

July 25, 2019

The Honorable Larry Hogan
Governor
State House
100 State Circle
Annapolis, Maryland 21401

The Honorable Boyd K. Rutherford
Lieutenant Governor
State House
100 State Circle
Annapolis, Maryland 21401

The Honorable Thomas V. Mike Miller, Jr.
President
Senate of Maryland
State House, H-107
Annapolis, Maryland 21401

The Honorable Adrienne Jones
Speaker
Maryland House of Delegates
State House, H-107
Annapolis, Maryland 21401

Re: Commissioner of Labor and Industry Annual Report 2018 (MSAR# 861; 1937; 9829; 10340; 10416).

Dear Governor Hogan, Lieutenant Governor Rutherford, President Miller, and Speaker Jones:

Maryland Annotated Code, Labor and Employment Article § 2-108, et seq., requires the Commissioner of Labor and Industry to annually submit a report after January 1. The 2018 report includes information on the operations of the office of the Commissioner, an overview of new laws passed in 2018, and the operations of the units of Labor and Industry.

For additional information regarding the report, please contact Grason M. Wiggins, Director of Legislative and Regulatory Affairs, at grason.wiggins1@maryland.gov or (410) 230 - 6009.

Sincerely,



Matthew Helminiak
Commissioner of Labor and Industry

Introduction

The Maryland Division of Labor and Industry is a unit of the Department of Labor, Licensing and Regulation concerned with the welfare of Maryland's workforce, essential safety services to business, industry and the general public. Under the direction of the Commissioner of Labor and Industry, the Division is charged with administering the following laws and regulations:

- Amusement Ride Safety Law and Regulations
- Apprenticeship and Training Law and Regulations
- Boiler and Pressure Vessel Safety Act and Regulations
- Choice of Bargaining Representative Law
- Civil Remedies for Shoplifting and Employee Theft Law
- Day of Rest – Retail and Wholesale Establishments
- Deployment Leave
- Disclosing Sexual Harassment in the Workplace Act
- Elevators, Dumbwaiters, Escalators and Moving Walks Law and Regulations
- Employment Agency Act and Regulations
- Employment of Minors Law
- Equal Pay for Equal Work Law
- Farm Labor Contractor Law and Regulations
- Flexible Leave Act
- Healthy Retail Employee Law
- Healthy Working Families Act
- High Voltage Line Law
- Hiring and Promotion Preferences – Veterans of Commissioned Corps
- Interpreters
- Job Applicant Fairness Law
- Jury Service
- Lie Detector Test Law
- Living Wage Law and Regulations
- Mediation or Arbitration of Labor Disputes Law and Regulations
- Minimum Wage for Disabled
- Medical Questions Law
- Occupational Safety and Health Act and Regulations
- Parental Leave – Birth of Adoption of a Child
- Pension Plans
- Prevailing Wage - Contracts for Public Works Law and Regulations
- Railroad Safety and Health Law and Regulations
- Smoking on Public Elevators Law and Regulations
- Tipped Employees – Payments or Deductions from Wages Prohibition
- User Name and Password Privacy Protection and Exclusions
- Volunteer Activities
- Wage and Hour Law and Regulations
- Wage Payment and Collection Law
- Wholesale Sales Representatives
- Workplace Fraud Law

This report is divided into chapters according to the primary units of the agency. The report describes the scope and purpose of each unit and of the boards, councils and committees that advise, assist, or propose regulations to the Commissioner. Included is a summary of activities during the past year, and a list of the Division's publications.

Chiefs and Commissioners

Bureau of Industrial Statistics and Information

Thomas C. Weeks, Chief	1884 – 1892
A. B. Howard, Chief	1892 – 1896
Charles H. Myers, Chief	1886 – 1898
Jefferson D. Wade, Chief	1898 – 1900
Thomas A. Smith, Chief	1900 – 1904
Charles J. Fox, Chief	1904 – 1912
Frank A. White, Chief	1912 – 1916

Board of Labor and Statistics

Charles J. Fox, Chairman	1916 – 1922
--------------------------	-------------

Commissioner of Labor and Statistics

J. Knox Insley, Commissioner	1922 – 1935
Henry Lay Duer, Commissioner	1936 – 1937
A. Stengle Marine, Commissioner	1937 – 1938
John M. Pohlhaus, Commissioner	1938 – 1945

Department of Labor and Industry

John M. Pohlhaus, Commissioner	1945 – 1948
Joseph F. DiDomenico, Commissioner	1948 – 1959
Murray L. Schuster, Commissioner	1959 – 1963
Henry Miller, Commissioner	1963 – 1970

Division of Labor and Industry

Henry Miller, Commissioner	1970 – 1972
Harvey A. Epstein, Commissioner	1972 – 1983
Dominic N. Fornaro, Commissioner	1983 – 1988
Henry Koellein, Jr., Commissioner	1988 – 1996
John P. O'Connor, Commissioner	1996 – 1999
Kenneth P. Reichard, Commissioner	1999 – 2003
Dr. Keith L. Goddard, P.E., Commissioner	2003 - 2004
Robert L. Lawson, Commissioner	2004 - 2007
J. Ronald DeJuliis, Commissioner	2007 – 2014
Thomas J. Meighen, Commissioner	2015 - 2017
Matthew Helminiak, Commissioner	2017 -

Serving Marylanders for 134 Years

The Industrial Revolution made a tremendous impact on the country's economy and increased the demands of the labor force throughout the nation. The forerunner of today's Division of Labor and Industry was created in 1884, when the Maryland General Assembly established the Bureau of Industrial Statistics and Information. The high level of interest in protecting the State's workforce, collecting statistics and information on the needs and abuses that existed in various industries was a primary function of the Bureau.

Thomas C. Weeks, the first Chief of the Bureau of Industrial Statistics and Information, noted in his first biennial report that the work of the Bureau was seriously hindered prior to 1884 because there had been no inquiries about the needs and abuses of industry.

As interpreted by Mr. Weeks, "it was the intention of the Legislature to create the Bureau in the special interests of the wage-workers of the State, and while recognizing the fact that under our system of society, the interests of one class greatly affect the interests of all; that the more extensive our commerce, and the greater the facilities afforded to manufacture, the better should be the condition of those who labor; that an enlarged market should increase...the price of wages, the distribution of wealth, and the quantity of home consumption."

The Bureau of Industrial Statistics and Information was abolished in 1916, and the State Board of Labor and Statistics was created operating under the direction of three commissioners.

The three main tasks of the new Board were collection of statistics on labor, agriculture, mineral products, transportation and commerce; operation of free employment agencies; and investigation by the Board of Commissioners as to the causes of unemployment and authorization by the Board of Commissioners to appoint Boards of Arbitration, and a Deputy, known as the Chief Mediator, with jurisdiction in areas of arbitration and settlement of labor disputes.

In 1922, after a statewide reorganization of administrative functions, the duties of the three-person Board of Commissioners were transferred to a single Commissioner of Labor and Statistics. Twenty-three years later, in 1945, the position of Commissioner of Labor and Industry was created. Powers and duties remained substantially the same, and the laws to be administered by the Department of Labor and Industry were essentially the same as those under the former State Board of Labor and Statistics.

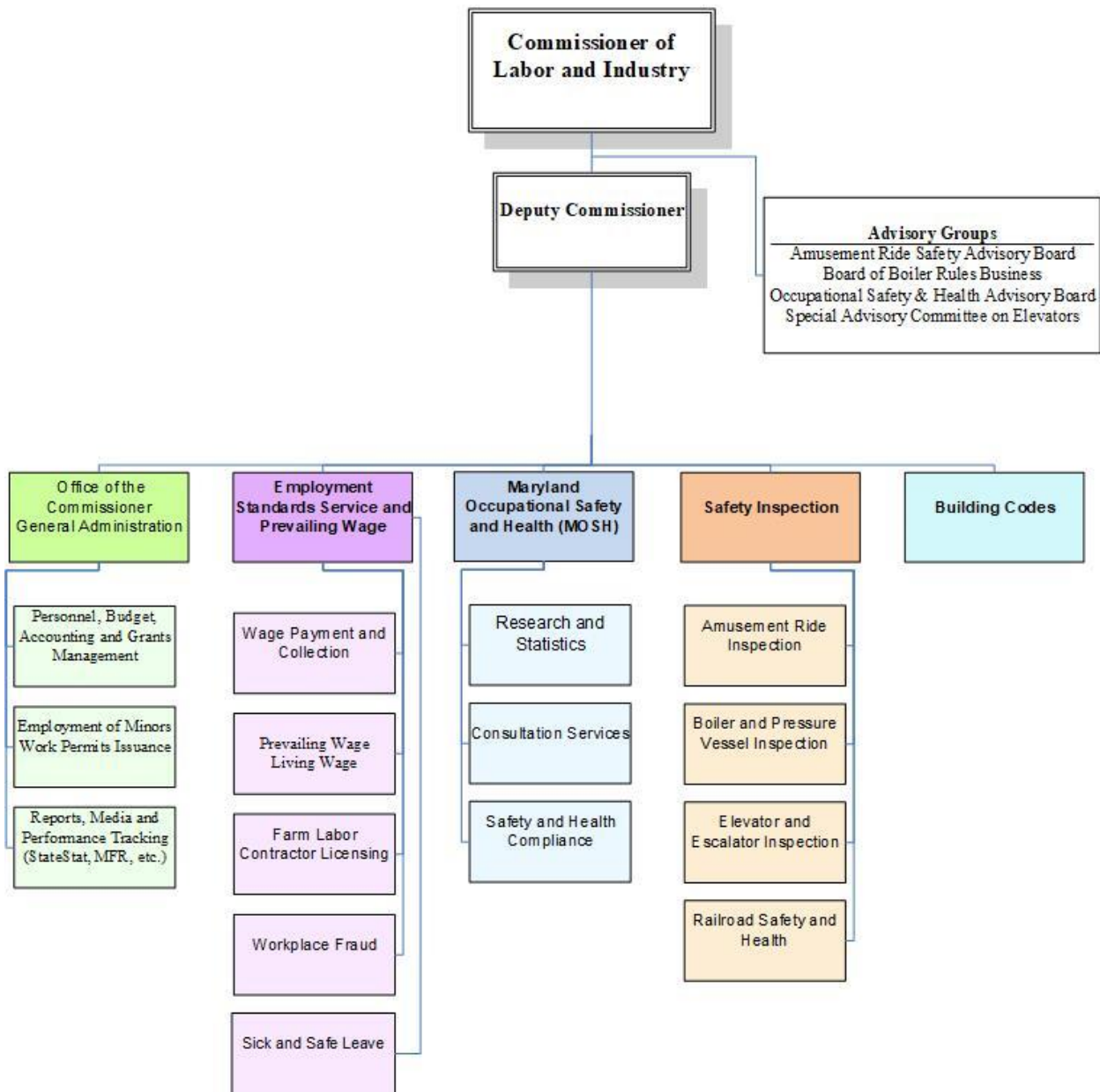
Under departmental reorganization in 1970, Labor and Industry became a division within the Department of Licensing and Regulation, since 1995 known as the Department of Labor, Licensing, and Regulation.

SUMMARY

In the years since the inception of the agency to the present day, many new laws, resources, and additional responsibilities have been added. Today, the Division of Labor and Industry administers State laws addressing employment issues such as wage payment, leave, equal pay, occupational safety

and health, workplace fraud, living wage, safety inspection of amusement rides, boilers and pressure vessels, elevators and escalators, and railroads, employment of minors, and farm labor contractors.

Responsibilities assigned to the Division of Labor and Industry are many and diverse. Every citizen living within the boundaries of the State in some way benefits from, and is affected by, the administration of these laws.



Office of the Commissioner

GENERAL ADMINISTRATION

The Commissioner of Labor and Industry provides leadership to the many programs that offer services to promote and protect the welfare of Maryland wage earners. The Commissioner, through such diverse activities as program planning, coordination and evaluation, legislation and regulation coordination and review, financial management, conciliation and representation elections, and personnel administration, is able to guide the direction of the programs allowing laws to be implemented. As required by the Labor and Employment Article, Section 2-105, *Annotated Code of Maryland*, the Commissioner seeks to promote harmony between industry representatives and labor through the Construction Roundtable, Advisory Group meetings, and attendance at merit and organized labor outreach programs, conferences, and seminars. The Office of the Commissioner coordinates a staff of 192 budgeted permanent employees who provide their valuable services to the citizens of Maryland.

Administrative staff responds to public inquiries and complaints, and resolve those issues that cannot be concluded satisfactorily at the program level. Issues vary from interpretation of law, regulation, and policy for which the Division has jurisdiction, to resolution of technical issues related to the safe operation of equipment and occupational safety and health issues which affect citizens. The Commissioner's staff also provides support to the agency's advisory boards and committees, including major research and outreach efforts on topics of current concern.

Advisory Board support goes beyond administrative support to include the technical research to support Board hearings for adoption of new national codes and standards, variance requests and analysis of trends, and data to provide alternatives and support for positions. Representatives of the Division, including the Commissioner, routinely meet with Maryland businesses, labor and civic leaders, and participate in educational seminars to provide guidance, consultation and leadership. The Commissioner and staff participate in national organizations such as the National Association of Governmental Labor Officials (NAGLO), the Occupational Safety and Health State Plan Association (OSHSPA), the American Society of Safety Engineers (ASSE), the American Society of Mechanical Engineers (ASME), and the National Board of Boiler and Pressure Vessel Inspectors.

