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By: **Chairman, Economic Matters Committee**
Introduced and read first time: February 7, 2003
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 11, 2003

CHAPTER 316

AN ACT concerning

Division of Labor and Industry and Associated Boards and Councils - Sunset Extension and Program Evaluation

FOR the purpose of continuing the Division of Labor and Industry, the Amusement Ride Safety Advisory Board, provisions concerning the employment of minors, the Wage and Hour Law, the State Mediation and Conciliation Service, the Maryland Occupational Safety and Health Advisory Board, the Advisory Council on Prevailing Wage Rates, and the Apprenticeship and Training Council in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the specified division, boards, service, and councils; extending certain termination provisions that relate to certain provisions of law regarding amusement ride safety, wage and hour requirements, apprenticeship and training, occupational safety and health, and the employment of minors; ~~repealing certain provisions of law regarding the Advisory Council on Prevailing Wage Rates;~~ repealing certain provisions of law regarding the Advisory Committee on the Wage and Hour Law; repealing certain laws relating to unsafe scaffolding; ~~providing the funding mechanism for the Boiler and Pressure Vessel Safety Act;~~ altering the method of funding for the administration and enforcement of the laws regarding occupational safety and health, amusement ride safety, and elevator safety; requiring the Elevator Safety Review Board to be subject to the Maryland Program Evaluation Act and providing a termination date for the Board; repealing and altering certain provisions of law regarding the regulation of licensed employment agencies by the Commissioner of Labor and Industry; including a nurse registry in the definition of "home health care" as it is used in certain provisions of law regulating home health care; including a nurse registry in the definition of "residential service agency" as it is used in certain provisions of law regulating

residential service agencies; authorizing the Commissioner of Labor and Industry to charge a fee to cover the cost of providing mediation services under certain circumstances; repealing certain provisions of law relating to the development of a certain training program; repealing certain provisions of law regarding the Advisory Committee on Safety Training Programs for Power Equipment Operators; ~~altering the definition of "employer" as it is used in the Maryland Occupational Safety and Health Act; authorizing the Commissioner of Labor and Industry to assess a civil penalty against a public body under certain circumstances; creating the Workplace Hazard Abatement Fund; defining the purpose of the Workplace Hazard Abatement Fund; providing for the administration of the Workplace Hazard Abatement Fund; requiring the Legislative Auditor to audit the Workplace Hazard Abatement Fund;~~ requiring the Division of Labor and Industry to submit ~~a certain report~~ certain reports to certain committees on or before a certain date; making a stylistic change; and generally relating to the Division of Labor and Industry and associated boards and councils.

BY renumbering
Article - Labor and Employment
Section 5-101(e) through (h), respectively
to be Section 5-101(f) through (i), respectively
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)

BY renumbering
Article - State Government
Section 8-403(b)(23) through (54), respectively
to be Section 8-403(b)(24) through (55), respectively
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)

BY repealing
Article 48 - Inspections
Section 111 through 115, inclusive, and the subtitle "Protection of Workingmen and Others Against Unsafe Scaffolding"
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

~~BY adding to~~
~~Article 48 - Inspections~~
~~Section 170A~~
~~Annotated Code of Maryland~~
~~(1998 Replacement Volume and 2002 Supplement)~~

BY repealing and reenacting, without amendments,

Article 89 - Miscellaneous Business, Work, and Safety Provisions
Section 49C(a), (b), (c), (d), (e), and (f)
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY adding to
Article 89 - Miscellaneous Business, Work, and Safety Provisions
Section 49C(x)
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - Business Regulation
Section 2-108, 3-201, 3-601, 9-101, 9-303, 9-310, 9-312, 9-313, 9-314, 9-315, 9-316, 9-318, 9-319; 9-501 to be under the amended subtitle "Subtitle 4. Penalties"; and 9-601 to be under the amended subtitle "Subtitle 5. Short Title"
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing
Article - Business Regulation
Section 9-203, 9-204, 9-205, 9-206, 9-207, 9-208, 9-209, 9-301, 9-302, 9-304, 9-305, 9-306, 9-307, 9-308, 9-309, 9-311, 9-317, 9-320; 9-401, 9-402, 9-403, 9-404, 9-405, 9-406, 9-407, 9-408, 9-409 and the subtitle "Subtitle 4. Employment Counselors"; 9-502, and 9-503
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, without amendments,
Article - Business Regulation
Section 9-102, 9-201, and 9-202
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - Health - General
Section 19-401(c) and 19-4A-01(e)
Annotated Code of Maryland
(2000 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - Labor and Employment
Section 2-106(d), 2-109, 3-401, 3-706, 4-103, 4-405, ~~5-101(d),~~ 5-204, ~~5-206(d),~~

5-501, 5-504 through 5-507, 5-607, ~~5-801, 5-809, 5-812,~~ 5.5-106, and 11-402
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)

BY repealing
Article - Labor and Employment
Section 5-502 and 5-503
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, without amendments,
Article - Labor and Employment
Section 5-101(a) and (d)
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)

~~BY adding to~~
~~Article - Labor and Employment~~
~~Section 5-101(e)~~
~~Annotated Code of Maryland~~
~~(1999 Replacement Volume and 2002 Supplement)~~

BY repealing and reenacting, with amendments,
Article - State Finance and Procurement
Section 17-203
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, ~~with~~ without amendments,
Article - State Finance and Procurement
Section 17-204
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, without amendments,
Article - State Government
Section 8-403(a)
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - State Government

Section 8-403(b)(3) and (4)
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)

BY adding to
Article - State Government
Section 8-403(b)(23)
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - State Government
Section 8-403(b)(37) ~~and (46)~~, (46), and (55)
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)
(As enacted by Section 1 of this Act)

~~BY repealing~~
~~Article - State Government~~
~~Section 8-403(b)(55)~~
~~Annotated Code of Maryland~~
~~(1999 Replacement Volume and 2002 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 5-101(e) through (h), respectively, of Article - Labor and Employment of the Annotated Code of Maryland be renumbered to be Section(s) 5-101(f) through (i), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8-403(b)(23) through (54), respectively, of Article - State Government of the Annotated Code of Maryland be renumbered to be Section(s) 8-403(b)(24) through (55), respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 48 - Inspections

[Protection of Workingmen and Others Against Unsafe Scaffolding]

[111.

