Article - Labor and Employment

§1–101.

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

(b) "County" means a county of the State and, unless expressly provided otherwise, Baltimore City.

(c) "Governmental unit" means:

(1) the State;

(2) a county, municipal corporation, or other political subdivision of the State; or

(3) a unit of the State government or of a political subdivision.

(d) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(e) "State" means:

(1) a state, possession, or commonwealth of the United States;

(2) except as provided in § 8–101(w) of this article, a territory of the United States; or

(3) the District of Columbia.

§1–201.

(a) A requirement in this article that a document be under oath means that the document shall be supported by a signed statement made under the penalties of perjury that the contents of the document are true to the best of the knowledge, information, and belief of the individual making the statement.

(b) The oath or affirmation shall be made:

(1) before an individual authorized to administer oaths, who shall certify in writing to have administered the oath or taken the affirmation; or

(2) by a signed statement that:

(i) is in the document or attached to and made part of the document; and

(ii) is made expressly under the penalties for perjury.

(c) If the procedures provided in subsection (b)(2) of this section are used, the affidavit subjects the individual making it to the penalties for perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.

§1–202.

(a) In this section, "employer" has the same meaning as under the State workers' compensation laws.

(b) Before a governmental unit issues any license or permit to an employer to engage in an activity in which the employer may employ any individual, the employer shall file with the governmental unit:

(1) a certificate of compliance with the State workers' compensation laws; or

(2) the number of a workers' compensation insurance policy or binder.

§2–101.

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

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

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

(d) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

§2–102.

(a) There is a Division of Labor and Industry in the Department of Labor, Licensing, and Regulation.

(b) The Division exercises its rights, powers, and duties subject to the authority of the Secretary as set forth in Article 41 of the Code or elsewhere in State law.

§2–103.

(a) The head of the Division is the Commissioner.

(b) The Secretary shall appoint the Commissioner with the approval of the Governor.

(c) The Commissioner holds office at the pleasure of the Secretary.

(d) The Commissioner shall devote full time to the duties of office.

(e) The Commissioner is entitled to the salary provided in the State budget.

§2–104.

(a) (1) There is a Deputy Commissioner of Labor and Industry who shall be appointed by the Commissioner with the approval of the Secretary.

(2) The Deputy Commissioner is in the management service in the State Personnel Management System and serves at the pleasure of the Commissioner.

(3) The Deputy Commissioner is entitled to the salary provided in the State budget.

(4) In addition to any powers and duties set forth elsewhere, the Deputy Commissioner has the powers and duties of the Commissioner:

(i) to the extent delegated by the Commissioner;

(ii) if the office of the Commissioner is vacant; or

(iii) if for any reason the Commissioner is absent or unable to perform the duties of office.

(b) (1) The Commissioner shall appoint an Assistant Commissioner for Occupational Safety and Health, subject to the approval of the Secretary.

(2) The Assistant Commissioner is in the management service in the State Personnel Management System and serves at the pleasure of the Commissioner.

(3) The Assistant Commissioner is entitled to the salary provided in the State budget.

(c) (1) The Commissioner shall appoint a Chief Elevator Inspector.

(2) The Chief Elevator Inspector:

(i) is entitled to the salary provided in the State budget; and

(ii) is subject to the provisions of the State Personnel and Pensions Article that govern skilled service employees.

(d) (1) The Commissioner shall appoint a Chief Inspector for Railroad Safety and Health.

(2) The Chief Inspector:

(i) is entitled to the salary provided in the State budget; and

(ii) is subject to the provisions of the State Personnel and Pensions Article that govern skilled service employees.

(e) (1) Subject to the approval of the Governor, the Commissioner may appoint a Chief Mediator who shall be a special appointment in the State Personnel Management System.

(2) The Chief Mediator:

(i) is entitled to the salary provided in the State budget; but

(ii) may not receive additional compensation for serving on a board of arbitration.

(f) (1) The Commissioner shall appoint:

(i) safety inspectors who are qualified and trained in occupational safety; and

(ii) safety inspectors who are qualified technically to inspect amusement rides and amusement attractions, elevators, and worker and material hoists on construction projects and who shall be responsible for those inspections.

(2) Each safety inspector:

(i) is entitled to the salary provided in the State budget; and

(ii) is subject to the provisions of the State Personnel and Pensions Article that govern skilled service employees, with the exception of special appointments.

(g) (1) Subject to the approval of the Governor and the Secretary, the Commissioner may employ, in accordance with the State budget, other staff needed to perform the duties of the Commissioner.

(2) Except as provided in this section or otherwise by law, all other staff is in the skilled service or professional service, with the exception of special appointments, in the State Personnel Management System.

§2–105.

In addition to any duties set forth elsewhere, the Commissioner shall:

(1) try to promote harmony between industry and labor;

(2) try to promote and develop the welfare of wage earners; and

(3) accept grants of money from the federal government or any of its units or agents for a matter within the jurisdiction of the Division.

§2–106.

(a) The Commissioner shall adopt regulations that govern procedure for boards of arbitration under Title 4, Subtitle 1 of this article.

(b) Except as provided in subsection (c) of this section, and in addition to authority to adopt regulations that is set forth elsewhere, the Commissioner may adopt regulations that are necessary to carry out:

(1) Title 3, Subtitle 3 of this article;

(2) Title 3, Subtitle 5 of this article;

(3) Title 4, Subtitle 2, Parts I through III of this article;

(4) Title 5 of this article;

(5) Title 6 of this article; and

(6) Title 7 of this article.

(c) (1) After a public hearing, 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.

(d) The Commissioner may adopt regulations that set forth the conditions under which an employer may require an employee to construct, erect, install, maintain, or repair a line that conducts electricity and that has a nominal voltage exceeding:

(1) 24,940 volts between a pair of conductors; or

(2) 14,400 volts between a conductor and a ground.

§2–107.

(a) In addition to any other units, the Division shall include the units enumerated in this section.

(b) (1) There is an Employment Standards Service Unit in the Division.

(2) Under the direction of the Commissioner, the Employment Standards Service Unit shall:

(i) enforce Title 3, Subtitle 2 of this article;

(ii) carry out Title 3, Subtitle 3 of this article;

(iii) enforce Title 3, Subtitle 4 of this article; and

(iv) enforce Title 3, Subtitle 5 of this article.

(c) There is a State Mediation and Conciliation Service in the Division.

(d) (1) There is a research and information unit in the Division.

(2) Under the direction of the Commissioner, the research and information unit shall collect, organize, and report statistical information on matters within the jurisdiction of the Division.

(e) There is a Safety Engineering and Education Service in the Division.

(f) (1) There is a Prevailing Wage Unit in the Division.

(2) Under the direction of the Commissioner, the Prevailing Wage Unit shall administer and enforce Title 17, Subtitle 2 of the State Finance and Procurement Article.

(3) (i) The Prevailing Wage Unit shall advise and submit recommendations to the Commissioner on the Commissioner's functions under Title 17, Subtitle 2 of the State Finance and Procurement Article.

(ii) The Commissioner shall ask other units of the State government or units of local governments to provide statistical data, reports, and other information to help the Prevailing Wage Unit carry out its duties.

(g) Notwithstanding the funding provisions of § 3–919 of this article, for fiscal year 2007 and for each subsequent fiscal year, the Governor shall include in the annual budget bill submitted to the General Assembly an appropriation for the Division of Labor and Industry sufficient to implement the provisions of this section, including amounts not less than:

(1) $315,000 for implementation of the Employment Standards Service Unit in the Division; and

(2) $385,000 for implementation of the Prevailing Wage Unit in the Division.

§2–108.

(a) As soon after January 1 of each year as reasonably possible, the Commissioner shall submit an annual report to the Governor, to the Secretary, and, subject to § 2-1246 of the State Government Article, to the General Assembly.

(b) (1) The report shall describe the activities of the Division during the preceding year.

(2) The report shall include a description of its investigations under § 5-205(i) of this article.

§3–101.

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

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

(c) (1) "Employ" means to engage an individual to work.

(2) "Employ" includes:

(i) allowing an individual to work; and

(ii) instructing an individual to be present at a work site.

§3–102.

(a) In addition to any duties set forth elsewhere, the Commissioner shall:

(1) enforce Subtitle 2 of this title;

(2) carry out Subtitle 3 of this title;

(3) enforce Subtitle 4 of this title;

(4) enforce Subtitle 9 of this title; and

(5) enforce a local minimum wage law.

(b) If the Governor declares an emergency or disaster, then, with the consent of the Governor, the Commissioner may suspend enforcement of any provision of Subtitle 2 of this title until the emergency or disaster ends.

(c) The Commissioner has the same powers and duties in enforcing a local minimum wage law as the Commissioner has in enforcing Subtitle 4 of this title.

§3–103.

(a) Except as otherwise provided in this section, the Commissioner may conduct an investigation to determine whether a provision of this title has been violated on the Commissioner's own initiative or may require a written complaint.

(b) The Commissioner may conduct an investigation under Subtitle 3 of this title, on the Commissioner's own initiative or on receipt of a written complaint of an employee.

(c) The Commissioner may conduct an investigation to determine whether

Subtitle 5 of this title has been violated on receipt of a written complaint of an employee.

(d) The Commissioner may conduct an investigation to determine whether Subtitle 6 of this title has been violated on receipt of a written complaint of a sales representative.

(e) (1) The Commissioner may investigate whether § 3–701 of this title has been violated on receipt of a written complaint of an applicant for employment.

(2) The Commissioner may investigate whether § 3–702 of this title has been violated on receipt of a written complaint of an applicant for employment or an employee.

(3) The Commissioner may investigate whether § 3–704 of this title has been violated on receipt of a written complaint of an employee.

(4) The Commissioner may investigate whether § 3–710 of this title has been violated on receipt of a written complaint of an employee as provided in § 3–710(d)(1) of this title.

(5) The Commissioner may investigate whether § 3–711 of this title has been violated on receipt of a written complaint of an employee as provided in § 3–711(d)(1) of this title.

(6) The Commissioner may investigate whether § 3–712 of this title has been violated on receipt of a written complaint of an employee or applicant.

(f) (1) The Commissioner may investigate whether § 3–801 of this title has been violated on receipt of a written complaint of an employee.

(2) The Commissioner may investigate whether § 3–802 of this title has been violated on receipt of a written complaint of an employee.

(g) The Commissioner may investigate whether Subtitle 9 of this title has been violated:

(1) on the Commissioner's own initiative;

(2) on receipt of a written complaint signed by the person submitting the complaint; or

(3) on referral from another unit of State government.

(h) The Commissioner may conduct an investigation to determine whether Subtitle 10 of this title has been violated on receipt of a written complaint of an employee.

(i) The Commissioner may conduct an investigation to determine whether Subtitle 12 of this title has been violated on receipt of a written complaint of an employee.

(j) The Commissioner, on the Commissioner's own initiative or on receipt of a written complaint, may conduct an investigation of whether a local minimum wage law has been violated.

§3–104.

The Commissioner may delegate any power or duty of the Commissioner under § 3–102(c) of this subtitle and Subtitles 2, 4, 5, and 9 of this title.

§3–201.

In this subtitle, "minor" means an individual who is under the age of 18 years.

§3–202.

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.

§3–203.

This subtitle does not apply to an activity that a minor performs if the activity:

(1) is performed outside the school hours set for that minor;

(2) does not involve manufacturing or mining;

(3) is not a hazardous occupation restricted under § 3-213(c)(1) or (2) of this subtitle for that minor; and

(4) is limited to:

(i) farm work that is performed on a farm;

(ii) domestic work that is performed in or about a home;

(iii) work that is performed in a business that a parent of the minor or a person standing in place of the parent owns or operates;

(iv) caddying on a golf course;

(v) instructing on an instructional sailboat;

(vi) delivery of newspapers to consumers;

(vii) making an evergreen wreath in or about a home;

(viii) work performed as a counselor, assistant counselor, or instructor in a youth camp certified under the Maryland Youth Camp Act; or

(ix) work that is performed as an unpaid volunteer in a charitable or not for profit organization, if:

1. a parent of the minor or a person standing in the place of the parent consents in writing; and

2. for hazardous work in a volunteer fire department or company or volunteer rescue squad, the minor:

A. is at least 16 years old; and

B. has completed or is taking a course of study about fire fighting or rescue.

§3–204.

For purposes of this subtitle and during reasonable business hours, the Commissioner may:

(1) enter and inspect a place of employment;

(2) inspect the employment records of an employee; or

(3) question any employee.

§3–205.

Unless an employer possesses a work or special permit for a minor, the minor may not work for the employer.

§3–206.

(a) A parent or guardian of a minor may apply for a work permit by completing an online application that includes:

(1) verification of the minor's age;

(2) a description of the work to be performed by the minor;

(3) approval by the parent or guardian of the minor's employment; and

(4) any other information the Commissioner may require.

(b) After reviewing an online application for a work permit, the Commissioner

may issue the permit if the employment is allowed under this subtitle for the minor for whom the permit is sought.

(c) (1) The Commissioner may issue a work permit that authorizes a minor to be employed in an occupation that otherwise would be restricted under § 3–213 of this subtitle, if the minor:

(i) is exempted, under § 7–301(d)(2)(i) of the Education Article, from attendance in public school because the emotional, mental, or physical condition of the minor makes instruction detrimental to the progress of the minor;

(ii) is to be employed only in office work;

(iii) is to be employed in work that is performed outside of all rooms where goods are manufactured or processed; or

(iv) is to be employed in work that a county school system obtains and supervises as part of a work–study, student–learner, or similar program for which the employment is an integral part of the course of study.

(2) The Commissioner shall issue a work permit that authorizes a minor to be employed:

(i) in an occupation that otherwise would be restricted under § 3–213 of this subtitle if the minor is granted an exception by the Commissioner because, after investigation, the Commissioner determines that neither the work nor the work site where the work is to be performed is hazardous to the minor; or

(ii) in an occupation that otherwise would be restricted under § 3–213(c)(1) or (2) of this subtitle, if the minor:

1. has completed a course of study in that occupation at an accredited school and has been graduated from the school; or

2. is granted an exception by the Commissioner because employment in that occupation is part of a work–study, student–learner, or apprentice program under a federal, State, or local governmental agency.

§3–207.

(a) Subject to this section, the Commissioner may issue a special permit for a minor of any age to be employed as an entertainer, model, or performer.

(b) An applicant for a special permit shall submit to the Commissioner a completed application on the form that the Commissioner provides.

(c) The Commissioner shall issue a special permit if, after investigation, the Commissioner is satisfied that:

(1) the employment will not be detrimental to the health or welfare of the minor;

(2) the minor will be supervised adequately; and

(3) the education of the minor will not be neglected.

(d) A special permit shall contain notarized signatures that show the consent of:

(1) a parent of the minor or a person standing in place of the parent; and

(2) the employer.

§3–208.

A work permit or special permit authorizes a minor to work for an employer as specified in the permit.

§3–209.

Except as otherwise provided in this subtitle, a minor under the age of 14 years may not be employed or allowed to be employed.

§3–210.

(a) (1) A minor may not be employed or allowed to be employed for more than 5 consecutive hours without a nonworking period of at least one-half hour.

(2) Except as provided in subsections (b) and (c) of this section, in a calendar day:

(i) the total school and work hours of a minor may not exceed 12 hours; and

(ii) the minor shall have at least 8 consecutive hours that are not school or work hours.

(b) The Commissioner may grant to a minor an exception to the restrictions in subsection (a)(2) of this section if the Commissioner determines that there will be no hazard to the health or welfare of the minor.

(c) A minor who is 17 years old and serves as an election judge, under § 10-202 of the Election Law Article, may work more than 12 hours on election day only, subject to consent from at least one parent or guardian.

§3–211.

(a) (1) Except as provided in subsection (b) of this section, a minor under the

age of 16 years may not be employed or allowed to be employed:

(i) before 7:00 a.m.;

(ii) from the day after Labor Day through the day before Memorial Day, after 8:00 p.m.;

(iii) from Memorial Day through Labor Day, after 9:00 p.m.; or

(iv) more than:

1. 4 hours on a day when school is in session;

2. 8 hours on a day when school is not in session;

3. 23 hours in a week when school is in session for 5 days; or

4. 40 hours in a week when school is not in session.

(2) The hours of work allowed under paragraph (1)(iv) of this subsection do not include any hours that a minor works in a bona fide work-study or student-learner program while school normally is in session.

(b) The Commissioner may grant to a minor an exception to the restrictions under this section if the Commissioner:

(1) receives the written consent of a parent of the minor or a person standing in the place of the parent; and

(2) determines that:

(i) there will be no hazard to the health or welfare of the minor; and

(ii) granting the exception will not impede the minor in fulfilling school graduation requirements.

§3–212.

(a) This section does not apply to a minor who:

(1) is a child of the manager, operator, or owner of the business establishment from or to which a check, money, or negotiable instrument is being transported; or

(2) is transporting a check, money, or negotiable instrument that the minor received as payment for merchandise that the minor delivered or for a service that the minor performed.

(b) (1) A minor may not be employed, between 8:00 p.m. and 8:00 a.m.,

to transport to or from a business establishment checks, money, or negotiable instruments, including payroll funds or business receipts.

(2) A minor may not be employed, between 8:00 a.m. and 8:00 p.m., to transport to or from a business establishment checks, money, or negotiable instruments that have a value in excess of $100.

§3–213.

(a) Except as otherwise provided in this subtitle, a minor may not be employed or allowed to work:

(1) in, about, or in connection with the manufacturing of a hazardous substance;

(2) in, about, or in connection with:

(i) a blast furnace;

(ii) a distillery where an alcoholic beverage is manufactured, bottled, wrapped, or packed;

(iii) a railroad;

(iv) an engineer, fireman, or pilot on a vessel that is engaged in commerce; or

(v) a dock or wharf other than a marina where pleasure vessels are sold or served; or

(3) in, about, or in connection with:

(i) the erection or repair of an electrical wire;

(ii) the cleaning, oiling, or wiping of machinery; or

(iii) an occupation that is prohibited by law.

(b) Except as otherwise provided in this subtitle, a minor under the age of 16 may not be employed or allowed to work:

(1) during the school hours set for that minor;

(2) about or in connection with an acid, dye, gas, lye, or paint;

(3) at, about, or in connection with:

(i) an airport;

(ii) a brickyard;

(iii) a lumberyard;

(iv) a workroom or work site where goods are manufactured or processed;

(v) scaffolding; or

(vi) a vessel when engaged in navigation or commerce; or

(4) in, about, or in connection with:

(i) construction;

(ii) an occupation that causes dust in an injurious quantity;

(iii) a manufacturing occupation;

(iv) a mechanical occupation;

(v) a processing occupation; or

(vi) the adjustment, cleaning, or operation of power-driven machinery except:

1. an office machine; or

2. machinery used in a school or government institution as part of vocational training.

(c) The Commissioner may prohibit minors being employed in an occupation if:

(1) after a public hearing, the Commissioner determines that employment in the occupation should be prohibited to minors;

(2) the Commissioner adopts by reference a determination by the United States Secretary of Labor under the federal Fair Labor Standards Act of 1938 that the occupation is hazardous; or

(3) after investigation, the Commissioner determines that the occupation is injurious to:

(i) the health or welfare of minors; or

(ii) the morals of minors under the age of 16 years.

§3–214.

Each employer shall keep posted conspicuously in each place where a minor is employed a printed notice of the provisions of this subtitle, in a form that the Commissioner requires.

§3–215.

After review, the Commissioner may revoke a work permit or special permit if the permit is not issued in accordance with the requirements of the Commissioner.

§3–216.

(a) A person may not:

(1) interfere with or hinder the performance of any duty of the Commissioner under this subtitle; or

(2) knowingly give false information to the Commissioner.

(b) A person may not knowingly:

(1) employ a minor in violation of a provision of this subtitle; or

(2) allow a minor to be employed in violation of a provision of this subtitle.

(c) (1) A person who violates any provision of subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 90 days or both.

(2) A person who violates any provision of subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 1 year or both.

§3–301.

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

(b) (1) "Employer" means:

(i) a person engaged in a business, industry, profession, trade, or other enterprise in the State;

(ii) the State and its units;

(iii) a county and its units; and

(iv) a municipal government in the State.

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

(c) "Gender identity" has the meaning stated in § 20–101 of the State Government Article.

(d) (1) "Wage" means all compensation for employment.

(2) "Wage" includes board, lodging, or other advantage provided to an employee for the convenience of the employer.

§3–302.

This subtitle applies to an employer of both men and women in a lawful enterprise.

§3–303.

In addition to any powers set forth elsewhere, the Commissioner may:

(1) use informal methods of conference, conciliation, and persuasion to eliminate pay practices that are unlawful under this subtitle; and

(2) supervise the payment of a wage owing to an employee under this subtitle.

§3–304.

(a) In this section, "providing less favorable employment opportunities" means:

(1) assigning or directing the employee into a less favorable career track, if career tracks are offered, or position;

(2) failing to provide information about promotions or advancement in the full range of career tracks offered by the employer; or

(3) limiting or depriving an employee of employment opportunities that would otherwise be available to the employee but for the employee's sex or gender identity.

(b) (1) An employer may not discriminate between employees in any occupation by:

(i) paying a wage to employees of one sex or gender identity at a rate less than the rate paid to employees of another sex or gender identity 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; or

(ii) providing less favorable employment opportunities based on sex or gender identity.

(2) For purposes of paragraph (1)(i) of this subsection, an employee shall be deemed to work at the same establishment as another employee if the employees work for the same employer at workplaces located in the same county of the State.

(c) Except as provided in subsection (d) of this section, subsection (b) of this section does not prohibit a variation in a wage that is based on:

(1) a seniority system that does not discriminate on the basis of sex or gender identity;

(2) a merit increase system that does not discriminate on the basis of sex or gender identity;

(3) jobs that require different abilities or skills;

(4) jobs that require the regular performance of different duties or services;

(5) work that is performed on different shifts or at different times of day;

(6) a system that measures performance based on a quality or quantity of production; or

(7) a bona fide factor other than sex or gender identity, including education, training, or experience, in which the factor:

(i) is not based on or derived from a gender–based differential in compensation;

(ii) is job related with respect to the position and consistent with a business necessity; and

(iii) accounts for the entire differential.

(d) This section does not preclude an employee from demonstrating that an employer's reliance on an exception listed in subsection (c) of this section is a pretext for discrimination on the basis of sex or gender identity.

(e) An employer who is paying a wage in violation of this subtitle may not reduce another wage to comply with this subtitle.

§3–304.1.

(a) An employer may not:

(1) prohibit an employee from:

(i) inquiring about, discussing, or disclosing the wages of the employee or another employee; or

(ii) requesting that the employer provide a reason for why the employee's wages are a condition of employment;

(2) require an employee to sign a waiver or any other document that purports to deny the employee the right to disclose or discuss the employee's wages; or

(3) take any adverse employment action against an employee for:

(i) inquiring about another employee's wages;

(ii) disclosing the employee's own wages;

(iii) discussing another employee's wages if those wages have been disclosed voluntarily;

(iv) asking the employer to provide a reason for the employee's wages; or

(v) aiding or encouraging another employee's exercise of rights under this section.

(b) (1) Subject to paragraph (2) of this subsection, an employer may, in a written policy provided to each employee, establish reasonable workday limitations on the time, place, and manner for inquiries about or the discussion or disclosure of employee wages.

(2) A limitation established under paragraph (1) of this subsection shall be consistent with standards adopted by the Commissioner and all other State and federal laws.

(3) Subject to subsection (d) of this section, limitations established under paragraph (1) of this subsection may include prohibiting an employee from discussing or disclosing the wages of another employee without that employee's prior permission.

(c) Except as provided in subsection (d) of this section, the failure of an employee to adhere to a reasonable limitation included in a written policy under subsection (b) of this section shall be an affirmative defense to a claim made against an employer by the employee under this section if the adverse employment action taken by the employer was for a failure to adhere to the reasonable limitation and not for an inquiry, a discussion, or a disclosure of wages in accordance with the limitation.

(d) (1) A prohibition established in accordance with subsection (b)(3) of this section against the discussion or disclosure of the wages of another employee without that employee's prior permission may not apply to instances in which an employee who has access to the wage information of other employees as a part of the employee's essential job functions if the discussion or disclosure is in response to a complaint or charge or in furtherance of an investigation, a proceeding, a hearing, or an action under this subtitle, including an investigation conducted by the employer.

(2) If an employee who has access to wage information as part of the essential functions of the employee's job discloses the employee's own wages or wage information about another employee obtained outside the performance of the essential functions of the employee's job, the employee shall be entitled to all the protections afforded under this subtitle.

(e) Nothing in this section shall be construed to:

(1) require an employee to disclose the employee's wages;

(2) diminish employees' rights to negotiate the terms and conditions of employment under federal, State, or local law;

(3) limit the rights of an employee provided under any other provision of law or collective bargaining agreement;

(4) create an obligation on any employer or employee to disclose wages;

(5) permit an employee, without the written consent of an employer, to disclose proprietary information, trade secret information, or information that is otherwise subject to a legal privilege or protected by law; or

(6) permit an employee to disclose wage information to a competitor of the employer.

§3–305.

(a) (1) Each employer shall keep each record that the Commissioner requires on:

(i) wages of employees;

(ii) job classifications of employees; and

(iii) other conditions of employment.

(2) An employer shall keep the records required under this subsection for the period of time that the Commissioner requires.

(b) On the basis of the records required under this section, an employer shall make each report that the Commissioner requires.

§3–306.

(a) On request of an employer, the Commissioner shall provide without charge a copy of this subtitle to the employer.

(b) Each employer shall keep posted conspicuously in each place of employment a copy of this subtitle.

(c) The Commissioner, in consultation with the Maryland Commission on Civil Rights, shall develop educational materials and make training available to assist employers in adopting training, policies, and procedures that comply with the requirements of this subtitle.

§3–306.1.

(a) Whenever the Commissioner determines that this subtitle has been violated, the Commissioner shall:

(1) try to resolve any issue involved in the violation informally by mediation; or

(2) ask the Attorney General to bring an action on behalf of the applicant or employee.

(b) The Attorney General may bring an action under this section in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

§3–307.

(a) (1) If an employer knew or reasonably should have known that the employer's action violates § 3–304 of this subtitle, an affected employee may bring an action against the employer for injunctive relief and to recover the difference between the wages paid to employees of one sex or gender identity and the wages paid to employees of another sex or gender identity who do the same type work and an additional equal amount as liquidated damages.

(2) If an employer knew or reasonably should have known that the employer's action violates § 3–304.1 of this subtitle, an affected employee may bring an action against the employer for injunctive relief and to recover actual damages and an additional equal amount as liquidated damages.

(3) An employee may bring an action on behalf of the employee and other employees similarly affected.

(b) On the written request of an employee who is entitled to bring an action under this section, the Commissioner may:

(1) take an assignment of the claim in trust for the employee;

(2) ask the Attorney General to bring an action in accordance with this section on behalf of the employee; and

(3) consolidate 2 or more claims against an employer.

(c) An action under this section shall be filed within 3 years after the employee receives from the employer the wages paid on the termination of employment under §

3–505(a) of this title.

(d) The agreement of an employee to work for less than the wage to which the employee is entitled under this subtitle is not a defense to an action under this section.

(e) If a court determines that an employee is entitled to judgment in an action under this section, the court shall allow against the employer reasonable counsel fees and other costs of the action, as well as prejudgment interest in accordance with the Maryland Rules.

§3–308.

(a) An employer may not:

(1) willfully violate any provision of this subtitle;

(2) hinder, delay, or otherwise interfere with the Commissioner or an authorized representative of the Commissioner in the enforcement of this subtitle;

(3) refuse entry to the Commissioner or an authorized representative of the Commissioner into a place of employment that the Commissioner is authorized under this subtitle to inspect; or

(4) discharge or otherwise discriminate against an employee because the employee:

(i) makes a complaint to the employer, the Commissioner, or another person;

(ii) brings an action under this subtitle or a proceeding that relates to the subject of this subtitle or causes the action or proceeding to be brought; or

(iii) has testified or will testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle.

(b) An employee may not:

(1) make a groundless or malicious complaint to the Commissioner or an authorized representative of the Commissioner;

(2) in bad faith, bring an action under this subtitle;

(3) in bad faith, bring a proceeding that relates to the subject of this subtitle; or

(4) in bad faith, testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle.

(c) The Commissioner may bring an action for injunctive relief and damages

against a person who violates subsection (a)(1) or (4) or subsection (b)(1), (3), or (4) of this section.

(d) An employer who violates any provision of subsection (a)(2) or (3) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $300.

§3–309.

(a) In this section, "Commission" means the Equal Pay Commission.

(b) There is an Equal Pay Commission in the Division of Labor and Industry.

(c) The Commission consists of the following members:

(1) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;

(2) the Commissioner, or the Commissioner's designee;

(3) the Executive Director of the Commission on Civil Rights, or the Executive Director's designee; and

(4) the following members, appointed by the Governor:

(i) three representatives of business in the State who have been nominated by State business organizations and business trade associations;

(ii) two representatives of labor organizations who have been nominated by labor federations;

(iii) two representatives of organizations:

1. whose objectives include the elimination of pay disparities between individuals of one sex or gender identity and minorities and nonminorities; and

2. who have undertaken advocacy, educational, or legislative initiatives in pursuit of those objectives; and

(iv) three representatives of higher education or research institutions:

1. who have experience and expertise in the collection and analysis of data concerning pay disparities; and

2. whose research has been used in efforts to promote the elimination of those disparities.

(d) To the extent practicable, the composition of the Commission shall reflect the race, gender, and geographic diversity of the population of the State.

(e) (1) The term of a member appointed by the Governor is 4 years.

(2) The terms of the members are staggered as required by the terms provided for the members of the Commission on June 1, 2016.

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

(4) 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.

(f) The Governor shall designate the chair of the Commission.

(g) A member of the Commission:

(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.

(h) The Commission shall:

(1) continually evaluate the extent of wage disparities in the public and private sectors in the State between individuals of one race, sex, or gender identity and individuals of another race, sex, or gender identity, based on all available data;

(2) establish a mechanism for the Commissioner to collect data from employers in the State to assist the Commission in its efforts to evaluate the disparities listed in item (1) of this subsection;

(3) develop a comprehensive strategy to determine and recommend best practices regarding equal pay for equal work to individuals, employers, and policymakers;

(4) study and make recommendations regarding whether and to what extent administrative and legal processes and remedies can be streamlined and harmonized across this subtitle and other employment antidiscrimination laws;

(5) develop partnerships with private sector entities and other public sector entities to identify:

(i) methods of developing a data collection mechanism;

(ii) effective methods of outreach through which the Commission may raise the awareness of employers about the provisions of this subtitle; and

(iii) potential funding sources to help the Division of Labor and Industry absorb costs associated with staffing the Commission and implementing the Commission's charge; and

(6) share data and findings with the Commissioner to assist in enforcement actions under this subtitle.

(i) On or before December 15, 2017, and on or before December 15 of each year thereafter, the Commission shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee regarding any findings and recommendations, including any recommended legislation.

§3–401.

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

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

(c) "Federal Act" means the federal Fair Labor Standards Act of 1938.

(d) "Wage" means all compensation that is due to an employee for employment.

§3–402.

(a) The General Assembly finds that wages in some occupations in the State have been insufficient to provide adequate maintenance and to protect health.

(b) The purpose of this subtitle is to set minimum wage standards in the State to:

(1) provide a maintenance level that is consistent with the needs of the population for their efficiency, general well-being, and health;

(2) safeguard employers and employees against unfair competition;

(3) increase the stability of industry;

(4) increase the buying power of employees; and

(5) decrease the need to spend public money for the relief of employees.

§3–403.

This subtitle does not apply to an individual who:

(1) is employed in a capacity that the Commissioner defines, by regulation, to be administrative, executive, or professional;

(2) is employed in a nonadministrative capacity at an organized camp, including a resident or day camp;

(3) is under the age of 16 years and is employed no more than 20 hours in a week;

(4) is employed as an outside salesman;

(5) is compensated on a commission basis;

(6) is a child, parent, spouse, or other member of the immediate family of the employer;

(7) is employed in a drive–in theater;

(8) is employed as part of the training in a special education program for emotionally, mentally, or physically handicapped students under a public school system;

(9) is employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, or horticultural commodities, poultry, or seafood;

(10) engages in the activities of a charitable, educational, not for profit, or religious organization if:

(i) the service is provided gratuitously; and

(ii) there is, in fact, no employer–employee relationship;

(11) is employed in a cafe, drive–in, drugstore, restaurant, tavern, or other similar establishment that:

(i) sells food and drink for consumption on the premises; and

(ii) has an annual gross income of $400,000 or less;

(12) is employed in agriculture if, during each quarter of the preceding calendar year, the employer used no more than 500 agricultural–worker days;

(13) is engaged principally in the range production of livestock; or

(14) is employed as a hand–harvest laborer and is paid on a piece–rate basis in an operation that, in the region of employment, has been and customarily and generally is recognized as having been paid on that basis, if:

(i) the individual:

1. commutes daily from the permanent residence of the

individual to the farm where the individual is employed; and

2. during the preceding calendar year, was employed in agriculture less than 13 weeks; or

(ii) the individual:

1. is under the age of 17;

2. is employed on the same farm as a parent of the individual or a person standing in the place of the parent; and

3. is paid at the same rate that an employee who is at least 17 years old is paid on the same farm.

§3–404.

This subtitle does not diminish:

(1) the right of employees to bargain collectively with their employers through representatives whom the employees choose to establish wages or other conditions of employment in excess of the applicable minimum under this subtitle; or

(2) a right of an employee that is granted under the federal Act.

§3–405.

An agreement to work for less than the wage required under this subtitle is void.

§3–408.

(a) The Commissioner may ascertain what wage is paid in any occupation in the State.

(b) (1) In an investigation under this subtitle, the Commissioner shall try to negotiate with an employer to obtain the testimony or documentary evidence that is needed to determine whether a violation exists.

(2) If the Commissioner is unable to obtain evidence by negotiation, the Commissioner may issue a subpoena for the attendance of a witness to testify or the production of documentary evidence that relates to the subject matter of the complaint.

(3) Each application for a subpoena under this subsection shall:

(i) be under oath; and

(ii) describe in detail:

1. the nature, purpose, and scope of the investigation;

2. each witness to be subpoenaed; and

3. each record to be inspected.

(4) A subpoena may not be issued unless the application is approved by the Attorney General as to form and substance.

(5) If a person fails to comply with a subpoena issued under this subsection, on a complaint filed by the Commissioner, a circuit court may compel compliance with the subpoena.

§3–410.

In addition to any regulation specifically required by this subtitle, regulations that the Commissioner adopts to carry out this subtitle may include:

(1) definitions of the terms "administrative capacity", "executive capacity", "professional capacity", and "outside salesman";

(2) a scale of wages that is suitable for learners and apprentices but is at least 80% of the minimum wage under this subtitle; and

(3) a wage for a special case or class of case if the Commissioner finds the wage appropriate to:

(i) avoid undue hardship;

(ii) prevent the curtailment of employment opportunity; and

(iii) safeguard the minimum wage under this subtitle.

§3–413.

(a) In this section, "employer" includes a governmental unit.

(b) Except as provided in subsection (d) of this section and § 3–414 of this subtitle, each employer shall pay:

(1) to each employee who is subject to both the federal Act and this subtitle, at least the greater of:

(i) the minimum wage for that employee under the federal Act; or

(ii) the State minimum wage rate set under subsection (c) of this section; and

(2) each other employee who is subject to this subtitle, at least:

(i) the greater of:

1. the highest minimum wage under the federal Act; or

2. the State minimum wage rate set under subsection (c) of this section; or

(ii) a training wage under regulations that the Commissioner adopts that include the conditions and limitations authorized under the federal Fair Labor Standards Amendments of 1989.

(c) The State minimum wage rate is:

(1) for the 6–month period beginning January 1, 2015, $8.00 per hour;

(2) for the 12–month period beginning July 1, 2015, $8.25 per hour;

(3) for the 12–month period beginning July 1, 2016, $8.75 per hour;

(4) for the 12–month period beginning July 1, 2017, $9.25 per hour; and

(5) beginning July 1, 2018, $10.10 per hour.

(d) (1) (i) Except as provided in paragraph (2) of this subsection and subject to subparagraph (ii) of this paragraph, an employer may pay an employee a wage that equals a rate of 85% of the State minimum wage established under this section if the employee is under the age of 20 years.

(ii) An employer may pay to an employee the wage provided under subparagraph (i) of this paragraph only for the first 6 months that the employee is employed.

(2) (i) This paragraph applies only to an employer that is an amusement or a recreational establishment, including a swimming pool, if the employer:

1. operates for no more than 7 months in a calendar year; or

2. for any 6 months during the preceding calendar year, has average receipts that do not exceed one–third of the average receipts for the other 6 months.

(ii) An employer may pay an employee a wage that equals the greater of:

1. 85% of the State minimum wage established under this section; or

2. $7.25.

§3–414. IN EFFECT

(a) In this section, "federal certificate" means a certificate that the United States Department of Labor issues to a work activities center or other sheltered workshop to allow the workshop to pay an individual less than the wage otherwise required for that individual under the federal Act.

(b) (1) Subject to the limitations in this section, the Commissioner may authorize a work activities center or other sheltered workshop to pay an employee with a disability less than the minimum wage otherwise required under this subtitle for the employee.

(2) The Commissioner may not authorize a work activities center or other sheltered workshop to pay an employee with a disability less than the minimum wage under paragraph (1) of this subsection if the work activities center or workshop was not authorized to do so before October 1, 2016.

(3) A work activities center or other sheltered workshop may pay a new employee with a disability less than the minimum wage under paragraph (1) of this subsection only if the requirements of § 7–1014 of the Health – General Article are met.

(c) (1) To authorize a work activities center or other sheltered workshop to pay less than the minimum wage, the Commissioner shall:

(i) issue a State certificate that sets wages for employees of the workshop;

(ii) accept a federal certificate for the workshop; or

(iii) grant an exception for the workshop but only if:

1. the Commissioner has not issued a State certificate for the workshop;

2. the workshop is not eligible for a federal certificate; and

3. the Commissioner investigates and holds a hearing on the exception.

(2) The Commissioner shall accept a federal certificate if a work activities center or other sheltered workshop submits that certificate to the Commissioner within 10 days after the workshop receives the certificate.

(d) (1) Each certificate that the Commissioner issues under this section shall state the period for which the certificate is in effect.

(2) The acceptance of a federal certificate does not apply automatically to an individual whom a work activities center or other sheltered workshop continues to employ after the individual completes a training program that the workshop runs.

(e) (1) The Commissioner may revoke acceptance of a federal certificate if:

(i) the United States Department of Labor revokes the federal certificate; or

(ii) at any time before revocation by the Department of Labor and after an investigation and hearing, the Commissioner finds good cause to revoke the acceptance.

(2) The Commissioner shall send notice of a hearing under this subsection, by certified mail, to the holder of the federal certificate at least 30 days before the hearing.

3–414. ** TAKES EFFECT OCTOBER 1, 2020 PER CHAPTERS 521 AND 522 OF 2016 **

(a) In this section, "federal certificate" means a certificate that the United States Department of Labor issues to a work activities center or other sheltered workshop to allow the workshop to pay an individual less than the wage otherwise required for that individual under the federal Act.

(b) (1) Beginning October 1, 2020, the Commissioner may not authorize a work activities center or other sheltered workshop to pay an employee with a disability less than the minimum wage otherwise required under this subtitle for the employee.

(2) Beginning October 1, 2020, a work activities center or workshop may pay an employee with a disability less than the federal prevailing wage of pay to the extent authorized by federal law if the work activities center or other sheltered workshop:

(i) was authorized by the Commissioner before October 1, 2016, to pay an employee with a disability less than the minimum wage that was otherwise required under this subtitle for the employee through the acceptance of a federal certificate; and

(ii) the work activities center or workshop maintains the federal certificate.

(c) The Commissioner shall accept a federal certificate if a work activities center or other sheltered workshop submits that certificate to the Commissioner within 10 days after the workshop receives the certificate.

(d) (1) Each certificate that the Commissioner issues under this section shall state the period for which the certificate is in effect.

(2) The acceptance of a federal certificate does not apply automatically to an individual whom a work activities center or other sheltered workshop continues to employ after the individual completes a training program that the workshop runs.

(e) (1) The Commissioner may revoke acceptance of a federal certificate if:

(i) the United States Department of Labor revokes the federal certificate; or

(ii) at any time before revocation by the Department of Labor and after an investigation and hearing, the Commissioner finds good cause to revoke the acceptance.

(2) The Commissioner shall send notice of a hearing under this subsection, by certified mail, to the holder of the federal certificate at least 30 days before the hearing.

§3–415.

(a) Except as otherwise provided in this section, each employer shall pay an overtime wage of at least 1.5 times the usual hourly wage, computed in accordance with § 3–420 of this subtitle.

(b) This section does not apply to an employer that is:

(1) subject to 49 U.S.C. § 10501;

(2) a not–for–profit concert promoter, legitimate theater, music festival, music pavilion, or theatrical show; or

(3) an amusement or recreational establishment, including a swimming pool, if the establishment:

(i) operates for no more than 7 months in a calendar year; or

(ii) for any 6 months during the preceding calendar year, has average receipts that do not exceed one–third of the average receipts for the other 6 months.

(c) This section does not apply to an employer with respect to:

(1) an employee for whom the United States Secretary of Transportation may set qualifications and maximum hours of service under 49 U.S.C. § 31502;

(2) a mechanic, partsperson, or salesperson who primarily sells or services automobiles, farm equipment, trailers, or trucks, if the employer is engaged primarily in selling those vehicles to ultimate buyers and is not a manufacturer;

(3) a driver if the employer is engaged in the business of operating taxicabs; or

(4) unless a collective bargaining agreement between an employer and a labor organization provides otherwise, an employee of the employer if:

(i) the employer is subject to Title II of the federal Railway Labor Act;

(ii) the employer does not require the employee to work more than 40 hours during 1 workweek; and

(iii) the employee voluntarily enters into an agreement with another employee to trade scheduled work hours and as a result the employee works more than 40 hours during a single workweek.

§3–418.

(a) In this section, "board, lodging, or other advantage" means a facility or service that an employer customarily provides to an employee.

(b) Unless a collective bargaining agreement excludes board, lodging, or other advantage from the wage of an employee, an employer may include, as part of the wage, the cost that the employer incurs in providing the advantage to the employee.

(c) An employer shall compute the cost of board, lodging, or other advantage in accordance with the regulations that the Commissioner adopts.

(d) The Commissioner may provide, by regulation, for computation of the cost of board, lodging, or other advantage on the basis of:

(1) the actual cost; or

(2) the reasonable cost of the board, lodging, or other advantage for a defined class of employees and in a defined area, based on:

(i) the average cost to the employer or groups of employers who are situated similarly;

(ii) the average value to groups of employees; or

(iii) any other appropriate measure of fair value.

§3–419.

(a) (1) This section applies to each employee who:

(i) is engaged in an occupation in which the employee customarily and regularly receives more than $30 each month in tips;

(ii) has been informed by the employer about the provisions of this section; and

(iii) has kept all of the tips that the employee received.

(2) Notwithstanding paragraph (1)(iii) of this subsection, this section does not prohibit the pooling of tips.

(b) Subject to the limitations in this section, an employer may include, as part of the wage of an employee to whom this section applies:

(1) an amount that the employer sets to represent the tips of the employee; or

(2) if the employee or representative of the employee satisfies the Commissioner that the employee received a lesser amount in tips, the lesser amount.

(c) The tip credit amount that the employer may include under subsection (b) of this section may not exceed the minimum wage established under § 3–413 of this subtitle for the employee less $3.63.

§3–420.

(a) Except as otherwise provided in this section, an employer shall compute the wage for overtime under § 3-415 of this subtitle on the basis of each hour over 40 hours that an employee works during 1 workweek.

(b) Notwithstanding § 3–415(b)(2) of this subtitle, an employer that is not a not for profit organization and is a concert promoter, legitimate theater, music festival, music pavilion, or theatrical show shall pay overtime for a craft or trade employee as required in subsection (a) of this section.

(c) The wage for overtime may be computed on the basis of each hour over 60 hours that an employee works during 1 workweek for an employee who:

(1) is engaged in agriculture; and

(2) is exempt from the overtime provisions of the federal Act.

(d) The wage for overtime may be computed on the basis of each hour over 48 hours that an employee works during 1 workweek:

(1) for an employee of a bowling establishment; and

(2) for an employee of an institution that:

(i) is not a hospital; but

(ii) is engaged primarily in the care of individuals who:

1. are aged, intellectually disabled, or sick or have a mental disorder; and

2. reside at the institution.

§3–421.

(a) In this section, "nurse" means a licensed practical nurse or a registered nurse as defined in § 8-101 of the Health Occupations Article.

(b) Except as provided in subsections (c) and (d) of this section, an employer may not require a nurse to work more than the regularly scheduled hours according to the predetermined work schedule.

(c) A nurse may be required to work overtime if:

(1) the work is a consequence of an emergency situation which could not have been reasonably anticipated;

(2) the emergency situation is nonrecurring and is not caused by or aggravated by the employer's inattention or lack of reasonable contingency planning;

(3) the employer has exhausted all good faith, reasonable attempts to obtain voluntary workers during the succeeding shifts;

(4) the nurse has critical skills and expertise that are required for the work;

(5) the standard of care for a patient assignment requires continuity of care through completion of a case, treatment, or procedure; and

(6) (i) the employer has informed the nurse of the basis for the employer's direction; and

(ii) that basis satisfies the other requirements for mandatory overtime listed under this subsection.

(d) In addition to the provisions of subsection (c) of this section, a nurse may be required to work overtime if:

(1) a condition of employment includes on-call rotation; or

(2) the nurse works in community-based care.

(e) This section may not be construed to prohibit a nurse from voluntarily agreeing to work more than the number of scheduled hours provided in this section.

(f) (1) Except as provided in subsections (c) and (d) of this section, a nurse may not be considered responsible for the care of a patient beyond the nurse's predetermined work schedule if the nurse:

(i) has notified another appropriate nurse of the patient's status; and

(ii) has transferred responsibility for the patient's care to another appropriate nurse or properly designated individual.

(2) The employer shall exhaust all good faith, reasonable attempts to ensure that appropriate staff is available to accept responsibility for a patient's care beyond a nurse's predetermined work schedule.

§3–423.

(a) On request by an employer, the Commissioner shall provide without charge a copy of any summary or regulation to the employer.

(b) Each employer shall keep posted conspicuously in each place of employment:

(1) a summary of this subtitle that the Commissioner approves; and

(2) a copy or summary of each regulation that is adopted to carry out this subtitle.

§3–424.

Each employer shall keep, for at least 3 years, in or about the place of employment, a record of:

(1) the name, address, and occupation of each employee;

(2) the rate of pay of each employee;

(3) the amount that is paid each pay period to each employee;

(4) the hours that each employee works each day and workweek; and

(5) other information that the Commissioner requires, by regulation, as reasonable to enforce this subtitle.

§3–425.

(a) The Commissioner shall enter a place of employment to:

(1) question employees to determine whether an employer has been and is complying with this subtitle and regulations adopted to carry out this subtitle;

(2) inspect and copy each record that an employer keeps on wages and hours of employees; and

(3) require each employer:

(i) to attest to the truthfulness of each record that is copied and to sign the copy; or

(ii) at the option of the employer, to submit a complete, written statement about the wages, hours, name, and address of each employee, on forms that the Commissioner provides or approves.

(b) Each record or statement that the Commissioner or an authorized representative of the Commissioner obtains under subsection (a) of this section is confidential and may be shown only to the Commissioner, a court, or a member of the Committee.

§3–426.

(a) (1) A person aggrieved by a regulation or order to pay wages that the Commissioner adopts under this subtitle may file a complaint in circuit court for the county within 60 days after the date of publication of the regulation or order to pay wages to have it modified or set aside.

(2) A copy of the complaint shall be served on the Commissioner.

(b) Unless the court specifically orders otherwise, the commencement of proceedings under this section may not operate as a stay of the regulation or order to pay wages.

(c) (1) The court shall determine whether a regulation or order to pay wages is in accordance with law.

(2) If a finding of fact is supported by substantial evidence, the finding is conclusive.

§3–427.

(a) If an employer pays an employee less than the wage required under this subtitle, the employee may bring an action against the employer to recover:

(1) the difference between the wage paid to the employee and the wage required under this subtitle;

(2) an additional amount equal to the difference between the wage paid to the employee and the wage required under this subtitle as liquidated damages; and

(3) counsel fees and other costs.

(b) On the written request of an employee who is entitled to bring an action under this section, the Commissioner may:

(1) take an assignment of the claim in trust for the employee;

(2) ask the Attorney General to bring an action in accordance with this section on behalf of the employee; and

(3) consolidate 2 or more claims against an employer.

(c) The agreement of an employee to work for less than the wage to which the employee is entitled under this subtitle is not a defense to an action under this section.

(d) (1) If a court determines that an employee is entitled to recovery in an action under this section, the court shall award to the employee:

(i) the difference between the wage paid to the employee and the wage required under this subtitle;

(ii) except as provided in paragraph (2) of this subsection, an additional amount equal to the difference between the wage paid to the employee and the wage required under this subtitle as liquidated damages; and

(iii) reasonable counsel fees and other costs.

(2) If an employer shows to the satisfaction of the court that the employer acted in good faith and reasonably believed that the wages paid to the employee were not less than the wage required under this subtitle, the court shall:

(i) determine that liquidated damages should not be awarded; or

(ii) award, as liquidated damages, any amount less than the amount specified in paragraph (1)(ii) of this subsection.

§3–428.

(a) In this section, "complaint" includes a written or oral complaint, claim, or assertion of right by an employee, regarding the payment of wages under this subtitle, that is made to:

(1) the employer or a supervisor, manager, or foreman employed by the employer whether it is made through the employer's internal grievance process or otherwise; or

(2) the Commissioner or an authorized representative of the Commissioner.

(b) (1) An employer may not:

(i) pay or agree to pay less than the wage required under this subtitle;

(ii) hinder or delay the Commissioner or an authorized representative of the Commissioner in the enforcement of this subtitle;

(iii) take adverse action against an employee because the employee:

1. makes a complaint that the employee has not been paid in accordance with this subtitle;

2. brings an action under this subtitle or a proceeding that relates to the subject of this subtitle; or

3. has testified in an action under this subtitle or a proceeding related to the subject of this subtitle; or

(iv) violate any other provision of this subtitle.

(2) Adverse action prohibited under paragraph (1) of this subsection includes:

(i) discharge;

(ii) demotion;

(iii) threatening the employee with discharge or demotion; and

(iv) any other retaliatory action that results in a change to the terms or conditions of employment that would dissuade a reasonable employee from making a complaint, bringing an action, or testifying in an action under this subtitle.

(c) An employee may not:

(1) make a groundless or malicious complaint to the Commissioner or an authorized representative of the Commissioner;

(2) in bad faith, bring an action under this subtitle or a proceeding related to the subject of this subtitle; or

(3) in bad faith, testify in an action under this subtitle or a proceeding related to the subject of this subtitle.

(d) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

(e) An employer may not be convicted under this section unless the evidence demonstrates that the employer had knowledge of the relevant complaint, testimony, or action for which the prosecution for retaliation is sought.

§3–431.

This subtitle may be cited as the Maryland Wage and Hour Law.

§3–501.

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

(b) "Employer" includes any person who employs an individual in the State or a successor of the person.

(c) (1) "Wage" means all compensation that is due to an employee for employment.

(2) "Wage" includes:

(i) a bonus;

(ii) a commission;

(iii) a fringe benefit;

(iv) overtime wages; or

(v) any other remuneration promised for service.

§3–502.

(a) (1) Each employer:

(i) shall set regular pay periods; and

(ii) except as provided in paragraph (2) of this subsection, shall pay each employee at least once in every 2 weeks or twice in each month.

(2) An employer may pay an administrative, executive, or professional employee less frequently than required under paragraph (1)(ii) of this subsection.

(b) If the regular payday of an employee is a nonworkday, an employer shall pay the employee on the preceding workday.

(c) Each employer shall pay a wage:

(1) in United States currency; or

(2) by a check that, on demand, is convertible at face value into United States currency.

(d) (1) In this subsection, "employer" includes a governmental unit.

(2) An employer may not print or cause to be printed an employee's Social Security number on the employee's wage payment check, an attachment to an employee's wage payment check, a notice of direct deposit of an employee's wage, or a notice of credit of an employee's wage to a debit card or card account.

(e) This section does not prohibit the:

(1) direct deposit of the wage of an employee into a personal bank account of the employee in accordance with an authorization of the employee; or

(2) credit of the wage of an employee to a debit card or card account from which the employee is able to access the funds through withdrawal, purchase, or transfer if:

(i) authorized by the employee; and

(ii) any fees applicable to the debit card or card account are disclosed to the employee in writing in at least 12 point font.

(f) An agreement to work for less than the wage required under this subtitle is void.

§3–503.

An employer may not make a deduction from the wage of an employee unless the deduction is:

(1) ordered by a court of competent jurisdiction;

(2) authorized expressly in writing by the employee;

(3) allowed by the Commissioner because the employee has received full consideration for the deduction; or

(4) otherwise made in accordance with any law or any rule or regulation issued by a governmental unit.

§3–504.

(a) An employer shall give to each employee:

(1) at the time of hiring, notice of:

(i) the rate of pay of the employee;

(ii) the regular paydays that the employer sets; and

(iii) leave benefits;

(2) for each pay period, a statement of the gross earnings of the employee and deductions from those gross earnings; and

(3) at least 1 pay period in advance, notice of any change in a payday or wage.

(b) This section does not prohibit an employer from increasing a wage without

advance notice.

§3–505.

(a) Except as provided in subsection (b) of this section, each employer shall pay an employee or the authorized representative of an employee all wages due for work that the employee performed before the termination of employment, on or before the day on which the employee would have been paid the wages if the employment had not been terminated.

(b) An employer is not required to pay accrued leave to an employee if:

(1) the employer has a written policy that limits the compensation of accrued leave to employees;

(2) the employer notified the employee of the employer's leave benefits in accordance with § 3–504(a)(1) of this subtitle; and

(3) the employee is not entitled to payment for accrued leave at termination under the terms of the employer's written policy.

§3–506.

To collect wages that employers unlawfully withhold, the Commissioner may enter into a reciprocal agreement with a labor department or other similar unit that has jurisdiction in another state over wage collection.

§3–507.

(a) Whenever the Commissioner determines that this subtitle has been violated, the Commissioner:

(1) may try to resolve any issue involved in the violation informally by mediation;

(2) with the written consent of the employee, may ask the Attorney General to bring an action in accordance with this section on behalf of the employee; and

(3) may bring an action on behalf of an employee in the county where the violation allegedly occurred.

(b) (1) If, in an action under subsection (a) of this section, a court finds that an employer withheld the wage of an employee in violation of this subtitle and not as a result of a bona fide dispute, the court may award the employee an amount not exceeding 3 times the wage, and reasonable counsel fees and other costs.

(2) If wages of an employee are recovered under this section, they shall be

paid to the employee without cost to the employee.

§3–507.1.

(a) On receipt of a complaint for failure to pay wages that do not exceed $3,000, the Commissioner shall:

(1) send a copy of the complaint to the employer alleged to have failed to pay wages; and

(2) require a written response to the complaint within 15 days.

(b) (1) The Commissioner:

(i) shall review the complaint and any response to it; and

(ii) may investigate the claim.

(2) On the basis of the review and any investigation, the Commissioner may:

(i) issue an order to pay wages under subsection (c) of this section if the Commissioner determines that this subtitle has been violated; or

(ii) dismiss the claim.

(c) (1) The Commissioner may issue an order to pay wages that:

(i) describes the alleged violation;

(ii) directs payment of wages to the complainant; and

(iii) if appropriate, orders the payment of interest at the rate of 5% per year accruing from the date the wages are owed.

(2) The Commissioner shall send the order to pay wages to the complainant and to the employer at the employer's last known business address by both regular mail and certified mail, return receipt requested.

(3) Within 30 days after receipt of the order to pay wages, the employer may request a de novo administrative hearing, which shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(4) On receipt of a request for a hearing, the Commissioner shall schedule a hearing.

(5) If a hearing is not requested, the order to pay wages shall become a final order of the Commissioner.

(6) (i) If a petition for review is not filed within 30 days of the issuance of the final order, the Commissioner may proceed in District Court of the county where the employer resides or has a place of business to enforce payment.

(ii) In a proceeding under this subsection, the Commissioner is entitled to judgment in the amount of the order to pay wages and any interest due on a showing that:

1. the order to pay wages and interest, if any, was assessed against the employer;

2. no appeal is pending;

3. the ordered wages and interest, if any, are wholly or partly unpaid; and

4. the employer was duly served with a copy of the order to pay wages and interest, if any, in accordance with this section.

§3–507.2.

(a) Notwithstanding any remedy available under § 3–507 of this subtitle, if an employer fails to pay an employee in accordance with § 3–502 or § 3–505 of this subtitle, after 2 weeks have elapsed from the date on which the employer is required to have paid the wages, the employee may bring an action against the employer to recover the unpaid wages.

(b) If, in an action under subsection (a) of this section, a court finds that an employer withheld the wage of an employee in violation of this subtitle and not as a result of a bona fide dispute, the court may award the employee an amount not exceeding 3 times the wage, and reasonable counsel fees and other costs.

§3–508.

(a) An employer may not willfully violate this subtitle.

(b) An employee may not knowingly make to a governmental unit or official of a governmental unit a false statement with respect to any investigation or proceeding under this subtitle, with the intent that the governmental unit or official consider or otherwise act in connection with the statement.

(c) (1) An employer who violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

(2) An employee who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

§3–509.

This subtitle may be cited as the Maryland Wage Payment and Collection Law.

§3–601.

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

(b) "Commission" means compensation that:

(1) is due to a sales representative from a principal; and

(2) accrues at:

(i) a specified amount for each order or sale; or

(ii) a rate expressed as a percentage of the dollar amount that a sales representative:

1. takes in orders for the principal;

2. makes in sales for the principal; or

3. earns in profits for the principal.

(c) "Principal" means a sales corporation, partnership, proprietorship, or other business entity that:

(1) distributes, imports, manufactures, or produces a product for wholesale;

(2) enters into a contract with a sales representative to solicit a wholesale order for the product; and

(3) pays the sales representative wholly or partly by commission.

(d) (1) "Sales representative" means a person who:

(i) enters into a contract with a principal to solicit in the State a wholesale order; and

(ii) is paid wholly or partly by commission.

(2) "Sales representative" does not include a person who:

(i) buys a product or places an order for a product for resale by that person; or

(ii) sells or takes an order for the sale of a product to an ultimate

buyer.

§3–602.

This subtitle does not apply to an individual who is considered under the Maryland Wage Payment and Collection Law to be employed by a principal.

§3–603.

A provision of a contract that is made between a sales representative and a principal is void if the provision purports to waive any provision of this subtitle by:

(1) an express waiver; or

(2) a contract subject to the laws of another state.

§3–604.

Each principal shall 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.

§3–605.

(a) (1) Subject to the requirement of paragraph (2) of this subsection, if a principal violates § 3-604 of this subtitle, a sales representative whom the violation affects is entitled to bring an action against the principal to recover up to 3 times the amount of all commissions that the principal owes to the sales representative.

(2) At least 10 days before an action is brought under this subsection, the sales representative shall give the principal written notice of intent to bring the action.

(b) If a court determines that a sales representative is entitled to judgment in an action under this section, the court shall allow against the principal reasonable counsel fees and court costs.

§3–606.

For purposes of personal jurisdiction under § 6-103 of the Courts Article, a principal who contracts with a sales representative to solicit wholesale orders for a product in the State is considered to be transacting business in the State.

§3–607.

(a) If a principal makes a revocable offer of a commission to a sales representative who is not an employee of the principal, the sales representative is entitled to the commission agreed on if:

(1) the principal revokes the offer of commission and the sales

representative establishes that the revocation was for the purpose of avoiding payment of the commission; or

(2) (i) the revocation occurs after the sales representative has obtained a written order for the principal's product because of the efforts of the sales representative; and

(ii) the principal's product that is the subject of the order is shipped to and paid for by a customer.

(b) This section may not be construed to:

(1) impair the application of § 2-201 or § 2-209 of the Commercial Law Article;

(2) abrogate any rule of agency law; or

(3) unconstitutionally impair the obligations of contracts.

§3–608.

(a) Whenever the Commissioner determines that this subtitle has been violated, the Commissioner shall:

(1) try to resolve any issue involved in the violation informally by mediation; or

(2) ask the Attorney General to bring an action on behalf of the applicant or employee.

(b) The Attorney General may bring an action under this section in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

§3–701.

(a) This section does not prohibit a proper medical evaluation by a physician to assess the ability of an applicant to perform a job.

(b) An employer may not require 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.

(c) If an employer violates any provision of subsection (b) of this section, an applicant for employment may:

(1) submit to the Commissioner a written complaint; or

(2) bring an action for injunctive relief, damages, or other relief.

(d) Whenever the Commissioner determines that this section has been violated, the Commissioner may try to resolve any issue involved in the violation informally by mediation.

§3–702.

(a) In this section, "employer" means:

(1) a person engaged in a business, industry, profession, trade, or other enterprise in the State;

(2) the State;

(3) a county; and

(4) a municipal corporation in the State.

(b) (1) This section does not apply to the federal government or any of its units.

(2) This section does not apply to an individual who is an employee of or applies for assignment to the Intelligence and Investigative Division of the Department of Public Safety and Correctional Services.

(3) This section does not apply to an individual who applies for employment or is employed:

(i) as a law enforcement officer, as defined in § 3–101 of the Public Safety Article;

(ii) as an employee of a law enforcement agency of the State, a county, or a municipal corporation;

(iii) as a communications officer of the Calvert County Control Center;

(iv) as a correctional officer of a State correctional facility;

(v) as an employee of a State correctional facility in any capacity that involves direct contact with an inmate in a State correctional facility;

(vi) as a correctional officer of the Calvert County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Detention Center;

(vii) as a correctional officer of the Washington County Detention Center or in any other capacity that involves direct personal contact with an inmate

in the Center; or

(viii) as a correctional officer of:

1. the Baltimore County Detention Center;

2. the Cecil County Detention Center;

3. the Charles County Detention Center;

4. the Frederick County Adult Detention Center;

5. the Harford County Detention Center; or

6. the St. Mary's County Detention Center.

(4) This section does not apply to an applicant for employment as a correctional officer of a local correctional facility.

(5) This section does not apply to an applicant for employment with either the Anne Arundel County Department of Detention Facilities or the Caroline County Department of Corrections in any capacity that involves direct contact with an inmate in either the Anne Arundel County Department of Detention Facilities or the Caroline County Department of Corrections.

(6) This section does not apply to an applicant for employment with the Washington County Emergency Communications Center.

(c) An employer may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take a polygraph examination or similar test.

(d) (1) Each application for employment shall set out, in bold–faced upper case type, the following notice:

"Under Maryland law, an employer may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take a polygraph examination or similar test. An employer who violates this law is guilty of a misdemeanor and subject to a fine not exceeding $100."

(2) Each application shall provide a space for an applicant to sign an acknowledgment of the notice required under this subsection.

(e) An applicant shall sign the acknowledgment of the notice required under subsection (d) of this section.

(f) If an employer violates subsection (c) or (d) of this section, an applicant for employment or prospective employment or an employee may submit to the Commissioner a written complaint.

(g) (1) Whenever the Commissioner determines that this section has been violated, the Commissioner may:

(i) try to resolve any issue involved in the violation informally by mediation; or

(ii) ask the Attorney General to bring an action on behalf of the applicant or employee.

(2) The Attorney General may bring an action under this section in the county where the violation allegedly occurred, for injunctive relief, damages, or other relief.

(h) An employer who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100.

§3–703.

An employer may not discharge an employee for participation in an activity of a civil air patrol, civil defense, volunteer fire department, or volunteer rescue squad if:

(1) 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

(2) the employee submits written proof that the participation of the employee was required.

§3–704.

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

(2) "Managerial employee" means an employee who:

(i) is not covered by a collective bargaining agreement;

(ii) as primary duty of the employee, manages an enterprise or a unit of the enterprise that customarily is considered a department or subdivision of the enterprise;

(iii) customarily and regularly supervises at least 2 other employees in the enterprise or unit;

(iv) customarily and regularly exercises discretionary powers; and

(v) may hire or fire another employee or makes recommendations that affect the hiring, advancement, firing, or any other change in status of another employee.

(3) "Part–time employee" means an employee who is employed for a

workweek of less than 25 hours.

(4) "Professional employee" means an employee whose primary duty is to work in a field that requires advanced knowledge that customarily is acquired by a prolonged course of specialized instruction and study.

(b) (1) This subsection does not apply during an emergency that a federal, State, or local governmental authority declares.

(2) An employee in a retail establishment may choose, as a day of rest, Sunday or the sabbath of the employee unless:

(i) outside Wicomico County, the employee is a managerial employee, professional employee, or part–time employee; and

(ii) in Wicomico County, the employee is a managerial employee or professional employee.

(3) An employee who chooses a day of rest:

(i) shall give written notice to the employer; and

(ii) 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.

(c) (1) This subsection does not apply to a managerial employee or professional employee or, outside Wicomico County, a part–time employee.

(2) If an employer compels an employee to work on the day of rest that the employee chooses under subsection (b) of this section, the employee is entitled to bring an action against the employer to recover 3 times the regular rate of pay of the employee for each hour the employee works on that day.

(d) This section may not be applied to abridge any right that a collective bargaining agreement grants to a part–time employee or other employee.

(e) This section does not affect the laws that relate to:

(1) the sale of alcoholic beverages on Sunday; or

(2) service of process on Sunday.

(f) An employer may not:

(1) discharge, discipline, discriminate against, or otherwise penalize an employee who chooses a day of rest; or

(2) require an applicant for employment who seeks a workweek of at least

25 hours to answer any question to identify the day that the applicant chooses as a day of rest.

(g) (1) Whenever the Commissioner determines that this section has been violated, the Commissioner shall:

(i) try to resolve any issue involved in the violation informally by mediation; or

(ii) ask the Attorney General to bring an action on behalf of the applicant or employee.

(2) The Attorney General may bring an action under this subsection in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

(h) (1) This subsection does not apply to an agent or supervisory employee of an employer who violates any provision of this section if the employer authorizes, directs, or otherwise causes the agent or supervisory employee to violate the provision.

(2) Outside Wicomico County, an employer who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine of not less than $250 or more than $500.

(3) In Wicomico County, a person who violates any provision of this section is guilty of a misdemeanor and on conviction, for each employee who is caused, directed, permitted, or authorized to work:

(i) for a first conviction, is subject to a fine not exceeding $500; and

(ii) for a second conviction, is subject to a fine not exceeding $1,000.

(i) In Wicomico County, the State's Attorney may file a complaint to enjoin a violation of this section.

§3–705.

A pension plan may not reduce a payment to an individual entitled to receive the payment because Social Security payments to that individual increase.

§3–707.

(a) This section applies to a proceeding before an administrative or executive board or any similar body provided by an employer, employee organization, or union to hear employee grievances.

(b) (1) At any proceeding, a deaf employee may request an interpreter.

(2) The request must be in writing and submitted at least 5 days before

the proceeding begins.

(c) 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.

(d) (1) If an interpreter is requested under this section, the employer, employee organization, or union shall request the Department of Disabilities to assist in locating a qualified interpreter to assist at the hearing.

(2) The Department of Disabilities shall promptly assist in locating an interpreter.

(e) The interpreter shall facilitate communication between the affected parties, subject to the code of ethics of the National Registry of Interpreters for the Deaf.

(f) The cost of the interpreter's services shall be divided equally between the employer and the union or employee organization.

§3–708.