The Office of the Commissioner continues to shape and develop initiatives relating to the quality and effectiveness of the Division, and holds bi-weekly meetings with program personnel to ensure that Division of Labor and Industry programs remain on track in achieving goals and objectives.

Employee Physical Program

To ensure that Division of Labor and Industry field employees are capable of safely performing their duties and are not experiencing diminished health capacity as a result of their work experience, employees are medically monitored in accordance with occupational safety and health standards. The Office of the Commissioner maintains and administers an ongoing

employee physical program that is serviced through an outside vendor. This program involves scheduling physical examinations for individuals assigned to work in the field and across the State at various host employer locations. The Commissioner takes this responsibility very seriously and must also follow-up on medical recommendations and conduct performance audits to ensure the appropriateness of the physical examinations and tests conducted by the contractor.

LEGISLATION IN 2018

There were several bills introduced and passed during the 2018 session of the General Assembly which directly affect the Division of Labor and Industry.

- ***Disclosing Sexual Harassment in the Workplace Act of 2018 – Chapter 738 (House Bill 1596) & Chapter 739 (Senate Bill 1010)*** The General Assembly passed a bill that provided a provision in an employment contract, policy, or agreement that waives any substantive or procedural right or remedy to a claim that accrues in the future of sexual harassment or retaliation for reporting or asserting a right or remedy based on sexual harassment is null and void as being against the public policy of the State. This bill took effect October 1, 2018.
- ***Healthy Working Families Act – Chapter 1 (House Bill 1 of the 2017 Regular Session)*** The Maryland Healthy Working Families Act, was introduced during the 2017 session of the Maryland General Assembly. As drafted, the bill provided that the law became effective January 1, 2018. The General Assembly voted to pass the bill but the Governor vetoed it. When the General Assembly came back into session in January of 2018, it voted to override the Governor's veto. The law became effective 30 days after the General Assembly voted to override the veto. The Act requires all employers with employees whose primary work location is in Maryland to provide earned sick and safe leave, regardless of where the employer is located. Employers who employ 15 or more employees are required to provide paid earned safe and sick leave. Employers with 14 or fewer employees are required to provide unpaid earned sick and safe leave. Certain employees are exempt from the requirements of the law. All employees whose primary work location is in Maryland are entitled to accrue sick and safe leave unless they are exempt from coverage under the law. Leave accrues at the rate of one hour for every thirty hours that an employee works. An employee is not entitled to accrue sick and safe leave during (1) a 2 week pay period in which the employee worked fewer than 24 total hours; (2) a 1 week pay period if the employee worked fewer than a combined total of 24 hours in the current and immediately preceding pay period; or (3) a pay period in which the employee is paid twice per month and worked fewer than 26 hours in the pay period. The leave hours provided for under the law are the minimum number of hours an employee is entitled to earn and accrue. An employer may provide more leave for its employees. The Act preempts local paid sick and safe leave laws enacted on or after January 1, 2017. Only Montgomery County enacted a sick and safe leave law prior to January 1, 2017.

- ***Hiring and Promotion Preferences – Veterans of Commissioned Corps - Chapter 586 (Senate Bill 152)*** This bill altered the definition of “eligible veteran” to include certain commissioned corps; authorizing an employer to grant a hiring and promotion preference to an eligible veteran, the spouse of an eligible veteran who has a service-connected disability, or the surviving spouse of a deceased eligible veteran. An eligible veteran is a veteran of any branch of the U.S. Armed Forces who has received an honorable discharge or a certificate of satisfactory completion of military service, including the National Guard and the military reserves. The bill establishes that granting this preference does not violate any State or local Equal Employment Opportunity law. This bill authorizes an employer to grant a hiring and promotion preference to an eligible veteran, the spouse of an eligible veteran who has a service-connected disability, or the surviving spouse of a deceased eligible veteran. An eligible veteran is a veteran of any branch of the U.S. Armed Forces who has received an honorable discharge or a certificate of satisfactory completion of military service, including the National Guard and the military reserves. The bill establishes that granting this preference does not violate any State or local Equal Employment Opportunity law.
- ***General Contractor Liability for Unpaid Wages – Chapter 845 (House Bill 1539)*** This bill provided that certain contractors are jointly and severally liable for certain violations of the wage payment and collection law by subcontractors under certain circumstances; requiring a subcontractor to indemnify a general contractor for certain wages, damages, interest, penalties, and fees except under certain circumstances; defining a certain term; prohibiting a certain obligation or contract right from being impaired by this Act; and generally relating to a general contractor’s liability for unpaid wages. The bill took effect October 1, 2018.
- ***Maryland Occupational Safety and Health Act – Chemical Information List – Chapter 548 (SB 711)*** This bill repeals the requirement that an employer submit its chemical information list to the Maryland Department of the Environment. The law retains the requirement that an employer retain a chemical information list.

MEDIATION AND CONCILIATION

Pursuant to Labor and Employment Article, Section 2-107(c), *Annotated Code of Maryland*, mediation and conciliation services must be provided by the Division of Labor and Industry when requested. In 2018 no request was made for services.

EMPLOYEE STOCK OWNERSHIP PLAN

Consistent with the requirements of the Broadened Ownership Act, Economic Development Title 14-102, *Annotated Code of Maryland*, designated State agencies are directed to encourage participation in employee stock ownership plans. The Act requires that the promotional efforts employed on behalf of these plans be discussed in the annual legislative report of each designated agency. During 2018, the Division of Labor and Industry received no requests for the brochure “Employee Stock Ownership Plan,” which was developed in response to the Act. The Division continues to promote employee stock ownership by putting the brochure on its website.

COMMITTEE PARTICIPATION

The Commissioner of Labor and Industry and staff have been effectively involved in such diverse organizations as:

- American National Safety Institute (ANSI)
- ANSI A10. Construction and Demolition Sub-Groups
 - A10.2 Safety, Health, and Environmental Training
 - A10.8 Scaffolding
 - A10.37 Debris Nets
- A10.38 Basic Elements of a Program to Provide a Safe and Healthful Work Environment
- A10.39 Safety Health Audit Program
- A10.41 Equipment Operators and Supervisor Qualifications and Responsibilities
- American Society of Safety Engineers (ASSE)
- Chesapeake Regional Safety Council
- Controlled Hazardous Substances Advisory Council
- Council for Amusement & Recreational Equipment Safety (CARES)
- Delmarva Safety Association
- Governor's Commission on Migratory and Seasonal Farm Labor
- Governor's Task Force on Public Works and Service Contract Wages
- Interstate Labor Standards Association
- Maryland Explosives Advisory Committee of the Fire Marshal's Office
- Maryland Fire Chief's Firefighter Safety Council
- Maryland Rehabilitation Advisory Council
- Maryland Safety and Health Conference Planning Committee
- National Association of Elevator Safety Authorities
- National Board of Boiler and Pressure Vessel Inspectors
- National Fire Protection Association (NFPA)
- National Safety Council
- Occupational Safety and Health State Plan Association (OSHSPA)
- Partnership for a Safer Maryland (PSM)
- Public Employees Safety Association of Maryland (PESA)
- Public Risk Management Association (PRIMA)
- State Employees Risk Management Administration (SERMA)
- Safety and Health Achievement Recognition Program (SHARP) Flag Committee

Building Codes Administration

As originally prescribed in the Housing and Community Development Article, Division I, Title 3, Subtitle 1, § 3-301, Annotated Code of Maryland, Building Codes Administration (Codes Admin) is responsible for “the administration of statewide building and material codes established under Title 12, subtitles 2, 3, 4, 5, and 10 of the Public Safety Article”. Pursuant to Chapter 673, Acts of 2018, Codes Admin was transferred from the Department of Housing and Community Development to the Department of Labor, Licensing and Regulation effective July 1, 2018.

- **Model Performance Code for Building Construction**

Model Performance Code (MPC) applies to industrialized (modular) and state-owned buildings.

MPC references the following codes: (i) 2015 International Building Code (IBC), (ii) 2015 International Plumbing Code (IPC), (iii) 2014 National Electrical Code (NEC), (iv) 2015 International Residential Code (IRC), (v) 2015 International Mechanical Code (IMC), (vi) 2015 International Energy Conservation Code (IECC), and (vii) 2012 International Green Construction Code (IgCC).

Codes Admin is responsible for the adoption of these individual codes on a three-year cycle (except for IgCC), and for interpretation of codes when requested by citizens, design professionals and local jurisdictions.

- **Maryland Accessibility Code**

The Department establishes minimum requirements that will provide for the accessibility and usability of buildings and facilities by individuals with disabilities. The Code references existing federal accessibility standards and includes additional Maryland requirements.

Codes Admin is responsible for the administration of this code, which includes (i) accepting and processing of waiver requests, (ii) interpretation of the Maryland portion of the code for citizens, design professionals and local jurisdictions.

- **Minimum Livability Code**

The Code is created to protect the public health, safety, and welfare in residential structures and premises. The Code references the International Property Maintenance Code (IPMC) (current edition is 2012).

- **Industrialized Buildings and Manufactured Homes**

Codes Admin is responsible for the administration of the Industrialized Building Program, which is a state-wide program requiring the Department’s approval before the construction of all industrialized buildings to be installed in Maryland. Tasks include (i) processing of new/renewal applications of both manufacturers and Approved Testing facilities; (ii) processing of Maryland Insignia applications; (iii) reviewing building plans of proposed modular buildings and issuing approval as required; (iv) conducting plant inspections; (v) responding to home owners’ complaints; (vi) coordinating with local authorities having jurisdiction on all modular building-related issues.

Under a separate contract with U.S. Department of Housing and Urban Development (HUD), Codes Admin works with HUD's Office of Manufactured Housing Program and serves as the State Administrative Agency (SAA) for the State of Maryland. Current scope of contract is limited to processing homeowner complaints. Current contract amount is \$27,954.00 for a two-year period.

- **Safety Glazing**

This law provides for determinations by the Secretary of Housing and Community Development as to three subjects: (i) further requirements for standards of safety glazing material, (ii) additional glazed elements to be designated "hazardous locations", and (iii) exceptions of certain panels from the definition of "hazardous locations".

- **Maryland Building Performance Standards**

Maryland Building Performance Standards (MBPS) is created to provide reasonable protection to the public against hazards to life, health, and property, and to establish the policies and procedures associated with the operation of a database that contains the Standards, the local amendments, and other related information.

MBPS references the following codes: (i) 2015 International Building Code (IBC), (ii) 2015 International Residential Code (IRC), (iii) 2015 International Energy Conservation Code (IECC), and (iv) 2012 International Green Construction Code (IgCC).

Codes Admin is responsible for (i) the adoption of these individual codes on a three-year cycle (except for IgCC), (ii) maintaining an online database of locally amended and adopted codes, (iii) providing code training to employees of local authorities having jurisdiction, (iv) providing interpretation of codes requested by citizens, design professionals and local jurisdictions.

- **Maryland Building Rehabilitation Code**

Maryland Building Rehabilitation Code (MBRC) was created to encourage the continued use or reuse of legal existing buildings and structures. MBRC applies to all rehabilitation projects for which a construction permit application is received by (i) local jurisdictions, or (ii) The Maryland-National Capital Park and Planning Commission, or (iii) The Washington Suburban Sanitary Commission. MBRC references the 2015 International Existing Building Code (IEBC).

Maryland Building Rehabilitation Code Advisory Council: The Council consists of 27 members, of which the Secretary of Labor, Licensing and Regulation is one. The Secretary of Labor, Licensing and Regulation should also appoint the Director of the Council. The Director of Codes Admin has traditionally been designated as the Director of the Council.

The responsibilities and duties of the Advisory Council are as follows:

1. Advise the Department on development, adoption, and revisions to this chapter;
2. Provide technical advice on the interpretation of this chapter to property owners, design professionals, contractors, local jurisdiction code officials, and local jurisdiction code appeal boards;
3. To the extent possible, develop this chapter in a way that avoids increased costs to local jurisdictions arising from implementation of this chapter; and
4. To the extent provided for in the State budget, provide training on this chapter to code officials and other public and private construction-related professionals.

Codes Admin is responsible for the adoption of the IEBC on a three-year cycle, and for the interpretation of the code requested by citizens, design professionals and local jurisdictions.

