery establishment, regardless of its square footage. A grocery establishment does not include a retail store that has ceased operations for 12 months or more. (Labor Code §2502.)
- 9) Authorizes an aggrieved employee of a grocery establishment or their representative, as specified, to bring an action for violations of the above-described change of control provisions to recover, among other awards, reasonable attorney’s fees and costs, if specified requirements are met, including that the employee provided written notice to the employer of the violations, as specified. (Labor Code §2510.)
- 10) Authorizes a civil penalty not to exceed \$100 against, among other specified entities, the grocery employer for each employee whose rights are violated under those provisions. Existing law also authorizes an additional amount of \$100 per employee payable as liquidated damages for each day of the violation until the violation is cured, as specified, and authorizes that amount to be recovered by the Labor Commissioner, as specified, and paid to the employee as compensatory damages. (Labor Code §2510.)
- 11) Under the Pharmacy Law, provides for the licensure and regulation of pharmacies by the California State Board of Pharmacy (Board) and authorizes a pharmacy to furnish prescription drugs only to certain entities, including specific health care entities, and individual patients or another pharmacy either pursuant to a prescription or as otherwise authorized by law. (Business and Professions Code §4000 *et seq.*)
- 12) Defines “pharmacy” to mean an area, place, or premises licensed by the Board in which the profession of pharmacy is practiced and where prescriptions are compounded. “Pharmacy” includes, but is not limited to, any area, place, or

premises described in a license issued by the Board wherein controlled substances, dangerous drugs, or dangerous devices are stored, possessed, prepared, manufactured, derived, compounded, or repackaged, and from which the controlled substances, dangerous drugs, or dangerous devices are furnished, sold, or dispensed at retail. (Business and Professions Code §4037.)

This bill:

- 1) Makes findings and declarations relating to the provisions in the bill. These include that: a) White neighborhoods on average have four times as many supermarkets as predominantly African American communities, which typically are smaller and have less of a selection than White neighborhoods. b) Black and Latino neighborhoods in the 30 most populous American cities have fewer pharmacies than White or diverse neighborhoods. c) “Pharmacy deserts,” which are similar to “food deserts,” are an often overlooked contributor to persistent racial and ethnic health disparities. d) In order to remedy the harms from abrupt disruptions in access to food, prescriptions, and other household goods, the California Reparations Task Force recommends requiring advance notifications to the affected community, employees, and other stakeholders before the closure of a grocery store or pharmacy to ensure that community members are able to locate healthy and affordable food in the surrounding community and that employees are equipped with the resources necessary to gain employment elsewhere.
- 2) Defines the following for purposes of this bill:
  - “Covered establishment” includes a grocery establishment or a pharmacy establishment.
  - “Grocery establishment” means a retail store operating in this state that meets both of the following requirements: the retail store sells primarily household foodstuffs for offsite consumption, including, but not limited to, the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods; and the sale of any other household supplies or other products by the retail store is secondary to the primary purpose of food sales.
  - “Pharmacy establishment” means a pharmacy as defined in Section 4037 of the Business and Professions Code that meets both of the following requirements: the pharmacy is a chain or independent pharmacy as defined in Business and Professions Code Section 4001; and the pharmacy is open to the public.
  - “Closure” means the cessation or substantial cessation of industrial or commercial operations by a covered establishment.
- 3) Requires a covered establishment to satisfy specified requirements no later than 60 days before its closure, as defined, takes effect, including providing written notice of the closure to specified entities, including the employees of the covered establishment affected by the closure and their authorized representatives if the covered establishment employs more than 5 employees.