(a) An application for renewal of a license, certificate, permit, or other authorization that an individual is required by law to hold to engage in a profession or trade is considered timely if the application is submitted within 1 year after the end of the individual's active service in the armed forces of the United States.

(b) An individual applying to work in a trade or profession is entitled to credit toward a period of service as an apprentice in, or in preparation for, the profession or trade if:

(1) the period is required by law for the profession or trade;

(2) the applicant performed work or received training pertaining to the profession or trade while in the armed forces of the United States; and

(3) the applicant submits evidence of time and nature of the work or training satisfactory to the entity that has approval authority under the law.

(c) This section shall be construed liberally.

§3–709.

An employee has the duties and rights set forth:

(1) with respect to jury service in a circuit court of this State, in Title 8 of the Courts Article; and

(2) with respect to jury service in a federal court, in 28 U.S.C. § 1861 et seq.

§3–710.

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

(2) "Employer" means a person:

(i) engaged in a retail establishment business in the State that has 50 or more retail employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; or

(ii) that owns one or more retail establishment franchises with the same trade name with 50 or more retail employees in the State for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

(3) "Franchise" has the meaning stated in § 14–201 of the Business Regulation Article.

(4) (i) "Retail establishment" means 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.

(ii) "Retail establishment" does not include:

1. a wholesaler, as defined in § 11–401(i) of the Commercial Law Article; or

2. a restaurant.

(b) This section does not apply to an employee:

(1) covered by a collective bargaining agreement or employment policy that includes shift breaks equal to or greater than those provided under this section;

(2) exempt from overtime pay requirements under the Fair Labor Standards Act;

(3) who works for a unit of the State, a county, or a municipality;

(4) who works in a corporate office or other office location; or

(5) who works for at least 4 consecutive hours for an employer at a single location with 5 or fewer employees.

(c) (1) (i) Except as provided in paragraph (4) of this subsection or subparagraph (ii) of this paragraph, an employer may not employ an employee at a retail establishment for 4 to 6 consecutive hours without providing a nonworking shift break of at least 15 minutes.

(ii) An employee is not entitled to a 15 minute shift break under this

paragraph if the employee is entitled to a 30 minute shift break under paragraph (2) of this subsection.

(2) An employer may not employ an employee at a retail establishment for more than 6 consecutive hours without providing a nonworking shift break of at least 30 minutes.

(3) If an employee works 8 consecutive hours in a single shift, the employer shall provide an additional nonworking shift break of at least 15 minutes for every additional 4 consecutive hours the employer employs the employee in the shift.

(4) If an employee's work hours do not exceed 6 consecutive hours, the provisions of paragraph (1) of this subsection may be waived by written agreement between the employer and employee.

(5) A shift break required under this subsection may be considered a working shift break if:

(i) 1. the type of work prevents an employee from being relieved of work during the nonworking shift break; or

2. the employee is allowed to consume a meal while working and the working shift break is counted towards the employee's work hours; and

(ii) the employer and employee mutually agree in writing to the working shift break.

(d) (1) If an employer violates subsection (c) of this section, an employee of the employer may file a complaint with the Commissioner.

(2) If the Commissioner receives a complaint under paragraph (1) of this subsection, the Commissioner shall:

(i) try to resolve the issue informally; or

(ii) determine whether the employer has violated this section.

(3) If the Commissioner determines that the employer has violated this section, the Commissioner shall:

(i) issue an order compelling compliance with this section; and

(ii) in the Commissioner's discretion, assess a civil penalty of:

1. up to $300 for each employee for whom the employer is not in compliance with this section; or

2. up to $600 for each employee for whom the employer is not in compliance with this section if the violation occurred within 3 years after an employee

filed a previous complaint that led to a determination that a violation had occurred.

(4) The provisions of paragraphs (2)(ii) and (3) of this subsection are subject to the notice and hearing requirements of Title 10, Subtitle 2 of the State Government Article.

(5) (i) In determining whether there is a violation of this section, the Commissioner shall consider if there was a threat to public health or safety at the time the violation is alleged to have occurred.

(ii) In determining the amount of any civil penalty to be imposed, the Commissioner shall consider the:

1. seriousness of the violation;

2. size of the employer's business;

3. employer's good faith in complying with this section; and

4. employer's history of violations under this section.

(6) If the employer fails to comply with an order issued for a violation under paragraph (3) of this subsection, the Commissioner may bring an action to enforce the order and civil penalty in the circuit court in the county where the employer is located.

(7) If the employer fails to comply with an order issued for a subsequent violation against the same employee under paragraph (3) of this subsection within 3 years after the employee filed a complaint that is determined to be a violation under this subsection, the employee may bring an action to enforce the order in the circuit court in the county where the employer is located.

(8) If an employee prevails in an action brought under paragraph (7) of this subsection, the employee may be entitled to:

(i) three times the value of the employee's hourly wage for each shift break violation of this section occurring after the most recent violation against the same employee; and

(ii) reasonable attorney's fees and other costs of the employee.

§3–711.

(a) This section does not apply to an employer that is:

(1) required to inquire into an applicant's or employee's credit report or credit history under federal law or any provision of State law for the purpose of employment;

(2) a financial institution that accepts deposits that are insured by a federal agency, or an affiliate or subsidiary of the financial institution;

(3) a credit union share guaranty corporation that is approved by the Maryland Commissioner of Financial Regulation; or

(4) an entity, or an affiliate of the entity, that is registered as an investment advisor with the United States Securities and Exchange Commission.

(b) Except as provided in subsection (c) of this section, an employer may not use an applicant's or employee's credit report or credit history in determining whether to:

(1) deny employment to the applicant;

(2) discharge the employee; or

(3) determine compensation or the terms, conditions, or privileges of employment.

(c) (1) An employer may request or use an applicant's or employee's credit report or credit history if:

(i) 1. the applicant has received an offer of employment; and

2. the credit report or credit history will be used for a purpose other than a purpose prohibited by subsection (b) of this section; or

(ii) the employer has a bona fide purpose for requesting or using information in the credit report or credit history that is:

1. substantially job–related; and

2. disclosed in writing to the employee or applicant.

(2) For the purposes of this subsection, a position for which an employer has a bona fide purpose that is substantially job–related for requesting or using information in a credit report or credit history includes a position that:

(i) is managerial and involves setting the direction or control of a business, or a department, division, unit, or agency of a business;

(ii) involves access to personal information, as defined in § 14–3501 of the Commercial Law Article, of a customer, employee, or employer, except for personal information customarily provided in a retail transaction;

(iii) involves a fiduciary responsibility to the employer, including the authority to issue payments, collect debts, transfer money, or enter into contracts;

(iv) is provided an expense account or a corporate debit or credit card;

or

(v) has access to:

1. information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

A. derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the disclosure or use of the information; and

B. is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or

2. other confidential business information.

(d) (1) If an employer violates subsection (b) of this section, the applicant or employee may file a written complaint with the Commissioner.

(2) If the Commissioner receives a written complaint under paragraph (1) of this subsection, the Commissioner shall investigate the matter promptly.

(3) If the Commissioner determines that the employer has willfully or negligently violated subsection (b) or (c) of this section, the Commissioner shall try to resolve the matter informally.

(4) If the Commissioner is unable to resolve the matter informally, the Commissioner may:

(i) assess a civil penalty of:

1. up to $500 for an initial violation of subsection (b) or (c) of this section; or

2. up to $2,500 for a repeat violation of subsection (b) or (c) of this section; and

(ii) send an order to pay the civil penalty to the complainant and the employer.

(5) (i) Within 30 days after an employer receives an order to pay a civil penalty under paragraph (4) of this section, the employer may request a de novo administrative hearing, subject to the requirements of Title 10, Subtitle 2 of the State Government Article.

(ii) On receipt of a request for a hearing under subparagraph (i) of this paragraph, the Commissioner shall schedule a hearing.

(iii) If a hearing is not requested under subparagraph (i) of this paragraph, the order to pay a civil penalty becomes a final order of the Commissioner.

(6) If an employer fails to comply with a final order to pay a civil penalty, the Commissioner or the complainant may bring an action to enforce the order to pay a civil penalty in the circuit court in the county where the employer or the complainant is located.

(e) This section may not be construed to prohibit an employer from performing an employment–related background investigation that:

(1) includes use of a consumer report or investigative consumer report;

(2) is authorized under the federal Fair Credit Reporting Act; and

(3) does not involve investigation of credit information.

§3–712.

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

(2) "Applicant" means an applicant for employment.

(3) (i) "Electronic communications device" means any device that uses electronic signals to create, transmit, and receive information.

(ii) "Electronic communications device" includes computers, telephones, personal digital assistants, and other similar devices.

(4) (i) "Employer" means:

1. a person engaged in a business, an industry, a profession, a trade, or other enterprise in the State; or

2. a unit of State or local government.

(ii) "Employer" includes an agent, a representative, and a designee of the employer.

(b) (1) Subject to paragraph (2) of this subsection, an employer may not request or require that an employee or applicant disclose any user name, password, or other means for accessing a personal account or service through an electronic communications device.

(2) An employer may require an employee to disclose any user name, password, or other means for accessing nonpersonal accounts or services that provide access to the employer's internal computer or information systems.

(c) An employer may not:

(1) discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or otherwise penalize an employee for an employee's refusal to disclose any information specified in subsection (b)(1) of this section; or

(2) fail or refuse to hire any applicant as a result of the applicant's refusal to disclose any information specified in subsection (b)(1) of this section.

(d) An employee may not download unauthorized employer proprietary information or financial data to an employee's personal Web site, an Internet Web site, a Web–based account, or a similar account.

(e) This section does not prevent an employer:

(1) based on the receipt of information about the use of a personal Web site, Internet Web site, Web–based account, or similar account by an employee for business purposes, from conducting an investigation for the purpose of ensuring compliance with applicable securities or financial law, or regulatory requirements; or

(2) based on the receipt of information about the unauthorized downloading of an employer's proprietary information or financial data to a personal Web site, Internet Web site, Web–based account, or similar account by an employee, from investigating an employee's actions under subsection (d) of this section.

(f) (1) Whenever the Commissioner determines that this section has been violated, the Commissioner shall:

(i) try to resolve any issue involved in the violation informally by mediation; or

(ii) ask the Attorney General to bring an action on behalf of the applicant or employee.

(2) The Attorney General may bring an action under this subsection in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

§3–713.

(a) In this section, "tipped employee" means an employee who is engaged in an occupation in which the employee customarily and regularly receives more than $30 each month in tips or gratuities.

(b) (1) An employer may not require a tipped employee to reimburse the employer or pay to the employer an amount equivalent to a customer's charge for food or beverages if the customer leaves the employer's place of business without paying the charge for food or beverages.

(2) Subject to § 3–503 of this title, an employer may not make a deduction

from the wage of a tipped employee to reimburse the employer for an amount equivalent to a customer's charge for food or beverages if the customer leaves the employer's place of business without paying the charge for food or beverages.

(c) Each employer shall keep posted conspicuously in a place where a tipped employee is employed a printed notice of the provisions of this section, in a form that the Commissioner requires.

§3–714.

(a) In this section, "eligible veteran" means a veteran of any branch of the armed forces of the United States who has received an honorable discharge or a certificate of satisfactory completion of military service, including the National Guard and the military reserves.

(b) An employer may grant a preference in hiring and promotion to:

(1) an eligible veteran;

(2) the spouse of an eligible veteran who has a service–connected disability; or

(3) the surviving spouse of a deceased eligible veteran.

(c) Granting a preference under subsection (b) of this section does not violate any State or local equal employment opportunity law.

§3–801.

(a) (1) In this section, "employer" means a person engaged in a business, industry, profession, trade, or other enterprise in the State.

(2) "Employer" includes:

(i) a unit of State or local government that employs individuals who are not subject to the provisions of Title 9, Subtitle 5 of the State Personnel and Pensions Article; and

(ii) a person who acts directly or indirectly in the interest of another employer with an employee.

(b) This section applies to an employer who provides leave with pay to an employee following the birth of the employee's child.

(c) 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.

(d) (1) Whenever the Commissioner determines that this section has been

violated, the Commissioner shall:

(i) try to resolve any issue involved in the violation informally by mediation; or

(ii) ask the Attorney General to bring an action on behalf of the applicant or employee.

(2) The Attorney General may bring an action under this subsection in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

§3–802.

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

(2) "Child" means an adopted, biological, or foster child, a stepchild, or a legal ward who is:

(i) under the age of 18 years; or

(ii) at least 18 years old and incapable of self–care due to a mental or physical disability.

(3) (i) "Employer" means a person that is engaged in a business, industry, profession, trade, or other enterprise in the State.

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

(4) "Immediate family" means a child, spouse, or parent.

(5) (i) "Leave with pay" means paid time away from work that is earned and available to an employee:

1. based on hours worked; or

2. as an annual grant of a fixed number of hours or days of leave for performance of service.

(ii) "Leave with pay" includes sick leave, vacation time, paid time off, and compensatory time.

(iii) "Leave with pay" does not include:

1. a benefit provided under an employee welfare benefit plan subject to the federal Employee Retirement Income Security Act of 1974;

2. an insurance benefit, including benefits from an employer's

self–insured plan;

3. workers' compensation;

4. unemployment compensation;

5. a disability benefit; or

6. a similar benefit.

(6) "Parent" means an adoptive, biological, or foster parent, a stepparent, a legal guardian, or a person standing in loco parentis.

(b) (1) This section applies to an employee who is primarily employed in the State.

(2) This section applies to an employer that:

(i) provides leave with pay under the terms of a collective bargaining agreement or an employment policy; and

(ii) employs 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

(c) The purpose of this section is to allow an employee of an employer to use leave with pay to care for an immediate family member who is ill under the same conditions and policy rules that would apply if the employee took leave for the employee's own illness.

(d) (1) An employee of an employer may use leave with pay for the illness of the employee's immediate family.

(2) An agreement between an employer and employee to waive the provisions of this section is void.

(e) (1) An employee of an employer:

(i) may only use leave with pay under this section that has been earned; and

(ii) who earns more than one type of leave with pay may elect the type and amount of leave with pay to be used under this section.

(2) Except as provided in paragraph (3) of this subsection, an employee of an employer who uses leave under this section shall comply with the terms of a collective bargaining agreement or employment policy.

(3) If the terms of a collective bargaining agreement with an employer or an employment policy of an employer provide a leave with pay benefit that is equal

to or greater than the benefit provided under this section, the collective bargaining agreement or employment policy prevails.

(f) An employer may not discharge, demote, suspend, discipline, or otherwise discriminate against an employee or threaten to take any of these actions against an employee because the employee:

(1) has requested leave authorized under this section;

(2) has taken leave authorized under this section;

(3) has opposed a practice made unlawful by this section; or

(4) has made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under this section.

(g) This section does not:

(1) extend the maximum period of leave an employee has under the federal Family and Medical Leave Act of 1993; or

(2) limit the period of leave to which an employee is entitled under the federal Family and Medical Leave Act of 1993.

(h) (1) Whenever the Commissioner determines that this section has been violated, the Commissioner shall:

(i) try to resolve any issue involved in the violation informally by mediation; or

(ii) ask the Attorney General to bring an action on behalf of the applicant or employee.

(2) The Attorney General may bring an action under this subsection in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

§3–803.

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

(2) "Employee" means an individual who:

(i) is employed by an employer to work full–time or part–time;

(ii) has worked for the employer for the last 12 months; and

(iii) has worked for at least 1,250 hours during the last 12 months.

(3) "Employer" means:

(i) a person that:

1. employs 50 or more individuals; and

2. is engaged in a business, industry, profession, trade, or other enterprise in the State;

(ii) the State and its units;

(iii) a county and its units; or

(iv) a municipal government in the State.

(4) "Immediate family member" means a spouse, parent, stepparent, child, stepchild, or sibling.

(b) An employee may take leave from work on the day that an immediate family member of the employee is leaving for, or returning from, active duty outside the United States as a member of the armed forces of the United States.

(c) An employer may not require an employee to use compensatory, sick, or vacation leave when taking leave under this section.

(d) An employer may require an employee requesting leave under this section to submit proof to the employer verifying that the leave is being taken in accordance with subsection (b) of this section.

§3–901.

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

(b) "Construction services" includes the following services provided in connection with real property:

(1) building;

(2) reconstructing;

(3) improving;

(4) enlarging;

(5) painting;

(6) altering;

(7) maintaining; and

(8) repairing.

(c) "Employer" means any person that employs an individual in the State.

(d) "Exempt person" means an individual who:

(1) performs services in a personal capacity and employs no individuals other than:

(i) a spouse of the exempt person;

(ii) children of the exempt person; or

(iii) parents of the exempt person;

(2) performs services free from direction and control over the means and manner of providing the services, subject only to the right of the person or entity for whom services are provided to specify the desired result;

(3) furnishes the tools and equipment necessary to provide the service;

(4) operates a business that is considered inseparable from the individual for purposes of taxes, profits, and liabilities:

(i) in which the individual:

1. owns all of the assets and profits of the business; and

2. has sole, unlimited, personal liability for all of the debts and liabilities of the business, unless the business is organized as a single–owned corporate entity, to which sole, unlimited personal liability does not apply; and

(ii) for which:

1. the individual does not pay taxes for the business separately but reports business income and losses on the individual's personal tax return; and

2. if the business is organized as a corporate entity and the individual otherwise qualifies as an exempt person under this subsection, the individual files a separate federal informational tax return for the entity as required by law;

(5) exercises complete control over the management and operations of the business; and

(6) exercises the right and opportunity on a continuing basis to perform the services of the business for multiple entities at the individual's sole choice and discretion.

(e) "Knowingly" means having actual knowledge, deliberate ignorance, or reckless disregard for the truth.

(f) "Landscaping services" includes the following services:

(1) garden maintenance and planting;

(2) lawn care including fertilizing, mowing, mulching, seeding, and spraying;

(3) seeding and mowing of highway strips;

(4) sod laying;

(5) turf installation, except artificial;

(6) ornamental bush planting, pruning, bracing, spraying, and removal; and

(7) ornamental tree planting, pruning, bracing, spraying, and removal.

(g) (1) "Place of business" means the office or headquarters of the employer.

(2) "Place of business" does not include a work site at which the employer has been contracted to perform services.

(h) "Public body" means:

(1) the State;

(2) a unit of State government or an instrumentality of the State; or

(3) any political subdivision, agency, person, or entity that is a party to a contract for which 50% or more of the money used is State money.

§3–902.

This subtitle applies only to the following industries:

(1) construction services; and

(2) landscaping services.

§3–903.

(a) An employer may not fail to properly classify an individual who performs work for remuneration paid by the employer.

(b) An employer has failed to properly classify an individual when an

employer–employee relationship exists as determined under subsection (c) of this section but the employer has not classified the individual as an employee.

(c) (1) Except as provided in § 3–903.1 of this subtitle, for purposes of enforcement of this subtitle only, work performed by an individual for remuneration paid by an employer shall be presumed to create an employer–employee relationship, unless:

(i) the individual is an exempt person; or

(ii) an employer demonstrates that:

1. the individual who performs the work is free from control and direction over its performance both in fact and under the contract;

2. the individual customarily is engaged in an independent business or occupation of the same nature as that involved in the work; and

3. the work is:

A. outside of the usual course of business of the person for whom the work is performed; or

B. performed outside of any place of business of the person for whom the work is performed.

(2) Work is outside of the usual course of business of the person for whom it is performed under paragraph (1) of this subsection if:

(i) the individual performs the work off the employer's premises;

(ii) the individual performs work that is not integrated into the employer's operation; or

(iii) the work performed is unrelated to the employer's business.

(3) By contract, an employer may engage another business entity, which may have its own employees, to do the same type of work in which the employer engages, at the same location where the employer is working, without establishing an employer–employee relationship between the two contracting entities.

(d) The Commissioner shall adopt regulations to explain further and provide specific examples of the application of subsection (c) of this section.

§3–903.1.

The presumption that an employer–employee relationship exists under § 3–903(c)(1) of this subtitle does not apply if:

(1) an employer produces for inspection by the Commissioner:

(i) a written contract, signed by the employer and business entity, that:

1. describes the nature of the work to be performed by the business entity;

2. describes the remuneration to be paid for the work performed by the business entity; and

3. includes an acknowledgment by the business entity of the business entity's obligations under this article to:

A. withhold, report, and remit payroll taxes on behalf of all employees working for the business entity;

B. pay unemployment insurance taxes for all employees working for the business entity; and

C. maintain workers' compensation insurance;

(ii) an affidavit signed by the business entity indicating that the business entity is an independent contractor who is available to work for other business entities;

(iii) a current certificate of status of the business entity, issued by the State Department of Assessments and Taxation, indicating that the business entity is in good standing; and

(iv) proof that the business entity holds all occupational licenses required by State and local authorities for the work performed; and

(2) the employer provided to each individual classified as an independent contractor or exempt person a written notice under § 3–914 of this subtitle.

§3–904.

(a) An employer may not knowingly fail to properly classify an individual who performs work for remuneration paid by the employer.

(b) An employer has knowingly failed to properly classify an individual when:

(1) an employer–employee relationship exists as determined under § 3–903(c) of this subtitle; and

(2) the employer has knowingly failed to properly classify the individual as an employee.

(c) The Commissioner shall consider, as strong evidence that the employer did not knowingly fail to properly classify an individual, whether:

(1) before a complaint was filed against the employer or the Commissioner began an investigation of the employer, the employer:

(i) sought and obtained evidence that the individual:

1. is an exempt person; or

2. as an independent contractor:

A. withholds, reports, and remits payroll taxes on behalf of all individuals working for the independent contractor;

B. pays unemployment insurance taxes for all individuals working for the independent contractor; and

C. maintains workers' compensation insurance; and

(ii) provided to the exempt person or independent contractor a written notice as required by § 3–914 of this subtitle; or

(2) the employer:

(i) 1. classifies all workers who perform the same or substantially the same tasks for the employer as independent contractors; and

2. reports the income of the workers to the Internal Revenue Service as required by federal law; and

(ii) has received a determination from the Internal Revenue Service that the individual or a worker who performs the same or substantially the same task as the individual is an independent contractor.

(d) The Commissioner shall adopt regulations to provide guidance as to what constitutes the evidence relevant to the determination of whether an employer knowingly failed to properly classify an employee.

§3–905.

(a) The Commissioner shall investigate as necessary to determine compliance with this subtitle and regulations adopted under this subtitle.

(b) (1) Any written or oral complaint or statement made by a person as part of an investigation under this section is confidential and may not be disclosed without the consent of the person until the investigation is concluded and a citation is issued.

(2) Any written or oral statement made by an individual alleged to be

employed by the respondent as part of an investigation under this section is confidential and may not be disclosed without the consent of the individual.

(c) The Commissioner may enter a place of business or work site to:

(1) observe work being performed;

(2) interview individuals on the work site, including those identified as employees and independent contractors; and

(3) review and copy records.

(d) (1) The Commissioner may require each employer to:

(i) subject to paragraph (2) of this subsection, identify and produce for copying or inspection all records relevant to the classification of each individual;

(ii) attest to the truthfulness of each record that is copied in accordance with subsection (c)(3) of this section or each copy of a record that is provided to the Commissioner under item (i) of this paragraph and to sign the copy; or

(iii) at the option of the employer, submit a written statement about the classification of each employee on the form provided by the Commissioner, with any relevant records attached.

(2) An employer may comply with a requirement to produce records under paragraph (1)(i) of this subsection by producing copies of the records.

(e) An employer that fails to produce records for copying or inspection or a written statement under subsection (d) of this section within 30 business days after the Commissioner's request, or an extension of time mutually agreed on by both parties, shall be subject to a fine not exceeding $500 per day for each day the records are not produced.

(f) (1) The Commissioner may issue a subpoena for testimony and the production of records.

(2) If a person fails to comply with a subpoena issued under this subsection, the Commissioner may file a complaint in the circuit court for the county where the person resides, is employed, or has a place of business, requesting an order directing compliance with the subpoena.

§3–906.

(a) After the employer has provided all the records requested under § 3–905(d) of this subtitle, the Commissioner shall issue a citation to the employer or close the investigation within 90 days.

(b) Each citation shall:

(1) describe in detail the nature of the alleged violation;

(2) cite the provision of this subtitle or any regulation that the employer is alleged to have violated; and

(3) state the civil penalty, if any, that the Commissioner proposes to assess.

(c) Within a reasonable time after issuance of a citation, the Commissioner shall send by certified mail to the employer:

(1) a copy of the citation; and

(2) notice of the opportunity to request a hearing.

(d) Within 15 days after an employer receives a notice under subsection (c) of this section, the employer may submit a written request for a hearing on the citation and proposed penalty.

(e) If a hearing is not requested within 15 days, the citation, including any penalties, shall become a final order of the Commissioner.

(f) (1) If the employer requests a hearing, the Commissioner shall delegate to the Office of Administrative Hearings the authority to hold a hearing and issue findings of fact, conclusions of law, and an order, and assess a penalty under § 3–909 of this subtitle in accordance with Title 10, Subtitle 2 of the State Government Article.

(2) The employer is entitled to a hearing within 90 days after a timely request is made under this subsection, unless the employer waives that right.

(g) Within 15 days after a request, in accordance with Title 4 of the General Provisions Article and the applicable regulations of the Department and the Office of Administrative Hearings, the Commissioner shall provide copies of all relevant evidence, including a list of potential witnesses, on which the Commissioner intends to rely at any administrative hearing under this subtitle.

(h) The Commissioner has the burden of proof to show that an employer has knowingly failed to properly classify an individual as an employee.

(i) A decision of an administrative law judge issued in accordance with Title 10, Subtitle 2 of the State Government Article shall become a final order of the Commissioner.

(j) Any party aggrieved by a final order of the Commissioner under subsection (i) of this section may seek judicial review and appeal under §§ 10–222 and 10–223 of the State Government Article.

§3–907.

(a) If, after investigation, the Commissioner determines that an employer failed to properly classify an individual as an employee in violation of § 3–903 of this subtitle, or knowingly failed to properly classify as an employee an employee in violation of § 3–904 of this subtitle, and issues a citation, the Commissioner shall notify the Comptroller, the Office of Unemployment Insurance, the Insurance Administration, and the Workers' Compensation Commission to enable these agencies to assure an employer's compliance with their laws, utilizing their own definitions, standards, and procedures.

(b) (1) An employer found in violation of § 3–903 of this subtitle by a final order of a court or an administrative unit shall be required, within 45 days after the final order:

(i) to pay restitution to any individual not properly classified; and

(ii) to otherwise come into compliance with all applicable labor laws, including those related to income tax withholding, unemployment insurance, wage laws, and workers' compensation.

(2) The requirement for compliance with applicable labor laws under paragraph (1)(ii) of this subsection may include requiring the employer to enter into an agreement, within 45 days after the final order, with a governmental unit for payment of any amounts owed by the employer to the unit.

(3) The requirement for compliance with applicable labor laws under paragraph (1)(ii) of this subsection:

(i) may not require payments for more than a 12–month period; and

(ii) may not require payments due for a period before the 12–month period before the citation was issued.

(c) An employer found in violation of § 3–904 of this subtitle by a final order of a court or an administrative unit shall be required, within 45 days after the final order:

(1) to pay restitution to any individual not properly classified; and

(2) to otherwise come into compliance with all applicable labor laws, including those related to income tax withholding, unemployment insurance, wage laws, and workers' compensation.

§3–908.

(a) An employer in violation of § 3–903 of this subtitle who comes into timely compliance with all applicable labor laws as required by § 3–907(b) of this subtitle may not be assessed a civil penalty.

(b) (1) An employer in violation of § 3–903 of this subtitle who fails to come into timely compliance with all applicable labor laws as required by § 3–907(b) of this subtitle shall be assessed a civil penalty of up to $1,000 for each employee for whom the employer is not in compliance.

(2) In determining the amount of the penalty, the Commissioner shall consider the factors set forth in § 3–909(b) of this subtitle.

(c) (1) An employer may be assessed civil penalties under this section by only one final order of a court or administrative unit for the same actions constituting noncompliance with applicable labor laws as required by § 3–907(b) and (c) of this subtitle.

(2) Notwithstanding paragraph (1) of this subsection, an employer may be ordered to make restitution, pay any interest due, and otherwise comply with all applicable laws and regulations by multiple final orders of a court and all relevant administrative units, including the Comptroller, the Office of Unemployment Insurance, the Insurance Administration, and the Workers' Compensation Commission.

(d) Any penalty issued under this section against an employer shall be in effect against any successor corporation or business entity that:

(1) has one or more of the same principals or officers as the employer against whom the penalty was assessed; and

(2) is engaged in the same or equivalent trade or activity.

§3–909.

(a) An employer found to have knowingly failed to properly classify an individual in violation of § 3–904 of this subtitle shall be assessed a civil penalty of up to $5,000 for each employee who was not properly classified.

(b) In determining the amount of the penalty, the Commissioner or the administrative law judge shall consider:

(1) the gravity of the violation;

(2) the size of the employer's business;

(3) the employer's good faith;

(4) the employer's history of violations under this subtitle; and

(5) whether the employer:

(i) has been found, by a court or an administrative unit, to have

deprived the employee of any rights to which the employee would have been entitled under a State protective labor law, including but not limited to:

1. any provision of this article;

2. the State prevailing wage law, under §§17–221 and 17–222 of the State Finance and Procurement Article; or

3. the living wage law, under § 18–108 of the State Finance and Procurement Article; and

(ii) has made restitution and come into compliance with all such State protective labor laws with respect to the employee.

(c) If the court or an administrative unit determines that an individual or class of individuals is entitled to restitution as a result of the employer's violation of § 3–904 of this subtitle, the court or administrative unit:

(1) shall award each individual any restitution to which the individual may be entitled; and

(2) may award each individual an additional amount up to three times the amount of such restitution.

(d) An employer in violation of § 3–904 of this subtitle may be assessed double the administrative penalties set forth in subsection (a) of this section if the employer has been found previously to have violated this subtitle by a final order of a court or an administrative unit.

(e) An employer who has been found by a final order of a court or an administrative unit to have violated § 3–904 of this subtitle three or more times may be assessed an administrative penalty of up to $20,000 for each employee.

(f) (1) An employer may be assessed civil penalties under this section or § 8–201.1 or § 9–402.1 of this article by only one final order of a court or administrative unit for the same actions constituting a violation of this subtitle.

(2) Notwithstanding paragraph (1) of this subsection, an employer may be ordered to make restitution, pay any interest due, and otherwise comply with all applicable laws and regulations by orders of a court and all relevant administrative units, including the Comptroller, the Office of Unemployment Insurance, the Insurance Administration, and the Workers' Compensation Commission.

(g) Any penalty issued under this section against an employer shall be in effect against any successor corporation or business entity that:

(1) has one or more of the same principals or officers as the employer against whom the penalty was assessed, unless the principal or officer did not or

with the exercise of reasonable diligence could not know of the violation for which the penalty was imposed; and

(2) is engaged in the same or equivalent trade or activity.

§3–910.

As authorized by State and federal law, units within the Department of Labor, Licensing, and Regulation and the Department of Budget and Management, the Secretary of State, the Comptroller, the Maryland Insurance Administration, and other State agencies shall cooperate and share information concerning any suspected failure to properly classify an individual as an employee.

§3–911.

(a) (1) Except as provided in paragraph (2) of this subsection, an individual who has not been properly classified as an employee may bring a civil action for economic damages against the employer for any violation of this subtitle.

(2) An individual may not bring a civil action under this section if a final order of an administrative unit or of a court has been issued under § 3–906 of this subtitle.

(b) An action filed under this section shall be filed within 3 years after the date the cause of action accrues.

(c) If the court determines that an individual or class of individuals is entitled to judgment in an action against an employer filed in accordance with this section, the court may award each individual:

(1) any damages to which the individual may be entitled under subsection (a) of this section;

(2) an additional amount up to three times the amount of any such damages, if the employer knowingly failed to properly classify the individual;

(3) reasonable counsel fees and other costs of the action; and

(4) any other appropriate relief.

§3–912.

(a) An employer may not discriminate in any manner or take adverse action against an individual because the individual:

(1) files a complaint with the employer or the Commissioner alleging that the employer violated any provision of this subtitle or any regulation adopted under this subtitle;

(2) brings an action under this subtitle or a proceeding involving a violation of this subtitle; or

(3) testifies in an action authorized under this subtitle or a proceeding involving a violation of this subtitle.

(b) (1) An individual who believes that an employer has discriminated in any manner or taken adverse action against the individual in violation of subsection (a) of this section may submit to the Commissioner a written complaint that alleges the discrimination and that includes the signature of the individual.

(2) An individual shall file a complaint under this subsection within 180 days after the alleged discrimination occurs.

(c) (1) On receipt of a complaint under subsection (c) of this section, the Commissioner may investigate.

(2) The Commissioner shall provide the employer with an opportunity to respond to the allegations in the complaint.

(3) If, after investigation and consideration of any response from the employer, the Commissioner determines that an employer or other person has violated subsection (a) of this section, the Commissioner shall file a complaint to enjoin the violation, to reinstate the employee to the former position with back pay, and to award any other appropriate damages or other relief in the circuit court for:

(i) the county in which the alleged violation occurred;

(ii) the county in which the employer has its principal office; or

(iii) Baltimore City.

(4) Within 120 days after the Commissioner receives a complaint, the Commissioner shall notify the employee of the determination under this subsection.

§3–913.

(a) Where, after investigation, the Commissioner issues a citation for a knowing violation of this subtitle or regulations adopted under this subtitle by an employer engaged in work on a contract with a public body, the Commissioner shall promptly notify the public body.

(b) (1) On notification, the public body shall withhold from payment due the employer an amount that is sufficient to:

(i) pay restitution to each employee for the full amount of wages due; and

(ii) pay any benefits, taxes, or other contributions that are required by law to be paid on behalf of the employee.

(2) The public body shall release:

(i) on issuance of a favorable final order of a court or an administrative unit, the full amount of the withheld funds; and

(ii) on an adverse final order of a court or an administrative unit, the balance of the withheld funds after all obligations are satisfied under paragraph (1) of this subsection.

§3–914.

(a) An employer shall keep, for at least 3 years, in or about its place of business, records of the employer containing the following information:

(1) the name, address, occupation, and classification of each employee or independent contractor;

(2) the rate of pay of each employee or method of payment for the independent contractor;

(3) the amount that is paid each pay period to each employee or, if applicable, independent contractor;

(4) the hours that each employee or independent contractor works each day and each workweek;

(5) for all individuals who are not classified as employees, evidence that each individual is an exempt person or an independent contractor or its employee; and

(6) other information that the Commissioner requires, by regulation, as necessary to enforce this subtitle.

(b) An employer shall provide each individual classified as an independent contractor or exempt person with written notice of the classification of the individual at the time the individual is hired.

(c) The written notice shall:

(1) include an explanation of the implications of the individual's classification as an independent contractor or exempt person rather than as an employee; and

(2) be provided in English and Spanish.

(d) The Commissioner shall adopt regulations establishing the specific requirements for the contents and form of the notice.

(e) If an employer fails to provide notice under subsection (b) of this section, the Commissioner may assess a civil penalty of not more than $50 for each day that the employer fails to provide notice.

§3–915.

(a) A person may not knowingly incorporate or form, or assist in the incorporation or formation of, a corporation, partnership, limited liability corporation, or other entity, or pay or collect a fee for use of a foreign or domestic corporation, partnership, limited liability corporation, or other entity for the purpose of facilitating, or evading detection of, a violation of this subtitle.

(b) A person may not knowingly conspire with, aid and abet, assist, advise, or facilitate an employer with the intent of violating this subtitle.

(c) (1) Except as provided in paragraph (2) of this subsection, a person that violates this section shall be subject to a civil penalty not exceeding $20,000.

(2) A person that violates this section may not be subject to a civil penalty under this section if the person:

(i) holds a professional license as a lawyer or a certified public accountant; and

(ii) was performing an activity in the ordinary course of that person's license when the violation occurred.

(3) If the person is exempt from sanction under paragraph (2) of this subsection, the Commissioner shall promptly refer the person for investigation and possible sanction to the unit of State government that has regulatory jurisdiction over the business activities of that person.

(d) The procedures governing investigations, citations, and administrative and judicial review of an alleged violation under this section shall be the same as those set forth in §§ 3–905 and 3–906 of this subtitle.

(e) A person may be assessed civil penalties under this section by only one final order of a court or administrative unit for the same actions constituting the violation.

§3–916.

(a) A person may not:

(1) make or cause to be made a groundless or malicious complaint to the Commissioner or an authorized representative of the Commissioner;

(2) in bad faith, bring an action under this subtitle or a proceeding related to the subject of this subtitle; or

(3) in bad faith, testify in an action under this subtitle or a proceeding related to the subject of this subtitle.

(b) The Commissioner shall investigate any allegations that a person has violated any provision of this section.

(c) (1) If the Commissioner determines that a person has violated any provision of this section, that person may be subject to an administrative penalty of up to $1,000, assessed by the Commissioner.

(2) A sanction under paragraph (1) of this subsection shall be subject to the notice and hearing requirements of § 3–906 of this subtitle.

(3) If the person found in violation of this section is a person alleged to be employed by the respondent, the Commissioner shall disclose the identity of the complainant.

(d) Any person who must defend an action taken as a result of a groundless or malicious complaint may be entitled to recover attorneys' fees.

§3–917.

The Commissioner shall adopt regulations to carry out this subtitle.

§3–918.

Each civil penalty under this subtitle shall be paid into the General Fund of the State.

§3–919.

(a) The proposed budget of the Division of Labor and Industry shall include an appropriation from the Workers' Compensation Commission to cover the cost of administering this subtitle.

(b) The Workers' Compensation Commission shall pay the cost of administering this subtitle from money that the Commission receives under § 9–316 of this article.

§3–920.

(a) The Commissioner shall prepare an annual report for the Secretary and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the administration and enforcement of this subtitle, that shall include:

(1) the number and nature of complaints received;

(2) the number of investigations conducted;

(3) the number of citations issued;

(4) the number of informal resolutions of the citations;

(5) the number of citations appealed to the Office of Administrative Hearings and the outcomes of those hearings;

(6) the number of requests for judicial review of final orders and whether the orders were affirmed or overturned; and

(7) the number of civil penalties assessed, the total dollar amount of those penalties, and the total dollar amount collected.

(b) The Commissioner's report shall be a public record.

§3–1001.

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

(b) "Civil Air Patrol leave" means leave requested by an employee who:

(1) is a volunteer member of the civilian auxiliary of the United States Air Force known as the Civil Air Patrol; and

(2) has been authorized by the United States Air Force, the Governor, or a political subdivision of the State to respond to an emergency mission.

(c) "Employee" means any individual who performs services for, or under the control of, a provider of wages or remuneration.

(d) "Employee benefits" means all benefits other than wages given by an employer.

(e) "Employer" means any person that employs more than 15 employees.

§3–1002.

(a) An employer may not discriminate 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.

(b) 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.

§3–1003.

(a) An employer shall provide no less than 15 days per calendar year of unpaid Civil Air Patrol leave to an employee responding to an emergency mission of the Maryland Wing of the Civil Air Patrol.

(b) (1) An employee shall give the employer as much notice as possible of the intended dates of the beginning and end of leave.

(2) After arriving at an emergency location, the employee shall notify the employer with an estimate of the amount of time needed to complete the emergency mission.

(3) The employee shall report to the employer necessary changes in the time required to complete the mission.

(4) The employer may require verification of the eligibility of the employee for the Civil Air Patrol leave requested or taken.

(5) If the employee fails to provide the required certification, the employer may deny the Civil Air Patrol leave.

(6) An employee taking leave under this subtitle may not be required to exhaust all available leave before using Civil Air Patrol leave.

(7) Nothing in this subtitle prevents an employer from providing paid leave for leave under this subtitle.

§3–1004.

(a) The employer shall restore the employee to the position held when the leave began or to a position with equivalent seniority status, benefits, pay, and conditions of employment when the employee returns to work.

(b) An employer may decline to restore an employee as required in this subtitle because of circumstances unrelated to the provisions of this subtitle.

(c) An employer and an employee may negotiate for the employer to pay for the benefits of the employee during the leave.

§3–1005.

(a) The use of Civil Air Patrol leave under this subtitle may not result in the loss of an employee benefit accrued before the first date of leave.

(b) An employee using leave under Title 13 of the Public Safety Article may not concurrently use leave granted under this subtitle.

(c) This subtitle does not affect the obligation of an employer to comply with a collective bargaining agreement or an employee benefit plan that provides greater leave rights to employees than the rights provided under this subtitle.

(d) The grant of leave under this subtitle may not be diminished by a collective bargaining agreement or an employee benefit plan entered into on or after January 1,

2010.

(e) This subtitle does not affect or diminish the contract rights or seniority status of an employee not entitled to Civil Air Patrol leave.

§3–1006.

(a) An employer may not interfere with the use of Civil Air Patrol leave allowed under this subtitle.

(b) An employer may not discharge, fine, suspend, expel, discipline, or in any other manner discriminate against an employee who:

(1) complies with the provisions of this subtitle; or

(2) opposes a practice not in compliance with this subtitle.

§3–1007.

(a) An employee may bring a civil action in the appropriate State court to enforce this subtitle.

(b) The court may enjoin an act or a practice that violates this subtitle and may order equitable relief to redress the violation or to enforce this subtitle.

§3–1008.

(a) Whenever the Commissioner determines that this subtitle has been violated, the Commissioner shall:

(1) try to resolve any issue involved in the violation informally by mediation; or

(2) ask the Attorney General to bring an action on behalf of the applicant or employee.

(b) The Attorney General may bring an action under this section in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

§3–1101.

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

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

(c) "Lien for unpaid wages" means a lien for the amount of wages owed to an employee and penalties authorized under this title or other provisions of law against real or personal property owned by an employer and located in the State.

(d) "Wages" does not include commissions.

§3–1102.

To establish a lien for unpaid wages under § 3–1104 of this subtitle, an employee shall first provide written notice to an employer that:

(1) is served on the employer within the statute of limitations period under § 5–101 of the Courts Article;

(2) is personally served in accordance with Maryland Rule 2–121; and

(3) contains the information required by the Commissioner under § 3–1110 of this subtitle to provide the employer with adequate notice of the wages claimed and the property against which the lien for unpaid wages is sought.

§3–1103.

(a) An employer may dispute a lien for unpaid wages by filing a complaint in the circuit court for the county where property of an employer is located.

(b) A complaint filed under this section shall:

(1) be filed within 30 days after notice is served on the employer; and

(2) include:

(i) the name of the employer that owes the employee the wages and the name of the employee to whom the wages are owed;

(ii) a copy of the notice to establish a lien for unpaid wages served on the employer under § 3–1102 of this subtitle;

(iii) a statement of any defense to the lien for unpaid wages; and

(iv) an affidavit containing a statement of facts that support any defenses raised.

(c) The employer or employee may request an evidentiary hearing.

(d) If an employer files a complaint, the circuit court shall determine whether to issue an order establishing a lien for unpaid wages:

(1) within 45 days after the date on which the complaint was filed; and

(2) based on a preponderance of the evidence in which the employee has the burden of proof to establish the lien for unpaid wages.

(e) (1) If a circuit court issues an order to establish a lien for unpaid wages,

the employee is entitled to court costs and reasonable attorney's fees.

(2) If a circuit court determines the effort to establish a lien for unpaid wages to have been frivolous or made in bad faith, the court may award court costs and reasonable attorney's fees to an employer.

§3–1104.

A lien for unpaid wages is established:

(1) after a circuit court issues an order to establish a lien for unpaid wages; or

(2) if no complaint disputing the lien for unpaid wages is filed, within 30 days after a notice is served under § 3–1102 of this subtitle.

§3–1105.

(a) If a circuit court orders the establishment of a lien for unpaid wages, the employee may record the lien for unpaid wages by filing a wage lien statement under subsection (c) of this section.

(b) If the employer fails to file a timely complaint disputing the notice of wage lien, the employee may record the lien for unpaid wages by filing a wage lien statement under subsection (c) of this section along with proof of service in accordance with Maryland Rule 2–126.

(c) A wage lien statement may be recorded:

(1) for a lien against real property, by filing a wage lien statement, in a form prescribed by the Commissioner, with the clerk of the circuit court for the county where any portion of the property is located; and

(2) for a lien against personal property, by filing a wage lien statement in the same manner, form, and place as a financing statement under Title 9, Subtitle 5 of the Commercial Law Article.

(d) (1) If an employee does not record a wage lien statement within 180 days after the lien for unpaid wages is established, a lien for unpaid wages shall be extinguished without prejudice.

(2) If payment is made or a bond is filed for the amount of wages and damages stated in the wage lien statement, the recorded lien for unpaid wages shall be released.

(e) A lien for unpaid wages recorded under this section shall be considered a secured claim that has priority:

(1) from the date of the court order establishing the lien for unpaid wages; or

(2) if no complaint disputing the lien for unpaid wages is filed, from the date that the employee filed the wage lien statement.

(f) Subsequent bona fide purchasers of any property subject to a recorded lien for unpaid wages are deemed to have constructive notice of the lien for unpaid wages from date of recordation of a wage lien statement.

§3–1106.

(a) An order for a lien for unpaid wages shall be enforced in the same manner as any other judgment under State law.

(b) An action to enforce an order for a lien for unpaid wages shall be brought within 12 years of the date of recordation of a lien for unpaid wages.

§3–1107.

(a) A contract between an employee and an employer may not waive or require the employee to waive the right to seek the establishment of a lien for unpaid wages under this subtitle.

(b) A provision in an executory contract between an employer and an employee that conditions payment of wages to the employee on receipt by the employer of a payment from a property owner or a third party may not abrogate or waive the right of an employee to seek the establishment of a lien for unpaid wages under this subtitle.

(c) A provision of a contract that violates this section is void as against the public policy of the State.

§3–1108.

This subtitle may not be construed to prevent an employee from exercising any right or seeking any remedy to which the employee may be otherwise entitled.

§3–1109.

The Commissioner may seek to establish a lien for unpaid wages on behalf of an employee.

§3–1110.

The Commissioner shall adopt regulations to:

(1) establish the content of the notice, complaint, and wage lien statement under this subtitle; and

(2) implement the provisions of this subtitle.

§3–1201.

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

(b) (1) "Eligible employee" means an individual who has requested that an employer provide parental leave and who, as of the date that the requested parental leave begins, will have been employed by that employer for at least:

(i) a 12–month period; and

(ii) 1,250 hours during the previous 12 months.

(2) "Eligible employee" does not include an individual:

(i) who is employed at a work site at which the employer employs fewer than 15 employees if the total number of employees employed by that employer within 75 miles of the work site is also fewer than 15; or

(ii) who is an independent contractor.

(c) (1) "Employer" means a person who employs at least 15 but not more than 49 individuals in the State for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.

(2) "Employer" includes:

(i) a person who acts, directly or indirectly, in the interest of an employer with respect to an employee of the employer; and

(ii) a successor in interest of an employer.

(d) (1) "Employment benefits" means benefits provided or made available to an employee by an employer.

(2) "Employment benefits" includes group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

(e) "Parental leave" means leave described in § 3–1202 of this subtitle.

§3–1202.

(a) Except as provided in subsection (b) of this section, an eligible employee is entitled to a total of 6 workweeks of unpaid parental leave during any 12–month period for one or more of the following:

(1) the birth of a child of the employee; or

(2) the placement of a child with the employee for adoption or foster care.

(b) An employer may deny unpaid parental leave to an eligible employee if:

(1) the denial is necessary to prevent substantial and grievous economic injury to the operations of the employer; and

(2) the employer notifies the employee of the denial before the employee begins taking the leave.

(c) If an employer provides paid leave to an eligible employee, the employer may require the eligible employee, or the eligible employee may elect, to substitute the paid leave for any part of or all of the period of parental leave.

§3–1203.

(a) Except as provided in subsection (b) of this section, an employer may require an eligible employee to give the employer written notice of the employee's intention to take parental leave at least 30 days before commencing parental leave.

(b) An eligible employee may begin taking parental leave without prior notice following a premature birth, unexpected adoption, or unexpected foster placement.

§3–1204.

(a) An eligible employee who returns to work after taking parental leave is entitled to be restored by an employer:

(1) to the position of employment held by the employee when the parental leave began; or

(2) to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(b) An employer may:

(1) deny restoration of the eligible employee's position of employment under subsection (a) of this section if:

(i) the denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(ii) the employer notifies the employee of the intent of the employer to deny restoration of the employee's position of employment at the time the employer determines that economic injury would occur; and

(iii) in a case of parental leave that has already begun, the employee elects not to return to employment after receiving notice of the employer's intention to deny restoration of the employee's position of employment; and

(2) during the parental leave period, terminate employment of an eligible employee only for cause.

§3–1205.

(a) (1) During any period that an eligible employee takes parental leave, an employer shall maintain coverage of a group health plan for the duration of the parental leave and in the same manner that coverage would have been provided if the employee had continued in employment continuously for the duration of the parental leave.

(2) (i) An employer may recover the premium that the employer paid for maintaining coverage for an eligible employee under a group health plan during the period of parental leave if the employee fails to return to employment with the employer after the period of parental leave to which the employee is entitled has expired.

(ii) This paragraph does not apply in the case of an employee who fails to return to work because of other circumstances beyond the control of the employee.

(3) An employer may recover a premium under paragraph (2)(i) of this subsection by deducting the amount of the premium from the wages paid to the employee on the termination of employment under § 3–505 of this title.

(b) If an eligible employee works on a commission basis, an employer shall pay to the eligible employee during any period of parental leave any commission that becomes due because of work the eligible employee performed before taking parental leave.

§3–1206.

The Commissioner shall adopt regulations to implement the provisions of this subtitle.

§3–1207.

(a) Whenever the Commissioner determines that this subtitle has been violated, the Commissioner shall:

(1) try to resolve any issue involved in the violation informally by mediation; or

(2) ask the Attorney General to bring an action on behalf of the employee.

(b) The Attorney General may bring an action under this section in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

§3–1208.

(a) If an employer violates this subtitle, an affected employee may bring an

action against the employer to recover damages equal to the amount of any wages, salary, employment benefits, or other compensation denied or lost.

(b) If a court determines that an employee is entitled to judgment in an action under this section, the court shall allow against the employer reasonable attorney's fees and other costs of the action.

(c) Notwithstanding any other provision of law, a supervisory employee of an employer may not be personally liable for a violation of this subtitle.

§3–1209.

(a) An employer may not:

(1) violate any provision of this subtitle;

(2) hinder, delay, or otherwise interfere with the Commissioner or an authorized representative of the Commissioner in the enforcement of this subtitle; or

(3) discharge or otherwise discriminate against an employee because the employee:

(i) has requested or taken parental leave authorized under this subtitle;

(ii) makes a complaint to the employer, the Secretary, or another person;

(iii) brings an action under this subtitle or a proceeding that relates to the subject of this subtitle or causes the action or proceeding to be brought; or

(iv) has testified or will testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle.

(b) The Commissioner may bring an action for injunctive relief and damages against a person who violates subsection (a)(1) or (3) of this section.

§3–1210.

(a) This subtitle may not be construed to diminish the obligation of an employer to comply with a collective bargaining agreement or an employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established under this subtitle.

(b) The rights established for employees under this subtitle may not be diminished by a collective bargaining agreement or an employment benefit program or plan.

§3–1211.

This subtitle may not be construed to discourage employers from adopting or retaining leave policies more generous than policies that comply with this subtitle.

§4–101.

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

(b) "Board" means a board of arbitration formed under this subtitle to settle a labor dispute.

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

(d) "Mediation Service" means the State Mediation and Conciliation Service.

§4–102.

(a) This subtitle does not preclude or otherwise affect any agreement for arbitration of a dispute in a manner different from that for which this subtitle provides, whether the agreement is made by the disputants directly or through persons who have written authorization to do so.

(b) This subtitle does not affect any provision of the Maryland Uniform Arbitration Act.

§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.

§4–104.

To the extent possible, the Mediation Service shall:

(1) promote voluntary mediation or arbitration of disputes between employers and employees; and

(2) discourage resort to a legal proceeding or to a blacklist, boycott, discrimination, or lockout in or arising out of a dispute between employers and employees.

§4–105.

(a) Subject to the approval of the Governor, the Mediation Service may:

(1) appoint a board of arbitration to settle a dispute; and

(2) provide:

(i) as the Mediation Service considers proper, for compensation of up to $5 for each day that a member of a board is engaged in its duties; and

(ii) for other necessary expenses of a board.

(b) The Chief Mediator may serve on a board.

§4–106.

(a) To the same extent as a court of the State in a civil case, the Mediation Service or a board may:

(1) conduct an investigation;

(2) hold hearings;

(3) administer oaths; and

(4) issue a subpoena for the attendance of a witness to testify or the production of books, papers, and other documents.

(b) (1) If a person fails to comply with a subpoena issued under this section, on petition of the Mediation Service or board, a circuit court may compel compliance with the subpoena.

(2) A board shall petition the circuit court for the county where the board is meeting.

§4–107.

(a) Documents and testimony obtained under this subtitle shall be kept in the offices of the Mediation Service.

(b) Information that the Commissioner, the Mediation Service, or a member of a board obtains under this subtitle is confidential, if the information:

(1) is of a personal nature;

(2) relates to the private business of a person; or

(3) may disclose the profits or methods for doing business of a person.

§4–108.

(a) This section applies to a dispute only if the employer involved in the dispute has at least 10 employees.

(b) Whenever a disputant or other reliable source informs the Mediation Service that a dispute might result in a lockout or strike, the Mediation Service:

(1) may investigate and try to mediate the dispute; and

(2) if the Mediation Service is unable to mediate, may try to obtain the consent of the disputants for formation of a board.

(c) (1) Whenever the Mediation Service is unable to mediate a dispute and a disputant refuses consent for formation of a board or for arbitration by the Chief Mediator, the Mediation Service shall investigate thoroughly the cause of the dispute.

(2) In an investigation under this subsection, the Mediation Service may depose a disputant.

(3) After an investigation under this subsection, the Mediation Service:

(i) shall decide which disputant is mainly responsible or blameworthy for continuance of the dispute; and

(ii) over the official signature of the Commissioner or Chief Mediator, shall publish in a daily newspaper a report that assigns responsibility or blame for the continuance of the dispute.

§4–109.

(a) The Mediation Service or a board shall make and publish findings about a dispute for settlement of the dispute.

(b) A determination and award of a board is final and binds the disputants.

§4–110.

Within 5 days after the National Labor Relations Board or other public or private unit certifies or recognizes a bargaining representative, the bargaining representative shall submit to the Mediation Service a report that contains:

(1) notice of the certification or recognition;

(2) the name and address of the employer;

(3) the total number of employees in the business establishment;

(4) the total number of employees in the bargaining unit; and

(5) if known, the date on which negotiations to establish a collective bargaining agreement are to begin.

§4–111.

On or before January 10 of each year, each bargaining representative shall submit to the Mediation Service a report that states, for each collective bargaining agreement that is to terminate during the year:

(1) the name and address of the employer;

(2) the total number of employees in the business establishment;

(3) the total number of employees in the bargaining unit; and

(4) the date on which the collective bargaining agreement terminates.

§4–201.

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

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

(c) "Consent election" means an election that is conducted under a consent election agreement and in accordance with Part II of this subtitle to determine a bargaining representative.

(d) "Mediation Service" means the State Mediation and Conciliation Service.

§4–202.

(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.

§4–203.

To the extent practicable, procedural regulations that the Commissioner adopts to carry out Parts I through III of this subtitle shall conform to the procedural regulations of the National Labor Relations Board for the conduct of consent elections, intervention, and decertification.

§4–206.

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

(b) "Challenged ballot" means the ballot of an individual whose eligibility to vote in a consent election is challenged.

(c) "Petition" means a petition for permission to enter into an agreement under which the Mediation Service will conduct a consent election.

§4–207.

(a) A labor organization or individual that purports to represent a substantial number of employees whom a petition affects and an employer may submit to the Mediation Service a petition for permission to enter into a consent election agreement leading to a determination by the Mediation Service of the facts ascertained after the consent election.

(b) A petition shall be in the form that the Mediation Service requires.

(c) (1) Whenever a petition is submitted in accordance with subsections (a) and (b) of this section, the Mediation Service shall set a period during which a labor organization may submit an objection to the petition.

(2) The Mediation Service shall set a period that:

(i) is sufficient to inform interested persons about the nature and purpose of the petition; and

(ii) does not expire until at least 1 week after the date on which the Mediation Service causes notice of the petition to be posted.

(d) (1) The Mediation Service shall cause notice of a petition to be posted, at each place of employment that the petition affects, for the period set under subsection (c) of this section.

(2) The notice shall state that a labor organization may object to the petition within the period set under subsection (c) of this section.

§4–208.

(a) Unless the Mediation Service receives a timely objection to a petition, the Mediation Service shall approve the petition to enter into a consent election agreement.

(b) (1) The Mediation Service shall investigate each timely objection to a petition from a labor organization that purports to represent a substantial number of employees whom the petition affects.

(2) If, after the investigation, the Mediation Service determines that the labor organization seems to represent a substantial number of employees whom the petition affects, the Mediation Service shall place the name of the labor organization on the official ballot to be used in the consent election.

§4–209.

Each consent election agreement shall describe:

(1) the appropriate bargaining unit for the consent election;

(2) the payroll period to be used to determine the employees within the appropriate bargaining unit who are eligible to vote; and

(3) the date, time, and place of the consent election.

§4–210.

(a) The Mediation Service shall conduct each consent election by secret ballot.

(b) (1) If at least two labor organizations are to be on the ballot for a consent election, a labor organization promptly may ask the Mediation Service to allow its name to be removed from the ballot.

(2) A decision of the Mediation Service under this subsection is final.

(c) Subject to any limitation that the Mediation Service sets, each party to a consent election may designate one or more observers to represent the party during the consent election.

(d) (1) For good cause, a party to a consent election or the Mediation Service may challenge the eligibility of an individual to vote in the consent election.

(2) The Mediation Service shall impound each challenged ballot.

§4–211.

On conclusion of a consent election, the Mediation Service shall provide each party to the consent election with a tally of ballots.

§4–212.

The Mediation Service:

(1) shall determine whether the number of challenged ballots is sufficient to affect the result of the consent election; and

(2) if the number is sufficient, shall investigate the eligibility of each individual whose ballot was challenged.

§4–213.

(a) (1) Within 5 days after the Mediation Service provides the tally of ballots for a consent election, a party to the consent election may object to:

(i) the conduct of the consent election; or

(ii) other conduct affecting the result of the consent election.

(2) A party shall object in a timely manner, even if the number of challenged ballots is not sufficient to affect the result of the consent election.

(b) An objection under this section shall:

(1) be in writing; and

(2) state concisely each reason for the objection.

(c) Each party who makes an objection shall:

(1) submit to the Mediation Service:

(i) 4 copies of the objection; and

(ii) proof of service under item (2) of this subsection; and

(2) serve immediately a copy of the objection on each other party.

(d) The Mediation Service shall investigate each objection submitted in accordance with this section.

§4–214.

After investigation of a consent election under § 4-212 or § 4-213 of this subtitle, the Mediation Service shall:

(1) prepare a report, including any recommendation, on the investigation; and

(2) serve the report on each party to the consent election.

§4–215.

(a) Within 10 days after the Mediation Service issues a report on a challenged ballot or objection under § 4-214 of this subtitle, a party to the consent election may make an exception to the report.

(b) Each party who makes an exception shall:

(1) submit to the Mediation Service:

(i) 4 copies of the exception; and

(ii) proof of service under item (2) of this subsection; and

(2) serve immediately a copy of the exception on each other party.

§4–216.

(a) Whenever the Mediation Service receives a timely exception to a report on a challenged ballot or an objection, the Mediation Service shall determine whether the exception raises a substantial and material issue with respect to the conduct or result of the consent election.

(b) (1) If the Mediation Service determines that an exception raises a substantial and material issue, the Mediation Service may hold a hearing on the exception.

(2) The Mediation Service shall serve notice of the hearing on each party.

§4–217.

(a) (1) Unless a run-off election is to be held or an investigation is to be made under § 4-212 or § 4-213 of this subtitle, immediately after the period for filing an objection has passed, the Mediation Service shall certify to each party to a consent election the result of the consent election.

(2) If a labor organization wins a consent election, the certification of the result of the consent election shall include a certification of the organization as bargaining representative.

(3) The rulings and determinations of the Mediation Service under this subsection are final.

(b) Unless the Mediation Service certifies the result in accordance with subsection (a) of this section or receives a timely exception under § 4-215 of this subtitle that, the Mediation Service determines, raises a substantial and material issue with respect to the conduct or result of a consent election, the Mediation Service immediately shall:

(1) decide the matter on the record; or

(2) dispose otherwise of the case.

§4–220.

(a) An employee, an employer, or a labor organization may submit to the Mediation Service a petition for decertification of an organization that:

(1) the Mediation Service has certified as a bargaining representative after a consent election; or

(2) an employer currently recognizes as the bargaining representative

without a consent election.

(b) A petition for decertification of an organization as bargaining representative for a bargaining unit:

(1) shall be supported by at least 30% of the employees in the bargaining unit; and

(2) may not be submitted within 1 year after certification of the bargaining representative as a result of a consent election.

(c) (1) The Mediation Service shall investigate each petition submitted in accordance with this section to determine whether there is reasonable doubt that the bargaining representative in fact represents a majority of the employees in the bargaining unit.

(2) If, after the investigation, the Mediation Service determines that there is reasonable doubt, the Mediation Service shall order an election to resolve the issue.

§4–301.

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

(b) "Injunctive relief" means:

(1) a permanent injunction;

(2) a temporary injunction; or

(3) a temporary restraining order.

(c) "Labor dispute" includes any controversy, regardless of whether the disputants stand in the proximate relation of employee or employer, concerning:

(1) terms or conditions of employment;

(2) employment relations;

(3) the association or representation of persons in negotiating, setting, maintaining, or changing terms or conditions of employment; or

(4) any other controversy arising out of the respective interests of employee or employer.

(d) "Person participating or interested in a labor dispute" means a person against whom relief is sought if the person:

(1) is engaged in the industry, craft, trade, or occupation in which the dispute occurs; or

(2) is an agent, member, or officer of an association of employees or employers engaged in the industry, craft, trade, or occupation in which the dispute occurs.

§4–302.

(a) The General Assembly finds that:

(1) governmental authority has allowed and encouraged employers to organize in corporate and other forms of capital control; and

(2) in dealing with these employers, an individual worker who is not represented by an organization is helpless to exercise liberty of contract or to protect personal freedom of labor and, thus, to obtain acceptable terms and conditions of employment.

(b) The policy of the State is that:

(1) negotiation of terms and conditions of employment should result from voluntary agreement between employees and employer; and

(2) therefore, each individual worker must be:

(i) fully free to associate, organize, and designate a representative, as the worker chooses, for negotiation of terms and conditions of employment; and

(ii) free from coercion, interference, or restraint by an employer or an agent of an employer in:

1. designation of a representative;

2. self-organization; and

3. other concerted activity for the purpose of collective bargaining or other mutual aid or protection.

§4–303.

This subtitle shall be interpreted and applied in accordance with the policy stated in § 4-302 of this subtitle.

§4–304.

(a) In this section, "promise" means any undertaking, whether express or implied or oral or written.

(b) A promise made between an employee or prospective employee and an employer, prospective employer, or any other individual, association, company, corporation, or firm is against the policy of the State if the promise requires either

party:

(1) to join or remain a member of an employer or labor organization;

(2) not to join or not to remain a member of an employer or labor organization; or

(3) to withdraw from an employment relation if the party joins or remains a member of an employer or labor organization.

(c) A court may not grant, on the basis of a promise described in this section, any relief against:

(1) a party to the promise; or

(2) another person who, without the act or threat of fraud or violence, advises, induces, or urges a party to disregard the promise.

§4–307.

A court does not have jurisdiction to grant injunctive relief that specifically or generally:

(1) prohibits a person from ceasing or refusing to perform work or to remain in a relation of employment, regardless of a promise to do the work or to remain in the relation;

(2) prohibits a person from becoming or remaining a member of an employer organization or labor organization, regardless of a promise described in § 4–304 of this subtitle;

(3) prohibits a person from paying or giving to, or withholding from, another person any thing of value, including money or strike or unemployment benefits or insurance;

(4) prohibits a person from helping, by lawful means, another person to bring or defend against an action in a court of any state or the United States;

(5) prohibits a person from publicizing or obtaining or communicating information about the existence of or a fact involved in a labor dispute by any method that does not involve the act or threat of a breach of the peace, fraud, or violence, including:

(i) advertising;

(ii) speaking; and

(iii) patrolling, with intimidation or coercion, a public street or other place where a person lawfully may be;

(6) prohibits a person from ceasing:

(i) to patronize another person; or

(ii) to employ another person;

(7) prohibits a person from assembling peaceably to do or to organize an act listed in items (1) through (6) of this section;

(8) prohibits a person from advising or giving another person notice of an intent to do an act listed in items (1) through (7) of this section;

(9) prohibits a person from agreeing with another person to do or not to do an act listed in items (1) through (8) of this section;

(10) prohibits a person from advising, inducing, or urging another person, without the act or threat of fraud or violence, to do an act listed in items (1) through (9) of this section, regardless of a promise described in § 4–304 of this subtitle; or

(11) on the ground that the persons are engaged in an unlawful conspiracy, prohibits a person from doing an act listed in items (1) through (10) of this section in concert with another person.

§4–310.

A case shall be held to involve or grow out of a labor dispute when the case involves:

(1) persons who are engaged in a single industry, trade, craft, or occupation, employees of the same employer, or members of the same or an affiliated organization of employees or employers, regardless of whether the dispute is between:

(i) 1 or more employees or associations of employees and 1 or more employers or associations of employers;

(ii) 1 or more employees or associations of employees and 1 or more employees or associations of employees; or

(iii) 1 or more employers or associations of employers and 1 or more employers or associations of employers; or

(2) a conflicting or competing interest in a labor dispute of a person participating or interested in the labor dispute.

§4–311.

The General Assembly finds that a procedure that allows a plaintiff to obtain sweeping injunctive relief without giving to each defendant notice of and a hearing based wholly or partly on examination and cross-examination of witnesses in open

court, rather than on affidavits alone, is peculiarly subject to abuse in later litigation because:

(1) injunctive relief necessarily alters, rather than maintains, the status quo;

(2) determination of issues of veracity and of probability of fact from affidavits of the opposing parties that are contradictory and, under the circumstances, untrustworthy rather than from oral examination in open court is subject to grave error;

(3) erroneous issuance of injunctive relief usually is irreparable to the defendant; and

(4) delay incident to appeals frequently makes ultimate correction of error unavailing in a particular case.

§4–312.

This Part III of this subtitle shall be interpreted and applied in accordance with the policy stated in § 4-311 of this subtitle.

§4–313.

(a) A court may not grant injunctive relief in a labor dispute:

(1) if the plaintiff has failed to comply with each obligation imposed by law that is involved in the labor dispute; or

(2) except as provided in subsection (b) of this section, if the plaintiff has failed to make every reasonable effort to settle the labor dispute:

(i) by negotiation; or

(ii) with the help of available dispute resolution mechanisms, governmental mediation, or voluntary arbitration.

(b) If irreparable injury is threatened, a court may grant injunctive relief before another tribunal acts to settle the labor dispute.

§4–314.