Achievements in 2018

- 1) Moved from the Department of Housing and Community Development (Lanham) to the Department of Labor, Licensing and Regulation (Baltimore) before July 01, 2018.
- 2) Maryland Accessibility Code waiver request received/processed: 9
- 3) Code training, number of attendees: Maryland Accessibility Code, 3 sessions, 115 persons attended
- 4) Code adoption, list of codes in the process of being adopted: 2018 editions of IBC, IRC, IECC, IPC, IMC and 2017 NEC
- 5) Code interpretation (number of written requests received): 150
- 6) Industrialized Building Program
 - Active manufacturers/plants: 98/110
 - Active Approved Testing Facilities: 11
 - Renewal Fees received: \$64,400
 - Maryland Insignia Fees received: \$208,575
 - Funds received from U.S. HUD: \$13,230.46
 - Number of sets of building plans received/reviewed: 629
 - Number of Plan Approval issued: 409
 - Number of Plant Inspections conducted: 0

Employment Standards

Created in 1965 to enforce Maryland's Minimum Wage Law, the Employment Standards Service has been traditionally responsible for administering the following Maryland laws:

Labor and Employment Article:

Employment of Minors	Title 3, Subtitle 2
Equal Pay for Equal Work	Title 3, Subtitle 3
Wage and Hour Law	Title 3, Subtitle 4
Minimum Wage for the Disabled	Title 3, §4-414
Wage Payment and Collection	Title 3, Subtitle 5
Medical Questions	Title 3, § 3-701
Lie Detector Tests	Title 3, § 3-702
Volunteer Activities	Title 3, § 3-703
Day of Rest	Title 3, § 3-704
Pension Plans	Title 3, § 3-705
Interpreters	Title 3, § 3-707
Jury Service	Title 3, § 3-709
Healthy Retail Employee Act	Title 3, § 3-710
Job Applicant Fairness Act	Title 3, § 3-711
Username and Password Privacy Protection Act	Title 3, § 3-712
Hiring and Promotion Preferences - Veterans of Commissioned Corps	Title 3, § 3-714
Disclosing Sexual Harassment in the Workplace Act of 2018	Title 3, § 3-715
Adoption Leave	Title 3, § 3-801
Flexible Leave Act	Title 3, § 3-802
Deployment Leave	Title 3, § 3-803
Workplace Fraud Act	Title 3, Subtitle 9
Civil Air Patrol	Title 3, § 3-1001
Lien for Unpaid Wages	Title 3, Subtitle 11
Parental Leave Act	Title 3, Subtitle 12
Healthy Working Families Act	Title 3, Subtitle 13
Farm Labor Contractors	Title 7

Business Regulation Article:

Employment Agencies	Title 9
---------------------	---------

WAGE PAYMENT AND COLLECTION

The Wage Payment and Collection Law require that an employee be paid what was promised. The law imposes certain duties on an employer and establishes the time when wages must be paid upon termination of employment.

Wage Payment and Collection/Wage and Hour Activity for: January 1, 2018 through December 31, 2018	
Complete wage claim forms received	1100
Investigations completed	786
Claims for which wages were recovered	588
Total wages collected	\$706,298
Site Visits	69

The Commissioner issues administrative orders to pay wages where it is determined that the wage payment and collection law has been violated. An employer may appeal the administrative order but if no appeal is filed, the Commissioner may proceed with collection. Administrative orders are an effective tool to the wage payment and collection process.

WAGE AND HOUR

Pursuant to Labor and Employment Article, Title 3, Subtitle 4, *Annotated Code of Maryland*, Wage and Hour law requires that all covered employees be paid the specified minimum wage rate, and 1½ times the usual hourly wage for hours worked in excess of 40 in one workweek. Certain establishments and employees are exempt from both the minimum wage rate and overtime provisions of the law. Others are exempt only from the overtime provisions.

The Maryland Minimum Wage Act specified the State minimum wage rate to take effect for certain time periods: effective January 1, 2015, \$8.00 per hour, effective July 1, 2015, \$8.25 per hour, effective July 1, 2016, \$8.75 per hour, effective July 1, 2017, \$9.25 per hour and effective July 1, 2018, \$10.10 per hour. Employers must pay tipped employees at least \$3.63 per hour and tipped employees must earn at least the State minimum wage rate per hour. Amusement and Recreational Establishments (who meet certain requirements) must pay employees at least 85% of the State Minimum Wage Rate or \$7.25, whichever is higher. Employees under 20 years of age must earn at least 85% of the State Minimum Wage Rate for the first six (6) months of employment.

Individuals with Disabilities – Minimum Wage and Community Integration (Ken Capone Equal Employment Act)

Pursuant to Labor and Employment Article, Section 3-414, *Annotated Code of Maryland*, this bill phases out, beginning October 1, 2016, the authority for the Commissioner of Labor and Industry to authorize a work activities center or other sheltered workshop to pay a subminimum wage to an employee with a disability. It also restricts the authority of a work activities center or

other sheltered workshop to pay a subminimum wage and/or a sub prevailing wage to an employee with a disability. Beginning October 1, 2020, the Developmental Disabilities Administration (DDA) may not fund providers that pay individuals less than the minimum wage under a specified federal certificate.

EMPLOYMENT OF MINORS

Pursuant to Labor and Employment Article, Section 3-202, *Annotated Code of Maryland*, “the policy of the State is to encourage the development of minors by allowing them to engage in occupations that prepare them for responsible citizenship, yet to protect them from occupations that will be injurious to their mental, moral, or physical welfare.” The Employment of Minors Law restricts the occupations and hours of work for minors 14 through 17 years of age and imposes certain obligations on both minors and employers. Pursuant to §3-205, an employer must have a valid work permit.

Employment of Minors Activity for: January 1, 2018 through December 31, 2018	
Work permits issued	79,977
Employment of Minor Complaints Received and Resolved	18

The application process was modified and is now available on-line through the DLLR website at <http://www.dllr.state.md.us/labor/wages/empm.shtml>. Issuing officers from most secondary schools in Maryland, as well as most Division of Labor and Industry offices, can access the system and issue permits. In order to ensure compliance, the Division responds to complaints. Upon investigation, the Division of Labor and Industry notifies employers of apparent violations and seeks compliance with the requirements. However, although complaints were received and violations identified, the current statute only provides for criminal prosecution of violators, and therefore effectiveness is compromised. There are no administrative sanctions. Special permits for child actors or models of any age are issued by the Commissioner upon evaluation of the circumstances ensuring that the child is working in a safe environment, has proper supervision and that as a result of the work experience, does not suffer damage to educational enrichment.

WHOLESALE REPRESENTATIVES

Section 3-604 of the Labor and Employment Article, *Annotated Code of Maryland*, requires each principal pay to a sales representative all commissions that are due under a contract that is terminated, within 45 days after payment would have been due if the contract had not terminated.

MEDICAL QUESTIONS

Section 3-701 of the Labor and Employment Article, *Annotated Code of Maryland*, prohibits an employer from requiring an applicant for employment to answer an oral or written

question that relates to a physical, psychiatric, or psychological disability, illness, handicap, or treatment unless the disability, illness, handicap, or treatment has a direct, material, and timely relationship to the capacity or fitness of the applicant to perform the job properly.

LIE DETECTOR TESTS

Section 3-702 of the Labor and Employment Article, *Annotated Code of Maryland*, prohibits an employer from requiring an applicant for employment to submit to a lie detector test in order to be hired, or from requiring an employee to submit to a lie detector test as a condition of continued employment. The law requires that certain language appear on every employment application. The Division responds to inquiries related to this law and provides guidance to employers. Exemptions from this law are codified for certain law enforcement officials and applicants applying for jobs involving a national security interest.

VOLUNTEER ACTIVITIES

Section 3-703 of the Labor and Employment Article, *Annotated Code of Maryland*, prohibits an employer from discharging an employee for participation in an activity of a civil air patrol, civil defense, volunteer fire department, or volunteer rescue squad if the activity is in response to an emergency that the Governor declares on the request of the governing body of a county or municipal corporation; and the employee submits written proof that the participation of the employee was required.

DAY OF REST – RETAIL AND WHOLESALE ESTABLISHMENTS

Section 3-704 of the Labor and Employment Article, *Annotated Code of Maryland*, permits an employee in a retail establishment may choose, as a day of rest, Sunday or the Sabbath of the employee unless, outside Wicomico County, the employee is a managerial employee, professional employee, or part-time employee; and in Wicomico County, the employee is a managerial employee or professional employee.

An employee who chooses a day of rest shall give written notice to the employer; and during the course of employment, may change the day of rest by giving written notice of the change to the employer at least 30 days before its effective date.

PENSION PLANS

Section 3-705 of the Labor and Employment Article, *Annotated Code of Maryland*, a pension plan may not reduce a payment to an individual entitled to receive the payment because Social Security payments to that individual increase.

INTERPRETERS

Section 3-707 of the Labor and Employment Article, *Annotated Code of Maryland*, a deaf employee may request an interpreter for proceedings before an administrative or executive

board or any similar body provided by an employer, employee organization, or union to hear employee grievances. The request must be in writing and submitted at least 5 days before the proceeding begins. The employer, employee organization, or union shall notify the deaf employee in writing of the right granted by this section as soon as it is possible or at least 8 days before the hearing begins. If an interpreter is the employer, the employee organization, or union shall request the Department of Disabilities to assist in locating a qualified interpreter to assist at the hearing. The Department of Disabilities shall promptly assist in locating an interpreter. The interpreter shall facilitate communication between the affected parties, subject to the code of ethics of the National Registry of Interpreters for the Deaf. The cost of the interpreter's services shall be divided equally between the employer and the union or employee organization.

JURY SERVICE

Section 3-709 of the Labor and Employment Article, *Annotated Code of Maryland*, An employee has the duties and rights set forth, with respect to jury service in a circuit court of this State, in Title 8 of the Courts Article; and with respect to jury service in a federal court, in 28 U.S.C. § 1861 et seq.

HEALTHY RETAIL EMPLOYEE ACT

Section 3-710 of the Labor and Employment Article, *Annotated Code of Maryland* applies to Maryland employers who operate “retail establishments” and requires that these employers must provide non-exempt retail employees with break periods based on the length of the shifts the employees work. The Act defines a retail establishment as “a place of business with the primary purpose of selling goods to a consumer who is present at the place of business at the time of sale.” A “retail establishment” does not include a restaurant or wholesaler.

JOB APPLICANT FAIRNESS ACT

Section 3-711 of the Labor and Employment Article, *Annotated Code of Maryland* prohibits employers in Maryland from using a job applicant or employee's credit report to determine: (1) whether to hire a job applicant; (2) whether to terminate an employee; or (3) the rate of pay or other conditions of employment for an employee.

USERNAME AND PASSWORD PRIVACY PROTECTION ACT

Section 3-712 of the Labor and Employment Article, *Annotated Code of Maryland*, prohibits Maryland employers from requesting or requiring that an employee, or an applicant for employment, provide access to personal social media accounts. The Act forbids employers from asking for any user name, password or other means to access a personal account or service through an electronic communications device, including computers, telephones, and personal digital assistants. The Act forbids employers from discharging, disciplining, penalizing or threatening to do any of the foregoing for an employee's refusal to disclose any such

information. However, the Act does not restrict employers from searching social media accounts and viewing publicly available information of an employee or an applicant.

PAYMENTS OR DEDUCTION FROM WAGES TIPPED EMPLOYEES

Section 3-713 of the Labor and Employment Article, *Annotated Code of Maryland*, prohibits an employer from requiring a tipped employee to reimburse an employer or pay an employer for the amount of a customer's charge for food or beverage if the customer leaves the employer's place of business without paying for the charges. In addition, unless otherwise provided by law, and employer is prohibited from making a deduction to an employee's wages to cover the cost of a customer's charge for food or beverage if the customer leaves the employer's place of business without paying the charge for food or beverages.

ADOPTION LEAVE

Section 3-801 of the Labor and Employment Article, *Annotated Code of Maryland*, requires an employer who provides leave with pay to an employee following the birth of the employee's child shall provide the same leave with pay to an employee when a child is placed with the employee for adoption.

FLEXIBLE LEAVE ACT

Section 3-802 et. seq. of the Labor and Employment Article, *Annotated Code of Maryland*, authorizes employees of employers with 15 or more individuals to use "leave with pay" for an illness in the employee's immediate family which includes a child, spouse or parent. Leave with pay is considered time away from work for which an employee is paid and includes sick leave, vacation time, and compensatory time. An employee may only use leave with pay that has been earned. Employees who earn more than one type of leave with pay may elect the type and amount of leave with pay to be used. An employee who uses leave with pay under this law is required to comply with the terms of any collective bargaining agreement or employment policy.

The Flexible Leave Act prohibits an employer from discharging, demoting, suspending, disciplining or otherwise discriminating against an employee or threatening to take any of these actions against an employee who exercises rights under this law. This law does not affect leave granted under the Federal Family and Medical Leave Act of 1993 (FMLA).

DEPLOYMENT LEAVE

Section 3-803 of the Labor and Employment Article, *Annotated Code of Maryland*, authorizes specified employees to take leave from work on the day that an immediate family member is leaving for, or returning from, active duty outside the United States as a member of the armed forces of the United States; prohibiting an employer from requiring an employee to use compensatory, sick, or vacation leave when taking leave under the Act; authorizing an

employer to require an employee who takes leave under the Act to submit specified proof to the employer; etc.

CIVIL AIR PATROL

Section 3, Subtitle 10 of the Labor and Employment Article, *Annotated Code of Maryland*, prohibits an employer from discriminating against or discharge from employment an employee who has been employed for a minimum of 90 days and is a member of the Civil Air Patrol because of membership in the Civil Air Patrol. An employer may not hinder or prevent an employee who has been employed for a minimum of 90 days from performing service as part of the Maryland Wing of the Civil Air Patrol during an emergency mission if the member is entitled to leave under this subtitle.

