

Introduction

The Maryland Division of Labor and Industry is a unit of the Maryland Department of Labor, 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
- 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 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
- Industrialized Buildings and Manufactured Homes
- Interpreters
- Job Applicant Fairness Law
- Jury Service
- Lie Detector Test Law
- Living Wage Law and Regulations
- Maryland Accessibility Code
- Maryland Building Performance Standards
- Maryland Building Rehabilitation Code
- Mediation or Arbitration of Labor Disputes Law and Regulations
- Minimum Livability Code
- Minimum Wage for Disabled
- Medical Questions Law
- Non Compete and Conflict of Interest Clauses
- Organ Donation
- Model Performance Code for Building Construction
- 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
- Safety Glazing
- 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
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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 S. Helminiak, Commissioner	2017 –

Serving Marylanders for 136 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.

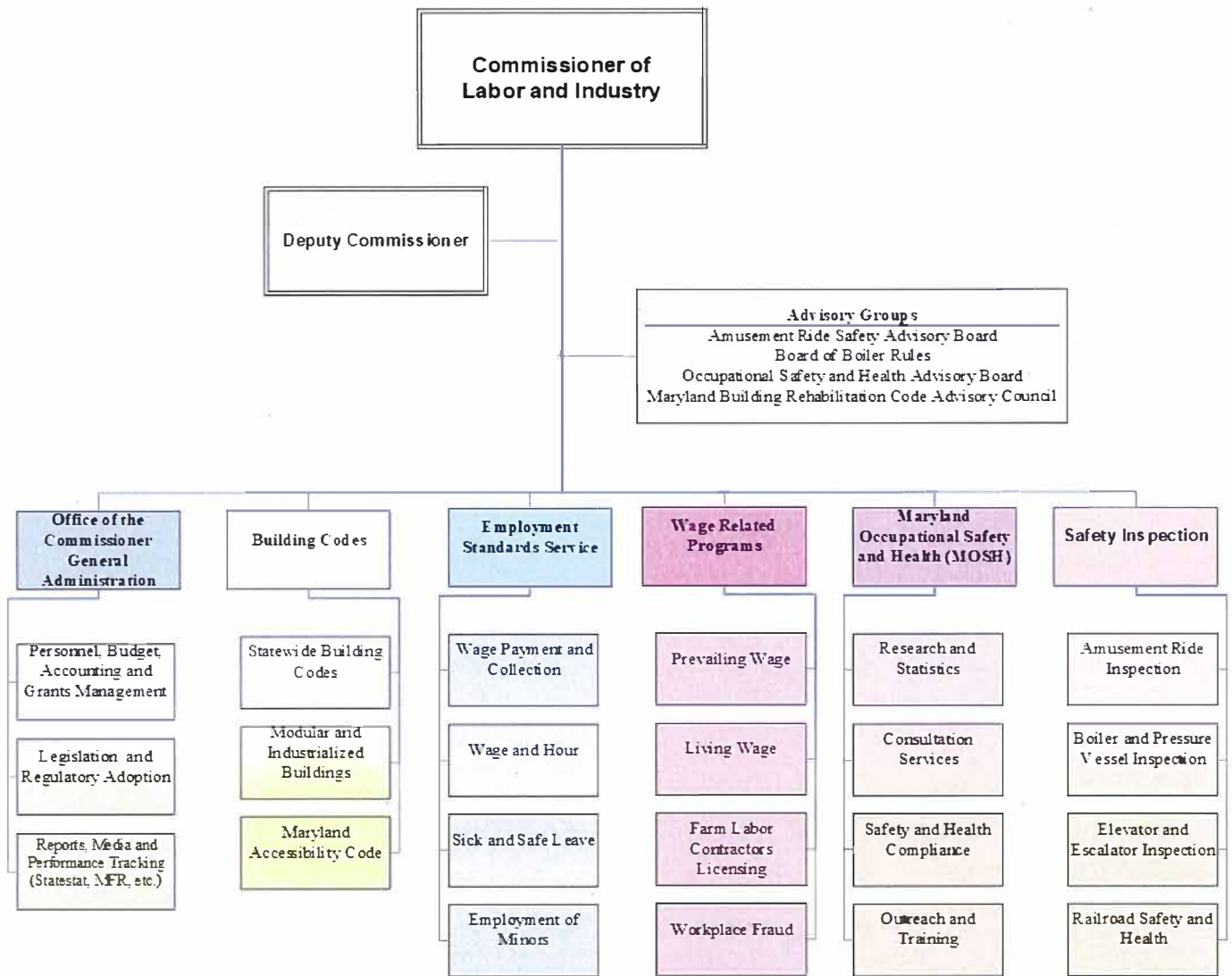
Under departmental reorganization in 1970, Labor and Industry became a division within the Department of Licensing and Regulation, until 2019 known as the Department of Labor, Licensing, and Regulation. In 2019, the department's name was changed to simply "Department of Labor".

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. In 2018, the Building Codes Administration was transferred to Labor & Industry from the Department of Housing and Community Development, which adopts statewide minimum building structural codes including energy conservation and accessibility requirements. These statewide codes are enforced by local jurisdictions and this unit collaborates and offers training to the building code officials across the state. After over two years of administering the Building Codes Administration within the Division, unanticipated collaboration between local building officials and the other units within Labor and Industry have occurred.

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.

Division of Labor and Industry Organizational Chart



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 and the safety of citizens. The Commissioner, through such diverse activities as program planning, coordination and evaluation, legislation and regulation coordination, financial management, 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 respond 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 provide 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, analysis of trends and data to provide alternatives and support for board 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.

LEGISLATION IN 2020

There were several bills introduced and passed during the 2020 session of the General Assembly which directly affected the Division of Labor and Industry.

Criminal Record Screening (Ban the Box) – Chapter 3 (House Bill 839 of the 2019 Regular Session) The Ban the Box Act, was introduced during the 2019 session of the Maryland General Assembly. As drafted, the bill provided that the law became effective January 1, 2020. The General Assembly voted to pass the bill, but the Governor vetoed it. When the General Assembly came back into session in January of 2020, 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 prohibits employers with 15 or more full-time employees from, directly or otherwise, requiring an applicant for employment to disclose whether the applicant has a criminal record or has had criminal accusations brought against the applicant or conduct a criminal history records check. This Act includes as an “employer” a person who acts, directly or indirectly, in the interest of an employer. It does not expressly provide that state or local government or municipalities are included in the definition of employer; therefore, the provisions of this Act will not apply to government units or their employees. This Act allows an employer to require an applicant to disclose during the first in-person interview with the applicant whether the applicant has a criminal record or has had criminal accusations brought against the applicant. It does not prohibit an employer from making an inquiry or taking other action that the employer is required to take or is expressly authorized to take by another applicable federal, state, or local law. This Act does not apply to an employer that provides programs, services, or direct care to minors or to vulnerable adults.

The Act authorizes the Commissioner of Labor and Industry, through the Employment Standards Service (ESS) Unit, to investigate upon receipt of a written complaint from an applicant or employee. If the Commissioner determines that a provision of this subtitle has been violated, the Commissioner may try to resolve the matter informally by mediation or ask the Attorney General to bring action on behalf of the applicant or employee. The Attorney General, without a referral from the Commissioner, may independently bring an action under the section for injunctive relief, damages, or other relief in the county where the violation allegedly occurred.

The Act provides for anti-retaliation and anti-discrimination provisions for applicants or employees for having claimed a violation of this Subtitle.

An employer found guilty of violating any provision of the Act will be guilty of a misdemeanor and on conviction be subject to a fine not exceeding \$500, imprisonment up to 90 days, or both, for each violation.

