## SB0542 Consumer Protection Against Price Gouging F Uploaded by: Cecilia Plante

Position: FAV



#### **TESTIMONY For SB0542**

### Public Safety - Emergency Management - Consumer Protections Against Price Gouging

**Bill Sponsor:** President **Committee:** Finance

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

**Position: FAVORABLE** 

I am submitting this testimony in favor of SB0542 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Now that we all have experience with being price-gouged and looking on with horror as gas prices soared and fossil fuel companies recorded record profits when people were suffering and dying, it's past time to set boundaries. In every emergency in the past, fossil fuel companies have artificially increased their prices and caused panic and bankruptcy among low- and moderate- income residents, and pocketed billions in earnings.

This bill would prohibit that practice and would also ensure that other providers of essential goods and services would not follow suit. It is a testament to how much people are suffering that we have to declare an emergency, but having companies profit off that suffering is inexcusable.

We could only ask for jail time as part of the penalties for this kind of greed and apathy towards suffering, but that would be difficult to achieve. So, we will simply applaud the President for bringing this bill forward.

We strongly support this bill and recommend a **FAVORABLE** report in committee.

## **testimony2023sb542.pdf**Uploaded by: Franz Schneiderman Position: FAV





13900 Laurel Lakes Avenue, Suite 100 Laurel, MD 20707

#### Testimony to the Senate Finance Committee SB 542 – Public Safety – Emergency Management – Consumer Protections Against Price Gouging Position: Favorable

The Honorable Melony Griffith Senate Finance Committee 3 East, Miller Senate Building Annapolis, MD 21401 cc: Members, Senate Finance Committee March 2, 2022

#### Honorable Chair Griffith and Members of the Committee:

I'm a consumer advocate and Executive Director of Consumer Auto, a non-profit group that works to foster safety, transparency, and fair treatment for Maryland drivers, car buyers, and consumers.

Consumer Auto supports **SB 542** because it will give drivers and other consumers some protection against the kind of price-gouging we saw during the early months of the Covid pandemic – and which have regularly seen when an emergency condition strongly impacts the pricing of basic commodities in our area.

In the early months of the pandemic in 2020, consumers suffered from sharp – and sometimes predatory – run-ups in prices for basic good and pandemic necessities like hand sanitizer, cleaning supplies and toilet paper. The Attorney General's Office received hundreds of complaints about such practices, counting 736 price-gouging complaints in 2020 and 107 in 2021. After the legislature acted to grant it emergency authority to do so, the Attorney General's Office acted to protect consumers by warning more than 100 businesses to stop price-gouging.

Reports of price gouging were also widespread following the cyber-attack on the Colonial Pipeline in June 2021, after the disruptions caused by Superstorm Sandy in Oct. 2012, and when gas prices soared after Hurricane Katrina hit the Gulf Coast in August 2005, among other cases.

Yet while at least 31 other states (and the District of Columbia) have laws limiting price gouging in an emergency situation, Maryland still does not. And since the emergency authority to limit price gouging the legislature authorized in 2020 to address the Covid crisis lapsed after April 30, 2021, Maryland consumers may have few legal protections when the next emergency strikes.

By limiting price hikes for basic goods and services to 10% (in most cases) during and for 90 days after a state of emergency, this legislation would set reasonable limits on predatory pricing practices that can hurt and exploit vulnerable people in times of trouble. It also gives the Attorney General's office the authority to address unfair price spikes not just at the retail level (as the emergency powers granted during the Covid crisis allowed) but up the supply chain to the practices





13900 Laurel Lakes Avenue, Suite 100 Laurel, MD 20707

of manufacturers, wholesalers and other actors whose price-gouging can have dramatic effect on what consumers have to pay.

Now of course there may be circumstances when shortages of labor, materials, transportation or other cost spikes caused by an emergency situation may justify larger price hikes. This legislation does permit larger price hikes in those situations — and mandates that a business will have at least 20 days to respond to a price-gouging complaint and establish that its actions were warranted.

We believe that's a fair and balanced way to protect consumers from exploitive pricing during an emergency situation.

We support SB 542 and ask you to give it a FAVORABLE report.