LIEN FOR UNPAID WAGES

Section 3, Subtitle 11 of the Labor and Employment Article, *Annotated Code of Maryland*, requires an employee to provide specified written notice to a specified employer first in order to establish a lien for unpaid wages; authorizing a specified employer to dispute a lien for unpaid wages by filing a specified complaint in a specified circuit court in a specified manner; authorizing a party to request an evidentiary hearing; requiring a circuit court to make a determination on a claim to establish a lien for unpaid wages in a specified manner; authorizing a circuit court to take specified actions; etc.

PARENTAL LEAVE ACT

Section 3, Subtitle 12 of the Labor and Employment Article, *Annotated Code of Maryland*, an eligible employee is entitled to a total of 6 workweeks of unpaid parental leave during any 12-month period for the birth of a child of the employee; or the placement of a child with the employee for adoption or foster care.

Prevailing Wage Compliance

CONTRACTS FOR PUBLIC WORKS

The Division is responsible for implementing the prevailing wage law on covered public works contracts, ensuring proper classification of workers, rates of pay and conditions of employment. The Maryland prevailing wage law and regulations are intended to encourage the development of a high-skill, high-wage growth path for the construction labor market in public works contracting. Union and non-union contractors win public works jobs based on having the most productive, best equipped and best managed workforce. This creates a win/win situation for successful contractors and their workers.

The Prevailing Wage law regulates the hours of labor, rates of pay, conditions of employment, obligations of employers and duties of certain public officials under contracts and subcontracts for public works in Maryland. The Prevailing Wage law applies to a construction project valued at \$500,000 or more if either of the following criteria are met: (1) the contracting public body is a unit of State government or is an instrumentality of the State, and there is any State funding for the project; or (2) the contracting public body is a political subdivision, agency, person or entity (such as a county) and the State funds 50% or more of the project except for school construction where the contract value is \$500,000 or greater with State funding of 25% or more.

The Prevailing Wage unit conducts a continuing program to gather current relevant wage data. Statistical information needed to issue wage determinations is obtained through annual surveys and from payrolls submitted by contractors. Wage determinations are issued for each locality in the State (23 counties and the City of Baltimore) and remain in effect for one year from the date they are issued. At the end of 2018, 2,712 covered projects were under construction.

Activity for 2018	
Payrolls received	165,823
Audits performed	41,656
Determinations issued	455
Wages recovered for employees	1,382,926.76
Liquidated damages collected for violations	\$203,958

The Prevailing Wage Law requires contractors to submit certified payroll statements indicating proper worker classification and wages for both straight and overtime work. The payrolls are audited by field investigators to determine whether employees are paid according to the determinations issued. Together with information from field investigations and employee complaints, the audits frequently result in liquidated damages and restitution recovery for the employees.

FARM LABOR CONTRACTORS

The Division of Labor and Industry is charged with administering the Farm Labor Contractors Law that was designed to improve the migratory labor system in Maryland. A Farm Labor Contractor (FLC) is someone who, for money or other valuable consideration paid or promised to be paid, recruits, solicits, hires, employs, furnishes or transports migrant and/or seasonal agricultural workers or, provides housing to migrant agricultural workers.

Before performing any farm labor contracting activity in or for Maryland, a farm labor contractor must obtain a license from the Commissioner. Since 1983, all farm labor contractors who work in Maryland must be licensed by the Commissioner. Additionally, the law imposes duties on a farm labor contractor regarding the employment, housing, and transportation of migrant agricultural workers. An agricultural operation, or "grower", should verify that a farm labor contractor is licensed before using the contractor's services.

Farm Labor Contractors Licenses for 2018	
Applications received	4
Licenses issued	4
Licenses denied	0
Applications incomplete	0

The Division of Labor and Industry continues to process farm labor contractor license applications and issue licenses to qualified applicants. Because funding for Maryland field investigation staff was eliminated, the Division is not able to respond to complaints or reports of unregistered farm labor contractors. However, since the FLC must also obtain federal registration, where appropriate, complaints are referred to the U.S. Department of Labor. There were no citations issued for violations of the Farm Labor Contractors Law during 2018.

Living Wage Law Compliance

STATE CONTRACTS FOR PUBLIC SERVICES

The Living Wage Law requires certain contractors and subcontractors to pay minimum wage rates to employees working under certain State services contracts. Under State Finance and Procurement Article, Sections 18-101 through 18-109, *Annotated Code of Maryland*, the Commissioner of Labor and Industry is authorized to administer and enforce the Living Wage Law.

Any State procurement contract over \$100,000 to perform certain “services” for various State agencies is subject to the law. There are two living wage rates established statewide. Work performed in Montgomery, Prince George’s, Howard, Baltimore and Anne Arundel Counties and Baltimore City, is defined as “Tier 1” work and currently carries an hourly wage rate as of September 28, 2018 of \$13.96; “Tier 2” rates include wages earned in any county in the State not included in “Tier 1” counties, and an hourly rate as of September 28, 2018 of \$10.49 has been established. The Commissioner of Labor and Industry is required to adjust the wage rates based on the Consumer Price Index, and to allow certain reductions to the wage rates.

Living Wage Activity for 2018

Service Contracts Received	170
Total Non-Exempt Contracts	1089
Exempt & Non-Exempt Contracts as of 12/31	2308
Employees Receiving Restitution	26
Amount of Restitution Recovered	\$774
Vendors/Contractors Submitting Payroll	3539

WORKPLACE FRAUD ACT

The Workplace Fraud Act (WFA) Labor and Employment Article, Title 3, Subtitle 9, *Annotated Code of Maryland* requires that all workers in the construction and landscaping industries in Maryland be properly classified for purposes of worker's compensation and unemployment insurances and for payroll tax withholdings. A work provider may not report a worker as an independent contractor and give that worker a 1099 if an employer-employee relationship exists in fact. Certain small business operators are exempt from the WFA, and a work provider may properly classify a worker as an independent contractor or sub-contractor if they meet the proper conditions and have the proper documentation.

To ensure compliance with the WFA, the Worker Classification Protection Unit (WCPU) conducts compliance reviews based upon complaints, referrals from other government agencies, and random selection. Great effort was made to reach out to businesses in Maryland in 2018. WCPU began offering free educational workshops in addition to one on one guidance. These outreach efforts likely contribute to the reduced number of citations and penalties issued from years past.

WCPU Activity Report 2018

The data below represents activity conducted between January 1 and December 31, 2018:

# and nature of complaints	47 misclassification
complaints	
# of investigations conducted	518
# of citations issued	30 (misclassification)
# of informal resolutions	19
# of appeals to OAH and outcome	0
# of requests for judicial review	0
# of civil penalties assessed	61
Total penalty dollar amount collected	\$20,503

Maryland Occupational Safety and Health

HISTORY

The Williams-Steiger Occupational Safety and Health Act (OSHA) of 1970 charges the U.S. Department of Labor with responsibility for establishing a program assuring "so far as possible every working man and woman in the nation, safe and healthful working conditions, and preserving our human resources." The Act provides that states may elect to assume the responsibility for development and enforcement of a state occupational safety and health program.

In March 1971, the Governor of Maryland designated the Division of Labor and Industry as the agency responsible for Maryland's Occupational Safety and Health (MOSH) Plan. Authority and enforcement responsibilities were assumed on July 1, 1973. On July 18, 1985, the Maryland program received final approval and full enforcement authority in all subject areas covered by the State Plan.

MOSH acts in place of Federal OSHA in Maryland, eliminating duplication of requirements and programs for Maryland employers and employees. Federal OSHA retains coverage for workers in the maritime, longshoring, and mining industries in Maryland. MOSH is charged with ensuring that each employer meets its responsibility of providing each working man and woman in the state with safe and healthful working conditions.

The MOSH program consists of four units: *Research and Statistics, Compliance, Consultation, and Outreach.*

OFFICE OF THE ASSISTANT COMMISSIONER

The Office of the Assistant Commissioner administers the MOSH Program. This office has direct responsibility for program planning and policy-making, program analysis and evaluation, and staffing and resource allocation. The Office of the Assistant Commissioner also ensures the appropriate implementation of new laws and monitors the development of new federal standards. In 2018 MOSH adopted four Standard Notices: Walking -Working Surfaces, Electric Power Generation, Transmission and Distribution Standard, Respirable Crystalline Silica in Construction and General Industry. MOSH also adopted the Consultation Policies and Procedures Manual. MOSH has a process in place to ensure that these directives and standards notices are reviewed and adopted in a timely manner. MOSH Instructions and Standard Notices are available online at <http://www.dllr.state.md.us/labor/instructions/http://www.dllr.state.md.us/labor/standards/>

The Office of the Assistant Commissioner for MOSH also responds to requests under the Maryland Public Information Act (MPIA) for copies of documents maintained by the MOSH Program. MOSH processed 166 MPIA requests in 2018.

Accomplishments/Notable Cases

- In the spring and summer of 2018, MOSH welcomed its newest class of inspectors. The new trainees consisted of eight safety compliance officers and four industrial hygienists (IH) increasing the total number of IH's in the unit to eleven. Each trainee participated in a training curriculum that consisted of classroom-style training and field training with senior compliance officers.
- One IH was assigned to the MOSH Hagerstown office and another is scheduled to transition to the MOSH Easton office. MOSH has been focusing on providing classroom and on-the-job training to four new inspectors, and direct support and assistance to the rest of the IH team.

Notable Cases

Entrapment in Excavation Results in the Death of a 19-Year-Old Worker

- On May 30, 2018, a subcontractor for Baltimore City was sent to a city pool to replace a broken section of pipe in a sanitary sewer line. During the repair which required excavation, a wall collapsed trapping one employee. Citations issued to the employer including: failure to provide cave-in protection; failure to have a competent person on site; improper accumulation of water in the bottom of the trench; failure to provide hard hats for employees working in excavation; and failure to train employees in the hazards associated with excavation work. MOSH issued four willful citations and the MOSH egregious policy was applied to two of the willful citations. The total proposed penalties amounted to \$277,050.00.

Transferring Liquid Nitrogen

- In April 2018, MOSH responded to a referral of the potential hazardous use of liquid nitrogen transfer process and usage at a restaurant in North Bethesda, Maryland. MOSH industrial hygienists observed employees transferring liquid nitrogen from a pressurized cylinder into coffee airpots for storage and use in crafting cocktails. MOSH issued citations for, among other things, potential hypoxia and asphyxiation due to nitrogen displacement; the use of inappropriate containers for liquid nitrogen storage and handling; failure to provide and require adequate personal protective equipment during transfer, dispensing, and handling; and failure to provide effective training to employees working with liquid nitrogen. Federal OSHA has taken an interest in this case.

ENFORCEMENT

Enforcement is the largest unit within MOSH. In 2018, MOSH averaged approximately 51 compliance officers located within four offices throughout the State. There are six regions (five safety and one health) that cover a geographical territory throughout the State. Each safety region covers a group of counties, while the health region covers the entire State.

During calendar year 2018, compliance officers conducted 1,901 inspections through its enforcement programs, removed over 62,000 employees from hazardous conditions, and identified over 6,200 hazards. In 2018, compliance officers investigated 69 complaints with serious hazards as concerns, and investigated 12 fatalities.

MOSH trains its compliance officers to the fullest extent possible and are regarded as some of the most technically diverse inspectors able to readily identify hazards across various industries. Nearly 20 compliance officers attended classes offered by OSHA Training Institute (OTI) in 2018, and 69 Compliance Safety and Health Officers attended at least one of three OTI classes that were brought to Maryland. Courses ranged from topics such as: Excavation, Trenching and Mechanics, Health Hazard Awareness, Machine Guarding, Fall Protection, Inspections Techniques and Legal Aspects, Principles of Scaffolding, and Accident Investigation. By attending these training courses, compliance officers develop their specialized skills as highly trained investigators.

DISCRIMINATION

MOSH is charged with handling discrimination complaints pursuant to Section 5-604 and under regulation at COMAR 09.12.20.05. It is the policy of MOSH to be as accessible as possible to those who have legitimate discrimination complaints concerning safety and health.

Timely-filed discrimination complaints are investigated by MOSH personnel who recommend appropriate case dispositions to the Commissioner, or his authorized representative, at the conclusion of the investigations. The Commissioner, or his authorized representative, makes the final determination in the cases and notifies the complainants of the determination. When there is a merit determination in a case, the case is transferred to the Office of the Attorney General (OAG), as counsel to the Commissioner, for litigation as appropriate. When there is a non-merit determination in a case, the case is dismissed. The OAG provides legal assistance, as necessary, during the investigation. In calendar year 2018, 17 discrimination complaints were investigated by MOSH.

In addition to investigating discrimination complaints related to occupational safety and health, MOSH provides assistance, information and referrals on discrimination via telephone inquiries from employers, employees, the general public, and local, state and federal government agencies.