In addition to any other limitation under this Part III of this subtitle, a court may not issue a temporary or permanent injunction in a case that involves or grows out of a labor dispute unless:

(1) each known person against whom relief is sought and each public officer who has a duty to protect the property of the plaintiff is given, in the manner that the court directs, personal notice that the court will hold a hearing on issuance of

a temporary or permanent injunction;

(2) at the hearing, the court takes, in open court, testimony offered against the temporary or permanent injunction and affords the opportunity for cross-examination; and

(3) as a result of the hearing, the court finds that:

(i) an unlawful act:

1. has been threatened and, unless restrained, will be committed; or

2. has been committed and, unless restrained, will be continued;

(ii) unless it grants the relief requested, the property of the plaintiff will be injured substantially and irreparably;

(iii) greater injury will be inflicted on the plaintiff for each item of relief that the court denies than will be inflicted on the defendant if the court grants the item;

(iv) it is not granting any item of relief for which a court lacks jurisdiction under § 4-307 of this subtitle;

(v) the plaintiff has no adequate remedy at law; and

(vi) each public officer who has a duty to protect the property of the plaintiff has failed or is unable to give adequate protection.

§4–315.

(a) If, in addition to meeting the requirements for an injunction under § 4-314 of this subtitle, a plaintiff alleges that, unless a temporary restraining order is issued before a court holds a hearing on issuance of other injunctive relief in a case that involves or grows out of a labor dispute, substantial and irreparable injury to the property of the plaintiff is unavoidable, the court may issue a temporary restraining order in accordance with this section.

(b) (1) The court shall pass a show cause order that gives each party whom the plaintiff seeks to have restrained a reasonable period of at least 48 hours in which to show cause why the court should not issue a temporary restraining order.

(2) A show cause order shall be served on each party whom the plaintiff seeks to have restrained as provided in the show cause order.

(3) On expiration of the period to show cause, the court may issue a

temporary restraining order if on the basis of testimony or, in the discretion of the court, an affidavit, the court finds that issuance of a temporary injunction would be justified if a hearing were held.

(c) (1) A temporary restraining order issued under this section is effective for the period that the court sets but not more than 5 days.

(2) If a hearing for a temporary injunction begins before the expiration of the period set under this subsection, the court may continue the temporary restraining order until the court decides whether to issue the temporary injunction.

(3) Unless the court continues a temporary restraining order in accordance with paragraph (2) of this subsection, then on expiration of the period set under this subsection, the order is void and may not be renewed or extended.

§4–316.

(a) Before a court issues a temporary restraining order or temporary injunction in a case that involves or grows out of a labor dispute, the plaintiff shall post bond with the court.

(b) (1) Bond under this section shall be in an amount sufficient to compensate each person who is enjoined for any loss, expense, or damages that improvident or erroneous issuance of the temporary restraining order or temporary injunction causes.

(2) The amount shall include reasonable counsel fees and other reasonable costs that a defendant incurs in defending against other injunctive relief in the same case if the court denies the injunctive relief.

(c) Bond under this section signifies an agreement between the plaintiff and surety to submit to the jurisdiction of the court for the purpose of being liable on the bond.

(d) This section does not prevent a party who has a claim on or under a bond from bringing an action to pursue an ordinary remedy in court.

§4–317.

(a) A court may not grant injunctive relief in a case that involves or grows out of a labor dispute until the court makes and files, in the record of the case, findings of fact.

(b) Injunctive relief in a case that involves or grows out of a labor dispute shall prohibit an act only if:

(1) the complaint in the labor case expressly complains of the specific act; and

(2) the findings of fact expressly include the specific act.

(c) Injunctive relief in a case that involves or grows out of a labor dispute is binding only on a person:

(1) who receives, by personal service or otherwise, actual notice of the injunctive relief; and

(2) who is:

(i) a party to the case;

(ii) an agent or employee of a party or lawyer who represents a party; or

(iii) a person in active concert and participation with a party.

§4–318.

A party may appeal to the Court of Special Appeals from the issuance or denial of a temporary injunction in a case that involves or grows out of a labor dispute.

§4–321.

An organization or officer or member of an organization participating or interested in a labor dispute has immunity from liability in accordance with § 5-414 of the Courts Article.

§4–322.

(a) A person who is charged with constructive criminal contempt for a violation of injunctive relief in a case that involves or grows out of a labor dispute is entitled:

(1) to pretrial release as provided for defendants in criminal cases;

(2) to notice of the accusation;

(3) to a reasonable time to make a defense; and

(4) except for an officer of the court who is charged with disobedience, misbehavior, or other misconduct in respect to process of the court, on demand, to a speedy and public trial by an impartial jury from the judicial district where the contempt is alleged to have been committed.

(b) (1) Whenever the charge of constructive criminal contempt arises from an attack on the character or conduct of a judge, the defendant is entitled to recusal of the judge if the defendant files a demand for recusal before the hearing on the charge.

(2) Whenever a defendant files a timely demand for recusal:

(i) the judge may not proceed further; and

(ii) the presiding judge of the court shall designate another judge as a replacement.

(c) (1) A person who is guilty of constructive criminal contempt in a labor case is subject to a fine not exceeding $100 or imprisonment not exceeding 15 days or both.

(2) A person who is imprisoned for failure to pay a fine imposed under this subsection shall be discharged:

(i) after 15 days; or

(ii) if also imprisoned for a definite period, 15 days after the end of the period.

§4–401.

(a) Each employer who, under a collective bargaining agreement, deducts dues from an employee's pay for payment to a union shall make the payment within 30 days after it is required.

(b) Each employer or union official who, under a collective bargaining or other agreement with an employee, agrees to make a payment into a health or welfare fund, a pension fund, a vacation plan, or any other similar fund or plan for employees shall make the payment within 30 days after it is required.

(c) (1) An employer or union official who knowingly fails to make a payment under subsection (a) or (b) of 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.

(2) If the employer is a corporation, each corporate officer who exercises executive functions is guilty of a misdemeanor.

§4–402.

(a) This section does not apply to a refusal to leave property based on a bona fide claim of ownership of or other right to the property.

(b) An employee or former employee may not remain on property that is under the legal control of an employer after the employer or an agent of the employer gives the employee or former employee notice to leave if remaining deprives or is intended to deprive the employer of the substantial control, possession, or use of the property.

(c) A person who violates any provision of subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50.

(d) An organization that is responsible for a violation of this section is liable

financially to the owner of the property for the loss of revenue or from damage that results from the violation.

§4–403.

(a) A person who is not directly interested in a strike may not provide, obtain, recruit, or refer, for employment in place of a striker, an individual who customarily and repeatedly offers to be employed in place of strikers.

(b) An individual who customarily and repeatedly offers to be employed in place of strikers may not take or offer to take the position of a striker.

(c) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 3 years or both.

§4–404.

(a) If commission of an act by one person is not an offense, an agreement between two or more persons to do or to bring about the act in contemplation or furtherance of a trade dispute between an employer and a worker is not indictable as conspiracy.

(b) This section does not affect any law that relates to disturbance of the public peace, riot, unlawful assembly, or an offense against a person or property.

§4–501.

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

(b) "Employee" means a fire, EMS, paramedic, or rescue employee hired or compensated by the employer.

(c) "Employee organization" means any organization of employees that, as one of its primary purposes, represents fire, EMS, paramedic, or rescue personnel.

(d) "Employer" means a charter county or a municipal corporation.

(e) "EMS" means emergency medical services.

(f) "Exclusive representative" means an employee organization that has been certified through an election of eligible employees to represent and bargain for those employees over any terms and conditions of employment.

§4–502.

Each employer covered by this subtitle shall have the authority to enact a local law or ordinance to permit voluntary collective bargaining between the employer and any employee organization that the employer has recognized as an exclusive representative

of its employees.

§4–503.

Once authorized by a local law or ordinance, collective bargaining between an employer covered by this subtitle and an exclusive representative may include in a memorandum of understanding between the employer and the employee organization specific terms and conditions of employment.

§4–504.

Subject to provisions concerning budgetary and fiscal procedures contained in the employer's charter, if ratified or approved by a legislative enactment of the employer, and if signed by the chief executive officer of the employer, a memorandum of understanding between the employer and an exclusive representative shall bind the employer for the period of time which is provided in the agreement.

§4–505.

(a) Subject to subsection (b) of this section, this subtitle only applies to:

(1) each charter county that engaged in collective bargaining with an employee organization prior to October 1, 1994; and

(2) each municipal corporation that engages in collective bargaining with an employee organization prior to October 1, 1995.

(b) This subtitle may not be construed to repeal or limit any local charter provision that extends collective bargaining rights to employees of employers and, if a local charter authorizes or grants collective bargaining rights to any employees, the provisions of this subtitle do not apply.

(c) This subtitle may not be construed to:

(1) require any form of collective bargaining;

(2) require any method, means, or scope of bargaining between an employer and an exclusive representative; or

(3) authorize binding interest arbitration.

§4–601.

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

(b) (1) "Employee" means a fire, emergency medical services, paramedic, rescue, or support employee hired and compensated by a county or municipal corporation or a unit of a county or municipal corporation.

(2) "Employee" does not include an employee who is on probationary status upon entry into a fire fighting, rescue, paramedic, or emergency medical services agency.

(c) (1) "Final decision" means a final disciplinary decision of a personnel board, trial board, civil service commission, or statutorily established review board by which an employee is suspended for not less than 30 consecutive days or is terminated.

(2) "Final decision" does not include a decision reached through arbitration under a collective bargaining agreement.

§4–602.

(a) An employee, county, or municipal corporation aggrieved by a final decision may obtain judicial review of that decision through an appeal filed in a circuit court of appropriate venue.

(b) An appeal under subsection (a) of this section shall be taken in accordance with Maryland Rules 7-201 through 7-210.

(c) Any party that is aggrieved by a final judgment of a circuit court under this subtitle may appeal to the Court of Special Appeals in the manner provided by law.

(d) In an appeal under subsection (a) of this section, the circuit court may:

(1) remand the case for further proceedings;

(2) affirm the final decision; or

(3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision:

(i) is unconstitutional;

(ii) exceeds the statutory authority or jurisdiction of the final decision maker;

(iii) results from an unlawful practice;

(iv) is affected by any other error of law;

(v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or

(vi) is arbitrary and capricious.

§4–603.

An employee may elect to exercise the rights available under the collective

bargaining agreement as an alternative to the right to a judicial review provided under this subtitle.

§5–101.

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

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

(c) (1) "Employee" means, except as provided in § 5–401 of this title, an individual whom an employer employs, for a wage or other compensation, in the business of the employer.

(2) "Employee" includes:

(i) an individual whom a governmental unit employs;

(ii) an individual who is licensed as a taxicab driver and leases or rents a taxicab from a person who operates or owns a taxicab business in Baltimore City;

(iii) an individual who is employed for part–time or temporary help by 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

(iv) an individual who performs work for a governmental unit or person to whom the individual is provided by another governmental unit or person who engages in a business that directly employs individuals to provide part–time or temporary help.

(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 one employee in that business; or

(ii) 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) "Occupational safety and health standard" means a regulation that requires:

(1) a condition that is reasonably appropriate or necessary to make employment and places of employment safe and healthful; or

(2) the adoption or use of a means, method, operation, practice, or process that is reasonably appropriate or necessary to make employment and places of employment safe and healthful.

(f) "Person" includes a successor.

(g) "Place of employment" means a place in or about which an employee is allowed to work.

(h) "Public body" means:

(1) a governmental unit;

(2) a public or quasi–public corporation of the State;

(3) a school district in the State or any unit of the district; or

(4) a special district in the State or any unit of the district.

§5–102.

(a) The General Assembly finds that:

(1) personal injuries and illnesses that arise out of conditions of employment substantially burden employers and employees in terms of lost production, medical expenses, disability compensation payments, and lost wages; and

(2) the prevention of these injuries and illnesses is in the best interest and welfare of the people and the State.

(b) The purposes of this title are to ensure, to the extent practicable, that each working man and woman in the State has working conditions that are safe and healthful and to preserve human resources by:

(1) providing that employers and employees have separate but dependent responsibilities and rights with respect to making working conditions safe and healthful;

(2) providing for the development and adoption of occupational safety and

health standards;

(3) providing for training and other education of personnel so that occupational safety and health standards are administered fairly and efficiently;

(4) providing an effective compliance and enforcement program under this title;

(5) encouraging employers and employees to:

(i) reduce the number of occupational health and safety hazards at their places of employment; and

(ii) create or improve programs to make working conditions safe and healthful;

(6) encouraging joint efforts of labor and management to reduce diseases and injuries that arise out of employment;

(7) building on advances already made through the initiatives of employers and employees to make working conditions safe and healthful;

(8) developing innovative approaches, methods, and techniques to deal with occupational safety and health problems;

(9) providing for research in the field of occupational safety and health;

(10) conducting research on occupational health problems, including research to:

(i) identify causal connections between diseases and work in environmental conditions; and

(ii) explore ways to discover latent diseases;

(11) providing medical criteria to ensure, to the extent practicable, that work does not diminish the functional capacity, health, or life expectancy of an employee;

(12) providing for reporting procedures on occupational safety and health that are appropriate to help to achieve the purposes of this title and to describe accurately the nature of occupational safety and health problems;

(13) providing for the dissemination of information about health and safety hazards posed by toxic and hazardous substances to which workers are exposed;

(14) requiring employers to educate employees who work with hazardous substances about the hazards of the substances and about safe procedures;

(15) requiring employers to give information to governmental units that are charged with fire protection, to protect the health and safety of firefighters and the public; and

(16) providing information and incentives for employers and employees to make ridesharing arrangements.

§5–103.

(a) Except as provided in subsection (b) of this section, this title applies to the working conditions at each work place in the State.

(b) This title does not apply to a working condition of:

(1) an employee of the federal government or its units; or

(2) an employee whose occupational safety and health is protected under:

(i) the Federal Mine Safety and Health Act of 1977;

(ii) the Longshore and Harbor Workers' Compensation Act; or

(iii) the Atomic Energy Act of 1954.

§5–104.

(a) Each employer shall provide each employee of the employer with employment and a place of employment that are:

(1) safe and healthful; and

(2) free from each recognized hazard that is causing or likely to cause death or serious physical harm to the employee.

(b) (1) Each employer shall comply with this title, each applicable regulation that the Commissioner adopts to carry out this title, and each applicable order that the Commissioner passes under this title.

(2) Each employee shall comply with this title and, when applicable to the employee's actions and conduct in the course of employment, each regulation that the Commissioner passes under this title.

(c) Each employer shall keep its employees informed of their protections and duties under this title, including each applicable occupational safety and health standard, by:

(1) posting notice where notices to employees normally are posted; or

(2) using other appropriate means.

§5–201.

The Commissioner shall have the power and authority to administer and enforce this title.

§5–202.

(a) The Commissioner may delegate to the assistant commissioner for occupational safety and health any duty or function of the Commissioner under this title.

(b) (1) The Commissioner may enter into a written agreement with a governmental unit to delegate any power of inspection under this title.

(2) An agreement under this subsection shall:

(i) specify the procedure to be used in an inspection under the agreement;

(ii) enable the Commissioner to monitor an inspection power under the agreement; and

(iii) enable the Commissioner to revoke the agreement at any time.

§5–203.

(a) To inspect excavation work for the Commissioner, the Commissioner may deputize an individual who:

(1) is employed by a county, a municipal corporation, or the Washington Suburban Sanitary Commission or other similar authority;

(2) has the approval of the chief of the unit for which the employee works; and

(3) has attended a training course that the Division of Labor and Industry conducts and, on completion of the course, has passed an examination.

(b) An individual deputized under subsection (a) of this section:

(1) may inspect excavation work only in the county, municipal corporation, or other jurisdiction of any other authority that employs the individual;

(2) has the authority of a safety inspector of the Division of Labor and Industry; and

(3) shall report to the Commissioner on each action related to an inspection under this section, on a form that the Commissioner provides.

§5–204.

(a) (1) The proposed budget of the Division of Labor and Industry shall include an appropriation from the Workers' Compensation Commission to cover the cost of administering this title.

(2) The Workers' Compensation Commission shall 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.

§5–205.

(a) To carry out a duty or exercise a power under this title, the Commissioner or authorized representative of the Commissioner may:

(1) administer oaths;

(2) certify to an official act; or

(3) depose witnesses.

(b) (1) To administer or enforce this title, the Commissioner or an authorized representative of the Commissioner may issue a subpoena for the attendance of a witness to testify or the production of books, documents, papers, and records.

(2) If a person fails to comply with a subpoena issued under this subsection or fails to testify on any matter on which the person lawfully may be interrogated, on a complaint filed by the Commissioner or an authorized representative of the Commissioner, the circuit court for the county where the person resides or is then present may pass an order directing compliance with the subpoena or compelling testimony.

(c) After consultation with other appropriate units, the Commissioner shall conduct:

(1) education programs to provide an adequate supply of qualified personnel to carry out this title;

(2) informal programs on the importance of and proper use of adequate safety and health equipment; and

(3) training programs of personnel engaged in work related to the responsibilities of the Commissioner under this title.

(d) The Commissioner shall:

(1) provide for establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance and prevention of unsafe or unhealthful working conditions in employment covered by this title; and

(2) consult with and advise employers and employees and organizations representing employers and employees about effective means to prevent occupational injuries and illnesses.

(e) After consultation with other appropriate units, the Commissioner shall conduct demonstrations, experiments, and research that relate to:

(1) occupational safety and health; and

(2) innovative approaches, methods, and techniques to deal with occupational safety and health problems.

(f) On the basis of demonstrations, experiments, research, and other available information, the Commissioner shall develop criteria for exposure to toxic materials and harmful physical agents at levels that are safe for various periods of employment, including levels at which no employee will suffer impaired health or functional capacity or diminished life expectancy as a result of work experience.

(g) The Commissioner shall:

(1) develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics; and

(2) compile accurate statistics on:

(i) work–related illnesses that are disabling, serious, or significant; and

(ii) work–related injuries, whether or not involving loss of time from work, other than minor injuries that require only first aid treatment and do not involve loss of consciousness, medical treatment, restriction of motion or work, or transfer to another job.

(h) With the consent of a governmental unit, the Commissioner may use an employee, facility or service of the governmental unit, with or without reimbursement, to help the Commissioner carry out a function under this title.

(i) (1) The Commissioner shall inspect, investigate, and review work practices and work sites of each employer and industry for evidence of excessive safety violations based on information made available by the Workers' Compensation Commission under § 9–707 of this article.

(2) If evidence of an excessive safety violation is found, the Commissioner shall seek appropriate relief under Subtitle 8 of this title.

(3) Subject to § 2–1246 of the State Government Article, the Commissioner shall submit to the General Assembly an annual report of investigations under this subsection.

(j) Whenever the Commissioner has reason to believe that a person has violated any provision of this title for which criminal prosecution is provided, the Commissioner shall refer the alleged violation to the State's Attorney of the county where the violation allegedly occurred or the person resides.

(k) The Commissioner shall:

(1) assist employers in carrying out their responsibilities under this title; and

(2) recommend and suggest to employers and groups of employers methods and procedures to develop safety programs to carry out those responsibilities.

(l) On behalf of the Commissioner, the Safety Engineering and Education Service shall:

(1) investigate and analyze the causes of industrial and occupational accidents; and

(2) plan and conduct courses and programs that the service designs to reduce accidents.

(m) In addition to any duties set forth elsewhere, each safety inspector shall be responsible for enforcement of safety codes in construction and any other hazardous industry in the State.

(n) In addition to any other authority the Commissioner may exercise under this title, if, as a result of the exercise of the Commissioner's authority under the provisions of this title, the Commissioner has reason to believe that a health care provider required under the Health Occupations Article to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions is not complying with those provisions, the Commissioner shall refer that suspected violation to the health care provider's licensing board.

(o) (1) In addition to any other authority the Commissioner may exercise under this title, if, as a result of the exercise of the Commissioner's authority under the provisions of this title, the Commissioner has reason to believe that an employee or member of the medical staff involved in patient care services of the hospital, related institution, freestanding medical facility, or freestanding birthing center is not complying with the Centers for Disease Control and Prevention's guidelines on universal precautions, the Commissioner shall refer that suspected violation to the

chief executive officer of the hospital, related institution, freestanding medical facility, or freestanding birthing center.

(2) In addition to any other authority the Commissioner may exercise under this title, if, as a result of the exercise of the Commissioner's authority under the provisions of this title, the Commissioner has reasons to believe that a hospital, related institution, freestanding medical facility, or freestanding birthing center is demonstrating a willful and systematic disregard for the Centers for Disease Control and Prevention's guidelines on universal precautions, the Commissioner shall refer that suspected violation to:

(i) the Department of Health and Mental Hygiene; and

(ii) the chief executive officer of the hospital, related institution, freestanding medical facility, or freestanding birthing center.

§5–206.

(a) The Commissioner shall provide for and maintain a comprehensive and effective program on occupational safety and health for employees of public bodies.

(b) The program under this section shall:

(1) be generally consistent with this title; and

(2) require each public body to:

(i) provide conditions and places of employment that are safe and healthful;

(ii) develop, conduct, and maintain in each unit of the public body a program of self-inspection that the Commissioner approves;

(iii) keep and make available to the Commissioner each record that the Commissioner requires under this title and for development of information about occupational accidents, illnesses, and injuries, to allow proper evaluation and necessary corrective action; and

(iv) submit each report that the Commissioner requires.

(c) The Commissioner shall monitor the program of each public body for self-inspection.

(d) The penalties under Subtitle 8 of this title do not apply to a public body.

§5–207.

On request of the Commissioner, the Attorney General may proceed in a State or federal court or before any other federal unit:

(1) to enforce a decision of the Commissioner under this title;

(2) subject to § 3-302 of the State Finance and Procurement Article, to collect a civil penalty that is assessed by order of the Commissioner under this title; or

(3) to enforce any other order of the Commissioner under this title.

§5–208.

(a) The Commissioner or authorized representative of the Commissioner may enter a place of employment where work is performed, without delay at any reasonable time, to:

(1) inspect the place of employment;

(2) investigate all pertinent apparatus, conditions, devices, equipment, materials, and structures at the place of employment; and

(3) question privately an agent, employee, or employer.

(b) (1) Subject to any regulation that the Commissioner adopts to carry out this title, a representative chosen by employees and a representative of the employer shall be given an opportunity to accompany the Commissioner or an authorized representative of the Commissioner during an inspection under this subtitle.

(2) If there is no authorized employee representative, the Commissioner shall consult with a reasonable number of employees about safety and health in the place of employment.

(c) (1) Before or during an inspection, an employee or authorized representative of employees in a place of employment or authorized representative of the Commissioner may give the Commissioner written notice of any violation of this title that the employee or representative has reason to believe exists at the place of employment of the employee.

(2) The Commissioner shall set, by regulation, procedures for informal review of any refusal to issue a citation on the basis of notice under this subsection.

(3) If an employee or authorized representative of employees asks for informal review under this subsection, the Commissioner shall give the employee or representative a written statement of the reasons for the final disposition.

§5–209.

(a) An employee or authorized representative of employees may request inspection of a place of employment if the employee or representative believes, in good faith, that:

(1) there is imminent danger to an employee; or

(2) due to a violation of an occupational safety and health standard, there is a threat of physical harm to an employee.

(b) To request an inspection, an employee or representative shall sign and submit to the Commissioner or authorized representative of the Commissioner a written notice that describes, with reasonable particularity, the grounds for the notice.

(c) On receipt of a notice made in accordance with this section, the Commissioner shall determine whether there are reasonable grounds to believe that imminent danger or a threat exists.

(d) (1) If the Commissioner determines that there are reasonable grounds, the Commissioner shall conduct an inspection as soon as practical to determine whether the danger or threat exists.

(2) If the Commissioner determines that there are no reasonable grounds, the Commissioner shall give the person who submitted the request written notice of that determination.

(e) (1) Subject to paragraph (2) of this subsection, the Commissioner shall give the employer whose place of employment is to be inspected or an agent of the employer a copy of the notice that requested the inspection, no later than at the time of the inspection.

(2) On request of the person who submits a notice, the name of the person and the name of each employee to whom the notice refers shall be omitted from the copy of the notice to be given to the employer and from each other record to be disclosed under this title.

§5–210.

(a) In this section, "apparatus" means any apparatus, device, machinery, or mechanical equipment.

(b) The Commissioner or an authorized representative of the Commissioner may prohibit use of any apparatus, if, after an inspection, the Commissioner or authorized representative of the Commissioner determines that:

(1) the apparatus or part of the apparatus violates an occupational safety and health standard; and

(2) there is a substantial probability that death or serious physical harm could result from continued use.

(c) To prohibit use of any apparatus or part of any apparatus, the Commissioner or authorized representative of the Commissioner shall give an employer or the agent

in charge of such operation written notice that prohibits use.

(d) (1) A copy of a notice under subsection (c) of this section:

(i) shall be attached to the apparatus; and

(ii) may not be removed until the apparatus is made safe and each required safeguard is provided.

(2) Use of any apparatus is prohibited while a notice under this section is posted on the apparatus.

(e) (1) Any person aggrieved by a decision of the Commissioner under this section may bring an action to modify or vacate the decision on the ground that it is unlawful or unreasonable.

(2) An action under this subsection shall be brought in the circuit court for the county where the place of employment is located.

(3) In a proceeding under this subsection, a court may not stay an order of the Commissioner unless:

(i) the court gives the Commissioner notice and an opportunity for a hearing; and

(ii) the aggrieved person posts security or meets each other condition that the court considers proper.

§5–211.

(a) Whenever an individual who is authorized to inspect property in the State is denied access after the individual makes a proper request to the owner, lessee, or other person in charge of the property, the individual may apply to the District Court for an administrative search warrant under this section.

(b) Each application under this section shall:

(1) state the nature, purpose, and scope of the inspection; and

(2) show that:

(i) the applicant:

1. is authorized by law to inspect the property to which access was denied; and

2. requested access at a reasonable time;

(ii) access was denied; and

(iii) the inspection is for a purpose related to safety or health.

(c) An application may not be submitted to the District Court unless approved by the Attorney General.

(d) On application in accordance with this section, the District Court may issue an administrative search warrant.

§5–212.

(a) (1) Except as provided in paragraph (2) of this subsection, if after an inspection or investigation, the Commissioner or authorized representative of the Commissioner is of the opinion that an employer has violated a duty under this title or an order passed under this title or an occupational safety and health standard or other regulation adopted to carry out this title, the Commissioner or authorized representative shall issue a citation to the employer with reasonable promptness, not to exceed the earlier of 90 days from the date of the closing conference on the inspection or investigation or 6 months from the occurrence of the violation.

(2) If the incident investigated by the Commissioner involves a fatality or serious physical harm, the Commissioner shall issue a citation with reasonable promptness, not to exceed 6 months from occurrence of the violation.

(3) If an employer to whom a citation is issued is a unit of the State government, the Commissioner or authorized representative shall send a copy of the citation to the secretary of the principal department to which the unit is assigned or, if the unit is not part of a principal department, the head of the unit.

(b) Each citation under this section shall:

(1) be in writing;

(2) describe, with particularity, the nature of the alleged violation;

(3) reference the provision of this title, order, or occupational safety and health standard or other regulation that the employer is alleged to have violated; and

(4) set a reasonable period for abatement and correction of the alleged violation.

(c) In accordance with any regulation that the Commissioner adopts to carry out this title, an employer who is issued a citation shall post the citation or a copy of it conspicuously at or near each place where the citation alleges a violation occurred.

(d) The Commissioner may establish, by regulation, procedures for issuance of a notice instead of a citation for a de minimis violation that has no direct or immediate relationship to safety or health.

§5–213.

(a) Within a reasonable time after issuance of a citation under § 5-212 of this subtitle to an employer, the Commissioner shall send by certified mail to the employer a notice that:

(1) states the civil penalty, if any, that the Commissioner proposes to assess under this title; and

(2) informs the employer that, within 15 work days after receipt of the notice, the employer may submit to the Commissioner a written notice of contest on the citation or civil penalty.

(b) A citation and any penalty that the Commissioner proposes to assess shall be considered a final order of the Commissioner unless:

(1) within 15 work days after receipt of a notice under subsection (a) of this section the employer notifies the Commissioner of an intent to contest the citation or any penalty; or

(2) within 15 work days after issuance of a citation, an employee or representative of an employee submits a written notice to the Commissioner that alleges that the period of time set in the citation for abatement of the violation is unreasonable.

(c) (1) An employer shall correct each violation for which the Commissioner issues a citation within the period set for correction in a final order under this subtitle.

(2) If the request of an employer for a hearing is made in good faith and not solely to delay or avoid payment of a penalty, the period for correction begins on the day when the order passed as a result of the hearing becomes final.

(d) If the Commissioner has reason to believe that an employer has failed to correct a violation within the time allowed, the Commissioner shall send by certified mail to the employer a notice that:

(1) states that the employer has failed to correct the violation;

(2) states the civil penalty, if any, that the Commissioner intends to assess under this title for the failure; and

(3) informs the employer that, within 15 work days after receipt of the notice, the employer may submit to the Commissioner a notice of contest on the notice or civil penalty.

(e) Unless an employer notifies the Commissioner of an intent to contest as provided in subsection (b) of this section, the notice, including any civil penalty, is a final order.

§5–214.

(a) The Commissioner shall grant a hearing, if practicable, within 30 days after receipt of a notice that an employer or employee or representative of an employee submits under § 5-213 of this subtitle.

(b) An employee whom a hearing under this section affects or a representative of the employee may participate as a party in a hearing under this section.

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

(d) (1) An employer may choose whether a hearing under this section is to be held in:

(i) Baltimore City;

(ii) the county where the violation allegedly occurred, in an office that the county provides; or

(iii) an office that the Commissioner has designated as a regional office.

(2) The employer shall indicate the choice in the request for a hearing.

(e) (1) When the Commissioner appoints a hearing examiner to hold a hearing under this section, the examiner shall prepare a record that includes testimony.

(2) A report that a hearing examiner submits shall become a final order of the Commissioner unless, within 15 work days after submission of the report:

(i) the Commissioner orders a review of the proceeding; or

(ii) an employee, representative of an employee, or employer whom the report affects submits to the Commissioner a written request for a review of the proceeding.

(f) (1) After review of a proceeding under subsection (e) of this section, with or without a hearing, the Commissioner shall pass an order that, on the bases of findings of fact, affirms, modifies, or vacates the citation or proposed penalty or directs other appropriate relief.

(2) An order of the Commissioner under paragraph (1) of this subsection is final 15 days after passage of the order.

(g) After an opportunity for a hearing under this section, the Commissioner may pass an order that affirms or modifies a requirement of a citation for abatement of a violation if an employer shows that the employer:

(1) made a good faith effort to comply with the requirement; and

(2) has not complied because of a factor beyond the reasonable control of the employer.

§5–215.

(a) (1) A person adversely affected or aggrieved by any order that the Commissioner passes under this title or any regulation that the Commissioner adopts to carry out this title may file a complaint within 30 days after issuance of the order or regulation to have it modified or set aside.

(2) A complaint filed under this subsection shall be filed in the circuit court for:

(i) Baltimore City; or

(ii) the county where:

1. the employer has its principal office; or

2. the violation allegedly occurred.

(3) A copy of the complaint shall be served on the Commissioner and other affected parties.

(b) In a proceeding under this section, a court may not stay an order or regulation of the Commissioner unless:

(1) the court gives the Commissioner notice and an opportunity for a hearing; and

(2) the aggrieved person posts security and meets each other condition that the court considers proper.

(c) (1) The court shall determine whether an order that the Commissioner passes under this title or regulation that the Commissioner adopts to carry out this title is in accordance with law.

(2) If a finding of the Commissioner on a question of fact is supported by substantial evidence, the finding is conclusive.

(3) A regulation that the Commissioner adopts to carry out this title:

(i) shall be deemed prima facie lawful and reasonable; and

(ii) may not be held invalid because of a technical defect if there is substantial compliance with this title.

(d) (1) At any appropriate time, the Commissioner may file a complaint to enforce any order that the Commissioner passes under this title or regulation that the Commissioner adopts to carry out this title.

(2) A complaint filed under this subsection shall be filed in the circuit court for the county where:

(i) the alleged violation occurred; or

(ii) the employer has its principal office.

(3) To the extent practicable, subsections (a), (b), and (c) of this section shall govern proceedings under this subsection.

(e) A court shall hear a complaint under this section expeditiously.

§5–216.

(a) If an authorized representative of the Commissioner concludes that a condition or practice at a place of employment creates an imminent danger that reasonably could be expected to cause death or serious physical harm to an employee, the authorized representative:

(1) shall give the employer and each employee whom the danger affects notice of the danger; and

(2) may recommend to the Commissioner that the Commissioner seek to enjoin the condition or practice.

(b) (1) On a complaint filed by the Commissioner, a circuit court:

(i) may enjoin a condition or practice at a place of employment if the condition or practice creates an imminent danger that reasonably could be expected to cause death or serious physical harm to an employee; and

(ii) pending the outcome of enforcement procedures under this title, may grant an injunction or temporary restraining order.

(2) A temporary restraining order that is passed without notice may not be in effect for more than 7 days.

(3) An injunction under this subsection may require each act needed to:

(i) avoid, correct, or remove the imminent danger; or

(ii) prohibit the employment or presence of any individual, in a location or under a condition where the imminent danger exists, other than an individual who needs to be present to:

1. remove the imminent danger;

2. maintain the capacity of a continuous process operation in order to resume normal operations without stopping operation completely; or

3. where operations must be stopped, stop an operation in an orderly and safe manner.

(c) (1) If the Commissioner arbitrarily or capriciously fails to seek relief under this section, on a complaint filed by or for an employee who may be injured as a result of the failure, a circuit court may pass a writ of mandamus to compel the Commissioner to seek the relief and grant other appropriate relief.

(2) An action under this subsection shall be brought in the circuit court for the county where the alleged imminent danger exists.

§5–217.

(a) In this section, "trade secret" means a device, formula, pattern or compilation of information that:

(1) is used in the business of an employer;

(2) gives the employer an opportunity to obtain an advantage over a competitor; and

(3) is known only to the employer and any employee to whom the employer needs to confide the information.

(b) Except as provided in subsections (c) and (d) of this section, information that contains or might reveal a trade secret and is obtained by the Commissioner or an authorized representative of the Commissioner in connection with an inspection or proceeding under this title is confidential.

(c) The Commissioner may disclose information that contains or might reveal a trade secret to staff who are assigned to carry out this title.

(d) In a proceeding under this title, the Commissioner may disclose information that contains or might reveal a trade secret and is relevant if, before disclosure:

(1) the court that is conducting the proceeding passes an order that is appropriate to protect the confidentiality of the trade secret; or

(2) in a proceeding before the Commissioner or authorized representative of the Commissioner, the Commissioner or representative does so.

§5–301.

In this subtitle, "Board" means the Occupational Safety and Health Advisory

Board.

§5–302.

There is an Occupational Safety and Health Advisory Board in the Department of Labor, Licensing, and Regulation.

§5–303.

(a) (1) The Board consists of the following 12 members:

(i) as an ex officio member, the Commissioner; and

(ii) 11 voting members appointed by the Commissioner with the approval of the Secretary of Labor, Licensing, and Regulation.

(2) Of the 11 appointed members of the Board:

(i) 1 shall represent agriculture and be recommended by the Secretary of Agriculture;

(ii) 1 shall represent businesses that the Public Service Commission regulates and shall be recommended by the Chairman of the Commission;

(iii) 2 shall represent health professions and be recommended by the Secretary of Health and Mental Hygiene;

(iv) 2 shall represent industry;

(v) 2 shall represent labor; and

(vi) 3 shall represent the public.

(b) Each appointed member shall be chosen on the basis of competence and experience in the field of occupational safety and health.

(c) (1) The term of an appointed member is 6 years and begins on July 1.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Board on October 1, 1991.

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

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

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

§5–304.

From among the public members of the Board, the Commissioner shall appoint a chairman.

§5–305.

(a) The Commissioner may not vote.

(b) The Board shall determine the times and places of its meetings.

(c) Each appointed member of the Board 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.

§5–306.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this Part I of this subtitle shall terminate on July 1, 2024.

§5–308.

The Board shall advise, consult with, propose, and recommend to the Commissioner reasonable regulations:

(1) to prevent conditions that are detrimental to safety and health in each employment or place of employment in the State; and

(2) that the Board finds are necessary to protect and to improve the safety and health of employees on the basis of circumstantial evidence and information that:

(i) is developed by the Commissioner;

(ii) is available to the Commissioner; or

(iii) is submitted by an interested person to the Board at a public hearing held under § 5-310(d) of this subtitle.

§5–308.1.

(a) The Commissioner, in consultation with the Secretary of the Department of Health and Mental Hygiene, shall adopt regulations to implement the Bloodborne Pathogen Standard adopted by the federal Occupational Safety and Health Administration in 29 C.F.R. 1910.1030, as interpreted in the directive issued by the Occupational Safety and Health Administration on November 5, 1999.

(b) The Commissioner shall submit notice regarding any modifications made to, or directives issued interpreting, the federal Bloodborne Pathogen Standard after November 5, 1999 and, subject to § 2-1246 of the State Government Article, make recommendations for any legislative changes to the House Health and Government Operations Committee, the Senate Education, Health, and Environmental Affairs Committee, and the General Assembly within 30 days of the issuance of modifications to the Bloodborne Pathogen Standard.

§5–309.

(a) The Board shall propose or recommend occupational safety and health standards that:

(1) are or will be at least as effective in providing safe and healthful employment and places of employment as any standard adopted under the federal Occupational Safety and Health Act of 1970; and

(2) will not put an undue burden on interstate commerce when:

(i) a local condition or customized product or part requires the application of an occupational safety and health standard that differs from a federal standard; and

(ii) applied to a product or part that is distributed or used in interstate commerce.

(b) The Board shall include in each occupational safety and health standard that it proposes or recommends:

(1) a requirement for the use of a label or other appropriate form of warning as necessary to ensure that each employee is apprised of:

(i) each hazard to which the employee is exposed;

(ii) each relevant symptom of exposure;

(iii) emergency treatment appropriate for exposure; and

(iv) each proper condition and precaution for safe use or exposure;

(2) when appropriate in connection with a hazard, a requirement for:

(i) use of suitable protective equipment; and

(ii) control of technological procedures; and

(3) as necessary to protect employees, a requirement to measure or monitor exposure of employees to a hazard:

(i) at appropriate intervals;

(ii) at each appropriate location; and

(iii) in an appropriate manner.

(c) (1) To develop occupational safety and health standards about toxic materials or harmful physical agents, the Board shall propose or recommend occupational safety and health standards that most adequately ensure, to the extent feasible on the basis of the best available evidence, that no employee, including an employee who has regular exposure to toxic materials or harmful physical agents during the working life of the employee will suffer material impairment of health or functional capacity.

(2) To the extent practicable, the Board shall express each proposed occupational safety and health standard under this subsection in terms of objective criteria and desired performance.

§5–310.

(a) (1) The Board may ask for and the Commissioner may provide technical or other information that may help the Board to determine the need for a proposed regulation and to make a recommendation.

(2) The Commissioner may make any recommendation to the Board about a regulation that the Commissioner considers necessary to carry out this title.

(b) The Board or Commissioner may appoint a special committee, composed of employees, employers, experts, and at least 1 member of the general public, to help the Board to develop its recommendations on proposed regulations.

(c) The Board may use the advice and help of any individual or entity with special knowledge about a recommendation that the Board is considering.

(d) (1) The Board shall hold the public hearings needed to carry out its responsibilities under this subtitle.

(2) At least 30 days before a hearing under this subsection, the Commissioner shall publish notice of the hearing at least once in a newspaper that the Commissioner chooses.

(3) On request of any person, the Commissioner shall give that person notice of a hearing under this subsection.

§5–311.

The Board shall submit to the Commissioner, with each recommendation for a proposed regulation, a report that:

(1) explains the need for the proposed regulation; and

(2) summarizes the information available to the Board, including:

(i) testimony that was presented at any public hearing; and

(ii) technical information.

§5–312.

(a) To adopt a proposed regulation, the Commissioner shall comply with this section and Title 10, Subtitle 1 of the State Government Article.

(b) If, after receipt of a recommendation from the Board, the Commissioner decides to adopt the proposed regulation, within 45 days after the Board submits the recommendation, the Commissioner shall initiate the process for publishing and issuing the proposed regulation.

(c) A public hearing is not required to adopt, by reference, a proposed regulation that is identical to:

(1) a regulation or rule adopted by another unit of the State government;

(2) a standard on occupational safety and health that is adopted by an organization that is nationally recognized as setting standards; or

(3) a standard on occupational safety and health that is adopted by the federal government and that is currently in effect.

§5–313.

The Commissioner may delay the effective date of a regulation for not more than 90 days after publication of the notice of adoption, if the Commissioner determines that the delay is necessary to ensure that employers whom the regulation affects know about and have an opportunity to familiarize employees with the requirements of the regulation.

§5–314.

(a) Except as provided in subsection (c) of this section, and notwithstanding any other provision of this subtitle but subject to the limitations on emergency adoption in Title 10, Subtitle 1 of the State Government Article, the Commissioner may adopt immediately an emergency occupational safety and health standard that the Commissioner determines is needed to protect employees from the grave danger of:

(1) a new hazard; or

(2) exposure to an agent or circumstance determined to be toxic or physically harmful.

(b) An emergency occupational safety and health standard adopted under this section remains in effect until the earlier of:

(1) expiration of a period that the Joint Committee on Administrative, Executive, and Legislative Review sets;

(2) expiration of a period, not exceeding 6 months, that the Commissioner sets; or

(3) replacement of the emergency occupational safety and health standard by another regulation.

§5–315.

(a) The Commissioner shall keep in the office of the Commissioner a set of the current regulations adopted to carry out this title.

(b) (1) The Commissioner may set a fee for the cost to prepare and mail a copy of the current regulations.

(2) On request and payment of the fee, if any, the Commissioner shall send a person a copy of the current regulations.

§5–318.

An employer who is affected by a regulation adopted to carry out this title may apply to the Commissioner for a temporary or permanent variance from the regulation or a part of the regulation.

§5–319.

An applicant for a temporary variance shall apply before the effective date of the regulation or part of a regulation from which the temporary variance is sought.

§5–320.

An application for a temporary variance shall:

(1) specify the regulation or part of a regulation from which the temporary variance is sought;

(2) contain a representation by the employer supported by the representation of qualified individuals with personal knowledge of the facts stated in the application that the employer is unable to comply with the regulation or part;

(3) explain, in detail, each reason for the inability to comply;

(4) describe each step that the employer has taken and will take:

(i) to comply with the regulation or part; and

(ii) until then, to protect employees against the hazard that the regulation or part covers;

(5) state the date on which the employer took or will take each step listed under item (4) of this section;

(6) state the date on which the employer expects to be able to comply with the regulation or part;

(7) contain a certification that the employer has complied with § 5-321(a) of this subtitle;

(8) state the manner in which the employer complied with § 5-321(a) of this subtitle; and

(9) advise employees that any employee may ask the Commissioner to hold a hearing on the application.

§5–321.

(a) An applicant for a temporary variance shall:

(1) give a copy of the application to its employees or their authorized representative;

(2) post, where notices to employees normally are posted, a statement that summarizes the application and specifies where a copy of the application may be examined; and

(3) give notice by using any other appropriate means.

(b) An applicant for a permanent variance shall give each employee whom the variance would affect notice:

(1) of the application; and

(2) that the Commissioner shall give each employee whom the variance would affect an opportunity to participate in a hearing on the application.

§5–322.

(a) The Commissioner shall hold a hearing on an application for a temporary variance on request of:

(1) the applicant; or

(2) an employee whom the temporary variance would affect.

(b) (1) The Commissioner:

(i) shall hold a hearing on each application for a permanent variance; and

(ii) if appropriate, shall conduct an inspection.

(2) The Commissioner shall give employees whom the permanent variance would affect an opportunity to participate in the hearing.

§5–323.

(a) To qualify for a temporary variance, an applicant shall establish that the applicant:

(1) is unable to comply with a regulation or part of a regulation, by its effective date, because:

(i) equipment, material, or professional or technical staff that is needed to comply is unavailable; or

(ii) alteration or construction of a facility that is needed to comply cannot be completed by the effective date;

(2) has an effective program to comply with the regulation or part as soon as practicable; and

(3) is taking each available step to protect employees against each hazard that the regulation or part covers.

(b) To qualify for a permanent variance, an applicant shall show, by a preponderance of the evidence, that the applicant will maintain conditions, means, methods, practices, procedures, or operations that make employment and places of employment at least as safe and healthful for employees as they would be if the applicant complied with the regulation from which the permanent variance is sought.

(c) In addition to the bases under subsections (a) and (b) of this section, the Commissioner may grant an employer a variance from a regulation or part of a regulation if the Commissioner:

(1) approves an experiment to show or validate a new and improved method to protect the health or safety of employees; and

(2) determines that the employer needs the variance to participate in the experiment.

§5–324.

(a) The Commissioner may pass 1 interim order for a temporary variance from

a regulation.

(b) An interim order under this section is effective until the Commissioner makes a determination on an application for a temporary variance.

§5–325.

(a) (1) The Commissioner shall pass an order that grants an employer a temporary variance if:

(i) the employer submits an application in accordance with §§ 5-319 and 5-320 of this subtitle;

(ii) the employer gives notice to employees in accordance with § 5-321(a) of this subtitle;

(iii) the Commissioner holds any hearing required under § 5-322(a) of this subtitle; and

(iv) the Commissioner determines that the employer has met the requirements of § 5-323(a) of this subtitle.

(2) The Commissioner shall pass an order that grants an employer a permanent variance if:

(i) the employer submits an appropriate application;

(ii) the employer gives notice to employees in accordance with § 5-321(b) of this subtitle;

(iii) the Commissioner holds a hearing and conducts an appropriate inspection under § 5-322(b) of this subtitle; and

(iv) the Commissioner determines that the employer has met the requirements of § 5-323(b) of this subtitle.

(b) (1) Each order for a temporary or permanent variance shall specify the conditions the employer must maintain and the means, methods, practices, procedures, and operations to the extent that they differ from those required under the regulation or part of a regulation from which the variance is granted.

(2) Each order for a temporary variance shall state, in detail, the program that the employer is to follow to come into compliance with the regulation or part from which the temporary variance is granted.

§5–326.

(a) Unless an order for a temporary variance from a regulation or part of a regulation is renewed as provided in this section, the order may not be in effect for

longer than:

(1) 1 year after the order is passed; or

(2) if shorter, the period that the employer needs to achieve compliance with the regulation or part.

(b) (1) Subject to the limitations in this subsection, the Commissioner may renew an order for a temporary variance twice.

(2) The Commissioner may renew an order under this subsection only if the employer:

(i) submits an application for renewal to the Commissioner at least 90 days before the date on which the order is to expire; and

(ii) meets the requirements of this subtitle for granting a temporary variance.

(3) A renewal under this subsection may not remain in effect for more than 180 days.

§5–327.

(a) The Commissioner may modify or revoke a permanent variance at any time, on the Commissioner's own initiative and after a hearing.

(b) If at least 6 months have elapsed since the Commissioner granted the permanent variance, on an application of an employee or employer and after a hearing, the Commissioner may modify or revoke the permanent variance.

§5–328.

The Commissioner shall adopt regulations that provide:

(1) for a consultation program that conforms to federal law and regulations (29 C.F.R. Part 1908);

(2) that, unless the employer fails to correct or abate a hazard identified during a consultation inspection within the time allowed in the consultation report, the employer will not receive a citation or penalty for a hazard identified during the consultation inspection; and

(3) to the extent allowed by federal law and regulations, for an exemption not to exceed 2 years from general schedule inspection for an employer who, in accordance with the Commissioner's regulations, uses the consultation program provided by the Division of Labor and Industry.

§5–401.

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

(b) (1) "Employee" means an employee (as defined in § 5-101 of this title) or former employee when the individual may be exposed under normal operating conditions or foreseeable emergencies.

(2) "Employee" includes:

(i) a line supervisor;

(ii) a maintenance worker;

(iii) a member or former member of a volunteer fire, ambulance, or rescue company;

(iv) operating personnel; and

(v) a production worker.

(c) (1) "Employer" means an employer (as defined in § 5-101 of this title) and includes a volunteer fire, ambulance, or rescue company.

(2) "Employer" does not include a farmer who:

(i) uses a hazardous chemical in farming; and

(ii) complies with the applicable requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

§5–402.

Sections 5-404 through 5-409 of this subtitle do not apply to:

(1) a railroad that is subject to the Federal Railroad Safety Act of 1970 and the jurisdiction of the Federal Railroad Administration;

(2) a landfill in the State;

(3) a person who:

(i) is engaged in the business of providing commercial or residential garbage and refuse pickup and disposal service while actually engaging in the pickup and disposal of garbage and refuse; and

(ii) does not pick up, transport, treat, store, or dispose of controlled hazardous substances that are regulated under Title 7, Subtitle 2 of the Environment Article; or

(4) an analytical, educational, or research and development laboratory.

§5–403.

(a) Except as otherwise provided in this section, an employer, chemical manufacturer, importer, or distributor shall comply with all applicable provisions of the United States Department of Labor, Occupational Safety and Health Administration, "Hazard Communication Standard", 29 C.F.R. 1910.1200, as published at 52 Federal Register No. 163, August 24, 1987, pages 31876 through 31886, and, as adopted by the Commissioner, all subsequent amendments.

(b) (1) If a term is used in 29 C.F.R. 1910.1200 and defined in § 5-401 of this subtitle, the term has the meaning stated in § 5-401.

(2) When used in 29 C.F.R. 1910.1200, the terms "Assistant Secretary of Labor for OSHA" and "Director of the National Institute for Occupational Safety and Health" shall be interpreted to mean the Commissioner or a designated representative of the Commissioner.

(c) The exclusion for wood and wood products set forth in 29 C.F.R. 1910.1200(b)(6)(iii) does not apply in Maryland.

(d) (1) Except for an analytical, educational, or research and development laboratory, a laboratory shall comply with 29 C.F.R. 1910.1200.

(2) An employer that is an analytical, educational, or research and development laboratory shall comply with 29 C.F.R. 1910.1200(b)(3).

(e) The party who claims a trade secret under 29 C.F.R. 1910.1200(i) has the burden of proving the claim.

§5–404.

(a) An employer may not ask or require an employee to waive any right under this subtitle or 29 C.F.R. 1910.1200.

(b) A waiver of a right under this subtitle or 29 C.F.R. 1910.1200 is void.

§5–405.

(a) This section does not apply to a consumer product or foodstuff that is:

(1) packaged for distribution to and intended for use by the general public; and

(2) handled unopened or stored unopened in a retail establishment, including its storeroom or warehouse.

(b) (1) To comply with the requirements of 29 C.F.R. 1910.1200(e)(1)(i)

for a list of hazardous chemicals, each employer shall compile and maintain a chemical information list for each hazardous chemical that is formulated, handled, manufactured, packaged, processed, reacted, repackaged, stored, or transferred in the workplace of the employer.

(2) Within 30 days after a hazardous chemical is introduced into the workplace of an employer, the employer shall add the hazardous chemical to the chemical information list. The employer need not place the hazardous chemical alphabetically on the chemical information list until the employer next revises the list as required under paragraph (3) of this subsection.

(3) Every 2 years, an employer shall revise the chemical information list.

(c) For each hazardous chemical on a chemical information list, the list shall:

(1) contain its chemical and common names; and

(2) identify each work area where the hazardous chemical is found.

(d) Each compilation of a chemical information list and each revision under subsection (b) of this section shall list the hazardous chemicals on the list in alphabetical order according to common name.

(e) (1) Each employer shall keep, for at least 40 years, each chemical information list that the employer compiles or revises.

(2) (i) If an employer's business ceases to operate or formulate, handle, manufacture, package, process, react, repackage, store, or transfer hazardous chemicals in a workplace regulated under this subtitle, the employer promptly shall submit the most recent chemical information list to the Department of Labor, Licensing, and Regulation.

(ii) The Department of Labor, Licensing, and Regulation shall keep, for at least 40 years, the chemical information list that the employer provides under subparagraph (i) of this paragraph.

§5–407.

(a) (1) An employee or designated representative may ask an employer for:

(i) access to a chemical information list maintained by the employer; and

(ii) a copy of the chemical information list or any material safety data sheet in the workplace of the employee.

(2) An employer shall comply with a request under this subsection:

(i) for access, in the workplace of the employee, within 1 working day after a request; and

(ii) for a copy, within 5 days after a request.

(3) To comply with a request for a copy, an employer shall provide, without charge to the employee or designated representative, the copy or the mechanical means to produce the copy. If, during a calendar year, more than 1 copy is requested for an employee the employer may assess a reasonable charge for each additional copy.

(4) An employer shall make the material safety data sheet readily accessible in accordance with 29 C.F.R. 1910.1200(g)(8).

(5) If an employer fails to comply with this subsection, an employee who requests the information may refuse to work with the hazardous chemical for which the chemical information list or material safety data sheet was requested.

(b) On receipt of a written request, an employer or, if the employer's business has ceased operating as described in § 5–405(e)(2) of this subtitle, the Department of Labor, Licensing, and Regulation shall provide access to information on a chemical information list to:

(1) an individual who provides fire, ambulance, or rescue service for the appropriate geographic area;

(2) a nurse, physician, or physician's assistant who is providing emergency medical treatment;

(3) the Commissioner;

(4) a former employee;

(5) an independent contractor or employer;

(6) any environmental, civic, or consumer organization in the State; and

(7) any individual who lives:

(i) in a local community where a business stores, produces, or locates hazardous or toxic chemicals; or

(ii) in the nearest local community to a business that stores, produces, or locates hazardous or toxic chemicals.

§5–408.

(a) An independent contractor to whom this subtitle applies or an employer:

(1) before commencement of work at a workplace, shall provide

information compiled under § 5–405 of this subtitle to any other employer whose workplace is the site of work being performed by the independent contractor or employer; and

(2) on request, shall provide material safety data sheets for each hazardous chemical identified on the chemical information list to any other employer whose workplace is the site of the work being performed by the independent contractor or employer, within 1 working day after the request.

(b) Before commencement of work by an independent contractor, any employer who employs the independent contractor shall provide information required under § 5–405 of this subtitle and 29 C.F.R. 1910.1200(g) for the workplace at which the independent contractor will work.

(c) A general contractor or its representative shall designate, for each construction site, a common location where each independent contractor or employer shall leave the chemical information list of the contractor or employer before the contractor begins work at the site.

§5–409.

(a) In this section, "fire department official":

(1) means an individual who is responsible for the administration of a fire department in a political subdivision or a designee of the individual; and

(2) includes a fire administrator or fire chief.

(b) On request, an employer shall give a fire department official:

(1) a list of work areas, identified by name and location, and the appropriate chemical information list for each work area; and

(2) a material safety data sheet for each hazardous chemical included on the chemical information list.

(c) On notice, the employer at a retail establishment shall allow a fire department official to have access to the establishment, during normal business hours, to develop prefire strategy.

(d) (1) Except as provided in paragraph (2) of this subsection, information submitted or made available under this section is privileged and may not be disclosed to any person or in any civil proceeding.

(2) A fire department official who obtains information under subsection (b) of this section shall make the information available, on request, to an ambulance squad, fire inspection, fire suppression, or rescue squad unit within the same jurisdiction.

§5–410.

The criminal penalty under § 5-804 of this title does not apply to a violation that arises under §§ 5-404 through 5-409 of this subtitle.

§5–501.

(a) In this subtitle, "power equipment" means:

(1) a backhoe;

(2) a bulldozer;

(3) a front-end loader;

(4) skid steer equipment;

(5) a gradall;

(6) a scraper pan;

(7) a crane; or

(8) a hoist.

(b) "Power equipment" does not include agricultural equipment that is used in a farming operation.

§5–502.

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

§5–503.

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

(1) limitations and use;

(2) rated load capacities; and

(3) special hazards.

(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.

§5–504.

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

§5–505.

Sections 5-804, 5-805, and 5-806 of this title do not apply to this subtitle.

§5–601.

(a) The General Assembly finds that:

(1) exposure to asbestos, a known carcinogenic agent, creates a significant hazard to the health of the people of the State;

(2) asbestos protective clothing that is used improperly or that is not maintained properly exposes a worker to this hazard;

(3) protective materials have been developed as substitutes for asbestos; and

(4) it is in the public interest to protect workers from this hazard by eliminating the use of asbestos protective clothing.

(b) (1) A person may not sell in the State any item of new or used asbestos protective clothing.

(2) An employer may not:

(i) buy, for use by an employee, any item of new or used asbestos protective clothing;

(ii) ask or require an employee to use any item of new or used asbestos protective clothing; or

(iii) keep or otherwise possess any item of new or used asbestos protective clothing at a place of employment.

§5–602.

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

(2) "Confined space" means a space that, by design:

(i) has limited openings for entry and exit; and

(ii) is subject to:

1. the accumulation of a combustible agent;

2. an accumulation of a toxic agent; or

3. a deficiency of oxygen.

(3) "Confined space" includes:

(i) a basin;

(ii) a bin;

(iii) a degreaser;

(iv) a duct;

(v) a pipeline;

(vi) a pit;

(vii) a sewer;

(viii) a silo;

(ix) a tank that is enclosed or has an open top;

(x) a tub;

(xi) a tunnel;

(xii) a vat;

(xiii) a process vessel; or

(xiv) a reaction vessel.

(4) "Maintenance work" means cleaning, inspection, maintenance,

painting, repair, servicing, or other similar work.

(b) A person described in § 5–101(d)(2)(ii) or (iii) of this title may not allow or cause an individual described in § 5–101(c)(2)(iii) or (iv) of this title to do maintenance work in a confined space, unless the Commissioner:

(1) grants written authorization based on a satisfactory showing that work practices in effect will protect the health and safety of the individual; or

(2) in accordance with Subtitle 3 of this title, passes an order for a variance.

(c) (1) This subsection applies only to an employer who is a subcontractor.

(2) Each subcontractor who, under an original contract or subcontract, is to do maintenance work in a confined space shall give the Commissioner:

(i) at the commencement of the maintenance work, oral notice of the maintenance work to be performed; and

(ii) within 24 hours after the oral notice, written notice of the maintenance work.

§5–603.

(a) (1) Except as provided in subsection (b) of this section, whenever an employer has an employee working in a manhole, the employer shall have another employee available in the immediate vicinity of the manhole to give emergency help.

(2) The employee who is available to give emergency help may enter the manhole to give other help.

(b) For a brief period, a qualified employee who is working alone may enter a manhole where cables or equipment are in service to:

(1) perform an inspection;

(2) perform housekeeping;

(3) take readings; or

(4) do other work if it can be performed safely.

§5–604.

(a) (1) An employer or other person may not discharge or otherwise discriminate against an employee on the basis of information gained through participation of the employee in group medical coverage.

(2) This title does not prevent an employer from using medical information that:

(i) has a direct, material, and timely relationship to the capacity or fitness of an employee to perform the job of the employee properly; or

(ii) differs substantially from medical information that the employee falsely provides in an application for employment.

(b) An employer or other person may not discharge or otherwise discriminate against an employee because the employee:

(1) files a complaint under or related to this title;

(2) brings an action under this title or a proceeding under or related to this title or causes the action or proceeding to be brought;

(3) has testified or will testify in an action under this title or a proceeding under or related to this title; or

(4) exercises, for the employee or another, a right under this title.

(c) (1) (i) Subject to subparagraph (ii) of this paragraph, an employee who believes that an employer or other person has discharged or otherwise discriminated against the employee in violation of subsection (a) or (b) of this section may submit to the Commissioner a written complaint that alleges the discrimination and that includes the signature of the employee.

(ii) The Commissioner shall accept as timely an oral complaint made by the employee under the circumstances described in subparagraph (i) of this paragraph, provided the employee submits a written complaint within 7 business days of the oral complaint and that includes the signature of the employee.

(2) An employee shall file a complaint under this subsection within 30 days after the alleged discrimination occurs.

(d) (1) On receipt of a complaint under subsection (c) of this section, the Commissioner may investigate.

(2) If, after investigation, the Commissioner determines that an employer or other person has violated subsection (a) or (b) of this section, the Commissioner shall file a complaint to enjoin the violation, to reinstate the employee to the former position with back pay, or for other appropriate relief in the circuit court for:

(i) the county in which the alleged violation occurred;

(ii) the county in which the employer has its principal office; or

(iii) Baltimore City.

(3) Within 90 days after the Commissioner receives a complaint, the Commissioner shall notify the employee of the determination under this subsection.

§5–605.

(a) Each employer is encouraged to provide information and incentives that promote ridesharing arrangements.

(b) (1) Unless an employer owns or contracts for a vehicle that is used in a ridesharing arrangement, the employer is not liable for an injury to a rider or another that results from use of the vehicle.

(2) An employer is not liable for an injury to a rider or another only because the employer provides information or incentives or otherwise encourages an employee to participate in a ridesharing arrangement, as defined in § 11-150.1 of the Transportation Article.

§5–606.

(a) Upon installation of a sanitary sewer line in the State, each connection brought to the property line shall have a combination type fitting, capped at the horizontal end, with a vertical pipe capped within 4 feet of the surface.

(b) Each sewer house connection shall be designed to optimize safety, economy, functional efficiency, and operational maintenance.

(c) Vertical pipes to be used for house connections or cleanout pipes shall be a minimum of 4 inches in diameter.

(d) The requirements of this section apply in each county and subdivision in the State for any new installation or major modification occurring on or after January 1, 1992.

§5–608.

(a) Except as provided in § 24–505 of the Health – General Article, an individual may not smoke in an indoor place of employment.

(b) (1) The Department shall adopt regulations that prohibit environmental tobacco smoke, as defined in § 24–501 of the Health – General Article, in indoor places of employment not normally open to the general public.

(2) Subject to subsection (c) of this section, a person who violates a regulation adopted under this subtitle:

(i) for a first violation, shall be issued a written reprimand by the

Commissioner or the Commissioner's designee;

(ii) for a second violation, is subject to a civil penalty of $100; and

(iii) for each subsequent violation, is subject to a civil penalty not less than $250.

(c) The Commissioner may waive a penalty established under subsection (b) of this section, giving consideration to factors that include:

(1) the seriousness of the violation; and

(2) any demonstrated good faith measures to comply with the provisions of this subtitle.

(d) A penalty collected by the Commissioner under this section shall be paid to the Cigarette Restitution Fund established under § 7–317 of the State Finance and Procurement Article.

(e) An employer who discharges or discriminates against an employee because that employee has made a complaint under this section, has given information to the Department in accordance with this section, has caused to be instituted or is about to cause to be instituted a proceeding under this section, or has testified or is about to testify in a proceeding, shall be deemed in violation of this section and shall be subject to a civil penalty of at least $2,000 but not more than $10,000 for each violation.

(f) (1) An employee may not:

(i) make a groundless or malicious complaint to the Commissioner or an authorized representative of the Commissioner;

(ii) in bad faith, bring an action under this subtitle; or

(iii) in bad faith, testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle.

(2) The Commissioner may bring an action for injunctive relief and damages against a person who violates the provisions of paragraph (1) of this subsection.

§5–701.

(a) The Commissioner may require, by regulation, that an employer:

(1) measure or monitor employee exposure to a potentially toxic material or harmful physical agent; and

(2) keep an accurate record of employee exposure to a toxic material or harmful physical agent that the employer is required to measure or monitor.

(b) An employer shall give an employee or representative of an employee an opportunity to observe each measurement or monitoring under this section.

(c) If an employee is exposed to a potentially toxic material or harmful physical agent in a concentration or level that exceeds the level allowed under an applicable occupational safety and health standard, the employer of the employee:

(1) promptly shall give the employee notice; and

(2) shall inform the employee of each corrective action being taken.

(d) (1) Each employee or former employee shall have access to each record that indicates exposure of the employee or former employee to a toxic material or harmful agent.

(2) Each employee or representative of an employee shall have access to each record kept under subsection (a) of this section.

§5–702.

(a) The Commissioner may require, by regulation, that an employer keep:

(1) an accurate record of:

(i) each work–related death;

(ii) each work–related illness; and

(iii) each work–related injury other than a minor injury that requires only first aid treatment and does not involve loss of consciousness, medical treatment, restriction of motion or work, or transfer to another job; and

(2) each other record about an activity of the employer under this title that the Commissioner considers appropriate or necessary to develop information about the causes and prevention of occupational accidents, illnesses, and injuries.

(b) Each employer shall make available to the Commissioner each record that the employer is required to keep under subsection (a)(2) of this section.

(c) An employer shall report orally to the Commissioner an employment accident within 8 hours after it occurs if the accident results in:

(1) the death of an employee; or

(2) hospitalization of at least three employees.

§5–703.

(a) The Commissioner may require, by regulation, that an employer keep each

record about an activity of the employer that relates to this title as the Commissioner considers appropriate or necessary to enforce this title.

(b) Each employer shall make available to the Commissioner each record that the employer is required to keep under this section.

§5–704.

The Commissioner may require, by regulation, that an employer submit reports on the basis of the records that the employer keeps under this title.

§5–801.

The penalties in this subtitle do not apply to a public body.

§5–804.

(a) A person may not knowingly make a false certification, false representation, or false statement in an application, plan, record, report, or other document that is filed or required to be kept under this title.

(b) A person who violates any provision of subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 6 months or both.

§5–805.

(a) Unless the Commissioner or an authorized representative of the Commissioner gives written approval, a person may not give advance notice of an inspection to be made under this title.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

§5–806.

If an employer willfully violates any provision of this title, an order passed under this title, or a regulation adopted to carry out this title and the violation caused death to an employee, on conviction the employer is subject to:

(1) for a first offense, a fine not exceeding $10,000 or imprisonment not exceeding 6 months or both; or

(2) for a subsequent offense, a fine not exceeding $20,000 or imprisonment not exceeding 1 year or both.

§5–809.

(a) (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 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.

(b) The Commissioner shall assess a civil penalty against an employer who violates a requirement for posting imposed under this title.

(c) The Commissioner may assess a civil penalty against an employer who:

(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) The Commissioner may assess a civil penalty against an employer who does not correct a violation for which a citation is issued within the period set under this title for correction.

§5–810.

(a) (1) Except as provided in paragraph (2) of this subsection, a civil penalty under § 5-809 of this subtitle may not exceed:

(i) $7,000 for each violation; and

(ii) if an employer does not correct a violation within the period allowed for correction, $7,000 for each day that the violation continues.

(2) A civil penalty for a willful or repeated violation of a provision of this title, an order passed under this title, or a regulation adopted to carry out this title may not exceed $70,000 for each violation.

(3) A civil penalty for a willful violation of a provision of this title, an order passed under this title, or a regulation adopted to carry out this title may not be less than $5,000.

(b) Before the Commissioner assesses a civil penalty under § 5-809 of this subtitle, the Commissioner shall consider the appropriateness of the penalty in

relation to:

(1) the size of the business of the employer against whom the penalty is to be assessed;

(2) the gravity of the violation for which the penalty is to be assessed;

(3) the good faith of the employer;

(4) the history of violations by the employer;

(5) the injury and illness experience of the employer;

(6) the existence and quality of a safety and training program;

(7) the actual harm to human health including injury or illness;

(8) the extent to which the current violation is part of a recurrent pattern of the same or similar type of violation; and

(9) the extent to which the existence of the violation was known to the employer but remained not corrected.

§5–811.

(a) If a civil penalty that is assessed under this title is not paid in full within 30 days after the penalty becomes final, the Commissioner or the Central Collection Unit may proceed in the District Court to enforce payment.

(b) In a proceeding under this subsection, the Commissioner or the Central Collection Unit is entitled to judgment in the amount of the civil penalty that remains unpaid on a showing that:

(1) the penalty was assessed against the defendant;

(2) the penalty has become final;

(3) no appeal is pending;

(4) the penalty is wholly or partly unpaid; and

(5) the defendant:

(i) was duly served with a copy of the citation in accordance with the applicable regulations of the Commissioner; or

(ii) contested the citation for which the penalty was assessed.

§5–812.

Each civil penalty under this title shall be paid into the General Fund of the State.

§5–901.

This title may be cited as the "Maryland Occupational Safety and Health Act".

§5–1101.

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

(b) (1) "Health care facility" means:

(i) a hospital; or

(ii) a State residential center.

