



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Gregory Slater
Secretary

March 4, 2021

The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee
2 West Miller Senate Office Building
Annapolis Maryland 21401

Re: Letter of Information – Senate Bill 765 – Minority Business Enterprises – Sexual and Gender Minorities (Imari’s Business Pride Act)

Dear Chair Pinsky and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on Senate Bill 765 but offers the following information for the Committee’s consideration.

The Maryland General Assembly established the State’s Minority Business Enterprise (MBE) Program in 1978. When deliberating on the Program, the General Assembly considers Disparity Studies in the utilization of minority and woman-owned firms in Maryland’s marketplace. Findings of the Disparity Study assess data on the existence, extent, and impact of discrimination, if any, against minority and woman-owned firms on contracting opportunities within the public and private sectors in and around the State.

The Equal Protection Clause of the U.S. Constitution requires that programs like the MBE Program, which uses racial classifications, pass the judicial test of strict scrutiny by having a compelling governmental interest, supportive data of discrimination, and be narrowly tailored to address the compelling interest. Every aspect of the implementation of the MBE program, including State statutory and regulatory requirements, is controlled by the evidence contained in the State’s Disparity Study. Thus, before classes of individuals can be added to the MBE Program, constitutional requirements call for a formal assessment in the means of the State’s Disparity Study. MDOT is committed to its role as the State’s MBE certifying agency and strives to ensure that all underrepresented classes of individuals are properly represented in the program.

The Maryland Department of Transportation respectfully requests the Committee consider this information when deliberating Senate Bill 765.

Respectfully submitted,

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Maryland Department of Transportation
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