- 4) A covered establishment that employs five or fewer employees shall, no later than 30 days before a closure of the covered establishment takes effect, provide written notice of the closure to the employees of the covered establishment affected by the closure.
- 5) A covered establishment shall, no later than 60 days before a closure of the covered establishment takes effect, provide written notice of the closure to all of the following persons or entities: The Employment Development Department; the State Department of Social Services; the local workforce development board of any city and county government within which the covered establishment is located; the chief elected official of each city and county government within which the covered establishment is located; the local human services departments of each county government within which the covered establishment is located.
- 6) A covered establishment shall, no later than 60 days before a closure of the covered establishment takes effect, post a written notice of the closure in a conspicuous location at the entrance to the covered establishment's premises that includes: the planned closure date of the covered establishment; and the reasons for the closure of the covered establishment.
- 7) If the covered establishment is a pharmacy establishment, the 60 day written notice of closure shall also include: the name, address, and contact information of the pharmacy establishment where any prescriptions will be transferred; and information regarding the process of transferring the prescription to a pharmacy establishment of the consumer's choosing.
- 8) A covered establishment shall, no later than 60 days before a closure of the covered establishment takes effect, provide a written notice of the closure in any form in which the covered establishment regularly communicates or advertises to its customers, including, but not limited to, text message, email, or advertisements of general circulation.
- 9) Provides that except as otherwise required under section 1401 of the Labor Code or any other provision of the law, a covered establishment shall not be required to provide notice pursuant to this bill if either of the following circumstances applies: a closure is necessitated by a physical calamity or act of war; or the closure is caused by business circumstance that were not reasonably foreseeable as of the time that notice would have been required.
- 10) Authorizes a civil penalty not to exceed \$10,000 for each closure to be assessed and collected in a civil action against a covered establishment that violates the above-described written notice provisions brought by specified persons or entities, including any person injured by the violation, except as specified.

- 11) Authorizes the court, in assessing the amount of the civil penalty, to consider relevant circumstances, including the nature and severity of the misconduct, and requires the court to award a prevailing plaintiff reasonable attorneys' fees and costs.
- 12) Requires, if the action is pursued by specified entities, including the Attorney General, that specified portions of the civil penalty collected be paid to, among other specified sources, the treasurer of the county in which the judgment was entered.
- 13) Entitles an employee that does not receive the written notice to recover in a civil action an additional sum of \$100 payable as liquidated damages per employee for each day of the violation until the violation is cured.
- 14) Specifies that these provisions do not preempt or alter any other rights or remedies, including any causes of action, available under any other federal or state law.
- 15) Provides that notwithstanding any other provision in this bill, a person shall have no right to bring a private cause of action against a covered establishment for a violation of the requirement (described in 8), above) that a covered establishment shall, no later than 60 days before a closure of the covered establishment takes effect, provide a written notice of the closure in any form in which the covered establishment regularly communicates or advertises to its customers, including, but not limited to, text message, email, or advertisements of general circulation.
- 16) Requires a county, after receiving a written notice described above from any covered establishment, to provide the covered establishment with information about safety net programs, including the CalWORKs program, and requires a local workforce development board to provide the covered establishment with information about the availability of local workforce training services.
- 17) Requires the covered establishment, no later than 30 days before its closure, to provide any of that information it receives (pursuant to 16), above) to each of its employees.
- 18) Requires, after receiving a written notice described above from a grocery establishment, that the State Department of Social Services post on its internet website for the electronic benefits transfer system, established pursuant to Section 10071 of the Welfare and Institutions Code, that lists the stores that accept the CalFresh program's benefits information stating that the grocery establishment is closing and the closure date.
- 19) Requires that each county that receives a written notice described in this bill shall track and monitor all of the following: any grocery establishment closures in its jurisdiction; identify any trends in grocery establishment closures; and address

reasons for the closures if finding suggest the possible need for intervention by the county.

### COMMENTS

#### 1. Need for the bill

According to the author:

In June 2023, the Task Force to study and Develop Reparation Proposals for African Americans issued its final report to the California Legislature. As part of the policy proposals to address mental and physical harm or neglect (Chapter 29), the Task Force recommended a slate of measures to remedy the harms of food injustice – which disproportionately effects Black communities. More specifically, the report calls on the legislature to require advanced notification of closures to the affected communities and employees.

