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March 4, 2025

TO: The Honorable C.T. Wilson, Chair
Economic Matters Committee

FROM: Hanna Abrams, Assistant Attorney General
Consumer Protection Division

RE: House Bill 1331 – Consumer Protection –Artificial Intelligence
(SUPPORT WITH AMENDMENT)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports House Bill 1331 (“HB 1331”), sponsored by Delegate Qi, with amendments, but urges the Economic Matters Committee to ensure that adequate resources are allocated to ensure proper enforcement. House Bill 1331 establishes guardrails on the development and use of artificial intelligence to protect Marylanders from discrimination.

The Division supports the General Assembly’s attention to algorithmic harms affecting Marylanders. Algorithm-driven systems are increasingly used to streamline decision-making processes across many significant areas. These systems are designed to execute the steps humans traditionally perform but with far less accountability for discriminatory outcomes. Robust safeguards and restrictions on algorithm-driven decision-making are essential to protecting Marylanders.

Existing law does not address the responsibility of developers or even, in some cases, deployers for the discriminatory harms the artificial intelligence systems they design and deploy cause. The algorithms used are black boxes designed and disseminated by developers and deployers; there is no transparency or accountability. As a result, enforcement of existing anti-discrimination laws to date has not kept up with developments in algorithm-driven decision-making. House Bill 1331 aims to rectify this gap.

The Division supports HB 1331, but believes the following changes are warranted:

Eliminate the rebuttable presumption

The rebuttable presumption contained in HB 1331 undermines its purpose and interferes with enforcement. House Bill 1331 includes a “rebuttable presumption” that developers “took reasonable precautions under § 14-5002 of this subtitle if the developer complied with § 14-5002

of this subtitle; and regulations adopted by Attorney General.”¹ This significantly delays any resolution by requiring that the Division demonstrate lack of reasonable care twice—first to overcome the rebuttable presumption, and then to demonstrate the violation. The evidence for both would likely be the same, but the requirement to overcome a rebuttable presumption thwarts consumer protection and delays consumer relief. The rebuttable presumption undermines the intent of consumer protection laws, which are meant to safeguard consumers. Md. Code, Com. Law § 13-102.

Loopholes must be closed

The loopholes contained in HB 1331, if interpreted broadly, could undermine the very protections that the bill intends to provide. The bill’s trade secret protections are overbroad. It permits businesses to avoid providing the Attorney General with information if they classify it as a “trade secret.” Given the nature of algorithms and artificial intelligence, this limitation may stymie investigations and undermine the consumer protections intended by this bill. Companies should not be able to unilaterally withhold crucial information or hide evidence of discrimination by claiming that such information is a trade secret.

Enforcement resources must be allocated

House Bill 1331 requires extensive manpower and technological resources in order to properly investigate potential violations. Moreover, as discussed above, the inclusion of a non-lapsing right to cure is contrary to consumer protection and undermines the ability of the Division to recover the costs of an investigation. This, along with the inclusion of the rebuttable presumption, will increase the resources necessary if HB 1331 is to be enforced.

Ensure that existing antidiscrimination laws are not weakened

The bill should clarify that compliance with HB 1331 cannot be used as a shield in cases alleging violations of traditional anti-discrimination laws by either expressly stating that there are no unintended consequences or by linking violations of HB 1331 to violations of the Consumer Protection Act.

Line Amendments

- p. 12, line 21 – p. 13, line 1: These lines should be deleted. As explained above, a rebuttable presumption delays consumer relief and duplicates the work necessary to prosecute alleged algorithmic discrimination.
- p. 6, line 18 and p. 13, lines 6-9: These lines should be deleted. As explained above, a business should not be allowed to evade investigations by claiming their processes and information are “trade secrets.”

Accordingly, we urge the Economic Matters Committee to issue a favorable report on HB 1331 with the amendments discussed.

cc: Members, Economic Matters Committee
The Honorable Lily Qi

¹ There is corresponding language creating a rebuttable presumption for the deployer as well.