Sincerely,

Franz Schneiderman Consumer Auto

### SB 542 Price Gouging\_EconAction\_FAV (2023) (2).pdf Uploaded by: Marceline White

Position: FAV



Testimony to the Senate Finance Committee SB 542: Public Safety-Emergency Management-Consumer Protection AgainstPrice Gouging Position: Favorable

March 2, 2023

The Honorable Melony Griffith, Chair Senate Finance Committee 3 East, Miller Senate Office Building Annapolis, Maryland 21401 cc: Members, Senate Finance Matters

Honorable Chair Griffith and Members of the Committee:

Economic Action Maryland (formerly the Maryland Consumer Rights Coalition) is a people-centered movement to expand economic rights, housing justice, and community reinvestment for working families, low-income communities, and communities of color. Economic Action Maryland provides direct assistance today while passing legislation and regulations to create systemic change in the future.

We are writing in support of SB 542 and urge a favorable report.

During the COVID-19 pandemic, our direct service programs received hundreds of calls from low-income and working families who were struggling financially due to layoffs, reduced work-hours, furloughs, and other costs associated with the pandemic. Many were also grappling with the high costs of certain products, services, and commodities that were subject to price-gouging during the pandemic including face masks, PPE, sanitizers, toilet paper and food items. These costs created undue hardship for families that were already struggling financially and psychologically in the midst of an unprecedented crisis.

Unlike 31 other states, Maryland does not have a price-gouging law. The Attorney General's temporary authority to address price-gouging has expired but the need for permanent authority to address these issues during emergencies remains.

SB 542 would establish a price-gouging law for Maryland while establishing its use only under a State of Emergency. SB 542 would prohibit sales of essential goods and services to be marked up more than 10% above what they cost prior to the State of Emergency. SB 542 would extend to both



retailers and wholesalers and any business and would also include repair or reconstruction services after a state of emergency.

SB 542 establishes exceptions to the 10% cap and makes a violation of the legislation a violation of the Maryland Consumer Protection Act.

SB 542 is narrowly tailored and balances critical consumer protection during a State of Emergency with clarity and exceptions for businesses. It is time for Maryland to join 31 other states in providing recourse and redress related to price-gouging during a State of Emergency.

For all these reasons, we support SB 542 and urge a favorable report.

Best.

Marceline White Executive Director

### **SB 542 - Price Gouging - OAG SUPPORT.docx.pdf** Uploaded by: Steven M. Sakamoto-Wengel

Position: FAV

Anthony G. Brown
Attorney General

Candace McLaren Lanham
Chief of Staff

CAROLYN QUATTROCKI
Deputy Attorney General

WILLIAM D. GRUHN

Chief

Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No. (410) 576-6307

Writer's Fax No.

200 Saint Paul Place ♦ Baltimore, Maryland, 21202-2021
Main Office (410) 576-6300 ♦ Main Office Toll Free (888) 743-0023

Consumer Complaints and Inquiries (410) 528-8662 ♦ Health Advocacy Unit/Billing Complaints (410) 528-1840
Health Advocacy Unit Toll Free (877) 261-8807 ♦ Home Builders Division Toll Free (877) 259-4525 ♦ Telephone for Deaf (410) 576-6372
www.marylandattorneygeneral.gov

March 2, 2023

TO: The Honorable Melony Griffith

Chair, Finance Committee

FROM: Steven M. Sakamoto-Wengel

Shelly Marie Martin

Assistant Attorneys General

RE: SB 542 - Public Safety - Emergency Management - Consumer Protections

Against Price Gouging (SUPPORT)

We are writing to express the support of the Office of the Attorney General for Senate Bill 542, which would prohibit businesses from price gouging during a state of emergency. As shown on the attached map, more than 30 states and the District of Columbia have some form of price gouging law, including neighboring states Pennsylvania, Virginia and West Virginia. However, when the Consumer Protection Division receives complaints from Maryland residents about price gouging following a storm or other emergency, we are unable to assist them because Maryland does not have a law against price gouging. As shown in the attached table, the Division received more than 900 price gouging complaints since the beginning of the pandemic from across Maryland.<sup>1</sup>

During the pandemic, the General Assembly gave the Consumer Protection Division temporary authority to address price gouging, but 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

\_

<sup>&</sup>lt;sup>1</sup> The complaints from out of state reflect complaints filed against Maryland businesses.