Whenever complaint is made to the commissioner of police or to the inspector, or other persons in charge of the police force of any city or town in this State, that the scaffolding used in the construction, altering, repairing or painting of any building within the limits of such city or town is unsafe and dangerous to the life and limb of any person, it shall be the duty of such police commissioner, inspector of police, or

other persons in charge of the police force to immediately detail a competent police officer to inspect such scaffolding forthwith, with instructions to prohibit the further use of such scaffolding, and, if after proper examination he finds the complaint well founded, to require that it be altered or reconstructed in such manner as to render it no longer dangerous to life or limb. It shall be the duty of the officer making the examination to attach a notice to such scaffolding, stating that he has made such examination, and that he has found it safe or unsafe, as the case may be. If he declares it to be unsafe he shall at once, in writing, notify the person or persons responsible for its erection of the fact, and warn them against using it, or permitting or suffering any person or persons to use it, and such notice may be served upon the responsible person or persons, or by conspicuously affixing it to the scaffold declared to be unsafe; after such notice is served or affixed, it shall be the duty of the persons responsible therefor to immediately remove such scaffolding, or to alter or strengthen it in such a manner as to render it safe, in the discretion of the officer who has condemned it or of his superiors.]

[112.

It shall be the duty of the police commissioner, inspector of police, or other persons in charge of the police force of any city or town of this State, when complaint is made to them or any of them that the slings, hangers, blocks, pulleys, stays, braces, irons or ropes of any swinging or stationary scaffolding used in the painting, cleaning or pointing of any building within the limits of such city or town are unsafe or liable to prove dangerous to the life or limb of any person, to detail a competent police officer to examine, and, if necessary, test the same; immediately after making such examination or test he shall attach thereto a certificate stating that he has made such examination or test and that he has found such slings, hangers, irons or ropes, or any of them, safe or unsafe, as the case may be; if he declares unsafe the whole or any portion of such swinging or stationary scaffolding, he shall at once, in writing, notify the person or persons responsible for the same of the fact, and warn them against using or suffering or permitting any person or persons to use them, and such notice may be served upon the person or persons responsible, or by conspicuously affixing it to the condemned or defective article; after such notice is served or affixed, it shall be the duty of the responsible person or persons to remove or cause to be removed the scaffolding, or that part of it which has been condemned, or to alter and strengthen it in such manner as to render it safe, in the discretion of the officer who has tested or examined it or his superiors.]

[113.

All swinging and stationary scaffolding shall be so constructed as to bear three times the maximum weight required to be dependent from or placed thereon when in use, and not more than one person shall be allowed on a given scaffold to each tackle and each person shall be provided with a lifeline sufficiently strong to bear twice his weight, secured independently of the other scaffolding.]

[114.

Any officer detailed to examine or test any scaffolding or portion thereof as required by §§ 111 and 112 shall have free and unobstructed access at all reasonable hours to any building or premises containing them or where they may be in use.]

[115.

Any person who violates or omits to comply with any of §§ 111 to 114 or who suffers or permits the use of any article or scaffolding declared by a proper officer to be defective, or who destroys or defaces any notice posted in accordance with any of the said provisions, or who hinders or obstructs any officers who may be detailed to enforce said provisions shall be deemed guilty of a misdemeanor, and on conviction in a court of competent jurisdiction be fined not less than twenty-five nor more than one hundred dollars.]

~~170A.~~

~~THE COST OF ADMINISTERING THIS SUBTITLE IS PROVIDED FOR UNDER § 5-204 OF THE LABOR AND EMPLOYMENT ARTICLE.~~

Article 89 - Miscellaneous Business, Work, and Safety Provisions

49C.

(a) (1) In this section the following words have the meanings indicated.

(2) "Board" means the Elevator Safety Review Board.

(3) (i) "Elevator apprentice" means a person who works under the direct supervision of a licensed elevator mechanic.

(ii) "Elevator apprentice" includes a person commonly known as an elevator helper while working under the direct supervision of a licensed elevator mechanic.

(4) "Elevator contractor" means a person who is engaged in the business of erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevators, dumbwaiters, escalators, and moving walks.

(5) "Elevator mechanic" means a person who is engaged in erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevators, dumbwaiters, escalators, and moving walks.

(6) "License" includes:

(i) An elevator contractor license; and

(ii) An elevator mechanic license.

(b) (1) There is an Elevator Safety Review Board in the Department of Labor, Licensing, and Regulation.

(2) The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

(c) (1) The Board shall consist of nine members.

(2) Of the nine members of the Board:

(i) One shall be the Commissioner of Labor and Industry or designee of the Commissioner, as an ex officio member;

(ii) One shall represent a major elevator manufacturing company or its authorized representative;

(iii) One shall represent an elevator servicing company;

(iv) One shall represent the architectural design profession;

(v) One shall represent a municipal corporation in the State;

(vi) One shall represent a building owner or manager;

(vii) One shall represent labor involved in the installation, maintenance, and repair of elevators; and

(viii) Two shall be members of the general public.

(3) Except for the ex officio member, the Governor shall appoint the members of the Board with the advice of the Secretary of Labor, Licensing, and Regulation and with the advice and consent of the Senate.

(4) (i) Except for the ex officio member, the term of a member is 3 years.

(ii) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(iii) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(d) (1) From among the Board members, the Governor shall appoint a chairman.

(2) The chairman shall be the deciding vote in the event of a tie vote.

(e) (1) The Board shall meet at least once each calendar quarter, at the times and places that the Board determines.

(2) Special meetings of the Board may be held as the Board provides in its regulations.

(f) A member of the Board:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(X) SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THE PROVISIONS OF THIS ARTICLE THAT CREATE OR RELATE TO THE ELEVATOR SAFETY REVIEW BOARD AND ANY REGULATIONS ADOPTED BY THE BOARD SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, 2014.

Article - Business Regulation

2-108.

(a) The following units are in the Department:

(1) the Division of Labor and Industry.

(2) the Division of Employment and Training.

(3) the Commissioner of Financial Regulation.

(4) the Banking Board.

(5) the State Board of Architects.

(6) the State Athletic Commission.

(7) the State Board of Barbers.

(8) the Board of Boiler Rules.

(9) the State Collection Agency Licensing Board.

(10) the State Board of Cosmetologists.

(11) the State Board of Master Electricians.

(12) the Board of Examining Engineers.

(13) the State Board for Professional Engineers.

(14) the State Board of Foresters.

(15) the State Board of Heating, Ventilation, Air Conditioning and Refrigeration Contractors.

(16) the Maryland Home Improvement Commission.

(17) the State Board of Certified Interior Designers.

(18) the State Board of Examiners of Landscape Architects.

(19) the State Board for Professional Land Surveyors.

(20) the State Board of Pilots.

(21) the State Board of Plumbing.

(22) the State Board of Public Accountancy.

(23) the State Racing Commission.

(24) the State Real Estate Commission.

(25) the State Commission of Real Estate Appraisers and Home Inspectors.

(26) the Real Estate Hearing Board.

(27) the State of Maryland Deposit Insurance Fund Corporation.

(28) the Maryland Jockey Injury Compensation Fund, Inc.

