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To: The Honorable Delores Kelley, Chair
Finance Committee

From: Steven M. Sakamoto-Wengel
Shelly Marie Martin
Assistant Attorneys General

**Re: Senate Bill 565 – Public Safety – Emergency Management – Price Gouging
Consumer Protections (SUPPORT)**

We are writing to express the support of the Consumer Protection Division of the Office of the Attorney General for Senate Bill 565, sponsored by Senator Lam. Currently, 31 states and the District of Columbia have some form of price gouging law, including neighboring states Delaware, Pennsylvania, Virginia and West Virginia. However, when the Consumer Protection Division receives complaints from Maryland residents about price gouging during the pandemic or following a storm or other emergency, we are unable to assist them because Maryland does not have a law against price gouging. The Division received 736 price gouging complaints in 2020 and 107 in 2021.

During the pandemic, the General Assembly gave the Consumer Protection Division temporary authority to address price gouging, however, that authority has since expired. Chapters 13 and 14 (2020). The Division received hundreds of complaints about price gouging on essential goods like food and cleaning supplies. Although not required by the law, the Division established an informal process to address the complaints received that allowed the retailers to respond to the price gouging allegations. The informal process allowed the substantial majority of complaints to be resolved without the need for enforcement action by the Division. The emergency price gouging authority, however, applied only to price increases charged by the retailer of the good or service. It did not apply to manufacturers, wholesalers, or others further back in the supply chain. The result of this limitation was that while in many cases, complainants were correct that the prices of goods had increased, the end retailer had itself experienced increased costs and the Division lacked the authority to take action against the person who actually engaged in

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price gouging. By comparison, SB 565 would allow a business that has incurred damages as a result of a violation to bring an action against the violator.

Senate Bill 565 would apply only during a State of Emergency and would prohibit any business,¹ not just retailers, from raising their prices for what are considered essential goods and services by more than 10% above what they charged immediately before the State of Emergency, which is consistent with the threshold in most states that use a numerical standard. The Division believes that using an objective standard like 10% makes application of the statute clearer for businesses subject to the law as opposed to a vague standard such as “unconscionable” or “excessive.” Additionally, Senate Bill 565 allows a business to raise its prices by more than 10% if the business’ costs rose by more than 10%. Additionally, SB 565 requires the Consumer Protection Division to provide a business with 20 days’ notice prior to filing an enforcement action to allow the business to document that its price increases were due to increased costs, which is similar to the voluntary process described above.

Accordingly, the Consumer Protection Division requests that the Finance Committee provide Maryland consumers with the same protection against price gouging during a State of Emergency that they briefly had during the pandemic and that consumers currently have in 31 states and the District of Columbia by giving Senate Bill 565 a favorable report.

cc: Members, Senate Finance Committee
The Honorable Clarence Lam

¹ The Division has received inquiries as to whether Senate Bill 565 would apply to regulated businesses whose prices are approved by their primary regulators. The Division does not believe such approved price increases would constitute price gouging for purposes of SB 565.