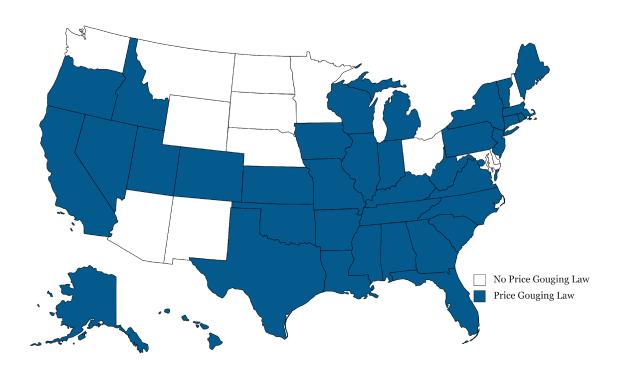
price gouging allegations. The informal process allowed the substantial majority of complaints to be resolved without the need for enforcement action by the Division. The emergency price gouging authority, however, applied only to price increases charged by the retailer of the good or service. It did 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 price gouging. By comparison, Senate Bill 542 would allow a business that has incurred damages as a result of a violation to bring an action against the violator.

Senate Bill 542 would apply only during a State of Emergency and would prohibit any business, 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 542 allows a business to raise its prices by more than 10% if the business' costs rose by more than 10%. Additionally, SB 542 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 consistent with the voluntary process described above.

Senate Bill 542 would provide that businesses could sign up for electronic notice from the Secretary of State that there is a State of Emergency in effect and which goods and services are subject to the prohibition on price gouging. The Attorney General recognizes that the Secretary of State may require additional resources as a result.

For the foregoing reasons, the Office of the Attorney General requests that the Economic Matters 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 more than 30 states and the District of Columbia by giving Senate Bill 542 a favorable report.

cc: Members, Finance Committee



Created with mapchart.net

#### **COMPLAINTS BY COUNTY**

Alabama	2	Washington County	13
Allegany County	7	Wicomico County	8
Anne Arundel County Arkansas	95 1	Worcester County <b>Total</b>	5 025
	131	10tai	925
Baltimore City	_		
Baltimore County California	112 3		
	3	6	
Carolina County		6 3	
Caroline County		3 11	
Carroll County Cecil County	9	11	
Charles County	9	22	
District Of Columbia	22	22	
	4		
Dorchester County Florida	4	10	
Frederick County	22	10	
Garrett County	2		
Georgia	2	1	
Harford County		30	
Howard County	36	30	
Illinois	1		
Kent County	1	3	
Louisiana		1	
Michigan		3	
Montgomery County		122	
New Hampshire	1	122	
New Jersey	1	3	
New York		2	
Ohio		1	
Pennsylvania		10	
Prince George's County	137	10	
Queen Anne's County	8		
Saint Mary's County	O	8	
Somerset County		1	
Talbot County		5	
Tennessee		1	
Texas		4	
Unknown County		43	
Virginia	14	13	
Washington (State)	2		
masimiston (state)	4		

### SB 542\_MDCC\_Consumer Protections Against Price Gou Uploaded by: Andrew Griffin

Position: UNF



#### **LEGISLATIVE POSITION:**

Unfavorable
Senate Bill 542
Public Safety – Emergency Management – Price Gouging Consumer Protections
Senate Finance Committee
Thursday, March 2, 2023

Dear Chairwoman Griffith and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,400 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

SB 542 places in statute a list of goods and services deemed essential for the purpose of preventing a price increase of 10% or greater in those goods or services during a declared state of emergency.