Equal Pay for Equal Work - Inquiring About Wages - Prohibition on Adverse Action - Chapter 25 (HB 14) This law prohibits an employer from taking any adverse employment action against an employee for inquiring about the employee's own wages.

Wage History and Wage Range - Chapter 67 (HB 123) This law requires an employer to provide, at the request of an applicant for employment, the wage range for the position for which the applicant applied. It also prohibits an employer from seeking wage history information for an applicant, or from screening or considering an applicant for employment or determining an applicant's wages based on the applicant's wage history. Under the law, the applicant is not prohibited from voluntarily sharing wage history information with an employer. An employer is prohibited from retaliating against or refusing to interview, hire, or employ an applicant because the applicant did not provide wage history or requested the wage range. There are civil penalties for employers with multiple violations of this provision.

Occupational Safety and Health - Heat Stress Standards - Chapter 308 (HB 722) This law requires the Commissioner of Labor and Industry in consultation with the Maryland Occupational Safety and Health Advisory Board (MOSHAB) to develop and to adopt regulations by October 1, 2022, addressing heat-related illness caused by heat stress. It directs the MOSHAB to conduct informational hearings around the State and for the Commissioner of Labor to consider specified national standards.

Public Safety - Buildings Used for Agritourism MC 26-20 - Chapter 331 (HB 805) This act adds Montgomery County to the list of counties that are exempt agricultural buildings used for agritourism from the Maryland Building Performance Standards and exempting a building used for agritourism from certain Montgomery County building permit requirements.

Maryland Healthy Working Families Act - Family Member - Definition - Chapter 355 (HB 880) This act alters the definition of "family member" to include a legal ward of an employee, a legal ward of an employee's spouse, or a legal guardian of an employee's spouse.

Use of Facial Recognition Services - Prohibition - Chapter 446 (HB 1202) This act prohibits an employer from using certain facial recognition services during an applicant's interview for employment unless the applicant consents by signing a waiver. It defines "facial recognition service" as technology that analyzes facial features and is used for recognition or persistent tracking of individuals in still or video images. It also provides specific requirements for the waiver.

Maryland Green Building Council - Membership - Chapter 494 (SB 7) This act alters the membership of the Maryland Green Building Council by removing the Secretary of Housing and Community Development or designee and adding the Secretary of Labor or designee.

Wage Payment and Collection - Order to Pay Wages – Chapter 533 (SB 119) This act increases the threshold from \$3,000 to \$5,000 for a complaint of unpaid wages to be subject to an order by the Commissioner of Labor and Industry for an employer to pay wages.

Hydraulic Elevator Inspections - Privately Owned Buildings – Chapter 569 (SB 618) This act delays the requirement that certain tests on an elevator in a privately owned building be performed in the physical presence of a licensed third party qualified elevator inspector. The requirement is delayed from 10/1/20 to 10/1/21 for all elevators in privately owned buildings except for direct acting hydraulic elevators which are delayed until 10/1/22. The Secretary of Labor is directed to report to the House Economic Matters Committee annually on the status of how elevator inspections are being conducted.

MEDIATION AND CONCILIATION

Pursuant to Labor and Employment Article, Section 2-107(c), *Annotated Code of Maryland*, there is a State Mediation and Conciliation Service. Upon request for services, the Commissioner may charge a fee to cover the cost of providing services. In 2019, there were no requests 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 2019, 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 Board of Industrial Hygiene
American National Safety Institute (ANSI)
ANSI A10. Construction and Demolition Sub-Groups
 A10.2 Safety, Health, and Environmental Training
 A10.9 Concrete & Masonry Construction
 A10.38 Basic Elements of a Program to Provide a Safe and Healthful Work Environment
 A10.47 Highway Construction Safety
American Society of Safety Engineers (ASSE)
American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)
Board of Certified Safety Professionals
Chesapeake Regional Safety Council
Controlled Hazardous Substances Advisory Council
Delmarva Safety Association
International Code Council (ICC) Off-Site and Modular Construction Standards Committee
Interstate Labor Standards Association (ILSA)
Leadership Maryland
Manufactured Housing Consensus Committee (MHCC)
Maryland Building Officials Association (MBOA)
Maryland Explosives Advisory Committee of the Fire Marshal's Office
Maryland Green Building Council
Maryland Rehabilitation Advisory Council
Maryland State Bar Association - Labor & Employment Section
National Association of Elevator Safety Authorities
National Association of Government Labor Officials (NAGLO)
National Board of Boiler and Pressure Vessel Inspectors
National Fire Protection Association (NFPA)
National Transportation Safety Board (NTSB)
Occupational Safety and Health State Plan Association (OSHSPA)
Occupational Safety and Health Consultation (OSHCON)
Public Employees Safety Association of Maryland (PESA)
Public Risk Management Association (PRIMA)
State Employees Risk Management Administration (SERMA)
Voluntary Protection Program Participants' Association (VPPPA)

Building Codes Administration

Pursuant to Chapter 673, Acts of 2018, the Building Codes Administration (Codes Admin) was transferred from the Department of Housing and Community Development to the Department of Labor effective July 1, 2018. Since that date, the Housing and Community Development Article has been set forth in Title 12 of the Public Safety Article.

The Model Performance Building Code was first adopted in 1971. Based on the National Building Code of the Building Officials and Code Administrators International, Inc. (BOCA), the State's Model Performance Building Code was intended by the General Assembly eventually to be adopted statewide so builders might adapt their construction practices to a single set of modern, performance-oriented standards. Compliance with that code at that time was voluntary. In 1993, mandatory standards, i.e, the Maryland Building Performance Standards, were enacted by the General Assembly. These standards were based on the most recent edition of the National Building Code issued by BOCA. They apply to all construction permits issued on or after August 1, 1995, with two exceptions. Counties or municipalities lacking any building code had to comply by 1997; those that adopted the Standard Building Code of the Southern Building Code Congress, Inc., had to comply by 1999.

In October of 2001, the International Building Code (IBC), developed and published by the International Code Council (ICC), replaced the BOCA code in the Model Performance Code and Maryland Building Performance Standards. Since then, IBC has been updated on a three-year cycle and first printings of the latest editions of IBC were adopted into regulation within 18 months of their publication.

To meet local needs, local jurisdictions may amend the Maryland Building Performance Standards with few limitations.

- **Model Performance Code for Building Construction**

Model Performance Code (MPC) applies to industrialized (modular) and state-owned buildings. MPC references the following codes: 2018 International Building Code (IBC), 2018 International Plumbing Code (IPC), 2017 National Electrical Code (NEC), 2018 International Residential Code (IRC), 2018 International Mechanical Code (IMC), 2018 International Energy Conservation Code (IECC), and 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 accepting and processing of waiver requests, 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 processing of new/renewal applications of both manufacturers and Approved Testing facilities; processing of Maryland Insignia applications; reviewing building plans of proposed modular buildings and issuing approval as required; conducting plant inspections; responding to home owners' complaints; coordinating with local authorities having jurisdiction on all modular building-related issues.

Under a separate contract with the 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.

- **Safety Glazing**

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

- **Maryland Building Performance Standards**

The Maryland Building Performance Standards (MBPS) were created to provide reasonable protection to the public against hazards to life, health, and property related to building construction. These statewide minimum codes are then implemented by the various local jurisdictions who may make certain amendments and are responsible for enforcement of the code requirements.