Black and brown communities are at higher risk of food insecurity due to a lack of supermarkets and limited selection. Even further, Black and Latino neighborhoods in the 30 most populous U.S. cities have fewer pharmacies than white or diverse neighborhoods. These so-called pharmacy deserts – like food deserts – are an often overlooked contributor to persistent racial and ethnic health disparities. When pharmacies close, prescriptions are sold to another pharmacy establishment often without any notice to the consumer and without any opportunity for the consumer to choose an alternative pharmacy which may be more convenient, or affordable for them.

Not only are unexpected store closures harmful for families who struggle with food insecurity, they can also be detrimental to the employees who work in these stores and are often residents of the community as well. These workers may be impacted not only by a disruption in employment and financial security, but may also find themselves at greater risk of food insecurity.

By implementing parts of the legislative recommendations made in the Reparations Task Force Report, SB 1089 would begin to remedy some of the harms of abrupt closures. When it comes to access to resources like food and medicine, local communities must be informed. These advanced notifications provide vulnerable communities the opportunity to make a plan to access some of their most basic necessities – food and medications, and in some cases organize to slow or prevent closures altogether.

The Senate Labor, Public Employee and Retirement Committee analysis of this bill describes the following regarding pharmacy store closures:

[ . . . ] Pharmacy establishment closures also appear to be on the rise. On April 10, 2024, Rite Aid announced the closure of 53 stores, including 18 in California, adding to the nearly 200 it has already shut down since filing for bankruptcy last year.<sup>1</sup> CVS has also closed many of its pharmacies throughout the country, including dozens in California located inside Target as well as CVS MinuteClinics throughout the Los Angeles area.<sup>2</sup> As noted in the Reparations Task Force Report, highlighted above, racism and housing segregation has created a lack of access to high-quality primary and specialty care as well as lack of access to pharmacy services. Pharmacy closures only make these health disparities worse.

## 2. Obligation under CalWARN to give workers 60 day notice when the establishment they work at will close

CalWARN prohibits specified employers from ordering a mass layoff, relocation, or termination at a covered establishment unless, 60 days before the order takes effect, the employer gives written notice of the order to the employees of the covered establishment affected by the order and to the Employment Development Department, the local workforce investment board, and the chief elected official of each city and county government within which the termination, relocation, or mass layoff occurs. An employer is not required to provide notice if a mass layoff, relocation, or termination is necessitated by a physical calamity or act of war. Additionally, an employer is not required to comply with the notice requirement if the employer was actively seeking capital or business, at the time the notice would have been required.

The Cal-WARN Act protects and supports workers during company closures and layoffs. Advance notice provides workers time to prepare for unemployment, look for a job, seek training, and prepare financially. The notice also prepares communities and local and state government for the loss of jobs and economic activity in the area. Under Cal-WARN, employers who fail to appropriately notice their employees or the required agencies are subject to penalties, including back pay for each employee, and the value of benefits that the employee would have been entitled to. A failure to sufficiently notice the appropriate agency exposes the employer to a civil penalty of \$500 per day of the violation. The requirements under this bill are in addition to the requirements pursuant to Cal-WARN and the federal WARN Act that are both detailed in the existing law section of this analysis.

## 3. Requirements in the bill

In this bill the Legislature makes various findings and declarations to support the need for the bill and specifies that the California Reparations Task Force recommends

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<sup>1</sup> Langenfeld, D. & Bink, A. (April 10, 2024) Rite Aid announces more store closures, including 18 in California. *KTLA 5*. <https://ktla.com/news/california/rite-aid-announces-more-store-closures-including-18-in-california/>

<sup>2</sup> <https://www.latimes.com/business/story/2024-01-31/cvs-to-close-25-minuteclinics-los-angeles-area>  
<https://www.ocregister.com/2024/01/12/cvs-closing-dozens-of-pharmacies-inside-target-by-april/>

requiring advance notifications to the affected community, employees, and other stakeholders before the closure of a grocery store or pharmacy to ensure that community members are able to locate healthy and affordable food in the surrounding community and that employees are equipped with the resources necessary to gain employment elsewhere.

