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February 18, 2021

**TO:** The Honorable Delores G. Kelley  
Chair, Finance Committee

**FROM:** Hannibal G. Williams II Kemerer  
Chief Counsel, Legislative Affairs, The Office of the Attorney General

**RE:** SB 502 – Labor and Employment – Maryland Wage and Hour Law – Agricultural Stands, Retail Farms, and Farmers’ Markets – **Letter of Opposition**

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The Office of Attorney General (the “OAG”) urges this Committee to unfavorably report SB 502.

Senate Bill 502 seeks to amend Section 3-403 of the Maryland Labor and Employment Article. This legislation is designed to exempt from the State’s minimum wage laws *all employees* “employed at an agricultural stand that primarily sells at retail perishable or seasonal fresh fruits, vegetables, or horticultural commodities that the employer produced.”

We believe there are more than adequate exemptions from the State minimum wage under existing law. Under State law, the following categories of workers are already exempted from the minimum wage:

- Non-administrative employees at an organized camp, including a resident or day camp;
- Part-time (less than 20 hours per week) employees under the age of 16;
- Outside salesman;
- Individuals compensated on commission;
- Immediate family members (e.g. child, parent, spouse, etc.) of the employer;
- Drive-in theater workers;
- Special education program employees under a public school system;
- Workers involved in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, or horticultural commodities, poultry, or seafood;

- Volunteers supporting the activities of a charitable, educational, nonprofit or religious organization if the service is provided gratuitously and there's no employer-employee relationship;
- Agriculture employees if, during each quarter of the preceding calendar year, the employer used no more than 500 agricultural—worker days;
- Livestock range production workers;
- Hand-harvest laborers paid on piece-rate basis if they commute daily from a residence to the farm and were agricultural workers less than 13 weeks of the preceding calendar year, or are under 17, employed with a parent or guardian, and are paid at the same rate that an employee who is at least 17 years old is paid on the same farm.

It is difficult to conceive of anyone who does not fall in one of the foregoing exemptions and yet actually works at an agricultural stand. However, such workers—toiling in the outdoors for many hours a day—certainly deserve to earn at least \$11.75 per hour.

For the foregoing reasons, the Office of the Attorney General urges an unfavorable report on SB 502.

cc: Members of the Finance Committee  
Senator Mary Beth Carozza  
Senator Jason C. Gallion  
Senator Douglas J.J. Peters  
Senator Christ West  
Senator Justin Ready