MBPS incorporates through reference the following codes with amendments: 2018 International Building Code (IBC), 2018 International Residential Code (IRC), 2018 International Energy Conservation Code (IECC), and 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), maintaining an online database of locally amended and adopted codes, providing code training to employees of local authorities having jurisdiction, and assisting in the interpretation of codes requested by citizens, design professionals and local jurisdictions.

- **Maryland Building Rehabilitation Code**

The Maryland Building Rehabilitation Code (MBRC) was created to encourage the continued use or reuse of existing buildings and structures. MBRC applies to all rehabilitation projects for which a construction permit application is received by local jurisdictions, or The Maryland-National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission. MBRC incorporated by reference the 2018 International Existing Building Code (IEBC). 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.

2020 Metrics

- Maryland Accessibility Code waiver request received/processed: 3
- Maryland Accessibility Code interpretation requests/inquiries received: 50
- Code training, number of attendees: 2,126
- Code interpretation (number of written requests received): 60
- Industrialized Building Program
 - Active manufacturers/plants: 95/117
 - Active Approved Testing Facilities: 9
 - Renewal Fees received: \$47,650
 - Maryland Insignia Fees received: \$155,980
 - Funds received from U.S. HUD: \$13,572
 - Number of sets of building plans received/reviewed: 764
 - Number of Plan Approval issued: 455
 - Number of Plant Inspections conducted: 0

Wage Related Enforcement Units

The Division of Labor and Industry administers a wide range of laws related to the wages workers earn and a variety of employment laws. In total there are over 30 separate statutes currently under the purview of the Commissioner. These laws are divided up into two main units:

Employment Standards Service (ESS) & Wage and Hour

Administers a multitude of industry specific labor laws as well as Statewide wage related laws including, but not limited to, Minimum Wage, Overtime, Sick and Safe Leave, Employment of Minors, and payment of wages.

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Prevailing Wage, Living Wage & Worker Classification

Administers laws related to wage rates that must be paid on certain state and local public works projects and service contracts as well as the proper classification of construction and landscape workers. This unit also licenses farm labor contractors.

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 Noncompete and Conflict of Interest Clauses	Title 3, § 3-715 Title 3, § 3-716
Workplace Act of 2018	
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
Organ Donation Leave	Title 3, Subtitle 14
Criminal Record Screening (Ban the Box)	Title 3, Subtitle 15
Farm Labor Contractors	Title 7

Business Regulation Article

Employment Agencies	Title 9
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WAGE PAYMENT AND COLLECTION

The Wage Payment and Collection Law requires 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, 2020 through December 31, 2020	
Complete wage claim forms received	594
Investigations completed	684
Claims for which wages were recovered	413
Total wages collected	\$710,564

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.

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, 2020 through December 31, 2020	
Work permits issued	64,216
Employment of Minor Complaints Received and Resolved	10
Special Work Permits Issued	67

The application process was modified and is now available on-line through the Labor website at <http://www.labor.maryland.gov/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 username, 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, an 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.

HEALTHY WORKING FAMILIES ACT

Section 3, Subtitle 13 of the Labor and Employment Article, *Annotated Code of Maryland* 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

Section 3-714, 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.

Disclosing Sexual Harassment in the Workplace

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.

Payment of Wages – Minimum Wage (Fight for Fifteen)

This Act increases the current minimum wage rate of \$10.10 per hour for all employees covered under the wage and hour law to \$11.00 per hour on January 1, 2020. This Act then increases the minimum wage rate in effect by 75 cents each year until reaching \$15 per hour on January 1, 2025. This Act eliminates the reduced 85% minimum wage rate under current law provided for employees under 20 years old for their first six months of employment. This bill also eliminates the reduced 85% minimum wage rate under current law provided for all employees working for certain amusement or recreational establishments, including swimming pools. This Act instead provides all employees covered by the Minimum Wage law under 18 years of age may receive a reduced wage rate that is 85% of the minimum wage rate in effect. The bill provides for annual reviews beginning on or before October 1, 2020, until October 1, 2024 by the Board of Public Works (BPW) who may suspend the minimum wage increase for 1 year if the seasonally adjusted employment is negative for the previous 6 months compared to the immediately preceding 6

months. This provision can only be used one time and would not eliminate the increases, merely delay the subsequent increases by one year and if implemented extend to January 1, 2026, before the full \$15 minimum wage is reached. This Act provides for modifications of the Governor's proposed budget for the affected fiscal years for Community Services, which is not under the purview of the Department of Labor. The Act took effect June 1, 2019.

Organ Donation

This Act provides that an employer who employs at least 15 people in Maryland would need to provide organ donation leave to eligible employees, defined as individuals who have requested that an employer provide organ donation leave and who, as of the date of the request, will have been employed by their employer for at least 12 months and worked for at least 1,250 hours during the previous 12 months. The leave would allow an eligible employee to take off up to 60 business days in any 12-month period to serve as an organ donor and up to 30 business days in any 12-month period to serve as a bone marrow donor. The leave is unpaid. According to the provisions of the Act, in order to receive the leave, the employee would need to provide written physician verification that the employee is an organ or bone marrow donor and that the donation is medically necessary. The leave may not be taken concurrently with any leave taken under the Federal Family and Medical Leave Act. This Act took effect October 1, 2019.

Non-Compete and Conflict of Interest Clauses

This Act establishes that a noncompete or conflict of interest provision in an employment contract or similar document or agreement that restricts the ability of an employee who earns \$15 per hour or less or \$31,200 or less annually to enter into employment with a new employer or become self-employed in the same or similar business or trade is null and void. The Act applies regardless of whether or not the employer and employee entered into the employment contract or similar document or agreement in the State. This Act does not contain enforcement provisions and does not require action by Labor. The Act took effect October 1, 2019.

Wage-Related Programs:

PREVAILING WAGE - 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 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 2020, 3,403 covered projects were under construction.

Activity for 2020	
Payrolls received	150,994
Audits performed	131,992
Determinations issued	414
Wages recovered for employees	\$226,782.00
Liquidated damages collected for violations	\$267,928.00

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. Restitution from these investigations is recovered for all employees that have been underpaid and do not require a worker to file a complaint.

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 2020	
Applications received	1
Licenses issued	1
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. Since the FLC must also obtain federal registration, where appropriate, complaints are referred to the U.S. Department of Labor for investigation. There were no citations issued for violations of the Farm Labor Contractors Law during 2020.

LIVING WAGE - 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 valued at more than \$100,000. 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.

The State Finance and Procurement Article requires the Commissioner of Labor and Industry to adjust the living wage rates each year based on the Consumer Price Index. New rates are published at the beginning of the State's fiscal year in July and become effective 90 days from the end of the State fiscal year in June.

The law establishes two tiers of rates based on the geographic area where the work is performed or the location benefiting from the work.

The tiers and rates as of September 28, 2020, are as follows:

Tier 1—\$14.42 per hour: Anne Arundel County, Baltimore City, Baltimore, Howard, Montgomery, and Prince George's Counties

Tier 2—\$10.83 per hour: Any county in the State not included in the Tier 1 area for each hour you work on that contract.

The Maryland minimum wage rate as established in the Labor and Employment Article is scheduled to incrementally increase to \$15.00 per hour over the next few years. It is anticipated that the minimum wage rate will surpass the living wage rate in 2020 so the Division is taking steps to address this situation. On January 1, 2020, the minimum wage increased to \$11.00 per hour. As a result of this increase, the state minimum wage rate surpassed the Tier 2 living wage rate. To avoid confusion, the Division is ensuring contractors subject to the living wage law understand that they are required to pay the higher of the minimum wage or the living wage. The Division prepared clarifying language on correspondence, related materials, webpages, and also disseminated information to procurement agencies to prepare for the change.