MOSH Activity 2018

	Voluntary Compliance Sites	Inspections/ Investigations	Violations	Educational Classes	Educational Participants	Attendees at Speaking Engagements	Complaints w/ Serious Hazards Inspected	Fatalities Investigated	Fatalities Investigated <1 day of notification	Discrimination Cases Completed
Jan-18	0	130	554	5	100	102	6	3	100%	0
Feb-18	0	133	641	8	178	856	6	0	100%	1
Mar-18	0	127	548	8	125	275	16	1	100%	0
Apr-18	0	154	563	9	215	103	6	1	100%	1
May-18	1	94	345	7	178	392	8	1	100%	0
Jun-18	2	113	310	6	123	303	14	2	100%	0
Jul-18	0	131	553	6	72	99	8	2	100%	3
Aug-18	2	102	426	5	75	468	7	3	100%	0
Sep-18	0	105	355	6	76	256	11	2	100%	1
Oct-18	1	94	294	9	151	249	8	0	N/A	2
Nov-18	0	85	284	8	119	278	6	1	100%	1
Dec-18	3	77	236	5	127	213	3	1	100%	2
Total	9	1345	5109	82	1539	3594	99	17	100%	11

OUTREACH PROGRAM

The MOSH program has four opportunities for employers in Maryland to partner and ally with the agency and voluntarily go above and beyond the minimum requirements set forth by MOSH. These four programs are Voluntary Protection Program (VPP), Safety and Health Achievement Recognition Program (SHARP), Strategic Partnership for Excellence in Construction Safety (SPECS), and Cooperative Compliance Partnerships (CCP). Companies that achieve a partnership or alliance status are looked upon as leaders in safety and health. In 2018, these programs resulted in 12 new voluntary compliance agreements. Each program is discussed in further detail below. They are implemented to allow Maryland employers to build a working relationship with MOSH personnel to facilitate the further reduction of workplace hazards beyond traditional enforcement.

Voluntary Protection Program (VPP)

The Maryland VPP is a cooperative effort by MOSH and participating employers to extend worker protection beyond the minimum required by MOSH standards. VPP is designed to recognize the outstanding achievements of participating employers who have successfully incorporated comprehensive safety and health management plans into their total management system. The VPP can motivate other employers to achieve excellent safety and health performance in the same manner and enable employers to establish a cooperative relationship with MOSH.

The VPP is managed through the Assistant Commissioner's Office. In 2018, the VPP Manager attended VPP meetings, the National and Region III VPPPA Annual Conference, and the Region III board meetings. The program maintained 22 active sites in 2018. Three new VPPs were awarded in 2018; Cintas Corporation 368 and Cintas Corporation B22 in Cumberland and Cintas Fire Protection Division in Jessup. Two sites were re-approved for continued participation in VPP; Cintas Corporation 41 in Baltimore and Sherwin-Williams in Baltimore.

Strategic Partnership for Excellence in Construction Safety (SPECS)

In 2018, a strategic partnership between the MOSH and the Maryland Chapters of the Associated Builders and Contractors of Maryland (ABC) was signed. The SPECS Program is a multi-level agreement that encourages and recognizes ABC members who voluntarily implement highly effective safety and health management systems to benefit construction workers and reduce or eliminate injuries, illnesses and fatalities on construction sites in Maryland. SPECS is a pilot test of a new type of program that, if successful, will be made available to other industry groups and companies in the coming years.

The SPECS program is managed through the Assistant Commissioner's Office. The VPP Manager is responsible for managing the program. There were three active SPECS companies added to the program in 2018. Coakley-Williams Construction Inc. in Bethesda, Forrester Construction Company in Rockville and Scaffold Resource, LLC in Lanham.

Cooperative Compliance Partnerships (CCP)

The Maryland Cooperative Compliance Partnership (CCP) program is a cooperative approach to safety by MOSH and participating construction contractors to extend worker protection beyond the minimum OSHA / MOSH standards. Each CCP is site-specific and designed to recognize the outstanding achievements of participating employers who have successfully incorporated comprehensive safety and health programs into their total management system. Over the years MOSH built lasting relationships with these contractors and is now seeing a new safety culture emerge among, not just the individual companies, but the individual employees as well.

In 2018, MOSH signed six new partnerships with: Donohoe Construction Company in Baltimore; Gilbane Building Company in College Park; The Whiting Turner Contracting Company in Hurlock, Catonsville, and Baltimore City; and Wagman Inc. in Gaithersburg. This brings the program's total to 90 partnerships since its inception in 1997. Several new applications are going through the review process and are likely to become new partners in 2019.

In 2018, there were nine active sites with over 2,972 employees working on these sites. The CCP unit performed 75 inspections of 269 sub-contractors and general contractors, during 22 site visits to its active partnership sites identifying nearly 75 hazards.

Safety and Health Achievement Recognition Program (SHARP)

The Safety and Health Achievement Recognition Program (SHARP) recognizes small employers who operate an exemplary safety and health management system. The acceptance into SHARP by MOSH is an achievement that singles employers out among their business peers as models of worksite safety and health. The SHARP program recertified one existing site in 2018, Acadia Windows and Doors in Rosedale, and began recertification process for Stanley, Black and Decker Powdered Metals in Hampstead. The total number of SHARP sites for 2018 was three. Two new companies began the process late in 2018 and have since completed all of the program requirements to become SHARP sites in 2019.

Training and Education

The MOSH Education Unit provides the public with information pertaining to MOSH/OSHA laws and regulations including flyers, fact sheets, brochures, pamphlets and books to employers inquiring about compliance issues at no charge. The unit also has a video library that contains several hundred titles on safety and health issues that employers can check out to aid in their training of employees. The Education Unit also maintains a comprehensive reference library with several hundred books, national census standards, and more for employers to research. The Education Unit also provides speakers for employers who want to teach their employees about specific topics, as well as informational booths at safety fairs and conventions throughout the state. This unit is also responsible for providing free public seminars on a variety of safety and health topics. A public website (<http://www.dllr.state.md.us/labor/mosh>) is maintained for employers/employees to search for regulations, publications, class schedules, and general information about MOSH.

To enhance the Education Unit's ability to reach as many employers and employees as possible, MOSH continued using an email marketing tool to aid in the dissemination of seminar brochures and announcements of training. The unit also sends out a quarterly e-newsletter to give OSHA/MOSH updates and safety tips that are appropriate for the time of year.

Public Presentations

The Education Unit continued to develop and handout its bi-annual seminar schedule. These seminars were led by numerous MOSH staff as well as alliance and/or partner members.

In 2018, the Outreach Training and Education Unit offered 82 educational seminars covering 26 topics, at no cost to the employees and employers in Maryland, including many federal employees and contractors. Just over 1,500 employees and employers participated in the half and full day seminars. MOSH also offered employers the opportunity to request a MOSH representative to provide information on relevant technical safety and health topics. In 2018, 90 different employers, institutions, and government agencies took advantage of this opportunity. MOSH staff spent over 130 hours presenting on various safety and health topics to over 3,594 employees.

Teen Safety continued to be an important topic to cover with high school students who are preparing to enter the workforce. Each year MOSH completes numerous speaker requests at various high schools throughout the state. In 2018, MOSH spent over 19 hours speaking to 358 students at 9 different events about workplace hazards. Students were lectured on safe work practices, MOSH requirements, and the consequences of not working in a safe and healthful environment.

MOSH participates in a number of local trade shows and safety conferences every year to disseminate literature and information. These conferences and trade shows allow employers and employees to meet field staff and ask questions without fear of repercussion. These events also allow staff to network with other safety professionals. In 2018, MOSH attended 20 such events.

In May 2018, MOSH partnered with Department of Natural Resources in Work2LiveWELL, Governor Hogan's new job training initiative program. This was a new initiative program to provide opportunities in tree care work for Baltimore City young adults. MOSH gave a presentation on tree care safety to the potential entry-level employees.

CONSULTATION

Private Sector Consultation

Private Sector Consultation assists private sector employers, free-of-charge, to achieve voluntary compliance with MOSH laws, standards and regulations, and to improve safety, health, and ergonomic conditions in the workplace.

At the request of an employer, a consultant conducts an on-site visit which includes an opening conference, a "walk-around" survey to identify apparent hazards, including air and noise sampling when necessary, a closing conference to set a schedule for correction of hazards, and a written report.

Private Sector Consultation is separate from MOSH Compliance. No citations or penalties are issued. However, an employer is obligated to correct any imminent danger hazard immediately, and to correct all serious hazards within an agreed upon correction schedule. Highest priority is given to small high-hazard employers. An employer may request a survey of an entire work site or a specific area of concern. When necessary, follow-up visits are made to ensure the correction of serious hazards.

In addition to on-site hazard surveys, Private Sector Consultation provides assistance through correspondence, telephone calls, meetings, safety and health program assessments and assistance, and limited formal or informal training on-site regarding conditions observed during a survey.

In 2018, the Private Sector Consultation unit consisted of five full-time safety consultants, two of which were in training status and two full-time health consultants, who assist the Public Sector Consultation unit on an as needed basis, not to exceed 10% of their total time. The unit was able to complete 253 initial on-site hazard surveys, and 29 follow-up and training visits during 2018. Based on opening conference dates during the same period, 845 serious hazards and 406 other than serious hazards were found. Over 35,000 employees were covered by the visits and over 1,600 received informal onsite training.

Public Sector Consultation

MOSH Public Sector Consultation provides assistance to prevent injury and illness to state, county, and municipal employees. Upon the request of an agency representative, a MOSH consultant conducts an on-site visit following the same procedures as private sector consultation. In addition, the unit provides off-site assistance such as standards interpretation and training.

In 2018, Public Sector Consultation completed 65 initial on-site hazard surveys and 6 follow-up on-site hazard surveys. Based on opening conference dates during the same period, 179 serious hazards and 26 other than serious hazards were found. Over 9,000 employees were covered by public sector consultation visits and nearly 1,300 received informal onsite training.

RESEARCH AND STATISTICS

The MOSH Research and Statistics Unit is responsible for developing and administering data collection programs that generate occupational injury and illness statistics. The current data collection programs are the Survey of Occupational Injuries and Illnesses (SOII); the Census of Fatal Occupational Injuries (CFOI); and an online query application that accesses the Maryland Workers' Compensation Commission's Employer First Report of Injury and Illness file. Statistics from these three programs provide a valuable tool that helps guide the Maryland Occupational Safety and Health agency's surveillance efforts by creating a body of data that describes the nature and cause of occupational injury and illness. In addition the SOII results are used to identify and profile the most hazardous industries in Maryland that may require outreach or intervention.

Bureau of Labor Statistics' Survey of Occupational Injuries and Illnesses (SOII)

In cooperation with the U.S. Department of Labor, Bureau of Labor Statistics (BLS), the MOSH Research and Statistics Unit, within the Maryland Division of Labor and Industry, conducts the Survey of Occupational Injuries and Illnesses (SOII). Approximately 4,500 Maryland business establishments -- selected through a random statistical sampling process participate in this survey. SOII estimates the number and frequency (incidence rates) of nonfatal workplace injuries and illnesses. The estimates are based upon injury and illness logs kept by employers on an annual basis. Each January, a survey is mailed to a selected sample of Maryland employers questioning them about their previous year's workplace injury and illness experience. Reference year 2017 results were collected, compiled, and analyzed during calendar year 2018.

The number of injuries and illnesses reported in any given year can be influenced by changes in the level of the State's economic activity, working conditions and practices, employee experience and training, and the number of hours worked. The SOII also provides details on the demographics of the more seriously injured and ill workers (e.g., occupation, gender, race and length of service) along with the characteristics of their injuries and illnesses (e.g., nature of injury/illness, part of the body affected, event or exposure, and source of the injury/illness).

Policy makers in government and industry use the SOII data. In addition, labor organizations, manufacturers of safety equipment, academics and other researchers in the field of occupational safety and health use the SOII results. The U.S. Bureau of Labor Statistics includes Maryland's data when compiling the official national statistics. MOSH uses the program results to establish and assess agency performance measures. Maryland employers use the data to measure the effectiveness of their own safety programs by comparing individual establishment rates to the aggregate state and national rates for their respective industries. Federal OSHA uses the SOII to monitor the effectiveness of certain MOSH activities and to measure our progress in meeting the objective of the Occupational Safety and Health Act by assuring safe and healthful working conditions for every working man and woman through the reduction of occupational injuries and illnesses.

The Maryland Survey of Occupational Injury and Illness (SOII), 2017

In 2017, approximately 62,600 nonfatal workplace injuries and illnesses were reported through the Survey of Occupational Injuries and Illnesses by Maryland's private and State and local government employers. The injuries and illnesses occurred at a rate of 3.0 cases per 100 full-time equivalent workers. This rate represented a 9 percent decline from the previous year's rate of 3.3 per 100 full-time equivalent workers. In 2017 there were approximately 2.5 million workers in the State under the Maryland Occupational Safety and Health (MOSH) agency's regulatory oversight[1].

Maryland's Private Sector

Maryland private sector employers reported 46,600 nonfatal injuries and illnesses. The difference in the number of cases for 2017 was not statistically different from 2016. Injuries and illnesses in private industry occurred at a rate of 2.6 cases per 100 equivalent full-time workers. Cases of a more serious nature involving days away from work, job transfers, or restrictions -- commonly referred to as the DART rate, occurred at a rate of 1.5 cases per 100 full-time equivalent workers. There were 27,900 such cases reported.