(2) "Health care facility" includes:

(i) a subacute care unit of a hospital; and

(ii) a State–operated hospital.

(c) "Health care worker" means an individual employed by a health care facility.

(d) "Hospital" has the meaning stated in § 19–301 of the Health – General Article.

(e) "State residential center" has the meaning stated in § 7–101 of the Health – General Article.

(f) "Workplace safety" means the prevention of any physical assault or threatening behavior against a health care worker in a health care facility.

§5–1102.

(a) A health care facility shall establish a workplace safety committee to establish and administer a workplace safety program.

(b) The workplace safety committee established under subsection (a) of this section shall be composed of an equal number of employees who work in management and employees who do not work in management.

§5–1103.

(a) The workplace safety committee shall establish a workplace safety program that is appropriate for the size and complexity of the health care facility.

(b) The workplace safety program established under subsection (a) of this section shall include:

(1) a written policy describing how the health care facility provides for the safety of health care workers;

(2) an annual assessment to:

(i) identify hazards, conditions, operations, and situations that could lead to workplace injuries; and

(ii) be used to develop recommendations to reduce the risk of workplace injuries;

(3) a process for reporting, responding to, and tracking incidences of workplace injuries; and

(4) regular workplace safety training for health care workers.

§5.5–101.

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

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

(c) (1) "Employee" includes each person in the service of a railroad who performs for the railroad any work defined as work of an employee in accordance with orders and decisions of the federal Department of Transportation and over whom the railroad maintains continuing authority to supervise and direct the manner of the work.

(2) "Employee" does not include any person who performs work for a rapid rail transit system or light rail system operating in the State.

(d) (1) "Railroad" includes each common carrier by rail and all branches, bridges, cars, extensions, ferries, plants, spurs, stations, subways, switches, terminal facilities, tracks, tunnels, and all equipment used on or in connection with them.

(2) "Railroad" does not include a rapid rail transit system or light rail system operating in the State.

(e) "Railroad company" means:

(1) the operator of a railroad operating in the State; and

(2) the State or any political subdivision of the State, while operating a railroad.

(f) (1) "Working day" means any day that occurs Monday through Friday

unless the day is designated as a holiday for employees of the State.

(2) "Working day" does not include a Saturday or Sunday.

§5.5–102.

It is the intent and purpose of this title to promote safety and health in all areas of railroad operations, to reduce railroad related accidents, to reduce deaths and injuries to all persons, to reduce damage to property caused by accidents involving railroads, and to the extent possible, to assure the safety and health of all persons and the protection of property by providing for:

(1) an effective enforcement and compliance program;

(2) development and adoption of safety and health standards and regulations; and

(3) appropriate reporting procedures with respect to safety and health in railroad operations to help achieve the objective of this title and to describe accurately the nature of railroad safety and health hazards and problems.

§5.5–103.

This title does not apply to any acceptable working conditions defined in a collective bargaining agreement.

§5.5–104.

(a) The Commissioner shall:

(1) administer and enforce the provisions of this title;

(2) adopt regulations to establish rules of procedure for hearings held in accordance with this title;

(3) establish record keeping and reporting procedures necessary to carry out the duties created under this title;

(4) accept and receive from any agency or agent of the federal government grants of money appropriated under any act of the United States Congress relating to railroad safety and health; and

(5) have exclusive jurisdiction involving all areas of railroad safety and health as provided under this title.

(b) (1) To carry out this title, the Commissioner or authorized representative of the Commissioner may administer an oath, certify to an official act, take or cause to be taken a deposition of a witness, or issue a subpoena for the attendance of a witness to testify or the production of papers, books, documents, records, and testimony.

(2) If a person fails to comply with a lawfully issued subpoena, on application of the Commissioner or authorized representative of the Commissioner in a contempt proceeding, a court of competent jurisdiction may compel the person to comply.

(c) To assist in carrying out this title, the Commissioner may accept and use any service, facility, or employee of any unit of the State or political subdivision, with the consent of the unit or subdivision and with or without reimbursement.

(d) The Commissioner may assign any function or duty under this title to the Chief Inspector for Railroad Safety and Health.

(e) Notwithstanding any other provision of this title, the Commissioner has no jurisdiction in any area of railroad safety and health under this title relating to any rapid rail transit system or light rail system operating in the State.

§5.5–105.

For any construction within 8 feet 6 inches laterally from the center line of a railroad track or within 22 feet above the top of the rail, the application for a building permit must be accompanied by a clearance certificate from the Commissioner to show that the proposed construction complies with requirements relating to distance from and height over a railroad track.

§5.5–106.

(a) (1) The proposed budget of the Division of Labor and Industry shall include an appropriation from the 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 pay the cost of administering this title from money the Public Service Commission receives under § 2–110 of the Public Utilities 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 paid by the Public Service Commission may not exceed $1 million in any fiscal year.

§5.5–107.

On request of the Commissioner, the Attorney General may proceed in a State or federal court or before any other federal unit:

(1) to enforce a decision of the Commissioner under this title;

(2) subject to § 3-302 of the State Finance and Procurement Article, to collect a civil penalty that is assessed by order of the Commissioner under this title; or

(3) to enforce any other order of the Commissioner under this title.

§5.5–108.

(a) As necessary, the Commissioner shall adopt appropriate health and safety standards and other regulations relating to:

(1) sanitation on railroad property as it affects the health of railroad employees, including clerical employees, engine workers, express employees, freight house employees, highway crossing watchmen, maintenance of way employees, platform employees, train workers, and yard workers; and

(2) all other areas of railroad safety and health.

(b) (1) To adopt a railroad health and safety standard or other regulation, the Commissioner shall comply with this section and Title 10, Subtitle 1 of the State Government Article.

(2) An economic impact statement prepared in accordance with § 10-111(c) of the State Government Article shall:

(i) include direct and indirect effects of the regulation on the railroad industry, the public, and railroad employees; and

(ii) set forth any alternative approach available.

(3) If acceptable alternative approaches are available in adoption of a regulation, the Commissioner shall adopt the approach that has the least burdensome economic impact on the railroad industry, the public, and railroad employees.

(c) (1) Subject to paragraph (2) of this subsection, railroad health and safety standards and other regulations that the Commissioner adopts shall be effective as provided in § 10-117 of the State Government Article.

(2) The Commissioner may delay the effective date of a regulation for not more than 90 days to ensure that railroad companies have an opportunity to familiarize their agents and employees with the requirements of the regulation.

(d) (1) Notwithstanding any other provision of this title but subject to the limitations on emergency adoption in Title 10, Subtitle 1 of the State Government Article, the Commissioner may adopt immediately an emergency health and safety standard that the Commissioner determines is needed to protect the public and employees from the grave danger of exposure to an agent or condition determined to be toxic or physically harmful.

(2) An emergency health and safety standard adopted under this subsection remains in effect until the earlier of:

(i) expiration of a period that the Joint Committee on Administrative, Executive, and Legislative Review sets;

(ii) expiration of a period, not exceeding 6 months, that the Commissioner sets; or

(iii) replacement of the emergency health and safety standard by another regulation adopted in accordance with this section.

(3) On request of a railroad company:

(i) the Commissioner shall hold a hearing and receive evidence pertaining to any emergency temporary health and safety standard; and

(ii) within 10 days after the request for a hearing, the Commissioner shall revoke, modify, or continue the standard.

(4) If a railroad company is aggrieved by an emergency temporary standard:

(i) the railroad company shall have the right to an immediate appeal to a court of competent jurisdiction; and

(ii) the court shall hear and decide the appeal.

(e) (1) The Commissioner shall keep in the office of the Commissioner a set of the current regulations adopted to carry out this title.

(2) The Commissioner may set a fee for the cost to prepare and mail a copy of the current regulations.

(3) On request and payment of the fee, if any, the Commissioner shall send a person a copy of the current regulations.

§5.5–109.

(a) This section does not apply to a locomotive that is used only for yard-switching service.

(b) (1) The Commissioner may adopt regulations that regulate the sanitary condition of locomotives.

(2) Regulations adopted under this subsection shall require basic health and safety standards, in accordance with regulations adopted by the Department of Health and Mental Hygiene, for drinking water and toilet and hand towel facilities.

(c) Before adoption of regulations under subsection (b) of this section, the Commissioner shall announce and hold a public hearing.

§5.5–110.

(a) A railroad company may not transport an employee to or from work on a caboose or locomotive unless the railroad company provides a fixed seat with a back support for the employee.

(b) To protect the health and safety of employees, a railroad company shall:

(1) install and maintain water or chemical toilet facilities on each caboose used for service beyond a 15-mile radius from a point of dispatchment within the State for use by employees, unless the caboose is a temporary substitute for one regularly used for the service; and

(2) enclose all toilet fixtures, within the caboose, in a separate compartment of sufficient dimensions that is ventilated properly.

(c) (1) This subsection does not apply to any caboose:

(i) operated on tracks of less than standard gauge;

(ii) normally used only during daylight hours;

(iii) operated only within a 20-mile radius from point of dispatchment; or

(iv) temporarily substituted for a regular caboose.

(2) To protect the health and safety of employees, the Commissioner shall require each railroad company to install and maintain:

(i) two or more electric marker lights on the rear of each caboose in service; and

(ii) one electric light for clerical work within each caboose in service, for which the railroad company shall determine the source of electricity and type of appliance.

(d) A railroad company may not have a common towel or common drinking cup available for use on property of the railroad company.

§5.5–111.

(a) (1) This section does not apply to designated cleanout and repair tracks.

(2) To provide employees a reasonably safe place to work, each railroad company shall keep and maintain free from debris and vegetation that unreasonably

affects employee safety the margins alongside yard tracks and sidetracks where employees are required to walk frequently in the course of their duties.

(b) If the Commissioner or authorized representative of the Commissioner finds any condition in or on a yard track or sidetrack or in a walkway that constitutes an immediate danger to the health or safety of the public or any railroad employee, or any condition in a sidetrack or switch that constitutes a danger to the health or safety of a railroad employee, the yard track, sidetrack, or switch may be closed immediately until the condition is corrected.

(c) (1) This section and § 5.5-123(c) of this title shall be enforced by the Commissioner on a complaint and after a hearing.

(2) Each day of noncompliance with an order that the Commissioner issues under this section shall be regarded as a separate violation.

§5.5–112.

(a) The Commissioner shall allow variances in accordance with this section.

(b) Any affected railroad company may apply in writing to the Commissioner for an order for a variance from any regulation or health and safety standard adopted under this title.

(c) After a hearing, the Commissioner may grant a variance from the regulations and standards adopted under this title, if:

(1) that action is necessary to prevent undue operational or economic hardship; or

(2) (i) existing conditions prevent practical compliance; and

(ii) the Commissioner determines the reasonable safety of the public and employees of the railroad company can be assured.

§5.5–113.

(a) The Commissioner shall conduct inspections and investigations in accordance with this section.

(b) (1) The provisions of this section apply to each railroad establishment, site, plant, workplace, place of employment, environment, or other area.

(2) The Commissioner or authorized representative of the Commissioner may enter a railroad area without delay at any reasonable time to:

(i) inspect the railroad area;

(ii) investigate all pertinent apparatus, conditions, devices,

equipment, materials, and structures at the railroad area; and

(iii) question any agent or employee of the railroad, if the railroad and an employee representative receive notice of and an opportunity to attend the questioning session.

(c) The provisions of § 12-101 of the Public Safety Article concerning administrative search warrants apply to this title.

(d) A person may not give advance notice of any inspection to be conducted under this title without the written approval of the Commissioner or authorized representative of the Commissioner.

§5.5–114.

(a) An employee of a railroad company or representative of employees may request inspection of a railroad if the employee or representative believes, in good faith, that:

(1) there is imminent danger to employees; or

(2) due to a violation of a health and safety standard adopted under this title, there is a threat of severe physical harm to an employee.

(b) To request an inspection, an employee or representative of employees shall sign and submit to the Commissioner or authorized representative of the Commissioner a written notice that describes, with reasonable particularity, the grounds for the notice.

(c) On receipt of a notice made in accordance with this section, the Commissioner shall determine whether there are reasonable grounds to believe that imminent danger or a threat exists.

(d) (1) If the Commissioner determines that there are reasonable grounds, the Commissioner shall conduct an investigation as soon as practicable to determine whether the danger or threat exists.

(2) If the Commissioner determines that there are no reasonable grounds, the Commissioner shall give the person who submitted the request written notice of that determination.

(e) (1) Subject to paragraph (2) of this subsection, a copy of the notice under subsection (b) of this section shall be given to the railroad company or representative of the railroad company no later than at the time of the inspection.

(2) On request of the person who submits a notice under subsection (b) of this section, the name of the person and the name of each employee to whom the notice refers may not appear in the copy of the notice to be given to the railroad company and

in each other record to be disclosed under this title.

(f) (1) If an employee or representative of the employee files a complaint with the Commissioner charging the employer with a violation of a regulation adopted by the Commissioner under § 5.5-108 of this title, or the Commissioner issues a complaint, the Commissioner shall serve the employer with a copy of the complaint.

(2) Within 20 days after receipt of the complaint, the employer shall file a written answer with the Commissioner.

(3) Within 10 days after an answer is filed, the Commissioner shall set a date for a hearing on the complaint.

(4) The Commissioner may allow any interested person or organization to intervene.

(5) A party to the hearing may appear and be heard in person or by a representative and may examine and cross-examine witnesses or present evidence.

(6) On motion of a party, the Commissioner may allow a continuance for not more than 30 days.

§5.5–115.

(a) In this section, "apparatus" means any machinery, device, or equipment or any part of any machinery, device, or equipment.

(b) The Commissioner or authorized representative of the Commissioner shall give written notice to a railroad company or the railroad company's agent in charge of the operation, if, after an inspection or investigation of the railroad, the Commissioner or authorized representative of the Commissioner determines that:

(1) an apparatus violates a health and safety standard adopted under this title; and

(2) there is a substantial probability that death or serious physical harm to an individual or damage to property could result from continued use of the apparatus.

(c) (1) A copy of a notice under subsection (b) of this section:

(i) shall be attached to the apparatus; and

(ii) may not be removed until the apparatus is made safe and each required safeguard is provided.

(2) Except for use that is necessary to repair the apparatus and to provide any required safeguards, the apparatus may not be used while a notice under this section is posted on the apparatus.

(3) Only the Commissioner or authorized representative of the Commissioner may remove the notice.

(d) (1) Any person aggrieved by a decision of the Commissioner under this section may appeal to a court of competent jurisdiction in accordance with the Maryland Rules.

(2) An action under this subsection shall be brought in the court of competent jurisdiction where the apparatus is located.

(3) In a proceeding under this subsection, a court may not stay an order of the Commissioner unless:

(i) the court gives the Commissioner notice and an opportunity for a hearing; and

(ii) the aggrieved person posts security.

(4) The court shall expedite the hearing of any action brought under this subsection.

§5.5–116.

(a) If, after an inspection or investigation, the Commissioner or authorized representative of the Commissioner is of the opinion that a railroad company has violated this title or a regulation or health and safety standard adopted or order issued to carry out this title, the Commissioner or authorized representative of the Commissioner shall, with reasonable promptness, issue a citation to the railroad company.

(b) Each citation under this section shall:

(1) describe, with particularity, the nature of the alleged violation;

(2) refer to the provision of this title, order, regulation, or health and safety standard that the railroad company is alleged to have violated; and

(3) set a reasonable period for abatement and correction of the alleged violation.

(c) In accordance with any regulation that the Commissioner adopts to carry out this title, a railroad company that is issued a citation shall prominently post the citation or a copy of it as set forth in regulations adopted by the Commissioner.

(d) No citation may be issued after 6 months after the occurrence of a violation.

§5.5–117.

(a) Within a reasonable time after issuance of a citation under § 5.5-116 of

this title, the Commissioner shall send by certified mail to the railroad company at its principal place of business a notice that:

(1) states that the citation has been issued and any civil penalty that will be assessed under this title; and

(2) informs the railroad company that, within 15 working days after receipt of the notice, the railroad company may submit to the Commissioner a written notice of contest on the citation or civil penalty.

(b) A citation and any penalty that the Commissioner proposes to assess shall be considered a final order of the Commissioner unless within 15 working days after receipt of a notice under subsection (a) of this section the railroad company notifies the Commissioner of an intent to contest the citation or any penalty.

(c) A railroad company shall correct each violation for which the Commissioner issues a citation within the period set for correction in a final order under this title.

(d) If the Commissioner has reason to believe that a railroad company has failed to correct a violation within the time allowed, the Commissioner shall send by certified mail to the railroad company a notice that:

(1) states that the railroad company has failed to correct the violation;

(2) states the civil penalty, if any, that the Commissioner intends to assess under § 5.5-121 of this title for the failure; and

(3) informs the railroad company that, within 15 working days after receipt of the notice, the railroad company may submit to the Commissioner a written notice of contest on the notice or civil penalty.

(e) Unless a railroad company notifies the Commissioner within 15 days after receipt of the notification issued by the Commissioner of an intent to contest as provided in subsection (a) of this section, the notice, including any civil penalty, is a final order.

§5.5–118.

(a) The Commissioner shall grant a hearing, if practicable, within 30 days after receipt of a notice that a railroad company or representative of a railroad company submits under § 5.5-116 or § 5.5-117 of this title.

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

(c) (1) When the Commissioner appoints an administrative law judge to hold a hearing under this section, the administrative law judge shall prepare a record that includes testimony.

(2) A written report that an administrative law judge submits shall become a final order of the Commissioner unless, within 15 working days after submission of the report, the:

(i) Commissioner orders a review of the proceeding; or

(ii) railroad company or any affected person submits to the Commissioner a written request for a review of the proceeding.

(d) (1) After review of a proceeding under subsection (b) of this section, with or without a hearing, the Commissioner shall pass an order that, based on findings of fact, affirms, modifies, or vacates the citation or proposed penalty or directs other appropriate relief.

(2) An order of the Commissioner under paragraph (1) of this subsection is final on the date of issuance of the order.

(e) After an opportunity for a hearing under this section, the Commissioner may pass an order that affirms or modifies a requirement of a citation for abatement of a violation on a showing by the affected railroad company that it:

(1) made a good faith effort to comply with the requirement; and

(2) has not complied because of a factor beyond the reasonable control of the railroad company.

§5.5–119.

(a) A person adversely affected or aggrieved by any order that the Commissioner passes under this title or any regulation or health and safety standard that the Commissioner adopts to carry out this title may appeal to a court of competent jurisdiction in accordance with the Maryland Rules.

(b) In a proceeding under this section, a court may not stay an order, regulation, or health and safety standard of the Commissioner unless:

(1) the court gives the Commissioner notice and an opportunity for a hearing; and

(2) the aggrieved person posts security and meets each other condition that the court considers proper.

(c) A regulation or health and safety standard that the Commissioner adopts to carry out this title may not be held invalid because of a technical defect if there is substantial compliance with this title.

(d) (1) At any appropriate time, the Commissioner may file a complaint to enforce any order that the Commissioner passes under this title or regulation or health

and safety standard that the Commissioner adopts to carry out this title.

(2) A complaint filed under this subsection shall be filed in a court of competent jurisdiction in accordance with the Maryland Administrative Procedure Act and the Maryland Rules.

(e) A court expeditiously shall hear a complaint under this section.

§5.5–120.

(a) If the Commissioner or an authorized representative of the Commissioner concludes that a condition or practice in the operation of any railroad creates an imminent danger that reasonably could be expected to cause death or serious physical harm to an individual or serious physical damage to property, the authorized representative:

(1) shall give notice of the danger to the railroad company and each employee whom the danger affects; and

(2) may recommend that the Commissioner seek to enjoin the condition or practice.

(b) (1) On a complaint filed by the Commissioner, a circuit court:

(i) may enjoin a condition or practice at a railroad company if the condition or practice creates an imminent danger that reasonably could be expected to cause death or serious physical harm to an individual or serious physical damage to property; and

(ii) may grant an injunction or temporary restraining order, pending the outcome of enforcement procedures under this title.

(2) A temporary restraining order that is passed without notice may not be in effect for more than 7 days.

(3) An injunction under this subsection may require each act needed to:

(i) avoid, correct, or remove the imminent danger; or

(ii) prohibit the employment or presence of any individual in a location or under a condition where the imminent danger exists other than an individual who needs to be present to:

1. remove the imminent danger; or

2. where operations must be stopped, stop an operation in an orderly and safe manner.

§5.5–121.

(a) (1) A railroad company shall promptly report, in writing or orally, to the Commissioner, after the occurrence of an accident resulting in:

(i) a serious injury or fatality to an individual; or

(ii) damage to property exceeding $2,900, or any other sum as determined by federal regulations, incurred during the operation of the railroad in the State.

(2) The Commissioner shall investigate the occurrence promptly after receiving notification of the accident.

(b) A railroad company shall promptly submit to the Commissioner copies of all accident and incident reports filed with the Federal Railroad Administration of accidents and incidents occurring in the State.

§5.5–122.

(a) A person who violates any regulation adopted by the Commissioner under § 5.5-109 of this title is guilty of a misdemeanor and on conviction for each offense is subject to a fine not exceeding the lesser of the penalty provided by the regulation or $100.

(b) If a railroad company willfully violates any provision of this title or any order, regulation, or health and safety standard adopted under this title, and the violation caused death to an individual, on conviction the railroad company is subject to:

(1) for a first offense, a fine not exceeding $25,000; or

(2) for a subsequent offense, a fine not exceeding $50,000.

(c) (1) A person may not knowingly make a false certification, false representation, or false statement in an application, plan, record, report, or other document that is filed or required to be kept under this title.

(2) A person who violates paragraph (1) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 6 months or both.

(d) (1) Unless the Commissioner or an authorized representative of the Commissioner authorizes advance notice of an inspection, a person may not give advance notice of an inspection to be conducted under this title.

(2) A person who violates paragraph (1) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or

imprisonment not exceeding 6 months or both.

§5.5–123.

(a) The Commissioner shall impose civil penalties under this title.

(b) (1) For the purpose of this subsection, a violation is considered to be a serious violation if there is substantial probability that death or serious physical harm could result from a condition that exists or a practice, means, method, or operation that is in use by the railroad company, unless the railroad company did not know and with the exercise of reasonable diligence could not have known of the violation.

(2) The Commissioner may assess a civil penalty against a railroad company that:

(i) willfully violates this title, an order passed under this title, or a regulation or health and safety standard adopted to carry out this title and the violation is specifically determined to be of a serious nature, an amount not exceeding $10,000 for each violation;

(ii) receives a citation for a violation of a provision of this title, an order passed under this title, or a regulation or health and safety standard adopted to carry out this title and the violation is specifically determined to be of a serious nature, an amount not exceeding $1,000 for each violation; or

(iii) receives a citation for a violation of a provision of this title, an order passed under this title, or a regulation or health and safety standard adopted to carry out this title and the violation is specifically determined not to be of a serious nature, an amount not exceeding $500 for each violation.

(c) The Commissioner may assess a civil penalty not exceeding $100 against a railroad company for each violation of a requirement for posting imposed under this title.

(d) (1) The Commissioner may assess a civil penalty of not less than $100 and not exceeding $500 against a railroad company that violates a maintenance requirement for yard track margins and sidetracks for employee safety under § 5.5-111 of this title.

(2) Each day of noncompliance with any order that the Commissioner issues under § 5.5-111 of this title shall be considered a separate violation.

(e) The Commissioner shall assess against an agent of a railroad company a civil penalty of $100 for each employee that the agent requires to ride more than 5 miles without a seat as required under § 5.5-110(a) of this title, regardless of whether the employee is in active service.

(f) If a railroad company does not correct a violation for which a citation has

been issued within the period set for correction in accordance with § 5.5-116 of this title, the Commissioner may impose a civil penalty not exceeding $100 for each day that the violation continues.

(g) Before the Commissioner assesses a civil penalty under this section, the Commissioner shall consider the appropriateness of the penalty in relation to:

(1) the size of the railroad company;

(2) the gravity of the violation for which the penalty is to be assessed;

(3) the good faith of the railroad company; and

(4) the history of violations by the railroad company.

(h) (1) Each civil penalty under this section shall be payable into the General Fund of the State 90 days after the violation becomes final and nonreviewable.

(2) The Commissioner shall reduce the penalty by 50% if during the 90-day period:

(i) the railroad company had no reportable accidents attributable to a State or federal regulation; or

(ii) the railroad has not committed a willful or serious violation as described in this section.

§6–101.

In this title, "high voltage line" means an electric line that:

(1) is installed above ground level; and

(2) has a voltage of more than 750 volts:

(i) between conductors; or

(ii) from a conductor to a ground.

§6–102.

This title does not apply to:

(1) the maintenance or repair of an electric power plant or system that a private company or corporation owns or operates for production of electricity for its own use; or

(2) the construction, maintenance, or operation of a high voltage line and its support structures and associated equipment by a public utility that the Public

Service Commission regulates or an agent or contractor of the utility.

§6–103.

Until determined otherwise from the owner or operator of an electric line that is above ground level, the electric line is presumed:

(1) to be energized on and at all times after installation or erection; and

(2) to have a voltage of more than 750 volts.

§6–104.

The Division of Labor and Industry shall administer and enforce this title.

§6–105.

(a) Whenever an individual who is authorized to inspect property in the State is denied access after the individual makes a proper request for access to inspect to the owner, lessee, or other person in charge of the property, the individual may apply to the District Court for an administrative search warrant under this title.

(b) Each application under this section shall:

(1) state the nature, purpose, and scope of the inspection; and

(2) show that:

(i) the applicant:

1. is authorized by law to make the inspection; and

2. requested access at a reasonable time;

(ii) access was denied; and

(iii) the inspection is for a purpose related to safety or health.

(c) An application may not be submitted to the District Court unless approved by the Attorney General.

(d) On application in accordance with this section, the District Court may issue an administrative search warrant.

§6–106.

If any part of an individual or object will come within 10 feet of a high voltage line while performing the activity, a person shall comply with § 6-107 of this title before the person may perform, or require or allow an employee to perform, any of the following

activities:

(1) moving all or any part of a building or other structure;

(2) trimming a tree or doing any similar activity; or

(3) erecting, operating, storing, transporting, or otherwise handling any object, including:

(i) an antenna;

(ii) an antenna support;

(iii) equipment;

(iv) a flagpole;

(v) machinery;

(vi) material;

(vii) tools; or

(viii) other apparatus.

§6–107.

(a) Except as provided in subsection (b) of this section, whenever an activity listed under § 6–106 of this title is to be performed within 10 feet of a high voltage line, the person responsible for performing the activity shall:

(1) promptly notify the owner or operator of the high voltage line of the activity to be performed;

(2) make any appropriate arrangements with the owner or operator of the high voltage line to carry out any safety measures required by item (3) of this subsection; and

(3) with any necessary cooperation from and subject to any necessary agreement with the owner or operator of the high voltage line, ensure that the high voltage line has been effectively guarded against accidental contact by:

(i) installing physical barriers to prevent physical contact with the high voltage line;

(ii) relocating the high voltage line; or

(iii) de–energizing and grounding the high voltage line.

(b) (1) This subsection applies only when a local government performs maintenance on street lighting equipment owned by the local government.

(2) Whenever an activity listed under § 6–106 of this title is to be performed within 10 feet of a high voltage line, the person responsible for performing the activity shall:

(i) comply with the National Electrical Safety Code; and

(ii) be qualified as defined in the National Electrical Safety Code.

§6–108.

(a) The owner or operator of a high voltage line shall perform any act that is reasonably necessary to carry out the safety measures required by § 6-107 of this title to guard effectively against accidental contact with the high voltage line:

(1) after notification from a person who intends to perform an activity listed under § 6-106 of this subtitle within 10 feet of a high voltage line;

(2) after the person who intends to perform the activity has made any appropriate arrangements; and

(3) within a reasonable time.

(b) This section does not require an owner or operator of a high voltage line to:

(1) bear the expense of any safety measure required by this title; or

(2) de-energize or ground any high voltage line if doing so would:

(i) substantially interfere with service to the public; or

(ii) endanger the health, safety, or welfare of the public.

§6–109.

(a) "Equipment" includes a crane, derrick, pile driver, power shovel, trimming rig, or similar apparatus.

(b) This section applies to any equipment if all or any part of the equipment may be used near any high voltage line.

(c) The owner, lessee, or user of any equipment to which this section applies shall become acquainted and acquaint its employees with this title and regulations adopted to carry out this title.

(d) (1) The owner, lessee, or user of any equipment to which this section applies shall keep a warning sign posted:

(i) on the equipment in clear view of its operator while at the controls of the equipment;

(ii) on the outside of the equipment in clear view of each individual helping the operator from outside of the equipment; and

(iii) on the boom of each crane or derrick so that, when the boom is raised, the sign is at the eye level of the operator.

(2) Each sign shall state, in lettering that is legible from a distance of at least 12 feet: "Unlawful to operate this equipment within 10 feet of any electric wire".

(3) Each sign shall be permanent and weather resistant.

§6–110.

A person who fails to comply with or violates any provision of this 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.

§7–101.

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

(b) "Agricultural operation" means:

(1) a person:

(i) who performs a farm labor contracting service; and

(ii) who:

1. owns or operates a farm;

2. owns or operates a cannery, packing shed, or other processing establishment; or

3. produces or conditions seed; or

(2) a not-for-profit or cooperative association that:

(i) performs a farm labor contracting service;

(ii) consists of owners or operators of farms; and

(iii) is incorporated or qualified under the laws of the State.

(c) "Agricultural work" means employment:

(1) on a farm, in any activity that relates to the maintenance, management, or operation of the farm or its tools or other equipment, including cultivation of soil, raising of bees, or the growing, harvesting, or producing of an agricultural or horticultural commodity; or

(2) by the owner or operator of a farm, to dry, to freeze, to grade, to pack, to package, to plant, to process, or otherwise to handle an agricultural or horticultural commodity in its unmanufactured state before delivery for storage.

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

(e) (1) "Farm" means an area that is used primarily to raise an agricultural or horticultural commodity.

(2) "Farm" includes:

(i) a dairy farm;

(ii) a fruit farm;

(iii) a furbearing animal farm;

(iv) a greenhouse;

(v) a nursery;

(vi) an orchard;

(vii) a poultry farm;

(viii) a ranch;

(ix) a stock farm; and

(x) a truck farm.

(f) "Farm labor contractor" means a person, other than an agricultural operation or an employee of an agricultural operation, who performs a farm labor contracting service for consideration.

(g) "License" means a license issued by the Commissioner to perform farm labor contracting services for consideration.

(h) "Licensed farm labor contractor" means an individual who is licensed by the Commissioner to perform farm labor contracting services for consideration.

(i) (1) "Migrant agricultural worker" means, except as provided in paragraph (2) of this subsection, an individual who:

(i) is employed to perform agricultural work of a seasonal or other temporary nature; and

(ii) in the course of employment:

1. is absent overnight from the permanent place of residence of the individual; or

2. as part of a day-haul operation, is transported or caused to be transported by a farm labor contractor or an agent of a farm labor contractor to or from the place of employment.

(2) "Migrant agricultural worker" does not include:

(i) an immediate family member of the owner or operator of a farm or a cannery, packing shed, or other processing establishment;

(ii) an immediate family member of an individual who produces or conditions seeds;

(iii) an immediate family member of a farm labor contractor; or

(iv) a nonimmigrant alien, as defined in 8 U.S.C. § 1101(a)(15)(H)(ii)(a), who is authorized under federal law to work in agricultural employment in the United States.

(j) "Perform a farm labor contracting service" means to recruit, to employ, to hire, to provide, to solicit, to transport, or to provide housing for a migrant agricultural worker.

§7–102.

(a) This title does not apply:

(1) to a common carrier or an employee of a common carrier solely because it transports a migrant agricultural worker;

(2) to a custom grain combine, hay harvesting, or sheep shearing operation or to an employee of the operation while the employee is performing a farm labor contracting service only for the operation;

(3) to an individual who performs farm labor contracting services, or an employee of the individual while the employee is performing a farm labor contracting service only for the individual, within a 25-mile intrastate radius of the permanent place of residence of the individual and not exceeding 13 weeks a year;

(4) to an agricultural operation when engaging a farm labor contractor through the Department of Labor, Licensing, and Regulation; or

(5) to an individual who performs farm labor contracting services only for a farm or a cannery, packing shed, seed conditioning establishment, or other processing establishment, if:

(i) the individual or an immediate family member of the individual exclusively owns and operates the farm or establishment; and

(ii) only the individual and immediate family members of the individual perform farm labor contracting services for the farm or establishment.

(b) This title does not apply:

(1) to any person other than a farm labor contractor to whom no more than 10 migrant agricultural workers are provided at any time during the current and preceding calendar years;

(2) to an individual while acting as an employee of an agricultural operation that is excluded under item (1) of this subsection; or

(3) to a custom operation for poultry harvesting, breeding, debeaking, sexing, or health service or to an employee of the operation while the employee is performing a farm labor contracting service only for the operation, unless the operation regularly requires an employee to be absent during nonworking hours from the domicile of the employee.

§7–103.

An agreement by a migrant agricultural worker to waive or modify a right of the migrant agricultural worker under this title is void as contrary to public policy.

§7–201.

To the extent practicable, the Commissioner shall reduce duplication of the licensing requirements and enforcement procedures under this title and any applicable federal law through an agreement with the United States Secretary of Labor that establishes a cooperative program to coordinate licensing and enforcement activities under this title with any coextensive program that the Department of Labor administers.

§7–202.

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

(b) To administer or enforce this title, the Commissioner may:

(1) conduct necessary investigations; and

(2) enter, at reasonable times, without delay:

(i) a migratory labor camp;

(ii) a place of employment; or

(iii) housing that a farm labor contractor provides to a migrant agricultural worker.

(c) To administer or enforce this title, the Commissioner may administer oaths and depose witnesses.

(d) (1) To administer or enforce this title, the Commissioner may issue a subpoena for the attendance of a witness to testify or the production of books, documents, papers, and records.

(2) If a person fails to comply with a subpoena issued under this subsection or fails to testify on any matter on which the person lawfully may be interrogated, on a complaint filed by the Commissioner, the circuit court for the county where the person resides or is then present may pass an order directing compliance with the subpoena or compelling testimony.

§7–203.

(a) In addition to any powers set forth elsewhere, the Commissioner:

(1) may accept from any source a grant to carry out this title; and

(2) to administer or enforce this title, may certify to official acts.

(b) In addition to any duties set forth elsewhere, the Commissioner shall keep a central public registry of all licensed farm labor contractors.

§7–204.

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

§7–205.

On request of the Commissioner, the Attorney General may proceed in a court or before a federal unit to enforce:

(1) a decision of the Commissioner made under this title;

(2) a subpoena issued under this title;

(3) an order of the Commissioner passed under this title; or

(4) the collection of a civil penalty assessed under this title.

§7–301.

Except as otherwise provided in this title, an individual shall be licensed by the Commissioner before the individual may perform a farm labor contracting service in the State for consideration.

§7–302.

(a) An applicant for a license shall:

(1) submit to the Commissioner:

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

(ii) two recent, passport sized, color photographs of the applicant; and

(2) pay to the Commissioner an application fee of $25.

(b) The application shall state:

(1) the permanent place of residence of the applicant;

(2) each address where the applicant expects to reside while in the State;

(3) each farm labor contracting service that the applicant will perform for consideration;

(4) the name and address of each agricultural operation for whom the applicant will perform a farm labor contracting service, in the State, for consideration;

(5) the name and permanent address of each person who will act as custodian of records of wages that are required under this title to be kept;

(6) the number of migrant agricultural workers that the applicant expects to use in the State to perform a farm labor contracting service for consideration;

(7) if the applicant will provide housing or cause housing to be provided to a migrant agricultural worker:

(i) the name of each person who will provide the housing; and

(ii) each address where the housing will be provided;

(8) if registration is required under the federal Migrant and Seasonal Agricultural Worker Protection Act, the registration identification number of the applicant;

(9) the name of a resident agent who is acceptable to the Commissioner;

(10) the consent of the applicant to service of process on the resident agent whenever the applicant leaves the State or otherwise is unavailable to accept service; and

(11) other relevant information that the Commissioner requires.

(c) If information required under subsection (b) of this section changes, the applicant or, if a license has been issued, the licensee shall give the Commissioner notice of the change within 10 days after the applicant or licensee knows or should have known of the change.

(d) Information in an application or in a notice of change may not be used to imply legal responsibility on an agricultural operation for the care, custody, or activities of a migrant agricultural worker whom a farm labor contractor provides.

(e) The Commissioner shall make application forms reasonably available at convenient locations throughout the State.

§7–303.

On receipt of an application for a license, the Commissioner shall investigate, as appropriate, to determine whether the applicant is entitled to be licensed.

§7–304.

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

(b) The Commissioner shall attach to each license issued under this section a photograph of the licensee.

§7–305.

While a license is in effect, it authorizes the licensee to perform farm labor contracting services for consideration.

§7–306.

A license expires on the first March 1 after its effective date.

§7–307.

While a licensee is performing a farm labor contracting service in the State, the licensee shall:

(1) carry the license; and

(2) show the license:

(i) to each person with whom the licensee intends to deal as a farm labor contractor; and

(ii) on request, to an authorized employee or official of the State.

§7–308.

Subject to the hearing provisions of § 7-309 of this subtitle, the Commissioner may deny a license to any applicant or suspend or revoke a license if the applicant or licensee:

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

(2) fraudulently or deceptively uses a license;

(3) knowingly makes any misrepresentation in the application;

(4) is not the real party in interest in the application for a license and the real party in interest:

(i) has been refused a license;

(ii) has had a license suspended or revoked; or

(iii) otherwise fails to qualify under this section for a license;

(5) fails to comply with any provision of this title;

(6) fails to comply with any regulation that the Commissioner adopts;

(7) fails to comply with an order that the Commissioner passes;

(8) fails to satisfy a judgment that the Commissioner obtains under this title;

(9) knowingly gives a migrant agricultural worker who is recruited or hired false or misleading information about the existence or conditions of employment;

(10) fails, without just cause, to comply with any agreement or arrangement with an agricultural operation or with a migrant agricultural worker;

(11) is found by the Secretary of Health and Mental Hygiene to have violated a regulation of the Secretary on housing, sanitation, or safety for migrant agricultural workers;

(12) has had a farm labor contractor registration certificate suspended or revoked by the United States Department of Labor or by another state for a reason that would justify suspension or revocation of a license in this State;

(13) has been convicted of a felony under a law of the State or under federal law; or

(14) during the past 5 years, has been convicted of a misdemeanor in connection with performing a farm labor contracting service if the misdemeanor relates to:

(i) gambling;

(ii) sale, distribution, or possession of an alcoholic beverage; or

(iii) sale, distribution, or possession of a controlled dangerous substance.

§7–309.

(a) Except as provided in § 10-226 of the State Government Article or in § 7-310 of this subtitle, before the Commissioner takes any final action under § 7-308 of this subtitle, the Commissioner shall give the individual against whom the action is contemplated an opportunity for a hearing before the Commissioner.

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

(c) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Commissioner may hear and determine the matter.

§7–310.

The Commissioner may suspend a license summarily pending the determination of a hearing under § 7-309 of this subtitle if the Commissioner finds suspension necessary to prevent abuse of or injury to a migrant agricultural worker.

§7–311.

(a) If, after an investigation, the Commissioner has reason to believe that a person is performing a farm labor contracting service for consideration in the State without a license, the Commissioner may pass an order to require the person immediately to cease performing the farm labor contracting service.

(b) The Commissioner shall give notice of the order and, if requested under subsection (d) of this section, hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) An order passed under this section shall be:

(1) served personally; or

(2) sent by certified mail to the last known address of the person.

(d) (1) Within 7 days after service of an order under this section, the person may submit to the Commissioner a written request for a hearing.

(2) Unless a person requests a hearing in accordance with paragraph (1) of this subsection, the order is final.

§7–312.

(a) Subject to subsection (b) of this section, the Commissioner may require a farm labor contractor to post a surety bond or other security if the Commissioner:

(1) finds that the farm labor contractor has violated a provision of this title or any order that the Commissioner passes or regulation that the Commissioner adopts; or

(2) receives a certified record of the finding of a unit of another state or the United States that the farm labor contractor has violated any law that relates to:

(i) registration as a farm labor contractor; or

(ii) the employment of, provision of housing for, or transportation of a migrant agricultural worker.

(b) The Commissioner may not require security on the basis of an administrative decision that a court nullifies.

(c) The Commissioner may require security in an amount that the Commissioner considers adequate to ensure compliance with the laws of the State.

§7–313.

Any person 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.

§7–401.

(a) (1) In accordance with this section, each farm labor contractor shall disclose to each migrant agricultural worker:

(i) each place of employment in the State;

(ii) a description of the crops and activities involved;

(iii) each condition of employment at each place of employment, including:

1. the wage to be paid;

2. the person who will pay the wage; and

3. when the wage is due;

(iv) the housing, insurance, or transportation that will be provided to the migrant agricultural worker;

(v) any cost that will be charged to the migrant agricultural worker for housing, insurance, or transportation; and

(vi) each labor dispute that the farm labor contractor knows exists at a place of employment.

(2) Each farm labor contractor shall disclose to a migrant agricultural worker the information required under this subsection:

(i) before the farm labor contractor causes the migrant agricultural worker to enter the State to perform agricultural work;

(ii) if the migrant agricultural worker is recruited in the State, before the farm labor contractor recruits the migrant agricultural worker to perform agricultural work; or

(iii) if the farm labor contractor is in the State with a migrant agricultural worker and has recruited the migrant agricultural worker when an agricultural operation asks the farm labor contractor to perform a farm labor contracting service, before the farm labor contractor performs the service.

(b) Each farm labor contractor who provides housing for a migrant agricultural worker, by agreement with an agricultural operation or otherwise, shall ensure that all of the conditions of occupancy are posted conspicuously while the migrant agricultural worker stays in the housing.

(c) Information that a farm labor contractor is required to disclose under this section shall be:

(1) in writing; and

(2) in English or, as necessary and reasonable for migrant agricultural workers who are not fluent or literate in English, in Spanish or another language common to the migrant agricultural workers.

(d) On request, the Commissioner shall make available to a farm labor contractor forms to be used to disclose information as required under this section.

§7–402.

Unless there is just cause for noncompliance, each farm labor contractor shall comply with:

(1) each written agreement with an agricultural operation that relates to performing a farm labor contracting service or to protecting a migrant agricultural worker under this title;

(2) each written agreement or working arrangement with a migrant agricultural worker; and

(3) each written description of conditions of employment, housing, or transportation that is required under this subtitle to be disclosed to migrant agricultural workers.

§7–403.

(a) The Commissioner may require, by regulation, a farm labor contractor to keep records of:

(1) wages owed to each migrant agricultural worker for agricultural work performed in the State; and

(2) wages paid to each migrant agricultural worker for agricultural work performed in the State.

(b) A farm labor contractor shall keep all of the records required under subsection (a) of this section even if the farm labor contractor is not responsible for paying a migrant agricultural worker.

§7–404.

(a) Each farm labor contractor shall ensure that each vehicle that the farm labor contractor uses or causes to be used to transport a migrant agricultural worker in the State meets applicable federal and State standards for safety.

(b) Each farm labor contractor shall ensure that the driver of each vehicle that the farm labor contractor uses or causes to be used to transport a migrant agricultural worker in the State is authorized under Title 16 of the Transportation Article to drive the vehicle.

(c) (1) Each farm labor contractor shall ensure that the owner of each vehicle that the farm labor contractor uses or causes to be used to transport a migrant agricultural worker in the State has a policy that insures against liability for bodily injury and damage to property that arises from the ownership or operation of the vehicle.

(2) The Commissioner shall set, by regulation, the minimum amount of insurance coverage required under paragraph (1) of this subsection, but the amount may not exceed the coverage required under federal law.

§7–501.

Except as otherwise provided in this title, a person may not perform a farm labor contracting service in the State for consideration unless licensed by the Commissioner.

§7–502.

Unless authorized under this title to perform a farm labor contracting service for consideration, a person may not represent to the public, by the use of a title, including "licensed farm labor contractor", by description of services, methods, or procedures, or otherwise, that the person is authorized to perform a farm labor contracting service in the State for consideration.

§7–503.

(a) Except as otherwise provided in this title, a person may not use a farm labor contractor to perform a farm labor contracting service unless the person ascertains that the farm labor contractor is licensed by:

(1) requesting confirmation from the Commissioner that the farm labor contractor is licensed; or

(2) examining the license.

(b) (1) Whenever a person makes a request under subsection (a)(1) of this section, the Commissioner shall inform the person whether the farm labor contractor is licensed.

(2) Within 5 working days after a person makes a request under subsection (a)(1) of this section, the Commissioner shall respond in writing.

(3) If the status changes during the term of the license, the Commissioner shall give the person who made the request written notice of the change.

(4) If the Commissioner fails to provide the notice required under this subsection, a person is not liable for hiring a person who is not authorized to perform farm labor contracting services in the State.

(c) Notwithstanding subsection (b)(4) of this section, a person may not hire or continue to use a farm labor contractor to perform a farm labor contracting service after the person receives notice from the Commissioner or otherwise learns that the farm labor contractor is not licensed.

§7–504.

A person may not interfere with or intimidate an official or other employee of the Department of Labor, Licensing, and Regulation assigned to carry out a function under this title.

§7–505.

A person may not assign or transfer a license.

§7–506.

(a) Subject to the limitations in this section, the Commissioner may assess a civil penalty against a person who willfully or repeatedly violates:

(1) any provision of this title;

(2) any order passed under this title; or

(3) any regulation adopted to carry out this title.

(b) A civil penalty under this section may not exceed $5,000 for each violation.

(c) (1) Before the Commissioner assesses a civil penalty against an agricultural operation, the Commissioner shall consider the appropriateness of the penalty in relation to:

(i) the size of the business;

(ii) any good faith effort to comply with § 7-503 of this subtitle; and

(iii) the history of previous violations.

(2) Before the Commissioner assesses a civil penalty against a farm labor contractor, the Commissioner shall consider the appropriateness of the penalty in relation to:

(i) the size of the business;

(ii) the gravity of the violation;

(iii) the good faith of the farm labor contractor; and

(iv) the history of previous violations in this State or in any other state that relate to licensing or to the treatment of a migrant agricultural worker.

§7–507.

A farm labor contractor who willfully violates any provision of this title or any

regulation adopted to carry out this title is guilty of a misdemeanor and on conviction is subject:

(1) for a first offense, to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both; and

(2) for a subsequent offense, to a fine not exceeding $10,000 or imprisonment not exceeding 3 years or both.

§8–101.

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

(b) "Base period" means:

(1) the first 4 of the last 5 completed calendar quarters immediately preceding the start of the benefit year; or

(2) the 4 most recently completed calendar quarters immediately preceding the start of the benefit year only if the individual applying for benefits does not qualify for any benefits under § 8–802 of this title using the definition in item (1) of this subsection.

(c) "Base period employer" means an employing unit who paid wages to an individual during the base period of the individual for covered employment.

(d) "Benefit year" means a 1–year period that begins:

(1) on the 1st day of the 1st week for which an individual first files a claim for benefits; or

(2) if an individual already has had a benefit year, on the 1st day of the 1st week for which the individual files a claim for benefits after the termination of the preceding benefit year.

(e) "Benefits" means the money that is payable under this title to an individual who is unemployed.

(f) "Board of Appeals" means the Board of Appeals of the Department of Labor, Licensing, and Regulation.

(g) "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31, except as otherwise provided by the Secretary by regulation.

(h) "Child support" means an obligation that is enforced under a plan that:

(1) is described in § 454 of the Social Security Act; and

(2) has been approved by the United States Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

(i) "Child support enforcement unit" means a unit of a state or political subdivision of a state that operates under a plan that:

(1) is described in § 454 of the Social Security Act; and

(2) has been approved by the United States Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

(j) "Claimant" means an individual who submits a claim for benefits.

(k) "Contributions" means money required to be paid to the Unemployment Insurance Fund under § 8–607 of this title.

(l) "Covered employment" means work that an individual performs for an employing unit that is the basis for benefits.

(m) "Department" means the Department of Labor, Licensing, and Regulation.

(n) (1) "Educational institution" means an institution that offers participants, students, or trainees an organized course of study or training that is academic, technical, trade–oriented, or preparatory for gainful employment in a recognized occupation.

(2) "Educational institution" includes an institution of higher education.

(o) "Employer" means a person or governmental entity who employs at least 1 individual within the State.

(p) "Employing unit" means:

(1) an employer that has at least 1 employee engaged in covered employment for at least part of a day;

(2) an employer that has elected to become subject to this title under § 8–203 of this title; or

(3) an employer that is not otherwise subject to this title but that:

(i) within the current or preceding calendar year, is liable for any federal tax against which credit may be taken for contributions required to be paid into a State unemployment fund; or

(ii) as a condition for approval for full credit of contributions against the tax imposed by the Federal Unemployment Tax Act, is required by that Act to be an employing unit.

(q) "Governmental entity" means:

(1) a governmental unit as defined in § 1–101 of this article; or

(2) an instrumentality of:

(i) 1 or more states;

(ii) 1 or more political subdivisions of a state; or

(iii) 1 or more states and political subdivisions of states.

(r) "Hospital" has the meaning stated in § 19–301 of the Health – General Article.

(s) (1) "Institution of higher education" means an educational institution that:

(i) is a public or other not for profit institution;

(ii) is authorized to provide in the State a program of education beyond high school; and

(iii) admits as regular students only individuals with a certificate of graduation from high school or a recognized equivalent certificate for:

1. training preparatory for employment in a recognized occupation;

2. work for credit toward a bachelor's degree; or

3. postgraduate or postdoctoral study.

(2) "Institution of higher education" includes each college and university in the State.

(t) "Knowingly" means, except as otherwise provided in this title, having actual knowledge, deliberate ignorance, or reckless disregard for the truth.

(u) "Lower Appeals Division" means the Lower Appeals Division of the Department of Labor, Licensing, and Regulation.

(v) "Not for profit organization" means an organization that is:

(1) described in § 501(c)(3) of the Internal Revenue Code; and

(2) exempt from income tax under § 501(a) of the Internal Revenue Code.

(w) "Part–time worker" means an individual:

(1) whose availability for work is restricted to part–time work; and

(2) who worked at least 20 hours per week in part–time work for a majority of the weeks of work in the base period.

(x) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

(y) (1) "State" has the meaning stated in § 1–101 of this article.

(2) "State" does not include a territory of the United States unless the territory enacted an unemployment insurance law that complies with the standards adopted by the Secretary of Labor of the United States under the Federal Unemployment Tax Act or Title III of the Social Security Act.

(z) "Tip" means compensation that:

(1) an individual receives from a customer of the individual's employer while performing covered employment; and

(2) is included in a written statement provided to the employer under § 6053(a) of the Internal Revenue Code.

(aa) (1) "Wages" means all compensation for personal services except as provided in paragraph (3) of this subsection.

(2) "Wages" includes:

(i) a bonus;

(ii) a commission;

(iii) a tip; and

(iv) the cash value of all compensation in any medium other than cash.

(3) "Wages" does not include:

(i) the amount of any payment made to or on behalf of an employee or any dependent of an employee under a plan or system established by an employing unit that provides for employees generally or for their dependents or for a class of employees and their dependents on account of:

1. retirement;

2. sickness or accident disability payments under a workers' compensation law;

3. medical or hospitalization expenses in connection with

sickness or accident disability;

4. a cafeteria plan as defined in 26 U.S.C. § 125, if the payments would not be treated as wages outside a cafeteria plan;

5. dependent care assistance to the extent that the assistance payments would be excludable from gross income under the provisions of 26 U.S.C. § 127 or § 129; or

6. death;

(ii) any amount that an employing unit pays for insurance or an annuity or into a fund to provide for a payment described in item (i) of this paragraph;

(iii) any payment on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability made by the employing unit to or on behalf of an employee at least 6 calendar months after the last calendar month in which the employee worked for the employing unit;

(iv) any payment made to or on behalf of an employee or beneficiary of the employee:

1. from or to a trust exempt from tax under § 401(a) of the Internal Revenue Code at the time of the payment, unless the payment is made to an employee of the trust as compensation for services rendered as an employee and not as beneficiary of the trust; or

2. under or to an annuity plan that, at the time of payment, meets the requirements of § 401(a)(3) through (6) of the Internal Revenue Code;

(v) with respect to compensation paid to an employee for domestic service in a private home of the employing unit or for agricultural labor, the payment by an employing unit without deduction of the tax imposed on an employee under § 3101 of the Internal Revenue Code;

(vi) any payment required from an employee under a state unemployment insurance law;

(vii) compensation paid in any medium other than cash to an employee for service not in the course of the trade or business of the employing unit;

(viii) any payment other than vacation or sick pay made to an employee after the month in which the employee becomes 65 years old if the employee did not work for the employing unit in the period for which the payment is made;

(ix) any payment, including an amount paid into a fund to provide for any payment by an employing unit to or on behalf of an employee under a plan or system that an employing unit establishes that provides for employees of the employing

unit generally or a class or group of employees to supplement unemployment benefits;

(x) any payment to an individual as compensation for serving or being called to serve on a jury; or

(xi) any payment to an individual as allowance or reimbursement for travel or other expenses incurred on the business of the employer up to the amount of expenses actually incurred and accounted for by the individual to the employer.

(bb) "Week" means a period of 7 consecutive days, as the Secretary sets by regulation.

§8–102.

(a) This section is a guide to the interpretation and application of this title.

(b) The General Assembly finds that:

(1) economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of the State;

(2) involuntary unemployment is a subject of general interest and concern that requires appropriate action by the General Assembly to prevent the spread of involuntary unemployment and to lighten its burden, which often falls with crushing force on the unemployed worker and the family of the unemployed worker;

(3) the achievement of security for society requires protection against involuntary unemployment, which is the greatest hazard of our economic lives; and

(4) security for society can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, maintaining the purchasing power, and limiting the serious social consequences of poor relief assistance.

(c) The General Assembly declares that, in its considered judgment, the public good and the general welfare of the citizens of the State require the enactment of this title, under the police powers of the State, for the compulsory setting aside of unemployment reserves to be used for the benefit of individuals unemployed through no fault of their own.

§8–103.

(a) To the extent necessary to ensure that the United States Secretary of Labor certifies this title under § 3304 of the Internal Revenue Code and unless this title clearly indicates an intent to the contrary, this title shall be construed in a manner consistent with the relevant provisions of the Internal Revenue Code, the Federal Social Security Act, the Federal-State Extended Unemployment Compensation Act of 1970, and the

Federal Trade Act of 1974.

(b) If implementation of a provision of Title 10, Subtitle 2 of the State Government Article (Administrative Procedure Act - Contested Cases) affects federal funds otherwise available under this title, the Department shall advise the Governor and request appropriate action under § 10-225 of the State Government Article.

§8–104.

With the advice and help of the State and local advisory councils, the Secretary shall take all appropriate steps to:

(1) reduce and prevent unemployment;

(2) encourage and assist in the adoption of practical methods of vocational training, retraining, and guidance;

(3) advise, assist, and conduct investigations regarding the establishment and operation by a county, a municipality, or the State, of reserves for public works to be used in times of business depression and unemployment;

(4) promote the reemployment of unemployed workers throughout the State in each other way that may be feasible; and

(5) conduct investigations and research studies and publish the results.

§8–105.

Unless a report or other written or oral communication that is made or delivered in connection with this title is false and malicious, a person may not bring an action for abusive or wrongful discharge, libel, or slander based on the report or communication from:

(1) an employee to an employer;

(2) an employer to an employee; or

(3) an employee or an employer to the Secretary or Board of Appeals or any agent, employee, or representative of the Secretary or Board of Appeals.

§8–105.1.

(a) Except as provided in subsection (b) of this section or otherwise required by law, information provided to the Secretary under § 8–1001(b)(3) of this title for purposes of determining whether a claimant left employment as a result of domestic violence shall be confidential and not subject to disclosure to any party.

(b) (1) The Secretary may notify the employing unit in general terms that a claimant has left employment as a result of domestic violence.

(2) The Secretary may not disclose information provided to the Secretary under § 8–1001(b)(3)(ii) of this title to the employing unit unless the employing unit can establish that:

(i) the employing unit has a legitimate need to question the veracity of the information;

(ii) the employing unit's need for the information outweighs the claimant's personal privacy interest; and

(iii) the employing unit is unable to obtain the information from any other source.

(3) Before disclosing information under this section, the Secretary shall:

(i) notify the claimant; and

(ii) redact unnecessary identifying information.

(4) An employing unit that receives information under this section may not further disseminate the information.

(c) Information related to the status of a claimant or a claimant's spouse, minor child, or parent as a victim of domestic violence is not public information subject to disclosure as part of the appeals process.

(d) The Secretary may adopt regulations to further protect the privacy of the claimant.

§8–106.

(a) (1) An agreement by an individual to commute, release, or waive a right to benefits under this title is void.

(2) An agreement by an employee to pay all or part of the contributions that an employing unit is required to make under this title is void.

(b) (1) An assignment or pledge of an individual's right to benefits under this title is void.

(2) A right to benefits under this title is not subject to attachment, execution, levy, or any other remedy provided by law for collection of debts.

(3) After an individual receives benefits, unless they are commingled with other money of the individual, the benefits are exempt from any remedy provided by law for collection of debts.

(4) A waiver of any exemption under this subsection is void.

§8–107.

(a) An individual who performs services for an employer that maintains more than 1 establishment is deemed to be employed by a single employer.

(b) If an employer has actual or constructive knowledge that an individual is employed to perform or assist in performing the work of any agent or employee of the employer, the individual is deemed to be employed by the employer regardless of whether the individual was hired or paid directly by the employer or the agent or employee of the employer.

§8–201.

(a) Employment is presumed to be covered employment if:

(1) regardless of whether the employment is based on the common law relation of master and servant, the employment is performed:

(i) for wages; or

(ii) under a contract of hire that is written or oral or express or implied; and

(2) the employment is performed in accordance with § 8–202 of this subtitle.

(b) To overcome the presumption of employment, an employing unit shall establish that the person performing services is an independent contractor in accordance with § 8–205 of this subtitle or is specifically exempted under this subtitle.

§8–201.1.

(a) An employer may not fail to properly classify an individual as an employee.

(b) (1) If the Secretary determines that an employing unit has failed to properly classify an individual as an employee, any and all contribution or reimbursement payments resulting from the failure to properly classify that are due and unpaid shall accrue interest as provided in paragraph (2) of this subsection.

(2) An employer who fails to pay the contribution or reimbursement payments within 45 days shall be assessed interest at the rate of 2% per month or part of a month from the first due date following notice of the misclassification until the Secretary receives the contribution or payment in lieu of contributions and interest.

(c) The Secretary shall consider, as strong evidence that an employer did not knowingly fail to properly classify an individual, whether the employer:

(1) (i) classifies all workers who perform the same or substantially the

same tasks for the employer as independent contractors; and

(ii) reports the income of the workers to the Internal Revenue Service as required by federal law; and

(2) has received a determination from the Internal Revenue Service that the individual or a worker who performs the same or substantially the same tasks for the employer is an independent contractor.

(d) If the Secretary determines that an employing unit has knowingly failed to properly classify an individual as an employee, the employing unit shall be subject to a civil penalty of not more than $5,000 per employee.

(e) (1) A person may not knowingly advise an employing unit or a prospective employing unit to take action for the purposes of violating this section.

(2) A person found in violation of this subsection shall be subject to a civil penalty of not more than $20,000.

(f) An employing unit found to have knowingly violated this section who has also been found previously to have knowingly violated this section by a final order of a court or administrative unit may be assessed double the administrative penalties set forth in subsection (c) of this section for the new violation.

(g) (1) An employing unit may be assessed civil penalties by only one order of a court or administrative unit for the same actions constituting a knowing failure to properly classify an individual as an employee.

(2) Notwithstanding paragraph (1) of this subsection, an employing unit may be ordered to make restitution, pay any interest due, and otherwise comply with all applicable laws and regulations by orders of a court, the Secretary, and all other relevant administrative units, including the Comptroller, the Workers' Compensation Commission, the Insurance Administration, and the Division of Labor and Industry.

(h) If the Secretary determines that an employing unit has failed to properly classify an individual as an employee, the Secretary shall promptly notify the Workers' Compensation Commission, the Division of Labor and Industry, the Insurance Administration, and the Comptroller.

(i) As authorized by State and federal law, units within the Department of Labor, Licensing, and Regulation and the Department of Budget and Management, the Secretary of State, the Comptroller, the Insurance Administration, and other State agencies shall cooperate and share information concerning any suspected violation of this title.

(j) (1) The Secretary shall adopt regulations to carry out this section.

(2) The regulations shall:

(i) require that the Secretary provide an employer with the factual basis for any violations charged;

(ii) establish procedures regarding the audit process and any agency level review available before appeal; and

(iii) provide guidance as to what constitutes the evidence relevant to the determination of whether an employer knowingly failed to properly classify an individual as an employee.

§8–202.

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

(2) "American aircraft" means an aircraft registered under the laws of the United States.

(3) "American employer" means:

(i) a corporation organized under the laws of a state;

(ii) a partnership, if at least two-thirds of the partners are residents of the United States;

(iii) a resident of the United States; or

(iv) a trust, if all of the trustees are residents of the United States.

(4) "Vessel" means:

(i) a vessel that is documented or numbered under the laws of the United States; or

(ii) a vessel that is not documented or numbered under the laws of the United States and is not documented under the laws of any foreign country whose crew performs service solely for:

1. a citizen or resident of the United States; or

2. a corporation organized under the laws of a state.

(b) Employment that otherwise meets the requirements of § 8-201 of this subtitle is covered employment if the employment is:

(1) performed in the State, including:

(i) employment performed on land that the United States government holds or owns; and

(ii) employment performed in interstate commerce; or

(2) deemed to be performed in the State under an election made by an employer and approved by the Secretary under a reciprocal arrangement between the Secretary and a unit of another state or the federal government in accordance with Subtitle 7 of this title.

(c) Employment that otherwise meets the requirements of § 8-201 of this subtitle and is performed partly in this State is covered employment in its entirety if:

(1) the employment that is performed outside this State is incidental to the employment that is performed in this State, including employment that is temporary or transitory or that consists of isolated transactions;

(2) the employment that is performed in this State is not incidental to employment that is performed in any particular state but:

(i) the base of operations is in this State; or

(ii) the place from which the employment is controlled or directed is in this State; or

(3) the employment:

(i) is performed by an individual who is a resident of this State; and

(ii) is not performed in part in a state in which the employment is controlled or directed or in which the base of operations is located.

(d) Employment that otherwise meets the requirements of § 8-201 of this subtitle is covered employment if:

(1) the employment is:

(i) controlled or directed from this State;

(ii) performed in any state, the Virgin Islands, or Canada; and

(iii) not insured under the unemployment insurance law of any other state, the Virgin Islands, or Canada;

(2) notwithstanding § 8-210(a) of this subtitle and except as provided in § 8-210(b) of this subtitle, the employment is performed by an officer or crew member of a vessel or American aircraft on or in connection with it if:

(i) the office from which the operations of the vessel on navigable waters or the American aircraft are conducted is within this State; or

(ii) the operation of the vessel or American aircraft within this State

or both in and outside the United States ordinarily and regularly is controlled and directed from in this State; or

(3) the employment is performed by a citizen of the United States for an American employer outside of the United States, the Virgin Islands, and Canada and is not otherwise covered under this section if the American employer:

(i) has its principal place of business in the United States located in this State;

(ii) does not have a place of business in the United States, but the American employer is:

1. a resident of this State;

2. a corporation that is organized under the laws of this State; or

3. a partnership or a trust and a plurality of the partners or trustees are residents of this State;

(iii) has elected coverage under this title; or

(iv) has failed to elect coverage in any state and, not being covered under the unemployment insurance law in any other state, the employee has filed a claim for benefits under the law of this State based on the employment.

§8–203.

(a) An employer may submit to the Secretary a written election that employment that otherwise is not covered under this title is covered employment if:

(1) payments are not required for the employment under an unemployment insurance law of another state or the federal government; and

(2) the employment is performed for the employer by an individual in a distinct establishment or place of business.

(b) (1) The Secretary shall approve or disapprove the election in writing.

(2) If the Secretary approves an election, the employment included in the election shall be covered employment from the date stated in the approval.

(c) An election under this subsection shall be for at least 2 calendar years.

(d) The provisions of § 8–909 of this title with respect to rights to benefits based on service for State and not for profit institutions of higher education shall apply to service that is covered employment under an election under this section.

(e) The employment shall cease to be covered employment as of January 1 of the calendar year following the end of the 2 calendar year period during which the employment has been covered if, by January 31 of that year:

(1) the employing unit has submitted a written notice of termination to the Secretary; or

(2) the Secretary has given notice of termination of the coverage.

§8–204.

(a) In this section, "pay period" means a period of not more than 31 consecutive days for which a payment of wages ordinarily is made to an individual by the employer of the individual.

(b) This section does not apply to employment that an individual performs for an employer in a pay period in which any of the employment is exempted under § 8-213(b) of this subtitle.

(c) (1) If employment that an individual performs for an employer during at least one-half of a pay period is covered employment, then all of the employment during that pay period is covered employment.

(2) If employment that an individual performs for an employer during more than one-half of a pay period is not covered employment, then none of the employment during that pay period is covered.

§8–205.

(a) Work that an individual performs under any contract of hire is not covered employment if the Secretary is satisfied that:

(1) the individual who performs the work is free from control and direction over its performance both in fact and under the contract;

(2) the individual customarily is engaged in an independent business or occupation of the same nature as that involved in the work; and

(3) the work is:

(i) outside of the usual course of business of the person for whom the work is performed; or

(ii) performed outside of any place of business of the person for whom the work is performed.

(b) The Secretary shall adopt regulations to provide:

(1) general guidance about the application of subsection (a) of this section;

and

(2) specific examples of how subsection (a) of this section is applied to certain industries, including the construction industry, the landscaping industry, and the home care services industry.

§8–206.

(a) Work is not covered employment when performed by a licensed barber or licensed cosmetologist who leases a chair or booth from a holder of a barbershop permit, a beauty salon permit, or an owner–manager permit who operates a barbershop or beauty salon, if the Secretary is satisfied that:

(1) the barber or cosmetologist as lessee and the permit holder have entered into a written lease that is in effect;

(2) the lessee pays a stipulated amount for use of the chair or booth and is not required to make any further accounting of income to the permit holder;

(3) the lessee has access to the premises at all hours and may set personal work hours and prices; and

(4) the lease expressly states that the lessee knows:

(i) of the responsibility to pay State and federal income taxes and make contributions to Social Security for self–employment; and

(ii) that the work is not covered employment.

(a–1) Work is not covered employment when performed by a holder of a limited license to provide nail technician services who leases or otherwise agrees to the use of a chair, booth, or space from a holder of a barbershop permit, a beauty salon permit, or an owner–manager permit who operates a barbershop or beauty salon if the Secretary is satisfied that:

(1) the holder of a limited license to provide nail technician services and the permit holder have entered into a written lease or other written agreement that is in effect;

(2) the holder of a limited license to provide nail technician services:

(i) pays a stipulated amount or commission for use of the chair, booth, or space;

(ii) is not required to make any further accounting of income to the permit holder; and

(iii) has access to the premises at all hours and may set personal work

hours and prices; and

(3) the lease or other written agreement expressly states that the holder of a limited license to provide nail technician services knows:

(i) of the responsibility to pay State and federal income taxes and make contributions to Social Security for self–employment; and

(ii) that the work is not covered employment.

