

9/21/2022

The Honorable Larry Hogan
Governor of Maryland
State House
Annapolis, Maryland 21401

Dear Governor Hogan:

I am submitting to you the 2021 Annual Report of the Division of Labor and Industry, Department of Labor. This report is required under Section 2-108 of the Labor and Employment Article, *Annotated Code of Maryland*. This report summarizes many activities of the Division of Labor and Industry during the Calendar year. Additional required reporting can also be found including: MSAR#861, MSAR#1937, MSAR#2350, MSAR#7583, MSAR#9829, MSAR#10416 and MSAR#11925.

Copies of the report and being sent to the General Assembly.

With your guidance, we look forward to building on our strengths and while working with Maryland businesses to protect the employment rights and safety of Marylanders

Sincerely,



Matthew Helminiak
Commissioner of Labor and Industry

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
- Essential Workers' Protection Act
- 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
- Maryland Essential Workers' Protection Act
- 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
- Secure Maryland Wage Act
- Smoking on Public Elevators Law and Regulations
- Tipped Employees – Payments or Deductions from Wages Prohibition
- Use of Facial Recognition Services Prohibited
- Username 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 137 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 building codes.

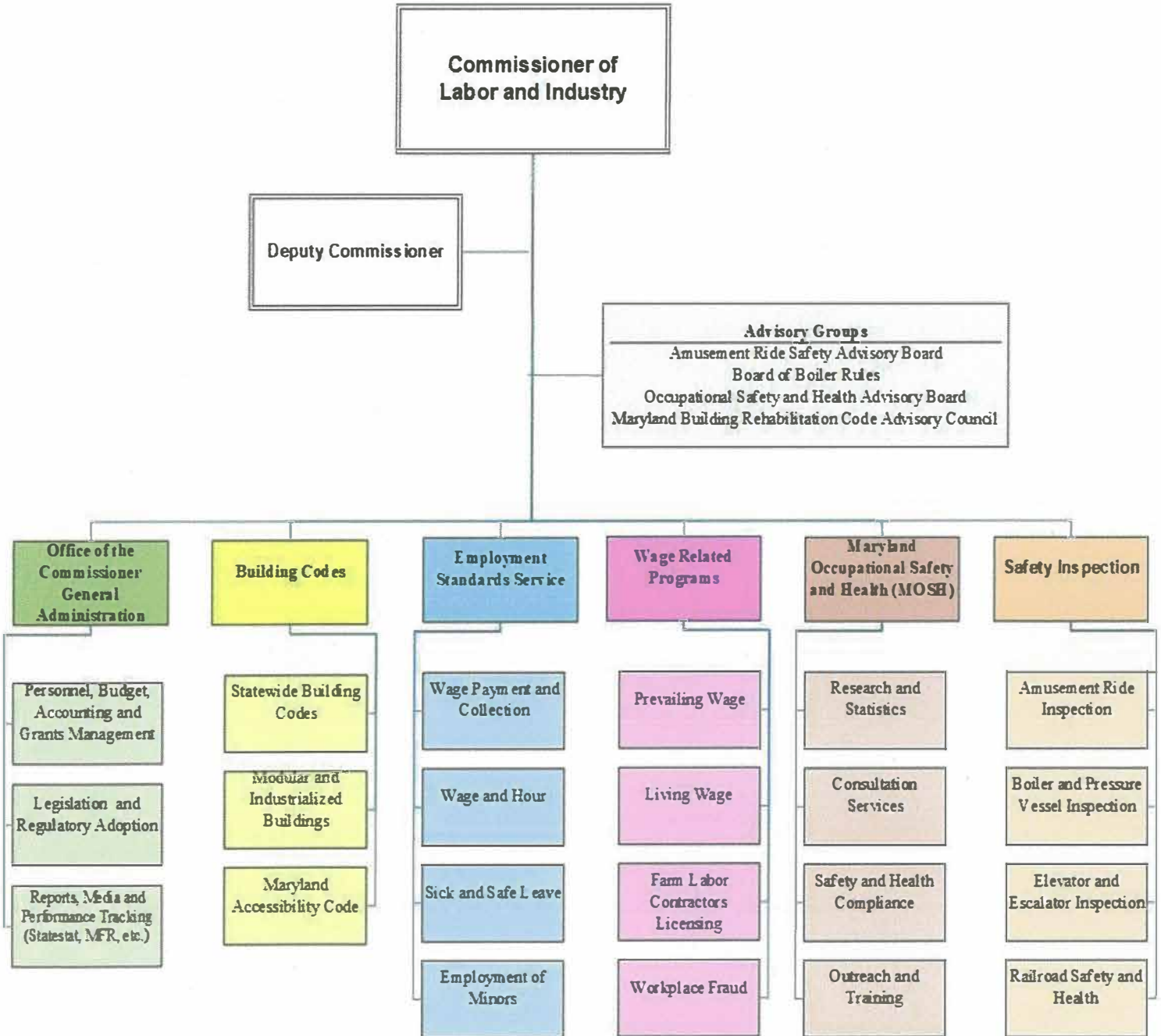
The Division of Labor and Industry moved offices from 1100 North Eutaw Street in 2021. While packing for the move, boxes that had copies of old annual reports were located. The department can trace its founding back to 1884. There are annual reports stretching from 1886 through 1944, pausing in 1944 after a request from the Federal government to stop publishing statistics during World War 2 that could “give aid and comfort to the enemy”, and then picking up again in 1967 and continuing until this report. Having access to these reports gives us the opportunity to see what this division was concerned about throughout the past 13 decades, and we thought it would be interesting to compare and contrast the issues that we faced in 1921 with what we faced in 2021.

There were several topics in the 1921 report that, although the language has changed, are similar to 2021. For example, on Page 332 there is a discussion of the “Rise and Fall of the Dollar’s Worth and Wages”, which talks about how the national income has gone up but the purchasing power of the dollar has gone down. On Page 381 there is a discussion of the overall health of the country as it was recovering from the recent influenza pandemic, and shows a decline in the deaths from pneumonia and influenza. The report discusses an increase in the number of homicides, suicides, and automobile fatalities, using a quote from Mr. Robert L. Cox, vice-president of the Metropolitan Life Insurance Company, “We talk learnedly of bacteria and bacilli, but overlook the bacillus automobilus whose presence behind the wheel of his juggernaut can be discovered without aid from the microscope and whose homicides might be largely prevented by more effective policing of our congested highways. Many of the laws that today’s Division of Labor & Industry enforces were in effect in 1921. The child labor laws were a major topic going back to the first annual report in 1886. Just as we do today, work permits for minors were issued - including special work permits for actors. Because of the ongoing depression in 1921, employment of children had decreased.

Other interesting facts include a discussion on Page 126 about the Steam Boiler Inspection Law that required inspection of all stationary steam boilers of three horsepower and upward, located within the City of Baltimore, and the enforcement of the Board of Boiler Rules, which required that all boilers over 15 pounds per square inch installed within the State after January 1st, 1921, be constructed and installed in conformity to the Boiler Code of the American Society of Mechanical Engineers, the current edition of which is still enforced by Labor & Industry today. On Page 222 the number of motion picture houses in Baltimore (108) is mentioned as well as the number of amusement resorts in Baltimore (3). The State did not have an amusement safety inspection system in 1921 as we do today.