The bill specifies that the provisions of the bill apply to “covered establishments” which include grocery establishments and pharmacy establishments, as defined. The bill defines “closure” to mean the cessation or substantial cessation of industrial or commercial operations by a covered establishment. The bill requires a covered establishment to satisfy specified requirements no later than 60 days before its closure, as defined, takes effect, including providing written notice of the closure to specified entities, including the employees of the covered establishment affected by the closure and their authorized representatives if the covered establishment employs more than 5 employees. A covered establishment that employs five or fewer employees shall, no later than 30 days before a closure of the covered establishment takes effect, provide written notice of the closure to the employees of the covered establishment affected by the closure.

A covered establishment is obligated to, no later than 60 days before a closure of the covered establishment takes effect, provide written notice of the closure to all of the following persons or entities: The Employment Development Department; the State Department of Social Services; the local workforce development board of any city and county government within which the covered establishment is located; the chief elected official of each city and county government within which the covered establishment is located; and the local human services departments of each county government within which the covered establishment is located.

A covered establishment must also, no later than 60 days before a closure of the covered establishment takes effect, post a written notice of the closure in a conspicuous location at the entrance to the covered establishment’s premises that includes: the planned closure date of the covered establishment; and the reasons for the closure of the covered establishment. If the covered establishment is a pharmacy establishment, the 60 day written notice of closure shall also include: the name, address, and contact information of the pharmacy establishment where any prescriptions will be transferred; and information regarding the process of transferring the prescription to a pharmacy establishment of the consumer’s choosing.

A covered establishment shall, no later than 60 days before a closure of the covered establishment takes effect, provide a written notice of the closure in any form in which the covered establishment regularly communicates or advertises to its customers, including, but not limited to, text message, email, or advertisements of general circulation. A violation of this provision is not subject to a private right of action.

The bill provides that except as otherwise required under section 1401 of the Labor Code or any other provision of the law, a covered establishment shall not be required to provide notice pursuant to this bill if either of the following circumstances applies: a closure is necessitated by a physical calamity or act of war; or the closure is caused by business circumstance that were not reasonably foreseeable as of the time that notice would have been required.

The bill requires that after receiving a written notice, described above, from a covered establishment, the county in which that covered establishment is located shall provide the covered establishment with information about safety net programs, including, but not limited to, unemployment insurance, the CalWORKs program, the CalFresh program, and the Medi-Cal program. The local workforce development board of the county in which that covered establishment is located is required to provide the covered establishment with information about the availability of local workforce training services. Additionally, the covered establishment shall, no later than 30 days before a closure of the covered establishment takes effect, provide any information that it receives from the county and local workforce development board to each employee of the covered establishment. Each county that receives a written notice, described above, shall track and monitor any grocery establishment closures in its jurisdiction, identify any trends in grocery establishment closures, and address reasons for the closures if findings suggest the possible need for intervention by the county.

#### 4. Enforcement mechanism

The bill specifies that provisions of this bill do not preempt or alter any other rights or remedies, including any causes of action, available under any other federal or state law. A covered establishment that violates the provisions of the bill is subject to a civil penalty not to exceed \$10,000 for each closure, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney where the covered establishment was located. The bill requires that a court, in assessing the amount of the civil penalty, may consider relevant circumstances presented by the parties to the case, including, but not limited to, the following circumstances: the nature and severity of the misconduct; the number of violations; the length of time over which the misconduct occurred, and the persistence of the misconduct; the willfulness of the misconduct; and the defendant's assets, liabilities, and net worth. If the Attorney General brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half shall be paid to the General Fund. If a district attorney brings the action, the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If a city attorney brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half shall be paid to the treasurer of the county in which the judgment was entered. An employee that does not receive written notice by a covered establishment in violation of this bill is entitled to recover in a civil action an additional sum payable as

liquidated damages in the amount of \$100 per employee for each day the rights of an employee under this bill are violated and continuing until the violation is cured. The bill also requires a court to grant a prevailing plaintiff reasonable attorneys' fees and costs.