(29) the State Amusement Ride Safety Advisory Board.

(30) the Occupational Safety and Health Advisory Board.

(31) the Maryland-Bred Race Fund Advisory Committee.

(32) the Maryland Standardbred Race Fund Advisory Committee.

[(33) the Advisory Council on Prevailing Wage Rates.

~~(34) the Advisory Committee on the Wage and Hour Law.~~]

(b) The Department also includes each other unit that is assigned to the Department.

(c) (1) Each unit created within the Department shall include at least 1 consumer member.

(2) Each consumer member of the unit:

(i) shall be a member of the general public;

(ii) may not be a licensee or otherwise be subject to regulation by the unit;

(iii) may not be required to meet the qualifications for the professional members of the unit; and

(iv) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the unit.

(3) While a member of the unit, a consumer member may not:

(i) have a financial interest in or receive compensation from a person regulated by the unit; or

(ii) grade any examination given by or for the unit.

3-201.

(a) The Commissioner shall administer and enforce this title.

(b) (1) The proposed budget of the Division of Labor and Industry shall include an appropriation from the [General Fund of the State] WORKERS' COMPENSATION COMMISSION to cover the cost of administering and enforcing this title.

(2) The Workers' Compensation Commission shall [reimburse the General Fund of the State for this] PAY THE cost OF ADMINISTERING AND ENFORCING THIS TITLE from money that the Commission receives under § 9-316 of the Labor and Employment Article.

3-601.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on July 1, [2004] 2014.

9-101.

(a) In this title the following words have the meanings indicated.

(b) "Client" means an individual who seeks employment through an employment agency.

(c) "Commissioner" means the Commissioner of Labor and Industry.

(d) (1) "Employment agency" means a person who, for a fee:

(i) obtains, offers to obtain, or attempts to obtain:

1. an employee for a person who seeks an employee; or

2. employment for a client;

(ii) provides to a client information to enable the client to obtain employment;

(iii) obtains, offers to obtain, or attempts to obtain employment or an engagement in connection with an entertainment, exhibition, or performance, including:

1. a ballet;

2. a circus;

3. a concert;

4. the legitimate theater;

5. modeling;

6. a motion picture;

7. an opera;

8. a phonograph recording;

9. the radio;

10. a transcription;

11. television;

12. the variety field; or

13. vaudeville; or

(iv) 1. obtains, offers to obtain, or attempts to obtain an alien labor certification or immigrant visa for an individual; and

2. participates directly or indirectly in the recruitment or supply of an individual who resides outside of the continental United States for employment in the continental United States.

(2) "Employment agency" does not include a person who merely:

(i) conducts a business that directly employs individuals to provide part-time or temporary services to another person;

(ii) as a lawyer, directly obtains an immigrant visa for an individual; or

(iii) conducts a business that:

1. receives a fee that is paid wholly by an employer;

2. does not collect money from an individual seeking employment; and

3. does not require an individual seeking employment to make a contract.

[(e) "Employment counselor" means an individual who, as an employee of an employment agency, counsels, interviews, or otherwise confers with a client or acts as a placement director or placement manager.

(f) "Licensed employment agency" means a person who is licensed by the Commissioner to do business as an employment agency.]

9-102.

This title does not apply to:

(1) a charitable, educational, fraternal, or religious organization that does not charge a fee for its services other than ordinary dues for membership;

(2) a labor organization while obtaining or attempting to obtain employment for a member of the organization; or

(3) an organization of employers while obtaining or attempting to obtain help for a member of the organization.

9-201.

The Commissioner may delegate any power or duty of the Commissioner under this title.

9-202.

The Commissioner shall pay all money collected under this title into the General Fund of the State.

[9-203.

(a) To perform a duty or exercise a power under this title, the Commissioner may administer oaths, depose witnesses, and certify to official acts.

(b) To perform a duty or exercise a power under this title, the Commissioner may issue subpoenas for the attendance of witnesses to testify or to produce evidence.]

[9-204.

(a) After a public hearing, the Commissioner may adopt regulations to regulate employment agencies.

(b) The Commissioner may adopt regulations to allow an employment agency to collect an advance fee for obtaining, attempting to obtain, or offering to obtain an alien labor certification or immigrant visa.

(c) (1) At least 30 days before a hearing under this section, the Commissioner shall mail to each licensed employment agency notice of the hearing.

(2) At least 10 days before a hearing under this section, the Commissioner shall publish notice of the hearing at least once in a newspaper that the Commissioner chooses.]

[9-205.

(a) To ensure that each employment agency in the State complies with this title and each regulation that the Commissioner adopts under this title, the Commissioner may:

(1) investigate the way in which each employment agency does business as an employment agency; and

(2) examine at any time during business hours each book or record of an employment agency.

(b) The Commissioner may make any other investigation that may help to enforce this title.]

[9-206.

If a client submits to the Commissioner a written complaint against an employment agency or employment counselor, the Commissioner may mediate the dispute.]

[9-207.

(a) (1) The Commissioner may pass an order that requires a person immediately to cease and desist from doing business as an employment agency or acting as an employment counselor if, after investigation, the Commissioner has reason to believe that:

(i) the person has been doing so without an appropriate license; and

(ii) immediate, irreparable loss and injury to the general public has occurred or will occur.

(2) The Commissioner shall serve the order on the alleged violator by either certified mail or personal service.

(3) Within 15 days after service of the order on an alleged violator, the alleged violator may submit to the Commissioner a written request for a hearing on the alleged violation.

(4) Unless the alleged violator submits a timely request for a hearing, the order is final.

(5) If, after a hearing, the Commissioner finds that the alleged violator is not doing business as an employment agency or acting as an employment counselor without an appropriate license, the Commissioner shall revoke the order.

(b) (1) The Commissioner shall give a person written notice if, after investigation, the Commissioner has reason to believe that:

(i) the person is doing business as an employment agency or acting as an employment counselor without an appropriate license; but

(ii) immediate, irreparable loss and injury to the general public has not occurred and will not occur.

(2) The notice shall direct that, within 15 days after receipt of the notice, an alleged violator may show cause in writing why the Commissioner should not pass an order that requires the alleged violator to cease and desist from the alleged violation.

(3) Unless an alleged violator submits a timely response, the Commissioner may pass an order that requires the alleged violator immediately to cease and desist from the alleged violation.

(4) If an alleged violator submits a timely response, the Commissioner may:

(i) terminate proceedings against the alleged violator, if the Commissioner finds that there is no basis for passing an order to cease and desist; or

(ii) schedule a hearing and, by certified mail, give the alleged violator written notice of the date, place, and time of the hearing.

(5) (i) If, after a hearing, the Commissioner finds that the alleged violator is doing business as an employment agency or acting as an employment counselor without an appropriate license, the Commissioner shall pass an order that requires the person to cease and desist from the violation.