Page 283 talks about the work of the State Industrial Accident Commission, which had 53,678 accidents reported in 1920 out of only 603,373 workers (8.9% of all workers). A review of these annual reports over the last one hundred years demonstrates the important role that the Division of Labor and Industry has played in the State in the life of Maryland’s citizens.

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 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 weekly meetings with program personnel to ensure that Division of Labor and Industry programs remain on track in achieving goals and objectives.

LEGISLATION IN 2021

There were several bills introduced and passed during the 2021 session of the General Assembly which directly affected the Division of Labor and Industry.

Maryland Essential Workers' Protection Act – Chapter 736 (House Bill 581) This Act, which was enacted as an emergency bill, establishes benefits and protections for certain essential workers during a catastrophic health emergency, and establishes responsibilities for certain employers who employ employees who are determined to be essential workers. The law requires the Maryland Department of Labor (MDL) to enforce the law and adopt a specified emergency temporary standard to address the COVID-19 pandemic as well as placing certain requirements on the Maryland Department of Health. The law's requirements related to an emergency temporary standard and the adoption of a template health emergency preparedness plan terminate six months from the date the COVID-19 state of emergency ends. The law took effect May 30, 2021.

Secure Maryland Wage Act – Chapter 672 (SB 107) This law requires certain employees who perform work at the Baltimore Washington International Thurgood Marshall Airport and Pennsylvania Station be paid certain specified wages and benefits beginning January 1, 2022. This law took effect May 30, 2021.

Maryland's Flexible Leave Act – Leave With Pay – Bereavement Leave – Chapter 574 (SB473) This law expands Maryland's Flexible Leave Act by authorizing employees of certain employers (those with at least 15 employees) to use earned paid leave for bereavement leave. An employee is allowed to use bereavement leave for the death of the employee's immediate family member, including an adult child of the employee, as defined by the bill. The law took effect October 1, 2021.

Prevailing Wage– Applicability – Chapter 58 (HB 37) This law expands the applicability of the State's prevailing wage law to include (1) a public work project contract with a value of \$250,000 or more which lowers the threshold from \$500,000 and (2) a public work project for which State funds constitute at least 25% of the constructions costs (instead of at least 50% of construction costs). The law provides that legislative bond initiatives that receive State funds in the capital budget are exempt from the law. The law becomes effective October 1, 2021 and provides that it applies for public work projects executed after October 1, 2021.

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 2021, 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 2021, 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

The Building Codes Administration (Codes Admin) within the Department of Labor oversees code administration in the State. 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, 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, 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.

2021 Metrics

(reporting period: January 1, 2021 through December 31, 2021)

- Maryland Accessibility Code waiver request received/processed: 4
- Maryland Accessibility Code interpretation requests/inquiries received: 53
- Code training, number of attendees: 0
- Code interpretation (number of written requests received): 127
- Industrialized Building Program
 - Active manufacturers/plants: 87/100
 - Active Approved Testing Facilities: 8
 - Renewal Fees received: \$65,050
 - Maryland Insignia Fees received: \$191,995
 - Funds received from U.S. HUD: \$14,130
 - Number of sets of building plans received/reviewed: 544
 - Number of Plan Approval issued: 418
 - Number of Plant Inspections conducted: 3

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, Maryland Healthy Working Families Act (Sick and Safe Leave), Employment of Minors, and payment of wages.

&

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
Active Service in the Armed Forces of the United States – Renewal of Licenses; Credit or Apprenticeship	Title 3, § 3-708
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
Payments or Deduction from Wages - Tipped Employees	Title 3, § 3-713
Hiring and Promotion Preferences - Veterans of Commissioned Corps	Title 3, § 3-714
Disclosing Sexual Harassment in the Non Compete and Conflict of Interest Clauses	Title 3, § 3-715
Workplace Act of 2018	Title 3, § 3-716
Use of Facial Recognition Services – Prohibited	Title 3, § 3-717
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
Secure Maryland Wage Act	Title 3, Subtitle 16
Maryland Essential Worker's Protection Act	Title 3, Subtitle 17
Farm Labor Contractors	Title 7
<u><i>Business Regulation Article</i></u>	
Employment Agencies	Title 9

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, 2021 through December 31, 2021	
Complete wage claim forms received	525
Investigations completed	497
Claims for which wages were recovered	299
Total wages collected	\$694,076

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.

Payment of Wages – Minimum Wage

Beginning January 1, 2021, the minimum wage rate is \$11.75 per hour and for small employers (employers that employ 14 or fewer employees) \$11.60. Looking ahead to the coming years, the Maryland minimum wage law provides for increases in the minimum wage rate of 75 cents a year until reaching \$15 per hour on January 1, 2025. There is no reduced 85% minimum wage rate for employees under 20 years old for their first six months of employment. In addition, there is no reduced 85% minimum wage rate for employees working for certain amusement or recreational establishments, including swimming pools. 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 law provides for annual reviews 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.

Individuals with Disabilities - Minimum Wage and Community Integration and Community Integration

The law 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. Since October 1, 2020, the Developmental Disabilities Administration (DDA) has been prohibited from funding 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, 2021 through December 31, 2021	
Work permits issued	75,390
Employment of Minor Complaints Received and Resolved	19
Special Work Permits Issued	123

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 law 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.

EQUAL PAY FOR EQUAL WORK

Pursuant to Labor and Employment Article, Title 3, Subtitle 3, *Annotated Code of Maryland*, men and women performing the same or similar work must be paid equally. Consideration is made for merit, longevity, skill, and shift work. This law prohibits an employer from providing less favorable employment opportunities and from discriminating between employees in any occupation by paying a wage to employees of one sex or gender identity at a rate less than the rate paid to employees of the opposite sex if both employees work in the same establishment and perform work of comparable character or work on the same operation, in the same business, or of the same type. This law also provides that an employer may not prohibit an employee from inquiring about, discussing or disclosing the wage of the employee or another employee or requesting that the employer provide a reason for why the employee's wages are a condition of employment; and prohibits an employer from taking any adverse employment action against an employee for inquiring about the employee's own wages. Additionally, 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.

WHOLESALE REPRESENTATIVES

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

MEDICAL QUESTIONS

Section 3-701 of the Labor and Employment Article, *Annotated Code of Maryland*, prohibits an employer from requiring an applicant for employment to answer an oral or written question that relates to a physical, psychiatric, or psychological disability, illness, handicap, or treatment unless the disability, illness, handicap, or treatment has a direct, material, and timely relationship to the capacity or fitness of the applicant to perform the job properly.

LIE DETECTOR TESTS

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

VOLUNTEER ACTIVITIES

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

DAY OF REST – RETAIL AND WHOLESALE ESTABLISHMENTS

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

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

PENSION PLANS

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

INTERPRETERS

Section 3-707 of the Labor and Employment Article, *Annotated Code of Maryland*, a deaf employee may request an interpreter for proceedings before an administrative or executive board or any similar body provided by an employer, employee organization, or union to hear employee grievances. The request must be in writing and submitted at least 5 days before the proceeding begins. The employer, employee organization, or union shall notify the deaf employee in writing of the right granted by this section as soon as it is possible or at least 8 days before the hearing begins. If an interpreter is the employer, the employee organization, or union shall request the Department of Disabilities to assist in locating a qualified interpreter to assist at the hearing. The Department of Disabilities shall promptly assist in locating an interpreter. The interpreter shall facilitate communication between the affected parties, subject to the code of ethics of the National Registry of Interpreters for the Deaf. The cost of the interpreter's services shall be divided equally between the employer and the union or employee organization.