Living Wage Activity for 2020	
Service Contracts Received	271
Total Non-Exempt Contracts	1257
Exempt & Non-Exempt Contracts as of 12/31	2748
Employees Receiving Restitution	75
Amount of Restitution Recovered	\$69,212.00
Vendors/Contractors Submitting Payroll	2415

WORKPLACE FRAUD ACT - CONSTRUCTION AND LANDSCAPING

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 workers' 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 2020. 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 2020

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

# and nature of complaints	7 misclassification complaints
# of investigations conducted	327
# of citations issued	0 (misclassification)
# of informal resolutions	0
# of appeals to OAH and outcome	0
# of requests for judicial review	0
# of civil penalties assessed	0
Total penalty dollar amount collected	\$0

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 employed by the Federal Government or 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.

During Calendar Year 2020 (CY20), MOSH faced an unprecedented pandemic from the SARS-CoV-2 virus beginning in early March 2020. The SARS-CoV-2 virus that causes the COVID-19 disease is a highly infectious virus transmitted primarily through respiratory droplets. This pandemic spread across the nation at an astonishing rate impacting all areas of daily life in each state. The State of Maryland took proactive measures immediately to respond to COVID-19 following the Governor's Executive Orders. These orders leveraged the local county health departments to enforce the Governor's Executive Orders, while MOSH responded by enforcing all applicable safety and health standards to ensure employees were protected. MOSH received historic levels of inquiries, complaints, and general questions related to COVID-19. While responding to this pandemic, MOSH staff rapidly established new protocols and procedures, utilized new forms of technology, and applied strong teamwork to protect workers in Maryland.

MOSH was able to successfully maintain an effective program despite the operational challenges posed by the pandemic.

The Office of the Assistant Commissioner also ensures the appropriate implementation of new laws and monitors the development of new federal standards. MOSH adopted the culmination of final rules modifying 29 CFR 1904, Subpart E, Reporting Fatality, Injury and Illness Information to the Government, requiring electronic submission of data by certain employers. Additionally, the adoptive action also amended the regulation to reduce and consolidate pages of outdated adoptive language. The adoption took effect on September 7, 2020.

The adoption of the federal final rules for the Standards Improvement Project (SIP) IV and the Occupational Exposure to Beryllium standards were published in the Maryland Register on December 4, 2020.

- The Occupational Exposure to Beryllium standards are designed to prevent chronic beryllium disease and lung cancer in workers by limiting their exposure to beryllium and beryllium compounds in general industry, construction, and shipyards.
- The SIP IV project focuses on removing or revising outdated, duplicative, unnecessary, and inconsistent requirements in safety and health standards, which will permit better compliance by employers and reduce paperwork burdens without reducing employee protections.

There were no new MOSH Instructions issued in CY20. All current MOSH Instructions and Standard Notices are available online at:

- <http://labor.maryland.gov/labor/instructions/>
- <http://labor.maryland.gov/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 122 MPIA requests in 2020.

Staffing

- In 2020, MOSH welcomed three new members to their team: two Safety Compliance Officers and one Industrial Hygienist. Each trainee participated in a training curriculum that consisted of classroom-style training and field training with senior compliance officers. In addition, MOSH hired one new member to the Research and Statistics team.

Notable Cases

Scissor Lift Fatality

- In March 2020, one employee and a contractor working from a scissor lift at an automobile storage facility in Baltimore, MD were verifying serial numbers on new WiFi

data access ports when their lift tipped over. The employee and contractor were in the process of extending the lift to approximately 16-feet above asphalt at the time of the incident. The employee operating the lift died from their injuries and the contractor was hospitalized. MOSH found the lift was supplied by the employer in an overall condition contrary to what the manufacturer required for safe use. The employer did not obtain the owner's manual for this lift which required the use of foam-filled tires and set a maximum load capacity. The lift was instead equipped with 2-ply air-filled tubeless trailer tires and was overloaded; both causal factors that lead to the overall instability of this lift. Additionally, MOSH found the stabilizer bar was not fully extended and pinned, the top rail and mid-rail were below required heights, and the employee had not received training on the safe operations of the lift. Citations were recommended for each of these deficiencies

Anhydrous Ammonia & Process Safety Management

- In March 2020, MOSH inspected a facility that manufactures and distributes ice to the greater Baltimore Metropolitan Area. The facility utilizes a refrigeration process with 14,000 pounds of anhydrous ammonia, a known highly hazardous chemical (HHC), above the threshold quantity of 10,000 pounds allowing the Process Safety Management (PSM) of Highly Hazardous Chemical standard to apply. This inspection found the employer did develop a regional safety and health management team that audits each site on a prescribed schedule; however, there was no employee at each site formally trained in safety and health to ensure regionally developed programs were adequately implemented. Through exhaustive program review, the common discrepancy continually found was site operations did not match regionally developed programs allowing for significant gaps in safety. MOSH issued citations for violations found in PSM, Fall Protection, PPE, Electrical, Fire Extinguisher, Access/Egress, Abrasive Grinding, and Machine Guarding. MOSH was able to successfully settle this case, achieve enhanced abatement, and close the matter to ensure employees are protected from all hazards including overexposure, confined space entry, lockout/tagout, respiratory protection, hazard communication, fall protection, electrical, walking-working surfaces, personal protective equipment, and powered industrial trucks.

Special Note:

MOSH was notified in April 2020, by an anonymous source, regarding a building under construction in Annapolis, MD where the large, structural concrete piers supporting the building were allegedly compromised and failing under the building's weight. Through the non-formal complaint process, a diligent review of the information supplied regarding these concerns, MOSH was able to verify the concrete piers were failing. MOSH immediately contacted the employer and worked with their Regional Safety and Health team located in Beaver Dam, Wisconsin. Upon being notified by MOSH, the employer shut down the entire jobsite and removed all employees from the building. Management officials of the company immediately flew from Wisconsin to Maryland to evaluate the structural integrity of the building. The employer took immediate action bracing and shoring the building from potential collapse. Through the effective usage of the non-formal complaint process, no employees were injured, and the building did not suffer collapse.

ENFORCEMENT

Enforcement is the largest unit within MOSH. In 2020, MOSH averaged approximately 51 compliance officers located within four offices throughout the state. MOSH operates seven regions (six 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 CY2020, compliance officers conducted 872 inspections through enforcement programs, removed almost 29,000 employees from hazardous conditions, and identified over 4,400 hazards. In 2020, compliance officers investigated 71 complaints with serious hazards as concerns and investigated 26 fatalities.

MOSH trains compliance officers to the fullest extent possible and MOSH compliance officers are regarded as some of the most technically diverse inspectors able to readily identify hazards across various industries. Courses range from topics such as Excavation, Trenching and Mechanics, Health Hazard Awareness, Machine Guarding, Fall Protection, Inspection 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 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 Assistant Commissioner at the conclusion of the investigations. The Assistant Commissioner 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 Assistant 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. MOSH processed a total of 92 whistleblower complaints in Calendar Year 2020. MOSH was able to complete case files in an average of 108 calendar days and found 21% of cases meritorious. For the meritorious discrimination complaints, MOSH was able to collect back pay wages totaling approximately \$50,000, secured offers for rehire, repayment for credentials, and/or neutral reference letters.

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.

