

MARYLAND RETAILERS ALLIANCE

The Voice of Retailing in Maryland



HB104 Unhoused Individuals - Rights and Affirmative Defense

February 2nd, 2026

Position: Unfavorable

HB 104, while well-intentioned, would significantly undermine public safety, local authority, and the ability of communities to manage complex issues related to homelessness in a balanced and effective manner.

First, the bill establishes an expansive affirmative defense of necessity for certain criminal charges related to trespass and disturbing the peace. This provision would make enforcement of basic public safety and property laws exceedingly difficult, if not impossible. Retailers, residents, and property owners—both public and private—rely on clear and enforceable laws to maintain safe and accessible spaces. Creating broad exemptions risks encouraging behavior that disrupts commerce, public order, and community use of shared spaces, while placing additional strain on law enforcement and the court system.

Second, repealing municipal authority to prohibit vagrancy removes an essential local tool for addressing conditions on the ground. Homelessness looks different in every jurisdiction, and local governments are best positioned to respond with policies tailored to their communities' needs. A statewide prohibition on local regulation ignores these differences and strips municipalities of the flexibility required to balance compassion with public safety, sanitation, and economic vitality.

Third, HB 104 fails to address the root causes of homelessness. Expanding legal defenses and limiting enforcement authority does not create housing, expand mental health services, or increase access to substance use treatment. Without corresponding investments in supportive services, this bill risks normalizing unsafe and unhealthy conditions for unhoused individuals while shifting the burden to local businesses, residents, and local governments.

Finally, the bill creates unintended consequences for small businesses and workers. Retailers and employers—many operating on thin margins—already face challenges related to safety, theft, and disruption. Weakening their ability to rely on consistent enforcement may discourage investment, reduce foot traffic, and harm employees who deserve a safe workplace.

Addressing homelessness requires thoughtful, coordinated solutions that prioritize housing, treatment, and services—while preserving reasonable local authority and public safety protections. HB 104 does not strike that balance.

For these reasons, we respectfully urge the Committee to issue an unfavorable report on HB 104.

MRA represents thousands of retail locations across Maryland, including grocery stores, pharmacies, big-box retailers, and small, independent businesses.