JURY SERVICE

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

HEALTHY RETAIL EMPLOYEE ACT

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

JOB APPLICANT FAIRNESS ACT

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

USERNAME AND PASSWORD PRIVACY PROTECTION ACT

Section 3-712 of the Labor and Employment Article, *Annotated Code of Maryland*, prohibits Maryland employers from requesting or requiring that an employee, or an applicant for employment, provide access to personal social media accounts. The Act forbids employers from asking for any user name, password or other means to access a personal account or service through an electronic communications device, including computers, telephones, and personal digital assistants. The Act forbids employers from discharging, disciplining, penalizing or threatening to do any of the foregoing for an employee's refusal to disclose any such information. However, the Act does not restrict employers from searching social media accounts and viewing publicly available information of an employee or an applicant.

PAYMENTS OR DEDUCTION FROM WAGES -TIPPED EMPLOYEES

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

HIRING AND PROMOTION PREFERENCES – VETERANS OF COMMISSIONED CORPS

Section 3-714 of the Labor and Employment Article, *Annotated Code of Maryland*, 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

Section 3-715 of the Labor and Employment Article, *Annotated Code of Maryland*, provides 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.

NON-COMPETE AND CONFLICT OF INTEREST CLAUSES

Section 3-716 of the Labor and Employment Article, *Annotated Code of Maryland*, 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.

USE OF FACIAL RECOGNITION SERVICES PROHIBITED

Section 3-717 of the Labor and Employment Article, *Annotated Code of Maryland*, 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.

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. This law also requires an employer to allow an employee to use earned paid leave for bereavement leave. An employee is also allowed to use bereavement leave for the death of the employee's immediate family member, including an adult child of the employee. 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.

ORGAN DONATION

Section 3, Subtitle 14 of the Labor and Employment Article, *Annotated Code of Maryland*, 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.

CRIMINAL HISTORY SCREENING (“BAN THE BOX”)

Section 3, Subtitle 15 of the Labor and Employment Article, *Annotated Code of Maryland*, 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. This Act 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. This Act 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. This bill became effective in 2020.

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 \$250,000 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 25% or more of the project.

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 2021, 3,760 covered projects were under construction.

Activity for 2021	
Payrolls received	120,889
Audits performed	157,775
Determinations issued	401
Wages recovered for employees	\$369,335.00
Liquidated damages collected for violations	\$269,191.00

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 2021	
Applications received	0
Licenses issued	0
Licenses denied	0
Applications incomplete	0

When applications are received, the Division of Labor and Industry continues to process the 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 2021.

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, 2021, are as follows:

Tier 1—\$14.55 per hour: Anne Arundel County, Baltimore City, Baltimore, Howard, Montgomery, and Prince George's Counties

Tier 2—\$10.93 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. In 2021, the minimum wage rate surpassed the Tier 2 living wage rate. To avoid confusion, the Division has done outreach to ensure 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's outreach included information on webpages, and also disseminated information to procurement agencies.

Living Wage Activity for 2021	
Service Contracts Received	321
Total Non-Exempt Contracts	1330
Exempt & Non-Exempt Contracts as of 12/31	3098
Employees Receiving Restitution	157
Amount of Restitution Recovered	\$62,356.00
Vendors/Contractors Submitting Payroll	1917

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 insurance 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 2021. 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 2021

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

# and nature of complaints	10 misclassification
complaints	
# of investigations conducted	23
# 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 2021 (CY21), MOSH continued to receive historic levels of inquiries, complaints, and general questions related to COVID-19. While responding to the 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.

On June 21, 2021, federal OSHA issued a Healthcare Emergency Temporary Standard (ETS) to protect healthcare and healthcare support service workers from occupational exposure to COVID-19 in settings where people with COVID-19 were reasonably expected to be present. The Office of the Assistant Commissioner quickly evaluated and adopted the nationwide ETS

through emergency promulgation: COMAR .09.12.29 (emergency status expired January 30, 2022).

- Standard Notice 22-1 - [COVID-19 Emergency Temporary Standard \(COVID ETS\)](#) - Effective December 21, 2021
- Standard Notice 21-1 - [COVID-19 Emergency Temporary Standard \(COVID ETS\)](#) - Effective 8/27/2021 *Canceled by SN 22-1

In addition, inspection procedures and guidelines were adopted to guide enforcement of the ETS and participate in the National Emphasis Program:

- Instruction 21-1 - [COVID-19 Pandemic Field Enforcement Guidelines](#) - 8/27/2021
- Instruction 21-2 - [COVID-19 ETS Inspection Procedures](#) - 8/27/2021
- Instruction 21-3 - [COVID-19 NEP](#) - 8/27/2021

While tremendous resources were dedicated to protecting employees and assisting employers during the pandemic, the Office of the Assistant Commissioner participated in the National Emphasis Program on Amputations in Manufacturing Industries, which establishes procedures to be used by all MOSH Compliance and Consultation staff to identify and reduce or eliminate amputation hazards in manufacturing industries. This instruction sets forth the parameters of the program:

Instruction 21-4 - [Amputation NEP](#) - 8/30/2021

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 2021.

Staffing

In 2021, MOSH welcomed twelve new members to the team: one Safety Compliance Officer Manager, nine Safety Compliance Officers and two Industrial Hygienists. Each trainee participated in a training curriculum that consisted of classroom-style training and field training with senior compliance officers.

Under Development

Pursuant to Chapter 308, Laws of 2020 (House Bill 722) – Heat Stress Standards, the Commissioner of Labor and Industry began the process of developing regulations to protect employees from heat-related stress in the workplace. The law requires adoption by October 1, 2022. As part of the adoption process, the law directs the Commissioner to conduct four informational hearings in four different geographical areas of the State to obtain input from interested parties. In the fall of 2021, the informational meetings were

held across the State and included a virtual option to allow for increased participation. In addition, the Commissioner participated in a consensus standard subcommittee for heat stress which provided additional helpful information. The highly qualified Industrial Hygienists of MOSH performed in depth analysis and modeling of historic weather data and review of available guidelines and research to assist in successfully implementing the requirements of the new law. The proposed regulations are expected in 2022.

Signature Project

Online Complaint Form

MOSH developed and successfully refined a method for complainants to file occupational safety and health complaints online. This online complaint form now allows complaints to be directly sent to the Agency, provides new functionality to address confusion regarding the type of complainant and related anonymity, and ensures hazardous conditions are addressed more efficiently. The online form is available in both English and Spanish and can be found at <https://labor.md.gov/MOSHComplaintForm/ComplaintForm.aspx>.

ENFORCEMENT

Enforcement is the largest unit within MOSH. In 2021, MOSH averaged approximately 44 compliance officers located within four offices throughout the State. MOSH operates seven regions (six safety and one health) that covers the State. Each safety region covers a group of counties, while the health region covers the entire State.