(b) Work that a direct seller performs is not covered employment if the Secretary is satisfied that:

(1) the direct seller is engaged in the trade or business of selling consumer products:

(i) in the home or at any other location outside of a permanent retail establishment; or

(ii) to a buyer on a buy–sell basis, a deposit–commission basis, or any similar basis for resale by the buyer or any other person in the home or at any other location outside of a permanent retail establishment;

(2) the direct seller and the person for whom the work is performed have entered into a written agreement that is currently in effect;

(3) substantially all of the compensation for the employment is related directly to sales or other output, including the performance of a service, rather than to the number of hours worked; and

(4) the written agreement states that the direct seller will not be treated as an employee for the purpose of State and federal income taxes with respect to the employment performed under the agreement.

(c) Work that an individual performs is not covered employment if the Secretary is satisfied that the individual:

(1) is engaged in the trade or business of delivering or distributing newspapers or shopping news, including any services directly related to the delivery or distribution of newspapers or shopping news; and

(2) meets the requirements for a direct seller under subsection (b)(2), (3), and (4) of this section.

(d) (1) In this subsection, "messenger service business" means a business that:

(i) principally and primarily offers and provides to the public

or commercial establishments expedited, time critical, and same day as requested delivery service; and

(ii) does not make, produce, sell, or distribute what it delivers.

(2) Work that a messenger service driver performs for a person who is engaged in the messenger service business is not covered employment if the Secretary is satisfied that:

(i) the driver and the person who is engaged in the messenger service business have entered into a written agreement that is currently in effect;

(ii) the written agreement under item (i) of this paragraph does not prohibit the driver from performing for more than one person who is engaged in the messenger service business;

(iii) the driver is free to accept or reject delivery jobs from the person who is engaged in the messenger service business;

(iv) the driver personally provides the vehicle;

(v) compensation is by commission only, which may include, for the purposes of this subsection, any of the following:

1. a schedule of compensation that is calculated from a percentage of revenue or some other measure of revenue that the driver generates for the messenger service business;

2. a fixed amount of compensation for the completion of a specific delivery job; and

3. a guaranteed minimum amount of compensation for the driver remaining available to provide delivery service;

(vi) the driver may set personal work hours; and

(vii) the written agreement states expressly and prominently that the driver knows:

1. of the responsibility to pay estimated Social Security taxes and State and federal income taxes;

2. that the Social Security tax the driver must pay is higher than the Social Security tax the driver would pay otherwise; and

3. that the work is not covered employment.

(3) A messenger service driver for a messenger service business whose work is not covered employment under paragraph (2) of this subsection may deliver

to the public or commercial establishments on foot, by bicycle, or by motor vehicle:

(i) individually addressed mail, messages, and documents in paper or magnetic format; and

(ii) emergency medical supplies, records, parcels, or similar items if the messenger service business provides to the Secretary evidence of a worker status determination from the Internal Revenue Service or other evidence that the messenger service driver is excluded from coverage under the Federal Unemployment Tax Act.

(e) Work is not covered employment when performed by a taxicab driver who uses a taxicab or taxicab equipment of a taxicab business that is carried on by the holder of a taxicab permit if the Secretary is satisfied that:

(1) the driver and permit holder have entered into a written agreement that is currently in effect for the use of the taxicab or taxicab equipment;

(2) the driver pays a stipulated amount for the use of the taxicab or taxicab equipment and is not required to make any further accounting to the permit holder;

(3) the driver has access to the taxicab or taxicab equipment at all hours and, subject to the Public Utilities Article, may set personal work hours and places; and

(4) the agreement states expressly that the driver knows:

(i) of the responsibility to pay State and federal income taxes; and

(ii) that the work is not covered employment.

(f) (1) (i) This subsection applies to an individual who is an owner operator of:

1. a Class F (tractor) vehicle, described in § 13–923 of the Transportation Article; or

2. except as provided in subparagraph (ii) of this paragraph, a Class E (truck) vehicle, as described in § 13–916 of the Transportation Article, including a Class E (truck) vehicle described in § 13–919 of the Transportation Article.

(ii) This subsection does not apply to an individual who is an owner operator of a vehicle registered as a Class T (tow truck) vehicle under § 13–920 of the Transportation Article.

(2) Work is not covered employment when performed by an owner operator if the Secretary is satisfied that:

(i) the owner operator and a motor carrier have entered into a written agreement that is currently in effect for permanent or trip leasing;

(ii) under the agreement:

1. there is no intent to create an employer–employee relationship; and

2. the owner operator is paid rental compensation;

(iii) for federal tax purposes, the owner operator qualifies as an independent contractor; and

(iv) the owner operator:

1. owns the vehicle or holds it under a bona fide lease arrangement;

2. is responsible for the maintenance of the vehicle;

3. bears the principal burden of the operating costs of the vehicle, including fuel, repairs, supplies, vehicle insurance, and personal expenses while the vehicle is on the road;

4. is responsible for supplying the necessary personnel in connection with the operation of the vehicle; and

5. generally determines the details and means of performing the services under the agreement, in conformance with regulatory requirements, operating procedures of the motor carrier, and specifications of the shipper.

(g) Work is not covered employment when performed by a home worker if the Secretary is satisfied that:

(1) the work is performed according to specifications furnished by the person for whom the services are performed;

(2) the work is performed on textiles furnished by the person for whom the services are performed; and

(3) the textiles must be returned to the person for whom the services are performed or that person's designee.

(h) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Officiating services" means:

1. overseeing the play of a sports event;

2. judging whether the rules of the event are being followed; and

3. penalizing participants for fouls or infringements of the rules.

(iii) 1. "Recreational sports official" means an umpire, a referee, or a judge who contracts with a governmental or nongovernmental entity to perform officiating services at amateur sports events sponsored by:

A. a unit of county government;

B. a unit of a municipal corporation; or

C. an entity associated with a county government or a municipal corporation.

2. "Recreational sports official" does not include any individual who performs officiating services in covered employment under § 8–208(a) or § 8–212(c) of this subtitle.

(2) Work that consists of officiating services performed by a recreational sports official is not covered employment.

§8–207.

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

(2) "Agricultural work" includes employment for a wage that is performed:

(i) on a farm in connection with:

1. cultivating the soil; or

2. raising or harvesting any agricultural or horticultural commodity, including caring for, feeding, managing, raising, shearing, or training livestock, poultry, bees, furbearing animals, or wildlife;

(ii) for the owner, tenant, or other operator of a farm in connection with:

1. conserving, improving, maintaining, managing, or operating the farm or its equipment or tools; or

2. salvaging timber or clearing land of brush and other debris left by a hurricane if the majority of the employment is performed on a farm;

(iii) in connection with:

1. producing or harvesting an agricultural commodity as defined in § 15(g) of the Agricultural Marketing Act;

2. ginning cotton; or

3. operating or maintaining canals, ditches, reservoirs, or waterways that are not owned or operated for profit and are used exclusively for supplying and storing water for farming purposes;

(iv) for a farmer, group of farm operators, or cooperative in which farmers are members in drying, freezing, grading, handling, packing, planting, processing, storing or delivering to storage, market, or a carrier for transportation to market any agricultural or horticultural commodity if:

1. the commodity is in its unmanufactured state;

2. the farmer, group, or cooperative produced more than one-half of the commodity with respect to which the employment is performed; and

3. the employment is not performed in connection with commercial canning or commercial freezing or in connection with an agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption; and

(v) on a farm operated for profit if the employment is not in the course of the trade or business of the employer.

(3) "Farm" includes:

(i) a dairy farm;

(ii) a fruit farm;

(iii) a furbearing animal farm;

(iv) a greenhouse or similar structure used primarily for raising agricultural or horticultural commodities;

(v) a nursery;

(vi) an orchard;

(vii) a plantation;

(viii) a poultry farm;

(ix) a ranch;

(x) a range;

(xi) a stock farm; and

(xii) a truck farm.

(4) "Crew leader" means an individual who:

(i) provides individuals to perform agricultural work for any person;

(ii) on behalf of the crew leader or person for whom the agricultural work is performed, pays the individuals for their agricultural work; and

(iii) has not entered into a written agreement with the person for whom the agricultural work is performed under which the individuals who perform the agricultural work are designated as employees of that person.

(b) Except as provided in subsection (c) of this section, agricultural work, including agricultural work performed by an alien admitted to the United States to perform agricultural work under §§ 101(a)(15)(h) and 214(c) of the Immigration and Nationality Act, is not covered employment.

(c) Agricultural work is covered employment if performed for a person who:

(1) during a calendar quarter of the current or preceding calendar year, pays cash wages of at least $20,000 to individuals who perform agricultural work; or

(2) for a part of a day in each of 20 consecutive or nonconsecutive weeks during the current or preceding calendar year, employs at least 10 individuals in agricultural work, regardless of whether the individuals are employed at the same moment.

(d) (1) The crew leader is the employing unit for an individual employed in agricultural work who is not an employee of another employing unit if:

(i) the crew leader holds a valid certificate of registration under the federal Migrant and Seasonal Agricultural Worker Protection Act;

(ii) substantially all of the individuals maintain or operate tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment that the crew leader provides; or

(iii) the individual:

1. performs custom poultry work, including harvesting, breeding, debeaking, sexing, and health services; and

2. is not required to be away from the individual's permanent place of residence other than during normal working hours.

(2) If the crew leader is not the employing unit for an individual employed in agricultural work under paragraph (1) of this subsection, the person to whom the

crew leader provides the individual is the employing unit of the individual.

(e) If under subsection (d)(2) of this section the crew leader is not the employing unit for an individual employed in agricultural work, any cash wages that the crew leader pays to the individual shall be considered cash wages paid by the person who is the employing unit for the individual and to whom the crew leader provides the individual.

§8–208.

(a) Except as otherwise provided in this subtitle, employment is covered employment if the employment is:

(1) performed for a charitable, educational, religious, or other organization; and

(2) excluded from the definition of "employment" in the Federal Unemployment Tax Act solely by § 3306(c)(8) of the Act.

(b) Employment is not covered employment if the employment is performed for:

(1) a church or an association or convention of churches; or

(2) an organization that is:

(i) operated primarily for religious purposes; and

(ii) controlled, operated, principally supported, or supervised by a church or an association or convention of churches.

(c) Employment is not covered employment if the employment is performed by:

(1) a commissioned, licensed, or ordained minister of a church in the exercise of the ministry; or

(2) a member of a religious order in the exercise of duties required by the order.

(d) During any calendar quarter in which the compensation is less than $50, the employment is not covered employment if it is performed for an organization that is exempt from income tax under:

(1) § 501(a) of the Internal Revenue Code unless the organization is described in § 401(a) of the Internal Revenue Code; or

(2) § 521 of the Internal Revenue Code.

§8–209.

(a) Work that an insurance producer performs for payment solely by commission is not covered employment.

(b) To the extent that work is exempted under federal law, the work that an associate real estate broker or real estate salesperson performs for a licensed real estate broker for payment by commission is not covered employment.

(c) Work that a yacht salesperson performs for a licensed trader for payment solely by commission is not covered employment.

§8–210.

(a) Except as provided in § 8-202(d)(2) of this subtitle, employment performed by a crew member or officer of a vessel on the navigable waters of the United States is not covered employment if the vessel has a capacity of 10 net tons or less.

(b) Employment is not covered employment if:

(1) performed by a crew member or officer of:

(i) a vessel with a capacity of 10 net tons or less; or

(ii) a fishing boat that has a crew that normally consists of fewer than 10 individuals;

(2) the crew member or officer is engaged in the farming or taking of any aquatic life; and

(3) the crew member or officer is paid on a share basis and not by a salary.

§8–211.

Domestic employment in a private home, local college club, or local chapter of a college fraternity or sorority is not covered employment unless during any calendar quarter of the current or preceding calendar year, the employer pays cash wages of at least $1,000 to individuals performing the employment.

§8–212.

(a) Employment is not covered employment if the employment is performed for the United States government or except to the extent that Congress permits to be covered, the employment is performed for an instrumentality of the United States that is exempt under the United States Constitution from contributions.

(b) (1) Employment performed for a foreign government, including employment as a consular or other officer or employee or nondiplomatic representative, is not covered employment.

(2) Employment performed for an instrumentality that a foreign government wholly owns is not covered employment if:

(i) the employment is of a character similar to that performed in the foreign country by employees of the United States government or an instrumentality of the United States government; and

(ii) the Secretary finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government whose instrumentality claims exemption from the tax imposed by this title grants an equivalent exemption for similar employment performed in the foreign country by employees of the United States government and instrumentalities of the United States government.

(c) (1) Except as provided in this subtitle, employment performed for a governmental entity of a state is covered employment if the employment is excluded from the definition of "employment" in the Federal Unemployment Tax Act solely by § 3306(c)(7) of the Act.

(2) Employment performed for a governmental entity is not covered employment if performed:

(i) as an elected official;

(ii) as a member of a legislative body, a judicial body, the State National Guard, or the Air National Guard;

(iii) as a temporary employee in case of an earthquake, flood, fire, snow, storm or similar emergency;

(iv) in a position that, under the laws of the State, is designated a major nontenured advisory or policymaking position;

(v) in an advisory or policymaking position that ordinarily requires 8 hours or less of work each week; or

(vi) as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000.

§8–213.

(a) (1) Employment is not covered employment if performed:

(i) for an employer that is determined to be subject to the Railroad Unemployment Insurance Act by a unit authorized by federal law to make that determination; or

(ii) as an employee representative who is determined to be subject to the Railroad Unemployment Insurance Act by the unit.

(2) If the Railroad Retirement Board determines that a person is engaged principally in a business other than the carrier business, the exclusion from insurance under paragraph (1) of this subsection applies only to employment for the identifiable and separable enterprise of the person that the Secretary determines to be considered the employer.

(b) Employment is not covered employment if performed for an employer that is determined by a unit of the federal government authorized to make the determination to be subject to any other unemployment insurance system established by federal law.

§8–214.

Employment that an individual performs that is not in the course of the business or trade of the individual's employer is not covered employment unless:

(1) during a calendar quarter, the employer pays cash compensation of at least $50 for the employment; and

(2) the employment is performed by an individual whom the employer regularly employs to perform the employment during a part of each of at least 24 days during the calendar quarter or the preceding calendar quarter.

§8–215.

Employment is not covered employment if performed:

(1) for a child or spouse; or

(2) for a parent, by a child under the age of 21 years.

§8–216.

(a) Except as provided in subsection (b) of this section, employment is not covered employment if performed:

(1) in a facility that:

(i) carries out a program of rehabilitation for individuals whose earning capacity is impaired by age, physical or mental disability, or injury; or

(ii) provides compensated work for individuals who, because of their physical or mental disability, cannot be employed readily in the competitive labor market; and

(2) by an individual who receives that rehabilitation or compensated work.

(b) Employment is covered employment if performed by a blind or other severely handicapped employee of Blind Industries and Services of Maryland.

§8–217.

(a) Employment that an inmate of a custodial or penal institution performs for a not-for-profit organization or a governmental entity is not covered employment.

(b) (1) Except as provided in paragraph (2) of this subsection, employment that an inmate of a custodial or penal institution performs for a private, for-profit employer is not covered employment.

(2) Employment that an inmate of a custodial or penal institution performs for a private, for-profit employer is covered employment if the inmate continues to be employed by the private, for-profit employing unit after being permanently released from the custodial or penal institution, including released by parole.

§8–218.

(a) Employment that an intern performs is not covered employment if:

(1) the employer is a hospital; and

(2) the intern has completed a 4-year course in a medical school that is chartered or approved under State law.

(b) Employment that a patient of a hospital performs for the hospital is not covered employment.

(c) Employment that a student nurse performs is not covered employment if:

(1) the employer is a hospital or training school for nurses; and

(2) the student nurse is enrolled in and regularly attending classes in a training school for nurses that is chartered or approved under State law.

§8–219.

Employment that a minor performs in the delivery or distribution of newspapers or shopping news is not covered employment unless delivery or distribution is to a point for subsequent delivery or distribution.

§8–220.

(a) (1) In this subsection, "full-time student" means an individual who is:

(i) enrolled full-time at an educational institution; or

(ii) between academic terms or years if:

1. the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic term or year; and

2. there is a reasonable assurance that the individual will be enrolled as a full-time student at an educational institution for the immediately succeeding academic term or year.

(2) Employment that a full-time student performs in the employ of an organized camp is not covered employment if:

(i) the full-time student was employed by the camp for less than 13 calendar weeks in a calendar year; and

(ii) the camp:

1. had average gross receipts for any 6 months in the preceding calendar year that were not more than one-third of its average gross receipts for the other 6 months in that year; or

2. did not operate for more than 7 months in each of the current and preceding calendar years.

(b) Employment performed in an educational institution is not covered employment if:

(1) the employment is performed by a student who is enrolled and regularly attending classes at that educational institution; or

(2) the employment is performed by the spouse of the student and immediately before beginning to perform the employment, the spouse is advised that:

(i) the employment is under a program of the educational institution to provide financial assistance to the student; and

(ii) the employment is not covered employment.

(c) (1) Except as provided in paragraph (2) of this subsection, employment is not covered employment if:

(i) the individual who performs the employment is enrolled for credit at a not-for-profit or public educational institution that normally has a regular faculty and curriculum and a regularly organized body of students in attendance at the place where its educational activities are carried on;

(ii) the employment is an integral part of a full-time program taken for credit at the educational institution that combines academic instruction with work

experience; and

(iii) the educational institution has certified to the employer the application of this paragraph.

(2) employment that an individual performs as part of a program that an educational institution establishes for or on behalf of an employer is covered employment.

§8–221.

Employment is not covered employment if performed:

(1) as part of an unemployment work relief or work training program assisted or financed wholly or partly by a unit of the federal government or a political subdivision or unit of a state; and

(2) by an individual who receives the work relief or work training.

§8–222.

Except employment for not-for-profit organizations and governmental entities, employment is not covered employment if performed by a volunteer test subject who is paid on a per study basis for scientific, medical, or drug-related research.

§8–223.

Employment is not covered employment if performed by an individual who is a nonimmigrant alien admitted to the United States under § 101(a)(15)(F), (J), (M), or (Q) of the federal Immigration and Nationality Act.

§8–301.

This title shall be administered under the supervision of the Secretary by 2 coordinate units, the Division of Unemployment Insurance and the Division of Workforce Development, established by the Secretary.

§8–302.

(a) There is a Division of Unemployment Insurance.

(b) The Division of Unemployment Insurance shall perform any function that the Secretary assigns to it to carry out this title.

§8–303.

(a) (1) "Public employment office" means an employment office that does not charge a fee to provide services and is:

(i) operated by the Department; or

(ii) maintained as part of a local, State, or federal system of employment offices.

(2) "Public employment office" includes a branch public employment office.

(b) The General Assembly accepts the provisions of the Wagner–Peyser Act for establishment of a national employment system and for cooperation in promotion of the system in conformity with § 4 of the Act.

(c) The Division of Workforce Development, established under § 11–102 of this article, is the unit of the State designated to carry out § 4 of the Wagner–Peyser Act.

(d) The Secretary shall employ a staff for the Division of Workforce Development in accordance with § 8–304 of this subtitle and regulations adopted by the United States Secretary of Labor.

(e) As necessary for administration of this title, the Division of Workforce Development shall establish and maintain public employment offices that do not charge a fee to individuals who seek employment.

(f) To establish and maintain public employment offices, the Secretary:

(1) may enter into an agreement with the Railroad Retirement Board or any other federal unit that is responsible for administration of an unemployment insurance law, a political subdivision of the State, or any private not–for–profit organization; and

(2) as part of the agreement, may accept money, services, or office space as a contribution to the Unemployment Insurance Administration Fund.

(g) Money in the Unemployment Insurance Administration Fund that the State receives under the Wagner–Peyser Act is available to the Division of Workforce Development for use under this section in accordance with that Act.

§8–304.

The Secretary may delegate to an employee of the Department any power or duty that is reasonable and proper for the administration of this title.

§8–305.

(a) The Secretary may adopt any regulation that is necessary to carry out this title.

(b) (1) In accordance with the provisions of the State Personnel and Pensions Article, the Secretary may employ the staff necessary to carry out this title.

(2) In accordance with the State budget, the Secretary may set the compensation of an employee under this subsection in a position that:

(i) is unique to the Department;

(ii) requires specific skills or experience to perform the duties of the position; and

(iii) does not require the employee to perform functions that are comparable to functions performed in other units of the Executive Branch of State government.

(3) The Secretary of Budget and Management, in consultation with the Secretary, shall determine the positions for which the Secretary may set compensation under paragraph (2) of this subsection.

(4) Subject to other applicable provisions of this title, the Secretary may appoint employees and set their powers and duties as necessary to carry out this title.

(c) The Secretary shall determine whether an employee who handles money for the Department under this title should be covered under a bond.

(d) (1) The Secretary shall print:

(i) this title;

(ii) each annual report that the Secretary submits to the Governor; and

(iii) any other material that the Secretary considers relevant and suitable.

(2) On request by any person, the Secretary shall give the person a copy of:

(i) any material that the Secretary prints under this subsection; and

(ii) the current regulations adopted to carry out this title.

§8–306.

(a) To enforce this title, the Secretary may conduct investigations.

(b) To enforce this title, the Secretary may:

(1) administer an oath;

(2) certify to an official act; and

(3) take a deposition.

(c) (1) To enforce this title, the Secretary may issue a subpoena for the attendance of a witness to testify or the production of books, correspondence, memoranda, papers, or other records.

(2) A subpoena issued under this subsection shall be served in any manner in which a subpoena of a court may be served.

(3) If a person fails to comply with a subpoena issued under this subsection, on a complaint filed by the Secretary, the circuit court for the county where the investigation is being conducted or where the person resides, is present, or transacts business may pass an order directing compliance with the subpoena or compelling testimony.

(d) (1) Subject to paragraph (2) of this subsection, a person may not be excused from complying with a subpoena issued under subsection (c) of this section on the ground that the evidence or testimony required may tend to incriminate the person or subject the person to a forfeiture or penalty.

(2) After claiming the privilege against self-incrimination a person may not be prosecuted or subjected to any forfeiture or penalty because of any matter, thing, or transaction about which the person is compelled to produce evidence or testify except that if the person commits perjury while giving testimony, the person is subject to prosecution for that offense.

§8–307.

(a) In a civil action to enforce this title, the Secretary or Board of Appeals and the State may be represented by:

(1) the Attorney General; or

(2) any qualified attorney who:

(i) is a salaried employee of the Secretary or Board of Appeals; and

(ii) on recommendation of the Attorney General, is designated to represent the Secretary or Board of Appeals and the State.

(b) A criminal action for violation of any provision of this title or regulation adopted under this title shall be prosecuted by the State's Attorney of the county in which:

(1) the employer has a place of business;

(2) the violator resides; or

(3) the violator has filed for benefits to which the violator was not entitled.

§8–308.

(a) With the approval of the Governor, the Secretary shall appoint a State Advisory Council.

(b) The State Advisory Council shall consist of:

(1) an equal number of members who represent employees and who represent employers; and

(2) the number of members who represent the general public that the Secretary sets.

(c) Each member of the State Advisory Council who represents employees or who represents employers shall be an individual who is regarded as a representative of employees or employers because of affiliation, employment, or vocation.

(d) (1) The term of a member of the State Advisory Council is 4 years.

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

(3) 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.

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

(1) $50 for each day that the Council is in session, not exceeding $1,500 per year; and

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

(f) The State Advisory Council shall help the Secretary to:

(1) develop policies and discuss problems related to the administration of this title; and

(2) ensure impartiality and freedom from political influence in the solution of those problems.

§8–309.

(a) The Secretary shall appoint local advisory councils.

(b) Each local advisory council shall consist of:

(1) an equal number of members who represent employees and who represent employers; and

(2) the number of members who represent the general public that the Secretary sets.

(c) Each member of a local advisory council who represents employees or who represents employers shall be regarded as a representative of employees or employers because of affiliation, employment, or vocation.

(d) A member of a local advisory council:

(1) may not receive compensation; but

(2) is entitled to reimbursement for necessary expenses.

(e) The local advisory councils shall help the Secretary to:

(1) develop policies and discuss problems related to the administration of this title; and

(2) ensure impartiality and freedom from political influence in the solution of those problems.

§8–310.

(a) (1) In the administration of this title, the Secretary shall cooperate with the United States Secretary of Labor to the fullest extent that this title allows.

(2) The Secretary shall:

(i) make each report in the form and containing the information that the Secretary of Labor requires;

(ii) comply with each provision that the Secretary of Labor considers necessary to ensure the accuracy of a report; and

(iii) comply with each regulation that the Secretary of Labor adopts to govern the expenditure of any money that may be allotted and paid to the State under Chapter 7, Subchapter III of the Social Security Act to assist in the administration of this title.

(b) (1) The Secretary may afford reasonable cooperation with each federal unit that administers an unemployment insurance law.

(2) On request, the Secretary shall provide to a federal unit that administers public works or assistance through public employment:

(i) the name, address, usual occupation, and employment status of

each recipient of benefits; and

(ii) information about the right of the individual to receive benefits.

(c) The Secretary:

(1) may make available to the Railroad Retirement Board any record of the State that relates to administration of this title; and

(2) at the expense of the Railroad Retirement Board, may provide to the Board a copy of any record that the Board considers necessary for its purposes.

§8–311.

(a) On or before January 1 of each year, the Secretary shall submit to the Governor an annual report on the administration and operation of this title during the previous fiscal year.

(b) The annual report shall include:

(1) a balance sheet for the Unemployment Insurance Fund;

(2) a table that shows the amount of any benefit that was ineffectively charged or not charged to the experience rating record of an employer;

(3) the reason for not charging the amount of any benefit to the experience rating record of an employer;

(4) by category of disqualification, the amount of any benefit that was paid after a disqualification under Subtitle 10 of this title; and

(5) any recommendation for an amendment to this title that the Secretary considers proper.

§8–312.

(a) (1) The balance sheet for the Unemployment Insurance Fund that the Secretary includes in the annual report shall include, if possible, a reserve against liability in future years to pay benefits in excess of the then current contributions.

(2) A reserve under this subsection shall be set up by the Secretary in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period.

(b) Whenever the Secretary believes that a change in rates of contributions or benefits will become necessary to protect the solvency to the Unemployment Insurance Fund, the Secretary promptly shall inform the Governor and legislature and make recommendations with respect to the change.

§8–401.

There is an Unemployment Insurance Fund.

§8–402.

(a) The Secretary shall administer the Unemployment Insurance Fund.

(b) The Unemployment Insurance Fund shall be a special fund that is separate from State money.

§8–403.

(a) The Unemployment Insurance Fund shall consist of:

(1) contributions;

(2) reimbursement payments collected under Subtitle 6, Part III of this title;

(3) interest earned on money in the Fund;

(4) property or securities acquired with money that belongs to the Fund;

(5) money earned from the property or securities;

(6) money received from the Federal Unemployment Account in the Unemployment Trust Fund in accordance with Title XII of the Social Security Act;

(7) money credited to the State Unemployment Trust Fund Account under § 903 of the Social Security Act; and

(8) money received for the Fund from any other source.

(b) Money in the Unemployment Insurance Fund shall be commingled.

(c) The Unemployment Insurance Fund shall be used only for the purposes of this title.

§8–404.

(a) (1) The State Treasurer is custodian of the Unemployment Insurance Fund.

(2) The State Treasurer shall manage the Unemployment Insurance Fund in accordance with regulations that the Secretary adopts.

(b) (1) In the Unemployment Insurance Fund, the State Treasurer shall maintain as separate accounts:

(i) a clearing account;

(ii) an Unemployment Trust Fund Account; and

(iii) a benefit account.

(2) Under the direction of the Secretary, the Treasurer shall establish the benefit and clearing accounts in any financial institution in which the General Fund of the State may be deposited.

(3) The Unemployment Trust Fund Account shall be the account of the State in the Federal Unemployment Trust Fund that is established and maintained in accordance with § 904 of the Social Security Act notwithstanding any State law to the contrary that relates to administration, deposit, disbursement, or release of money in the custody of the State.

(c) (1) On receipt of any money payable to the Unemployment Insurance Fund, the Secretary shall ensure immediate deposit of the money in the clearing account as required by the State Treasurer.

(2) Except for monetary penalties assessed under § 8–809(b)(2) or § 8–1305(b)(1) of this title, all money deposited in the clearing account for the payment of fines, interest, or penalties shall be paid to the Special Administrative Expense Fund.

(3) Subject to the direction of the Secretary, the State Treasurer may pay refunds under Subtitle 6, Part V of this title from the clearing account.

(d) (1) Immediately after payments that are made under subsection (c)(2) and (3) of this section have cleared, the State Treasurer shall deposit all money that remains in the clearing account with the Secretary of the Treasury of the United States to the credit of the account of the State in the Unemployment Trust Fund that is established and maintained under § 904 of the Social Security Act.

(2) Money that is requisitioned from the account of the State in the Unemployment Trust Fund shall be placed in the benefit account only for use in accordance with paragraph (3) of this subsection.

(3) Subject to § 8–405 of this subtitle and in accordance with regulations that the Secretary adopts, money in the benefit account:

(i) may be used to pay refunds under Subtitle 6, Part V of this title;

(ii) shall be used to pay benefits; and

(iii) may be used to pay administrative expenses incurred to carry out this title.

(e) The Unemployment Insurance Fund may not be used to pay a deposit insurance premium in a financial institution in which the benefit and clearing accounts are deposited.

§8–405.

(a) (1) The Secretary shall requisition money that is credited to the account of the State in the Unemployment Trust Fund as the Secretary considers necessary for payment of benefits and refunds under this title for a reasonable period in the future.

(2) The amount requisitioned under paragraph (1) of this subsection may not exceed the amount of money in the account.

(3) Laws that require an appropriation or other formal release of money in the custody of State officers do not apply when money that was requisitioned under this subsection is used to pay a benefit or refund from the benefit account or a refund from the clearing account.

(4) After expiration of the period for which a requisition is made under paragraph (1) of this subsection, if money remains unpaid or unclaimed in the benefit account the Secretary may:

(i) deduct the amount of the money from estimates for a future requisition under paragraph (1) of this subsection; or

(ii) redeposit the money in the account of the State in the Unemployment Trust Fund as provided under § 8-404(d) of this subtitle.

(b) (1) If the General Assembly first enacts an appropriation in accordance with paragraph (4) of this subsection, the Secretary may requisition money that is credited under § 903 of the Social Security Act to the account of the State in the Unemployment Trust Fund to pay expenses of administration of this title that will be incurred after enactment of the appropriation.

(2) Money that is appropriated under this subsection:

(i) shall be requisitioned as needed for payment of obligations incurred under the appropriation and shall be deposited in the Unemployment Insurance Administration Fund for use of that Fund;

(ii) until used, shall remain part of the Unemployment Insurance Fund; and

(iii) if not used, promptly shall be returned to the account of the State in the Unemployment Trust Fund.

(3) The Secretary shall keep a separate record of the deposit, obligation, use, and return of money appropriated under this subsection.

(4) An appropriation that is enacted under this subsection shall:

(i) specify the purpose and amount of the appropriation;

(ii) limit the period in which the appropriation is obligated to no more than 2 years after its enactment; and

(iii) limit the amount of money that may be obligated during a 12-month period beginning on July 1 and ending on the next June 30 to an amount not exceeding the amount by which the total of the money credited to the account of the State in the Unemployment Trust Fund during that and the 34 preceding 12-month periods exceeds the total of the money obligated for payment of administrative expenses and paid for benefits during the same 35 12-month periods.

(5) An amount that is credited to the State Unemployment Trust Fund Account under § 903 of the Social Security Act and that is obligated for administration or paid out for benefits shall be charged against an equivalent amount that first is credited and that is not already charged.

(6) An amount obligated for administration during a 12-month period may not be charged against an amount that was credited before the 34th 12-month period before that period.

§8–406.

A check that the State Treasurer issues to pay benefits or refunds shall:

(1) be issued only on a warrant signed by the Secretary;

(2) bear the signature of the State Treasurer; and

(3) be countersigned by an authorized agent.

§8–407.

(a) In accordance with and to obtain the advantages under Title XII of the Social Security Act the Secretary:

(1) may apply for an advance to the Unemployment Insurance Fund; and

(2) has responsibility for repayment of the advance.

(b) Interest required to be paid on an advance under subsection (a) of this section:

(1) shall be paid in a timely manner; and

(2) may not be paid directly or indirectly from contributions or from the Unemployment Insurance Fund.

§8–408.

(a) The provisions of this Part I of this subtitle that relate to the Unemployment Trust Fund shall be effective only while:

(1) the Unemployment Trust Fund continues to exist; and

(2) the United States Secretary of the Treasury:

(i) keeps in the Unemployment Trust Fund a separate account for the State from which no other state is allowed to make withdrawals; and

(ii) credits to that Account the State's share of earnings of the Unemployment Trust Fund.

(b) If the Unemployment Trust Fund ceases to exist or the State Unemployment Trust Fund Account no longer is kept, money, property, and securities that belong to the Unemployment Trust Fund of the State shall be transferred to the State Treasury and deposited in the Unemployment Insurance Fund.

(c) If money is deposited in the Unemployment Insurance Fund under subsection (b) of this section the State Treasurer:

(1) shall hold, invest, transfer, sell, deposit, and release money in the Unemployment Insurance Fund in a manner that is approved by the Secretary and is in accordance with this title;

(2) shall invest the money in readily marketable bonds or other readily marketable interest bearing obligations of:

(i) the United States;

(ii) the State; or

(iii) a political subdivision of the State;

(3) shall make investments that are readily convertible into cash when cash is needed to pay benefits; and

(4) may dispose of securities or other property bought with money that belongs to the Unemployment Insurance Fund only under the direction of the Secretary.

§8–409.

This title does not grant an employer or employee any prior claim or right to money the employer pays into the Unemployment Insurance Fund.

§8–412.

There is an Unemployment Insurance Administration Fund in the State Treasury.

§8–413.

(a) The Secretary shall administer the Unemployment Insurance Administration Fund.

(b) The State Treasurer shall keep the Unemployment Insurance Administration Fund as a nonlapsing fund separate from other State money.

§8–414.

(a) The Unemployment Insurance Administration Fund shall consist of:

(1) money received from a unit of the federal government or of another state to pay for a facility or service provided to the unit;

(2) money received under an insurance policy or surety bond or from any other source for loss that the Unemployment Insurance Administration Fund sustains or for damage to equipment or supplies bought with money from the Fund;

(3) money transferred from the Special Administrative Expense Fund under § 8-422(d) of this subtitle;

(4) proceeds from the disposal of surplus equipment or supplies that were bought with money from the Fund; and

(5) money received under the Wagner-Peyser Act for use in accordance with that Act and money for administration of this title that:

(i) is appropriated by the General Assembly;

(ii) subject to § 8-405 of this subtitle, is received from a unit of the federal government; or

(iii) is received from any other source.

(b) (1) Subject to § 8-405 of this subtitle and paragraph (2) of this subsection, the Secretary shall use the Unemployment Insurance Administration Fund to pay the administrative costs of this title including the costs of:

(i) office space in accordance with § 8-421(c) of this subtitle; and

(ii) the surety bond of the State Treasurer under § 5-102.1 of the State Government Article for the Unemployment Insurance Administration Fund.

(2) Money in the Unemployment Insurance Administration Fund received from a unit of the federal government or appropriated by the General Assembly to carry out this title may be used only for the purposes and in the amounts that the United States Secretary of Labor finds necessary to administer this title efficiently and properly.

§8–415.

(a) The State Treasurer is custodian of the Unemployment Insurance Administration Fund.

(b) (1) Subject to § 8-405(b) of this subtitle, money shall be deposited, administered, and disbursed from the Unemployment Insurance Administration Fund in the same manner as money is deposited and disbursed for other special funds in the custody of the State Treasurer.

(2) Money in the Unemployment Insurance Administration Fund shall be secured in accordance with § 6-209 of the State Finance and Procurement Article.

(c) Money in the Unemployment Insurance Administration Fund shall be available to the Secretary whenever it is needed for payment of expenses under this title.

(d) The Secretary may transfer money to the Special Administrative Expense Fund in accordance with § 8-422(e) of this subtitle.

§8–416.

(a) If the United States Secretary of Labor finds that money in the Unemployment Insurance Administration Fund received under Title III of the Social Security Act or the Wagner-Peyser Act has been lost or spent for purposes other than or in amounts exceeding those found necessary by the United States Secretary of Labor for the proper administration of this title, it is the policy of the State to replace the money with money that is appropriated from the General Fund of the State in accordance with subsection (b) of this section.

(b) (1) On receipt of notice that the United States Secretary of Labor has found that money from the Unemployment Insurance Administration Fund was misused, the Secretary promptly shall give the Governor notice of the money required for replacement.

(2) At the earliest opportunity, the Governor shall submit to the General Assembly a request for appropriation of the money required.

(c) If money in the Unemployment Insurance Administration Fund is used for payment of costs of administration that are found not to be properly chargeable against federal money credited to the Fund, the Secretary shall use money in the Special Administrative Expense Fund to pay for those costs.

§8–419.

There is a Special Administrative Expense Fund in the State Treasury.

§8–420.

(a) The Secretary shall administer the Special Administrative Expense Fund.

(b) (1) The State Treasurer shall keep the Special Administrative Expense Fund as a nonlapsing fund.

(2) Except as otherwise provided in this subtitle, money in the Special Administrative Expense Fund may not be transferred to any other fund.

§8–421.

(a) The Special Administrative Expense Fund shall consist of money appropriated in the State budget from:

(1) fines, interest, and other penalties collected under this title and paid from the clearing account under § 8–404(c) of this subtitle;

(2) money transferred from the Unemployment Insurance Administration Fund under § 8–422 of this subtitle; and

(3) any voluntary contribution to the Special Administrative Expense Fund.

(b) (1) Notwithstanding any other provision in this Part III of this subtitle, the Special Administrative Expense Fund may be used as a revolving account to cover costs that are proper under the law for which federal money is requested but not yet received, if the costs are charged against the federal money when received.

(2) Subject to subsection (d) of this section, the Secretary:

(i) shall use the Special Administrative Expense Fund for reimbursement of interest on contributions that is collected erroneously;

(ii) shall use the Special Administrative Expense Fund to pay for costs of administration that are found to have been improperly charged against federal money credited to the Unemployment Insurance Administration Fund; and

(iii) may use the Special Administrative Expense Fund:

1. for replacement within a reasonable time of any money that the State receives under § 302 of the Social Security Act and that because of an action or contingency has been lost or has been used for purposes other than or in amounts exceeding those necessary for proper administration of this title; or

2. for administrative expenses of the Division of Unemployment Insurance and Division of Workforce Development, in accordance with subsection (c) of this section.

(c) (1) Subject to subsection (d) of this section, the Secretary may use the Special Administrative Expense Fund for administrative expenses necessary to administer this title.

(2) Administrative expenses include:

(i) expenses related to the acquisition of office space required for effective administration of this title, subject to approval by the Board of Public Works;

(ii) costs for furnishing, maintenance, repair, improvement, and enhancement of office space;

(iii) the purchase, leasing, and maintenance of information technology systems, including equipment, programs, and services;

(iv) the purchase, leasing, and maintenance of telecommunications systems, services, and equipment including connectivity costs and ongoing usage costs; and

(v) other administrative costs that the Secretary determines are necessary to administer solely the provisions of this title.

(d) The Special Administrative Expense Fund may not be used in a manner that would result in a loss of federal money that, in the absence of money from the Special Administrative Expense Fund, would be available to pay for administrative costs of this title.

§8–422.

(a) The State Treasurer is custodian of the Special Administrative Expense Fund.

(b) Money in the Special Administrative Expense Fund shall be spent in accordance with appropriations in the State budget.

(c) Money in the Special Administrative Expense Fund shall be available to the Secretary whenever it is needed for use in accordance with this subtitle.

(d) When money is needed for reimbursement of interest and payment of administrative costs under § 8–421(b)(2)(i) and (ii) of this subtitle, the Secretary may make the reimbursement or payment from money that:

(1) is in the Special Administrative Expense Fund; or

(2) the State Treasurer transfers for that purpose from the Special Administrative Expense Fund to the Unemployment Insurance Administration Fund.

(e) When the Secretary acquires, repairs, or maintains office space with money from the Special Administrative Expense Fund that will be reimbursed from federal funds, until the reimbursement, the Secretary may transfer from the Unemployment Insurance Administration Fund to the Special Administrative Expense Fund money in an amount that:

(1) does not exceed the amount of federal funds specifically made available to the Secretary; and

(2) equals the fair reasonable rental value of:

(i) land or buildings that the Secretary acquires to use to carry out this title; or

(ii) the proportionate amount of space that the Secretary uses in a building constructed by the State for another unit.

(f) On July 1 of each year, the Secretary shall direct the State Treasurer to transfer to the General Fund of the State the balance in the Special Administrative Expense Fund that:

(1) the Secretary has not allocated or encumbered; and

(2) exceeds $250,000.

§8–501.

There is a Lower Appeals Division in the Department.

§8–502.

(a) (1) The Secretary shall appoint a chief hearing examiner as head of the Lower Appeals Division.

(2) The chief hearing examiner shall be in the professional service in accordance with § 6–402 of the State Personnel and Pensions Article.

(b) (1) Subject to the approval of the Secretary, the chief hearing examiner shall appoint the number of hearing examiners and other personnel needed for the effective performance of the Lower Appeals Division.

(2) The Secretary shall have administrative authority over all personnel.

§8–503.

The Lower Appeals Division shall hear and decide appeals from the

determinations of the claims examiners.

§8–504.

The Secretary, with the advice of the chief hearing examiner, shall adopt regulations, in accordance with § 10–206 of the State Government Article, to govern appeals and hearings before the hearing examiners.

§8–505.

(a) To enforce this subtitle, a hearing examiner may:

(1) administer an oath;

(2) certify to an official act; and

(3) take a deposition.

(b) (1) To enforce this subtitle, a hearing examiner may issue a subpoena for the attendance of a witness to testify or for the production of books, correspondence, memoranda, papers, and other records.

(2) A subpoena issued under this subsection shall be served in any manner in which court subpoenas are authorized to be served.

(3) If a person fails to comply with a subpoena issued under this subsection, on a complaint filed by the chief hearing examiner or an authorized representative of the chief hearing examiner, the circuit court for the county where the investigation or hearing is conducted or the person is present, resides, or transacts business may pass an order directing compliance with the subpoena or compelling testimony.

(4) (i) A person may not be excused from attending a proceeding and testifying or producing books, correspondence, memoranda, papers, and other records before a hearing examiner in obedience to a subpoena issued under this section on the ground that the testimony or evidence required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture.

(ii) After having claimed the privilege of the person against self–incrimination, a person may not be prosecuted or subjected to any penalty or forfeiture because of any transaction, matter, or thing about which the person is compelled to testify or produce evidence.

(iii) A person may be prosecuted and punished for perjury committed in testifying.

§8–506.

(a) (1) A hearing examiner shall conduct a hearing or appeal in a manner that ascertains the substantial rights of the parties.

(2) (i) A hearing examiner is not bound by statutory or common law rules of evidence or technical rules of procedure.

(ii) A hearing examiner shall consider evidence offered in accordance with § 10–213 of the State Government Article.

(b) (1) (i) A hearing examiner may not participate in any proceeding in which the hearing examiner has a direct or indirect interest.

(ii) The status of the Secretary as a party to a case may not constitute a direct or indirect interest as to a hearing examiner.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, ex parte communications are subject to § 10–219 of the State Government Article.

(ii) Section 10–219(d) of the State Government Article does not apply to ex parte communications under this subtitle.

(c) (1) A hearing examiner may consolidate claims by more than one individual or claims by a single individual for 2 or more weeks of unemployment if:

(i) the same or substantially similar evidence is relevant and material to the matters at issue; and

(ii) in the judgment of the hearing examiner, the consolidation would not be prejudicial to a party.

(2) When claims are consolidated under this subsection, the hearing examiner may:

(i) set the same time and place for considering each claim;

(ii) conduct joint hearings;

(iii) make a single record of the proceedings; and

(iv) consider evidence that is introduced in a proceeding for one claim as having been introduced for another claim.

(d) (1) A record shall be kept, in accordance with § 10–218 of the State Government Article, of all testimony and proceedings before a hearing examiner.

(2) Testimony shall be transcribed if:

(i) judicial review is initiated; or

(ii) the hearing examiner or the Board of Appeals orders a transcription.

(e) (1) A witness who is subpoenaed under this subtitle is entitled to compensation at a rate that the chief hearing examiner sets.

(2) The compensation of a witness who is subpoenaed on behalf of the Lower Appeals Division or a claimant shall be considered part of the expense of administering this title.

(f) The Lower Appeals Division may not charge a claimant a fee in any proceeding under this title.

(g) (1) A hearing examiner promptly shall give each party to a proceeding before it written notice of its decision by mailing the notice to each party at the last known address of the party or business address of a licensee in accordance with § 10–209(a) of the State Government Article, or otherwise delivering the notice.

(2) The notice shall:

(i) include the findings of fact and conclusions of law that support the decision;

(ii) be accompanied by any order necessary to give effect to the decision; and

(iii) conform to the requirements of § 10–221 of the State Government Article.

§8–507.

(a) In a proceeding before a hearing examiner, a claimant may be represented by a lawyer or another agent authorized by the claimant.

(b) A lawyer may charge and accept compensation in an amount not greater than that approved by the chief hearing examiner.

(c) Except as provided in subsection (b) of this section, an agent may not charge or accept compensation for representing a claimant in a proceeding before a hearing examiner.

(d) In a proceeding before a hearing examiner, an employer may appear pro se or be represented by a lawyer or another agent authorized by the employer.

(e) A person may not solicit, for that person or another person, the business of appearing on behalf of a claimant in a proceeding before a hearing examiner.

§8–508.

(a) An individual who files a claim for benefits or an employer entitled to notice of a determination or redetermination of the claim may file an appeal with the Lower Appeals Division within 15 days after notice of the determination or redetermination is mailed to the claimant or employer at the last known address of the claimant or employer or otherwise is delivered.

(b) The Secretary, at the Secretary's discretion, may be a party to an appeal filed by a claimant or employing unit with the Lower Appeals Division.

(c) Unless an appeal filed under subsection (a) of this section is withdrawn or removed to the Board of Appeals, a hearing examiner shall:

(1) give the parties a reasonable opportunity for a fair hearing in accordance with the notice provisions in §§ 10–207 and 10–208 of the State Government Article, except that the notice is not subject to § 10–208(b)(4) and (7) of the State Government Article;

(2) make findings of fact and conclusions of law, based on a preponderance of evidence, in accordance with § 10–217 of the State Government Article; and

(3) on the basis of the findings of fact and conclusions of law, affirm, modify, or reverse a determination or redetermination.

(d) The hearing examiner promptly shall give each party:

(1) notice of the decision of the hearing examiner in accordance with § 10–221 of the State Government Article; and

(2) a copy of the decision and the findings of fact and conclusions of law that support the decision.

(e) The decision of the hearing examiner is final after 10 days after notice of the decision has been mailed or otherwise delivered to the individual or employer that filed the appeal with the Lower Appeals Division, unless further review is initiated under § 8–5A–10 of this title.

§8–5A–01.

There is a Board of Appeals in the Department.

§8–5A–02.

(a) (1) The Board of Appeals consists of a chairman and 2 associate members.

(2) Subject to the approval of the Governor, the Secretary shall appoint the chairman and the 2 associate members of the Board of Appeals.

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

(c) (1) The term of a member is 6 years and begins on June 1.

(2) The terms of members are staggered as required by the terms provided for members of the Board of Appeals on October 1, 1990.

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

(4) A vacancy that occurs during a term shall be filled by the Secretary with the approval of the Governor.

(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.

(6) If the position of chairman of the Board of Appeals is vacant, the Secretary, subject to the approval of the Governor, may appoint 1 of the associate members to be chairman for the rest of the term of the associate member.

§8–5A–03.

(a) Two members of the Board of Appeals shall constitute a quorum. A vacancy does not impair the right of the remaining members to exercise the powers of the Board of Appeals under this title.

(b) Each member of the Board of Appeals is entitled to the salary provided in the State budget.

(c) (1) Subject to the approval of the Board of Appeals, the Secretary shall appoint the number of personnel that the Board of Appeals needs for effective and proper performance of the appeals procedures under this subtitle.

(2) The Secretary shall have administrative authority over all personnel.

(d) The Secretary shall provide the Board of Appeals with the offices, equipment, services, and supplies necessary for its operation.

§8–5A–04.

The Board shall hear and decide appeals from the decisions of the Lower Appeals Division and claims for benefits referred by the Secretary under § 8–5A–09 of this subtitle.

§8–5A–05.

(a) Except as provided in subsection (b) of this section, the Board of Appeals shall adopt reasonable regulations, in accordance with § 10–206 of the State

Government Article, to govern appeals and hearings under this subtitle.

(b) Section 10–206(e) of the State Government Article does not apply to regulations adopted under this section.

§8–5A–06.

(a) To enforce this title, a member of the Board of Appeals or a designee of a member may:

(1) administer an oath;

(2) certify to an official act; and

(3) take a deposition.

(b) (1) To enforce this title, the Board of Appeals or a designee of the Board of Appeals may issue a subpoena for the attendance of a witness to testify or the production of books, correspondence, memoranda, papers, and other records.

(2) A subpoena issued under this subsection shall be served in any manner in which court subpoenas are authorized to be served.

(3) If a person fails to comply with a subpoena issued under this subsection, on a complaint filed by the Board of Appeals or an authorized representative of the Board of Appeals, the circuit court for the county where the investigation or hearing is conducted or the person is present, resides, or transacts business may pass an order directing compliance with the subpoena or compelling testimony.

(4) (i) A person may not be excused from attending a proceeding and testifying or producing books, correspondence, memoranda, papers, and other records before the Board of Appeals or an authorized representative of the Board of Appeals in obedience to a subpoena issued under this section on the ground that the testimony or evidence required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture.

(ii) After having claimed the privilege of the person against self–incrimination, a person may not be prosecuted or subjected to any penalty or forfeiture because of any transaction, matter, or thing about which the person is compelled to testify or produce evidence.

(iii) A person may be prosecuted and punished for perjury committed in testifying.

§8–5A–07.

(a) (1) A special examiner and the Board of Appeals shall conduct a hearing or appeal in a manner that ascertains the substantial rights of the parties.

(2) (i) A special examiner and the Board of Appeals are not bound by statutory or common law rules of evidence or technical rules of procedure.

(ii) A special examiner and the Board of Appeals shall consider evidence offered in accordance with § 10–213 of the State Government Article.

(b) (1) A person may not participate on behalf of the Board of Appeals in any proceeding in which the person has a direct or indirect interest.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, ex parte communications are subject to § 10–219 of the State Government Article.

(ii) Section 10–219(d) of the State Government Article does not apply to ex parte communications under this subtitle.

(c) (1) A special examiner or the Board of Appeals may consolidate claims by more than 1 individual or claims by a single individual for 2 or more weeks of unemployment if:

(i) the same or substantially similar evidence is relevant and material to the matters at issue; and

(ii) in the judgment of the special examiner or the Board of Appeals, the consolidation would not be prejudicial to a party.

(2) When claims are consolidated under this subsection, the special examiner or Board of Appeals may:

(i) set the same time and place for considering each claim;

(ii) conduct joint hearings;

(iii) make a single record of the proceedings; and

(iv) consider evidence that is introduced in a proceeding for 1 claim as having been introduced for another claim.

(d) (1) A record shall be kept, in accordance with § 10–218 of the State Government Article, of all testimony and proceedings before a special examiner or the Board of Appeals.

(2) Testimony need not be transcribed unless:

(i) judicial review is initiated; or

(ii) the Board of Appeals orders a transcription.

(e) (1) A witness who is subpoenaed under this subtitle is entitled to compensation at a rate that the Board of Appeals sets.

(2) The compensation of a witness who is subpoenaed on behalf of the Board of Appeals or a claimant shall be considered part of the expense of administering this title.

(f) The Board of Appeals or representative of the Board of Appeals may not charge a claimant a fee in any proceeding under this title.

(g) (1) The Board of Appeals promptly shall give each party to a proceeding before it written notice of its decision by mailing the notice to each party at the last known address of the party or business address of a licensee in accordance with § 10–209(a) of the State Government Article, or otherwise delivering the notice.

(2) The notice shall:

(i) include the findings of fact and conclusions of law that support the decision;

(ii) be accompanied by any order necessary to give effect to the decision; and

(iii) conform to the requirements of § 10–221 of the State Government Article.

§8–5A–08.

(a) In a proceeding before a special examiner or the Board of Appeals, a claimant may be represented by a lawyer or another agent authorized by the claimant.

(b) An agent may not charge or accept compensation for representing a claimant in a proceeding before a special examiner or the Board of Appeals except that a lawyer may charge and accept compensation in an amount not greater than that approved by the Board of Appeals.

(c) In a proceeding before a special examiner or the Board of Appeals, an employer may appear for itself or be represented by a lawyer or another agent authorized by the employer.

(d) A person may not solicit, for that person or another person, the business of appearing on behalf of a claimant in a proceeding before a special examiner or the Board of Appeals.

§8–5A–09.

(a) The Secretary shall refer a claim for benefits to the Board of Appeals if the determination of the claim involves:

(1) a disqualification that is based on a stoppage of work because of a labor dispute;

(2) multiple claims; or

(3) a difficult issue of fact or law.

(b) The Board of Appeals:

(1) promptly shall hear and decide a claim that the Secretary refers under this section; and

(2) may designate a special examiner to hear and decide the claim.

§8–5A–10.

(a) A party who wishes to file an appeal with the Board of Appeals shall do so within 15 days after notice of the decision of a hearing examiner was mailed to the party at the last known address of the party or otherwise was delivered to the party.

(b) After a hearing examiner makes a final decision under § 8–508 of this title:

(1) if the hearing examiner does not affirm the determination or redetermination of a claim, the Board of Appeals shall allow an appeal by either the Secretary, or a party entitled to notice of the decision, or both; and

(2) if the hearing examiner affirms the determination or redetermination of a claim, the Board of Appeals may allow an appeal by a party entitled to notice of the decision.

(c) Within the time limit for filing an appeal under subsection (a) of this section, on its own motion the Board of Appeals may initiate a review of the decision of a hearing examiner.

(d) On review on its own motion or on appeal, the Board of Appeals may affirm, modify, or reverse the findings of fact or conclusions of law of the hearing examiner on the basis of:

(1) evidence submitted to the hearing examiner; or

(2) evidence that the Board of Appeals may direct to be taken.

(e) A proceeding removed or appealed to the Board of Appeals shall be heard by a quorum.

§8–5A–11.

A decision of the Board of Appeals is final after 10 days after notice of the decision has been mailed or otherwise delivered to the individual or employer that filed the appeal with the Board of Appeals, subject to judicial review under § 8–5A–12 of this subtitle.

§8–5A–12.

(a) (1) A final decision of the Board of Appeals may be appealed to a circuit court by any party aggrieved by the decision, the Secretary, or both.

(2) In addition to standing authorized under paragraph (1) of this subsection, the Secretary may appeal on behalf of the federal government any decision of the Board of Appeals in which the Secretary is an agent of the federal government and responsible for the administration of a federal unemployment compensation program.

(3) The Board of Appeals may be a party to an appeal under this section and may be represented by the Attorney General or by any qualified lawyer who is a regular salaried employee of the Board of Appeals and who has been designated by it for that purpose on recommendation of the Attorney General.

(4) A court or an officer of a court may not charge an individual who claims benefits a fee in any proceeding under this title.

(b) An employer that is aggrieved by a final decision under § 8–602 or § 8–629 or § 8–638 of this title may appeal to the circuit court for Baltimore City or for a county where the employer does business.

(c) The Board of Appeals may certify to a circuit court a question of law that is involved in a decision by the Board of Appeals.

(d) In a judicial proceeding under this section, findings of fact of the Board of Appeals are conclusive and the jurisdiction of the court is confined to questions of law if:

(1) findings of fact are supported by evidence that is competent, material, and substantial in view of the entire record; and

(2) there is no fraud.

(e) (1) A circuit court shall give priority to an appeal or a certified question of law under this section over all other civil cases except cases under the Workers' Compensation Law of the State.

(2) A circuit court shall hear an appeal or a certified question of law under this section in a summary manner.

(f) In a judicial proceeding under this section, a circuit court may not require a person to:

(1) enter an exception to a ruling of the Board of Appeals; or

(2) post a bond for entering an appeal.

(g) A party may appeal from a decision of a circuit court to the Court of Special Appeals in the same manner as provided for in civil cases, consistent with this title.

§8–601.

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

(b) "Election" means an election to make reimbursement payments instead of paying contributions in accordance with Part III of this subtitle.

(c) "Predecessor employer" means an employer that sells or otherwise transfers all or part of its assets, business, organization, or trade to another employer.

(d) "Reimbursement payment" means a payment that an employing unit makes under an election to reimburse the Unemployment Insurance Fund for benefits paid.

(e) "Taxable wage base" means the amount of wages under § 8-607 of this subtitle for which an employing unit pays contributions.

§8–602.

(a) On the Secretary's own initiative or on application of an employer, the Secretary shall, on the basis of facts that the Secretary finds, determine:

(1) whether the employer is an employing unit;

(2) which employment is covered; and

(3) the contribution rate to be assigned.

(b) (1) The Secretary shall mail notice of the determination under subsection (a) of this section to the employer at its last known address or otherwise deliver notice to the employer.

(2) The notice shall include a statement of the supporting facts found by the Secretary.

(c) (1) An employer may appeal a determination of the Secretary to the Board of Appeals within 15 days after the Secretary mailed or otherwise delivered the notice under subsection (b) of this section.

(2) The Board of Appeals shall allow the appeal.

(3) The Secretary shall be a party to the appeal.

(4) The Board of Appeals shall give the parties a reasonable opportunity for a fair hearing as provided under Subtitle 5A of this title.

§8–603.

(a) Each employer shall keep posted in places readily accessible to its employees printed statements that are provided without cost to the employer by the Secretary about:

(1) the right to benefits;

(2) claims for benefits;

(3) the right of some employees to continuation of health insurance coverage under § 15-407 of the Insurance Article; and

(4) any other matter relating to administration of this title that the Secretary requires by regulation.

(b) In accordance with regulations that the Secretary adopts, each employing unit shall supply to its employees copies of printed statements or other material relating to claims for benefits provided to the employing unit without cost by the Secretary.

§8–606.

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

(b) "Annual payroll" means the total wages for covered employment that an employing unit pays to all employees in a calendar year on which the employing unit is required to pay contributions.

(c) "Base period wages" means wages paid to an individual during the base period, as defined in § 8-101 of this title, of the individual for covered employment.

(d) "Computation date" means the July 1 immediately preceding the calendar year for which a rate of contribution is assigned.

(e) "Rating year" means the 12-month period beginning July 1 and ending June 30 immediately preceding the computation date.

§8–607.

(a) Except as provided in Part III of this subtitle, an employing unit shall pay to the Secretary contributions for the Unemployment Insurance Fund on taxable wages for covered employment that is performed for the employing unit.

(b) (1) Subject to paragraph (2) of this subsection, the taxable wage base is the first $8,500 in wages that:

(i) an employing unit pays to each employee for covered employment

during a calendar year;

(ii) an employing unit pays to each employee for covered employment in this State and another state during a calendar year if the employee was continuously employed immediately before and after a transfer of a business from another state during a calendar year;

(iii) a reorganized employer pays to each employee for covered employment if the employee was continuously employed immediately before and after the reorganization in a calendar year and if the contribution rate of the reorganized employer is based on the experience with payrolls and benefit charges of the employing unit before the reorganization in accordance with § 8–613(b) of this subtitle; or

(iv) an employing unit or predecessor employer or combination of both pays to each employee for covered employment during a calendar year if the payrolls and benefit charges of the predecessor employing unit are transferred to the successor employing unit in accordance with § 8–613(d) or (e) of this subtitle.

(2) If the Federal Unemployment Tax Act or any other federal tax law that allows a credit for a contribution to a state unemployment insurance fund increases the maximum amount of wages taxable under that law in a calendar year to more than $8,500, the taxable wage base under paragraph (1) of this subsection shall be the same as under the federal law.

(c) (1) The Secretary shall determine the rate of contribution for each employing unit as of the computation date for the next calendar year.

(2) The rate of contribution is effective for 1 calendar year.

(d) (1) (i) By regulation, the Secretary shall set:

1. the date when contributions are due; and

2. the manner in which contributions are to be paid.

(ii) The regulations shall require that, for any calendar year in which Table F is applicable under § 8–612(d)(6) of this title, the Secretary offer a variety of payment plan options that spread through the end of August the dates when contributions are due on taxable wages for covered employment of the first 6 months of the calendar year.

(2) In accordance with regulations adopted by the Secretary, an employing unit shall:

(i) submit to the Secretary periodic reports for determination of the amount of contributions due; and

(ii) pay the contribution.

(3) For payment of contributions, a fractional part of a cent:

(i) that is less than one–half cent shall be disregarded; and

(ii) that is one–half cent or more shall be increased to 1 cent.

(e) Wages paid by a private, for–profit employing unit to an inmate of a custodial or penal institution before the inmate is permanently released from the custodial or penal institution, including released by parole, may not constitute taxable wages.

(f) An employing unit may not deduct contributions, wholly or partly, from the wages of an employee.

§8–608.

(a) In this subtitle, "standard rate" means the maximum rate in the applicable Table of Rates under § 8-612(d) of this subtitle.

(b) Except as otherwise provided in this subtitle, an employing unit shall pay contributions at the standard rate applied to the taxable wage base.

§8–609.

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

(2) "Employer industry category" means the 6–digit North American Industry Classification System promulgated by the Federal Office of Management and Budget.

(3) "New employer" means an employing unit that does not qualify for an earned rate under § 8–610 of this subtitle.

(b) A new employer shall pay contributions at a rate that does not exceed 2.6% of the taxable wage base, and that is the highest of:

(1) 1% of the taxable wage base;

(2) the 5–year benefit cost rate of the State as computed under subsection (c) of this section; or

(3) the contribution rate under § 8–612 of this subtitle that applies to an employing unit with a benefit ratio of 0.000.

(c) Annually, the Secretary shall compute the 5–year benefit cost rate of the State by dividing the sum of regular benefits, work sharing benefits, and 50% of extended benefits that the State paid during the 5 consecutive calendar years immediately preceding the computation date by the total amount of wages that employing units in the State paid during the same period that were subject to contributions.

(d) (1) In this subsection, "foreign contractor" means a person:

(i) who, for a commission or fixed price bids on, accepts, or offers to accept orders or contracts for performing or superintending construction, removal, repair, or improvement of any building or structure that is permanently annexed to real property that is owned, controlled, or leased by another person; and

(ii) all or a majority part of whose primary operations traditionally have been and continue to be based or headquartered in another state and are not controlled or directed from this State.

(2) The contribution rate for a new employer who is a foreign contractor shall be the average of the rates for employers in the State in the same employer industry category as the foreign contractor, except that the rate may not be lower than the new employer rate in effect for that year.

§8–610.

(a) (1) An employing unit that meets the qualifications of this subsection shall be assigned an earned rate of contribution that is based on the experience of the employing unit.

(2) An employing unit qualifies under this subsection if, during each of the 3 rating years immediately preceding the computation date the employing unit:

(i) had an earned rating record that was chargeable with benefits; and

(ii) reports taxable wages as required by § 8–626 of this subtitle for the 3 rating years immediately preceding the computation date.

(3) An employing unit that does not qualify under paragraph (2) of this subsection qualifies if:

(i) throughout the rating year immediately preceding the computation date, the employing unit had an earned rating record that was chargeable with benefits; and

(ii) during each of the 2 rating years immediately preceding the computation date, the employing unit reports taxable wages as required by § 8–626 of this subtitle for the 2 rating years immediately preceding the computation date.

(b) (1) An employing unit that transfers an operation from another state to this State qualifies for an earned rate of contribution effective on the transfer if:

(i) the employing unit had the experience with benefit charges and payrolls in the other state that subsection (a)(2) of this section requires an employing unit to have in this State; and

(ii) the employing unit submits to the Secretary an application that includes the information that is needed to determine the benefit ratio of the employing unit as if the benefit charges and payrolls in the other state had been paid in this State.

(2) The Secretary shall determine the accuracy of the information in the application.

(c) If an employing unit has met each of the requirements to qualify for an earned rate but files no contribution reports for any of the 3 rating years immediately preceding the computation date as required by § 8–626 of this subtitle, the Secretary shall assign the employing unit the standard rate of contribution.

(d) (1) On termination of an election, a not for profit organization or a governmental entity is presumed:

(i) to have reported wages in each calendar year during the election in which the employing unit actually paid individuals for services; and

(ii) to have been chargeable with benefits during any period when it was subject to this title under an election.

(2) The basis for calculating an earned rating record shall be money paid for services and benefits paid.

§8–610.1.

An employing unit that has knowingly failed to properly classify an individual as an employee under § 8–201.1 of this title shall pay contributions for 2 years:

(1) at a rate applied to the taxable wage base that would have been assigned to the employing unit under this subtitle if the employing unit had not knowingly failed to properly classify an individual as an employee; plus

(2) two percentage points.

§8–611.

(a) For each employing unit, the Secretary shall keep an earned rating record that shows all benefits that are based on covered employment that was performed for the employing unit.

(b) Except as provided in subsection (d) of this section, the Secretary shall charge pro rata against the earned rating record of each base period employer all regular benefits and the share of extended benefits required under subsection (c) of this section in the same proportion as the wages paid by the base period employer is to the total wages of the claimant during the base period, and rounded to the nearest dollar.

(c) (1) Notwithstanding any other provision of this title, the Secretary may not charge against the earned rating record of an employing unit an extended benefit payment for which the State receives full reimbursement from the federal government.

(2) Except as provided in subsection (d) of this section, the appropriate share of extended benefits:

(i) for a governmental entity, is all extended benefits paid to a claimant; and

(ii) for other employing units, is 50% of extended benefits paid to a claimant.

(d) The Secretary shall charge all regular and extended benefits paid to a claimant against the earned rating record of an employing unit that caused the claimant's unemployment during any period in which the unemployment is caused by a shutdown of the employing unit:

(1) to have employees take their vacations at the same time;

(2) for inventory;

(3) for retooling; or

(4) for any other purpose that is primarily other than a lack of work and that causes unemployment for a definite period.

(e) The Secretary may not charge benefits paid to a claimant against the earned rating record of an employing unit if:

(1) the claimant left employment voluntarily without good cause attributable to the employing unit;

(2) the claimant was discharged by the employing unit for gross misconduct as defined in § 8–1002 of this title;

(3) the claimant was discharged by the employing unit for aggravated misconduct as defined in § 8–1002.1 of this title;

(4) the claimant left employment voluntarily to accept better employment or enter training approved by the Secretary;

(5) the employing unit participates in a work release program that is designed to give an inmate of a correctional institution an opportunity to work while imprisoned and unemployment was the result of the claimant's release from prison;

(6) the claimant was paid additional training benefits under § 8–812 of this title; or

(7) the claimant left employment for good cause directly attributable to the claimant or the claimant's spouse, minor child, or parent being a victim of domestic violence as defined in § 8–1001(b)(3) of this title.

(f) (1) Except as provided in paragraph (2) of this subsection, if the Secretary determines before the first day of the calendar year for which the rate is assigned, that benefits that have been charged against the earned rating record of an employing unit are recoverable under § 8–809 of this title, the Secretary shall remove those charges from the earned rating record before computation of the earned rate.

(2) (i) The Secretary may not remove a benefit charge from an earned rating record if:

1. the benefit was paid as a direct or indirect result of the failure of the employing unit, or the employing unit's agent, to provide timely or adequate information relating to a claim for benefits in response to a request for information made by the Secretary under this title or regulations adopted to carry out this title; and

2. the employing unit, or the employing unit's agent, has not shown good cause for failing to provide timely or adequate information.

(ii) In determining whether the Secretary is prohibited from removing a benefit charge under subparagraph (i) of this paragraph:

1. an employing unit, or the employing unit's agent, must raise the issue of good cause in writing for the issue to be considered; and

2. the employing unit, or the employing unit's agent, has the burden of proving there was good cause for failing to provide timely or adequate information.