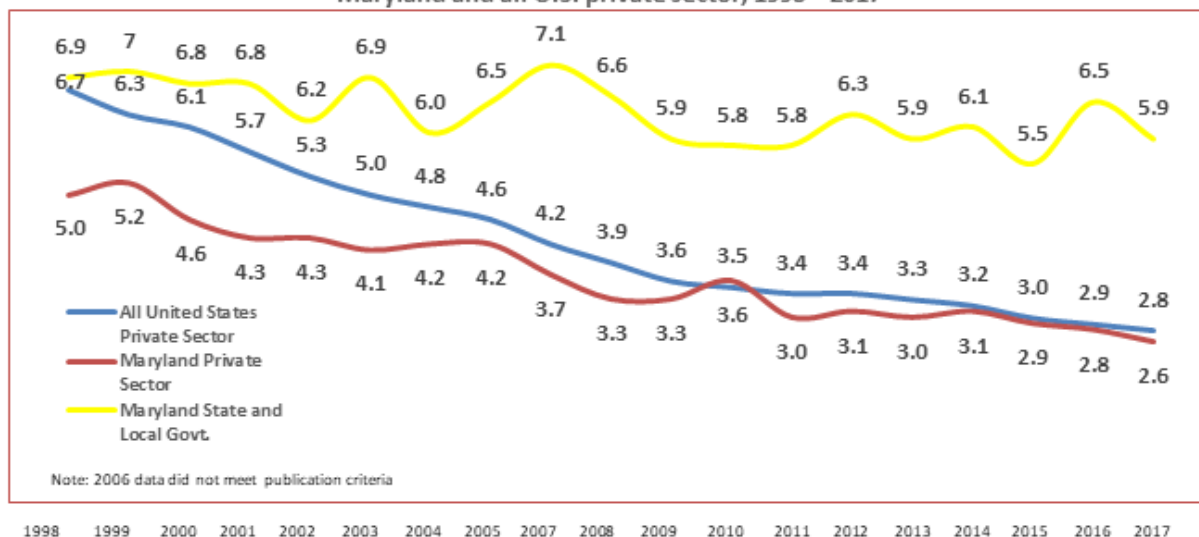
Rates of injury and illness by industry sector ranged from an incidence rate of 0.2 injuries and illnesses per 100 full-time equivalent workers for Management of Companies and Enterprises (NAICS 55), up to a rate of 9.6 injuries and illnesses for local government's Public Administration (NAICS 92). Based on the North American Industry Classification System (NAICS) four-digit industry grouping, the rates ranged from Electric Power Generation, Transmission and Distribution (NAICS 2211) with a rate of 0.9 up to Animal Slaughtering and Processing (NAICS 3116) with a rate of 9.4.

Eighty percent (80%) of private industries reported injuries and illnesses occurred in service-providing industries with 37,300 cases while goods-producing industries accounted for 20 percent or 9,300 cases. Injury and illness estimates for Maryland's private sector covered just over 2.1 million workers, based on the Maryland Department of Labor, Licensing and Regulations labor market information and the Quarterly Census of Employment and Wages program.

Maryland's private sector total recordable case rate of 2.6 injuries and illnesses per 100 full-time equivalent workers was 7 percent below the U.S. private sector's rate of 2.8. The difference between these two rates was shown to be statistically significant. From 2016 to 2017 most Maryland private industry incidence rate changes were not statistically significant with the notable exception of Poultry processing (NAICS 311615) which decreased 5 percent from 8.7 injuries and illnesses per 100 full-time equivalent workers to 8.3.

[1] Source: Maryland Department of Labor, Licensing, and Regulation, Quarterly Census of Employment and Wages Program, 2017 Annual Average.

Chart 1. Total recordable case incidence rates per 100 full-time equivalent workers for all nonfatal workplace injuries and illnesses, Maryland and all U.S. private sector, 1998 - 2017



Source: MD Division of Labor and Industry in cooperation with the U.S. Department of Labor, Bureau of Labor Statistics, SOII program.

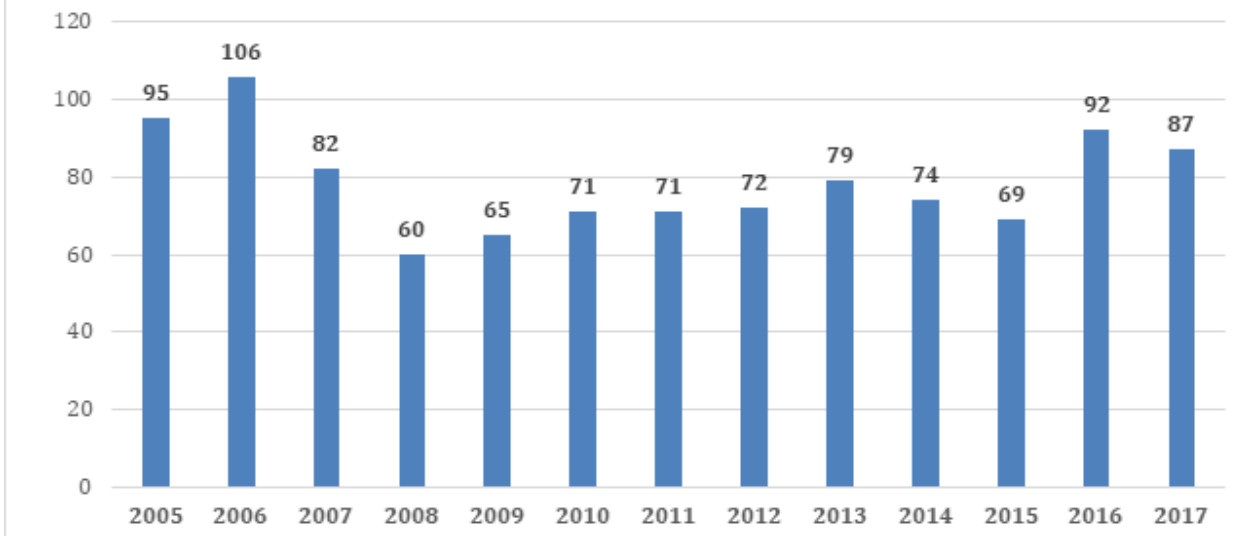
The Maryland Census of Fatal Occupational Injuries (CFOI), 2017

The Maryland CFOI program within the Division of Labor and Industry compiles a complete accounting of all fatal work injuries occurring in the State during the calendar year. The program uses diverse data sources from a variety of federal, State and local government administrative records and other independent data sources in order to substantiate and profile fatal work injuries. CFOI includes data for all workplace fatalities regardless of whether the fatality was under the regulatory authority of the Maryland Occupational Safety and Health agency or other federal and state agencies. Any comparisons, therefore, between the CFOI program’s census counts and those released by other agencies or sources should take into account the different scopes of coverage and definitions being used.

For a fatality to be included in this census, the decedent must have been employed (defined as working for pay, compensation, or profit) at the time of the event, engaged in a legal work activity, or present at the site of the incident as a requirement of his or her job. Fatalities to volunteers and unpaid family workers who perform the same duties and functions as paid workers are also included in the count. These criteria are generally broader than those used by other State and federal agencies administering specific laws and regulations. (Fatalities that occur during a person’s normal commute to and from work are excluded from the census counts.)

Data presented include deaths occurring that resulted from traumatic occupational injuries. An injury is defined as any wound or damage to the body resulting from acute exposure to energy, such as heat, electricity, or impact from a crash or fall, or from the absence of such essentials as heat or oxygen, caused by a specific event or incident within a single workday or shift. Included are open wounds, intracranial and internal injuries, heatstroke, hypothermia, asphyxiation, acute poisonings resulting from short-term exposures limited to the worker’s shift, suicides and homicides, and work injuries listed as underlying or contributory causes of death.

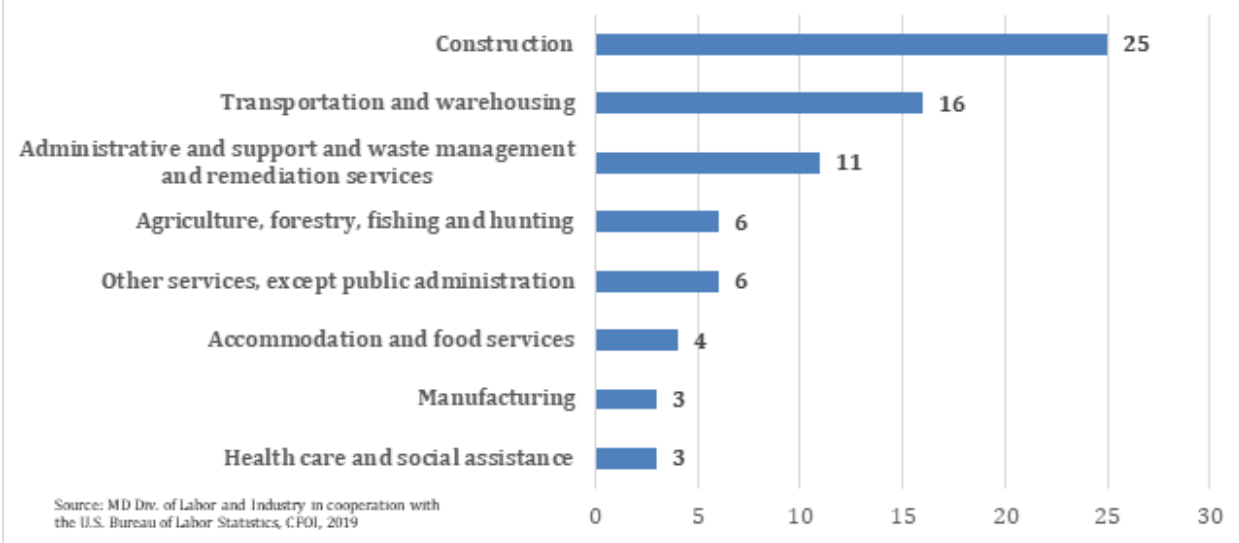
Chart 2. Total fatal occupational injuries, Maryland, 2005 - 2017



Source:

Maryland Department of Labor, Licensing, and Regulation, Division of Labor and Industry in cooperation with the U.S. Department of Labor, Bureau of Labor Statistics, Census of Fatal Occupational Injuries.

Chart 3. Fatal work injuries by selected industries, private industry, Maryland, 2017



Source: MD Div. of Labor and Industry in cooperation with the U.S. Bureau of Labor Statistics, C.F.O.I., 2019

Source: Maryland Department of Labor, Licensing and Regulation, Division of Labor and Industry in cooperation with the U.S. Department of Labor, Bureau of Labor Statistics, Census of Fatal Occupational Injuries.

Safety Inspection

The Safety Inspection program includes several diverse inspection units and educational initiatives focused on ensuring the safety of the public when using or exposed to certain equipment. Working with owners, industry management and labor, the Safety Inspection program ensures that boilers, pressure vessels, elevators, escalators, amusement rides and railroads are constructed and operated in accordance with applicable State laws and regulations.

A Chief Amusement Ride Inspector, Chief Boiler Inspector, and a Chief Elevator Inspector, under the guidance and direction of a Safety Inspection Program Manager, supervise the conduct of compliance inspections. Administrative support staff in Baltimore coordinates communications between industry representatives, field inspection staff, and program management. They also perform a major supporting role with respect to inspection scheduling, invoicing, and inspection certificate issuance. The focus of all these activities is the prevention of injury, death, and property loss for Maryland citizens and visitors to our State.

BOILER AND PRESSURE VESSEL SAFETY INSPECTION

The Boiler and Pressure Vessel Safety Act, *Public Safety Article, Title 12, Subtitle 9, Annotated Code of Maryland*, establishes safety standards for boiler and pressure vessel safety and requires the inspection and registration of boilers and pressure vessels used in commercial establishments and places of public gathering. Such equipment may be located in schools, places of worship, apartment buildings, day care centers, hospitals, nursing homes, office buildings, government buildings, and other places where the citizens of Maryland gather to work or play.

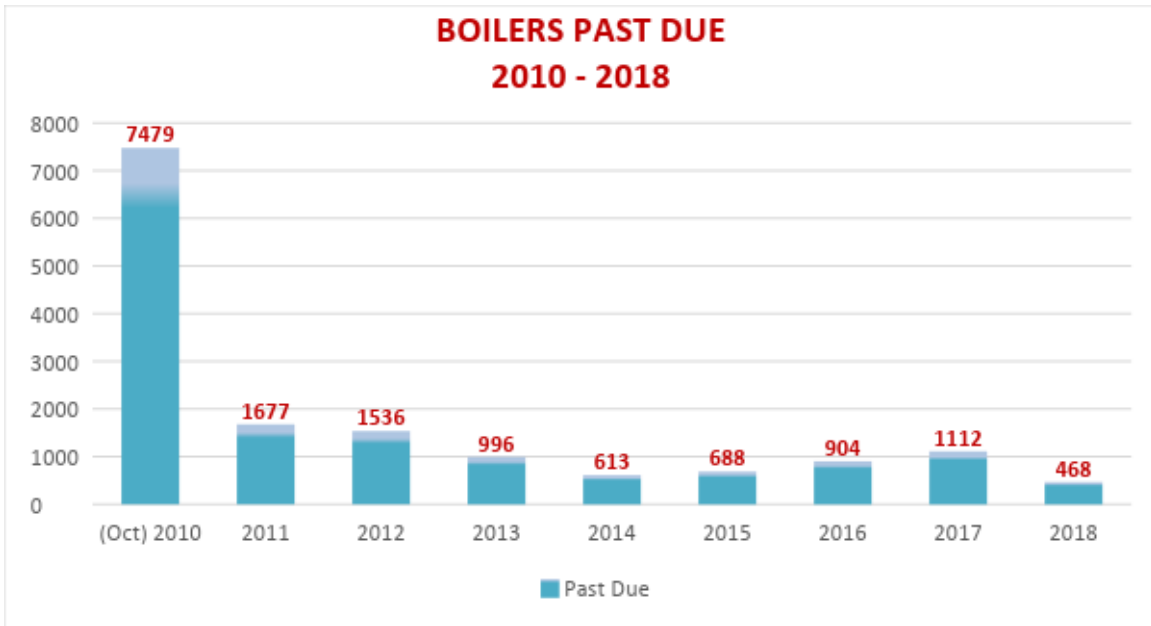
The Boiler and Pressure Vessel Safety Inspection unit is mandated by the General Assembly to ensure proper construction, installation, maintenance, use and repair of these boilers and pressure vessels in order to prevent injury to life, limb, and property. The unit currently includes a Chief Boiler Inspector, 10 Deputy Boiler Inspector positions, with approximately 30 Special Inspectors that conducted inspections during the year, all commissioned by the National Board of Boiler and Pressure Vessel Inspectors and the State of Maryland to conduct boiler and pressure vessel safety inspections.

