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Dear Co-Chairs Dunnigan and Moore, Vice Chairs Carter and Meredith, and Members of the Committee:

On behalf of the National Association of Convenience Stores (NACS), we write to express our concerns about the proposed resolution, "Supporting Price Transparency, Consumer Privacy, and Fairness in the Grocery Retail Marketplace," that is scheduled for consideration by NCSL's Banking, Financial Services and Insurance Standing Committee on Monday, July 27.

We agree with the committee that lawmakers and the business community should collectively work toward developing public policy that bolsters consumer protection and safeguards data privacy. We also recognize that emerging technologies can, at times, present challenges to those same ideals. However, the proposed resolution seems to group a wide variety of very different emerging technologies together under one umbrella and deem them as a collective threat to consumers.

Main Street businesses, including convenience stores, compete on price every day. Policymakers should not harm the many popular discounts, loyalty programs, and reward incentives that consumer-facing businesses use to compete. Our members are focused on maintaining the lowest prices possible – they are not utilizing personal information to set unique prices for each customer. New federal or state restrictions only make it more difficult for merchants to lower prices, compete, and deliver savings to consumers at a time when affordability is a top concern across the nation.

Additionally, aside from our members' very public and electronically posted fuel prices, the increasing use of electronic shelf labels (ESLs) inside their stores provide consumers with greater accuracy, ensuring that the price seen on the shelf is correct and reflects what they expect to pay at checkout. Moreover, ESLs do not include built-in cameras, do not collect biometric information, and do not engage in or facilitate individualized pricing. To conflate a simple price-display tool with invasive technology that leverages personal data to increase prices for certain customers is a mistake.

Every state already has strict laws on the books addressing data privacy and security, consumer protection, and unfair and deceptive trade practices. But this resolution does not address what states are already doing or prescribe what they should be doing in this space. Instead, it calls for the federal government to intervene, but provides no specific policy recommendations for doing so. NCSL has a long and proud tradition of defending state sovereignty and opposing unnecessary federal preemption. This resolution is in direct contradiction to those principles and calls for federal intrusion not only into this broad policy space, but literally into our stores themselves. That is not in the best interests of the states, nor of the NCSL.

Policymakers should target unlawful conduct where it exists—not impose sweeping new restrictions that would eliminate discounting and undermine affordability. As such, we respectfully urge the committee to reject this resolution as drafted. The measure not only appears to vilify numerous and disparate emerging technologies in the retail space, but it also unfairly and specifically targets grocery and food retail businesses and ultimately serves to undermine the longstanding mission of the NCSL and its protection of state sovereignty. We welcome the opportunity to discuss this issue further and share any additional information you may need.

Sincerely,

Jon Taets
Director, Government Relations
NACS