(g) The Secretary may not charge the earned rating record of an employing unit that has employed a claimant on a continuous part–time basis and continues to do so while the claimant is separated from other employment and is eligible for benefits because of that separation.

(h) The Secretary may not charge the earned rating record of an employing unit for benefits that are paid to a claimant during a period in which the claimant is disqualified as a result of a reversal or redetermination.

(i) (1) If, as a direct or indirect result of an erroneous report of wages or other information by an employing unit, benefits are paid to a claimant who is not entitled to the benefits, the Secretary shall charge the benefits against the earned rating record of the employing unit responsible for the erroneous report.

(2) Notwithstanding paragraph (1) of this subsection, on request of an employing unit, the Secretary for cause may waive a charge to the employing unit

earned rating record that results from erroneous report by the employing unit.

(j) (1) If the Secretary allows an adjustment or refund under this title, the Secretary shall correct the employing unit's earned rating record.

(2) (i) The Secretary may not change an earned rate assigned to an employing unit as a result of an adjustment or refund unless under this title the application is submitted by the December 31 preceding the calendar year for which the rate is assigned.

(ii) The Secretary shall waive the December 31 deadline for good cause.

§8–612.

(a) (1) Subject to paragraph (2) of this subsection, on the basis of the earned rating record of an employing unit that qualifies for an earned rate of contribution under § 8–610 of this subtitle, the Secretary shall compute to the 4th decimal place a benefit ratio for the employing unit in accordance with subsection (b) or (c) of this section.

(2) The Secretary may not assign an earned rate of contribution that is less than 0.3% or more than 13.5%.

(b) For an employing unit that qualifies under § 8–610(a)(2) of this subtitle, the Secretary shall compute a benefit ratio by:

(1) adding the regular, work sharing, and extended benefits that were chargeable to the earned rating record of the employing unit and paid during the 3 rating years immediately preceding the computation date; and

(2) dividing the figure determined under item (1) of this subsection by the total of the reported taxable wages for the same period.

(c) For an employing unit that qualifies under § 8–610(a)(3) of this subtitle, the Secretary shall compute a benefit ratio for the employing unit by:

(1) adding the regular, work sharing, and extended benefits that were chargeable to the earned rating record of the employing unit and paid during the period beginning with the 1st day of the calendar quarter in which the employing unit first became subject to this title and ending on the June 30 immediately preceding the computation date; and

(2) dividing the figure obtained under item (1) of this subsection by the total of the reported taxable wages for the same period.

(d) (1) Except as provided in subsection (f) of this section, for any calendar year beginning on or after January 1, 2006, when the Unemployment Insurance Fund

balance on September 30 of the immediately preceding calendar year exceeds 5% of the total taxable wages in covered employment for the 4 completed calendar quarters immediately preceding September 30, the Table of Rates in this paragraph of this subsection shall apply.

Table of Rates – Table A

Employing Unit's Benefit Ratio		Employing Unit's Rate
(1)	.0000 —	0.30%
(2)	.0001 — .0027	0.60%
(3)	.0028 — .0054	0.90%
(4)	.0055 — .0081	1.20%
(5)	.0082 — .0108	1.50%
(6)	.0109 — .0135	1.80%
(7)	.0136 — .0162	2.10%
(8)	.0163 — .0189	2.40%
(9)	.0190 — .0216	2.70%
(10)	.0217 — .0243	3.00%
(11)	.0244 — .0270	3.30%
(12)	.0271 — .0297	3.60%
(13)	.0298 — .0324	3.90%
(14)	.0325 — .0351	4.20%
(15)	.0352 — .0378	4.50%
(16)	.0379 — .0405	4.80%
(17)	.0406 — .0432	5.10%
(18)	.0433 — .0459	5.40%
(19)	.0460 — .0486	5.70%
(20)	.0487 — .0513	6.00%
(21)	.0514 — .0540	6.30%
(22)	.0541 — .0567	6.60%
(23)	.0568 — .0594	6.90%
(24)	.0595 — .0621	7.20%

(25)	.0622 — and over	7.50%

(2) Except as provided in subsection (f) of this section, for any calendar year beginning on or after January 1, 2006, when the Unemployment Insurance Fund balance on September 30 of the immediately preceding calendar year exceeds 4.5%, but is not in excess of 5% of the total taxable wages in covered employment for the 4 completed calendar quarters immediately preceding September 30, the Table of Rates in this paragraph of this subsection shall apply.

Table of Rates – Table B

	Employing Unit's Benefit Ratio	Employing Unit's Rate
(1)	.0000 —	0.60%
(2)	.0001 — .0027	0.90%
(3)	.0028 — .0054	1.20%
(4)	.0055 — .0081	1.50%
(5)	.0082 — .0108	1.80%
(6)	.0109 — .0135	2.10%
(7)	.0136 — .0162	2.40%
(8)	.0163 — .0189	2.70%
(9)	.0190 — .0216	3.00%
(10)	.0217 — .0243	3.30%
(11)	.0244 — .0270	3.60%
(12)	.0271 — .0297	3.90%
(13)	.0298 — .0324	4.20%
(14)	.0325 — .0351	4.50%
(15)	.0352 — .0378	4.80%
(16)	.0379 — .0405	5.10%
(17)	.0406 — .0432	5.40%
(18)	.0433 — .0459	5.70%
(19)	.0460 — .0486	6.00%
(20)	.0487 — .0513	6.30%

(21)	.0514 — .0540	6.60%
(22)	.0541 — .0567	6.90%
(23)	.0568 — .0594	7.20%
(24)	.0595 — .0621	7.50%
(25)	.0622 — .0648	7.80%
(26)	.0649 — .0675	8.10%
(27)	.0676 — .0702	8.40%
(28)	.0703 — .0729	8.70%
(29)	.0730 — and over	9.00%

(3) Except as provided in subsection (f) of this section, for any calendar year beginning on or after January 1, 2006, when the Unemployment Insurance Fund balance on September 30 of the immediately preceding calendar year exceeds 4%, but is not in excess of 4.5% of the total taxable wages in covered employment for the 4 completed calendar quarters immediately preceding September 30, the Table of Rates in this paragraph of this subsection shall apply.

Table of Rates – Table C

	Employing Unit's Benefit Ratio	Employing Unit's Rate
(1)	.0000 —	1.00%
(2)	.0001 — .0027	1.50%
(3)	.0028 — .0054	1.80%
(4)	.0055 — .0081	2.10%
(5)	.0082 — .0108	2.40%
(6)	.0109 — .0135	2.70%
(7)	.0136 — .0162	3.00%
(8)	.0163 — .0189	3.30%
(9)	.0190 — .0216	3.60%
(10)	.0217 — .0243	3.90%
(11)	.0244 — .0270	4.20%
(12)	.0271 — .0297	4.50%

(13)	.0298 — .0324	4.80%
(14)	.0325 — .0351	5.10%
(15)	.0352 — .0378	5.40%
(16)	.0379 — .0405	5.70%
(17)	.0406 — .0432	6.00%
(18)	.0433 — .0459	6.30%
(19)	.0460 — .0486	6.60%
(20)	.0487 — .0513	6.90%
(21)	.0514 — .0540	7.20%
(22)	.0541 — .0567	7.50%
(23)	.0568 — .0594	7.80%
(24)	.0595 — .0621	8.10%
(25)	.0622 — .0648	8.40%
(26)	.0649 — .0675	8.70%
(27)	.0676 — .0702	9.00%
(28)	.0703 — .0729	9.30%
(29)	.0730 — .0756	9.60%
(30)	.0757 — .0783	9.90%
(31)	.0784 — .0810	10.20%
(32)	.0811 — and over	10.50%

(4) Except as provided in subsection (f) of this section, for any calendar year beginning on or after January 1, 2006, when the Unemployment Insurance Fund balance on September 30 of the immediately preceding calendar year exceeds 3.5%, but is not in excess of 4% of the total taxable wages in covered employment for the 4 completed calendar quarters immediately preceding September 30, the Table of Rates in this paragraph of this subsection shall apply.

Table of Rates – Table D

	Employing Unit's Benefit Ratio	Employing Unit's Rate
(1)	.0000 —	1.40%

(2)	.0001 — .0027	2.10%
(3)	.0028 — .0054	2.40%
(4)	.0055 — .0081	2.70%
(5)	.0082 — .0108	3.00%
(6)	.0109 — .0135	3.30%
(7)	.0136 — .0162	3.60%
(8)	.0163 — .0189	3.90%
(9)	.0190 — .0216	4.20%
(10)	.0217 — .0243	4.50%
(11)	.0244 — .0270	4.80%
(12)	.0271 — .0297	5.10%
(13)	.0298 — .0324	5.40%
(14)	.0325 — .0351	5.70%
(15)	.0352 — .0378	6.00%
(16)	.0379 — .0405	6.30%
(17)	.0406 — .0432	6.60%
(18)	.0433 — .0459	6.90%
(19)	.0460 — .0486	7.20%
(20)	.0487 — .0513	7.50%
(21)	.0514 — .0540	7.80%
(22)	.0541 — .0567	8.10%
(23)	.0568 — .0594	8.40%
(24)	.0595 — .0621	8.70%
(25)	.0622 — .0648	9.00%
(26)	.0649 — .0675	9.30%
(27)	.0676 — .0702	9.60%
(28)	.0703 — .0729	9.90%
(29)	.0730 — .0756	10.20%
(30)	.0757 — .0783	10.50%
(31)	.0784 — .0810	10.80%
(32)	.0811 — .0837	11.10%

(33)	.0838 — .0864	11.40%
(34)	.0865 — .0891	11.70%
(35)	.0892 — and over	11.80%

(5) Except as provided in subsection (f) of this section, for any calendar year beginning on or after January 1, 2006, when the Unemployment Insurance Fund balance on September 30 of the immediately preceding calendar year exceeds 3%, but is not in excess of 3.5% of the total taxable wages in covered employment for the 4 completed calendar quarters immediately preceding September 30, the Table of Rates in this paragraph of this subsection shall apply.

Table of Rates – Table E

	Employing Unit's Benefit Ratio	Employing Unit's Rate
(1)	.0000 —	1.80%
(2)	.0001 — .0027	2.60%
(3)	.0028 — .0054	2.90%
(4)	.0055 — .0081	3.20%
(5)	.0082 — .0108	3.50%
(6)	.0109 — .0135	3.80%
(7)	.0136 — .0162	4.10%
(8)	.0163 — .0189	4.40%
(9)	.0190 — .0216	4.70%
(10)	.0217 — .0243	5.00%
(11)	.0244 — .0270	5.30%
(12)	.0271 — .0297	5.60%
(13)	.0298 — .0324	5.90%
(14)	.0325 — .0351	6.20%
(15)	.0352 — .0378	6.50%
(16)	.0379 — .0405	6.80%
(17)	.0406 — .0432	7.10%
(18)	.0433 — .0459	7.40%

(19)	.0460 — .0486	7.70%
(20)	.0487 — .0513	8.00%
(21)	.0514 — .0540	8.30%
(22)	.0541 — .0567	8.60%
(23)	.0568 — .0594	8.90%
(24)	.0595 — .0621	9.20%
(25)	.0622 — .0648	9.50%
(26)	.0649 — .0675	9.80%
(27)	.0676 — .0702	10.10%
(28)	.0703 — .0729	10.40%
(29)	.0730 — .0756	10.70%
(30)	.0757 — .0783	11.00%
(31)	.0784 — .0810	11.30%
(32)	.0811 — .0837	11.60%
(33)	.0838 — .0864	11.90%
(34)	.0865 — .0891	12.20%
(35)	.0892 — .0918	12.50%
(36)	.0919 — .0945	12.80%
(37)	.0946 — and over	12.90%

(6) Except as provided in subsection (f) of this section, for any calendar year beginning on or after January 1, 2006, when the Unemployment Insurance Fund balance on September 30 of the immediately preceding calendar year is not in excess of 3% of the total taxable wages in covered employment for the 4 completed calendar quarters immediately preceding September 30, the Table of Rates in this paragraph of this subsection shall apply.

Table of Rates – Table F

	Employing Unit's Benefit Ratio	Employing Unit's Rate
(1)	.0000 —	2.20%
(2)	.0001 — .0027	3.10%

(3)	.0028 — .0054	3.40%
(4)	.0055 — .0081	3.70%
(5)	.0082 — .0108	4.00%
(6)	.0109 — .0135	4.30%
(7)	.0136 — .0162	4.60%
(8)	.0163 — .0189	4.90%
(9)	.0190 — .0216	5.20%
(10)	.0217 — .0243	5.50%
(11)	.0244 — .0270	5.80%
(12)	.0271 — .0297	6.10%
(13)	.0298 — .0324	6.40%
(14)	.0325 — .0351	6.70%
(15)	.0352 — .0378	7.00%
(16)	.0379 — .0405	7.30%
(17)	.0406 — .0432	7.60%
(18)	.0433 — .0459	7.90%
(19)	.0460 — .0486	8.20%
(20)	.0487 — .0513	8.50%
(21)	.0514 — .0540	8.80%
(22)	.0541 — .0567	9.10%
(23)	.0568 — .0594	9.40%
(24)	.0595 — .0621	9.70%
(25)	.0622 — .0648	10.00%
(26)	.0649 — .0675	10.30%
(27)	.0676 — .0702	10.60%
(28)	.0703 — .0729	10.90%
(29)	.0730 — .0756	11.20%
(30)	.0757 — .0783	11.50%
(31)	.0784 — .0810	11.80%
(32)	.0811 — .0837	12.10%
(33)	.0838 — .0864	12.40%

(34)	.0865 — .0891	12.70%
(35)	.0892 — .0918	13.00%
(36)	.0919 — .0945	13.30%
(37)	.0946 — and over	13.50%

(e) For the purpose of making any computation under this section:

(1) money that has been credited to the account of the State in the Unemployment Trust Fund under § 903 of the Social Security Act and that has been appropriated for expenses of administration, whether or not withdrawn from the account, shall be excluded from the total amount available for benefits in the Unemployment Insurance Fund; and

(2) the total amount available for benefits in the Unemployment Insurance Fund includes:

(i) money receivable by the Unemployment Insurance Fund as federal reimbursement for shareable benefits under the Federal–State Extended Unemployment Compensation Act of 1970;

(ii) all advance payments made to the Unemployment Insurance Fund on behalf of eligible employing units who elect to make reimbursement payments; and

(iii) money receivable by the Unemployment Insurance Fund from an eligible employing unit who elects to make reimbursement payments.

(f) For any calendar year beginning on or after January 1, 2017, the Table of Rates in effect for the immediately preceding calendar year shall continue to apply if:

(1) the Unemployment Insurance Fund balance on September 30 of the immediately preceding calendar year was at a level that would result in a Table of Rates that had lower rates being applied under subsection (d) of this section; and

(2) the federal funding goals requirement in 20 C.F.R. § 606.32 were not met as of December 31 of the second immediately preceding calendar year.

§8–613.

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

(2) "Business" or "trade" includes the employer's workforce.

(3) "Reorganized employer" means:

(i) an employer that alters its legal status, including changing from

a sole proprietorship or a partnership to a corporation; or

(ii) an employer that otherwise changes its trade name or business identity while remaining under any of the same ownership.

(4) "Successor employer" means an employer that acquires, by sale or otherwise, all or part of the assets, business, organization, or trade of another employer.

(b) (1) A reorganized employer shall be liable for all contributions, interest, and penalties owed by the employing unit before the reorganization.

(2) A reorganized employer shall continue to pay contributions at the contribution rate of the employing unit before the reorganization from the date of the reorganization through the next December 31.

(3) Beginning on the January 1 after the reorganization, the rate of contribution of the reorganized employer shall be based on its experience with payrolls and benefit charges, in combination with the experience with payrolls and benefit charges of the employing unit before the reorganization.

(c) If a successor employer was not an employing unit before acquiring the assets, business, organization, or trade of a predecessor employer that is an employing unit, and has no common ownership, management, or control with the predecessor employer, then the successor employer shall be considered a new employing unit and shall be assigned a contribution rate in accordance with § 8–609 of this subtitle.

(d) If a successor employer was an employing unit before acquiring the assets, business, organization, or trade of a predecessor employer that is an employing unit, and has no common ownership, management, or control with the predecessor employer:

(1) the successor employer shall continue to pay contributions at the previously assigned rate from the date of the transfer through the next December 31;

(2) beginning on the January 1 after the transfer, and for each calendar year thereafter, the rate of contribution of the successor employer shall be based on its experience with payrolls and benefit charges in combination with the proportionate share of payrolls and benefit charges acquired from the predecessor employer; and

(3) if two or more successor employers receive the transfer, beginning on the January 1 after the transfer, and for each calendar year thereafter, the rate of contribution of each successor employer shall be based on its experience with payrolls and benefit charges in combination with the proportionate share of payrolls and benefit charges acquired from the predecessor employer.

(e) (1) Notwithstanding any other provision of this title, if a successor employer has any common ownership, management, or control with the predecessor employer, the contribution rate of the successor employer beginning as of the quarter

in which the date of transfer occurred through the next December 31 shall be based on the successor employer's experience with payrolls and benefit charges in combination with the payrolls and benefit charges of the predecessor employer.

(2) If the transfer of assets, business, organization, or trade was a partial transfer of the predecessor employer's business and the predecessor employer remains in business, beginning on the January 1 after the transfer, and for each calendar year thereafter, the rate of contribution of the successor employer shall be based on its experience with payrolls and benefit charges in combination with the proportionate share of payrolls and benefit charges acquired from the predecessor employer.

(3) If the predecessor employer does not remain in business after the transfer of all or part of the assets, business, organization, or trade of the predecessor employer, and there is one successor employer, then the rate of contribution of the successor employer beginning on the January 1 after the transfer, and for each calendar year thereafter, shall be based on the successor employer's experience with payrolls and benefit charges in combination with the payrolls and benefit charges of the predecessor employer.

(4) (i) If the predecessor employer does not remain in business after the transfer of all or part of the assets, business, organization, or trade of the predecessor employer, and there are two or more successor employers receiving the transfer, then the rate of contribution for each of the successor employers beginning on the January 1 after the transfer, and for each calendar year thereafter, shall be based on the successor employer's experience with payrolls and benefit charges in combination with the proportionate share of payrolls and benefit charges acquired from the predecessor employer.

(ii) Any remaining portion of the predecessor employer's experience shall be transferred to the successor employers according to each successor employer's proportionate share of the payroll.

(f) If a predecessor employer does not remain in business after the transfer of all or part of the assets, business, organization, or trade of the predecessor employer:

(1) the successor employer is liable for all contributions, interest, and penalties owed by the predecessor employer at the time of the transfer; and

(2) if two or more successor employers receive the transfer, the successor employers shall be liable in the same proportion as the payroll record of the unit being transferred is to the total business of the predecessor employer.

(g) (1) A predecessor employer shall continue to pay contributions at the previously assigned rate through the next December 31 if the predecessor employer:

(i) transfers only part of the assets, business, organization, or trade of the predecessor employer;

(ii) remains in business; and

(iii) has been assigned a contribution rate under this subtitle.

(2) If a predecessor employer has met each of the requirements to continue to pay contributions at the previously assigned rate through the December 31 after the transfer, beginning on the January 1 after the transfer the rate of contributions of the predecessor employer for each calendar year shall be based on:

(i) its experience with payrolls and benefit charges; and

(ii) its experience incurred before the transfer less any experience that was transferred to a successor employer.

(h) (1) To qualify for an earned rate that is based on a transfer and that is lower than the rate otherwise would be, within 120 days after the transfer, a successor employer or new employer shall report the transfer and apply for the lower rate on a form and in the manner that the Secretary provides.

(2) If the successor employer or new employer does not comply with paragraph (1) of this subsection in the time required, the Secretary shall adjust the earned rate as of the 1st calendar quarter after compliance.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, where a transfer results in a higher earned rate to the successor employer, the Secretary may combine the earned rating record of the predecessor and successor employers and, for the purpose of rate determination, transfer to the successor employer the taxable wages and benefit charges of the predecessor employer at any time.

§8–614.

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

(2) "Knowingly" means having actual knowledge or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(3) "Person" means, as defined in § 7701(a)(1) of the Internal Revenue Code of 1986, an individual, trust, estate, partnership, association, company, or corporation.

(4) "Trade or business" includes the employer's workforce.

(5) "Violates or attempts to violate" includes intent to evade, misrepresentation, or willful nondisclosure.

(b) If, following a transfer of experience, the Secretary determines that the transfer of trade or business occurred primarily or solely to obtain a reduced liability for contributions:

(1) the experience rating accounts of the employing units involved shall be combined into a single account and a single rate assigned to the account; and

(2) the employing units shall be subject to the penalties set forth in this section.

(c) If an employing unit knowingly violates or attempts to violate any provision of this subtitle related to determining the assignment of a contribution rate, the employing unit shall be subject to the following penalties:

(1) the employing unit shall be assigned the highest rate assignable under this subtitle for the rate year during which the violation or attempted violation occurred and the 3 rate years immediately following this rate year; or

(2) if the employing unit is already assigned the highest rate for any year, or if the amount of increase in the employing unit's rate would be less than 2% for that year, then a penalty rate of contributions of 2% of taxable wages shall be imposed for that year.

(d) If a person, who is not an employing unit, violates, attempts to violate, or knowingly advises an employing unit in a manner that results in a violation of this subtitle, the person shall be subject to a civil money penalty of not more than $5,000.

(e) The Secretary shall establish procedures to identify the transfer or acquisition of a trade or business for purposes of this section and § 8–613 of this subtitle.

(f) An employing unit that knowingly violates or attempts to violate any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $10,000 or both.

(g) A person, who is not an employing unit, who violates, or attempts to violate, or who knowingly advises an employing unit or a prospective employing unit in a manner that results in a violation of this subtitle, is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $10,000 or both.

§8–616.

(a) A not for profit organization or a governmental entity that has been determined to be an employing unit may make an election in accordance with this Part III.

(b) (1) Under an election, a not for profit organization shall reimburse the Unemployment Insurance Fund for all regular and work sharing benefits and 50% of extended benefits that are:

(i) attributable to covered employment for the not for profit

organization; and

(ii) paid to individuals for any week of unemployment that begins during the effective period of the election.

(2) If a claimant employed by a reimbursing not for profit organization on a continuous part-time basis continues to be employed by the not for profit organization while separated from other employment and is eligible for benefits because of that separation, the not for profit organization may not be required to reimburse the Unemployment Insurance Fund for the benefits paid to the claimant because of that separation.

(c) Under an election, a governmental entity shall reimburse the Unemployment Insurance Fund for all regular, work sharing, and extended benefits that are:

(1) attributable to covered employment for the governmental entity; and

(2) paid to individuals for any week of unemployment that begins during the effective period of the election.

§8–617.

(a) (1) A not for profit organization may make an election that is effective on the day on which the Secretary determines that the organization is an employing unit by submitting to the Secretary a written notice of the election not later than 30 days after the determination.

(2) A not for profit organization that makes an election under this subsection shall continue to be liable for reimbursement payments:

(i) for at least 1 year; and

(ii) until it submits a termination of the election under subsection (b) of this section.

(3) After termination of an election a not for profit organization shall continue to be liable for the amount of regular and work sharing benefits and 50% of extended benefits that are attributable to base period wages paid during the period of its election.

(b) To terminate an election under this section, an employer shall submit to the Secretary a written notice of termination at least 30 days before the beginning of the calendar year for which the termination first shall be effective.

(c) (1) A not for profit organization that has been paying contributions may make an election by submitting to the Secretary a written notice of the election at least 30 days before the beginning of a calendar year.

(2) A not for profit organization that makes an election under this subsection shall continue to be liable for reimbursement payments:

(i) for at least 2 calendar years; and

(ii) until it submits a termination of the election under paragraph (3) of this subsection.

(3) To terminate an election under this section, a not for profit organization shall submit to the Secretary a written notice of termination at least 30 days before the beginning of the calendar year for which the termination first shall be effective.

(d) The earned rating record of a not for profit organization that elects to make reimbursement payments shall continue to be charged for regular and work sharing benefits and 50% of extended benefits that are attributable to base period wages paid during the period in which it paid contributions.

(e) The Secretary:

(1) for good cause may extend the period within which a not for profit organization may submit a notice of election or notice of termination of election; and

(2) may allow an election to be retroactive.

(f) (1) In accordance with regulations adopted to carry out this title, the Secretary shall notify each not for profit organization of any determination that the Secretary makes about:

(i) its status as an employing unit; or

(ii) the effective date of an election or termination of election.

(g) (1) A not for profit organization may appeal a determination of the Secretary to the Board of Appeals within 15 days after the Secretary mails notice of the determination to the not for profit organization at the last known address of the not for profit organization or otherwise delivers the notice.

(2) The Secretary shall be a party to the appeal.

§8–618.

(a) This section applies to each not for profit organization that makes an election.

(b) Within 30 days after the effective date of an election, a not for profit organization, as collateral:

(1) shall execute and submit to the Secretary a surety bond that the

Secretary approves; or

(2) subject to the approval of the Secretary, shall deposit with the Secretary an irrevocable letter of credit, money, or security.

(c) (1) If a not for profit organization has taxable wages for the preceding calendar year that equal or exceed 25 times the taxable wage base in effect for that calendar year, the amount of collateral required under this section shall equal 5.4% of the taxable wages paid by the not for profit organization for covered employment for the 4 calendar quarters immediately preceding the most recent of the following:

(i) the effective date of the election;

(ii) the biennial anniversary of the effective date of the election if the collateral is other than a bond; or

(iii) the renewal date of a bond if the collateral is a bond.

(2) If a not for profit organization has taxable wages for the preceding calendar year that are less than 25 times the taxable wage base in effect for that calendar year, the amount of collateral required under this section shall equal 2.7% of the taxable wages paid by the not for profit organization for covered employment for the 4 calendar quarters immediately preceding the most recent of the following:

(i) the effective date of the election;

(ii) the biennial anniversary of the effective date of the election if the collateral is other than a bond; or

(iii) the renewal date of a bond if the security is a bond.

(3) If the not for profit organization did not pay wages in all 4 calendar quarters used to calculate the amount of security, the Secretary shall determine the amount.

(d) (1) A bond submitted under this section shall be effective for at least 2 calendar years.

(2) While an election is in effect:

(i) renewal of the bond is subject to approval by the Secretary; and

(ii) the effective period of the bond shall be at least 2 years and may be longer if the Secretary so allows.

(e) (1) Subject to paragraph (2) of this subsection, the Secretary may require an adjustment in the amount of a bond that the Secretary already has approved, but the new amount may not be less than the average cost of benefits that are attributable

to covered employment for the employing unit for the preceding 2 calendar years.

(2) The amount of a bond after adjustment shall be the average of reimbursement payments that a not for profit organization made in each of the 2 preceding calendar years, but the amount may not exceed the maximum rate of contribution under this subtitle times the taxable wage base of the not for profit organization for the last calendar year.

(3) If the Secretary requires an adjustment under this subsection, the Secretary shall mail notice of the required adjustment to the not for profit organization at its last known address or otherwise deliver notice.

(4) If the Secretary requires an increase in the amount of a bond, the not for profit organization shall submit the adjusted bond to the Secretary within 30 days after the date that notice of the required adjustment was mailed or otherwise delivered to the not for profit organization.

(f) If a not for profit organization that is covered by a bond fails to pay the full amount of a reimbursement payment when due, together with any applicable interest and penalties required under this subtitle, the surety shall be liable on the bond to the extent of the bond as if the surety was the not for profit organization.

(g) (1) The Secretary shall deposit money or other security submitted under this section in an escrow account.

(2) When a not for profit organization is no longer liable for reimbursement payments, the Secretary shall return to it the collateral other than a bond less any deduction allowed in this section.

(h) (1) At any time, the Secretary may review the adequacy of the deposit of money or securities under this section.

(2) If, as a result of a review, the Secretary determines that an adjustment is necessary, the Secretary shall:

(i) require the not for profit organization to make an additional deposit within 30 days of a written notice of the determination of the Secretary; or

(ii) return to the not for profit organization that portion of the deposit that the Secretary no longer considers necessary.

(3) Disposition of income from securities held in escrow shall be governed by the applicable provisions of State law.

(i) (1) The Secretary may make a deduction from an escrow account or sale of a security necessary to satisfy:

(i) a payment in lieu of contributions that is due and unpaid; and

(ii) any applicable interest or penalty allowed under Part IV of this subtitle.

(2) Within 30 days after a deduction of money or sale of a security under this subsection, a not for profit organization shall submit to the Secretary money or securities sufficient to return the escrow account to its level before the deduction.

(3) Any cash remaining from the sale of securities shall be part of the escrow account of the not for profit organization.

§8–619.

(a) (1) Two or more employing units that have made an election may submit a joint application to the Secretary for establishment of a group account to share the cost of benefits that are attributable to covered employment for those employing units.

(2) The application shall identify and authorize a group representative to act as the agent of the group.

(b) (1) On receipt of an application, the Secretary shall approve or disapprove the application.

(2) On approval of an application, the Secretary shall:

(i) establish a group account for the group, effective on the first day of the calendar quarter in which the Secretary receives the application; and

(ii) notify the group representative of the effective date of the account.

(3) A group account shall continue to be effective:

(i) for at least 1 year; and

(ii) until terminated at the discretion of the Secretary or on application by the group.

(c) On receipt of a bill that the Secretary sends to the group, each member of the group is liable for reimbursement payments in an amount whose ratio to total benefits that are attributable to covered employment for all members of the group is the same as the ratio that as total wages paid by that member has to total wages paid by all members of the group.

(d) The Secretary may adopt regulations for:

(1) application for the establishment, maintenance, and termination of a group account;

(2) addition of new members to a group account;

(3) withdrawal of active members from a group account;

(4) determination of the amounts that are payable under this section by each member of a group; and

(5) manner and time of payments by a member of a group.

§8–620.

(a) (1) Reimbursement payments shall be made in accordance with this section.

(2) Unless there is an application for review and redetermination of a bill under § 8–621 of this subtitle, a not for profit organization or governmental entity shall pay the bill under this section within 30 days after the Secretary mailed the bill to the last known address of the not for profit organization or governmental entity or otherwise delivered the bill to it.

(b) If benefits paid to an individual are based on wages paid by 2 or more employing units, the amount payable by each employing unit under an election shall be an amount whose ratio to total benefits paid is the same as the ratio that total base period wages paid to the individual by that employing unit has to total base period wages paid by all base period employing units.

(c) Except as provided in subsection (d) of this section, at the end of each calendar quarter or any other period set by the Secretary, the Secretary shall send:

(1) to each not for profit organization that has made an election or if the Secretary has approved a group account under § 8–619 of this subtitle, to the group representative, a bill for all regular and work sharing benefits, and 50% of extended benefits paid during that period that are attributable to covered employment for that not for profit organization; and

(2) to each governmental entity that has made an election, a bill for all regular, work sharing, and extended benefits paid during that period that are attributable to covered employment for that governmental entity.

(d) (1) On request, the Secretary may allow a not for profit organization or governmental entity that has made an election to make reimbursement payments as provided in this subsection.

(2) If the Secretary approves a request, the method of payment shall become effective on approval.

(3) At the end of each calendar quarter or other period set by the Secretary, the Secretary shall mail to a not for profit organization or governmental entity at its last known address or otherwise deliver to it:

(i) a bill for a percentage of its total payroll for the immediately preceding calendar year as determined by the Secretary, based each year on the average cost of benefits that are attributable to covered employment for the not for profit organization or governmental entity during the immediately preceding calendar year; or

(ii) if the not for profit organization or governmental entity did not pay wages during the 4 calendar quarters of the preceding calendar year, a bill for a percentage of its payroll during that year as determined by the Secretary.

(4) At the end of each calendar year:

(i) the Secretary may modify the periodic percentage of payroll payable under this subsection for the upcoming year to minimize excess or insufficient payments;

(ii) the Secretary shall determine the difference between payments made by a not for profit organization or governmental entity and the amount it is required to reimburse to the Unemployment Insurance Fund under § 8–616 of this subtitle; and

(iii) if the Unemployment Insurance Fund has not been reimbursed fully, the Secretary shall mail to the not for profit organization or governmental entity at its last known address or otherwise deliver to it a bill for the difference and require payment in accordance with subsection (a)(2) of this section.

(5) If the total payments for a calendar year exceed the amount required to be reimbursed, the Secretary may:

(i) refund all or part of the excess from the Unemployment Insurance Fund; or

(ii) retain all or part of the excess in the Unemployment Insurance Fund as part of the payments that may be required for the next calendar year.

(e) An employing unit may not deduct, wholly or partly, any payment made under this subtitle from the compensation of individuals in the employ of the not for profit organization or governmental entity.

(f) (1) Except as provided in paragraph (2) of this subsection, if the Secretary recovers benefits charged to a not for profit organization or governmental entity under § 8–809 of this title, the Secretary shall remove those charges from the account of the not for profit organization or governmental entity.

(2) (i) The Secretary may not remove a benefit charge recovered by the Secretary under § 8–809 of this title from the account of a not for profit organization or governmental entity if:

1. the benefit was paid as a direct or indirect result of the failure of the not for profit organization or governmental entity, either directly or through an agent, to provide timely or adequate information relating to a claim for benefits in response to a request for information made by the Secretary under this title or regulations adopted to carry out this title; and

2. the not for profit organization or governmental entity has not demonstrated good cause for failing to provide timely or adequate information.

(ii) In determining whether the Secretary is prohibited from removing a benefit charge under subparagraph (i) of this paragraph:

1. the not for profit organization or governmental entity, either directly or through an agent, must raise the issue of good cause in writing for the issue to be considered; and

2. the not for profit organization or governmental entity, either directly or through an agent, has the burden of proving there was good cause for failing to provide timely or adequate information.

§8–621.

(a) (1) A bill from the Secretary under § 8-620 of this subtitle is final for a not for profit organization or governmental entity unless it submits an application for review by the Secretary within 15 days after the Secretary mailed the bill to the last known address of the not for profit organization or governmental entity or otherwise delivered the bill.

(2) An application under this subsection shall set forth the grounds for review.

(b) (1) On receipt of an application for review, the Secretary promptly shall review and reconsider the amount due in the bill and issue a review determination.

(2) The Secretary shall mail a copy of the review determination to a not for profit organization or governmental entity to its last known address or otherwise deliver the copy.

(c) A review determination of a bill is final unless a not for profit organization or governmental entity submits an appeal to the Board of Appeals within 15 days after the Secretary mailed the review determination to the last known address of the not for profit organization or governmental entity or otherwise delivered the review determination.

(d) Proceedings on appeal to the Board of Appeals from the amount of a bill or a redetermination of the amount shall be in accordance with Subtitle 5A of this title.

§8–622.

(a) (1) If a not for profit organization fails to file a bond or make a deposit of money or securities in accordance with § 8-618 of this subtitle, the Secretary may terminate the election.

(2) A termination under paragraph (1) of this subsection shall continue for at least 1 year beginning with the first day of the calendar quarter in which the termination becomes effective.

(3) For good cause, the Secretary may extend the period for submitting collateral for not more than 120 days.

(b) (1) If a not for profit organization is delinquent in making reimbursement payments, the Secretary may terminate the election as of the next January 1.

(2) A termination under this subsection shall be effective for 2 calendar years.

§8–625.

(a) Each employer shall keep employment records that are accurate and contain information that the Secretary or Board of Appeals requires.

(b) The Secretary or Board of Appeals may inspect and copy at any reasonable time and as often as necessary:

(1) any record that an employer is required to keep under this section; and

(2) cash disbursement journals, check registers, tax returns, and other documents that corroborate or supplement those records.

(c) As necessary for the effective administration of this title, the Secretary or Board of Appeals may require that:

(1) an employer submit any report with respect to individuals it employs; and

(2) the report be made under oath.

(d) (1) Except as provided in paragraph (2) of this subsection, the Secretary and Board of Appeals may not publish or allow public inspection of information obtained under this section in any manner that reveals the identity of the employer except to public employees in the performance of their public duties.

(2) (i) The Secretary and Board of Appeals may allow inspection of information obtained under this section to any agent of a child support enforcement unit if the agent is under contract with the unit for the purposes of establishing

and collecting child support obligations from and locating individuals owing such obligations.

(ii) The agent of the unit shall comply with safeguards established by the United States Department of Labor and the Secretary and is subject to the penalties under § 8-1305(c) of this title.

(3) To the extent necessary for proper presentation of a claim, the Secretary or Board of Appeals shall provide information from the records to a claimant at a hearing before a special examiner, hearing examiner, the Secretary, or the Board of Appeals.

§8–626.

(a) For each calendar quarter, each employing unit shall submit to the Secretary a contribution and employment report on or before the date that the Secretary sets.

(b) An employing unit shall include in a contribution and employment report information that the Secretary requires.

(c) (1) An employing unit that fails to submit a contribution and employment report under this section is subject to a penalty of $35 unless the Secretary waives the penalty for cause.

(2) An employing unit that submits a check or other negotiable instrument in payment of any penalty under this subsection which is returned for insufficient funds is subject to an additional penalty of $25.

§8–626.1.

(a) In this section, "date of employment" means the date on which an employee commences working for an employing unit.

(b) Except as provided in subsection (c) of this section, within 20 days of an employee's beginning employment, the employee's employing unit shall submit to the Secretary:

(1) the Social Security number of the employee;

(2) the name of the employee;

(3) the address of the employee;

(4) the date of employment;

(5) the employing unit's name and address;

(6) the employee's starting wage;

(7) whether the employee has health insurance provided by the employing unit;

(8) the federal employer identification number of the employing unit; and

(9) the State unemployment insurance account number of the employing unit.

(c) (1) The employing unit shall report the required information by:

(i) mail;

(ii) magnetically or electronically; or

(iii) other means as determined by the Secretary.

(2) If an employing unit chooses to transmit data magnetically or electronically at a rate of twice per month, then the report must be submitted not less than 12 days or more than 16 days apart.

(3) (i) An employing unit that has employees in two or more states and that transmits reports magnetically or electronically may designate one state in which to transmit the report.

(ii) An employing unit that chooses to transmit the data to another state shall provide the Secretary with the name of the state receiving the report.

(d) (1) Any employing unit that fails to report as required:

(i) shall be given a written warning for the first violation; and

(ii) shall be subject to a civil penalty of $20 for each month in which a subsequent violation occurs, or $500 if the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report, unless the Secretary waives the penalty for cause.

(2) All violations occurring in a single month to the same employing unit shall be considered a single violation.

(e) An assessment under this section is final unless, within 15 days after the mailing of the assessment, an employing unit applies to the Secretary for a hearing. The Secretary may forward the application to the Office of Administrative Hearings for adjudication.

(f) The Department of Human Resources shall reimburse the Secretary for all costs incurred to carry out this section.

§8–627.

(a) (1) Except as provided in subsections (b) and (c) of this section, on request of the Secretary, an employing unit shall provide to the Secretary a report of the separation from employment of an individual.

(2) An employing unit who submits a separation notice under this subsection shall:

(i) complete the notice on a form or in a manner that the Secretary requires; and

(ii) submit the notice no later than the 8th calendar day after the day of the request.

(3) On request, an employing unit who submits a separation notice under this subsection also shall submit to the Secretary a report of the wages of any of its employees.

(b) (1) An employing unit shall submit to the Secretary a single notice for a group of employees if the employing unit lays off at least 25 employees for the same reason at or about the same time in a single establishment for a period that is permanent, indefinite, or expected to exceed 7 days.

(2) A notice under this subsection shall:

(i) state the reason for the layoff; and

(ii) list the name and Social Security number of each employee whom the layoff affects.

(c) (1) An employing unit shall submit to the Secretary a single notice for a group of employees who become unemployed because of a labor dispute.

(2) A notice under this subsection shall:

(i) state the existence of the labor dispute without any statement about the nature of the dispute; and

(ii) list the name and Social Security number of each employee whom the labor dispute affects.

(d) If the Secretary finds that the character or type of employment makes application of this section to a class of employers unreasonably onerous or impractical, the Secretary by regulation may exempt the class from the requirements of this section.

(e) (1) An employer that fails to submit a separation notice or report of wages

under subsection (a) of this section is subject to a penalty of $15 for each notice unless the Secretary waives the penalty for cause.

(2) An employer that submits a check or other negotiable instrument returned for insufficient funds in payment of any penalty under this subsection is subject to an additional penalty of $25.

§8–628.

(a) Except as provided in § 8–201.1 of this title, a contribution or reimbursement payment that is due and unpaid shall accrue interest at the rate of 1.5% per month or part of a month from the date on which it is due until the Secretary receives the contribution or payment in lieu of contributions and the interest.

(b) Notwithstanding subsection (a) of this section, except as provided in § 8–201.1 of this title, for any calendar year in which Table F is applicable under § 8–612(d)(6) of this subtitle, a contribution or reimbursement payment that is due and unpaid shall accrue interest at the rate of 0.5% per month or part of a month from the date on which it is due until the Secretary receives the contribution or payment in lieu of contributions and the interest.

§8–629.

(a) If an employing unit fails to submit a contribution and employment report under § 8-626 of this subtitle, the Secretary:

(1) may assess the penalty imposed under that section; and

(2) shall mail written notice of the assessment to the employer at the last known address of the employer or otherwise deliver the notice.

(b) If an employing unit fails to submit a separation notice under § 8-627 of this subtitle, the Secretary:

(1) may assess the penalty imposed under that section; and

(2) shall mail written notice of the assessment to the employer at the last known address of the employer or otherwise deliver the notice.

(c) (1) If an employing unit submits a report for determination of the amount of contributions due under this title but fails to pay the contributions or interest, the Secretary:

(i) may assess the amount of contributions or interest due on the basis of the information in the report;

(ii) shall mail written notice of the assessment to the employing unit at the last known address of the employing unit or otherwise deliver the notice; and

(iii) notwithstanding subsection (f) of this section, may make an additional assessment if the report subsequently is found to be incorrect.

(2) If an employing unit under an election fails to make a reimbursement payment or pay interest on the payment, the Secretary:

(i) may assess the amount of the payment or interest due; and

(ii) shall mail written notice of the assessment to the employing unit at the last known address of the employing unit or otherwise deliver the notice.

(3) Payments made by checks or other negotiable instruments returned for insufficient funds shall be considered a failure to pay contributions or reimbursements due under this subsection and are subject to an additional penalty of $25.

(d) (1) If an employing unit fails to submit a report under an election or for determination of the amount of contributions due on or before the date required by regulation, or if the Secretary determines that a report submitted by an employing unit is incorrect or insufficient, the Secretary shall require by written notice that the employing unit submit a correct and sufficient report.

(2) An employing unit shall submit a correct and sufficient report within 10 days after the Secretary requires it.

(3) If an employing unit fails to comply with paragraph (2) of this subsection, the Secretary shall:

(i) make an assessment on the basis of any information that the Secretary is able to obtain; and

(ii) mail written notice of assessment to the employing unit at the last known address of the employing unit or otherwise deliver the notice.

(e) (1) Regardless of whether the time allowed under this title for submitting reports or contributions or making reimbursement payments has expired, if the Secretary believes that collection will be jeopardized by delay, the Secretary immediately may assess a contribution, reimbursement payment, or interest.

(2) The Secretary shall mail written notice to an employing unit of an assessment under paragraph (1) of this subsection at the last known address of the employing unit or otherwise deliver the notice.

(f) (1) An assessment under this section is final unless:

(i) within 15 days after the mailing of the assessment an employing unit applies to the Board of Appeals for a hearing; or

(ii) on its own motion, the Board of Appeals reduces the contribution

or interest.

(2) After a hearing held under this subsection, the Board of Appeals shall:

(i) pass an order to affirm, modify, or set aside the assessment; and

(ii) promptly give an employing unit written notice of its decision.

(g) (1) If an employing unit fails to pay an assessment under this section, the Secretary may file with the clerk of the circuit court of the county where the employing unit's principal place of business is located and any other county a notice of lien that states:

(i) the name of the employing unit;

(ii) the address of the employing unit;

(iii) the amount of the assessment; and

(iv) that the time for filing an appeal for judicial review has expired without an appeal having been taken.

(2) On the filing of a notice of a lien under paragraph (1) of this subsection, the clerk of the court shall:

(i) record and index the lien; and

(ii) enter the lien in the judgment docket of the court.

(3) The docket entry shall include:

(i) the name of the person whose property is subject to the lien; and

(ii) the amount and date of the lien.

(h) (1) On entry in the judgment docket of the information under subsection (e) of this section, the amount of the assessment, court costs, recording costs, and interest that continues to accrue on the assessment are a lien on the real and personal property of the employer against whom the assessment is made in the same manner and having the same force and effect as a judgment lien.

(2) No property that an employer uses in connection with its business is exempt from the lien.

§8–630.

(a) If, after assessment, an employing unit fails to pay a contribution, reimbursement payment, or interest, the Secretary may collect the amount due by a civil action in the name of the State in the same manner as provided for the collection

of taxes under Title 13, Subtitle 8, Part III of the Tax - General Article.

(b) A civil action brought under this section:

(1) shall be heard by the court at the earliest possible date; and

(2) except for petitions for judicial review under this title and cases arising under the workers' compensation law of the State, shall be entitled to preference on the calendar of the court over all other civil actions.

(c) An employer adjudged in default shall pay the costs of the action for collection.

§8–631.

The Secretary shall pay any interest and penalties collected under this Part IV of this subtitle into the Special Administrative Expense Fund.

§8–632.

(a) If an assessment has become final under § 8-629 of this subtitle and an employing unit refuses to pay contributions or make reimbursement payments covered by the assessment within 10 days after the Secretary sends written notice to the last known address of the employing unit by registered mail, a court may, on a complaint filed by the Secretary, enjoin the employing unit from operating until the contributions or reimbursement payments have been paid.

(b) If an employing unit refuses to submit a report required under this title within 10 days after the Secretary sends written notice to the last known address of the employing unit by registered mail, on a complaint filed by the Secretary, a court may enjoin the employing unit from operating until the report has been submitted.

§8–633.

(a) A person who acquires the business, organization, trade, or a substantial part of the assets of an employing unit shall notify the Secretary in writing by certified mail, return receipt requested, at least 10 days before the acquisition.

(b) If a person fails to give the notice required under subsection (a) of this section and if at the time of acquisition any contribution, reimbursement payment, or interest is due and unpaid by the previous employing unit:

(1) the acquisition shall be void as to the Secretary; and

(2) the Secretary may proceed against the person for collection in the manner provided in this Part IV of this subtitle.

§8–634.

(a) If the assets of an employing unit are distributed under an order of any court under the laws of the State, including an adjudicated insolvency, assignment for the benefit of creditors, composition, or receivership, a contribution or reimbursement payment that is or will become due shall be paid in full prior to all other claims except taxes with which the assets shall be shared pro rata.

(b) If an employer dies, an unpaid contribution or reimbursement payment shall be allowable against the estate of the employer as a preferred debt in accordance with § 13-801 of the Tax - General Article.

(c) If an employing unit under the federal Bankruptcy Act is adjudicated bankrupt, has debts adjusted by composition, or has an extension proposal judicially confirmed, a contribution or payment in lieu of contributions that is or will become due shall be entitled to priority as a tax as provided under § 64(a) of that Act.

(d) (1) A court may not allow or approve a final act or report of an assignee, auditor, personal representative, receiver, or trustee or other fiduciary or officer engaged in administering the assets of an employing unit and acting under the authority or supervision of the court unless the Secretary has been given written notice at least 10 days before allowance or approval of the act or report.

(2) On receipt of a notice under paragraph (1) of this subsection, the Secretary may file a claim or interpose an objection to the act or report.

(e) A corporation that does not pay a contribution, reimbursement payment, or interest is subject to forfeiture of its corporate charter in accordance with Title 3, Subtitle 5 of the Corporations and Associations Article.

(f) The Secretary may collect a contribution, reimbursement payment, or interest that a corporation owes at the time of dissolution in accordance with §§ 3-407, 3-417, and 3-519 of the Corporations and Associations Article.

§8–635.

If the Secretary determines that the best interests of the State will be served, the Secretary may:

(1) adjust, compromise, or settle any claim or judgment for a contribution, reimbursement payment, or interest assessed against an employing unit;

(2) accept a lesser amount; or

(3) issue a release of claim or satisfaction of judgment.

§8–638.

(a) An employer that has paid to the Secretary, wholly or partly, contributions or interest alleged to be due may submit to the Secretary an application for:

(1) an adjustment in connection with contributions then due; or

(2) if an adjustment cannot be made, a refund.

(b) An employing unit that wishes to apply for an adjustment or refund shall apply within the later of:

(1) 1 year from the date on which the payment was made; or

(2) 4 years from the last day of the calendar quarter for which the payment was made.

(c) (1) If the Secretary determines that the contested amount or any part of it was collected erroneously, the Secretary shall:

(i) allow the employing unit to make an adjustment without interest to the contribution then due by the employing unit; or

(ii) if an adjustment cannot be made, refund the amount without interest.

(2) The Secretary shall refund a contribution that was collected erroneously from the Unemployment Insurance Fund and interest that was collected erroneously from the Special Administrative Expense Fund.

(3) If an employing unit reported wages that have been included in the determination of an eligible claimant for benefits, the Secretary shall reduce any adjustment or refund by the amount of benefits received by the claimant that are chargeable to the employing unit.

(d) Within the time limitation for an application under subsection (b) of this section and in accordance with subsection (c) of this section, the Secretary, on the Secretary's own initiative, may make an adjustment or grant a refund without interest.

(e) (1) If a claim for an adjustment or refund is rejected, the Secretary shall mail a written notice of rejection to the employing unit.

(2) (i) Within 15 days after receiving a notice of rejection, the employing unit may petition the Appeals Board for a formal hearing.

(ii) The petition shall state the grounds on which the refund or adjustment is claimed.

(3) The Board of Appeals shall:

(i) grant a hearing requested under this subsection;

(ii) notify the employing unit of the time and place of the hearing;

(iii) after the hearing, pass an order that the Board of Appeals considers to be just and lawful; and

(iv) give a copy of the order to the employing unit.

(f) This title does not:

(1) authorize an adjustment or refund of money that was due under the law in effect at the time that the money was paid; or

(2) prohibit a refund required under § 8–640 of this subtitle.

§8–639.

If a final judgment is rendered in favor of an employer after judicial review of an appeal under § 8-602, § 8-629, or § 8-638 of this subtitle, the Secretary shall refund to the employer, as provided in § 8-638, the amount of contributions or interest found by a court to have been collected invalidly or illegally.

§8–640.

In any year in which this title is not certified by the United States Secretary of Labor under § 3304 of the Internal Revenue Code, the Secretary shall refund money that was collected from an instrumentality of the United States for which Congress permits employment to be covered employment. The refund shall be made in the same manner and within the same time period as provided under § 8-638 of this subtitle.

§8–701.

(a) Subject to subsections (b) and (c) of this section, the Secretary may enter into a reciprocal arrangement with an agency of another state or the federal government that is authorized to do so.

(b) Under a reciprocal arrangement that the Secretary enters into under this section:

(1) services that an individual performs for a single employing unit for which services usually are performed in more than one state are considered to be performed entirely within:

(i) the state in which any part of the service is performed;

(ii) the state in which the individual resides; or

(iii) a state in which the employing unit maintains a place of business;

(2) if services are considered to be performed entirely within one state, the employing unit shall have an election in effect that is approved by the agency responsible for administration of its unemployment insurance law under which all services that the individual performs for the employing unit are deemed to be performed entirely within the state;

(3) potential rights to benefits under this title may be the basis for payment of benefits under the law of another state or the federal government and potential rights to benefits under the law of another state or the federal government may be the basis for payment of benefits under this title;

(4) for the purpose of Part IV of Subtitle 6 of this title, contributions are deemed to have been paid to the Unemployment Insurance Fund on the day on which they were made under federal law or the law of the other state; and

(5) the Unemployment Insurance Fund shall be reimbursed for the amount of contributions made under federal law or the law of the other state plus interest that the Secretary considers to be fair and reasonable.

(c) The Secretary may not enter into an arrangement under subsection (a) of this section unless it includes a provision to reimburse:

(1) the Unemployment Insurance Fund for benefits that are based on services and wages that are subject to federal law or the law of another state; and

(2) another state or the federal government from the Unemployment Insurance Fund for benefits it pays that are based on services and wages that are subject to this title.

(d) (1) In accordance with arrangements entered into under subsection (a) of this section, the Secretary may:

(i) use the Unemployment Insurance Fund to reimburse an agency of another state or the federal government; and

(ii) receive from an agency of another state or the federal government reimbursements to the Unemployment Insurance Fund.

(2) Reimbursements made from the Unemployment Insurance Fund under this section shall be considered benefits for the purposes of this title.

§8–702.

Benefits paid in accordance with an arrangement entered into under § 8-701 of this subtitle shall be paid:

(1) under the provisions of this title;

(2) under the provisions of the law of another state or the federal government; or

(3) under any combination of provisions of this title or the law of another state or the federal government that may be agreed to be fair and reasonable to all affected interests.

§8–703.

The Secretary shall participate in an arrangement for payment of benefits that are based on a combination of covered employment and employment that is covered under the unemployment insurance law of another state if:

(1) the United States Secretary of Labor, in consultation with the agency responsible for administration of that law, approves the arrangement as reasonably calculated to ensure prompt and full payment of compensation in cases in which there is a combination of employments; and

(2) the arrangement includes a provision to:

(i) apply a base period that is determined under the law of a single state;

(ii) avoid duplication of wages in computation of benefits that are based on the employments;

(iii) reimburse the Unemployment Insurance Fund for benefits that are based on employment that is covered under the unemployment insurance law of another state; and

(iv) use the Unemployment Insurance Fund as the Secretary finds to be fair and reasonable to reimburse the fund of another state for benefits that are based on covered employment.

§8–704.

(a) The General Assembly finds that cooperation among this State, other states, and appropriate federal agencies to exchange services and make available facilities and information will promote administration of this title and other federal and state unemployment insurance and public employment service laws.

(b) As the Secretary considers appropriate or necessary to facilitate administration of this title or any federal or state unemployment insurance or public employment service law:

(1) the Secretary may conduct investigations, obtain and transmit information, make facilities and services available, and exercise any other power under this title; and

(2) the Secretary may accept and use information, facilities, and services that an agency that administers another unemployment insurance or public employment service law makes available to this State.

§8–705.

To the extent permissible under federal law, the Secretary may enter into or cooperate in arrangements with a foreign government under which facilities and services provided under this title and facilities and services provided under the unemployment insurance law of the foreign government may be used to take claims and pay benefits under this title or the unemployment insurance law of the foreign government.

§8–801.

(a) To be eligible for benefits, an individual who files a claim for benefits shall be unemployed.

(b) An individual is considered to be unemployed in any week during which the individual:

(1) does not perform work for which wages are payable; or

(2) performs less than full–time work for which wages payable are less than the weekly benefit amount that would be assigned to the individual plus allowances for dependents.

(c) Notwithstanding subsection (b)(2) of this section, a part–time worker is not considered to be unemployed if the part–time worker is working all hours for which the part–time worker is available.

§8–802.

An individual is eligible for benefits if, during the base period:

(1) the individual was paid wages of at least the lower quarterly wage amount in line 1 of the schedule of benefits in § 8-803 of this subtitle for covered employment during the calendar quarter in which the individual's wages were highest; and

(2) the individual was paid wages for covered employment that, during at least 2 calendar quarters combined, are at least 1.5 times the upper limit of the wages for the line in the schedule of benefits for which the individual qualifies.

§8–803.

(a) (1) To determine the weekly benefit amount to assign to a claimant in the schedule of benefits in subsection (b) of this section, the line in the schedule of benefits

shall be located in which the high quarter wages in column (A) correspond to wages that the claimant was paid for covered employment in the calendar quarter of the claimant's base period in which those wages were highest.

(2) The claimant shall be assigned:

(i) the weekly benefit amount in column (B) of the schedule for that line; or

(ii) if the claimant is not eligible under § 8–802 of this subtitle for that weekly benefit amount but was paid wages to qualify in 1 of the next 6 lower lines of the schedule, the weekly benefit amount in the next lower line in column (B) of the schedule.

(b)

SCHEDULE OF BENEFITS

Line	High Quarter Wages (A)	Weekly Benefit Amount (B)	Minimum Qualifying Wages (C)
(1)	$ 1,176.01 to $ 1,200.00	50.00	1,800.00
(2)	$ 1,200.01 to $ 1,224.00	51.00	1,836.00
(3)	$ 1,224.01 to $ 1,248.00	52.00	1,872.00
(4)	$ 1,248.01 to $ 1,272.00	53.00	1,908.00
(5)	$ 1,272.01 to $ 1,296.00	54.00	1,944.00
(6)	$ 1,296.01 to $ 1,320.00	55.00	1,980.00
(7)	$ 1,320.01 to $ 1,344.00	56.00	2,016.00
(8)	$ 1,344.01 to $ 1,368.00	57.00	2,052.00
(9)	$ 1,368.01 to $ 1,392.00	58.00	2,088.00
(10)	$ 1,392.01 to $ 1,416.00	59.00	2,124.00
(11)	$ 1,416.01 to $ 1,440.00	60.00	2,160.00
(12)	$ 1,440.01 to $ 1,464.00	61.00	2,196.00
(13)	$ 1,464.01 to $ 1,488.00	62.00	2,232.00
(14)	$ 1,488.01 to $ 1,512.00	63.00	2,268.00
(15)	$ 1,512.01 to $ 1,536.00	64.00	2,304.00

(16)	$ 1,536.01 to $ 1,560.00	65.00	2,340.00
(17)	$ 1,560.01 to $ 1,584.00	66.00	2,376.00
(18)	$ 1,584.01 to $ 1,608.00	67.00	2,412.00
(19)	$ 1,608.01 to $ 1,632.00	68.00	2,448.00
(20)	$ 1,632.01 to $ 1,656.00	69.00	2,484.00
(21)	$ 1,656.01 to $ 1,680.00	70.00	2,520.00
(22)	$ 1,680.01 to $ 1,704.00	71.00	2,556.00
(23)	$ 1,704.01 to $ 1,728.00	72.00	2,592.00
(24)	$ 1,728.01 to $ 1,752.00	73.00	2,628.00
(25)	$ 1,752.01 to $ 1,776.00	74.00	2,664.00
(26)	$ 1,776.01 to $ 1,800.00	75.00	2,700.00
(27)	$ 1,800.01 to $ 1,824.00	76.00	2,736.00
(28)	$ 1,824.01 to $ 1,848.00	77.00	2,772.00
(29)	$ 1,848.01 to $ 1,872.00	78.00	2,808.00
(30)	$ 1,872.01 to $ 1,896.00	79.00	2,844.00
(31)	$ 1,896.01 to $ 1,920.00	80.00	2,880.00
(32)	$ 1,920.01 to $ 1,944.00	81.00	2,916.00
(33)	$ 1,944.01 to $ 1,968.00	82.00	2,952.00
(34)	$ 1,968.01 to $ 1,992.00	83.00	2,988.00
(35)	$ 1,992.01 to $ 2,016.00	84.00	3,024.00
(36)	$ 2,016.01 to $ 2,040.00	85.00	3,060.00
(37)	$ 2,040.01 to $ 2,064.00	86.00	3,096.00
(38)	$ 2,064.01 to $ 2,088.00	87.00	3,132.00
(39)	$ 2,088.01 to $ 2,112.00	88.00	3,168.00
(40)	$ 2,112.01 to $ 2,136.00	89.00	3,204.00
(41)	$ 2,136.01 to $ 2,160.00	90.00	3,240.00
(42)	$ 2,160.01 to $ 2,184.00	91.00	3,276.00
(43)	$ 2,184.01 to $ 2,208.00	92.00	3,312.00
(44)	$ 2,208.01 to $ 2,232.00	93.00	3,348.00
(45)	$ 2,232.01 to $ 2,256.00	94.00	3,384.00
(46)	$ 2,256.01 to $ 2,280.00	95.00	3,420.00

(47)	$ 2,280.01 to $ 2,304.00	96.00	3,456.00
(48)	$ 2,304.01 to $ 2,328.00	97.00	3,492.00
(49)	$ 2,328.01 to $ 2,352.00	98.00	3,528.00
(50)	$ 2,352.01 to $ 2,376.00	99.00	3,564.00
(51)	$ 2,376.01 to $ 2,400.00	100.00	3,600.00
(52)	$ 2,400.01 to $ 2,424.00	101.00	3,636.00
(53)	$ 2,424.01 to $ 2,448.00	102.00	3,672.00
(54)	$ 2,448.01 to $ 2,472.00	103.00	3,708.00
(55)	$ 2,472.01 to $ 2,496.00	104.00	3,744.00
(56)	$ 2,496.01 to $ 2,520.00	105.00	3,780.00
(57)	$ 2,520.01 to $ 2,544.00	106.00	3,816.00
(58)	$ 2,544.01 to $ 2,568.00	107.00	3,852.00
(59)	$ 2,568.01 to $ 2,592.00	108.00	3,888.00
(60)	$ 2,592.01 to $ 2,616.00	109.00	3,924.00
(61)	$ 2,616.01 to $ 2,640.00	110.00	3,960.00
(62)	$ 2,640.01 to $ 2,664.00	111.00	3,996.00
(63)	$ 2,664.01 to $ 2,688.00	112.00	4,032.00
(64)	$ 2,688.01 to $ 2,712.00	113.00	4,068.00
(65)	$ 2,712.01 to $ 2,736.00	114.00	4,104.00
(66)	$ 2,736.01 to $ 2,760.00	115.00	4,140.00
(67)	$ 2,760.01 to $ 2,784.00	116.00	4,176.00
(68)	$ 2,784.01 to $ 2,808.00	117.00	4,212.00
(69)	$ 2,808.01 to $ 2,832.00	118.00	4,248.00
(70)	$ 2,832.01 to $ 2,856.00	119.00	4,284.00
(71)	$ 2,856.01 to $ 2,880.00	120.00	4,320.00
(72)	$ 2,880.01 to $ 2,904.00	121.00	4,356.00
(73)	$ 2,904.01 to $ 2,928.00	122.00	4,392.00
(74)	$ 2,928.01 to $ 2,952.00	123.00	4,428.00
(75)	$ 2,952.01 to $ 2,976.00	124.00	4,464.00
(76)	$ 2,976.01 to $ 3,000.00	125.00	4,500.00
(77)	$ 3,000.01 to $ 3,024.00	126.00	4,536.00

(78)	$ 3,024.01 to $ 3,048.00	127.00	4,572.00
(79)	$ 3,048.01 to $ 3,072.00	128.00	4,608.00
(80)	$ 3,072.01 to $ 3,096.00	129.00	4,644.00
(81)	$ 3,096.01 to $ 3,120.00	130.00	4,680.00
(82)	$ 3,120.01 to $ 3,144.00	131.00	4,716.00
(83)	$ 3,144.01 to $ 3,168.00	132.00	4,752.00
(84)	$ 3,168.01 to $ 3,192.00	133.00	4,788.00
(85)	$ 3,192.01 to $ 3,216.00	134.00	4,824.00
(86)	$ 3,216.01 to $ 3,240.00	135.00	4,860.00
(87)	$ 3,240.01 to $ 3,264.00	136.00	4,896.00
(88)	$ 3,264.01 to $ 3,288.00	137.00	4,932.00
(89)	$ 3,288.01 to $ 3,312.00	138.00	4,968.00
(90)	$ 3,312.01 to $ 3,336.00	139.00	5,004.00
(91)	$ 3,336.01 to $ 3,360.00	140.00	5,040.00
(92)	$ 3,360.01 to $ 3,384.00	141.00	5,076.00
(93)	$ 3,384.01 to $ 3,408.00	142.00	5,112.00
(94)	$ 3,408.01 to $ 3,432.00	143.00	5,148.00
(95)	$ 3,432.01 to $ 3,456.00	144.00	5,184.00
(96)	$ 3,456.01 to $ 3,480.00	145.00	5,220.00
(97)	$ 3,480.01 to $ 3,504.00	146.00	5,256.00
(98)	$ 3,504.01 to $ 3,528.00	147.00	5,292.00
(99)	$ 3,528.01 to $ 3,552.00	148.00	5,328.00
(100)	$ 3,552.01 to $ 3,576.00	149.00	5,364.00
(101)	$ 3,576.01 to $ 3,600.00	150.00	5,400.00
(102)	$ 3,600.01 to $ 3,624.00	151.00	5,436.00
(103)	$ 3,624.01 to $ 3,648.00	152.00	5,472.00
(104)	$ 3,648.01 to $ 3,672.00	153.00	5,508.00
(105)	$ 3,672.01 to $ 3,696.00	154.00	5,544.00
(106)	$ 3,696.01 to $ 3,720.00	155.00	5,580.00
(107)	$ 3,720.01 to $ 3,744.00	156.00	5,616.00
(108)	$ 3,744.01 to $ 3,768.00	157.00	5,652.00

(109)	$ 3,768.01 to $ 3,792.00	158.00	5,688.00
(110)	$ 3,792.01 to $ 3,816.00	159.00	5,724.00
(111)	$ 3,816.01 to $ 3,840.00	160.00	5,760.00
(112)	$ 3,840.01 to $ 3,864.00	161.00	5,796.00
(113)	$ 3,864.01 to $ 3,888.00	162.00	5,832.00
(114)	$ 3,888.01 to $ 3,912.00	163.00	5,868.00
(115)	$ 3,912.01 to $ 3,936.00	164.00	5,904.00
(116)	$ 3,936.01 to $ 3,960.00	165.00	5,940.00
(117)	$ 3,960.01 to $ 3,984.00	166.00	5,976.00
(118)	$ 3,984.01 to $ 4,008.00	167.00	6,012.00
(119)	$ 4,008.01 to $ 4,032.00	168.00	6,048.00
(120)	$ 4,032.01 to $ 4,056.00	169.00	6,084.00
(121)	$ 4,056.01 to $ 4,080.00	170.00	6,120.00
(122)	$ 4,080.01 to $ 4,104.00	171.00	6,156.00
(123)	$ 4,104.01 to $ 4,128.00	172.00	6,192.00
(124)	$ 4,128.01 to $ 4,152.00	173.00	6,228.00
(125)	$ 4,152.01 to $ 4,176.00	174.00	6,264.00
(126)	$ 4,176.01 to $ 4,200.00	175.00	6,300.00
(127)	$ 4,200.01 to $ 4,224.00	176.00	6,336.00
(128)	$ 4,224.01 to $ 4,248.00	177.00	6,372.00
(129)	$ 4,248.01 to $ 4,272.00	178.00	6,408.00
(130)	$ 4,272.01 to $ 4,296.00	179.00	6,444.00
(131)	$ 4,296.01 to $ 4,320.00	180.00	6,480.00
(132)	$ 4,320.01 to $ 4,344.00	181.00	6,516.00
(133)	$ 4,344.01 to $ 4,368.00	182.00	6,552.00
(134)	$ 4,368.01 to $ 4,392.00	183.00	6,588.00
(135)	$ 4,392.01 to $ 4,416.00	184.00	6,624.00
(136)	$ 4,416.01 to $ 4,440.00	185.00	6,660.00
(137)	$ 4,440.01 to $ 4,464.00	186.00	6,696.00
(138)	$ 4,464.01 to $ 4,488.00	187.00	6,732.00
(139)	$ 4,488.01 to $ 4,512.00	188.00	6,768.00