## 5. Support

A coalition of supporters of the bill write the following:

One of the harms facing African American communities in California is the lack of access to grocery stores, supermarkets, and pharmacies. [ . . . ] When a pharmacy establishment closes, prescriptions are often sold to another pharmacy establishment without any notice to the consumer and without any opportunity for the consumer to choose an alternative pharmacy establishment which may be more convenient, affordable, or accessible for them. Grocery store and pharmacy closures are especially harmful for the employees who work in these stores and who are often residents of the community as well.

These workers will experience both a disruption in food security *and* financial security. [ . . . ] In order to remedy the harms from abrupt grocery and pharmacy closures, SB 1089 will require grocery and pharmacy establishments to provide 90 days' notice before the closure takes effect. Specifically, the establishments must provide notice to the impacted employees, the Employment Development Department (EDD), the California Department of Social Services, the local workforce investment board, local human services departments, and the city and county within which the closure occurs. Additionally, the establishment must provide notice to the community by posting a notice of closure in a conspicuous place at the entrance to the premises and in any other form in which the establishment communicates or advertises to its customers.

[ . . . ] For closure of a pharmacy establishment, the pharmacy must provide the name and contact information of the pharmacy where any prescriptions will be transferred to and information on how to transfer the prescription to a pharmacy of the consumer's choosing. Additionally, SB 1089 will require the State Department of Social Services to post online a list of stores that accept CalFresh benefits, information stating that the grocery establishment will be closing and the closing date. The bill also requires the county to provide the closing establishment with information about safety net programs, including Unemployment Insurance, CalWORKs, CalFresh, and Medi-Cal, and requires the local workforce development board to provide the establishment with information about the availability of local workforce training services. SB 1089 establishes a critically important framework that will help mitigate the harms of abrupt grocery and pharmacy closures, especially in underserved neighborhoods.

6. Opposition

The California Chamber of Commerce, California Community Pharmacy Coalition, California Grocers Association, and California Retailers Association write the following in opposition to this bill:

While we appreciate the intent of the bill to ensure impacted employees and communities are aware of impending grocery store and pharmacy closures, SB 1089 will result in a number of unintended consequences that could put Californians at risk. First, 90-days' advance notification would be unfeasible in many situations and could lead to unmanned, or at the very least understaffed, pharmacies and grocery stores. California already imposes stringent staffing restrictions on California pharmacies, allowing pharmacists to supervise only one pharmacy technician at any given time in most circumstances. This bill could exacerbate this already difficult situation and place unnecessary pressure on pharmacy employees. In addition, the 90-day advance notice requirement will greatly reduce employee and prescription retention. Our member companies already work closely with impacted employees to place them in other stores or comparable positions when a pharmacy closes.

Beyond the workload and access risks associated with SB 1089, we have concerns with the bill's onerous reporting requirements. As currently drafted, grocery stores and pharmacies would be required to provide 90-days' written notice to all affected employees, the Employment Development Department, the Department of Social Services, the local workforce development board, the chief local elected officials, the county human services departments, and all of their customers. Rather than preparing and submitting multiple, duplicate written notices, pharmacies and grocery stores should be allowed to provide one notice to its employees and specified government entities that fulfills both the requirements of this bill and the Worker Adjustment and Retraining Notification (WARN) Act, which is an existing law that requires most large employers to provide 60-days' notice prior to closures.

Further, mandating grocery stores and pharmacies to provide the required notice to its customer base would be a tremendous undertaking. Worse, the bill appears to give standing to a citizen to bring a civil action for penalties if they believe that the store did not effectively communicate to the community about the closure. This would have catastrophic consequences with costly litigation.