(ii) If, after a hearing, the Commissioner finds that the alleged violator is not doing business as an employment agency or acting as an employment counselor without an appropriate license, the Commissioner shall terminate proceedings against the person.

(c) If a person fails to comply with a lawful order of the Commissioner under this section, the Commissioner may:

(1) bring an action in a court of competent jurisdiction for an order to compel compliance; or

(2) take any other action that this title allows.]

[9-208.

After a hearing, the Commissioner may order an employment agency to:

(1) reimburse a client for all ordinary and necessary travel expenses that the client incurred as a result of a referral by the employment agency in violation of this title;

(2) refund any money that the employment agency took from the client in violation of this title; or

(3) do both.]

[9-209.

(a) A party to a proceeding before the Commissioner who is aggrieved by a final decision of the Commissioner in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

(b) An applicant for a license to do business as an employment agency or a license to act as an employment counselor whose application was denied by the Commissioner may file an order for appeal within 60 days after a final decision of the Commissioner.]

[9-301.

In this subtitle, "license" means a license issued by the Commissioner under this subtitle to do business as an employment agency.]

[9-302.

(a) Except as otherwise provided in this title, a person must have a license whenever the person does business as an employment agency in the State.

(b) A separate license is required for each location where a person does business as an employment agency.]

[9-303.] 9-301.

[(a) An applicant for a license shall:

(1) submit to the Commissioner:

(i) an application on the form that the Commissioner provides;

(ii) at least 3 letters of character reference from individuals who are of reputed business or professional integrity and reside in the State;

(iii) a schedule of fees that the applicant expects to charge; and

(iv) a copy of each contract or form that the applicant will use; and

(2) pay to the Commissioner an application fee of:

(i) $200 for a license for the first location where the applicant will do business as an employment agency; and

(ii) $100 for each additional location where the applicant will do business as an employment agency.

(b) For each license, a person shall submit a separate application and separate bond and pay a separate fee.

(c) (1) In addition to any other information required on an application form, the form shall require:

(i) for a corporate applicant, the name and home address of each officer and each director; and

(ii) for a partnership applicant, the name and home address of each partner.

(2) The application form shall be signed, under oath:

(i) for an individual, by the individual;

(ii) for a corporation, by its president, treasurer, and secretary; or

(iii) for a partnership, by each of its partners.

(d) (1) The applicant for a license shall submit to the Commissioner a penal bond.]

(A) AN EMPLOYMENT AGENCY SHALL SUBMIT TO THE COMMISSIONER A PENAL BOND.

[(2)] (B) The bond shall:

[(i)] (1) run to the State;

[(ii)] (2) be in the amount of $7,000;

[(iii)] (3) be signed by [the applicant] AN INDIVIDUAL AUTHORIZED TO DO SO BY THE EMPLOYMENT AGENCY as principal and by a surety company authorized to do business in the State as surety; and

[(iv)] (4) be conditioned that the [applicant] EMPLOYMENT AGENCY will comply with this title and will pay to any person all damages caused by

deceit, fraud, misrepresentation, or misstatement of the [applicant] EMPLOYMENT AGENCY or an agent or employee of the [applicant] EMPLOYMENT AGENCY.

[9-304.

When an application for a license is submitted, the Commissioner shall investigate:

(1) the character and financial standing of:

(i) an individual applicant;

(ii) each partner of a partnership applicant;

(iii) each officer or director of a corporate applicant; and

(iv) the individual who will be general manager of the office; and

(2) the location of the office.]

[9-305.

(a) Within 60 days after the Commissioner receives an application for a license, the Commissioner shall:

(1) approve or deny the application; and

(2) give an applicant immediate notice of a denial.

(b) Subject to the hearing provisions of § 9-311 of this subtitle, the Commissioner may deny a license to an applicant if:

(1) the applicant fraudulently or deceptively obtains or attempts to obtain a license for the applicant or for another person;

(2) the applicant fraudulently or deceptively uses a license;

(3) the applicant, an officer or director of a corporate applicant, a partner of a partnership applicant, or the general manager of an office of the applicant is not of:

(i) good moral character;

(ii) business integrity; or

(iii) financial responsibility; or

(4) there is good and sufficient reason within the meaning and purpose of this title for denying the application.]

[9-306.

The Commissioner shall issue a license to each applicant who meets the requirements of this subtitle.]

[9-307.

A license authorizes the licensee to do business as an employment agency only at 1 place of business.]

[9-308.

(a) Unless a license is renewed for a 1-year term as provided in this section, the license expires on the first May 1 after its effective date.

(b) At least 1 month before a license expires, the Commissioner shall mail to the licensee at the last known address of the licensee:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current license expires;

(ii) the date by which the Commissioner must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(iii) the amount of the renewal fee.

(c) Before a license expires, the licensee periodically may renew it for an additional 1-year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Commissioner a renewal fee of:

(i) $200 for the first location where the licensee does business as an employment agency; and

(ii) $100 for each additional location where the licensee does business as an employment agency; and

(3) submits to the Commissioner:

(i) a renewal application on the form that the Commissioner requires; and

(ii) a copy of each contract or other form that the licensee will use and has not already submitted to the Commissioner.

(d) The Commissioner shall renew the license of each licensee who meets the requirements of this section.]

[9-309.

Each licensee shall display the license conspicuously in the place of business of the licensee.]

[9-310.] 9-302.

[(a) Subject to the hearing provisions of § 9-311 of this subtitle, the Commissioner may reprimand a licensee or suspend or revoke a license if] AN EMPLOYMENT AGENCY MAY NOT:

[(1) the licensee fraudulently or deceptively obtains or attempts to obtain a license for the licensee or for another person;

(2) the licensee fraudulently or deceptively uses a license;

(3)] (1) [the licensee knowingly refers] KNOWINGLY REFER a client to a job if any condition of the job violates any law;

[(4)] (2) [the licensee refers] REFER a client to an establishment where a labor dispute exists;

[(5)] (3) as a condition of providing service to a client, [the licensee requires] REQUIRE the client before acceptance of a job to execute:

(i) a promissory note; or

(ii) an instrument with warrant of attorney that authorizes confession of judgment;

[(6)] (4) [the licensee advertises] ADVERTISE a job for which there is no order by an employer on file;

[(7)] (5) [the licensee sends] SEND a client to an employer for a job with no order on file for the job unless:

(i) the employer previously requested regular interviews with qualified clients, the client is qualified, and the [licensee] EMPLOYMENT AGENCY confirms the request before sending the client to the employer; or

(ii) the [licensee] EMPLOYMENT AGENCY tells the client that the [licensee] EMPLOYMENT AGENCY has no order for the job;

[(8)] (6) [the licensee splits] SPLIT a fee with an employer or representative of an employer, except that the [licensee] EMPLOYMENT AGENCY may accept from an employer all or part of a service fee for a client if the [licensee] EMPLOYMENT AGENCY tells the client of the payment;

[(9)] (7) [the licensee charges] CHARGE a client a registration fee or [collects] COLLECT in advance from a client a payment for service to be performed for the client to obtain employment[, except as otherwise provided by regulation];

[(10)] (8) [the licensee publishes] PUBLISH or [causes] CAUSE to be published any false, fraudulent, or misleading information or promise;

[(11)] (9) [the licensee solicits] SOLICIT for other employment an individual who is employed by an employer with whom the [licensee] EMPLOYMENT AGENCY placed the individual, unless the individual reactivates the application;

[(12)] (10) [the licensee engages] ENGAGE in fraud or dishonest dealing; or

[(13)] (11) [the licensee violates] VIOLATE this title.