During CY2021, compliance officers conducted 1,322 inspections through enforcement programs, removed almost 25,000 employees from hazardous conditions, and identified over 6,700 hazards. In 2021, compliance officers investigated 158 complaints with serious hazards as concerns and investigated 20 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.

NOTABLE CASE

Electrical Room Hazards

On September 9, 2021, MOSH investigated an electrical shock where an employee suffered severe burns as a result of contacting live switchgear. On the day of the accident, the employees were searching a condominium complex for a location to store cardboard boxes containing pipe insulation. This condominium complex did not restrict electrical rooms to only qualified personnel and the employees entered the electrical room that contained unguarded 7,200-volt primary switchgear for the condominium building. One of the two employees thought the switchgear was old electrical equipment that was not energized and proceeded to reach out and touch the “A” phase of the energized 7,200-volt primary switchgear. At that time, the employee experienced an electrical shock which caused their body to tense, resulting in the employee falling into the “B” phase of the primary switchgear and contacting the energized handle with their head. The employee was taken to the Johns Hopkins Bayview Hospital Burn Unit and treated for injuries to their head and left hand/arm including soft tissue damage requiring multiple surgeries. The inspection found that unqualified employees and condominium owners were provided keys to access these electrical rooms where only qualified personnel would be allowed to enter. The employer was cited for this finding.

MOSH worked with the regional supplier of electricity in Ocean City, MD and found it was not uncommon for electrical rooms to be set up in this manner. Through outreach and education, MOSH is developing a Hazard Alert letter to make condominium managers aware of these electrical hazards that could be present in their electrical rooms to ensure accidents like this one are not repeated.

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 57 whistleblower complaints in Calendar Year 2021. MOSH was able to complete case files in an average of 133 calendar days and found 14% of cases meritorious. For the meritorious discrimination complaints, MOSH was able to collect back pay wages totaling approximately \$28,000.

MARYLAND SOII RESULTS FOR 2020

In 2020, approximately 51,700 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 2.6 cases per 100 full-time equivalent workers. This rate was .5 lower than the previous year's rate of 3.1 per 100 full-time equivalent workers. In 2020, slightly under 2.4 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 42,400 nonfatal injuries and illnesses. Injuries and illnesses in private industry occurred at a rate of 2.5 cases per 100 equivalent full-time workers.. Cases of a more serious nature involving days away from work, job transfers, or restrictions -- commonly referred to as a DART case, occurred at a rate of 1.6 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 0.2 injuries and illnesses per 100 full-time equivalent workers for Finance and Insurance (NAICS 52) and Management of Companies and Enterprises (NAICS 55) up to a rate of 5.2 injuries and illnesses for Health Care and Social Assistance (NAICS 62).

Eighty-five percent of private industry's injuries and illnesses occurred with the service-providing industries with 36,000 reported cases. Goods-producing industries, on the other hand, accounted for 15 percent of the total, or 6,400 cases. Injury and illness estimates for Maryland's private sector covered just over 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 9,200 OSHA recordable injuries and illness cases in 2020. The count converted to a TRC incidence rate of 3.6 injuries and illnesses per 100 full-time equivalent workers.

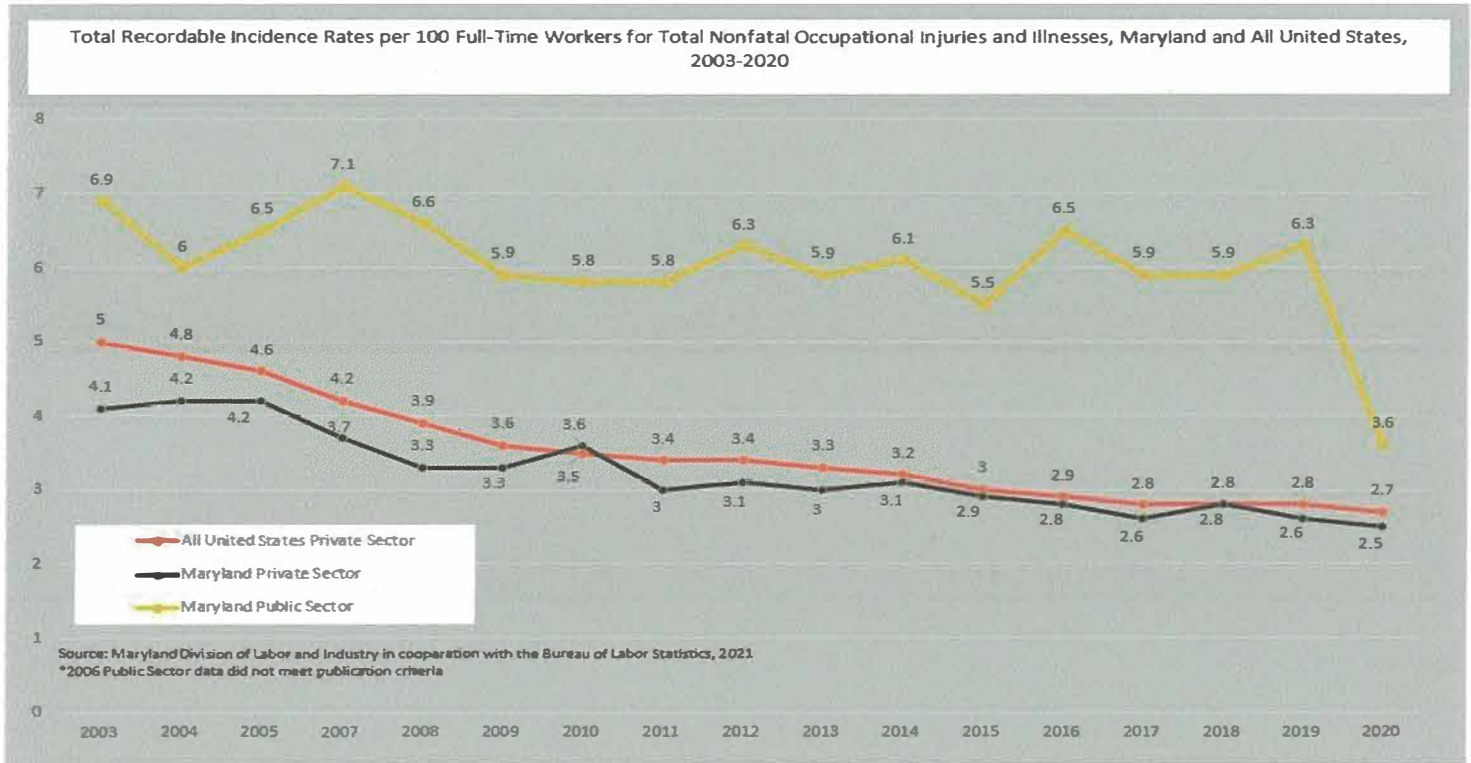
¹ Source: Maryland Department of Labor, Quarterly Census of Employment and Wages Program, 2020 Annual Average.