OUTREACH PROGRAM

The Maryland Occupational Safety and Health Program has several strategic partnership programs for employers that provide protection to their employees above and beyond the minimum required by MOSH standards. These programs include Voluntary Protection Program (VPP), Strategic Partnership for Excellence in Construction Safety (SPECS), Cooperative Compliance Partnerships (CCP), and Safety and Health Achievement Recognition Program (SHARP). Companies that achieve a partnership or alliance status are looked upon as leaders in safety and health. Strategic partnership programs are beneficial to participating employers, associations and organizations, and MOSH because they allow us to partner together, outside the scope of traditional compliance enforcement, to ensure safe and healthful working conditions for the workers in Maryland. Each program is discussed in further detail below.

Voluntary Protection Program (VPP)

Maryland's VPP Program is a cooperative effort by MOSH and participating employers to extend worker protection beyond the minimum required by MOSH standards. VPP recognizes the outstanding achievements of participating employers who have successfully incorporated comprehensive safety and health management plans into their total management system.

The program maintained 20 active sites in 2020 and received one application for a new site. Due to the pandemic, the application site visit and reapprovals evaluations for three sites had to be extended into 2021.

Strategic Partnership for Excellence in Construction Safety (SPECS)

Strategic Partnership for Excellence in Construction Safety (SPECS) program is a pilot program of a strategic partnership between MOSH and Maryland chapters of the Associated Builders and Contractors (ABC) that acknowledges those construction employers that go beyond basic compliance with all applicable MOSH standards and provides mentorship to those seeking a higher level of safety and health program.

In 2020, MOSH partnered with one subcontractor and three general contractors: Delaware Elevator, Inc. of Salisbury, James G. Davis Construction Corporation of Rockville, Turner Construction Company of Baltimore, and Wohlsen Construction Company of Baltimore, respectively. All of these partner contractors were chosen to participate in the SPECS program because of their proven record of accomplishment in safety and health in the workplace. In addition to the new participants, two Contractor Partners achieved Level 2 in the SPECS program: Forrester Construction Company of Rockville and Scaffold Resource, LLC of 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.

For CY20, the Cooperative Compliance Partnership Program is currently going through a reorganization. During this reorganization, two new partnerships were signed with various general contractors throughout the State of Maryland. The estimated value of these projects totaled over \$165M.

Safety and Health Achievement Recognition Program (SHARP)

The Safety and Health Achievement Recognition Program (SHARP) is operated through the MOSH On-Site Consultation Program and 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 program welcomed one new site and renewed one SHARP site in 2020. Architectural Ceramics, Inc. in Rockville achieved SHARP and A. & A. Global Industries in Hunt Valley was recertified.

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.labor.maryland.gov/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.

COVID-19 Education

The MOSH Region II Industrial Hygiene staff was able to develop and provide vital educational resources to employees, employers, and the public on key COVID-19 topics. One example was the MOSH Fact Sheet April 2020 COVID-19 Facemasks vs. Respirators: Understanding the Difference. This fact sheet allowed for an efficient explanation to commonly asked questions regarding different types of facial coverings.

For more information, please see this link:

- <http://labor.maryland.gov/labor/mosh/moshfacemask.pdf>

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 2020, the Private Sector Consultation unit consisted of four full-time safety consultants, one of which was in training status and two full-time health consultants, who assist the Public Sector Consultation unit as needed. The unit was able to complete 182 initial on-site hazard surveys, 21 follow-up, and 3 training visits during 2020. Based on opening conference dates during the same period, 385 serious hazards, 210 other-than-serious hazards, and 2 imminent danger hazards were identified. Over 22,000 employees were covered by the visits and over 8,000 workers were removed from risk.

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 2020, Public Sector Consultation completed 26 initial on-site hazard surveys and 2 training and education on-site hazard surveys. Based on opening conference dates during the same period, 88 serious hazards and 56 other-than-serious hazards were found. Through our public sector consultation visits, MOSH was able to remove over 11,000 employees from risk.

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 database. Statistics from these three programs provide a valuable tool to help 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 SOII. The 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 the selected sample of Maryland employers questioning them about their previous year's workplace injury and illness experience. Reference year 2019 results were collected, compiled, and analyzed during calendar year 2020.

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.

Maryland SOII Results for 2019

In 2019, approximately 64,900 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 3.1 cases per 100 full-time equivalent workers. This rate however was shown not to be statistically different from the previous year's rate of 3.2 per 100 full-time equivalent workers. In 2019, slightly over 2.5 million workers in the State were under the Maryland Occupational Safety and Health (MOSH) agency's regulatory oversight¹.

The Private Sector

Maryland private sector employers reported 47,500 nonfatal injuries and illnesses. The number of cases for 2019 was not statistically different from 2018. Injuries and illnesses in private industry occurred at a rate of 2.6 cases per 100 equivalent full-time workers for an annual average. 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 27,500 such cases reported.

Published industry rates of occupational injuries and illnesses ranged from a total recordable case (TRC) incidence rate of 0.1 injuries and illnesses per 100 full-time equivalent workers for Finance and Insurance (NAICS 52), up to a rate of 5.5 injuries and illnesses for Transportation and Warehousing (NAICS 48-49).

Eighty-four percent of private industry's injuries and illnesses occurred with the service-providing industries with 39,900 reported cases. Goods-producing industries, on the other hand, accounted for 16 percent of the total, or 7,600 cases. Injury and illness estimates for Maryland's private sector covered just over 2.2 million workers, based on the Maryland Department of Labor's Quarterly Census of Employment and Wages program.

State and Local Government

State and local government agencies and municipalities collectively reported a total of 17,400 OSHA recordable injuries and illness cases in 2019. The count converted to a TRC incidence rate of 6.3 injuries and illnesses per 100 full-time equivalent workers.

¹ Source: Maryland Department of Labor, Quarterly Census of Employment and Wages Program, 2019 Annual Average.