[(b) Instead of revoking or suspending a license, the Commissioner may impose a penalty of not less than $25 and not more than $500.]

[9-311.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Commissioner takes any final action under § 9-305 or § 9-310 of this subtitle, the Commissioner shall give the person against whom the action is contemplated an opportunity for a hearing before the Commissioner.

(2) A hearing on denial of a license shall be held within 10 days after an applicant submits a formal request for the hearing.

(b) The Commissioner shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Commissioner may administer oaths in connection with a proceeding under this section.

(d) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Commissioner may hear and determine the matter.]

[9-312.] 9-303.

Each employment agency shall keep[, on a form that the Commissioner approves,] a detailed record of:

(1) each job order from an employer; and

(2) each referral that the employment agency makes on a job order.

[9-313.] 9-304.

(a) Each employment agency shall keep a file of all job advertisements that identifies each advertisement by:

(1) its date; and

(2) the publication where the advertisement appears.

(b) Each employment agency:

(1) shall indicate on each advertisement and on all other promotional material the name [under which] OF the employment agency [is licensed]; and

(2) except in an advertisement that appears in a classified employment agency column of a newspaper, shall use the word "agency" in each advertisement.

[9-314.] 9-305.

(a) Each [licensed] employment agency shall[:

(1) include prominently, on each contract, invoice, or receipt that the licensed employment agency uses, the words "Licensed by the Commissioner of Labor and Industry, State of Maryland"; and

(2)] indicate, on each [other] form that the [licensed] employment agency uses, that it is an employment agency.

(b) In a contract between an employment agency and a client, the term "acceptance of position by applicant" means:

(1) commencement of work by a client; or

(2) an agreement between a client and employer for the client to begin work on a fixed date at an agreed remuneration.

(c) In each contract between an employment agency and a client, the employment agency shall state[, in the way the Commissioner requires,] the fee that the employment agency charges the client for placement by the employment agency.

[9-315.] 9-306.

(a) If, within 90 days after a client starts a job, the client is discharged through no fault of the client or leaves the job voluntarily with just cause, an employment agency may charge the client a temporary placement fee of up to the lesser of:

(1) 20% of the total compensation the client received; or

(2) 75% of the permanent placement fee for the same job.

(b) If, within 90 days after a client starts a job, the client is discharged for cause or leaves the job voluntarily without just cause, an employment agency may charge the client a temporary placement fee of up to 75% of the permanent placement fee.

[9-316.] 9-307.

If, for a pay period, the pay of an employee placed by an employment agency is not more than the minimum wage under § 3-413 of the Labor and Employment Article, the employment agency may not collect or attempt to collect more than 20% of its placement fee from the employee's pay for the pay period.

[9-317.

At least 30 days before a change is to be effective, an employment agency shall submit to the Commissioner:

(1) an amended or supplemental schedule of charges; or

(2) a change in any form used by the employment agency.]

[9-318.] 9-308.

Within 24 hours after a client demands reimbursement for ordinary and necessary travel expenses incurred as a result of a referral, an employment agency shall reimburse the client if the client did not obtain employment and:

(1) the employment agency sent the client to an employer for a job for which the employment agency had no order and failed to tell the client that there was no order;

(2) the client was qualified and the employment agency sent the client to an employer that previously asked for regular interviews with qualified clients, but the employment agency failed to confirm the order with the employer; or

(3) the client was unqualified and the employment agency sent the client to an employer that previously asked for regular interviews with qualified clients.

[9-319.] 9-309.

(a) When an employment agency and a client execute a contract or other document, the employment agency shall give the client a copy of the document.

(b) For each fee that an employment agency receives from a client, the employment agency shall give the client a receipt that[:

(1) is on a form that the Commissioner approves; and

(2)] states:

[(i)] (1) the name of the client;

[(ii)] (2) the date of payment;

[(iii)] (3) the amount of the fee paid; and

[(iv)] (4) the balance of the fee due.

[9-320.

An employment agency shall notify the Commissioner within 5 days after termination of the employment of an employment counselor.]

[Subtitle 4. Employment Counselors.]

[9-401.

(a) In this subtitle, "license" means a license issued by the Commissioner under this subtitle.

(b) In this subtitle, "license" includes:

(1) a license to act as an employment counselor; and

(2) a temporary license.]

[9-402.

(a) Except as otherwise provided in this title, an individual must have a license whenever the individual acts as an employment counselor in the State.

(b) This section does not apply to an employee who is engaged primarily in a clerical occupation.]

[9-403.

An applicant for a license shall:

(1) submit to the Commissioner an application on the form that the Commissioner provides; and

(2) pay to the Commissioner an application fee of $5.]

[9-404.

On receipt of an application for a license, the Commissioner:

(1) shall review the employment experience of the applicant;

(2) may investigate the integrity and moral character of the applicant; and

(3) unless the applicant previously had a license suspended or revoked by the Commissioner, shall issue to the applicant a temporary license.]

[9-405.

Within 30 days after the Commissioner receives an application for a license, the Commissioner shall:

(1) approve or deny the application; and

(2) give the applicant immediate notice of a denial.]

[9-406.

(a) The Commissioner shall issue a license to each applicant who meets the requirements of this subtitle.

(b) The Commissioner shall include on each license the name of the employment agency that will employ the licensee.]

[9-407.

(a) A license, other than a temporary license, remains in effect until the licensee ceases to be employed with the employment agency designated on the license.

(b) A temporary license expires on the earlier of:

(1) 30 days after its issuance; or

(2) the termination of employment with the employment agency designated on the license.]

[9-408.

(a) Subject to the hearing provisions of § 9-409 of this subtitle, the Commissioner may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license:

(1) for any applicable ground for which a licensed employment agency may be disciplined under § 9-310 of this title;

(2) if the applicant or licensee fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person; or

(3) if the applicant or licensee fraudulently or deceptively uses a license.