Finally, the bill lacks clarity with respect to certain terms and definitions. "Cessation" and "substantial cessation" are not defined which is problematic as there should be some exception for temporary closures due to fire, casualty, or other unexpected circumstances. The advertisement notice requirements are also overly broad, and the definition of "written notice" as used throughout the bill is concerning [ . . . ].

**SUPPORT**

Alchemist CDC  
Alliance for Reparations, Reconciliation, and Truth  
Black Equity Collective  
CA4Health  
California Black Power Network  
California Coalition for Worker Power  
California Food and Farming Network  
California Federation of Teachers  
California Labor Federation, AFL-CIO  
California Reparations Task Force (three members)  
Catalyst California  
Ceres Community Project  
CFT  
Courage California  
Equal Justice Society  
Friends Committee on Legislation of California  
Fund Her  
GRACE/End Child Poverty California  
Live Free California  
Marin Food Policy Council  
Nourish California  
Pesticide Action Network North America  
The Praxis Project  
Rising Communities  
Roots of Change  
Sacramento Food Policy Council  
Santa Monica Democratic Club  
SEIU California State Council  
United Food and Commercial Workers, Western States Council  
UNITE-HERE, AFL-CIO  
Veggielution  
Voices for Progress  
Western Center on Law and Poverty  
Two individuals

**OPPOSITION**

California Chamber of Commerce  
California Community Pharmacy Coalition  
California Grocers Association  
California Retailers Association

## RELATED LEGISLATION

Pending Legislation: None Known.

Prior Legislation:

SB 627 (Smallwood-Cuevas, 2023) would have established the Displaced Worker Retention and Transfer Rights Act to, among other things: require a chain employer, as defined, to provide workers and their exclusive representative, if any, a displacement notice at least 60 days before the expected date of closure of a covered establishment; require a chain employer to provide workers the opportunity to transfer to a location of the chain within 25 miles of the closing establishment; and require chain employers to maintain a preferential transfer list and make job offers based on length of service. The bill was vetoed by Governor Gavin Newsom.

AB 647 (Holden, Ch. 452, Stats. 2023) strengthened the existing recall and retention protections for grocery workers under the Grocery Worker Retention Law by, among other things: (1) adding an enforcement mechanism to hold the employer accountable for violations; (2) including distribution centers that meet specified requirements within the definition of “grocery establishment”; and (3) exempting incumbent and successor grocery employers whose sum of employees is less than 300 nationwide, as specified.

AB 853 (Maienschein, Ch. 457, Stats. 2023) prohibited a person from acquiring any voting securities or assets of a retail grocery firm or retail drug firm, as those terms are defined, unless specified written notice is given to the Attorney General at least 180 days before the acquisition is to become effective. The bill specified information required to be included in the notice, including information required to assess the competitive effects of the proposed acquisition and to assess the economic and community impact of any planned divestiture or store closures, including, but not limited to, the impact on food deserts.

AB 1356 (Haney, 2023) among other things, would have revised the Cal-WARN provisions to include a “client employer” of a “labor contractor” in the definition of “employer” and would have increased from 60 to 90 days the length of notice an employer must provide to employees prior to terminations, relocations, or mass layoffs. The bill was vetoed by Governor Gavin Newsom.

AB 889 (Gipson, 2021) would have required grocery establishments, as soon as possible, but no later than 60 or 180 days depending on the size of the establishment, to provide written notice to the California Department of Social Services (CDSS), the city and county in which the establishment is located, and the local workforce development board of a planned closure; requires the notice include specific information about the closure plan; requires a county to provide information to the grocery establishment about the availability of public social services benefits; and, requires CDSS to include

closure information in its internet website, among other requirements. This bill was gut and amended when it arrived in the Senate into an issue dealing with landlords.

**PRIOR VOTES**

(Senate Labor, Public Employment and Retirement Committee (Ayes 4, Noes 0))

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