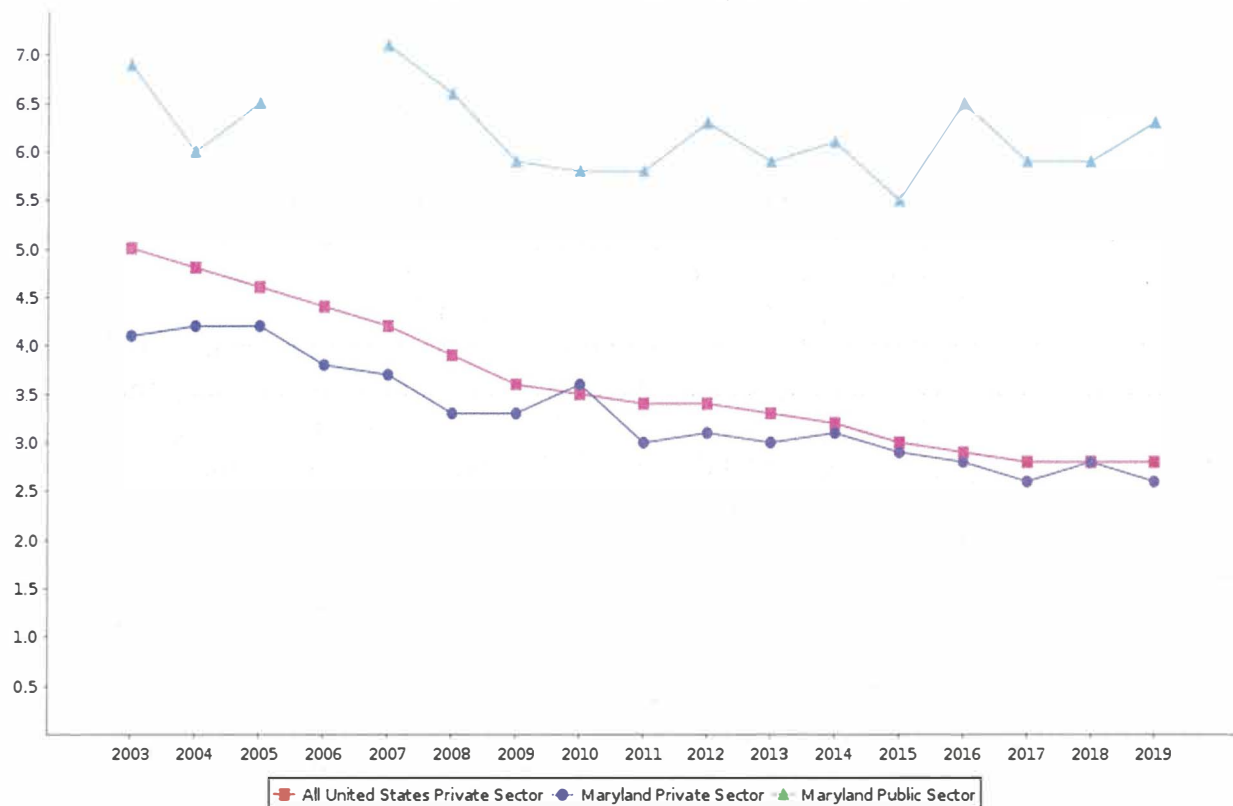
State government

For 2019, the state government's TRC incidence rate was 3.8, with a total of 3,300 OSHA recordable cases reported. These injury and illness estimates covered just under 100,000 State government workers, based on the Maryland Department of Labor's Quarterly Census of Employment and Wages Program, employment data for 2019. Certain industries within state government, however, reported some of the highest rates in the survey. State government Nursing and residential care facilities, NAICS 623, reported an incidence rate of 28.1 injury and illness cases per 100 full-time equivalent workers while State Hospitals, NAICS 622, reported a rate of 23.6.

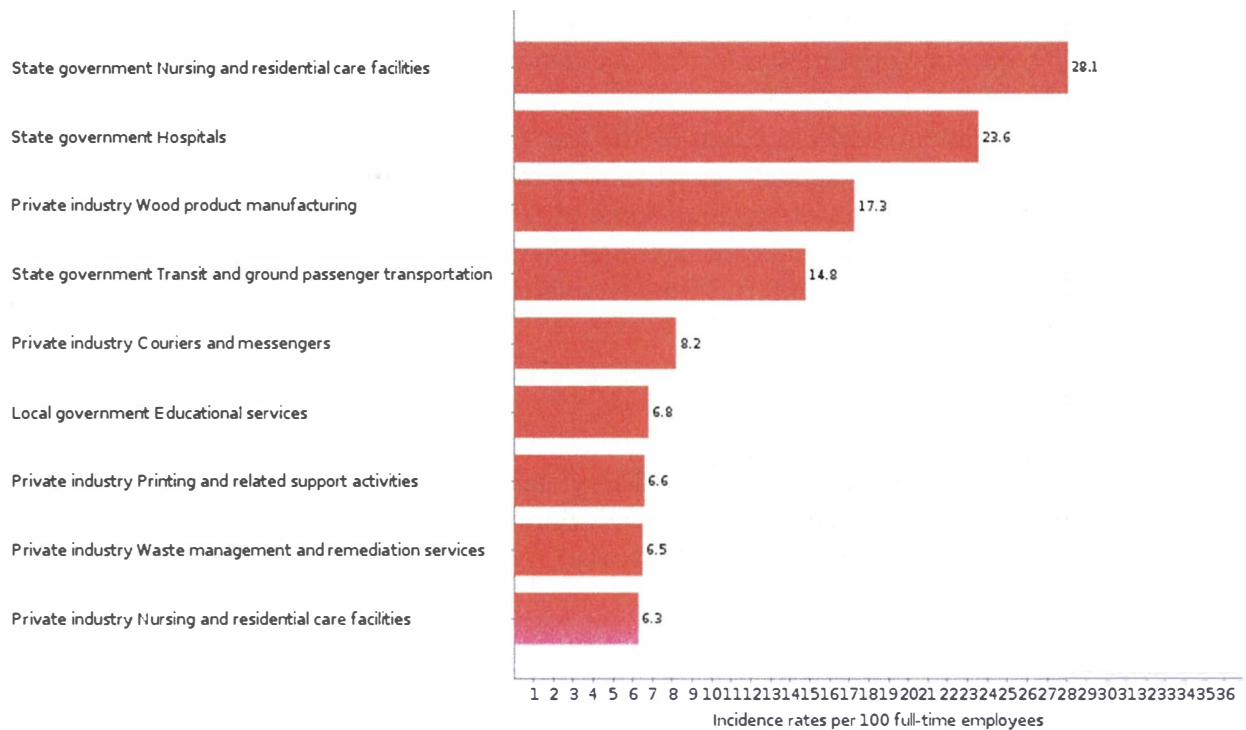
Local government

With 14,000 OSHA recordable cases, Maryland local government's injuries and illnesses converted to a total recordable case incidence rate of 7.5 cases per 100 full-time equivalent workers. Approximately 245,000 workers comprised this sector in the State during 2019.

Incidence rates per 100 full-time workers for total nonfatal occupational injuries and illnesses, Maryland and All United States, 2003-2019
[SOURCE : U.S. Bureau of Labor Statistics, U.S. Department of Labor, 2021]



Industries with the highest incidence rates of total nonfatal occupational injuries and illnesses, Maryland, 2019
 [SOURCE : U.S. Bureau of Labor Statistics, U.S. Department of Labor, 2021]



Source: Maryland Division of Labor and Industry in cooperation with the U.S. Bureau of Labor Statistics, SOII Program, 2019

The Maryland Census of Fatal Occupational Injuries (CFOI)

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, media reports, 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.

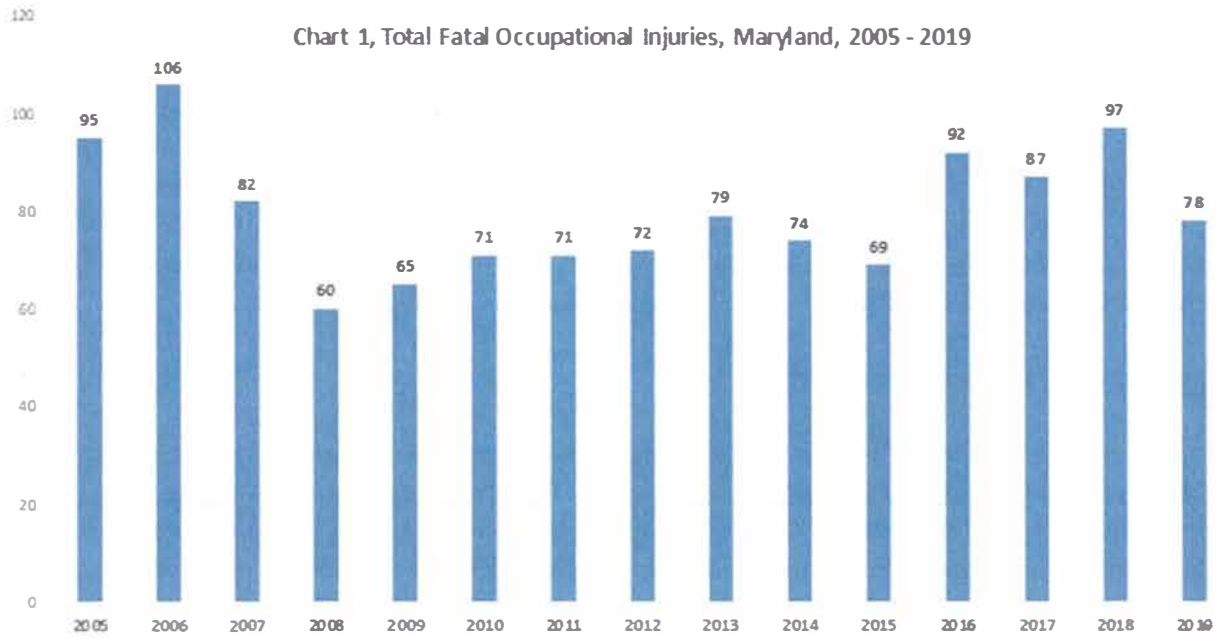
Maryland CFOI Results for 2019

Seventy-eight workers died while on the job in Maryland during 2019, according to the latest results from the Maryland CFOI program. The count decreased from the 97 reported deaths in 2018. Since 1992, fatal occupational injuries in Maryland have ranged from a high of 106, reported in 2006, to a low of 60, reported in 2008 (See Chart 1).