STATE GOVERNMENT

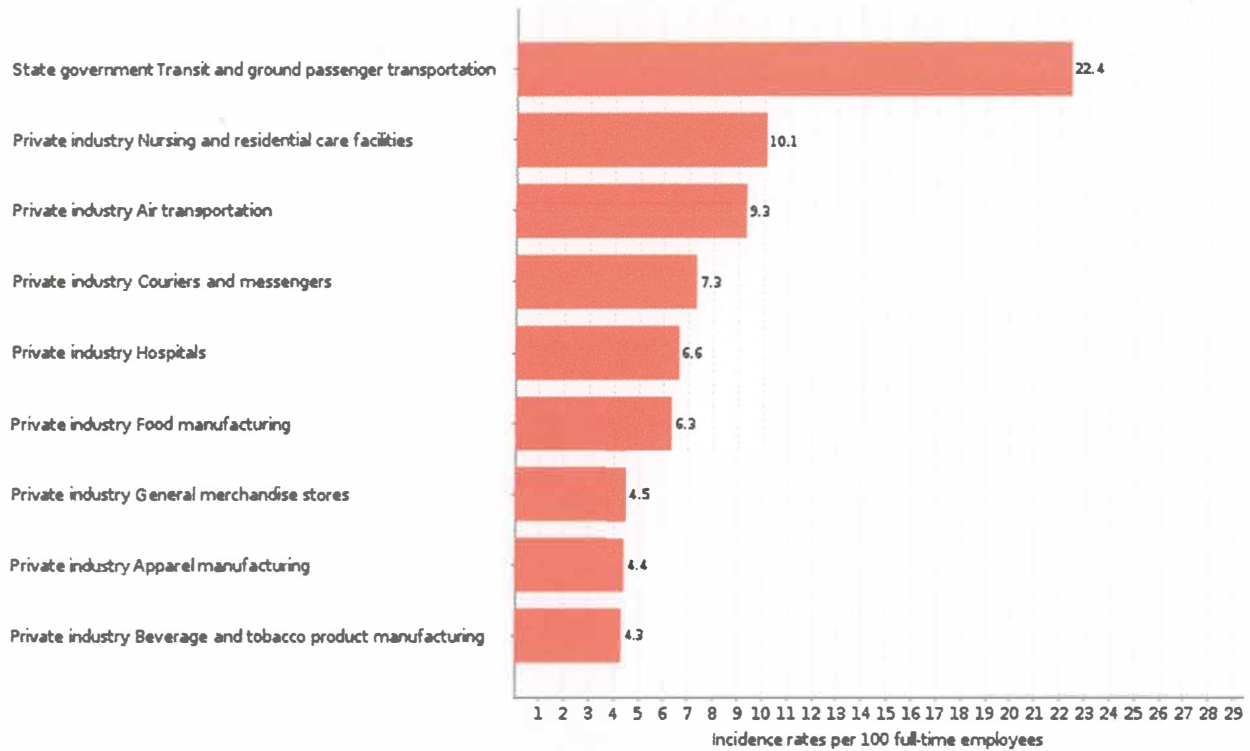
For 2020, the state government’s TRC incidence rate was 3.0, with a total of 2,500 OSHA recordable cases reported. These injury and illness estimates covered just under 100,000 State government workers, based on the Maryland Department of Labor’s Quarterly Census of Employment and Wages Program employment data for 2020. Within the State government, the industry with the highest injury and illness rate was Transit and Ground Passenger Transportation (NAICS 485) which reported an incidence rate of 22.4 injury and illness cases per 100 full-time equivalent workers.

LOCAL GOVERNMENT

With 6,700 OSHA recordable cases, Maryland local government’s injuries and illnesses converted to a total recordable case incidence rate of 3.9 cases per 100 full-time equivalent workers. Approximately 234,000 workers comprised this sector in the State during 2020.



Industries with the highest incidence rates of total nonfatal occupational injuries and illnesses, Maryland, 2020
 [SOURCE : U.S. Bureau of Labor Statistics, U.S. Department of Labor, 2022]



Source: Maryland Division of Labor and Industry in cooperation with the U.S. Bureau of Labor Statistics, SOII Program, 2022

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

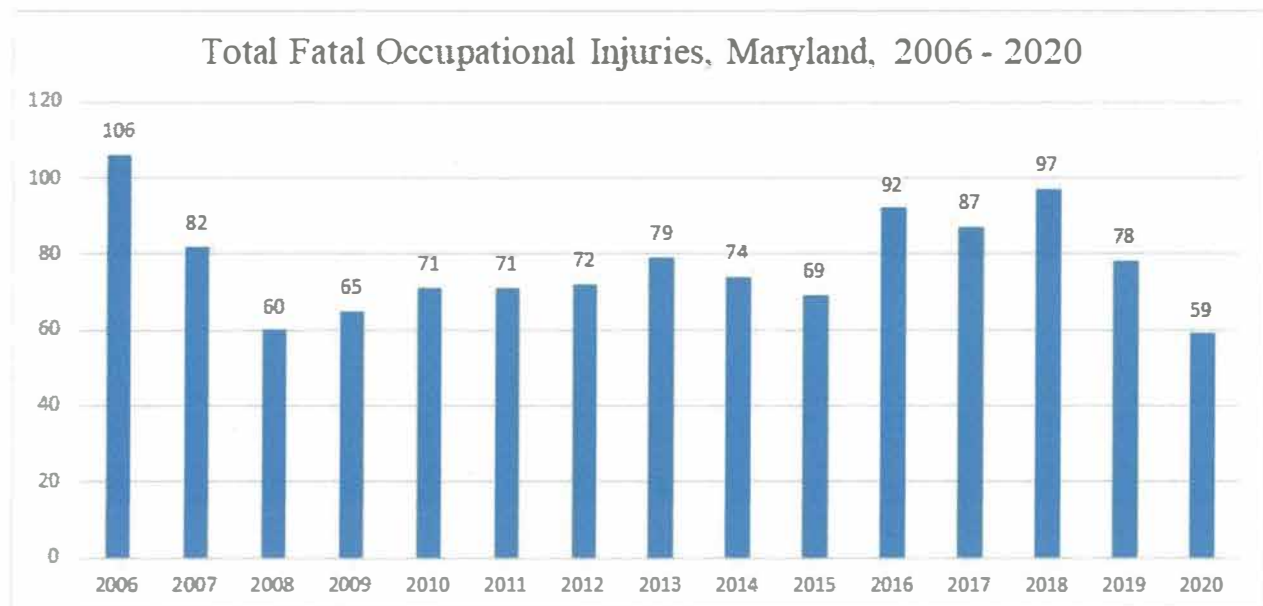
other State and federal agencies administering specific laws and regulations. (Fatalities that occur during a person’s normal commute to and from work are excluded from the census counts.)

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 2020

Fatal work injuries totaled 59 in 2020 for Maryland according to the latest fatality census results from the Bureau of Labor Statistics’ Census of Fatal Occupational Injuries (CFOI). The number of work-related fatalities for 2020 was down from 78 in the previous year. Since 1992, fatal occupational injuries in Maryland have ranged from a high of 106, reported in 2006, to a low of 59, reported this year. Certain fatal events are not covered under the Maryland Occupational Safety and Health agency’s investigative oversight including cases of workplace homicide and suicide; certain transportation events, such as aircraft, rail, and highway crashes; and fatalities to the self-employed. The Census of Fatal Occupational Injuries does include these cases, therefore the work fatality count reported on CFOI is significantly higher.