Special Inspectors employed by authorized inspection agencies performed approximately 81% of the 37,597 safety inspections conducted in 2018, as required by the Maryland Boiler and Pressure Vessel Law. The Chief Boiler Inspector is responsible for monitoring their inspection activities. This cooperative arrangement between the State and the private sector has been in existence for over sixty years.

Deputy Boiler Inspectors assist the Chief Boiler Inspector in monitoring Special Inspectors, inspecting repairs to boilers and pressure vessels, registering and inspecting all new installations, in addition to performing follow-up inspections of violations to insure their correction. Deputy Boiler Inspectors also perform accident, complaint and variance investigations.

All owners/users of boiler and pressure vessels are required to contract with an authorized inspection agency to have the required periodic safety inspections performed. State inspectors continue to monitor the inspections performed by Special Inspectors, monitor repairs to boilers and pressure vessels, inspect and register all new boiler and pressure vessel installations, and perform follow-up inspections of violations to insure their correction.

Since 2010 the Boiler and Pressure Vessel Unit has successfully reduced the number of past due objects by 94%. In 2010 the Boiler and Pressure Vessel Safety Act was amended, requiring owners to contract with authorized inspection agencies to perform the required periodic safety inspections.



Boiler and Pressure Vessel Inspections Conducted by Deputy Boiler Inspectors and Special Inspectors

Inspections	Deputy Inspectors	Special Inspectors
Inspections performed	7,576	30,021
Units Registered	37,597	53,615
Accidents investigated	0	
Complaints investigated	0	
Total certificates issued	30,479	
New registrations	3,016	

The Board of Boiler Rules, whose members are appointed by the Governor, provides additional technical expertise. The Board formulates proposed regulations for the Commissioner of Labor and Industry and evaluates requests for variance from applicable regulations.

Codes and Standards used by State and Special Inspectors are as follows:

- ASME Boiler and Pressure Vessel Code
- National Board Inspection Code
- ASME B31.1 Power Piping
- ASME B31.3 Chemical Plant and Petroleum Refinery Piping
- ASME CSD-1 Controls and Safety Devices for Automatically Fired Boilers
- NFPA 85 Boiler and Combustion System Hazards

Maryland law requires that any boiler or pressure vessel installed in the State be built to the standardized American Society of Mechanical Engineers (ASME) construction code. Commissioned inspectors ensure that repairs to registered boilers and pressure vessels also are performed in accordance with State requirements. There are over 20 Maryland companies authorized to perform repairs to boilers and pressure vessels.

Both Deputy Boiler Inspectors and Special Inspectors report violations of State laws and regulations to the Chief Boiler Inspector, who ensures that the equipment owner is notified of the violation in order to secure timely correction of the hazard. There were over 5,021 such violations opened in 2018, 933 of which were identified by State inspectors. Four thousand nine hundred and seven (4,907) violations were corrected throughout the year. Each violation reported and corrected is a possible accident that was prevented.

RAILROAD SAFETY AND HEALTH INSPECTION

Maryland's Railroad Safety and Health program was created by the General Assembly to help reduce railroad-related accidents, deaths and injuries, and damage to property throughout the State of Maryland. Established and operating since 1980, this unit is a vital supplement to the national inspection program conducted by the Federal Railroad Administration (FRA).

By law, the FRA has primary responsibility for ensuring railroad safety nationwide. FRA's traditional safety inspection program has produced substantial improvements in railroad safety with real benefits for the American people. FRA designates six regional inspection areas across the United States. The states of Maryland, Delaware, Ohio, Pennsylvania, Virginia and West Virginia are designated as part of FRA Region 2. Delaware is the only state in Region 2 that does not participate in the state railroad safety program. Participating state railroad safety programs provide a vital source of associated, yet independent, compliance inspection for the citizens of their respective states.

The Maryland program monitors the safety practices of each railroad company operating in Maryland by focusing statewide compliance inspections in the current disciplines of track, operating practices, and motive power and equipment. Staff also continues to successfully work with FRA and the National Transportation Safety Board (NTSB) while investigating rail accidents that occur in Maryland.

Railroad Safety and Health monitors and assists railroad operations that are not inspected by FRA. Maryland inspectors work with private industries that ship or receive goods via rail, to promote understanding of railroad safety practices and to ensure the safety of in-plant operation of locomotives and railroad freight cars. Staff members enforce Maryland specific requirements for track clearances, yard and walkway safety. They also work with several tourist and museum railroad operators that carry passengers, and lend their experience and knowledge to assist the Amusement Rides Safety Program in the inspection of trains and track that are used as amusement rides.

Railroad safety compliance inspections are especially important in the many areas that operate both freight and passenger services on shared use rail lines. The increasingly busy Amtrak Northeast Corridor and several CSX rail lines have shared use operations with the MARC commuter service, and these rail lines receive enhanced Maryland railroad compliance inspections.

Increased rail traffic throughout Maryland makes adequate railroad safety inspection vital and necessary. The safety and wellbeing of the general public that live, work, attend school or travel on or near railroad lines rely on safe railroad operations. Despite being small in size, Maryland's Railroad Safety and Health program provides a vital additional measure of safety for the citizens of Maryland and the traveling public. There is currently a Track inspector, a Motive Power and Equipment inspector (hired in December, 2018), and an Operating Practices inspector who worked 6 months as a full-time employee, but now works on a part-time basis for the State.

Railroad Safety and Health Inspections

Motive Power and Equipment

MP&E Inspections	0
Cars inspected	0
Locomotives inspected	0
Defects reported	0
Violations reported	0
Blue Signal observations	0

Track

Track Inspections	355
Private industry inspections	122
Track miles inspected	2,606
Turnouts inspected	1,498
Defects reported	932
Violations reported	0

Operating Practices

OP Inspections	10
Railroad operating rules	4
Railroad operating practices	2
Radio standards and procedures	3
Rear end marking devices	2
Hours of service of railroad employees	0
Defects reported	4
Violations reported	0
Blue Flag observations	0

Railroad Accident/Incident Reporting

Accidents/Incidents	13
Fatalities (including trespassers)	7
Injuries	4
Property Damage	4

Operating Practices

Railroad operating practices inspections cover the “human factor” element of railroad operations. A track defect or an equipment defect can be readily observed and repaired. However, behavior that increases the likelihood of an accident cannot be undone, but rather must be identified so that systems can be developed to prevent recurrence. This type of prevention often involves cultural changes for both employees and management. An Operating Practices

inspector monitors the actions of railroad employees to deter unsafe behavior and promote proper safety practices.

Operating practice enforcement activities not only prevent injuries to railroad employees performing their own assignments, but also protect employees and the public from the unsafe actions of others. Some areas of responsibility include compliance inspections designed to deter drug and alcohol abuse and tampering with locomotive safety devices. Compliance inspections also monitor other railroad employee testing programs and the procedures for the protection of railroad maintenance personnel in the performance of their duties.

The Railroad Safety and Health Operating Practices inspector participates in investigations which evaluate causation of fatalities, injury and property damages as related to human factor caused events.

Track Safety

A State track inspector monitors the inspections performed by each railroad company operating in Maryland to ensure compliance with federal track safety standards including regulations that provide a safe working environment for track maintenance workers. The inspector identifies defects on tracks used to carry both passengers and hazardous materials. Tracks located near schools, residential and industrial areas and major highways must have defects and other hazards abated to avert major catastrophic events.

In addition to regulatory compliance inspections of railroads, the Maryland track inspector evaluates the safety of private industry track serviced by each railroad company. This process ensures the safety of common railroad carriers operating over the private track and increases the level of safety for the private industry employees as well as the community at large.

The Railroad Safety and Health track inspector participates in investigations which evaluate causation of fatalities, injury and property damages as related to track-caused events.

Motive Power and Equipment

A motive power and equipment (MP&E) inspector monitors inspections and worker safety protection (Blue Signal Protection) as implemented by each railroad company under Federal Railroad Administration regulations. Locomotives (motive power), passenger cars and freight cars (equipment), and track maintenance equipment are the focus areas of compliance inspection. The MP&E inspector conducts independent inspections of railroad equipment including new technology equipment such as remote controlled locomotives and high-speed train sets.

The Railroad Safety and Health MP&E inspector participates in investigations which evaluate causation of fatalities, injury and property damages as related to railroad equipment caused events.

AMUSEMENT RIDE SAFETY INSPECTION

By providing for an effective inspection and enforcement program, the *Amusement Ride Safety Law, Business Regulation Article, Title 3, Annotated Code of Maryland*, ensures, as far as possible, the safety of the public in the use of amusement rides and attractions. The Law indicates that certain amusement rides or attractions may not be operated in Maryland until the Commissioner of Labor and Industry has issued a certificate of inspection. As part of the certificate application process, the owner or lessee must provide the Commissioner with a current certificate of insurance indicating liability coverage in the amount specified by law.

A certificate of inspection issued by the Commissioner for a ride or attraction in an amusement park is valid for not more than one year from the date issued. Certificates for rides and attractions at fairs and carnivals are valid for not more than 30 days. Each time certain rides or attractions are moved to a new location they must be inspected and a new certificate issued before operation begins.

Owners of inflatable amusement attractions are required to register their attractions each year with the Commissioner of Labor and Industry and provide proof of general liability insurance. Inflatable amusement attractions over four feet are subject to annual inspection.

The Amusement Ride Safety Law prohibits the conduct of a “bungee jumping operation” in Maryland. The General Assembly moved to prohibit this activity in response to research, investigation and several catastrophic events. The law provides for criminal penalties for any person violating its provisions.

Amusement Ride Safety Inspections

Accidents investigated	5
Complaints investigated	32
Certificate Inspections	4,348
Other Inspections (Strip-Downs, Preliminary, Assists)	1,556
Total Inspections Performed	5,904

Number of Rides Registered in 2018: 4,751

The Amusement Ride Safety Inspection Unit includes a staff of 9 field inspector positions statewide including one supervisor position.

Throughout 2018, the Amusement Ride Safety Inspection Unit responded to 2,258 inspection requests from 333 different amusement companies. 5,904 inspections were performed throughout the calendar year. Not all inspections result in a certificate being issued (Strip-Downs, Preliminary), and some devices may not have been inspected for various reasons,

including mechanical malfunction, weather related cancellations, inaccurate information in the inspection request, or customer failure to register their equipment with the State, which is a requirement under COMAR 09.12.62.

A nine-member Amusement Ride Safety Advisory Board appointed by the Governor advises, consults with, and makes recommendations to the Commissioner for the prevention of conditions on amusement rides and attractions that may be detrimental to public safety.

The Safety Inspection program makes a concerted effort to increase public awareness by disseminating copies of the law and regulations, and keeping the public informed about availability of the laws and regulations on-line.

ELEVATOR SAFETY INSPECTION

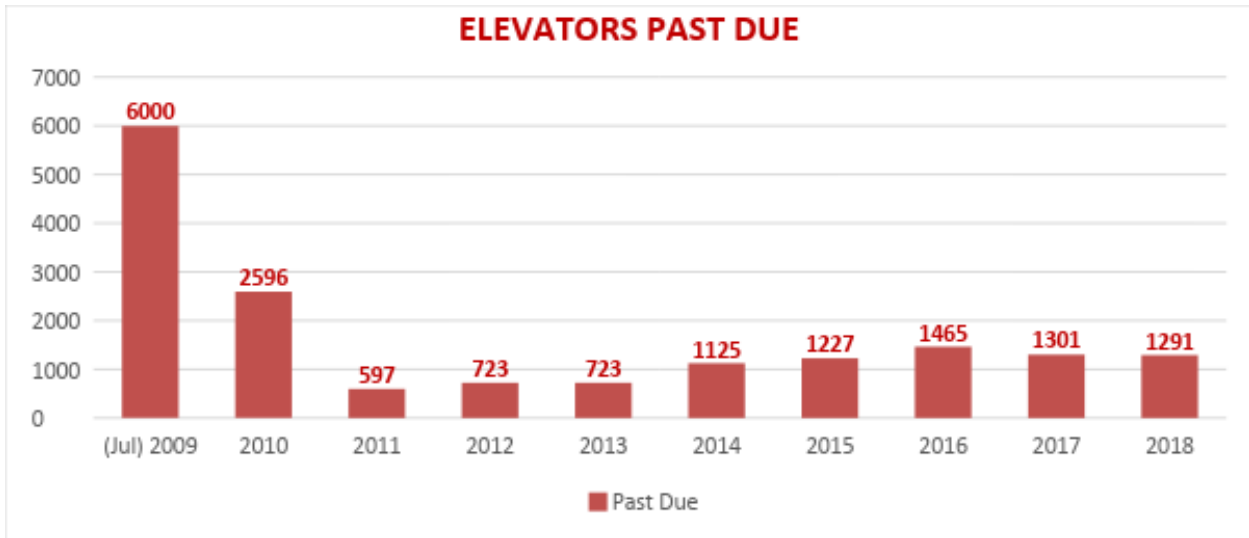
The Commissioner of Labor and Industry is responsible for ensuring that the required safety inspections are performed on all elevators, dumbwaiters, escalators and moving walkways operating throughout Maryland, pursuant to *Public Safety Article, Title 12, Subtitle 8 Elevator Safety*. Inspections are conducted by State inspectors and authorized third party inspectors in accordance with the nationally recognized American Society of Mechanical Engineers Safety Code for Elevators and Escalators.