(b) In addition to the grounds in subsection (a) of this section, the Commissioner may deny a license to an applicant if the applicant lacks good moral character or integrity.

(c) In addition to the grounds in subsection (a) of this section, the Commissioner may reprimand a licensee or suspend or revoke a license if the licensee violates this title.

(d) Instead of revoking or suspending a license, the Commissioner may impose a penalty of not less than $25 and not more than $500.]

[9-409.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Commissioner takes any final action under § 9-408 of this subtitle, the Commissioner shall give the person against whom the action is contemplated an opportunity for a hearing before the Commissioner.

(2) A hearing on denial of a license shall be held within 10 days after an applicant submits a formal request for the hearing.

(b) The Commissioner shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Commissioner may administer oaths in connection with a proceeding under this section.

(d) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Commissioner may hear and determine the matter.]

Subtitle [5.] 4. [Prohibited Acts;] Penalties.

[9-501.] 9-401.

[(a) Except as otherwise provided in this title, a person may not do business as an employment agency in the State unless the person has a license issued under Subtitle 3 of this title.

(b)] A person who violates this [section] TITLE is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

[9-502.

(a) Except as otherwise provided in this title, a person may not act as an employment counselor in the State unless the person has a license issued under Subtitle 4 of this title.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.]

[9-503.

(a) An employment agency may not demand or receive compensation that exceeds the compensation specified in the schedule of charges that the employment agency submits to the Commissioner.

(b) An employment agency that knowingly violates subsection (a) of this section:

(1) forfeits any right to compensation for the service that the employment agency performed; and

(2) shall return any compensation that the employment agency received for the service.]

Subtitle [6.] 5. Short Title.

[9-601.] 9-501.

This title is the Maryland Employment Agency Act.

Article - Health - General

19-401.

(c) (1) "Home health care" means any of the following services that are provided under the general direction of a licensed health professional practicing within the scope of their practice act:

(i) Audiology and speech pathology;

(ii) Dietary and nutritional services;

(iii) Drug services;

(iv) Home health aid;

(v) Laboratory;

(vi) Medical social services;

(vii) Nursing;

(viii) Occupational therapy;

(ix) Physical therapy;

(x) Provision of medically necessary sickroom equipment and supplies; OR

(XI) A NURSE REGISTRY THAT IS AN EMPLOYMENT AGENCY UNDER THE PROVISIONS OF THE MARYLAND EMPLOYMENT AGENCY ACT.

(2) However, the provisions of this subsection do not apply to[:

(i) A nurse registry that is licensed under the provisions of the Maryland Employment Agency Act; or

(ii) A] A home-based hospice care program that is licensed as a home-based hospice care program under the provisions of Subtitle 9 of this title.

(3) A home health agency shall also be licensed as a hospice care program if the home health agency operates a hospice care program that is distinct from its other services.

19-4A-01.

(e) (1) "Residential service agency" means any person that is engaged in a nongovernmental business of employing or contracting with individuals to provide home health care for compensation to an unrelated sick or disabled individual in the residence of that individual.

(2) "Residential service agency" includes:

(I) any agency that employs or contracts with individuals directly for hire as home health care providers; OR

(II) A NURSE REGISTRY THAT IS AN EMPLOYMENT AGENCY UNDER THE PROVISIONS OF THE MARYLAND EMPLOYMENT AGENCY ACT THAT:

1. SCREENS OR REFERS INDIVIDUALS FOR A CLIENT'S SELECTION OR REJECTION, AS ITS SOLE BUSINESS OPERATION; AND

2. DOES NOT ITSELF PROVIDE ANY HOME HEALTH CARE SERVICE.

(3) "Residential service agency" does not include:

(i) A home health agency that is licensed under the provisions of Subtitle 4 of this title;

(ii) A person required to be licensed as a home health agency under the provisions of Subtitle 4 of this title;

(iii) A home-based hospice care program that is licensed under the provisions of Subtitle 9 of this title;

(iv) A hospital that is licensed under the provisions of Subtitle 3 of this title;

(v) A related institution that is licensed under the provisions of Subtitle 3 of this title;

(vi) [A nurse registry that is licensed under the provisions of the Maryland Employment Agency Act that:

1. Screens or refers individuals for a client's selection or rejection, as its sole business operation; and

2. Does not itself provide any home health care service;

(vii)] Personal care providers under the Medical Assistance Personal Care Program;

[(viii)] (VII) Any person practicing a health occupation that the person is authorized to practice under the Health Occupations Article;

[(ix)] (VIII) A group of persons licensed under the same title of the Health Occupations Article practicing as a business; or

[(x)] (IX) Residential rehabilitation services providers approved under regulations adopted by the State Mental Health Authority.

Article - Labor and Employment

2-106.

(d) (1) After a public hearing [and with the approval of the Advisory Committee on Wage and Hour Law], the Commissioner may adopt regulations that are necessary to carry out Title 3, Subtitle 4 of this article.

(2) Unless the Commissioner provides otherwise, a regulation that the Commissioner adopts under this subsection takes effect on publication.

2-109.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title shall terminate and be of no effect after July 1, [2004] 2014.

3-401.

(a) In this subtitle the following words have the meanings indicated.

(b) ["Committee" means the Advisory Committee on Wage and Hour Law.

(c)] "Employer" includes a person who acts directly or indirectly in the interest of another employer with an employee.

[(d)] (C) "Federal Act" means the federal Fair Labor Standards Act of 1938.

[(e)] (D) "Wage" means all compensation that is due to an employee for employment.

3-706.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, Subtitles 2 and 4 of this title shall terminate and be of no effect after July 1, [2004] 2014.

4-103.

(a) Under the supervision of the Commissioner, the Mediation Service shall carry out this subtitle.

(b) The Commissioner may assign staff to help the Chief Mediator to carry out this subtitle.

(C) THE COMMISSIONER MAY CHARGE A FEE TO COVER THE COST OF PROVIDING SERVICES REQUESTED UNDER THIS SUBTITLE.

4-405.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, Subtitles 1 and 2 of this title and § 4-403 of this subtitle shall terminate and be of no effect after July 1, [2004] 2014.

5-101.

(a) In this title the following words have the meanings indicated.

(d) (1) "Employer" means:

(i) except as provided in § 5-401 of this title, a person who is engaged in commerce, industry, trade, or other business in the State and employs at least 1 employee in that business; or

(ii) ~~EXCEPT AS PROVIDED IN SUBTITLE 8, PART III OF THIS TITLE,~~ a public body.

(2) "Employer" includes:

(i) a person who operates or owns a taxicab business in Baltimore City and leases or rents a taxicab to a licensed taxicab driver, to provide services to the public;

(ii) a governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help to another governmental unit or person; and

(iii) a governmental unit or person who contracts directly with another governmental unit or person who engages in a business that directly employs

individuals to provide part-time or temporary help to another governmental unit or person.