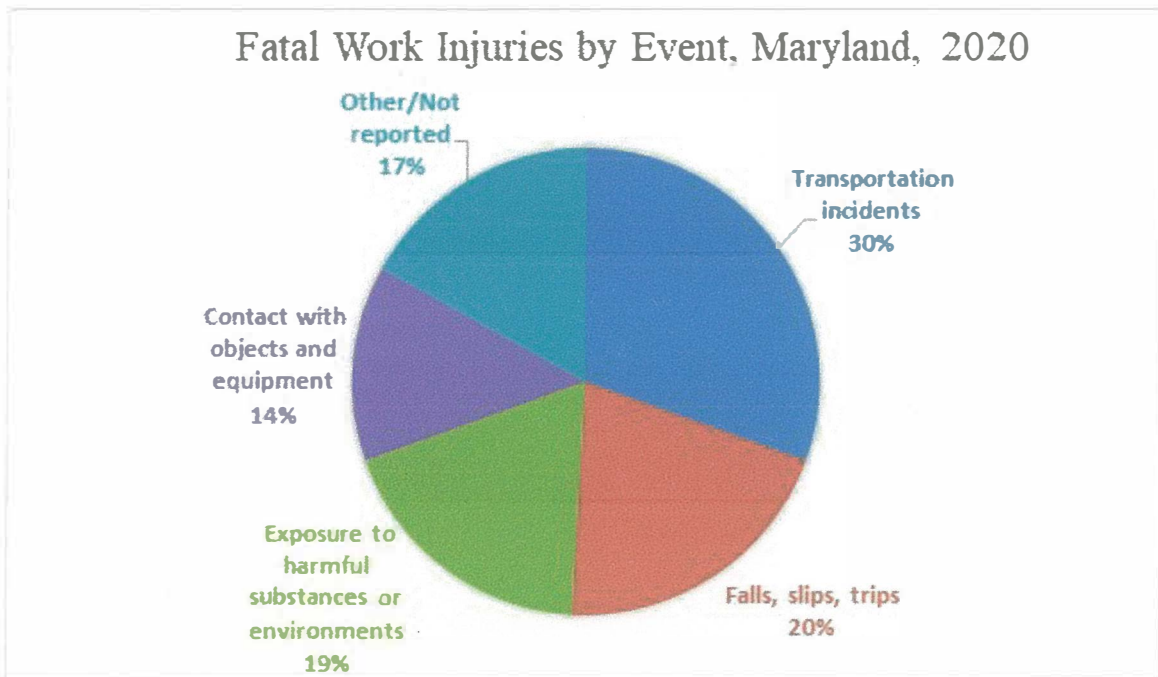
Nationwide, a total of 4,764 fatal work injuries were recorded in 2020, a 10.7-percent decrease from the 5,333 fatal injuries in 2019. The national total of work fatalities for 2020 represented the lowest annual number since 2013.



Source: Maryland Division of Labor and Industry in cooperation with the U.S. Bureau of Labor Statistics, CFOI Program, December 2021.

TYPE OF INCIDENT

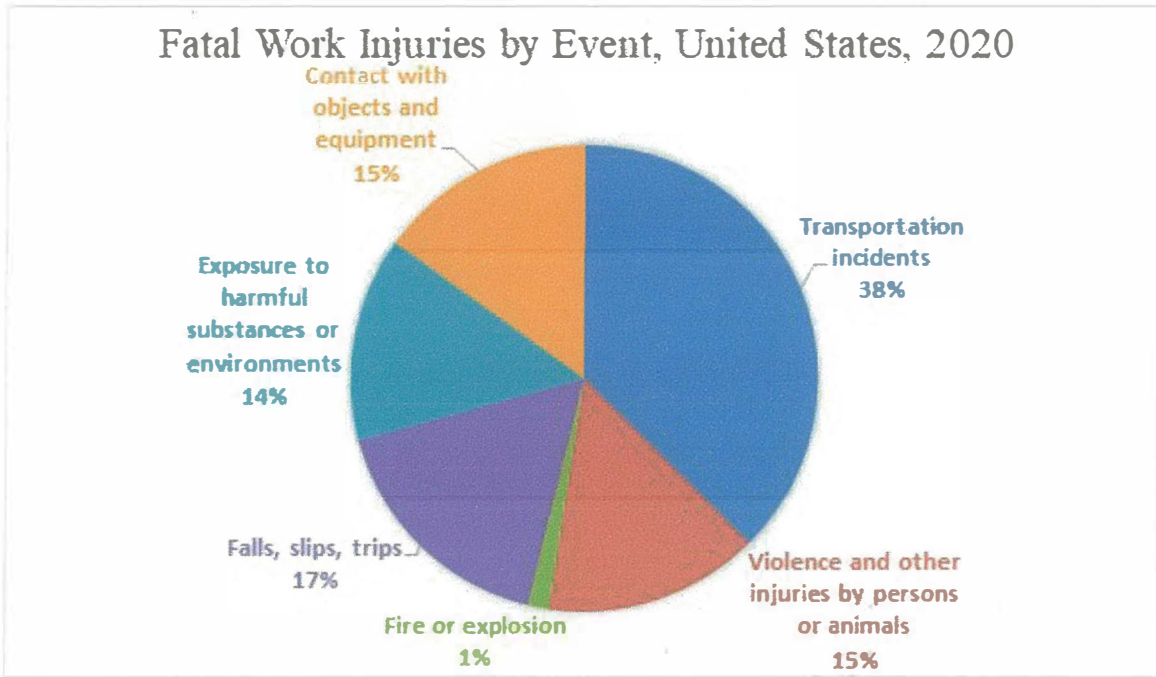
In Maryland, transportation incidents were the most frequent type of incident resulting in 18 fatal work injuries. Falls, slips, and trips accounted for 12 fatalities and exposure to harmful substances or environments accounted for 11 fatalities. These three major categories accounted for nearly 70 percent of all workplace fatalities in the state. The number of worker deaths from transportation incidents dropped from 25 in 2019, but with the exception of two years (1995 and 2014), transportation events have remained the most frequent cause of death for workers in Maryland; in 2018, it tied with exposure to harmful substances or environments for the most frequent. Worker fatalities due to falls, slips, and trips decreased from 17 in 2019, while fatalities from exposure to harmful substances or environments remained the same at 11. Unintentional overdoses due to nonmedical use of drugs or alcohol while at work accounted for 5 of the 11 worker deaths among exposure to harmful substances or environments in 2020.



Source: Maryland Division of Labor and Industry in cooperation with the U.S. Bureau of Labor Statistics, CFOI Program, December 2021.

Note: Total may not equal 100 percent due to rounding.