During this period of persistent inflationary pressures, the public has become increasingly aware of the many factors influencing the State's economy and the prices of goods. As introduced, SB 542 fails to account for this variety of factors and therefore eliminates the flexibility needed by business and government to supply goods and services during critical times, The Chamber's items of concern with SB 542 are:

- This legislation fails to recognize the *many* factors influencing the prices of goods and services set by normal market fluctuations like production of goods, supply chain function, inflation, government demand or restrictions, etc. This same thought process applies to the 10% threshold outlined in the legislation. All these factors would determine what is or isn't an appropriate level used to determine price gouging.
- SB 542 lists out specific goods and services considered essential and then leaves up to the Governor the authority to identify more. As learned during the debate surrounding the Essential Workers' Protection Act, this list should be tied to not just the Governor but also made in consultation with federal and state emergency management agencies and experts. We do not support specific goods or services being named in statute.

Targeting and eliminating price gouging during times of uncertainty is a necessary function of government. However, an effective response requires flexibility and targeted enforcement, SB 542 does not provide either. The reporting and enforcement mechanisms deployed during the

Governor's State of Emergency at the height of the COVID-19 pandemic seemed to provide a balanced approach to combating this problem. We would suggest looking at past examples of success when crafting a solution for future problems.

As such, the Maryland Chamber of Commerce respectfully requests an <u>unfavorable report</u> on **SB 542.** 

### **230301-SB542-emrgncy-price-gouging.pdf**Uploaded by: Christine Hunt

Position: UNF

Christine Hunt and Jay Crouthers 1014 Dockser Drive Crownsville, MD 21032

March 1, 2023

Maryland General Assembly Members of the Finance Committee Annapolis, MD

RE: SB 542 - Public Safety - Emergency Management - Consumer Protections Against Price Gouging

Dear Senators,

We oppose SB 542 and respectfully request that you vote against it.

There are those people that will take advantage of others in an emergency situation and raise prices beyond the norm. However, we feel that they are in a small minority and that most business men and women are fair in what they charge – emergency or not.

The problems associated with increased fees for goods and services that some people experienced during the Covid pandemic were unfortunate. But, do they constitute the need for legislation?

In this free-market society there are usually many sources of supplies and contractors to be had, most of which are fair in their pricing, emergency or not. Consumers have the ability to "shop around" and get more than one quote from a contractor and go to another store if they want a better deal.

Does the government know something we do not? Are they expecting more pandemics and emergencies, out of the scope of what we normally experience, in the future?

We feel that this bill is not necessary, adds to more government regulations and an increased burden on the staff of our government.

Please vote against this bill.

Sincerely,

Christine Hunt and Jay Crouthers

# SB542 price gouging.pdf Uploaded by: Kirk McCauley Position: UNF





### WMDA/CAR Service Station and Automotive Repair Association

February 28, 2022

Chair: Melony Griffith

Members of Finance Committee

RE: SB 542 - Consumer Protection Against Price Gouging

Position: Unfavorable

SB 542 has a list of eleven items as essential goods and services.

All the items listed in this bill might not need to be under a declaration in a state of emergency depending on what the emergency is.

Example would be Executive Order declaring a State of Emergency on March 1, 2017, because of heroin and opioid crisis. This bill would have put 11 items in place automatically and same with emergency order for President Bidens inauguration.

A major weather event forecast and the governor declared a state of emergency because of information on hand, and event turns out to be a non-event, some areas of price would still be in place for 90 days

The governor should decide these items as needed and not be influenced by a list of Essential Goods and Services, or a length time after an event has ended. Our current Governor Wes Moore and staff should be the judge of what essential service need to be according to emergency, as would governors to follow.

I represent retail but I do think including wholesale in this bill could interrupt out of state supply chain for goods coming to our retailers in an emergency. My members are sure consumers would rather pay a little more and have a product to sell and consume than not have a product at all.

Please give SB 542 an unfavorable Report

WMDA/CAR is a trade association that has represented service stations, convenience stores and repair shops since 1937. Any questions can be addressed to Kirk McCauley 301-775-0221 or kmccauley@wmda.net

## SB542 - Maryland Motor Truck Association - Oppose. Uploaded by: Louis Campion

Position: UNF



#### **Maryland Motor Truck Association**

9256 Bendix Road, Suite 203, Columbia, MD 21045 Phone: 410-644-4600 Fax: 410-644-2537



**HEARING DATE**: March 1, 2023

BILL NO/TITLE: SB542 – Public Safety – Emergency Management – Consumer Protections Against

**Price Gouging** 

**COMMITTEE:** Senate Finance Committee

POSITION: Oppose

Although Maryland Motor Truck Association appreciates the intent to prevent excessive charges by unscrupulous actors who might take advantage of emergency situations, our organization opposes SB542 due to the complexity of compliance, and multitude of factors that impact charges for transportation services.

