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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.¹

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

¹ The complaints from out of state reflect complaints filed against Maryland businesses.

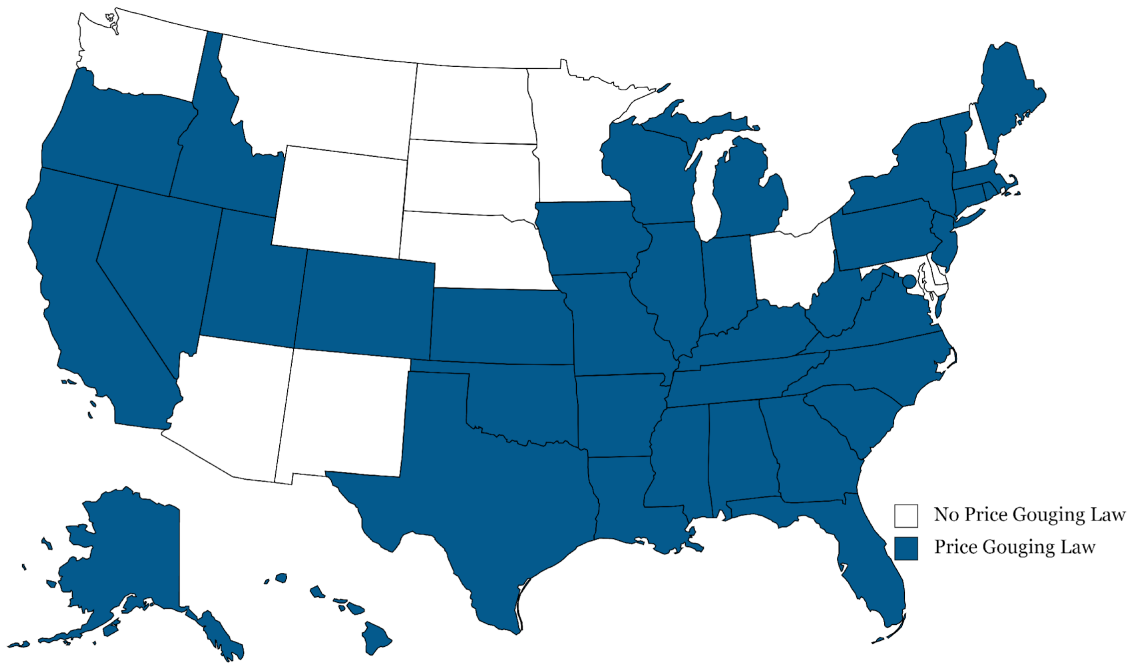
price gouging allegations. The informal process allowed the substantial majority of complaints to be resolved without the need for enforcement action by the Division. The emergency price gouging authority, however, applied only to price increases charged by the retailer of the good or service. It did 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



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COMPLAINTS BY COUNTY

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