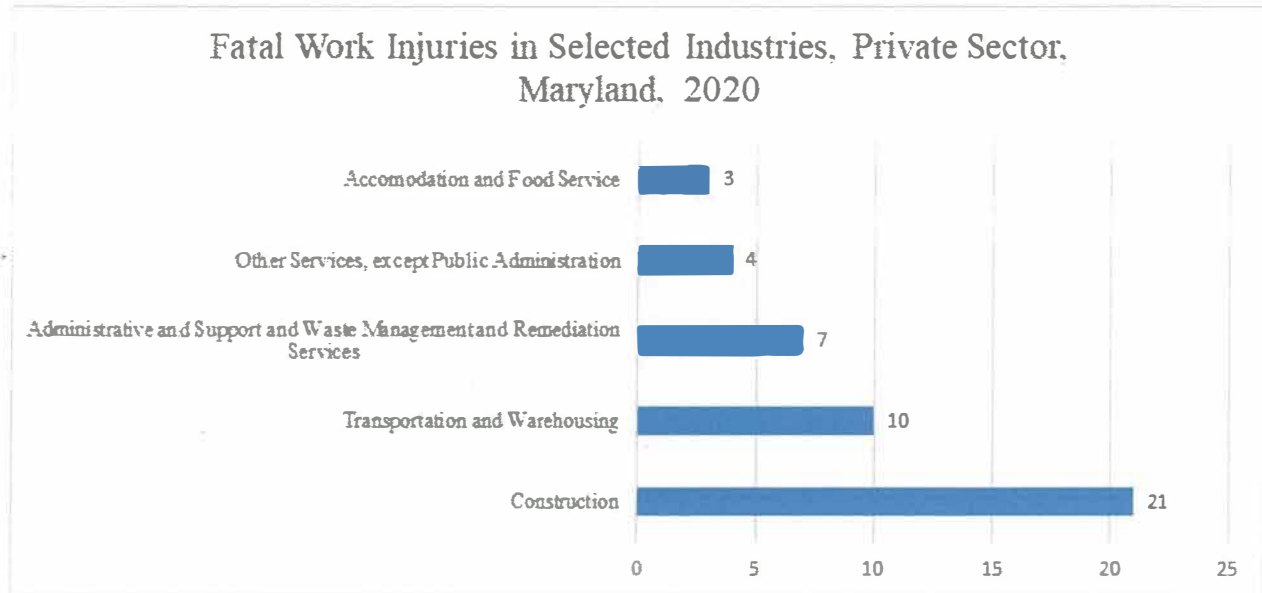
Nationally, transportation incidents fell 16 percent to 1,778 in 2020 from 2,122 in 2019 but remained the most frequent fatal workplace event in 2020, accounting for 37 percent of all fatal work injuries. Falls, slips, and trips was the second-most common fatal event (17 percent), followed by contact with objects and equipment (15 percent), and violence and other injuries by persons or animals (15 percent).



Source: Maryland Division of Labor and Industry in cooperation with the U.S. Bureau of Labor Statistics, CFOI Program, December 2021.

INDUSTRY

The private construction industry had the largest numbers of fatalities in Maryland in 2020 with 21, up from 15 in 2019. Falls, slips, and trips accounted for 9 of the 21 fatalities in this industry. The private sector transportation and warehousing had 10 worker fatalities, down from 12 in 2019, followed by administrative and support and waste management and remediation services which accounted for 7 fatal workplace injuries.

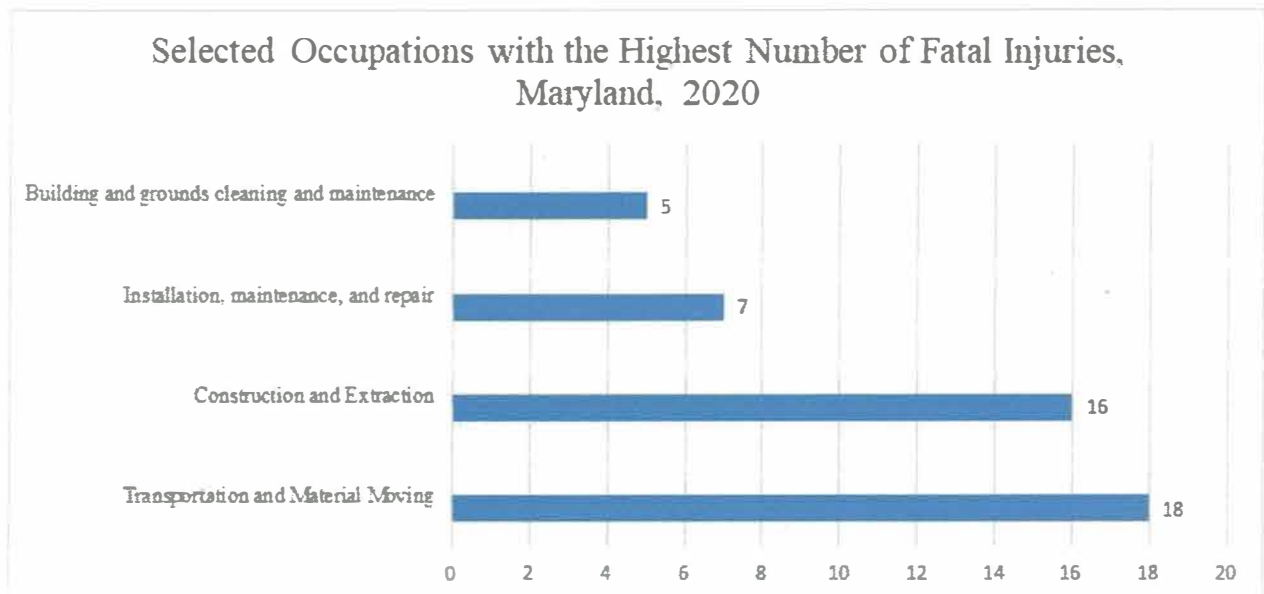


Source: Maryland Division of Labor and Industry in cooperation with the U.S. Bureau of Labor Statistics, CFOI Program, December 2021.

OCCUPATION

Transportation and material moving occupations had the highest number of fatalities with 18, with the majority of the fatalities within this group being motor vehicle operators accounting for 13 of the fatalities. Construction and extraction occupations had the second highest number of fatalities with 16.

Maryland workers in transportation and material moving occupations and construction and extraction occupations accounted for 58 percent of the state's work-related fatalities as compared to the national percentage of 47. In Maryland, the most frequent event among transportation and material moving occupations was transportation incidents, while the most frequent event among construction and extraction occupations was falls, slips, and trips, both holding a 50-percent share within those respective occupations.



Source: Maryland Division of Labor and Industry in cooperation with the U.S. Bureau of Labor Statistics, CFOI Program, December 2021.

ADDITIONAL HIGHLIGHTS

- Women accounted for 15 percent of the work-related fatalities in Maryland, higher than the 8-percent national share.
- White, non-Hispanic workers accounted for 37 percent of those who died from a workplace injury in the state while Hispanic or Latino workers accounted for 32 percent. Nationwide, these groups accounted for 61 percent and 23 percent of work-related deaths, respectively.
- Workers 25-54 years old accounted for 64 percent of the state’s work-related fatalities in 2020, higher than the 56 percent of on-the-job fatalities nationally.
- Of the 59 fatally-injured workers in Maryland, 86 percent worked for wages and salaries; the remainder were self-employed.