(140)	$	4,512.01	to $	4,536.00	189.00	6,804.00
(141)	$	4,536.01	to $	4,560.00	190.00	6,840.00
(142)	$	4,560.01	to $	4,584.00	191.00	6,876.00
(143)	$	4,584.01	to $	4,608.00	192.00	6,912.00
(144)	$	4,608.01	to $	4,632.00	193.00	6,948.00
(145)	$	4,632.01	to $	4,656.00	194.00	6,984.00
(146)	$	4,656.01	to $	4,680.00	195.00	7,020.00
(147)	$	4,680.01	to $	4,704.00	196.00	7,056.00
(148)	$	4,704.01	to $	4,728.00	197.00	7,092.00
(149)	$	4,728.01	to $	4,752.00	198.00	7,128.00
(150)	$	4,752.01	to $	4,776.00	199.00	7,164.00
(151)	$	4,776.01	to $	4,800.00	200.00	7,200.00
(152)	$	4,800.01	to $	4,824.00	201.00	7,236.00
(153)	$	4,824.01	to $	4,848.00	202.00	7,272.00
(154)	$	4,848.01	to $	4,872.00	203.00	7,308.00
(155)	$	4,872.01	to $	4,896.00	204.00	7,344.00
(156)	$	4,896.01	to $	4,920.00	205.00	7,380.00
(157)	$	4,920.01	to $	4,944.00	206.00	7,416.00
(158)	$	4,944.01	to $	4,968.00	207.00	7,452.00
(159)	$	4,968.01	to $	4,992.00	208.00	7,488.00
(160)	$	4,992.01	to $	5,016.00	209.00	7,524.00
(161)	$	5,016.01	to $	5,040.00	210.00	7,560.00
(162)	$	5,040.01	to $	5,064.00	211.00	7,596.00
(163)	$	5,064.01	to $	5,088.00	212.00	7,632.00
(164)	$	5,088.01	to $	5,112.00	213.00	7,668.00
(165)	$	5,112.01	to $	5,136.00	214.00	7,704.00
(166)	$	5,136.01	to $	5,160.00	215.00	7,740.00
(167)	$	5,160.01	to $	5,184.00	216.00	7,776.00
(168)	$	5,184.01	to $	5,208.00	217.00	7,812.00
(169)	$	5,208.01	to $	5,232.00	218.00	7,848.00
(170)	$	5,232.01	to $	5,256.00	219.00	7,884.00

(171)	$	5,256.01	to $	5,280.00	220.00	7,920.00
(172)	$	5,280.01	to $	5,304.00	221.00	7,956.00
(173)	$	5,304.01	to $	5,328.00	222.00	7,992.00
(174)	$	5,328.01	to $	5,352.00	223.00	8,028.00
(175)	$	5,352.01	to $	5,376.00	224.00	8,064.00
(176)	$	5,376.01	to $	5,400.00	225.00	8,100.00
(177)	$	5,400.01	to $	5,424.00	226.00	8,136.00
(178)	$	5,424.01	to $	5,448.00	227.00	8,172.00
(179)	$	5,448.01	to $	5,472.00	228.00	8,208.00
(180)	$	5,472.01	to $	5,496.00	229.00	8,244.00
(181)	$	5,496.01	to $	5,520.00	230.00	8,280.00
(182)	$	5,520.01	to $	5,544.00	231.00	8,316.00
(183)	$	5,544.01	to $	5,568.00	232.00	8,352.00
(184)	$	5,568.01	to $	5,592.00	233.00	8,388.00
(185)	$	5,592.01	to $	5,616.00	234.00	8,424.00
(186)	$	5,616.01	to $	5,640.00	235.00	8,460.00
(187)	$	5,640.01	to $	5,664.00	236.00	8,496.00
(188)	$	5,664.01	to $	5,688.00	237.00	8,532.00
(189)	$	5,688.01	to $	5,712.00	238.00	8,568.00
(190)	$	5,712.01	to $	5,736.00	239.00	8,604.00
(191)	$	5,736.01	to $	5,760.00	240.00	8,640.00
(192)	$	5,760.01	to $	5,784.00	241.00	8,676.00
(193)	$	5,784.01	to $	5,808.00	242.00	8,712.00
(194)	$	5,808.01	to $	5,832.00	243.00	8,748.00
(195)	$	5,832.01	to $	5,856.00	244.00	8,784.00
(196)	$	5,856.01	to $	5,880.00	245.00	8,820.00
(197)	$	5,880.01	to $	5,904.00	246.00	8,856.00
(198)	$	5,904.01	to $	5,928.00	247.00	8,892.00
(199)	$	5,928.01	to $	5,952.00	248.00	8,928.00
(200)	$	5,952.01	to $	5,976.00	249.00	8,964.00
(201)	$	5,976.01	to $	6,000.00	250.00	9,000.00

(202)	$	6,000.01	to $	6,024.00	251.00	9,036.00
(203)	$	6,024.01	to $	6,048.00	252.00	9,072.00
(204)	$	6,048.01	to $	6,072.00	253.00	9,108.00
(205)	$	6,072.01	to $	6,096.00	254.00	9,144.00
(206)	$	6,096.01	to $	6,120.00	255.00	9,180.00
(207)	$	6,120.01	to $	6,144.00	256.00	9,216.00
(208)	$	6,144.01	to $	6,168.00	257.00	9,252.00
(209)	$	6,168.01	to $	6,192.00	258.00	9,288.00
(210)	$	6,192.01	to $	6,216.00	259.00	9,324.00
(211)	$	6,216.01	to $	6,240.00	260.00	9,360.00
(212)	$	6,240.01	to $	6,264.00	261.00	9,396.00
(213)	$	6,264.01	to $	6,288.00	262.00	9,432.00
(214)	$	6,288.01	to $	6,312.00	263.00	9,468.00
(215)	$	6,312.01	to $	6,336.00	264.00	9,504.00
(216)	$	6,336.01	to $	6,360.00	265.00	9,540.00
(217)	$	6,360.01	to $	6,384.00	266.00	9,576.00
(218)	$	6,384.01	to $	6,408.00	267.00	9,612.00
(219)	$	6,408.01	to $	6,432.00	268.00	9,648.00
(220)	$	6,432.01	to $	6,456.00	269.00	9,684.00
(221)	$	6,456.01	to $	6,480.00	270.00	9,720.00
(222)	$	6,480.01	to $	6,504.00	271.00	9,756.00
(223)	$	6,504.01	to $	6,528.00	272.00	9,792.00
(224)	$	6,528.01	to $	6,552.00	273.00	9,828.00
(225)	$	6,552.01	to $	6,576.00	274.00	9,864.00
(226)	$	6,576.01	to $	6,600.00	275.00	9,900.00
(227)	$	6,600.01	to $	6,624.00	276.00	9,936.00
(228)	$	6,624.01	to $	6,648.00	277.00	9,972.00
(229)	$	6,648.01	to $	6,672.00	278.00	10,008.00
(230)	$	6,672.01	to $	6,696.00	279.00	10,044.00
(231)	$	6,696.01	to $	6,720.00	280.00	10,080.00
(232)	$	6,720.01	to $	6,744.00	281.00	10,116.00

(233)	$ 6,744.01 to $ 6,768.00	282.00	10,152.00
(234)	$ 6,768.01 to $ 6,792.00	283.00	10,188.00
(235)	$ 6,792.01 to $ 6,816.00	284.00	10,224.00
(236)	$ 6,816.01 to $ 6,840.00	285.00	10,260.00
(237)	$ 6,840.01 to $ 6,864.00	286.00	10,296.00
(238)	$ 6,864.01 to $ 6,888.00	287.00	10,332.00
(239)	$ 6,888.01 to $ 6,912.00	288.00	10,368.00
(240)	$ 6,912.01 to $ 6,936.00	289.00	10,404.00
(241)	$ 6,936.01 to $ 6,960.00	290.00	10,440.00
(242)	$ 6,960.01 to $ 6,984.00	291.00	10,476.00
(243)	$ 6,984.01 to $ 7,008.00	292.00	10,512.00
(244)	$ 7,008.01 to $ 7,032.00	293.00	10,548.00
(245)	$ 7,032.01 to $ 7,056.00	294.00	10,584.00
(246)	$ 7,056.01 to $ 7,080.00	295.00	10,620.00
(247)	$ 7,080.01 to $ 7,104.00	296.00	10,656.00
(248)	$ 7,104.01 to $ 7,128.00	297.00	10,692.00
(249)	$ 7,128.01 to $ 7,152.00	298.00	10,728.00
(250)	$ 7,152.01 to $ 7,176.00	299.00	10,764.00
(251)	$ 7,176.01 to $ 7,200.00	300.00	10,800.00
(252)	$ 7,200.01 to $ 7,224.00	301.00	10,836.00
(253)	$ 7,224.01 to $ 7,248.00	302.00	10,872.00
(254)	$ 7,248.01 to $ 7,272.00	303.00	10,908.00
(255)	$ 7,272.01 to $ 7,296.00	304.00	10,944.00
(256)	$ 7,296.01 to $ 7,320.00	305.00	10,980.00
(257)	$ 7,320.01 to $ 7,344.00	306.00	11,016.00
(258)	$ 7,344.01 to $ 7,368.00	307.00	11,052.00
(259)	$ 7,368.01 to $ 7,392.00	308.00	11,088.00
(260)	$ 7,392.01 to $ 7,416.00	309.00	11,124.00
(261)	$ 7,416.01 to $ 7,440.00	310.00	11,160.00
(262)	$ 7,440.01 to $ 7,464.00	311.00	11,196.00
(263)	$ 7,464.01 to $ 7,488.00	312.00	11,232.00

(264)	$ 7,488.01 to $ 7,512.00	313.00	11,268.00
(265)	$ 7,512.01 to $ 7,536.00	314.00	11,304.00
(266)	$ 7,536.01 to $ 7,560.00	315.00	11,340.00
(267)	$ 7,560.01 to $ 7,584.00	316.00	11,376.00
(268)	$ 7,584.01 to $ 7,608.00	317.00	11,412.00
(269)	$ 7,608.01 to $ 7,632.00	318.00	11,448.00
(270)	$ 7,632.01 to $ 7,656.00	319.00	11,484.00
(271)	$ 7,656.01 to $ 7,680.00	320.00	11,520.00
(272)	$ 7,680.01 to $ 7,704.00	321.00	11,556.00
(273)	$ 7,704.01 to $ 7,728.00	322.00	11,592.00
(274)	$ 7,728.01 to $ 7,752.00	323.00	11,628.00
(275)	$ 7,752.01 to $ 7,776.00	324.00	11,664.00
(276)	$ 7,776.01 to $ 7,800.00	325.00	11,700.00
(277)	$ 7,800.01 to $ 7,824.00	326.00	11,736.00
(278)	$ 7,824.01 to $ 7,848.00	327.00	11,772.00
(279)	$ 7,848.01 to $ 7,872.00	328.00	11,808.00
(280)	$ 7,872.01 to $ 7,896.00	329.00	11,844.00
(281)	$ 7,896.01 to $ 7,920.00	330.00	11,880.00
(282)	$ 7,920.01 to $ 7,944.00	331.00	11,916.00
(283)	$ 7,944.01 to $ 7,968.00	332.00	11,952.00
(284)	$ 7,968.01 to $ 7,992.00	333.00	11,988.00
(285)	$ 7,992.01 to $ 8,016.00	334.00	12,024.00
(286)	$ 8,016.01 to $ 8,040.00	335.00	12,060.00
(287)	$ 8,040.01 to $ 8,064.00	336.00	12,096.00
(288)	$ 8,064.01 to $ 8,088.00	337.00	12,132.00
(289)	$ 8,088.01 to $ 8,112.00	338.00	12,168.00
(290)	$ 8,112.01 to $ 8,136.00	339.00	12,204.00
(291)	$ 8,136.01 to $ 8,160.00	340.00	12,240.00
(292)	$ 8,160.01 to $ 8,184.00	341.00	12,276.00
(293)	$ 8,184.01 to $ 8,208.00	342.00	12,312.00
(294)	$ 8,208.01 to $ 8,232.00	343.00	12,348.00

(295)	$ 8,232.01 to $	8,256.00	344.00	12,384.00
(296)	$ 8,256.01 to $	8,280.00	345.00	12,420.00
(297)	$ 8,280.01 to $	8,304.00	346.00	12,456.00
(298)	$ 8,304.01 to $	8,328.00	347.00	12,492.00
(299)	$ 8,328.01 to $	8,352.00	348.00	12,528.00
(300)	$ 8,352.01 to $	8,376.00	349.00	12,564.00
(301)	$ 8,376.01 to $	8,400.00	350.00	12,600.00
(302)	$ 8,400.01 to $	8,424.00	351.00	12,636.00
(303)	$ 8,424.01 to $	8,448.00	352.00	12,672.00
(304)	$ 8,448.01 to $	8,472.00	353.00	12,708.00
(305)	$ 8,472.01 to $	8,496.00	354.00	12,744.00
(306)	$ 8,496.01 to $	8,520.00	355.00	12,780.00
(307)	$ 8,520.01 to $	8,544.00	356.00	12,816.00
(308)	$ 8,544.01 to $	8,568.00	357.00	12,852.00
(309)	$ 8,568.01 to $	8,592.00	358.00	12,888.00
(310)	$ 8,592.01 to $	8,616.00	359.00	12,924.00
(311)	$ 8,616.01 to $	8,640.00	360.00	12,960.00
(312)	$ 8,640.01 to $	8,664.00	361.00	12,996.00
(313)	$ 8,664.01 to $	8,688.00	362.00	13,032.00
(314)	$ 8,688.01 to $	8,712.00	363.00	13,068.00
(315)	$ 8,712.01 to $	8,736.00	364.00	13,104.00
(316)	$ 8,736.01 to $	8,760.00	365.00	13,140.00
(317)	$ 8,760.01 to $	8,784.00	366.00	13,176.00
(318)	$ 8,784.01 to $	8,808.00	367.00	13,212.00
(319)	$ 8,808.01 to $	8,832.00	368.00	13,248.00
(320)	$ 8,832.01 to $	8,856.00	369.00	13,284.00
(321)	$ 8,856.01 to $	8,880.00	370.00	13,320.00
(322)	$ 8,880.01 to $	8,904.00	371.00	13,356.00
(323)	$ 8,904.01 to $	8,928.00	372.00	13,392.00
(324)	$ 8,928.01 to $	8,952.00	373.00	13,428.00
(325)	$ 8,952.01 to $	8,976.00	374.00	13,464.00

(326)	$ 8,976.01 to $	9,000.00	375.00	13,500.00
(327)	$ 9,000.01 to $	9,024.00	376.00	13,536.00
(328)	$ 9,024.01 to $	9,048.00	377.00	13,572.00
(329)	$ 9,048.01 to $	9,072.00	378.00	13,608.00
(330)	$ 9,072.01 to $	9,096.00	379.00	13,644.00
(331)	$ 9,096.01 to $	9,120.00	380.00	13,680.00
(332)	$ 9,120.01 to $	9,144.00	381.00	13,716.00
(333)	$ 9,144.01 to $	9,168.00	382.00	13,752.00
(334)	$ 9,168.01 to $	9,192.00	383.00	13,788.00
(335)	$ 9,192.01 to $	9,216.00	384.00	13,824.00
(336)	$ 9,216.01 to $	9,240.00	385.00	13,860.00
(337)	$ 9,240.01 to $	9,264.00	386.00	13,896.00
(338)	$ 9,264.01 to $	9,288.00	387.00	13,932.00
(339)	$ 9,288.01 to $	9,312.00	388.00	13,968.00
(340)	$ 9,312.01 to $	9,336.00	389.00	14,004.00
(341)	$ 9,336.01 to $	9,360.00	390.00	14,040.00
(342)	$ 9,360.01 to $	9,384.00	391.00	14,076.00
(343)	$ 9,384.01 to $	9,408.00	392.00	14,112.00
(344)	$ 9,408.01 to $	9,432.00	393.00	14,148.00
(345)	$ 9,432.01 to $	9,456.00	394.00	14,184.00
(346)	$ 9,456.01 to $	9,480.00	395.00	14,220.00
(347)	$ 9,480.01 to $	9,504.00	396.00	14,256.00
(348)	$ 9,504.01 to $	9,528.00	397.00	14,292.00
(349)	$ 9,528.01 to $	9,552.00	398.00	14,328.00
(350)	$ 9,552.01 to $	9,576.00	399.00	14,364.00
(351)	$ 9,576.01 to $	9,600.00	400.00	14,400.00
(352)	$ 9,600.01 to $	9,624.00	401.00	14,436.00
(353)	$ 9,624.01 to $	9,648.00	402.00	14,472.00
(354)	$ 9,648.01 to $	9,672.00	403.00	14,508.00
(355)	$ 9,672.01 to $	9,696.00	404.00	14,544.00
(356)	$ 9,696.01 to $	9,720.00	405.00	14,580.00

(357)	$ 9,720.01 to $ 9,744.00	406.00	14,616.00
(358)	$ 9,744.01 to $ 9,768.00	407.00	14,652.00
(359)	$ 9,768.01 to $ 9,792.00	408.00	14,688.00
(360)	$ 9,792.01 to $ 9,816.00	409.00	14,724.00
(361)	$ 9,816.01 to $ 9,840.00	410.00	14,760.00
(362)	$ 9,840.01 to $ 9,864.00	411.00	14,796.00
(363)	$ 9,864.01 to $ 9,888.00	412.00	14,832.00
(364)	$ 9,888.01 to $ 9,912.00	413.00	14,868.00
(365)	$ 9,912.01 to $ 9,936.00	414.00	14,904.00
(366)	$ 9,936.01 to $ 9,960.00	415.00	14,940.00
(367)	$ 9,960.01 to $ 9,984.00	416.00	14,976.00
(368)	$ 9,984.01 to $10,008.00	417.00	15,012.00
(369)	$10,008.01 to $10,032.00	418.00	15,048.00
(370)	$10,032.01 to $10,056.00	419.00	15,084.00
(371)	$10,056.01 to $10,080.00	420.00	15,120.00
(372)	$10,080.01 to $10,104.00	421.00	15,156.00
(373)	$10,104.01 to $10,128.00	422.00	15,192.00
(374)	$10,128.01 to $10,152.00	423.00	15,228.00
(375)	$10,152.01 to $10,176.00	424.00	15,264.00
(376)	$10,176.01 to $10,200.00	425.00	15,300.00
(377)	$10,200.01 to $10,224.00	426.00	15,336.00
(378)	$10,224.01 to $10,248.00	427.00	15,372.00
(379)	$10,248.01 to $10,272.00	428.00	15,408.00
(380)	$10,272.01 to $10,296.00	429.00	15,444.00
(381)	$10,296.01 and over	430.00	15,480.00

(c) The schedule of benefits that is in effect on the 1st day of a claimant's benefit year applies to the claimant throughout that benefit year.

(d) (1) Except as provided in § 8–1207 of this title for the work sharing program and § 8–1604 of this title for the Self–Employment Assistance Program, an eligible claimant shall be paid a weekly benefit amount that is computed by:

(i) determining the claimant's weekly benefit amount under this section;

(ii) adding any allowance for a dependent to which the claimant is entitled under § 8–804 of this subtitle; and

(iii) subtracting any wages exceeding $50 payable to the claimant for the week.

(2) In computing benefits under this subsection, a fraction of a dollar shall be rounded to the next lower dollar.

(e) Any child support payment that is required under § 8–807 of this subtitle shall be withheld from benefits.

§8–803.1.

For purposes of determining the weekly benefit amount in any benefit year under § 8-803 of this subtitle, wages paid by a private, for-profit employing unit for employment performed by an individual while an inmate of a custodial or penal institution shall be included as wages if the individual continues to be employed by the private, for-profit employing unit after being permanently released by the custodial or penal institution, including released by parole.

§8–804.

(a) (1) Subject to subsection (b) of this section, in addition to the weekly benefit amount in the schedule of benefits, a claimant shall be paid an allowance of $8 for each child, adopted child, or stepchild of the claimant who, on the 1st day of the benefit year, is:

(i) wholly or partly supported by the claimant; and

(ii) under 16 years of age.

(2) A claimant shall submit to the Secretary the Social Security number or copy of the birth certificate of each dependent for whom the claimant is to be paid an allowance.

(b) (1) An allowance under this section is not payable:

(i) for more than 5 dependents of the claimant;

(ii) for longer than the number of weeks of benefits allowable to the claimant for total unemployment; or

(iii) for any week in which an unemployment benefit is not payable to the claimant.

(2) Benefits and the allowance under this section in any 1 week may not exceed the highest weekly benefit amount in the schedule of benefits.

(c) (1) The number of a claimant's dependents shall be determined as of the 1st day of the benefit year and shall be fixed for the duration of the benefit year.

(2) After an individual has been determined to be a dependent of a claimant, the individual may not be considered to be a dependent of any other claimant whose benefit year starts within 1 year after the determination.

(d) In the computation of a contribution rate under Part II of Subtitle 6 of this title, an allowance for a dependent shall be considered a benefit.

(e) Notwithstanding subsection (d) of this section, an allowance for a dependent may not be deducted from a claimant's benefit account.

§8–805.

(a) To apply for benefits an individual shall file a claim for benefits in accordance with regulations adopted by the Secretary.

(b) A claimant shall disclose whether the claimant owes child support.

(c) At the time a claim is made, the Secretary shall give each claimant a notice in the form required by the Insurance Commissioner that states that the claimant may be entitled to continuation of group health insurance benefits under § 15-409 of the Insurance Article.

§8–806.

(a) (1) Except as provided in subsection (b) of this section a claims examiner promptly shall make a determination on a claim filed under § 8–805(a) of this subtitle.

(2) Whenever a determination involves resolution of a dispute of material fact, a claims examiner shall:

(i) conduct a predetermination proceeding; and

(ii) give each party notice of the time and place of the proceeding.

(b) (1) A claim shall be referred to the Board of Appeals if determination of the claim involves:

(i) a disqualification based on a stoppage of work due to a labor dispute;

(ii) multiple claims; or

(iii) a difficult issue of fact or law.

(2) The Board of Appeals promptly shall hear and decide each claim referred to it under this subsection.

(c) (1) Every initial determination shall state:

(i) whether the claimant has been paid the wages required by § 8–802 of this subtitle;

(ii) the weekly benefit amount of the claimant for the benefit year; and

(iii) the maximum benefits payable to the claimant for the benefit year.

(2) Each determination shall include a statement as to:

(i) whether a claimant is eligible for benefits for the week for which the determination is made;

(ii) the benefits to which the claimant is entitled; and

(iii) the reasons for the determination.

(d) (1) On determination of a claim, the Secretary promptly shall mail notice of the determination to the claimant at the last known address of the claimant or otherwise deliver it to the claimant.

(2) Except as provided in paragraph (3) of this subsection, on determination of a claim that involves application of § 8–903(a) of this title or disqualification under Subtitle 10 of this title, the Secretary promptly shall:

(i) mail notice of the determination to the last employing unit of the claimant at the last known address of the employing unit or otherwise deliver it to that employer; and

(ii) include in the notice the reasons for the determination.

(3) If, before a determination, an employer fails to indicate, in accordance with regulations of the Secretary, that a claimant may be disqualified or ineligible for benefits, the Secretary need not notify the employer of the determination.

(e) (1) A determination is final as to a claimant and an employer who is entitled to notice of the determination unless:

(i) within 15 days after the mailing or other delivery of the notice, the claimant or employer appeals the determination; or

(ii) after the time for an appeal on an initial determination has passed, the Secretary may make a redetermination under subsection (f) of this section.

(2) The chief hearing examiner of the Lower Appeals Division, for good cause, may extend the time for an appeal under this subsection.

(f) (1) If an interested party does not appeal an initial determination, the Secretary may redetermine:

(i) the eligibility of the claimant to receive benefits;

(ii) the weekly benefit amount of the claimant;

(iii) the maximum benefits payable to the claimant in a benefit year; and

(iv) the decision to recover an overpayment.

(2) In accordance with subsection (d) of this section, the Secretary shall send notice of the redetermination to the claimant and an employer who is entitled to notice.

(3) A redetermination is final unless an appeal is filed in accordance with subsection (e) of this section.

(g) (1) Within 15 days after the date of mailing of the notice or the date of delivery, a claimant or employing unit entitled to notice of a determination or redetermination under this section may appeal to the Lower Appeals Division.

(2) The Secretary may, at the Secretary's discretion, be a party to an appeal filed by a claimant or employing unit with the Lower Appeals Division.

(3) Unless an appeal of a determination or redetermination under this section is withdrawn or removed to the Board of Appeals, a hearing examiner shall:

(i) give the parties a reasonable opportunity for a fair hearing in accordance with the notice provisions in §§ 10–207 and 10–208 of the State Government Article, except that the provisions of § 10–208(b)(4) and (7) of the State Government Article do not apply;

(ii) make findings of fact and conclusions of law; and

(iii) on the basis of those findings and conclusions, affirm, modify, or reverse a determination or redetermination.

(4) If an appeal involves an issue of whether employment that a claimant performed is covered employment:

(i) the hearing examiner shall give special notice of the issue and appeal to the Secretary and employer; and

(ii) on receipt of the notice, the Secretary and employer shall be parties to the proceeding and be given reasonable opportunity to offer evidence on that issue.

(5) The hearing examiner promptly shall mail to each party at the last known address of the party or otherwise deliver to the party:

(i) notice of the decision of the hearing examiner; and

(ii) a copy of the decision and the findings of fact and conclusions of law that support the decision.

(6) A decision under this subsection is final unless within 15 days after the mailing or other delivery of notice of the decision, further review is initiated under subsection (h) of this section.

(h) (1) When a party files an appeal of a decision under subsection (g) of this section:

(i) if the hearing examiner did not affirm the determination or redetermination of the claim, the Board of Appeals shall allow the appeal; and

(ii) if the hearing examiner affirmed the determination or redetermination, the Board of Appeals may allow the appeal.

(2) On the filing of an appeal or on its own motion, the Board of Appeals may affirm, modify, or reverse the findings and conclusions of a hearing examiner on the basis of evidence that was submitted previously in the case or that the Board of Appeals directs to be taken.

(3) The Board of Appeals promptly shall mail notice of its decision, including its findings and conclusions, to the last known address of each party or otherwise deliver the notice. The decision is final subject to judicial review after 10 days after the mailing or other delivery.

(4) If the Board of Appeals does not allow an appeal of a decision of a hearing examiner:

(i) the decision of the hearing examiner is considered to be a decision of the Board of Appeals;

(ii) the decision is subject to judicial review within the time and in the manner provided for a final decision of the Board of Appeals; and

(iii) the time for appeal begins on the date of the notice of the order of denial of the application for appeal to the Board of Appeals.

§8–807.

(a) If a claimant who is eligible for benefits discloses an obligation to pay child support, the Secretary shall send notice of the eligibility to the child support enforcement unit that is enforcing the obligation.

(b) The Secretary shall deduct and withhold from any benefit payable to a claimant who is liable for child support the greater of:

(1) the amount specified by the claimant to be deducted and withheld to satisfy the child support obligation;

(2) the amount determined under an agreement submitted to the Secretary under § 454(19)(b)(i) of the Social Security Act; or

(3) any amount otherwise required to be deducted and withheld through legal process as defined in § 459(i)(5) of the Social Security Act.

(c) The Secretary shall:

(1) pay any amount deducted and withheld under subsection (b) of this section to the appropriate child support enforcement unit; and

(2) treat the amount as if it were paid to the claimant as benefits.

(d) The child support enforcement unit shall reimburse the Secretary for administrative costs incurred to carry out this section.

§8–808.

(a) (1) Notwithstanding any provision of §§ 8-805 and 8-806 of this subtitle or Subtitle 10 of this title, the Secretary promptly shall pay benefits to a claimant in accordance with a determination until it has been modified or reversed by a later determination or decision.

(2) If a determination is modified or reversed by a subsequent determination or decision, the Secretary promptly shall pay or deny benefits for any week of unemployment that follows in accordance with the subsequent determination or decision.

(b) In accordance with the regulations of the Secretary, all benefits shall be paid from the Unemployment Insurance Fund through employment offices.

(c) Except as provided in Subtitle 11 and Subtitle 12 of this title or any provision of federal law, during a benefit year:

(1) a claimant is entitled to a total amount of benefits equal to 26 times the claimant's weekly benefit amount; and

(2) for each week during which benefits are payable, a claimant is entitled to allowances for dependents under § 8-804 of this subtitle.

§8–808.1.

Alimony or spousal support payments may only be deducted or withheld from any

unemployment insurance benefits to the extent authorized by federal law.

§8–809.

(a) The Secretary may recover benefits paid to a claimant if the Secretary finds that the claimant was not entitled to the benefits because:

(1) the claimant was not unemployed;

(2) the claimant received or retroactively was awarded wages; or

(3) due to a redetermination of an original claim by the Secretary, the claimant is disqualified or otherwise ineligible for benefits.

(b) If the Secretary finds that a claimant knowingly made a false statement or representation or knowingly failed to disclose a material fact to obtain or increase a benefit or other payment under this title, in addition to disqualification of the claimant, the Secretary may recover from the claimant:

(1) all benefits paid to the claimant for each week for which the false statement or representation was made or for which the claimant failed to disclose a material fact;

(2) a monetary penalty of 15% of all benefits paid to the claimant for each week for which the false statement or representation was made or for which the claimant failed to disclose a material fact; and

(3) interest of 1.5% per month on the amount of all benefits paid to the claimant for each week for which the false statement or representation was made or for which the claimant failed to disclose a material fact plus the amount of the monetary penalty accruing from the date that the claimant is notified by the Secretary that the claimant was not entitled to benefits received.

(c) If the Secretary decides to recover benefits from a claimant under subsection (a) or (b) of this section, the Secretary shall notify the claimant of:

(1) the amount to be recovered;

(2) the weeks for which benefits were paid;

(3) the amount of any monetary penalty assessed under subsection (b)(2) of this section and the reason for the assessment of the monetary penalty; and

(4) the provision of this title under which the Secretary determined that the claimant was ineligible for benefits.

(d) The Secretary may recover an amount under subsection (a) of this section:

(1) by deduction from benefits payable to the claimant in the future;

(2) in the manner provided in § 8–630 of this title for the collection of past due contributions; or

(3) through other reasonable means of collection, including those permitted under:

(i) State law for the collection of debts owed to the State; or

(ii) federal law.

(e) The Secretary may recover an amount under subsection (b) of this section:

(1) in the manner provided in § 8–630 of this title for the collection of past due contributions;

(2) through other reasonable means of collection, including those permitted under:

(i) State law for the collection of debts owed to the State; or

(ii) federal law; or

(3) if the deduction is made by another jurisdiction under an intergovernmental agreement providing for the recovery of overpaid benefits, by deduction from benefits for which the claimant is eligible in the future under the law of the jurisdiction that made the deduction, excluding the monetary penalty assessed under subsection (b)(2) of this section and interest due under subsection (b)(3) of this section.

(f) (1) The Secretary may reconsider a decision to recover benefits under subsection (a) of this section within 1 year after the date that the decision was made.

(2) The Secretary may not make a determination to recover benefits under subsection (a) or (b) of this section later than 3 years after the date that the benefits were paid to the claimant.

(3) If an amount under subsection (a) or (b) of this section has not been recovered within 5 years after the date of the decision to recover the amount, the Secretary may consider the amount uncollectible.

(4) If the Secretary determines that the best interests of the State will be served, the Secretary may adjust, compromise, or settle interest due under subsection (b) of this section or under § 8–1305 of this title.

(g) Notwithstanding any other provision of this section, the Secretary may recover, under a governmental offset agreement, an overpayment of benefits paid to any claimant under:

(1) the unemployment insurance law of another state; or

(2) a federal unemployment insurance benefit program.

§8–810.

(a) An individual filing a new claim for unemployment insurance benefits establishing a new benefit year shall be advised of the following, at the time of filing such claim:

(1) unemployment insurance benefits are subject to federal, State, and local income tax;

(2) requirements exist pertaining to estimated tax payments;

(3) the individual may elect to have the Secretary deduct federal income tax from the individual's payment of unemployment insurance benefits at the amount specified in the federal Internal Revenue Code;

(4) the individual may elect to have the Secretary deduct State income tax from the individual's payment of unemployment insurance benefits at the rate of seven percent; and

(5) the individual may change a previously elected withholding status.

(b) Amounts deducted from unemployment insurance benefits pursuant to this section shall remain in the Unemployment Insurance Fund until transferred to the appropriate taxing authority as a payment of income tax.

(c) The Secretary shall follow the procedures specified by the United States Department of Labor, the federal Internal Revenue Service, and the Maryland State Comptroller pertaining to the deducting and withholding of income tax.

(d) Amounts deducted from unemployment insurance benefits under this section shall be deducted and withheld only after amounts are deducted and withheld for any overpayments of any unemployment insurance benefits, child support obligations, and to satisfy any other requirements of federal law.

§8–811.

(a) In this section, "claim information" means information regarding:

(1) whether an individual is receiving, has received, or has applied for benefits under this title;

(2) the amount of benefits an individual is receiving or is entitled to receive;

(3) an individual's current or most recent home address;

(4) whether an individual has refused an offer of work and if so, a description of the job offered, including terms, conditions, and rate of pay; and

(5) any other information that is needed by the child support enforcement unit to verify eligibility for and the amount of benefits.

(b) If an agent of a child support enforcement unit is under contract with the child support enforcement unit for the purposes of establishing and collecting child support obligations from and locating individuals owing such obligations, the Secretary and the Board of Appeals may allow the agent to inspect claim information.

(c) The agent of the child support enforcement unit shall comply with safeguards established by the United States Department of Labor and the Secretary and is subject to the penalties under § 8-1305(c) of this title.

§8–812.

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

(2) "Declining occupation" means an occupation in which:

(i) there is a current lack of employment opportunities in the individual's labor market area for the occupational skills for which the individual is qualified by training and experience; and

(ii) the lack of employment opportunities is expected to continue for an extended period of time.

(3) "Demand occupation" means an occupation in a labor market area where work opportunities are available and qualified applicants are lacking.

(4) (i) "Similar stipend" means an amount provided under a program with similar aims, such as providing training to increase employability, and in approximately the same amounts.

(ii) "Similar stipend" does not include training costs such as payments for tuition and books.

(b) An individual who is entitled to benefits under this title shall be eligible for additional training benefits under this section if the Secretary determines that the individual:

(1) is unemployed;

(2) has exhausted all rights to unemployment insurance benefits under federal and State law;

(3) (i) separated from a declining occupation; or

(ii) has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment; and

(4) is enrolled in a training program approved by the Secretary or in a job training program authorized by the federal Workforce Innovation and Opportunity Act that prepares the individual for entry into a demand occupation if the Secretary determines that the individual:

(i) enrolled in the training before the end of the benefit year established with respect to the separation that made the individual eligible for the training benefit;

(ii) is making satisfactory progress to complete the training; and

(iii) is not receiving similar stipends or other allowances for nontraining costs.

(c) The additional weekly training benefit amount shall equal the individual's weekly benefit amount for the most recent benefit year less any deductible income as determined under this title.

(d) The maximum amount of additional training benefits payable to an individual shall be equal to 26 times the individual's average weekly benefit amount for the most recent benefit year.

(e) An individual who is receiving additional training benefits may not be denied those benefits due to the application of § 8–903(a)(1)(ii) and (iii) of this title.

(f) Additional training benefits may not be payable for more than 1 year following the end of the benefit year established with respect to the separation that made the individual eligible for additional training benefits.

§8–901.

An individual who files a claim in accordance with regulations adopted under this title is eligible to receive benefits with respect to any week if the Secretary finds that the individual meets the requirements of this subtitle.

§8–902.

(a) To be eligible for benefits, an individual shall enroll with a public employment office in accordance with regulations adopted under this title.

(b) Subject to § 8–808(b) of this title, by regulation, the Secretary may alter or waive the requirements of subsection (a) of this section for:

(1) an individual attached to a regular job; or

(2) an individual for whom the Secretary finds that compliance with those requirements would be oppressive or inconsistent with the purposes of this title.

§8–903.

(a) (1) Except as otherwise provided in this section, to be eligible for benefits an individual shall be:

(i) able to work;

(ii) available for work; and

(iii) actively seeking work.

(2) In determining whether an individual actively is seeking work, the Secretary shall consider:

(i) whether the individual has made an effort that is reasonable and that would be expected of an unemployed individual who honestly is looking for work; and

(ii) the extent of the effort in relation to the labor market conditions in the area in which the individual is seeking work.

(3) A part–time worker may not be determined to be ineligible for the receipt of benefits for a week in which the part–time worker is available for and seeking only part–time work if the part–time worker:

(i) is actively seeking part–time work; and

(ii) is in a labor market in which a reasonable demand exists for part–time work.

(4) For the purposes of paragraph (3) of this subsection, an individual is seeking only part–time work if the individual is able to work:

(i) hours that are comparable to the individual's work at the time of the most recent separation from part–time employment; and

(ii) at least 20 hours per week.

(b) The Secretary may not use the disability of a qualified individual with a disability as a factor in finding that an individual is not able to work, available for work, or actively seeking work under subsection (a)(1) or (3) of this section.

(c) Notwithstanding any other provision of this section or § 8–904 or § 8–907(a) of this subtitle, an individual who otherwise is eligible to receive benefits and who is in training with the approval of the Secretary may not be denied benefits:

(1) for failure to meet the requirements of subsection (a)(1)(ii) and (iii) of this section to be available for work and actively seeking work; or

(2) for failure to apply for or refusal to accept suitable work under § 8–1005 of this title.

§8–904.

(a) When an employer closes its entire plant or part of its plant for inventory, vacation, or another purpose that will cause unemployment for a definite period not exceeding 10 weeks, the Secretary may exempt employees of the plant from the requirement of § 8-903(a)(1)(iii) of this subtitle to actively seek work during that period if the Secretary finds that circumstances and labor market conditions justify the exemption.

(b) Whenever an employer closes its entire plant or part of its plant for a purpose other than inventory or vacation that will cause unemployment for a definite period not exceeding 26 weeks, for the period of the specific shutdown, the Secretary may exempt employees of the plant from the requirement of § 8-903(a)(1)(iii) of this subtitle to actively seek work if:

(1) the employer and affected employees jointly request the exemption;

(2) the employer provides that all affected employees shall return to work for the employer within 26 weeks; and

(3) the Secretary determines that the exemption will promote productivity and economic stability within the State.

(c) (1) This subsection does not exempt an individual from meeting the requirements of § 8-902(a) or § 8-903(a)(1)(i) and (ii) of this subtitle to be able to work and otherwise fully available for work.

(2) An exemption under this section may be granted only with respect to a specific plant closing.

§8–905.

(a) An alien is not eligible for benefits unless at the time the covered employment was performed the alien:

(1) was admitted to the United States lawfully for permanent residence;

(2) lawfully was present in the United States to perform the covered employment; or

(3) otherwise was residing permanently in the United States under color of law, including being present in the United States lawfully as a result of the application

of § 207, § 208, or § 212(d)(5) of the Immigration and Nationality Act.

(b) The Secretary uniformly shall require from each applicant for benefits information that is necessary to determine whether benefits are payable under subsection (a) of this section.

(c) If the Secretary otherwise would approve a claim for benefits, a determination to deny benefits because of alien status shall be based on a preponderance of the evidence.

§8–906.

(a) An individual who otherwise is unemployed may not be considered to be employed because the individual is engaged in inactive duty for training as a member of the National Guard or other reserve component of the United States armed forces.

(b) An individual who otherwise is available for work as required in § 8–903(a)(1)(ii) of this subtitle may not be considered to be unavailable for work because the individual is engaged in inactive duty for training as a member of the National Guard or other reserve component of the United States armed forces.

(c) Compensation that an individual receives for participation in inactive duty for training as a member of the National Guard or other reserve component of the United States armed forces may not be deducted from the weekly benefit amount to which the individual is entitled.

§8–907.

An individual may not be denied benefits for any week of unemployment for failure to meet the requirements of § 8–903(a)(1) of this subtitle to be able to work, be available to work, and actively seeking work if the failure results from a summons to appear for jury duty.

§8–908.

An individual is not eligible for benefits for any week that begins during a period between 2 successive athletic seasons or other similar period based on covered employment substantially all of which consists of training or preparing to participate or participating in sports and athletic events if:

(1) the individual performed the employment in the first season or similar period; and

(2) there is reasonable assurance that the individual will perform the service in the second season or similar period.

§8–909.

(a) Subject to the provisions of this section, benefits based on service in covered employment under §§ 8-208(a) and 8-212(c) of this title shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service in covered employment.

(b) (1) With respect to services performed in an instructional, research, or principal administrative capacity for an educational institution, benefits may not be paid based on those services for any week of unemployment that begins during:

(i) a period between 2 successive academic years;

(ii) a similar period between 2 regular but not successive terms; or

(iii) a period of contractually provided paid sabbatical leave.

(2) This subsection applies only to any individual who:

(i) performs the services in an instructional, research, or principal administrative capacity in the first of 2 academic years or terms; and

(ii) has a contract or reasonable assurance that the individual will perform the services in an instructional, research, or principal administrative capacity for any educational institution in the second of the 2 academic years or terms.

(c) (1) With respect to services performed for an educational institution in any capacity other than instructional, research, or principal administrative, benefits may not be paid on the basis of the services for any week of unemployment that begins during a period between 2 successive academic years or terms.

(2) This subsection applies to any individual who:

(i) performs the services described in this subsection in the first of 2 academic years or terms; and

(ii) has a reasonable assurance that the individual will perform the services in the second of the 2 successive academic years or terms.

(3) Before July 1 of each year, each educational institution shall provide the Department with the name and Social Security number of each individual who has a reasonable assurance of performing covered employment described under this subsection in the next academic year.

(4) If an individual whose name and Social Security number are required to be submitted to the Department under paragraph (3) of this subsection is not given an opportunity to perform the services for the educational institution for the next successive year or term, the individual shall be eligible for benefits retroactively if the

individual:

(i) files a timely claim for each week;

(ii) was denied benefits solely under this subsection; and

(iii) is otherwise eligible for benefits.

(d) (1) With respect to services described in subsections (b) and (c) of this section, an individual may not be eligible for benefits based on the services for any week that begins during an established and customary vacation period or holiday recess.

(2) This subsection applies to any individual who:

(i) performs the services in the period immediately before the vacation period or holiday recess; and

(ii) has a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) (1) In this subsection, "educational service agency" means a governmental entity that is established and operated exclusively to provide educational service to one or more educational institutions.

(2) If any service described in subsection (b) or (c) of this section is performed by an individual in an educational institution while in the employ of an educational service agency, the individual is subject to subsections (b), (c), and (d) of this section and benefits may not be paid if not allowed under subsection (b), (c), or (d) of this section.

(f) If any service described in subsection (a) of this section is provided by an individual to or on behalf of an educational institution, the individual is subject to subsections (b), (c), and (d) of this section and benefits may not be paid if not allowed under subsections (b), (c), and (d) of this section.

§8–910.

Except as provided in Subtitle 11 of this title, an individual who has received benefits in a benefit year is not eligible for benefits in a subsequent benefit year unless, after the beginning of the first benefit year, the individual earns wages for covered employment under this title that equal at least 10 times the weekly benefit amount for the subsequent benefit year.

§8–1001.

(a) (1) An individual who otherwise is eligible to receive benefits is disqualified from receiving benefits if the Secretary finds that unemployment results from voluntarily leaving work without good cause.

(2) A claimant who is otherwise eligible for benefits from the loss of full–time employment may not be disqualified from the benefits attributable to the full–time employment because the claimant voluntarily quit a part–time employment, if the claimant quit the part–time employment before the loss of the full–time employment.

(b) The Secretary may find that a cause for voluntarily leaving is good cause only if:

(1) the cause is directly attributable to, arising from, or connected with:

(i) the conditions of employment; or

(ii) the actions of the employing unit;

(2) an individual:

(i) is laid off from employment through no fault of the individual;

(ii) obtains subsequent employment that pays weekly wages that total less than 50% of the weekly wage earned in the employment from which the individual was laid off; and

(iii) leaves the subsequent employment to attend a training program for which the individual has been chosen that:

1. is offered under the Maryland Workforce Development Act; or

2. otherwise is approved by the Secretary; or

(3) the cause is directly attributable to the individual or the individual's spouse, minor child, or parent being a victim of domestic violence as defined in § 4–513 of the Family Law Article and the individual:

(i) reasonably believes that the individual's continued employment would jeopardize the individual's safety or the safety of the individual's spouse, minor child, or parent; and

(ii) provides one of the following types of documentation to the Secretary substantiating domestic violence:

1. an active or a recently issued temporary protective order under § 4–505 of the Family Law Article, a protective order under § 4–506 of the Family Law Article, or any other court order documenting the domestic violence; or

2. a police record documenting recent domestic violence.

(c) (1) A circumstance for voluntarily leaving work is valid only if it is:

(i) a substantial cause that is directly attributable to, arising from, or connected with conditions of employment or actions of the employing unit;

(ii) of such necessitous or compelling nature that the individual has no reasonable alternative other than leaving the employment; or

(iii) caused by the individual leaving employment to follow a spouse if:

1. the spouse:

A. serves in the United States military; or

B. is a civilian employee of the military or of a federal agency involved in military operations; and

2. the spouse's employer requires a mandatory transfer to a new location.

(2) For determination of the application of paragraph (1)(ii) of this subsection to an individual who leaves employment because of the health of the individual or another for whom the individual must care, the individual shall submit a written statement or other documentary evidence of the health problem from a hospital or physician.

(d) In addition to other circumstances for which a disqualification may be imposed, neither good cause nor a valid circumstance exists and a disqualification shall be imposed if an individual leaves employment:

(1) to become self–employed;

(2) to accompany a spouse to a new location or to join a spouse in a new location, unless the requirements of subsection (c)(1)(iii) of this section are met; or

(3) to attend an educational institution.

(e) A disqualification under this section:

(1) shall begin with the first week for which unemployment is caused by voluntarily leaving without good cause; and

(2) subject to subsection (c) of this section, shall continue:

(i) if a valid circumstance exists, for a total of at least 5 but not more than 10 weeks, as determined by the Secretary based on the seriousness of the circumstance; or

(ii) if a valid circumstance does not exist, until the individual is reemployed and has earned wages for covered employment that equal at least 15 times

the weekly benefit amount of the individual.

§8–1002.

(a) In this section, "gross misconduct":

(1) means conduct of an employee that is:

(i) deliberate and willful disregard of standards of behavior that an employing unit rightfully expects and that shows gross indifference to the interests of the employing unit; or

(ii) repeated violations of employment rules that prove a regular and wanton disregard of the employee's obligations; and

(2) does not include:

(i) aggravated misconduct, as defined under § 8–1002.1 of this subtitle; or

(ii) other misconduct, as defined under § 8–1003 of this subtitle.

(b) An individual who otherwise is eligible to receive benefits is disqualified from receiving benefits if unemployment results from discharge or suspension as a disciplinary measure for behavior that the Secretary finds is gross misconduct in connection with employment.

(c) A disqualification under this section shall:

(1) begin with the first week for which unemployment is caused by discharge or suspension for gross misconduct as determined under this section; and

(2) continue until the individual is reemployed and has earned wages in covered employment that equal at least 25 times the weekly benefit amount of the individual.

§8–1002.1.

(a) (1) In this section, "aggravated misconduct" means behavior committed with actual malice and deliberate disregard for the property, safety, or life of others that:

(i) affects the employer, fellow employees, subcontractors, invitees of the employer, members of the public, or the ultimate consumer of the employer's product or services; and

(ii) consists of either physical assault or property loss or damage so serious that the penalties of misconduct or gross misconduct are not sufficient.

(2) In this section, "aggravated misconduct" does not include:

(i) gross misconduct, as defined under § 8-1002 of this subtitle; or

(ii) misconduct, as defined under § 8-1003 of this subtitle.

(b) An individual who otherwise is eligible to receive benefits is disqualified from receiving benefits if unemployment results from discharge or suspension as a disciplinary measure for behavior that the Secretary finds is aggravated misconduct in connection with employment.

(c) A disqualification under this section shall:

(1) begin with the first week for which unemployment is caused by discharge or suspension for aggravated misconduct as determined under this section; and

(2) continue until the individual is reemployed and has earned wages in covered employment that equal at least 30 times the weekly benefit amount of the individual.

§8–1003.

(a) An individual who otherwise is eligible to receive benefits is disqualified from receiving benefits if the Secretary finds that unemployment results from discharge or suspension as a disciplinary measure for behavior that the Secretary finds is misconduct in connection with employment but that is not:

(1) aggravated misconduct, under § 8–1002.1 of this subtitle; or

(2) gross misconduct under § 8–1002 of this subtitle.

(b) A disqualification under this section shall:

(1) begin with the first week for which unemployment is caused by discharge or suspension for misconduct; and

(2) continue for a total of at least 10 but not more than 15 weeks, as determined by the Secretary, based on the seriousness of the misconduct.

§8–1004.

(a) Except as provided in subsection (b) of this section:

(1) an individual who otherwise is eligible to receive benefits is disqualified from receiving benefits for each week for which the Secretary finds that unemployment results from a stoppage of work, other than a lockout, that exists because of a labor dispute at the premises where the individual last was employed; and

(2) if separate branches of work that usually are conducted as separate businesses in separate premises are conducted in separate departments on the same premises, each department shall be considered a separate premises for the purposes of this subsection.

(b) A disqualification under this section does not apply to an individual who satisfies the Secretary that the individual:

(1) is not participating in, financing, or directly interested in the labor dispute that caused the stoppage of work; and

(2) does not belong to a class or grade of workers that, immediately before the stoppage, had any members:

(i) employed at the premises; and

(ii) participating in, financing, or directly interested in the labor dispute.

§8–1005.

(a) Subject to subsection (d) of this section, an individual who otherwise is eligible to receive benefits is disqualified from receiving benefits if the Secretary finds that the individual, without good cause, failed to:

(1) apply for work that is available and suitable when directed to do so by the Secretary;

(2) accept suitable work when offered; or

(3) return to the individual's usual self-employment when directed to do so by the Secretary.

(b) (1) In determining whether work is suitable for an individual, the Secretary shall consider:

(i) the degree of risk involved to the health, morals, and safety of the individual;

(ii) the experience, previous earnings, previous training, and physical fitness of the individual;

(iii) the length of unemployment of the individual and the prospects for securing local work in the usual occupation of the individual; and

(iv) the distance of available work from the residence of the individual.

(2) Notwithstanding any other provisions of this title, the Secretary

may not consider work to be suitable and thus deny benefits to an otherwise eligible individual for refusal to accept the new work if:

(i) the position offered is vacant as a direct result of a strike, lockout, or other labor dispute;

(ii) hours, wages, or other conditions of work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(iii) as a condition of being employed, the individual would be required to join a company union or resign from or refrain from joining any bona fide labor organization.

(c) A disqualification under this section:

(1) shall be effective beginning with the latest week in which the individual:

(i) was to have applied for work at the direction of the Secretary;

(ii) was notified that suitable work had become available to the individual; or

(iii) was to return to the usual self-employment of the individual at the direction of the Secretary; and

(2) shall continue:

(i) for a total of at least 5 but not more than 10 weeks; or

(ii) until the individual is reemployed and has earned wages for covered employment that equal at least 10 times the weekly benefit amount of the individual.

(d) (1) In this subsection, the terms "affected employee" and "work sharing employer" have the meanings stated in § 8-1201 of this title.

(2) An affected employee who refuses to apply for or accept suitable work from a person other than the work sharing employer may not be denied benefits under this section.

§8–1006.

(a) Except as provided in subsection (b) of this section, an individual who otherwise is eligible to receive benefits is disqualified from receiving benefits for any week in which the Secretary finds that the individual receives or applies for benefits under federal law or the unemployment insurance law of another state.

(b) An individual is not disqualified under this section if the appropriate federal unit or unit of another state makes a final determination that the individual is not entitled to benefits under its law.

§8–1007.

(a) Except as provided in subsection (b) of this section, an individual who otherwise is eligible to receive benefits is disqualified from receiving benefits for each week for which the Secretary finds that the individual is receiving, has received, or will receive holiday or vacation pay accumulated or earned to the credit of the individual if, on or before the date of the layoff or separation, the employing unit notifies the individual of a definite date on which the individual will return to work.

(b) Notwithstanding any other provision of this title, an individual may not be disqualified under subsection (a) of this section if the individual receives holiday or vacation pay attributable to a period that is outside the terms of an employment agreement that specifies:

(1) scheduled holiday or vacation periods; or

(2) employee discretion in scheduling holiday or vacation periods.

§8–1008.

(a) In this section, "retirement payment":

(1) means an amount in the form of a pension, annuity, or retirement or retired pay from a trust, annuity, profit sharing plan, insurance fund, annuity or insurance contract, or any other similar lump sum or periodic payment that is based on any previous covered employment for a base period employer under a plan maintained or contributed to by a base period employer; and

(2) does not include a payment from a state or federal workers' compensation program.

(b) (1) For each week in which the Secretary finds that an individual who otherwise is eligible for benefits receives a retirement payment:

(i) if the weekly amount of the retirement payment computed under subsection (c) of this section at least equals the individual's weekly benefit amount, the individual is disqualified from receiving benefits for that week; and

(ii) if the weekly amount of the retirement payment computed under subsection (c) of this section is less than the individual's weekly benefit amount, the individual may receive benefits reduced by the amount of the retirement payment.

(2) A retirement benefit in the form of a lump sum payment is not deductible from benefits for the period of eligibility if:

(i) the employing unit pays the lump sum payment as a result of a layoff or shutdown; or

(ii) within 30 days of receiving the lump sum payment, the claimant:

1. places the lump sum payment in a qualified retirement plan; and

2. provides proof to the Secretary that the lump sum payment has been placed in a qualified retirement plan.

(3) In the case of payment in the form of a pension, annuity, retirement, or retired pay paid to an individual under the Social Security Act or the Railroad Retirement Act of 1974, the individual's contribution shall be taken into consideration and the weekly benefit amount shall not be reduced.

(c) (1) To determine the effect of a retirement payment on eligibility for benefits under subsection (b) of this section:

(i) if an individual did not contribute to the plan that provides the retirement payment, the full retirement payment shall be considered; and

(ii) if an individual contributed to the plan that provides the retirement payment, 50% of the retirement payment shall be considered.

(2) To compute the weekly amount of a periodic retirement payment, it shall be prorated on a weekly basis for the period between periodic retirement payments.

(3) To compute the weekly amount of a lump sum retirement payment, it shall be allocated to the number of weeks that follow the date of separation from employment in accordance with the number of weeks of pay that an individual received at the individual's last wage rate.

(d) Prior to distributing a retirement benefit in the form of a lump sum to any former employee, an employer shall provide written notice to the former employee of the effect of the lump sum distribution on the weekly benefit amount under this section if the employee subsequently files a claim for unemployment insurance benefits.

§8–1009.

(a) (1) For each week that the Secretary finds an individual who otherwise is eligible for benefits receives or is eligible to receive dismissal payment or wages in lieu of notice, regardless of whether the payment is required by law:

(i) if the payment at least equals the individual's weekly benefit amount, the individual is disqualified from receiving benefits; or

(ii) if the payment is less than the individual's weekly benefit amount, the individual may receive benefits reduced by the amount of the payment.

(2) Dismissal payment or wages in lieu of notice shall be allocated to a number of weeks following separation from employment that equals the number of weeks of wages received.

(b) An individual who is otherwise eligible for benefits, including benefits payable under the Unemployment Compensation for Ex–Service Members Program in accordance with 5 U.S.C. § 8521 may receive benefits, and the benefits may not be reduced under subsection (a)(2) of this section, for each week that the Secretary finds that the individual receives or is eligible to receive military disability severance payments.

§8–1101.

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

(b) "Eligibility period" means the period of weeks consisting of:

(1) the weeks in an individual's benefit year that begin in an extended benefit period; and

(2) if the benefit year ends within the extended benefit period, the weeks after the benefit year that begin in the extended benefit period.

(c) (1) "Extended benefits" means benefits payable to an individual under this subtitle for weeks of unemployment in the eligibility period of an individual.

(2) "Extended benefits" includes benefits payable to a federal civilian employee or former servicemember under 5 U.S.C. § 8501 et seq. under this subtitle for weeks of unemployment in the eligibility period of the employee or former servicemember.

(d) (1) "Regular benefits" means:

(i) benefits payable to an individual under § 8-808(c) of this title; or

(ii) benefits payable to a federal civilian employee or a former servicemember under 5 U.S.C. § 8501 et seq.

(2) "Regular benefits" does not include extended benefits.

§8–1102.

Unless the result would be inconsistent with another provision of this Part III of this subtitle or with the Federal-State Extended Unemployment Compensation Act of 1970, the provisions of this title that apply to claims for or the payment of regular

benefits shall apply to extended benefits.

§8–1103.

(a) An extended benefit period is a period that:

(1) begins with the 3rd week after the 1st week for which there is a State "on" indicator but not earlier than the 14th week after the end of another extended benefit period; and

(2) ends with the later of:

(i) the 3rd week after the 1st week for which there is a State "off" indicator; or

(ii) the 13th consecutive week of the period.

(b) (1) A State "on" indicator for a week exists whenever, for that week and the 12 immediately preceding weeks, the rate of insured unemployment, not seasonally adjusted, is at least:

(i) 5%; and

(ii) 120% of the average of the rates for the corresponding 13–week period ending in each of the 2 preceding calendar years.

(2) After a State "on" indicator occurs under this subsection, a State "off" indicator for a week exists whenever, for that week and the 12 immediately preceding weeks, the rate of insured unemployment, not seasonally adjusted, is less than:

(i) 5%; or

(ii) 120% of the average of the rates for the corresponding 13–week period ending in each of the 2 preceding calendar years.

(c) (1) A State "on" indicator exists for a week whenever, for that week and the 12 immediately preceding weeks, the rate of insured unemployment, not seasonally adjusted, is at least 6%.

(2) After a State "on" indicator occurs under this subsection, a State "off" indicator exists for a week whenever, for that week and the 12 immediately preceding weeks, the rate of insured unemployment, not seasonally adjusted, was less than 6%.

(d) A State "on" indicator under subsection (b) or (c) of this section takes precedence over a State "off" indicator under subsection (c) or (b) of this section, respectively.

(e) (1) To compute the rate of insured unemployment under subsections (b) and (c) of this section, the Secretary shall:

(i) determine the average weekly number of individuals submitting claims for regular benefits in the State for weeks of unemployment during the most recent 13 consecutive weeks based on reports of the Secretary to the United States Secretary of Labor; and

(ii) divide that number by the average monthly number of employees engaged in covered employment for the 1st 4 of the 6 completed calendar quarters ending immediately before the 13 weeks.

(2) The Secretary shall make each computation under this subsection in accordance with regulations of the United States Secretary of Labor.

(f) The Secretary shall make an appropriate public announcement whenever an "on" indicator exists that begins or an "off" indicator exists that ends an extended benefit period.

§8–1104.

(a) In this subsection, "suitable work" means work:

(1) that is within the capabilities of an individual;

(2) for which the gross average weekly compensation exceeds the sum of the individual's weekly extended benefit amount plus any supplemental unemployment compensation benefits as defined in § 501(c)(17)(d) of the Internal Revenue Code that are payable to the individual for the week;

(3) for which wages equal or exceed the higher of:

(i) the minimum wage under § 6(a)(1) of the federal Fair Labor Standards Act, without regard to exemptions; or

(ii) an applicable State or local minimum wage;

(4) that is listed with the Division of Workforce Development or offered in writing to the individual; and

(5) that is suitable under § 8–1005 of this title to the extent that § 8–1005 of this title is not inconsistent with items (1) through (4) of this subsection.

(b) To be eligible for extended benefits for a week during an eligibility period, an individual:

(1) shall be unemployed for the week for which benefits are claimed;

(2) shall meet each requirement of this title for regular benefits that applies to a claim for extended benefits;

(3) shall not be subject to disqualification from receiving regular benefits;

(4) may not have a right to unemployment allowances or benefits under the Railroad Unemployment Insurance Act or any other federal law that the United States Secretary of Labor specifies by regulation;

(5) shall not have received and shall not be seeking unemployment benefits under the unemployment insurance law of Canada or if benefits have been sought under that law, shall have been finally determined by the appropriate unit not to be eligible; and

(6) shall have exhausted regular benefits as provided in this subsection.

(c) (1) An individual has exhausted the regular benefits for a week of unemployment during the individual's eligibility period if:

(i) before that week, the individual has received all regular benefits and allowances for dependents and benefits payable to federal civilian employees and former servicemembers under 5 U.S.C. § 8501 et seq. that were available to the individual under this title or the unemployment insurance law of another state that has been approved by the United States Secretary of Labor under 26 U.S.C. § 3304; or

(ii) if the benefit year expired during the eligibility period, the individual has no wages or has insufficient wages to establish a new benefit year that would include that week.

(2) An individual who otherwise has received all regular benefits shall be considered to have exhausted regular benefits under paragraph (1)(i) of this subsection even if the individual later may be determined to be entitled to additional regular benefits as a result of a pending appeal about wages that were not considered in the initial monetary determination of the individual's 1st claim for that benefit year.

(d) During the base period for which the individual has exhausted regular benefits, the total wages for covered employment shall exceed 150% of the wages for covered employment during the calendar quarter of the base period in which the individual's wages for covered employment were the highest.

(e) If an individual is disqualified from regular benefits for a specified period of weeks under § 8–1001, § 8–1003, or § 8–1005 of this title, the individual may not receive extended benefits unless:

(1) the period of disqualification has ended; and

(2) the individual has been employed after the date of the disqualification.

(f) (1) An individual shall:

(i) make a sustained and systematic effort throughout the week to find work; and

(ii) submit tangible evidence of the effort to the Secretary.

(2) Except as provided in paragraph (3) of this subsection, an individual is disqualified for extended benefits for any week of unemployment during the individual's eligibility period during which the individual fails to accept an offer of suitable work or apply for suitable work referred by the Secretary.

(3) If an individual provides evidence that satisfies the Secretary that the individual has good prospects for obtaining work in the individual's usual occupation within a reasonably short period, suitability of the work shall be determined in accordance with § 8–1005 rather than paragraph (1) of this subsection.

(g) The Secretary shall refer an individual who applies for extended benefits to work that is suitable.

§8–1105.

(a) The weekly amount of extended benefits payable for a week of total unemployment during an individual's eligibility period is equal to the amount of regular benefits, including allowances for dependents, payable to the individual for a week of total unemployment during the applicable benefit year.

(b) The total amount of extended benefits payable to an eligible individual for the applicable benefit year of the individual may not be less than the lesser of:

(1) 50% of the total amount of regular benefits, including allowances for dependents, payable to the individual during that benefit year;

(2) 13 times the average weekly benefit amount of the individual; or

(3) 39 times the average weekly benefit amount of the individual, reduced by the amount of regular benefits paid or deemed paid to the individual during that benefit year.

(c) If the benefit year of an individual ends during an extended benefit period, the balance of extended benefits to which the individual is entitled for weeks of unemployment beginning after the benefit year shall be reduced, but not below zero, by an amount computed by:

(1) determining the number of weeks for which the individual received any amounts as trade readjustment allowances under the federal Trade Act of 1974 within that benefit year; and

(2) multiplying the number determined under item (1) of this subsection by the weekly amount of extended benefits of the individual.

(d) An individual who otherwise is eligible to receive benefits may not be denied regular benefits or extended benefits for any week because the individual:

(1) is in a training program that the United States Secretary of Labor approves under 19 U.S.C. § 2296(a)(1); or

(2) leaves work that is not suitable to enter a training program that the United States Secretary of Labor approves under 19 U.S.C. § 2296(a)(1) because:

(i) the work was not of substantially equal or a higher skill level than the past adversely affected employment of the individual as defined under 19 U.S.C. § 2296(f); and

(ii) the wages for the work were less than 80% of the average weekly wage of the individual as determined under 19 U.S.C. § 2296(e).

§8–1106.

Notwithstanding any other provision of this title, as to extended benefits for which the federal government wholly reimburses the State, the Secretary may not:

(1) charge the earned rating record of an employing unit for those extended benefits; or

(2) require an employer to make reimbursement payments for those extended benefits.

§8–1107.

(a) Except as provided in subsection (b) of this section, the Secretary may not pay extended benefits to an individual for a week under an interstate claim submitted in another state under the Interstate Benefit Payment Plan unless an extended benefit period is in effect for that week in the other state as well as this State.

(b) This section does not apply to the first 2 weeks for which extended benefits are payable under an interstate claim submitted under the Interstate Benefit Payment Plan to the individual from the extended benefit account established for the individual for the benefit year.

§8–1108.

(a) An individual is disqualified for extended benefits if the individual fails to comply with the requirements of § 8-1104(f)(1) of this subtitle unless the failure results from:

(1) a summons to appear for jury duty before a court of the United States or of a state; or

(2) hospitalization of the individual for emergency treatment or treatment of a life-threatening situation.

(b) An individual who fails to comply with the requirements of § 8-1104(f)(2) of this subtitle is disqualified for extended benefits.

(c) A disqualification under this section shall continue until an individual:

(1) is employed during at least 4 weeks that begin after the individual fails to comply with the requirements of § 8-1104(f) of this subtitle; and

(2) has earnings equal to at least 4 times the weekly amount of extended benefits of the individual.

§8–1201.

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

(b) "Affected employee" means an individual to whom an approved work sharing plan applies, hired on a full–time basis or as a permanent part–time worker, who has been continuously on the payroll of an affected unit for at least 3 months immediately before the employing unit submits a work sharing plan.

(c) "Affected unit" means a specific plant, department, shift, or other definable unit of an employing unit:

(1) that has at least 2 employees; and

(2) to which an approved work sharing plan applies.

(d) "Approved work sharing plan" means a plan that satisfies the purpose under § 8–1202 of this subtitle and receives the approval of the Secretary.

(e) "Employer association" means:

(1) an association that is a party to a collective bargaining agreement under which it may negotiate a work sharing plan; or

(2) an association authorized by all of its members to become a party to a work sharing plan.

(f) "Health and retirement benefits" means employer–provided health benefits and retirement benefits under a defined benefit pension plan as defined in § 414(j) of the Internal Revenue Code or contributions under a defined contribution plan as defined in § 414(i) of the Internal Revenue Code that are incidents of employment in addition to the cash remuneration earned.

(g) "Intermittent employment" means employment that is not continuous, but may consist of periodic intervals of weekly work and intervals of no weekly work.

(h) "Normal weekly work hours" means the usual hours of work for a full–time or regular part–time worker in the affected unit when that unit is operating on its

regular basis, not to exceed 40 hours and not including overtime work.

(i) "Temporary employment" means employment in which an employee:

(1) is expected to remain in a position for only a limited period of time; or

(2) is hired by a temporary agency or other entity to fill a gap in the employer's workforce.

(j) (1) "Work sharing benefit" means benefits payable to an affected employee for work performed under an approved work sharing plan.

(2) "Work sharing benefit" includes benefits payable to a federal civilian employee or former service member under Title 5, Chapter 85 of the United States Code.

(3) "Work sharing benefit" does not include benefits that are otherwise payable under this title.

(k) "Work sharing employer" means an employing unit or employer association for which a work sharing plan has been approved.

(l) "Work sharing plan" means a plan of an employing unit or employer association under which:

(1) normal weekly work hours of affected employees are reduced to avoid layoffs; and

(2) affected employees share the work that remains after the reduction.

§8–1202.

(a) The work sharing unemployment insurance program seeks to:

(1) preserve the jobs of employees and the work force of an employer during periods of lowered economic activity by reduction in work hours or workdays rather than by a layoff of some employees while other employees continue their normal weekly work hours or workdays; and

(2) ameliorate the adverse effect of reduction in business activity by providing benefits for the part of the normal weekly work hours or workdays in which an employee does not work.

(b) The work sharing unemployment insurance program is not intended to subsidize:

(1) normal or expected fluctuations in economic activity that are an inherent part of an industry or occupation; or

(2) an employer's usual operation on a long–term basis.

§8–1203.

(a) An employing unit or employer association that wishes to participate in the work sharing unemployment insurance program shall submit to the Secretary a written work sharing plan that the employing unit or representative of the employer association has signed.