Although not specifically designated as "essential goods and services" in the legislation, SB542 includes a provision for "any other goods or services designated as essential by the Governor." During any emergency declaration, transportation is always included as essential because trucks are needed to deliver food, fuel, medicine, and other supplies as part of any relief efforts. The provisions of this bill are virtually impossible for a trucking company to comply with because, during a state of emergency, companies are frequently running irregular routes and providing spot transportation services as opposed to normal contracted deliveries. Pricing in the spot delivery market fluctuates greatly based on a variety of factors. These include:

- How quickly the delivery needs to be made.
- Current supply of drivers.
- Additional miles driven many geographic areas under a state of emergency are difficult to access using normal routes.
- Costs that fluctuate daily (e.g. fuel).

Based on the 60-day lookback period and extension for 90 days beyond the end of the emergency, the passage of SB542 essentially hamstrings a company by preventing it from changing its pricing by more than 10% for at least five months, unless it can demonstrate its own cost increases. Last year many trucking companies were forced to increase driver salaries three times to keep pace with demand. Tires experienced a sizeable increase as oil prices continued to rise, and diesel fuel costs continue to be elevated. Unless a company can demonstrate these increases, it may be subjected to an unfair or deceptive trade practice violation.

For the reasons noted above, MMTA respectfully asks for an unfavorable report on SB542.

<u>About Maryland Motor Truck Association:</u> Maryland Motor Truck Association is a non-profit trade association representing the trucking industry since 1935. In service to its 1,000 members, MMTA is committed to support, advocate and educate for a safe, efficient and profitable trucking industry in Maryland.

For further information, contact: Louis Campion, (c) 443-623-4223

## SB 542 - MHLA - Info Only.pdf Uploaded by: Amy Rohrer Position: INFO



#### SB 542 - Public Safety - Emergency Management - Consumer Protections Against Price Gouging Senate Finance Committee March 2, 2023

**Position: Information Only** 

Dear Chair Griffith and Members of the Committee:

The Maryland Hotel Lodging Association understands the purpose of SB 542 as a measure to protect consumers from price gouging during a state of emergency. Hotels are often able to assist local communities by housing first responders and displaced individuals; price gouging during such a time is unconscionable. The lodging industry has often done the opposite of price gouging, donating rooms or offering steep discounts to those in need, as feasible, during past states of emergency.

SB 542 is broad as it encompasses all essential services including "accommodations and lodging". While the language is intended to set parameters in avoidance of price gouging, we feel it does not take into account the highly dynamic hotel room rates that are the result of seasonal demand and pre-determined, contract rates.

For example, the <u>GSA lodging rates</u> in Ocean City are set at \$130 in May-June of this year but will increase 150% to \$325 in July-August. Similarly, the 2023 GSA lodging rates in Montgomery and Prince George's Counties are set at \$188 in January and February and will increase 37% to \$258 in March–June.

Additionally, some of our contracts with event planners are made months, if not years in advance. The prices don't have any relation to the state of emergency and are set well ahead of time. Since there is no exemption to "price gouging" for these contracts, this bill would force us to alter prices of a contract that was agreed to long in advance.

A similar bill, <u>HF6</u>, is currently proposed in Minnesota with language that gives consideration to what isn't an "unconscionably excessive price," (aka price gouging) including:

- a price that is consistent with the fluctuations in applicable commodity markets or seasonal fluctuations; or
- a contract price, or the results of a price formula, that was established before an abnormal market disruption is declared.

We believe the language above addresses the unique nature of hotel room pricing that is not reflective of price gouging but is driven by seasonal demand and pre-determined contract rates appropriate to the market.

The Maryland Hotel Lodging Association respectfully asks for your consideration of similar language in SB 542.