Coronavirus (COVID-19) Pandemic and the Census of Fatal Occupational Injuries

CFOI reports fatal workplace injuries only. These may include fatal workplace injuries complicated by an illness such as COVID-19. Fatal workplace illnesses not precipitated by an injury are not in scope for CFOI. CFOI does not report any illness related information, including COVID-19. Additional information is available at www.bls.gov/covid19/effects-of-covid-19-on-workplace-injuries-and-illnesses-compensation-and-occupationalrequirements.htm.

Safety Inspection

The Safety Inspection program includes several diverse inspections and educational initiatives focused on ensuring the safety of the public when using or being 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

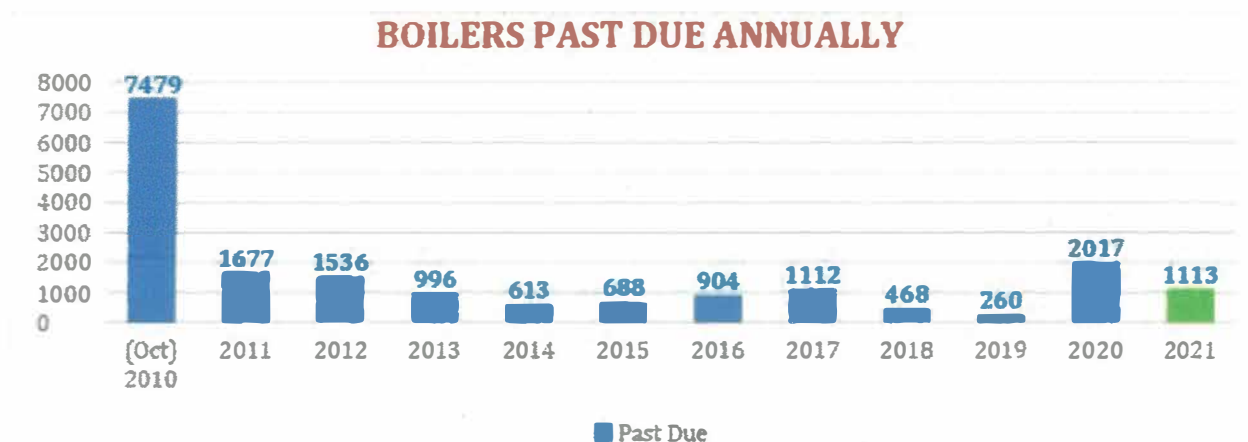
The Boiler and Pressure Vessel Safety Act, *Public Safety Article, Title 12, Subtitle 9, Annotated Code of Maryland*, establishes safety standards for boiler and pressure vessel safety and requires the inspection and registration of boilers and pressure vessels used in commercial establishments and places 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 2021, 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 81% of the 37,882 safety inspections conducted in 2021, 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. In 2021, the number of past due objects decreased significantly despite the State of Emergency in Maryland and the fact that only a limited number of inspections were able to be conducted by State Inspectors and special inspectors. After the state of emergency was lifted, the Safety Inspection Unit has worked along with the authorized inspection agencies to reduce the number of overdue objects as quickly as possible, which is evident in the 45% reduction of past due units since the 2020 report.



Boiler and Pressure Vessel Inspections Conducted by Deputy Boiler Inspectors and Special Inspectors		
Inspections	Deputy Inspectors	Special Inspectors
Inspections performed 37,882	7,191	30,691
Units Registered	53,793	
Accidents investigated	0	
Complaints investigated	0	
Total certificates issued	30,207	
New registrations	2,621	

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 3,708 such violations opened in 2021, 629 of which were identified by State inspectors. 3,619 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, and an Operating Practices inspector. There are no longer vacancies in this unit.

Railroad Safety and Health Inspections

Motive Power and Equipment	
MP&E Inspections	137
Cars inspected	6,272
Locomotives inspected	205
Defects reported	257
Violations reported	0
Blue Signal observations	44
Track	
Track Inspections	224
Private industry inspections	111
Track miles inspected	1,575
Turnouts inspected	865
Defects reported	419
Violations reported	0
Operating Practices	
OP Inspections	109
Railroad operating rules	109
Railroad operating practices	142
Radio standards and procedures	69
Rear end marking devices	0
Hours of service of railroad employees	0
Defects reported	27
Violations reported	0
Blue Flag observations	8
Railroad Accident/Incident Reporting	
Accidents/Incidents	21
Fatalities (including trespassers)	9
Injuries	3
Property Damage	9

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 amusement ride safety law provides 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	3
Incidents investigated	6
Certificate Inspections	2618
Other Inspections (Strip-Downs, Preliminary, Assists)	1,595
Total Inspections Performed	4,213
Certificates issued	2,748

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.

There were 4,213 inspections performed throughout the 2021 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 played a role in reducing the number of events that were scheduled, which had an effect on the number of inspections conducted. However, there were more inspections conducted in 2021 compared to 2020 – 4,213 compared to 1,596 respectively.

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. Amusement ride inspectors also paired up with elevator inspectors to gain training and experience for potentially assisting in the future.

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, 10 of which were vacant at the end of 2021.

The Elevator Safety law requires owners of elevator units in Maryland to contract with an authorized third-party inspector to perform the annual safety inspections and witness certain types of tests as required by law. An authorized inspector must hold a valid Qualified Elevator Inspector certification issued by a nationally recognized safety organization accredited by the National Commission for Certifying Agencies or the American National Standards Institute. They also shall maintain professional liability insurance and be licensed by the Commissioner of Labor. State inspectors continue to perform final acceptance, alteration, accident, incident, complaint, third party monitoring inspections and reinspection of all these inspection types.

During 2021, 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. The state of emergency also extended the due date of any elevator or boiler certificate until the end of the state of emergency. 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 canceled. Once the state of emergency was lifted, the Safety Inspection Unit worked along with TPQEIs to reduce the number of past-due elevator units as quickly as possible. The Elevator Safety Unit transitioned to a new database system this year, and data migration from the legacy system to the new system resulted in reports that did not accurately show the past due elevators. As such, the graph below does not contain data for 2021.



There are two components to the process that results in the issuance of a certificate of inspection: inspecting equipment (Third Party Qualified Elevator Inspector TPQEI or State Inspector) and testing equipment (Licensed Elevator Mechanic). Inspecting is one component required by elevator code, (A17.1 section 8.11) to be performed by a QEI certified inspector, confirming compliant equipment safety functions. Testing is another separate component required by the elevator code, (A17.1 section 8.11) 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. Witnessing of 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.

Since 2018, a TPQEI is required to be physically present during the testing of certain elevator units. The transfer of inspections to TPQEI has been phased in over several years with annual tests on an elevator in a privately owned building, except for direct acting hydraulic elevator to TPQEI beginning October 1, 2021 and direct acting hydraulic elevators of a privately owned building scheduled for transfer in October 2022.

Since 2018, the requirement for a third-party pre-final (compliance) inspection was eliminated. The State retained final acceptance inspections (new installations), alterations, investigation of accidents, complaints, incidences, follow up inspections to confirm the corrective action, and systematic/random quality control monitoring inspections, of third-party QEI inspectors. The law also created an apprenticeship program for TPQEI.

Elevator Safety Inspections			
		State	QEI
Inspections performed	37,664	6,356	31,308
Elevators Registered	25,106		
Accidents/Incidents investigated			9
Complaints investigated			70

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 2021 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 2021.

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.