The Commissioner may grant an exception from the requirements of applicable codes when necessary to prevent undue hardship or where existing conditions prevent practical compliance. With proper documentation and where reasonable safety can be secured, the Commissioner considers applications for variance on a case-by-case basis.

The Elevator Safety Inspection unit includes a Chief Elevator Inspector and two regional supervisors who coordinate, train and supervise a staff of 19 field inspector positions statewide, 4 of which were vacant at the end of 2018.

In 2009, the Elevator Safety Act was amended, requiring owners of elevator units operating in Maryland to contract with an authorized third party inspector to perform the required annual safety inspections. An authorized inspector must hold a valid Qualified Elevator Inspector certification by a nationally recognized safety organization accredited by the National Commission for Certifying Agencies or the American National Standards Institute, maintain professional liability insurance and be approved by the Commissioner of Labor and Industry. State inspectors continue to perform annual inspections on elevator units owned by the State or a political subdivision, perform final acceptance inspections for all new elevator unit installations, witness all five year comprehensive inspections and conduct accident and complaint investigations.

During 2018, there were an average of 73 Third Party Qualified Elevator Inspectors (TPQEI) monthly assisting Maryland owners in keeping their elevators, escalators, and lifts safe. The joint effort between State and TPQEI inspectors, which began in July 2009, has had a positive impact on the number of overdue units in Maryland. Since this joint effort took place, the Elevator Safety Unit has successfully reduced the number of elevator units past due for an inspection by over 78%.



During the 2018 session of the Maryland General Assembly, House Bill 1107 passed and was signed into law by Governor Hogan. The bill makes significant changes to the Maryland Elevator Safety law and the Safety Inspection Unit would like to make the elevator community aware of these changes.

There are two components to the process that result in the issuance of a certificate of inspection: inspecting equipment (Third Party Qualified Elevator Inspector TPQEI or State Inspector) and testing equipment (Licensed Elevator Mechanic). Inspecting is one component required by Elevator Code, (A17.1 section 8.11) to be performed by a QEI certified inspector, confirming compliant equipment safety functions. Testing is another separate component required by the Elevator Code, (A17.1 section 8.6) to be performed by a licensed elevator mechanic, demonstrating compliant equipment safety performance operation. Under previous law, annual testing could be “verified” by an authorized/registered TPQEI through documentation during an onsite inspection. Witnessing of the annual test was an option in Maryland for privately owned elevator units, depending on the facility owner’s choice, or the authorized/registered TPQEI’s business practice.

HB 1107 significantly changed the witnessing requirement. Beginning October 1, 2018, a TPQEI is required to be physically present during the testing of an elevator unit. This requirement is phased in as follows:

- Beginning October 1, 2018: five year inspections of privately owned elevators will transfer from the State to TPQEI who will witness the test;
- Beginning October 1, 2019: annual and five year inspection of elevators owned by state or local governments will transfer from the State to TPQEI who will witness the test; and
- Beginning October 1, 2020: annual inspection tests of privately owned elevators will be witnessed by TPQEI.

The Bill also eliminated the requirement for a third-party pre-final (compliance) inspection. The State will retain final acceptance inspections (new installations), alterations, investigation of

accidents, complaints, incidences, follow up inspections to confirm the corrective action, and systematic/random quality control monitoring inspections, of third-party QEI inspectors. The law also created an apprenticeship program for TPQEI.

Elevator Safety Inspections			
		State	QEI
Inspections performed	33,052	9,538	23,514
Elevators Registered	24,389		
Final Inspections (new units/alterations/hoists)			968
Annual Inspections			23,118
Other Inspections (Tests, Re-Inspections, 3 rd party monitoring)			8,940
Accidents/Incidents investigated			5
Complaints investigated			21
Units sealed out of service			1,349
• Active/Sealed			199
• Inactive/Sealed			1,150
Annual Certificates Issued			20,056

Boards, Councils and Committees

AMUSEMENT RIDE SAFETY ADVISORY BOARD

The Amusement Ride Safety Advisory Board consists of nine members appointed by the Governor for a four-year term, with the advice and consent of the Senate. The Governor designates one of the public members as chairman. The Board advises, consults with and makes recommendations to the Commissioner of Labor and Industry, and proposes regulations and standards for the prevention of conditions detrimental to the public in the use of amusement rides and attractions. The Board holds public hearings and reports findings to the Commissioner as necessary for the protection and safety of the public.

BOARD OF BOILER RULES

The Board of Boiler Rules is composed of nine members appointed for a four-year term by the Governor with the advice of the Secretary of Labor, Licensing and Regulation, and with the advice and consent of the Senate. The Board formulates and recommends to the Commissioner of Labor and Industry definitions and regulations for the safe construction, use, installation, maintenance, repair and inspection of boilers and pressure vessels in Maryland. All regulations conform as nearly as possible to the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers and to the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors.

OCCUPATIONAL SAFETY AND HEALTH ADVISORY BOARD

The Maryland Occupational Safety and Health Advisory Board consists of 11 members, each of whom is appointed for a six-year term by the Commissioner of Labor and Industry with the approval of the Secretary of Labor, Licensing and Regulation. The Commissioner designates one of the public members as chairman. The selection of members is based on their experience and competence in the field of occupational safety and health.

The Board advises, consults with, makes recommendations and proposes regulations and standards to the Commissioner for the prevention of conditions detrimental to the safety and health of employees in every place of employment in Maryland.

SPECIAL ADVISORY COMMITTEE ON ELEVATORS

The Special Advisory Committee on Elevators is a six-member committee appointed by the Commissioner of Labor and Industry to provide the Commissioner with expertise, knowledge, and technical data on elevators, dumbwaiters, escalators and moving walks.

Members include representatives of State agencies, elevator contractors, labor and the public. The Committee assists the Commissioner in the formulation of regulations and standards for elevators, dumbwaiters, escalators and moving walks.

Electronic Publications

Laws and Regulations

- Amusement Ride Safety Law and Regulations
- Boiler and Pressure Vessel Safety Act and Regulations
- Elevators, Dumbwaiters, Escalators and Moving Walks and Smoking on Elevators Law and Regulations
- Employment of Minors Law
- Equal Pay for Equal Work Law
- Farm Labor Contractors Law and Regulations
- Lie Detector Tests Law
- Maryland Apprenticeship and Training Law and Regulations
- Maryland Employment Agency Act and Regulations
- Maryland Occupational Safety and Health Act and Regulation
- Maryland's Living Wage Law
- Maryland's Prevailing Wage Law
- Medical Questions Law
- OSHA Standards with Maryland Amendments
 - Cranes and Derricks (29 CFR 1926.500)
 - Excavations (29 CFR 1926, Subpart P)
 - Lead in Construction (29 CFR 1926.62)
 - Permit Required Confined Spaces (29 CFR 1910.146) – *amendment only*
- Prevailing Wage--Contracts for Public Works Law and Regulations
- Railroad Safety and Health Act and Regulations
- Wage and Hour Law and Regulations
- Wage Payment and Collection Law

Occupational Safety and Health

- Access to Information about Hazardous and Toxic Substances
- Bloodborne Pathogens Exposure Control Plan
- Carbon Monoxide
 - Carbon Monoxide Poisoning
 - Occupational Health Hazard Fact Sheet
- Developing a Workplace Safety and Health Program
- Electrical Safety
 - Danger: Overhead Electric Lines
 - Ground Fault Protection on Construction Sites
 - If You Don't Become an Inspector (power tools)
- Excavation Safety Guidelines
- Fall Protection
 - Fall Protection in Construction
 - Stairways and Ladders
- First Aid: Guidelines for Basic First Aid Training Programs

- Hazardous Waste Operations and Emergency Response
- Hearing Conservation
- Heat Stress
 - Fact Sheet for Workers
 - Protecting Workers from Hot Environments
 - Poster
- Indoor Air Quality
 - MOSH Booklet
 - Prohibition on Smoking in an Enclosed Workplace
 - Smoking - Compliance Guidelines for the Hospitality Industry
- Lead Fact Sheets
 - Employee Lead in Construction
 - Engineering Controls
 - Housekeeping and Personal Hygiene Practices
 - Lead in Construction
 - Lead in Radiator Repair Facilities
 - Protective Clothing
 - Respiratory Protection
 - Worker Protection Programs
- Machinery and Equipment
 - Machine Safeguarding
 - Sling Safety
- Maryland Fatal Facts (1 - 11)
- MOSH Audiovisual Catalog
- MOSH Closing Conference Guide
- MOSH Consultation Services
- MOSH Ergonomic Services
- MOSH for Employees
- MOSH Posters for Private and Public Sectors
- MOSH Self-Inspection Checklist for Construction
- MOSH Self-Inspection Checklist for General Industry
- MOSH Seminars
- MOSH-Specific Requirements
- MOSH Training and Education
- MOSH Voluntary Protection Program
- OSHA Injuries and Illnesses Log and Supplementary Record
- OSHA Standards - How to Obtain Copies
- Personal Protective Equipment
- Process Safety Management
- Respiratory Protection
- Scaffolding: A Guide to Scaffolding in the Construction Industry
- Silica
 - Occupational Health Hazards
 - A Guide to Working Safety with Silica
 - Tips for Preventing Silicosis
- This is MOSH

- Underground Construction (Tunneling)
- Video Display Terminals
- Workplace Violence
 - Health Care and Social Service Workers
 - Late Night Establishments

Miscellaneous

- Amusement Ride Safety Revolves Around You (safety brochure)
- Annual Report of the Division of Labor and Industry
- Building the Future - Your Way (Apprenticeship and Training videotape)
- Do's and Don'ts of Heating Pressure Boiler Operations
- Do's and Don'ts of High Pressure Boiler Operations
- Do's and Don'ts of Compressed Air Storage Tank Operations
- Do's and Don'ts of Hot Water Heater Safety
- Employment of Minors Fact Sheet
- Manual for Issuing Officers of Work Permits
- Maryland Farm Labor Contractors: Responsibilities of Growers and Crewleaders
- Maryland Guide to Wage Payment and Employment Standards
- Maryland is Training For Tomorrow (Apprenticeship and Training)
- Operation Lifesaver - Safety at Highway Railway Crossings
- Putting it all Together (Apprenticeship and Training)
- Steps to Safety on Escalators
- Wage and Hour Fact Sheet

APPENDIX

OCCUPATIONAL DISEASE SURVEILLANCE IN MARYLAND 2018 REPORT

Pursuant to the Environment Article, Section 6-702, *Annotated Code of Maryland*: a physician who believes that a patient under the physician's care has an occupational disease shall submit a report to the Secretary of the Maryland Department of the Environment (MDE). The report shall state the patient's name, address, occupation, and place of employment; identify the suspected disease; and contain any other information that the Secretary requires. The Secretary shall give the information received under this section to the Commissioner of Labor and Industry.

The Maryland Department of the Environment carries out occupational disease surveillance in Maryland. The Commissioner of Labor and Industry was informed that no report is available for 2018.

NOTICE OF EXCESSIVE SAFETY VIOLATIONS

Consistent with the requirements of Section 9-312(b) of the Labor and Employment Article, *Annotated Code of Maryland*, the Workers' Compensation Commission did not refer any notice of excessive safety violations to the Commissioner.

ENFORCEMENT EFFORTS TO ELIMINATE ENVIRONMENTAL TOBACCO SMOKE IN THE WORKPLACE

Consistent with the requirements of Section 5-608(a) of the Labor and Employment Article, *Annotated Code of Maryland*, individuals may not smoke in an indoor place of employment. The Clean Indoor Air Act (CIAA) was signed into law on May 17, 2007. For almost twenty years prior to this date, the Commissioner, through the Maryland Occupational Safety and Health (MOSH) Program, had adopted and enforced a rule that generally prohibited smoking in most indoor places of employment, except in designated tobacco stores, restaurant bar areas, and licensed bars.

Under the CIAA, regulatory authority is vested with the Department of Health and Mental Hygiene (DHMH) for public areas, and DLLR, for workplace areas not generally open to the public. DLLR and DHMH have established operational agreements and work jointly to enforce this law, including sharing of information related to compliance activity. MOSH issues letters of reprimand in an attempt to control the behavior in establishments reported to be in violation.