Based upon the manner in which the fatal event was inflicted or produced, two major event categories - Transportation incidents (25) and Falls, Trips and Slips (17), accounted for 54 percent of all fatal workplace events during 2019. The number of worker deaths from transportation incidents dropped slightly from 24 in 2018, and worker fatalities due to falls, slips and trips increased from 11.

Violence and other injuries by persons or animals was the third-most frequent fatal work event in the state with 14 fatalities and exposure to harmful substances or environments was fourth with 11 fatalities. Fatalities due to violence and other injuries by persons or animals decreased over the year from 22, while fatalities due to exposure to harmful substances or environments decreased from 24. Unintentional overdoses due to nonmedical use of drugs or alcohol while at work accounted for 8 of the 11 worker deaths among exposure to harmful substances and environments. (See Chart 2.)

The construction industry had the largest number of fatalities in Maryland in 2019 with 15, followed by the government with 13 fatalities. Transportation and warehousing accounted for 12 worker fatalities while administrative and support and waste management and remediation services accounted for 10. (See Chart 3.) Construction industry fatalities were down from 22 in 2018, while those in government increased slightly over the previous year. Transportation and warehousing were down from 14 in 2018 while administrative and support and waste management and remediation fatalities decreased slightly from 2018.



Source: Maryland Division of Labor and Industry in cooperation with the U.S. Bureau of Labor Statistics, CFOI Program, December 2020

Chart 2. Fatal Occupational Injuries by selected event, Maryland, 2019

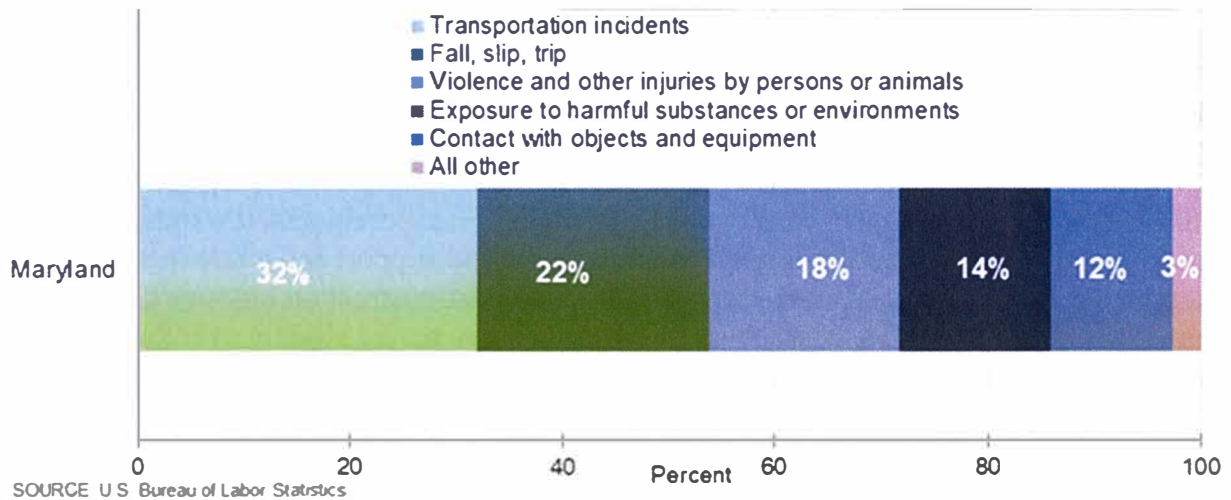


Chart 3. Fatal Occupational Injuries by Industry,
Maryland, 2019



- Construction
- Government
- Transportation and Warehousing
- Administrative and support and waste management and remediation services
- All other

Safety Inspection

The Safety Inspection program includes several diverse inspections 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.

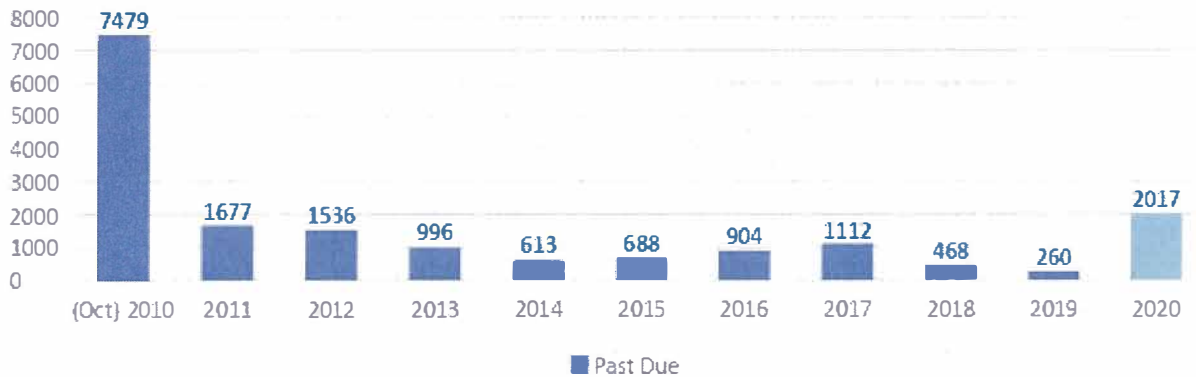
The Boiler and Pressure Vessel Safety Inspection unit is mandated by the General Assembly to ensure proper construction, installation, maintenance, use and repair of these boilers and pressure vessels in order to prevent injury to life, limb, and property. With one vacancy at the end of 2020, the unit currently includes a Chief Boiler Inspector, 9 Deputy Boiler Inspector positions, with 125 AIA Commissioned Inspectors (AIA Inspectors) that actively 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.

AIA Inspectors employed by authorized inspection agencies performed approximately 79% of the 32,872 safety inspections conducted in 2020, as required by the Maryland Boiler and Pressure Vessel Law. 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. 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 and has saved taxpayers millions of dollars.

Deputy Boiler Inspectors assist the Chief Boiler Inspector in monitoring AIA 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 investigation.

For many years, the Boiler and Pressure Vessel Unit has steadily reduced the number of past due objects. However, in 2020, the number of past due objects increased significantly due to the Governor’s issuance of a state of emergency and catastrophic health emergency on March 5, 2020. The state of emergency was in effect through the end of 2020. Due to the state of emergency and public health concerns, only a limited number of inspections were able to be conducted by State Inspectors and Special Inspectors in 2020. Once the state of emergency is lifted, the Safety Inspection Unit will be working along with the authorized inspection agencies to reduce the number of overdue objects as quickly as possible.