~~(E) "FUND" MEANS THE WORKPLACE HAZARD ABATEMENT FUND.~~

5-204.

(a) (1) The proposed budget of the Division of Labor and Industry shall include an appropriation from the [General Fund of the State] WORKERS' COMPENSATION COMMISSION to cover the cost of administering this title.

(2) The Workers' Compensation Commission shall [reimburse the General Fund of the State for] PAY the cost of administering this title from money that the Commission receives under § 9-316 of this article.

(b) The Commissioner shall have the power and authority to receive and accept any grant of money from the federal government or any of its agents or units that Congress appropriates under the Occupational Safety and Health Act of 1970.

~~5-206.~~

~~(d) [The] EXCEPT AS PROVIDED IN SUBTITLE 8, PART III OF THIS TITLE, THE penalties under Subtitle 8 of this title do not apply to a public body.~~

5-501.

(a) In this subtitle, [the following words have the meanings indicated.

(b) "Advisory Committee" means the Advisory Committee on Safety Training Programs for Power Equipment Operators.

(c) (1) "Power] "POWER equipment" means:

[(i)] (1) a backhoe;

[(ii)] (2) a bulldozer;

[(iii)] (3) a front-end loader;

[(iv)] (4) skid steer equipment;

[(v)] (5) a gradall;

[(vi)] (6) a scraper pan;

[(vii)] (7) a crane; or

[(viii)] (8) a hoist.

[(2)] (B) "Power equipment" does not include agricultural equipment that is used in a farming operation.

[5-502.

In consultation with the Advisory Committee, the Commissioner shall develop:

(1) a recommended model training program for use by employers;

(2) a reasonable periodic employer education program on safety training programs;

(3) a format for the collection of statistics that uses employer first report of injury forms on serious accidents and fatalities involving operators of power equipment; and

(4) a methodology for ascertaining the causes of serious accidents and fatalities involving operators of power equipment.]

[5-503.

(a) There is an Advisory Committee on Safety Training Programs for Power Equipment Operators.

(b) (1) The Advisory Committee consists of the following 11 members:

(i) as an ex officio member, the Commissioner or the Commissioner's designee; and

(ii) 10 members appointed by the Governor.

(2) Of the 10 appointed members of the Advisory Committee:

(i) 3 shall represent labor; and

(ii) 7 shall represent employers.

(3) Of the 7 representatives of employers:

(i) 4 shall represent employers with at least 50 employees; and

(ii) 3 shall represent employers with fewer than 50 employees.

(4) In addition to the requirements of paragraph (3) of this subsection, of the 7 representatives of employers:

(i) 1 shall represent associated building contractors;

(ii) 1 shall represent utility contractors;

(iii) 1 shall represent highway contractors; and

(iv) 1 shall represent the public utilities of Maryland.

(5) The membership of the Advisory Committee shall represent all the regions of the State.

(c) Before taking office, each appointee to the Committee shall take the oath required by Article I, § 9 of the Maryland Constitution.

(d) The Commissioner may convene the Advisory Committee as needed to review the safety and training of operators of power equipment.]

[5-504.] 5-502.

This subtitle does not apply to an employer with fewer than 6 employees.

[5-505.] 5-503.

(a) Each employer that hires employees to operate power equipment shall[:

(1)] develop and carry out an employee safety training program designed to inform employees of and train employees in applicable standards for safe operation of power equipment including:

[(i)] (1) limitations and use;

[(ii)] (2) rated load capacities; and

[(iii)] (3) special hazards[; or

(2) adopt and carry out the recommended model training program developed by the Commissioner under § 5-502 of this subtitle].

(b) On request by the Commissioner, an employer shall give the Commissioner a copy of its safety training program.

(c) Each employer that hires employees to operate power equipment shall:

(1) keep on file for inspection:

(i) a written description of its employee training program; and

(ii) a notation of where an employee received safety training, if the employer did not provide the employee with safety training;

(2) assure that specifications of a manufacturer applicable to operation of a piece of power equipment are available to each operator; and

(3) post operating instructions as required by occupational safety and health standards.

[5-506.] 5-504.

This subtitle may not be construed to allow or require licensing, registration, or certification of an operator of power equipment.

[5-507.] 5-505.

Sections 5-804, 5-805, and 5-806 OF THIS TITLE do not apply to this subtitle.

5-607.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title shall terminate and be of no effect after July 1, [2004] 2014.

~~5-801.~~

~~[The] EXCEPT AS PROVIDED IN PART III OF THIS SUBTITLE, THE penalties in this subtitle do not apply to a public body.~~

~~5-809.~~

~~(A) IN THIS SECTION, EMPLOYER DOES NOT INCLUDE A PUBLIC BODY.~~

~~[(a)] (B) (1) For the purpose of this subsection, a violation is considered to be a serious violation if there is a substantial probability that death or serious physical harm could result from a condition that exists or a practice, means, method, operation, or process that has been adopted or is in use, unless the employer did not and with the exercise of reasonable diligence could not know of the violation.~~

~~(2) The Commissioner:~~

~~(I) shall assess a civil penalty against an employer who receives a citation for a serious violation of this title, an order passed under this title, or a regulation adopted to carry out this title; AND~~

~~(II) MAY ASSESS A CIVIL PENALTY AGAINST A PUBLIC BODY THAT RECEIVES A CITATION FOR A SERIOUS VIOLATION OF THIS TITLE, AN ORDER PASSED UNDER THIS TITLE, OR A REGULATION ADOPTED TO CARRY OUT THIS TITLE.~~

~~[(b)] (C) The Commissioner:~~

~~(1) shall assess a civil penalty against an employer who violates a requirement for posting imposed under this title; AND~~

~~(2) MAY ASSESS A CIVIL PENALTY AGAINST A PUBLIC BODY THAT VIOLATES A REQUIREMENT FOR POSTING IMPOSED UNDER THIS TITLE.~~

~~[(c)] (D) The Commissioner may assess a civil penalty against an employer OR PUBLIC BODY [who] THAT:~~

~~(1) willfully or repeatedly violates this title, an order passed under this title, or a regulation adopted to carry out this title; or~~

~~(2) receives a citation for a violation of a provision of this title, an order passed under this title, or a regulation adopted to carry out this title and there is a specific determination that the violation is not of a serious nature.~~

~~[(d)] (E) The Commissioner may assess a civil penalty against an employer OR PUBLIC BODY [who] THAT does not correct a violation for which a citation is issued within the period set under this title for correction.~~

~~5-812.~~

~~(A) [Each] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH civil penalty under this title shall be paid into the General Fund of the State.~~

