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April 1, 2026

TO: The Honorable Pamela Beidle, Chair
Finance Committee

FROM: Steven M. Sakamoto-Wengel
Executive Counsel to the Attorney General

RE: House Bill 191 – Consumer Protection – Retail Transactions for Essential Consumer Goods – Cash Payments
LETTER OF CONCERN

The Consumer Protection Division has significant concerns about the enforcement provisions of House Bill 191 as amended in the House, sponsored by Delegate Wims, which would require brick and mortar merchants to accept cash payments for in-person transactions for "essential consumer goods: up to $300. While the Division supports HB 191's goal of making sure that unbanked consumers are able to make purchases of essential goods, the amendments providing merchants with two free bites of the apple before the Division can enforce the statute and capping civil penalties thereafter at $500 for a first violation and $1,000 for a subsequent violation ensure that there will be no enforcement of the law.

Requiring retailers to accept cash payments is a matter of equity. A 2023 survey by the Federal Deposit Insurance Corporation found that 4.2 percent of U.S. households, representing about 5.6 million households, were unbanked, meaning that nobody in the household had access to a checking or savings account at a bank or credit union.[1] Among the findings were that "between 2011—when the unbanked rate was at its highest level since the survey began in 2009—and 2023, the unbanked rate fell by almost half. Similarly, unbanked rates among Black, Hispanic, and American Indian or Alaska Native households fell by about half. However, unbanked rates among

[1] *2023 FDIC National Survey of Unbanked and Underbanked Households*, viewed at https://www.fdic.gov/household-survey

these households remained several times higher than the unbanked rate among White households"[2] The survey further found that "As in previous years, among all unbanked households, "Don't have enough money to meet minimum balance requirements" was the most cited main reason[.][3]

However, the right-to-cure requirements and reduced penalties would undermine the two core goals of any enforcement action: stopping practices that harm Maryland consumers and obtaining restitution for those already harmed. The right-to-cure requirement is particularly unwarranted here because refusing to accept cash is not an ambiguous or technical violation. A retailer either accepts cash or it does not. There is no algorithm to untangle, no data system to analyze, no question about whether the conduct occurred. A business that turns away an unbanked consumer has made a conscious, observable choice. Treating that choice as though it might be a misunderstanding, requiring the Division to provide notice and an opportunity to correct before any enforcement can begin, is not a reasonable accommodation. It is a structural disincentive to comply with the law at all. A retailer that knows the only consequence of a first offense is being told to stop has no reason to comply before getting caught.

The right-to-cure requirement also misunderstands what enforcement costs, even for violations that are straightforward to identify. The Division does not send notices of violation casually. A notice to a retailer that it may have violated Maryland law is a serious matter. Even where the underlying conduct is clear, attorneys must evaluate the complaint, assess whether it falls within the statute, and make a considered judgment before any formal action is taken. Those steps require time and staff resources regardless of how obvious the violation appears. Requiring the Division to then provide notice and wait before proceeding means absorbing that cost twice, with no guarantee of recovery for the State and no restitution for the consumer who was turned away.

The same analysis also applies to the reduced penalties for violations. The current penalties under § 13-410(a) and (b) of the Consumer Protection Act are *not exceeding* $10,000 for a first violation and *not exceeding* $25,000 for a subsequent violation. Section 13-410(d) sets forth the factors that the Consumer Protection Division must consider in determining the amount of the penalty, including severity of the violation, good faith of the violator, and any history of any prior violations. Application of those factors rarely, if ever, results in a civil penalty near the caps. Enacting the type of cap that is provided in this bill would not deter intentional misconduct and, in any case, make it unlikely that the Division would use its limited resources to bring an enforcement action related to a violation of this bill.

That matters in the current budget environment. The Consumer Protection Division has 13 attorneys and 5 investigators handling approximately 140 active matters at any given time. Every investigation is a choice about where to direct limited staff capacity. When my office receives a complaint, we first seek resolution through mediation. We pursue formal enforcement only when a business has engaged in a pattern or practice of violations affecting a significant

[2] *Id.*
[3] *Id.*

number of consumers or causing serious harm. But those are precisely the cases the right-to-cure is most likely to obstruct. The more systematic the violation, the more the right-to-cure benefits the violator. The Office bears the full cost of investigation, and the business avoids all accountability simply by agreeing to stop what it should never have done in the first place.

Accordingly, the Division requests that the Finance Committee strike the right to cure and reduced civil penalty provisions when it considers House Bill 191.

cc: The Honorable Greg Wims
Members, Finance Committee