BOILERS PAST DUE ANNUALLY



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

Inspections		Deputy Inspectors	Special Inspectors
Inspections performed	32,872	7,008	25,864
Units Registered	54,297		
Accidents investigated	1		
Complaints investigated	0		
Total certificates issued	25,555		
New registrations	2,952		

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 AIA Inspectors report violations of State law 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 3,074 such violations opened this year, 601 of which were identified by State inspectors. 2,753 violations were corrected throughout the year. Each violation reported and corrected is an accident 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.

By law, the Federal Railroad Administration (FRA) has primary responsibility for ensuring railroad safety nationwide. FRA's traditional safety inspection program has produced substantial gains 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 tracks 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 that became certified to conduct inspections in November of 2019, and an Operating Practices inspector that became certified to conduct inspections in October of 2019.

Railroad Safety and Health Inspections

Motive Power and Equipment	
MP&E Inspections	149
Cars inspected	5,063
Locomotives inspected	170
Defects reported	213
Violations reported	1
Blue Signal observations	20
Track	
Track Inspections	245
Private industry inspections	79
Track miles inspected	1,515
Turnouts inspected	861
Defects reported	474
Violations reported	0
Operating Practices	
OP Inspections	103
Railroad operating rules	94
Railroad operating practices	120
Radio standards and procedures	85
Rear end marking devices	8
Hours of service of railroad employees	2
Defects reported	14
Violations reported	0
Blue Flag observations	13
Railroad Accident/Incident Reporting	
Accidents/Incidents	20
Fatalities (including trespassers)	9
Injuries	3
Property Damage	8

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 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 routinely identifies significant 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
Incidents investigated	1
Certificate Inspections	676
Other Inspections (Strip-Downs, Preliminary, Assists)	920
Total Inspections Performed	1,596
Number of Rides Registered in 2020	3,639

The Amusement Ride Safety Inspection Unit includes a staff of 8 field inspector positions statewide, including one chief position and one supervisor, both of whom also conduct inspections.

Throughout 2020, the Amusement Ride Safety Inspection Unit responded to 499 inspection requests from 133 different amusement companies. There were 1,596 inspections 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.

COVID-19 and the declaration of a state of emergency in the State of Maryland from March 2020 through the end of the year had a tremendous impact on the amusement ride industry in 2020, as carnivals and fairs were virtually non-existent. During this time, several amusement ride inspectors began a training initiative to become certified to conduct elevator inspections.

In addition, during normal winter months, when inspection activity decreases, amusement ride inspectors assist the elevator and boiler units by hand-delivering citations that are returned as undeliverable mail and investigating possible building closures and new ownership of property where elevators and boilers exist. This was done the early part of the year before the State of Emergency was declared. Since the State of Emergency was declared in early March, Amusement Ride Inspectors have trained with Elevator Inspectors to become QEI certified.

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 walks operating throughout Maryland, pursuant to *Public Safety Article, Title 12, Subtitle 8 Elevator Safety*. Inspections are conducted by State inspectors and authorized third party qualified elevator inspectors (TPQEI) 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.

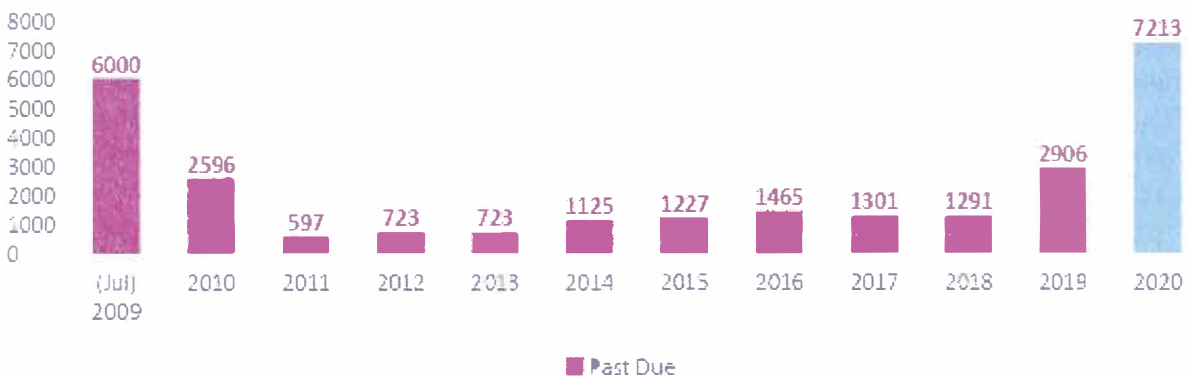
The Elevator Safety Inspection unit includes a Chief Elevator Inspector, an Assistant Elevator Chief, and a regional supervisor who coordinate, train and supervise a staff of 18 field inspector positions statewide, 5 of which were vacant at the end of 2020.

The Elevator Safety law requires owners of elevator units in privately owned buildings in Maryland to contract with an authorized third-party inspector to perform the required annual safety elevator 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 continued 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. In 2018, the Elevator Safety law was amended to provide those certain types of inspections would be transferred to third party inspectors during a three year phase in the period beginning 10/1/2018, 10/1/2019 and 10/1/2020. However, the law was amended again during the 2020 session to delay the requirement from 10/1/20 to 10/1/21 for all elevators in privately owned buildings, except for direct-acting hydraulic elevators which are delayed until October 1, 2022.

During 2020, there were an average of 90 TPQEIs assisting Maryland elevator owners with keeping their elevators, escalators, and lifts safe. The joint effort between State and TPQEI inspectors 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 past due elevator units from 6000 units in 2009 to 2906 in 2019. However, that number spiked to 7,213 by the end of 2020, due to the reduction in inspection activity caused by COVID-19 and the declaration of a state of emergency in Maryland which extended through the end of the year. Due to the state of emergency and public health concerns, inspections of nursing homes, hospitals, and healthcare facilities located throughout the State were all especially impacted with many scheduled inspections cancelled. Once the state of emergency is lifted, the Safety Inspection Unit will be working along with TPQEIs to reduce the number of past due elevator units as quickly as possible.

ELEVATORS PAST DUE ANNUALLY



There are two components to the process that results in the issuance of a certificate of inspection: inspecting equipment (by a 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 8.11) to be performed by a licensed elevator mechanic. In privately owned buildings, annual testing was able to be “verified” by an authorized TPQEI through documentation during an onsite inspection. Since 2018, the witnessing requirement has required that a TPQEI be

physically present during the testing of certain elevators including as of 2020, five year inspections of privately owned elevators, annual and five year inspections of elevators owned by the State or local governments. Witnessing the annual test is currently an option in Maryland for privately owned elevator units, depending on the facility owner's choice, or the authorized/registered TPQEI's business practice. Going forward in 2021, annual tests on elevators in a privately owned building and in 2022 annual tests on direct-acting hydraulic elevators will have to be performed by a licensed elevator mechanic and witnessed by a TPQEI.

Elevator Safety Inspections			
		State	QEI
Inspections performed	38,208	8,370	29,838
Elevators Registered	24,988		
Final Inspections (new units/alterations/hoists)			1,123
Annual Inspections			22,264
Other Inspections (Tests, Re-Inspections, 3 rd party monitoring, other)			6,451
Accidents/Incidents investigated			1
Complaints investigated			59
Units currently sealed out of service			1,524
• Active/Sealed			197
• Inactive/Sealed			1,247
Annual Certificates Issued (Periodic Inspection)			18,755

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.

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 Crew leaders
- 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 2019 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 Health. 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. No reports were received by the Commissioner of Labor and Industry under this program in 2019.

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.