~~(B) (1) THERE IS A WORKPLACE HAZARD ABATEMENT FUND.~~

~~(2) THE COMMISSIONER SHALL PAY EACH CIVIL PENALTY COLLECTED FROM A PUBLIC BODY UNDER § 5-809(B)(2), (C)(2), (D), OR (E) OF THIS SUBTITLE TO THE COMPTROLLER WHO SHALL DISTRIBUTE THE FUNDS TO THE WORKPLACE HAZARD ABATEMENT FUND.~~

~~(3) (I) THE FUND SHALL BE USED TO ASSIST A PUBLIC BODY IN ABATING A WORKPLACE HAZARD.~~

~~(II) THE FUND IS A CONTINUING NONLAPSING FUND, NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(III) ANY UNSPENT PORTIONS OF THE FUND MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND TO BE USED FOR THE PURPOSE SPECIFIED IN SUBSECTION (B)(3)(I) OF THIS SECTION.~~

~~(IV) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE FUND.~~

~~(4) (I) THE COMMISSIONER SHALL ADMINISTER THE FUND.~~

~~(II) MONEYS IN THE FUND MAY ONLY BE EXPENDED FOR THE PURPOSE STATED IN SUBSECTION (B)(3)(I) OF THIS SECTION.~~

~~(5) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.~~

5.5-106.

(a) (1) The proposed budget of the Division of Labor and Industry shall include an appropriation from the [General Fund of the State] PUBLIC SERVICE COMMISSION to cover the cost of administering this title.

(2) Unless the Board of Public Works exercises the option under subsection (b) of this section, the Public Service Commission shall [reimburse the General Fund for] PAY the cost of administering this title from money the Public Service Commission receives under § 2-110 of the Public Utility Companies Article.

(b) (1) The Board of Public Works may adopt a regulation to assess, fairly and as equally as possible, each railroad company operating in the State the cost of the State's share of activities under this title.

(2) The amount to be [reimbursed to the State General Fund] PAID BY THE PUBLIC SERVICE COMMISSION may not exceed $1 million in any fiscal year.

11-402.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, provisions of this subtitle creating the Apprenticeship and Training Council and related to the regulation of apprentices and trainees are of no effect after July 1, [2004] 2014.

Article - State Finance and Procurement

[17-203.

(a) In this section, "Advisory Council" means the Advisory Council on Prevailing Wage Rates.

(b) There is an Advisory Council on Prevailing Wage Rates in the Division of Labor and Industry.

(c) The Advisory Council consists of the following 6 members:

(1) 2 individuals from management in the building and construction industry;

(2) 2 individuals from labor in the building and construction industry; and

(3) 2 individuals from the general public.

(d) (1) The Governor shall appoint each member with the advice of the Secretary of Labor, Licensing, and Regulation and with the advice and consent of the Senate.

(2) The 2 members from management shall be selected from a list submitted by management organizations in the building and construction industry.

(3) The 2 members from labor shall be selected from a list submitted by labor organizations in the building and construction industry.

(e) Before taking office, each appointee to the Advisory Council shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) From among the Advisory Council members, the Governor shall appoint a chairman.

(2) The chairman of the Advisory Council:

(i) shall serve for 1 year from the day of appointment; and

(ii) is not eligible for reappointment as chairman for the following year.

(g) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Advisory Council on October 1, 1988.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) If a vacancy occurs, the Governor shall appoint a new member with the advice of the Secretary of Labor, Licensing, and Regulation.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(h) The Governor may remove a member for incompetence or misconduct.

(i) (1) The Advisory Council shall advise and submit recommendations to the Commissioner on the Commissioner's functions under this subtitle.

(2) The Commissioner may ask other units of the State government or units of local governments to provide statistical data, reports, and other information to help the Advisory Council to carry out its duties.

(j) The Advisory Council shall meet at least twice a year and on other days the Commissioner requests, at the times and places that it determines.

(k) Each member of the Advisory Council is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(l) Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this section shall terminate and be of no effect after July 1, ~~2004~~ 2014.~~]~~

17-204.

(a) (1) The Commissioner shall adopt regulations reasonably required to carry out this subtitle.

(2) The regulations may include exemptions for minimum number of hours worked or workers employed.

(3) Payroll records shall be kept in accordance with those regulations.

(b) On or before January 1 of each year, the Commissioner shall submit to the Governor and to the Secretary of Labor, Licensing, and Regulation an annual report that:

(1) describes the activities of the Commissioner under this subtitle during the preceding calendar year; and

(2) includes:

(i) [each recommendation received from the Advisory Council on Prevailing Wage Rates during the preceding calendar year;

(ii)] full information about the operation of this subtitle; and

[(iii)] ~~(II)~~ other information about prevailing wage rates, as the Commissioner desires.

Article - State Government

8-403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(3) Amusement Ride Safety, State Advisory Board (§ 3-303 of the Business Regulation Article: July 1, [2003] 2013);

(4) Apprenticeship and Training Council (§ 11-403 of the Labor and Employment Article: July 1, [2003] 2013);

(23) ELEVATOR SAFETY REVIEW BOARD (ARTICLE 89, § 49C OF THE CODE: JULY 1, 2013);

(37) Labor and Industry, Division of (Title 2 of the Labor and Employment Article: July 1, [2003] 2013);

(46) Occupational Safety and Health Advisory Board (§ 5-302 of the Labor and Employment Article: July 1, [2003] 2013);

~~[~~(55) Prevailing Wage Rates, Advisory Council on (§ 17-203 of the State Finance and Procurement Article: July 1, ~~2003~~ 2013);~~]~~

SECTION 4. AND BE IT FURTHER ENACTED, That the Division of Labor and Industry shall report to the Senate Finance Committee and the House Economic Matters Committee on or before October 1, 2003, in accordance with § 2-1246 of the State Government Article, on the implementation of the recommendations of the Department of Legislative Services contained in the sunset evaluation report dated October 2002.

SECTION 5. AND BE IT FURTHER ENACTED, That, in addition to the report required under Section 4 of this Act, the Division of Labor and Industry shall report to the Senate Finance Committee and the House Economic Matters Committee on or before October 1, 2003, in accordance with § 2-1246 of the State Government Article, on:

(a) The efforts of the Maryland Apprenticeship and Training Council to coordinate with the Maryland State Department of Education regarding accessing adult literacy and education programs such as the Lifetime Experiences Program and the External Diploma Program;

(b) Efforts of the Boiler and Pressure Vessel Inspection Unit to coordinate with the insurance industry when developing inspection procedures for boilers and pressure vessels; and

(c) Efforts of the Boiler and Pressure Vessel Inspection Unit to reduce the inspection backlog of public buildings, which are the direct responsibility of the unit.

SECTION ~~5.~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2003.