(b) Within 15 days after receipt of a work sharing plan, the Secretary shall give written approval or disapproval of the plan.

(c) A decision by the Secretary to disapprove a work sharing plan shall identify the reasons for the disapproval.

(d) (1) When the Secretary disapproves a work sharing plan, the decision is final and may not be appealed.

(2) After 15 days after the Secretary disapproves a work sharing plan, the employing unit or employer association may submit a new work sharing plan.

§8–1204.

(a) Except as provided in subsection (b) of this section, the Secretary shall approve a work sharing plan that meets the following requirements:

(1) a work sharing plan shall:

(i) identify the affected unit;

(ii) identify each employee in the affected unit by name, Social Security number, normal weekly work hours, and any other information that the Secretary requires;

(iii) specify the requested start date of the work sharing plan that, unless waived by the Secretary for good cause, shall begin on a Sunday no earlier than 7 days after the plan is submitted and an expiration date that is not more than 6 months after the effective date of the work sharing plan;

(iv) provide for reduction of normal weekly work hours of affected employees in each affected unit which shall be:

1. applied equally to all employees in the affected unit for all weeks of the plan unless waived by the Secretary for good cause; and

2. at least 20% but not more than 50% of the normal weekly work hours of each employee;

(v) identify any week during the term of the plan for which the

employer regularly provides no work for its employees;

(vi) specify the effect that work sharing will have on the fringe benefits of each employee in the affected unit including:

1. holiday and vacation pay;

2. sick leave; and

3. similar advantages;

(vii) include an estimate of the number of employees who would be laid off in the absence of the plan and the aggregate normal weekly work hours for those employees that must be equivalent to the aggregate hours reduced under the work sharing plan;

(viii) include a brief description of the circumstances requiring the use of work sharing to avoid layoffs;

(ix) contain the employer's certification that:

1. each affected employee has been continuously on the payroll of the employing unit for 3 months immediately before the date on which the employing unit or employer association submits the work sharing plan;

2. the total reduction in normal weekly work hours under the work sharing plan is instead of temporary or permanent layoffs, or both, that would have affected at least one employee and that would have resulted in an equivalent reduction in work hours;

3. participation in the plan and its implementation is consistent with the employer's obligations under applicable federal and State law;

4. the employer will not hire new employees in, or transfer employees to, the affected unit while the plan is in effect;

5. the work sharing plan will not serve as a subsidy of temporary or intermittent employment; and

6. health benefits and retirement benefits, if any, provided to any employee whose usual weekly work hours are reduced under the work sharing plan will continue to be provided:

A. to each employee participating in the work sharing plan under the same terms and conditions as though the usual weekly work hours of the employee had not been reduced; or

B. to the same extent as other employees not participating in

the program; and

(x) 1. contain the written approval of the collective bargaining agent for each collective bargaining agreement that covers any affected employee in the affected unit; and

2. for any affected employee not covered by a collective bargaining agreement:

A. describe how notice of the plan will be provided to employees who will be subject to the plan; or

B. if advance notice to employees subject to the plan is not feasible, provide a detailed explanation as to why advance notice is not feasible.

(2) an employer is deemed to have satisfied its obligation to provide the certificate required under item (1)(ix)6 of this subsection if the employer certifies that a reduction in health benefits and retirement benefits scheduled to occur while the plan is in effect applies to employees who are participating in work sharing in the same manner as it applies to those employees who are not participating in work sharing.

(3) if a work sharing plan serves the work sharing employer as a transitional step to permanent staff reduction, the work sharing plan shall contain a reemployment assistance plan for each affected employee that the work sharing employer develops with the Secretary.

(4) the work sharing employer shall agree to:

(i) submit to the Secretary reports that are necessary to administer the work sharing plan; and

(ii) allow the Department to have access to all records necessary:

1. to verify the work sharing plan before its approval;

2. to monitor and evaluate the application of the work sharing plan after its approval; and

3. to comply with any other requirement the Secretary deems necessary that is consistent with this subtitle and federal unemployment insurance law.

(b) The Secretary may not approve a work sharing plan that:

(1) is submitted by a new employer as defined in § 8–609 of this title;

(2) is submitted by an employer that has failed to:

(i) file quarterly wage reports or other reports required under this

title; or

(ii) pay all contributions, assessments, reimbursements in lieu of contributions, interest, and penalties due through the date of the employer's application; or

(3) is inconsistent with this subtitle and the purpose of work sharing.

§8–1205.

(a) An approved work sharing plan may be modified if the modification meets the requirements for approval under § 8-1204 of this subtitle and the Secretary approves the modification.

(b) An employing unit may add an employee to a work sharing plan under this section when the employee has been continuously on the payroll for 3 months.

(c) An approved modification of a work sharing plan may not change its expiration date.

§8–1206.

(a) An affected employee is eligible under § 8–1207 of this subtitle to receive work sharing benefits for each week in which the Secretary determines that the affected employee:

(1) is able to work; and

(2) is available for the employee's normal weekly work hours for the work sharing employer.

(b) For purposes of subsection (a) of this section, an affected employee is able and available to work for the work sharing employer for all hours in which the employee participates in training, including employer–sponsored training or worker training funded under the federal Workforce Innovation and Opportunity Act, to enhance job skills if the program has been approved by the Secretary and the training has been authorized by the employer.

(c) (1) An affected employee who otherwise is eligible may not be denied work sharing benefits for failure to actively seek work under § 8–903(a)(1)(iii) of this title from a person other than the work sharing employer.

(2) An affected employee may not be disqualified under § 8–1005 of this title for refusal to apply for or accept suitable work from a person other than the work sharing employer.

(d) An affected employee who is otherwise eligible for benefits:

(1) is considered to be unemployed for the purpose of the work sharing unemployment insurance program; and

(2) is not subject to the requirement under § 8–801 of this title that an individual be unemployed.

(e) Unless the result would be inconsistent with this subtitle, the provisions of this title that apply to a claim for and payment of other benefits apply to a claim for and payment of work sharing benefits.

§8–1207.

(a) Work sharing benefits shall be determined in accordance with this section.

(b) (1) To compute work sharing benefits:

(i) the weekly benefit amount of an affected employee under § 8–803 of this title shall be multiplied by the percentage of reduction in the employee's normal weekly work hours under the approved work sharing plan; and

(ii) the hours for which an affected employee receives paid leave shall be counted as hours worked if the affected employee performed some work during the work week.

(2) If the affected employee was absent from work without the approval of the employer or used unpaid leave, the affected employee will not be considered to have worked all the hours offered by the work sharing employer in a work week, and the employee shall be denied work sharing benefits for that week.

(3) The product obtained under paragraph (1)(i) of this subsection shall be rounded to the next lower dollar.

(c) (1) An affected employee is eligible to receive not more than 52 weeks of work sharing benefits during each benefit year.

(2) The total amount of benefits payable under Subtitle 8 of this title and work sharing benefits payable under this section may not exceed the total for the benefit year under § 8–808(c) of this title.

(d) An allowance for a dependent is payable to an affected employee in accordance with § 8–804 of this title.

(e) An affected employee who receives a work sharing benefit is not subject to the limitation on benefits for partial unemployment under § 8–803(d) of this title.

(f) During a week in which an individual who otherwise is eligible for benefits does not work for the work sharing employer:

(1) the individual shall be paid benefits in accordance with Subtitle 8 of this title; and

(2) the week does not count as a week for which a work sharing benefit is received.

(g) During a week in which an individual performs work under an approved work sharing plan and performs work for another employer, the individual's work sharing benefit shall be computed in the same manner as if the individual worked solely for the work sharing employer.

(h) An individual who is not provided any work by the work sharing employer during a week in which a work sharing plan is in effect, but who works for another employer and is otherwise eligible for unemployment benefits, may be paid regular benefits for that week under Subtitle 8 of this title subject to the disqualifying income requirements of § 8–803(d) of this title and other provisions applicable to claims for regular compensation.

(i) An individual who is provided less than 50% of the individual's normal weekly work hours with the work sharing employer during a week in which a work sharing plan is in effect, and is otherwise eligible for unemployment benefits, may be paid regular benefits for that week under Subtitle 8 of this title subject to the disqualifying income requirements of § 8–803(d) of this title and other provisions applicable to claims for regular compensation.

(j) While an affected employee applies for or receives work sharing benefits, the affected employee is not eligible for:

(1) extended benefits;

(2) supplemental federal unemployment compensation; or

(3) benefits under any other federal or State program.

§8–1208.

(a) The Secretary may revoke approval of an approved work sharing plan for good cause, including:

(1) conduct or an occurrence that tends to defeat the intent and effective operation of the approved work sharing plan;

(2) failure to comply with an assurance in the approved work sharing plan;

(3) unreasonable revision of a productivity standard of the affected unit; and

(4) violation of a criterion on which the Secretary based approval of the

approved work sharing plan.

(b) The decision of the Secretary to revoke approval of a work sharing plan is final and is not subject to appeal.

§8–1209.

An affected employee who has received all of the work sharing benefits or combined unemployment benefits and work sharing benefits available in a benefit year shall be:

(1) considered an exhaustee for purposes of extended benefits, as provided under § 8–1104 of this title; and

(2) if otherwise eligible, shall be eligible to receive extended benefits under Subtitle 11 of this title.

§8–1301.

A person, for that person or another, may not knowingly make a false statement or false representation or knowingly fail to disclose a material fact to receive or increase a benefit or other payment under this title or an unemployment insurance law of another state, the federal government, or a foreign government.

§8–1302.

An employer, its officer or agent, or another person may not:

(1) knowingly make a false statement or false representation or knowingly fail to disclose a material fact to:

(i) prevent or reduce the payment of a benefit to an individual who is entitled to the benefit;

(ii) avoid becoming or remaining subject to this title; or

(iii) avoid or reduce any contribution or other payment that is required from an employer under this title; or

(2) willfully fail or refuse to:

(i) make a contribution or other payment;

(ii) submit a report that is required under this title;

(iii) produce records that are required under this title; or

(iv) allow those records to be copied or inspected.

§8–1303.

An employing unit, directly or indirectly, may not:

(1) accept, make, or require a deduction from a wage to pay a contribution that the employing unit is required to pay; or

(2) accept or require from an employee a waiver of a right to which the employee is entitled under this title.

§8–1304.

A person may not, without just cause, fail or refuse to obey a subpoena issued under § 8–306(c) or § 8–5A–06(b) of this title if the person has the power to obey the subpoena.

§8–1305.

(a) Unless another penalty is provided by statute, a person who willfully violates a provision of this title or a regulation adopted under this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 90 days or both.

(b) In addition to the penalty under subsection (a) of this section, a person who violates § 8–1301 of this subtitle:

(1) shall make full restitution of the benefit unlawfully received and pay a monetary penalty of 15% of the benefit unlawfully received, including interest at a rate of 1.5% a month on the total amount of restitution plus the monetary penalty from the date the Secretary notifies the person of the amount to be recovered;

(2) shall be disqualified from receiving benefits for any week of unemployment, including the week in which a determination is made that the individual filed a claim involving a false statement, false representation, or failure to disclose a material fact, until:

(i) the Secretary determines that:

1. the benefit unlawfully received has been repaid in full; and

2. the monetary penalty of 15% and interest at a rate of 1.5% a month on the total amount of benefit unlawfully received plus the monetary penalty have been paid in full; or

(ii) the Secretary determines that:

1. in the Secretary's sole discretion under § 8–809(f)(3) of this title, the benefit unlawfully received and interest are uncollectible; and

2. the claimant has paid the 15% monetary penalty in full; and

(3) shall be disqualified from receiving benefits:

(i) if there were no other previous determinations made that the individual violated § 8–1301 of this subtitle during the immediately preceding 4 benefit years, for 1 year from the date on which a determination is made that the individual filed a claim involving a false statement, false representation, or failure to disclose a material fact;

(ii) if there were previous determinations made that the individual violated § 8–1301 of this subtitle in only 1 of the immediately preceding 4 benefit years, for 2 years from the date on which a determination is made that the individual filed a claim involving a false statement, false representation, or failure to disclose a material fact; and

(iii) if there were previous determinations made that the individual violated § 8–1301 of this subtitle in more than 1 of the immediately preceding 4 benefit years, for 3 years from the date on which a determination is made that the individual filed a claim involving a false statement, false representation, or failure to disclose a material fact.

(c) (1) An employing unit or officer or agent of an employing unit who violates § 8–1303 of this subtitle 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.

(2) A person who violates § 8–5A–08(b) or (d) of this 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.

(3) A person who violates § 8–1304 of this subtitle is guilty of a misdemeanor for each day the violation continues and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(4) An employee of the Secretary or Board of Appeals who violates § 8–625 of this 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.

§8–1306.

A prosecution under § 8-1301, § 8-1302, or § 8-1305(a) of this subtitle shall be instituted within 3 years after the date on which the offense was committed.

§8–1401.

This title may be cited as the "Maryland Unemployment Insurance Law".

§8–1501.

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

(b) "Former servicemember" means a former member of the federal service as defined in 5 U.S.C. § 8521(a) that:

(1) is eligible for unemployment insurance benefits for ex-servicemembers under 5 U.S.C. § 8521; and

(2) was in active service in connection with Operation Desert Shield or Operation Desert Storm.

(c) "UCX benefits" means unemployment insurance benefits for ex-servicemembers under 5 U.S.C. § 8521.

§8–1502.

Unless the result would be inconsistent with this subtitle, the provisions of this title that apply to claims for or the payment of regular benefits shall apply to additional benefits for former servicemembers.

§8–1503.

(a) The eligibility period of a former servicemember consists of:

(1) the weeks in the former servicemember's benefit year that begin during the additional benefit period; and

(2) if the former servicemember's benefit year ends during the additional benefit period, any week thereafter that begins during the additional benefit period.

(b) To be eligible for additional benefits for a week during an eligibility period, a former servicemember:

(1) shall be unemployed for the week for which benefits are claimed;

(2) shall meet each requirement of this title for regular benefits that applies to a claim for additional benefits;

(3) may not be subject to disqualification from receiving regular benefits; and

(4) shall have exhausted all UCX benefits to which the former servicemember is entitled.

§8–1504.

(a) Except as provided in subsection (b) of this section, with respect to

unemployment that occurs during an additional benefit period, a former servicemember who is eligible under this subtitle:

(1) is entitled to a total amount of additional benefits not exceeding 13 times the former servicemember's weekly benefit amount; and

(2) for each week for which additional benefits are payable, is entitled to allowances for dependents in addition to the additional benefits.

(b) A former servicemember's entitlement to additional benefits ceases after having received a total of 26 times the former servicemember's weekly benefit amount in any combination of UCX or additional benefits.

§8–1505.

A former servicemember who otherwise is eligible for additional benefits may not be denied benefits under § 8-1504 of this subtitle or § 8-1005 of this title because the former servicemember is in training with the approval of the Secretary.

§8.5–101.

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

(b) "Employee" means all individuals employed full time or part time directly by an employer.

(c) (1) Except as provided in paragraph (2) of this subsection, "employer" has the meaning stated in § 10-905 of the Tax - General Article.

(2) "Employer" does not include the federal government, the State, another state, or a political subdivision of the State or another state.

(d) (1) "Health insurance costs" means the amount paid by an employer to provide health care or health insurance to employees in the State to the extent the costs may be deductible by an employer under federal tax law.

(2) "Health insurance costs" includes payments for medical care, prescription drugs, vision care, medical savings accounts, and any other costs to provide health benefits as defined in § 213(d) of the Internal Revenue Code.

(e) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

(f) "Wages" has the meaning stated in § 10-905 of the Tax - General Article.

§8.5–102.

This title applies to an employer with 10,000 or more employees in the State.

§8.5–103.

(a) (1) On January 1, 2007, and annually thereafter, an employer shall submit on a form and in a manner approved by the Secretary:

(i) the number of employees of the employer in the State as of 1 day in the year immediately preceding the previous calendar year as determined by the employer on an annual basis;

(ii) the amount spent by the employer in the year immediately preceding the previous calendar year on health insurance costs in the State; and

(iii) the percentage of payroll that was spent by the employer in the year immediately preceding the previous calendar year on health insurance costs in the State.

(2) The Secretary shall adopt regulations that specify the information that an employer shall submit under paragraph (1) of this subsection.

(3) The information required shall:

(i) be designated in a report signed by the principal executive officer or an individual performing a similar function; and

(ii) include an affidavit under penalty of perjury that the information required under paragraph (1) of this subsection:

1. was reviewed by the signing officer; and

2. is true to the best of the signing officer's knowledge, information, and belief.

(b) When calculating the percentage of payroll under subsection (a)(1)(iii) of this section, an employer may exempt:

(1) wages paid to any employee in excess of the median household income in the State as published by the United States Census Bureau; and

(2) wages paid to an employee who is enrolled in or eligible for Medicare.

§8.5–104.

(a) An employer that is organized as a nonprofit organization that does not spend up to 6% of the total wages paid to employees in the State on health insurance costs shall pay to the Secretary an amount equal to the difference between what the employer spends for health insurance costs and an amount equal to 6% of the total wages paid to employees in the State.

(b) An employer that is not organized as a nonprofit organization and does not

spend up to 8% of the total wages paid to employees in the State on health insurance costs shall pay to the Secretary an amount equal to the difference between what the employer spends for health insurance costs and an amount equal to 8% of the total wages paid to employees in the State.

(c) An employer may not deduct any payment made under subsection (a) or (b) of this section from the wages of an employee.

(d) An employer shall make the payment required under this section to the Secretary on a periodic basis as determined by the Secretary.

§8.5–105.

(a) Failure to report in accordance with § 8.5-103 of this title shall result in the imposition by the Secretary of a civil penalty of $250 for each day that the report is not timely filed.

(b) Failure to make the payment required under § 8.5-104 of this title shall result in the imposition by the Secretary of a civil penalty of $250,000.

§8.5–106.

(a) In this section, "health insurance benefits" includes payments for medical care, prescription drugs, vision care, medical savings accounts, and any other costs to provide health benefits, as defined in § 213(d) of the Internal Revenue Code.

(b) On or before March 15 of each year, the Secretary shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on:

(1) the name of each nonprofit and for profit employer with 10,000 or more employees in the State;

(2) the employer's definition of full-time employee and part-time employee;

(3) the number of full-time employees;

(4) the number of full-time employees eligible to receive health insurance benefits;

(5) the number of full-time employees receiving health insurance benefits from the employer;

(6) the source of health insurance benefits for those eligible full-time employees not receiving health insurance benefits through an employer subject to reporting under this title;

(7) the number of part-time employees;

(8) the number of part-time employees eligible to receive health insurance benefits;

(9) the number of part-time employees receiving health insurance benefits from the employer; and

(10) the source of health insurance benefits for those eligible part-time employees not receiving health insurance benefits through an employer subject to reporting under this title.

(c) The information required under subsection (b) of this section shall be reported as of the information reporting date determined by the employer under § 8.5-103(a)(1)(i) of this title.

§8.5–107.

The Secretary shall:

(1) on an annual basis, based on the information reported under § 8.5-103(a)(1)(i) of this title:

(i) verify which employers have 10,000 or more employees in the State; and

(ii) ensure that all employers with 10,000 or more employees in the State have made the report required under § 8.5-103 of this title;

(2) adopt regulations to implement this title; and

(3) pay the revenue from the payroll assessment into the Fund created under § 15-142 of the Health - General Article.

§9–101.

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

(b) "Accidental personal injury" means:

(1) an accidental injury that arises out of and in the course of employment;

(2) an injury caused by a willful or negligent act of a third person directed against a covered employee in the course of the employment of the covered employee; or

(3) a disease or infection that naturally results from an accidental injury that arises out of and in the course of employment, including:

(i) an occupational disease; and

(ii) frostbite or sunstroke caused by a weather condition.

(c) "Child" includes:

(1) an adopted child;

(2) an illegitimate child;

(3) a posthumous child; and

(4) a stepchild.

(d) "Commission" means the State Workers' Compensation Commission.

(e) (1) "Compensation" means the money payable under this title to a covered employee or the dependents of a covered employee.

(2) "Compensation" includes funeral benefits payable under this title.

(f) "Covered employee" means an individual listed in Subtitle 2 of this title for whom a person, a governmental unit, or a quasi-public corporation is required by law to provide coverage under this title.

(g) "Occupational disease" means a disease contracted by a covered employee:

(1) as the result of and in the course of employment; and

(2) that causes the covered employee to become temporarily or permanently, partially or totally incapacitated.

§9–102.

(a) This title shall be construed to carry out its general purpose.

(b) The rule that a statute in derogation of the common law is to be strictly construed does not apply to this title.

§9–103.

(a) Except as otherwise expressly provided in this title, each minor who is a covered employee shall be deemed an adult for purposes of this title.

(b) Except as otherwise provided in this title, a person other than the minor covered employee does not have a cause of action or right to compensation for an injury to the minor covered employee.

§9–104.

(a) (1) Except as otherwise provided in this title, a covered employee or an employer of a covered employee may not by agreement, rule, or regulation:

(i) exempt the covered employee or the employer from a duty of the covered employee or the employer under this title; or

(ii) waive a right of the covered employee or the employer under this title.

(2) An agreement, rule, or regulation that violates paragraph (1) of this subsection is void to the extent of the violation.

(b) (1) If federal law provides an exclusive remedy and compensation to an employee of a common carrier by railroad in this State or a dependent of the employee for disability or death caused by an accidental personal injury sustained in interstate or foreign commerce, the carrier and the employee may enter into an agreement that provides:

(i) for the payment by the carrier of compensation, in accordance with the federal law, to the employee or a dependent of the employee for disability or death caused by an accidental personal injury sustained in intrastate commerce; and

(ii) except as otherwise provided in the agreement, that the carrier may not be civilly liable for the disability or death of the employee caused by the accidental personal injury.

(2) To enter into an agreement with any employees of a common carrier by railroad under paragraph (1) of this subsection, the carrier shall:

(i) submit, under seal, to the Commission a document that:

1. offers to enter into an agreement with each of its employees in the State under paragraph (1) of this subsection; and

2. refers to the applicable federal law; and

(ii) publish notice of the offer once a week for 3 successive weeks after the document is submitted to the Commission:

1. in a newspaper published in each county through which the carrier regularly runs a freight or passenger train; and

2. if the carrier regularly runs a freight or passenger train within Baltimore City, in 2 newspapers published in Baltimore City.

(3) Thirty days after a common carrier by railroad submits to the

Commission a document making an offer under paragraph (2) of this subsection, each employee of the carrier shall be conclusively presumed to have entered into the agreement unless, within the 30 days, an employee submits to the Commission a written notice declining the offer.

(4) A common carrier by railroad or an employee of the carrier may end an agreement made under this subsection on the part of the carrier or employee by giving the Commission at least 30 days' written notice of intention to end the agreement.

(5) If a common carrier by railroad or an employee of the carrier gives the Commission notice of intention to end the agreement in accordance with paragraph (4) of this subsection, the agreement shall end on the part of the carrier or employee on the effective date of the notice.

(c) A covered employee who has sustained an injury or partial disability may waive by written contract the rights of the covered employee under this title for any subsequent injury that is naturally and proximately caused by the previous injury or disability if the covered employee:

(1) voluntarily enters into the contract; and

(2) executes the contract in the presence of 2 individuals who sign the contract as witnesses.

(d) (1) Subject to paragraph (5) of this subsection, as part of a collective bargaining agreement, an employer and a recognized or certified exclusive bargaining representative of employees under the purview of the Building and Construction Trade Council may agree to:

(i) an alternative dispute resolution system that modifies, supplements, or replaces all or part of the dispute prevention and dispute resolution processes contained in this title, and that may include but is not limited to mediation and binding arbitration;

(ii) the use of an agreed list of health care providers of medical treatment and expertise, which may be the source of all medical and related examinations, treatment, and testimony provided under this title;

(iii) the use of an agreed list of health care providers to conduct independent medical examinations;

(iv) a light duty, modified job, or return to work program; and

(v) a vocational rehabilitation or retraining program.

(2) (i) All settlements and resolutions of claims under an alternative dispute resolution system shall be submitted to the Commission for approval. The Commission shall approve settlements and resolutions of claims that the Commission

determines are in compliance with this title.

(ii) All arbitration decisions under an alternative dispute resolution system shall be reviewable in the same manner and under the same procedures as a decision of a commissioner.

(3) An agreement under this subsection is not valid until it has been filed with the Commission and determined by the Commission to be in compliance with this subsection and this title.

(4) Once an agreement under this subsection has been determined to be in compliance with this subsection and this title by the Commission it is binding on the employer and the bargaining unit.

(5) This subsection does not allow an agreement that:

(i) exempts a covered employee or an employer from a duty of the covered employee or employer under this title;

(ii) waives or limits a right or benefit of a covered employee or employer under this title, except as otherwise set forth in this subsection;

(iii) affects the imposition of an assessment on settlements and resolutions of claims, as described in §§ 9–806 and 9–1007 of this title; or

(iv) affects claims made under Subtitle 8 or Subtitle 10 of this title or claims made under Title 10, Subtitle 2 of this article.

(6) An agreement that violates paragraph (5) of this subsection is void.

(7) Notwithstanding paragraph (1)(ii) of this subsection, an injured employee whose injury or treatment is related to a medical condition for which the employee is being or has been treated may continue to seek treatment from the health care provider who is treating or has treated the condition.

(8) An agreement under this subsection shall provide for an appeal mechanism for a covered employee who wishes to use a health care provider who is not on the agreed list of health care providers.

(9) Nothing in this subsection requires an insurer to underwrite a program established under paragraph (1) of this subsection.

§9–105.

(a) Before a governmental unit may issue a license or permit to an employer to engage in an activity in which the employer might employ a covered employee, the employer shall submit to the governmental unit:

(1) a certificate of compliance with this title; or

(2) the number of a workers' compensation insurance policy or binder.

(b) (1) The Commission shall provide blank application forms to each governmental unit that issues a license or permit under State law for applicants for the license or permit to use to get a certificate of compliance.

(2) The application form shall require information that will allow the Commission to determine whether the employer is in compliance with this title.

(c) To get a certificate of compliance with this title, an employer shall submit to the Commission an application on the form that the Commission provides.

(d) Within 10 days after the Commission receives an application form under this section, the Commission shall:

(1) determine whether the applicant is in compliance with this title; and

(2) mail to the applicant:

(i) a certificate of compliance; or

(ii) a notice of rejection, which shall include a statement of the reasons for the rejection.

(e) An applicant who receives a notice of rejection may:

(1) reapply for a certificate of compliance; or

(2) appeal the rejection in accordance with §§ 10-222 and 10-223 of the State Government Article.

(f) The Commission shall adopt reasonable regulations to administer this section.

(g) Money for the administration of this section shall be included in the annual State budget.

§9–201.

This title applies to the following employers:

(1) each person who has at least 1 covered employee; and

(2) each governmental unit or quasi-public corporation that has at least 1 covered employee.

§9–202.

(a) An individual, including a minor, is presumed to be a covered employee while in the service of an employer under an express or implied contract of apprenticeship or hire.

(b) A minor may be a covered employee under this section even if the minor is employed unlawfully.

(c) To overcome the presumption of covered employment, an employer shall establish that the individual performing services is an independent contractor in accordance with the common law or is specifically exempted from covered employment under this subtitle.

§9–203.

(a) Except as otherwise expressly provided, an individual is a covered employee while working for the employer of the individual:

(1) in this State;

(2) outside of this State on a casual, incidental, or occasional basis if the employer regularly employs the individual within this State; or

(3) wholly outside the United States under a contract of employment made in this State for the work to be done wholly outside of the United States.

(b) (1) An individual is not a covered employee while working in this State for an employer only intermittently or temporarily if:

(i) the individual and employer make a contract of hire in another state;

(ii) neither the individual nor the employer is a resident of this State;

(iii) the employer has provided workers' compensation insurance coverage under a workers' compensation or similar law of another state to cover the individual while working in this State;

(iv) the other state recognizes the extraterritorial provisions of this title; and

(v) the other state similarly exempts covered employees and their employers from its law.

(2) If an individual is exempted from coverage under this subsection and injured in this State while working for the employer of the individual, the sole remedy of the individual is the workers' compensation or similar law of the state on which the

exemption is based.

(3) A certificate from an authorized officer of the workers' compensation commission or similar unit of another state certifying that the employer is insured in that state and has provided extraterritorial insurance coverage for the employees of the employer while working within this State is prima facie evidence that the employer carries that compensation insurance.

(c) Except as otherwise expressly provided, an individual who is employed wholly outside of this State is not a covered employee.

§9–204.

(a) (1) Except as provided in subsection (b) of this section, with the approval of the Commission, an individual who otherwise would not be a covered employee and the employer of the individual may elect to make the individual a covered employee by filing a joint election with the Commission.

(2) The right to make an election under this subsection for an individual may be exercised by:

(i) an individual who is at least 16 years old; or

(ii) a parent or guardian of an individual who is less than 16 years old.

(b) An individual who is not a covered employee due to § 9-223(c) of this subtitle and the employer of the individual may not make an election under this section if prohibited by federal law.

§9–205.

A casual employee is not a covered employee.

§9–206.

(a) Subject to subsection (b) of this section, an officer of a corporation or a member of a limited liability company is a covered employee if the officer or member provides a service for the corporation or limited liability company for monetary compensation.

(b) An individual who otherwise would be a covered employee under this section may elect to be exempt from coverage if:

(1) the individual:

(i) is an officer of a close corporation, as defined in § 4–101(b) of the Corporations and Associations Article; or

(ii) is an officer of a close corporation, as defined under the laws of the jurisdiction in which the corporation is incorporated;

(2) subject to subsection (c)(3) of this section, the individual is an officer of a corporation, other than a close corporation;

(3) the individual:

(i) is an officer of a corporation that earns at least 75% of its income from farm operations; and

(ii) owns at least 20% of the outstanding capital stock of the corporation;

(4) the individual:

(i) is an officer of a professional corporation, as defined in § 5–101(c) or (f) of the Corporations and Associations Article;

(ii) owns at least 20% of the outstanding capital stock of the corporation; and

(iii) performs for the corporation a professional service, as defined in § 5–101(g) of the Corporations and Associations Article; or

(5) the individual:

(i) is a member of a limited liability company, as defined in § 4A–101(k) of the Corporations and Associations Article; and

(ii) owns at least 20% of the outstanding interests in profits of the limited liability company.

(c) (1) A corporation or limited liability company shall submit to the Commission and to the insurer of the corporation or limited liability company a written notice that names the individual who has made an election to be exempt under subsection (b) of this section.

(2) An election under subsection (b)(1) or (b)(4) of this section is not effective until a corporation or limited liability company complies with this subsection.

(3) No more than five officers of a corporation described in subsection (b)(2) of this section may elect to be exempt under subsection (b)(2) of this section.

(d) The Commission shall adopt regulations to carry out this section.

§9–207.

(a) A registered crew member, a paid law enforcement employee, or an

individual engaged for fire fighting by the Department of Natural Resources is a covered employee.

(b) Notwithstanding § 9-203 of this subtitle, an individual engaged for fire fighting who otherwise would be a covered employee under subsection (a) of this section is a covered employee even if the fire fighting takes place outside of the State.

(c) Notwithstanding § 9-205 of this subtitle, an individual who otherwise would be a covered employee under subsection (a) of this section is a covered employee even if engaged temporarily or part time.

(d) For the purpose of this title, the Department of Natural Resources is the employer of an individual who is a covered employee under this section.

§9–208.

(a) An individual is a covered employee if the individual regularly distributes or sells newspapers:

(1) on the street; or

(2) to customers at their homes or places of business.

(b) For the purposes of this title, the employer of an individual who is a covered employee under this section is:

(1) each independent news agency for which the covered employee sells newspapers; and

(2) each publisher who engages the covered employee to distribute or sell its newspapers.

§9–209.

(a) An individual who is employed as a domestic worker in a private home is a covered employee with respect to a household if the individual earns at least $1,000 in cash in a calendar quarter from that household.

(b) (1) Except as provided in paragraph (3) of this subsection, an individual and the employer of the individual may elect to make the individual a covered employee by filing a joint election with the Commission, if the individual:

(i) is employed as a domestic worker in a private home; and

(ii) would not be a covered employee with respect to a household under the provisions of subsection (a) of this section because the individual earns less than $1,000 in cash in a calendar quarter from that household.

(2) The right to make an election under paragraph (1) of this subsection

for an individual may be exercised by:

(i) an individual who is at least 16 years old; or

(ii) a parent or guardian of an individual who is less than 16 years old.

(3) For an individual who is not a covered employee due to § 9–223(c) of this subtitle, an employer may not make an election under this subsection if prohibited by federal law.

§9–210.

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

(2) "Farmer" includes a dairy farmer.

(3) (i) "Migrant farm worker" means an individual who is engaged in seasonal or other temporary agricultural employment and who is:

1. absent overnight from the permanent residence of the individual; or

2. transported to and from the place of employment of the individual by a day-haul operation.

(ii) "Migrant farm worker" does not include an individual who performs a service included in subsection (b) of this section if the individual:

1. does not operate equipment or machinery; and

2. is employed:

A. within 25 miles of the permanent residence of the individual; and

B. for not more than 13 weeks a year.

(b) Except as provided in subsection (c) of this section, an individual, including a migrant farm worker, is a covered employee if:

(1) the individual receives compensation from a farmer for any service other than office work, including:

(i) operating a machine connected with animal, crop, or soil management;

(ii) constructing or repairing a fixture or machine; or

(iii) handling an animal or crop with or without a machine; and

(2) the farmer has:

(i) at least 3 full-time employees; or

(ii) an annual payroll of at least $15,000 for full-time employees.

(c) An individual, other than a migrant farm worker, who receives compensation from a farmer for a service is not a covered employee if:

(1) the individual customarily is engaged in an independent business occupation of the same nature as that of the service performed;

(2) the individual is free from control and direction over the individual's performance of the service;

(3) the individual provides the individual's own equipment, materials, and tools; and

(4) the farmer is not required to withhold Social Security, unemployment, State, or federal taxes from the compensation paid to the individual.

§9–211.

An individual is a covered employee if the individual is employed as a helper of another covered employee with the actual or constructive knowledge of the employer of the other covered employee, whether paid by the other covered employee or the employer.

§9–212.

(a) (1) This section applies to each jockey licensed by the State Racing Commission to ride a thoroughbred horse.

(2) This section applies only at a thoroughbred racing association or training facility under the jurisdiction of the State Racing Commission.

(b) A jockey is a covered employee while performing a service in connection with racing or training a thoroughbred race horse.

(c) (1) For the purposes of this title, the joint employers of a jockey who is a covered employee under this section while performing a service in connection with racing are:

(i) the Maryland Jockey Injury Compensation Fund, Inc.; and

(ii) each licensed owner or trainer who is subject to assessment under § 11-906 of the Business Regulation Article at the time of any occurrence for which

benefits are payable to the jockey under this title.

(2) For purposes of this title, the employer of a jockey who is a covered employee under this section while performing a service in connection with training is the trainer for whom the service is performed.

(3) This subsection does not affect any other provision of law or practice.

(d) Notwithstanding any other provision of law, this section may not be construed to bar an action by a jockey against a third party.

§9–213.

(a) An individual on jury duty in a circuit court of a county is a covered employee.

(b) For the purposes of this title, the State is the employer of an individual who is a covered employee under this section.

§9–214.

An individual who is employed to do maintenance, remodeling, repairs, or similar work is not a covered employee if:

(1) the individual is employed for not more than 30 consecutive work days; and

(2) the work is done:

(i) in or about the private home of the employer; or

(ii) for an employer with no other covered employee, in or about the premises where the employer carries on a business, profession, or trade.

§9–215.

(a) In this section, "organized militia" includes members of the Maryland Defense Force described under § 13-203 of the Public Safety Article.

(b) Each officer or enlisted member of the organized militia of the State is a covered employee in peace time, while the member is:

(1) training as part of the Maryland State Guard; or

(2) on active military duty in the organized militia under order of the Governor in time of:

(i) civil disorder;

(ii) labor disorder;

(iii) natural disaster; or

(iv) other events that require the support of the State Militia.

(c) For the purposes of this title, the State is the employer of an individual who is a covered employee under this section.

§9–216.

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

(2) "Mine" includes a drift, shaft, slope, tunnel, underground room, and any other underground places or workings.

(3) "Mineral" includes clay, coal, and iron.

(b) An individual is a covered employee while working in or about a mine to extract minerals.

(c) An individual who is a covered employee under subsection (b) of this section is deemed to be employed entirely within this State if the mouth, principal entrance, or tipple of the mine in or about which the individual works is within this State, even if:

(1) a drift, shaft, slope, or other underground tunnel extends into an adjoining state; and

(2) the individual is injured or killed while working in the mine within the adjoining state.

§9–217.

(a) Except as provided in subsection (b) of this section, each appointed or elected official of a political subdivision is a covered employee while performing an official duty.

(b) A nonsalaried member of a board or commission in Allegany, Carroll, Cecil, Charles, Frederick, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester County is not a covered employee.

§9–218.

(a) (1) This section applies to an individual who is an owner operator of:

(i) a Class F (tractor) vehicle, as described in § 13-923 of the Transportation Article; or

(ii) except as provided in paragraph (2) of this subsection, a Class E (truck) vehicle, as described in § 13-916 of the Transportation Article, including a Class E (truck) vehicle described in § 13-919 of the Transportation Article.

(2) This section does not apply to the owner operator of a vehicle registered as a Class T vehicle under § 13-920 of the Transportation Article.

(b) An individual who is an owner operator is not a covered employee if:

(1) the individual and motor carrier make a written agreement for permanent or trip leasing;

(2) under the agreement:

(i) there is no intent to create an employer-employee relationship; and

(ii) the individual is paid rental compensation; and

(3) for federal tax purposes, the individual qualifies as an independent contractor.

(c) (1) A motor carrier who enters into an agreement under subsection (b) of this section is considered a principal contractor under § 9-508 of this title.

(2) An individual who is an owner operator and enters into an agreement under subsection (b) of this section is:

(i) considered a subcontractor under § 9-508 of this title;

(ii) for purposes of being a subcontractor, not considered a covered employee of the entity that the individual operator owns; and

(iii) not entitled to compensation from a principal contractor under § 9-508 of this title.

(d) An individual who is an owner operator and enters into a written agreement under subsection (b) of this section shall provide proof of insurance for any covered employee of the individual as may be required by this title.

§9–219.

(a) Unless an election is made in accordance with this section, a partner of a partnership is not a covered employee.

(b) A partnership may elect to make a partner a covered employee if the partner devotes full time to the business of the partnership.

(c) An election under this section is not effective until the partnership submits to the Commission and to the insurer of the partnership a written notice that names the individual to be a covered employee.

§9–220.

(a) (1) Each auxiliary police officer for Baltimore County is a covered employee while on duty as defined in the Baltimore County Police Manual of Rules, Regulations, and Procedures.

(2) Each auxiliary police officer for Howard County is a covered employee while on duty as defined in the Howard County Police Department's General Orders.

(b) (1) Except as provided in paragraph (2) of this subsection, each member of a volunteer police department is a covered employee.

(2) A member of a volunteer police department in Allegany, Carroll, Cecil, Charles, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester County is not a covered employee.

(3) For the purposes of this title, the political subdivision of the State where the department is organized is the employer of the covered employee in the department.

§9–221.

(a) A prisoner is a covered employee while the prisoner is:

(1) working for a board of county commissioners, a county council, or a county roads board if:

(i) the county pays the prisoner a wage or stipulated sum; and

(ii) the prisoner sustains permanent partial or permanent total disability or dies, as a result of an accidental personal injury; or

(2) engaged in work while under the supervision of Maryland Correctional Enterprises in the Federal Prison Industry Enhancement Program as provided in § 10-308(d) of the Correctional Services Article.

(b) In Allegany, Anne Arundel, Charles, Montgomery, Washington, and Wicomico counties, payment of a stipend or other money into an account that a correctional institution administers for a prisoner does not constitute payment of a wage or stipulated sum under subsection (a)(1)(i) of this section.

§9–222.

An individual is not a covered employee if the individual:

(1) is a licensed real estate salesperson or a licensed associate real estate broker;

(2) is affiliated with a licensed real estate broker under a written

agreement;

(3) is compensated solely on a commission basis; and

(4) for federal tax purposes, qualifies as an independent contractor.

§9–223.

(a) An individual is not a covered employee if the individual is eligible under a federal law, other than the Social Security Act, for benefits for an accidental personal injury or occupational disease.

(b) An individual for whom federal law provides a rule of liability for injury or death is not a covered employee.

(c) Notwithstanding subsections (a) and (b) of this section, if an individual for whom federal law provides a rule of liability or method of compensation and the employer of the individual engage both in intrastate commerce and in foreign or interstate commerce, the individual is a covered employee when engaged in intrastate commerce to the extent that the mutual connection of the individual and the employer with intrastate commerce is clearly distinguishable and separable from foreign or interstate commerce.

§9–224.

(a) An individual is a covered employee while the individual is assigned to a job under:

(1) general public assistance to employables; or

(2) a work experience program that the Department of Human Resources administers as part of its employment initiatives project.

(b) For the purposes of this title, the Department of Human Resources is the employer of an individual who is a covered employee under this section.

§9–225.

A resident in a facility as defined in § 10–101(g) of the Health – General Article is not a covered employee.

§9–226.

(a) A volunteer aide under § 6-106 of the Education Article is a covered employee.

(b) For the purposes of this title, the Board of School Commissioners of Baltimore City or the board of education for any other county is the employer of an individual who is a covered employee under this section in that county.

§9–227.

(a) Unless an election is made in accordance with this section, a sole proprietor is not a covered employee.

(b) A sole proprietor may elect to be a covered employee if the proprietor devotes full time to the business of the proprietorship.

(c) An election under this section is not effective until the proprietor submits to the Commission and to the insurer of the proprietor a written notice that names the individual who is to be a covered employee.

§9–228.

(a) (1) A student with a disability as defined in § 8–401(a)(2) of the Education Article is a covered employee while working for an employer without wages in a work assignment in accordance with § 8–402 of the Education Article.

(2) For the purposes of this title, the employer for whom the student with a disability works is the employer of that student.

(b) (1) An individual is a covered employee while working as a student intern or student teacher under § 6–107 of the Education Article.

(2) For the purposes of this title, the Board of School Commissioners of Baltimore City or the board of education for any other county is the employer of an individual who is a covered employee under this subsection in that county.

(c) (1) A student is a covered employee when the student has been placed with an employer in an unpaid work–based learning experience coordinated by a county board or private noncollegiate institution under § 7–114 of the Education Article.

(2) For purposes of this title, the employer for whom the student works in the unpaid work–based learning experience is the employer of that student.

(d) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "DORS" means the Division of Rehabilitation Services in the State Department of Education.

(iii) "DORS consumer" has the meaning stated in § 21–310 of the Education Article.

(2) A DORS consumer is a covered employee when the individual has been placed by DORS with an employer in an unpaid work–based learning experience.

(3) For purposes of this title, the employer for whom the DORS consumer

works in the unpaid work–based learning experience is the employer of the DORS consumer.

§9–229.

An individual who is a covered employee while regularly employed or while serving an apprenticeship continues to be a covered employee while the individual receives instruction or training outside the regular work hours of the individual that relates to the employment or apprenticeship of the individual.

§9–230.

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

(2) "Ridesharing" has the meaning stated in § 11-150.1 of the Transportation Article.

(3) "Vanpool operation" has the meaning stated in § 11-175.1(a) of the Transportation Article.

(b) This section applies only with respect to a vanpool operation in which the vehicle:

(1) is leased, operated, or owned by an employer for ridesharing;

(2) operates between the residence and place of employment of the passengers; and

(3) is insured in accordance with § 13-422 of the Transportation Article.

(c) An individual is a covered employee while operating a vehicle in a vanpool operation as part of the duties of the individual for the employer.

(d) A passenger in a vanpool operation is not a covered employee.

§9–231.

Except as otherwise expressly provided by law, a volunteer worker for a unit of a political subdivision in Allegany, Carroll, Cecil, Charles, Frederick, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester County is not a covered employee.

§9–231.1.

(a) A volunteer worker for a unit of State government is a covered employee.

(b) For the purposes of this title, the State is the employer of an individual who is a covered employee under this section.

(c) Notwithstanding any other provision of this title, benefits provided under this section shall consist only of medical services and treatment under Subtitle 6, Part IX of this title for a compensable injury.

§9–232.

(a) Each regularly enrolled volunteer member or trainee of the Maryland Emergency Management Agency established under the Maryland Emergency Management Agency Act is a covered employee.

(b) For the purposes of this title, the State is the employer of each individual who is a covered employee under this section.

§9–232.1.

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

(2) (i) "Civil defense volunteer" means an individual who is precertified or preregistered with a unit of State government to provide services at the request of the State during an emergency.

(ii) "Civil defense volunteer" includes a credentialed or registered member of a professional volunteer health corps established by a unit of State government.

(3) (i) "Emergency" has the meaning stated in § 14-101(c) of the Public Safety Article.

(ii) "Emergency" includes:

1. a catastrophic health emergency as defined in § 14-3A-01 of the Public Safety Article; and

2. any event for which the State provides volunteer services in accordance with:

A. the provisions for a state of emergency under § 14-107 or § 14-108 of the Public Safety Article;

B. the Interstate Emergency Management and Civil Defense Compact under § 14-602 of the Public Safety Article; or

C. the Emergency Management Assistance Compact under § 14-702 of the Public Safety Article.

(b) (1) Subject to paragraph (2) of this subsection, a civil defense volunteer is a covered employee if the individual sustains an injury in the course of providing services at the request of the State during an emergency while the emergency may reasonably

be considered to be in existence, or during scheduled emergency training.

(2) A civil defense volunteer is not entitled to workers' compensation benefits under this section if the individual is otherwise covered by workers' compensation insurance for services performed at the request of the State during an emergency or scheduled emergency training.

(3) A civil defense volunteer must file a claim in this State to be eligible for benefits under this section.

(4) For the purpose of computing the average weekly wage of a civil defense volunteer who is covered under this section, the wages of the covered employee shall be:

(i) for a covered employee who received a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure, the salary or wages from the other employment; or

(ii) for a covered employee who did not receive a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure:

1. if the covered employee derived income from a source other than salary or wages at the time of the accidental personal injury or last injurious exposure, an amount that allows the maximum compensation under this title;

2. if the covered employee was not engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, the weekly income last received by the covered employee when engaged in a business enterprise; or

3. if the covered employee had never been engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, an amount that allows the minimum compensation under this title.

§9–233.

(a) Each volunteer deputy sheriff of Cecil County is a covered employee while performing work assigned by the sheriff of the county.

(b) Each volunteer police officer of Frederick County is a covered employee entitled to medical benefits under §§ 9–660 and 9–661 of this title while performing work assigned by the Sheriff of Frederick County.

(c) Each auxiliary volunteer of the Charles County Sheriff's Office is a covered employee while performing work assigned by the Sheriff of the county.

§9–234.

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

(2) (i) "On duty" means:

1. fighting a fire;

2. performing a duty of a member of an advanced life support unit or an ambulance, first aid, or rescue squad in a volunteer company;

3. except as provided in subparagraph (ii) of this paragraph, performing a duty that the volunteer company assigns to the member;

4. performing a duty that a written bylaw or rule of government adopted for the volunteer company assigns to the member;

5. going to or from performing a duty included under item 1, 2, 3, or 4 of this subparagraph;

6. accompanying an accident or fire victim while being transported to a hospital in a helicopter;

7. returning to the home station of the individual after accompanying a victim under item 6 of this subparagraph;

8. performing a duty assigned to a member of a fire company appointed as a deputy sheriff under § 7–302 or § 7–303 of the Public Safety Article; or

9. performing a duty assigned to an individual appointed to serve as a member of the fire police in Washington County under § 7–304 of the Public Safety Article.

(ii) "On duty" does not include attendance of a member of a volunteer company at a social function unless a written bylaw or rule of government adopted for the volunteer company requires the attendance or participation of the member.

(3) "Volunteer company" means:

(i) a volunteer advanced life support unit;

(ii) a volunteer ambulance company or squad;

(iii) a volunteer fire company or department;

(iv) a volunteer rescue company, department, or squad; and

(v) a volunteer fire police unit.

(b) An individual who is a covered employee under subsection (h)(2), (k), (n), (o)(2), (p)(1)(ii), (r)(3), (v), or (x)(1) of this section continues to be a covered employee while:

(1) accompanying an accident or fire victim who is being transported to a hospital in a helicopter; and

(2) returning to the home station of the individual after accompanying a victim under item (1) of this subsection.

(c) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Allegany County is not a covered employee.

(2) The Board of County Commissioners for Allegany County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(d) A member of a volunteer company in Anne Arundel County is a covered employee while on duty.

(e) A member of a volunteer company in Baltimore County is a covered employee while on duty.

(f) A member of a volunteer company in Calvert County is a covered employee while on duty.

(g) A member of a volunteer company in Caroline County is a covered employee while on duty.

(h) (1) Unless an election is made in accordance with this subsection, a member of a volunteer company in Carroll County is not a covered employee.

(2) A volunteer fire company in Carroll County may elect to make its members covered employees.

(3) A volunteer fire company that elects to make its members covered employees shall pay the premium for the coverage.

(i) (1) A member of a volunteer company in Cecil County who meets the guidelines set under paragraph (2) of this subsection is a covered employee while on duty.

(2) The Board of County Commissioners of Cecil County may set guidelines to determine the eligibility of members of a volunteer company in the county for coverage under this subsection.

(3) The guidelines under paragraph (2) of this subsection may not limit the number of covered employees in a volunteer company.

(j) (1) Unless an election is made in accordance with this subsection, a member of a volunteer company in Charles County is not a covered employee.

(2) The Board of County Commissioners of Charles County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(k) A member of a volunteer company in Dorchester County is a covered employee.

(l) A member of a volunteer company in Frederick County is a covered employee while on duty.

(m) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Garrett County is not a covered employee.

(2) The Board of County Commissioners for Garrett County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(n) A member of a volunteer company in Harford County is a covered employee.

(o) An individual is a covered employee:

(1) while on duty as an actively participating member of a volunteer company in Howard County; or

(2) if not covered under item (1) of this subsection, while a member of a volunteer company in Howard County participating in the activities of the volunteer company.

(p) (1) An individual is a covered employee:

(i) while on duty as an actively participating member of a volunteer company in Kent County; or

(ii) if not covered under item (i) of this paragraph, while a member of a volunteer company in Kent County.

(2) The Board of County Commissioners of Kent County shall impose annually a tax on assessable property in the county in an amount that is sufficient to pay for coverage under this subsection.

(3) The Board of County Commissioners of Kent County may limit the number of members in a volunteer company in the county.

(q) A member of a volunteer company in Montgomery County is a covered employee while on duty.

(r) An individual is a covered employee:

(1) while on duty as a member of the Laurel volunteer rescue squad in Prince George's County; or

(2) while a member of a volunteer company in Prince George's County.

(s) A member of a volunteer company in Queen Anne's County is a covered employee while on duty.

(t) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in St. Mary's County is not a covered employee.

(2) The Board of County Commissioners for St. Mary's County may provide by resolution for the members of a volunteer company in the county to be covered employees while on duty.

(u) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Somerset County is not a covered employee.

(2) The Board of County Commissioners for Somerset County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(v) (1) A member of a volunteer company in Talbot County is a covered employee.

(2) The County Council of Talbot County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(w) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Washington County is not a covered employee.

(2) The Board of County Commissioners for Washington County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(x) (1) A member of a volunteer company in Wicomico County is a covered employee.

(2) The County Council of Wicomico County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(y) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Worcester County is not a covered employee.

(2) The Board of County Commissioners for Worcester County may provide by resolution for members of a volunteer company in the county to be covered

employees while on duty.

(z) (1) For the purposes of this title, a member of a volunteer company who is a covered employee under this section is an employee of the political subdivision of the State where the volunteer company is organized.

(2) A member of a volunteer company shall be covered while on duty by a policy of workers' compensation insurance.

(aa) A member of a volunteer company who is a covered employee under this section may not be considered a paid covered employee of the volunteer company for receiving as a membership benefit a yearly stipend of $5,200 or less to help offset out–of–pocket expenses.

§9–235.

An individual is not a covered employee while performing a service only for aid or sustenance from a charitable or religious organization.

§9–236.

An individual is a covered employee while performing a service for compensation in the course of the business, occupation, profession, or trade of an employer if, in relation to the service, the individual:

(1) does not maintain a separate business;

(2) neither represents to the public that the individual provides the service nor provides the service to the public; and

(3) does not have a covered employee.

§9–301.

There is a State Workers' Compensation Commission established as an independent unit of the State government.

§9–302.

(a) The Commission consists of 10 members, appointed by the Governor with the advice and consent of the Senate.

(b) (1) Each member of the Commission:

(i) at the time of appointment, shall be at least 30 years old; and

(ii) for at least 5 years immediately before appointment, shall have been a resident of the State.

(2) Each member of the Commission shall:

(i) be a resident of the State;

(ii) be a citizen and qualified voter of the State;

(iii) have been admitted to practice law in the State; and

(iv) be distinguished for integrity, sound legal knowledge, and wisdom.

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

(d) (1) The term of a member is 12 years.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on October 1, 1991.

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

(4) 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.

(e) (1) Subject to the hearing requirements of this subsection, the Governor may remove a member from office for:

(i) inefficiency;

(ii) neglect of duty; or

(iii) malfeasance in office.

(2) Before the Governor removes a member, the Governor shall give the member:

(i) a copy of the charges against the member; and

(ii) an opportunity for a public hearing.

(3) At least 10 days before the hearing, the Governor shall give the member notice of the time and place of the hearing.

(4) The member may be represented at the hearing by counsel.

(f) (1) In this subsection, "former commissioner" means a commissioner who previously served as a member of the Commission.

(2) Except as provided in subsection (c) of this section, the Chairman may assign a former commissioner to conduct hearings if the former commissioner:

(i) served, in the aggregate, at least 3 years as a commissioner;

(ii) meets the standards established by this section as well as any additional standards established by rules of the Commission; and

(iii) consents to the temporary assignment.

(3) A former commissioner may not be recalled for temporary assignment if the commissioner:

(i) was removed or involuntarily retired from the Commission pursuant to the Constitution or laws of this State;

(ii) voluntarily retired by reason of disability; or

(iii) had the most recent service as a commissioner terminated by rejection of confirmation by the Senate.

(4) (i) A former commissioner recalled under this section may not be temporarily assigned for more than 120 working days in any calendar year.

(ii) If on the 120th working day in a calendar year that a former commissioner has served in a temporary assignment under this section the hearing on the case then being heard by the commissioner is not concluded, the Commission may extend the commissioner's assignment until that case is concluded.

(5) A former commissioner temporarily assigned under this section has all the power and authority of a member of this Commission.

(6) (i) 1. Notwithstanding the receipt of a retirement allowance, a former commissioner temporarily assigned under this section shall receive per diem compensation for each day actually engaged in the discharge of Commission duties.

2. The per diem shall be based on the current annual salary of a member of the Commission and computed on the basis of 246 working days a year.

3. If the sum of the per diem payments received by a former commissioner in any one calendar year, when added to the retirement allowance the former commissioner is entitled to receive during that calendar year, equals the annual salary of a member of the Commission, no further per diem may be paid to the former commissioner in that calendar year.

(ii) 1. A deduction may not be withheld for health benefits or retirement purposes from the compensation paid to a former commissioner during the time of the temporary assignment.

2. A commissioner on temporary assignment does not earn additional creditable service under the State retirement or pension system.

(iii) In addition to the per diem compensation provided for in subparagraph (i) of this paragraph, a former commissioner shall be reimbursed for reasonable expenses actually incurred by reason of the temporary assignment, in accordance with Standard State Travel Regulations.

(7) The Commission shall adopt regulations consistent with those for the recall of former circuit and District Court judges.

§9–303.

(a) From among the members of the Commission, the Governor shall appoint a chairman.

(b) (1) The Chairman is the administrative and executive head of the Commission.

(2) Subject to paragraph (3) of this subsection, the Chairman has final authority over:

(i) the administrative work of the Commission and its employees; and

(ii) the assignment of cases for hearing.

(3) The Chairman does not have final authority over:

(i) the adoption of regulations by the Commission; or

(ii) the conduct of hearings and the determination of cases by the other members of the Commission.

(c) The Chairman shall conduct hearings unless the hearings interfere with the adequate and efficient performance of the administrative and executive functions of the Chairman.

§9–304.

(a) (1) Each member of the Commission shall devote full time to the duties of office.

(2) While on the Commission, a member may not:

(i) practice law;

(ii) hold any political employment under State or federal law; or

(iii) hold any other position or engage in any business that interferes or is inconsistent with any duty of office.

(b) (1) Each member of the Commission is entitled to:

(i) the salary provided in the State budget; and

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

(2) The annual salary of a member of the Commission:

(i) shall at least equal the salary provided in the State budget for a judge of the district court; and

(ii) for the Chairman, shall be at least $1,500 more than the salary of the other members.

(3) Except as provided in paragraphs (1) and (2) of this subsection, a member of the Commission may not receive a fee or perquisite for the discharge of any duty of office.

§9–305.

(a) (1) The Chairman of the Commission may employ a staff for the Commission in accordance with the State budget.

(2) Except as otherwise provided by law, the staff is in the State Personnel Management System.

(b) The Secretary of the Commission shall:

(1) perform each duty that the Chairman of the Commission assigns; and

(2) keep, at the principal office of the Commission, a public record of:

(i) each proceeding of the Commission, including:

1. each claim that the Commission considers; and

2. each award that the Commission allows to an employee or any person for a service;

(ii) each document required to be submitted by the Commission or by a regulation of the Commission;

(iii) each decision of the Commission; and

(iv) each order passed by the Commission.

(c) The Chairman may designate another employee of the Commission to exercise the powers and carry out the duties of the Secretary whenever the Secretary is absent.

§9–306.

The Commission:

(1) shall have its principal office in Baltimore City; and

(2) may have in the State any branch offices that the Chairman considers necessary to carry out this title.

§9–307.

(a) Except for legal holidays, the Commission shall be in session continuously and open for business during business hours Monday through Friday.

(b) Each session shall be open to the public.

(c) The Commission may adjourn without recording notice of the adjournment in the record of proceedings.

§9–308.

(a) Any member of the Commission may conduct a hearing or other investigation for the Commission.

(b) A decision or order of a member of the Commission shall be considered a decision or order of the Commission.

(c) A copy of each decision or order shall be sent to each party's attorney of record and to each unrepresented party:

(1) by first–class mail; or

(2) by electronic means, if the party's attorney of record consents or, if the party is unrepresented, the party consents.

§9–309.

(a) The Commission may adopt regulations to carry out this title.

(b) To carry out this title, a member of the Commission, the Secretary of the Commission, a special examiner, or an inspector may:

(1) administer an oath; or

(2) certify to an official act.

(c) (1) To carry out this title, a member of the Commission, the Secretary of the Commission, a special examiner, or any inspector may take a deposition as provided by law.

(2) In an investigation, the Commission may cause the deposition of a witness to be taken as provided by law.

(d) (1) The Commission shall have a seal inscribed with the words "Workers' Compensation Commission, State of Maryland -- Official Seal".

(2) The Commission shall use the seal for the authentication of its awards, orders, and proceedings.

(e) The Commission may approve the form of a workers' compensation insurance policy under § 19-402 of the Insurance Article.

§9–310.

In determining the amount of a financial penalty or fine to be imposed under this title, the Commission, in a fair and equitable manner, shall consider:

(1) the seriousness and effect of the violation;

(2) the good faith of the violator;

(3) the violator's history of previous violations; and

(4) the ability of the violator to pay.

§9–310.1.

(a) In any administrative action before the Commission, if it is established by a preponderance of the evidence that a person has knowingly obtained benefits under this title to which the person is not entitled, the Commission shall order the person to reimburse the insurer, self–insured employer, the Uninsured Employers' Fund, or the Subsequent Injury Fund for the amount of all benefits that the person knowingly obtained and to which the person is not entitled.

(b) An order of reimbursement required under subsection (a) of this section shall include interest on the amount ordered to be reimbursed at a rate of 1.5% per month from the date the Commission notifies the person of the amount to be reimbursed.

§9–310.2.

(a) In any administrative action before the Commission, if it is established by a preponderance of the evidence that a person knowingly affected or knowingly attempted to affect the payment of compensation, fees, or expenses under this title by means of a fraudulent representation, the Commission shall refer the case on the

person to the Insurance Fraud Division in the Maryland Insurance Administration.

(b) In its annual report under § 9-312 of this subtitle, the Commission shall report the number of cases referred to the Insurance Fraud Division in the Maryland Insurance Administration under this section.

§9–311.

(a) To carry out this title, a member of the Commission, the Secretary of the Commission, a special examiner, or an inspector may issue a subpoena for the attendance of a witness to testify or the production of a relevant document or record.

(b) On request of a party to a proceeding before the Commission, the Commission shall issue a subpoena for a hearing before the Commission for:

(1) personal appearance of a witness; or

(2) a deposition by the party, as authorized under § 9–719 of this title.

(c) On a request of a party to a claim on which issues are currently pending, the Commission shall issue a subpoena for relevant documentation to be produced at the office of the requesting party and distributed to all parties to the claim in accordance with regulations adopted by the Commission.

(d) If the Commission, after an evidentiary hearing, determines that a subpoena was requested in bad faith, the Commission may assess against the requesting party the whole cost of the proceeding, including reasonable attorney's fees.

(e) An officer who serves a subpoena issued under this section is entitled to the same fee as the sheriff in the county where the witness is subpoenaed would be entitled.

§9–312.

(a) As soon as practicable after the end of the fiscal year, the Chairman of the Commission shall submit an annual report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(b) The annual report shall include:

(1) any suggestions to improve the administration of this title;

(2) a detailed statement of receipts and disbursements of the Commission; and

(3) statistical analyses of:

(i) the costs of workers' compensation;

(ii) experiences; and

(iii) industrial injuries.

§9–313.

(a) The Commission may require an insurer or a self–insurer to submit a report or analysis that the Commission considers useful to increase public understanding of the purpose, administrative procedures, costs, coverage, or effectiveness of workers' compensation in the State.

(b) (1) Each insurer and each self–insurer, that provides workers' compensation insurance in the State, shall submit a quarterly case payment report to the Commission:

(i) on the printed forms or computer tapes provided to the insurer or self–insurer by the Commission, including a specially designated printed form or computer tape for the last case payment report for each covered employee; and

(ii) that includes all information required by the Commission or an explanation of why any required information is omitted from the report.

(2) An insurer or a self–insurer who is required to submit a report under paragraph (1) of this subsection shall submit the report within 40 days after the date on which the Commission mails the printed forms or computer tapes to the insurer or self–insurer.

(c) The Commission may assess a fine not exceeding $1,000 against an insurer or a self–insurer if the insurer or self–insurer:

(1) fails to timely file a report under subsection (b) of this section; or

(2) files a report under subsection (b) of this section that includes inaccurate or insufficient information.

(d) If the Commission determines that, after due diligence an insurer or a self–insurer is unable to timely submit the report required under subsection (b) of this section, the Commission may:

(1) waive the fine specified under subsection (c) of this section; and

(2) grant the insurer or self–insurer the additional time that may be necessary.

§9–314.

(a) The Commission shall provide employers, without charge, blank forms for:

(1) an application for benefits;

(2) notice of compensation;

(3) proof of employment and wage earnings;

(4) proof of death;

(5) proof of injury;

(6) proof of medical attendance; and

(7) any other purpose that the Commission considers proper and advisable.

(b) The Commission shall adopt regulations that provide for distribution and ready availability of the forms required under this section.

§9–315.

The Commission shall pay the costs of the administration of the Occupational Safety and Health Program by the Commissioner of Labor and Industry under Title 5 of this article.

§9–315.1.

The Commission shall pay the costs of the administration of the workforce fraud program by the Commissioner of Labor and Industry under Title 3, Subtitle 9 of this article.

§9–316.

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

(2) "Insured payroll" means the payroll of an employer who:

(i) is subject to this title; and

(ii) has obtained insurance for its covered employees from an insurer.

(3) "Insurer" means:

(i) a stock corporation or mutual association that is authorized under the Insurance Article to provide workers' compensation insurance in the State;

(ii) a governmental self–insurance group that meets the requirements of § 9–404 of this title;

(iii) a self–insurance group of private employers that meets the requirements of Title 25, Subtitle 3 of the Insurance Article; or

(iv) an individual employer that self–insures in accordance with § 9–405 of this title.

(b) Out of money appropriated for the maintenance of the Commission, the State shall pay the salaries, administrative expenses, and all other expenses of the Commission, including:

(1) the costs of the administration of the Occupational Safety and Health Program by the Commissioner of Labor and Industry under Title 5 of this article;

(2) the costs of the administration of the workforce fraud program by the Commissioner of Labor and Industry under Title 3, Subtitle 9 of this article; and

(3) any cost incurred by the State, including contribution as an employer, because of the participation of a Commissioner in the Judges' Retirement System of the State of Maryland.

(c) The Commission shall assess against and collect from each insurer a tax for the maintenance of the Commission.

(d) (1) Before each fiscal year, the Commission shall calculate for each insurer the tax for the maintenance of the Commission in accordance with this section.

(2) First, the Commission shall calculate the assessment percentage by:

(i) determining the appropriation for the expenses of the Commission for the next fiscal year as:

1. decreasing by an amount equal to the revenues received during the current fiscal year under § 9–319(a)(2) and (3) of this subtitle;

2. decreasing by any amount the expenditures projected to the end of the current fiscal year that are expected to be less than the appropriation for that fiscal year; and

3. adjusting for any variances between the projected and actual expenditures for the previous fiscal year; and

(ii) dividing the amount determined under item (i) of this paragraph by the total insured payroll of all insurers.

(3) Then, the Commission shall apply the assessment percentage determined under paragraph (2) of this subsection to the insured payroll of each insurer.

(e) Payment of the tax assessed under this section may be enforced by a civil action in the name of the State.

(f) The Commission shall pay the money that it collects for the tax under this section into the Workers' Compensation Fund in the State Treasury established under § 9–319 of this subtitle to reimburse the State for the expense of administering this

title.

(g) The Commission may:

(1) examine payrolls and require reports from employers and insurers as may be reasonable and necessary to carry out this section; and

(2) adopt regulations to carry out this section.

§9–317.

(a) There is an Advisory Committee on the budget of the Commission.

(b) (1) The Advisory Committee consists of 12 members, appointed by the Governor with the advice and consent of the Senate.

(2) Each member appointed by the Governor serves at the pleasure of the Governor.

(3) The Governor shall appoint a chairman from among the members of the Advisory Committee.

(c) In making the appointments, the Governor shall:

(1) ensure that each geographic region of the State is represented;

(2) ensure that various disciplines within the workers' compensation community are represented, including:

(i) business;

(ii) labor;

(iii) the insurance industry;

(iv) the vocational rehabilitation industry;

(v) the medical profession;

(vi) claimants' bar; and

(vii) defense bar; and

(3) consider, in consultation with the chairman, the recommendations made by representatives of each of these disciplines.

(d) (1) The term of an appointed member is 3 years.

(2) The terms of members are staggered.

(3) A member may be reappointed.

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

(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.

(e) Members of the Advisory Committee shall serve without compensation, but each member shall be reimbursed for necessary travel and other expenses incurred in the performance of official committee duties in accordance with the Standard State Travel Regulations.

(f) The Commission shall provide meeting space, budget analysis, and staff support for the Advisory Committee.

§9–318.

(a) By September 1 of each year, the Commission shall prepare a tentative operating budget for the next fiscal year and submit it to the Advisory Committee established under § 9-317 of this subtitle.

(b) By November 1 of each year, the Advisory Committee shall review the tentative operating budget and make recommendations to the Commission as to any changes in any budget area of the Commission.

(c) The Commission shall give due consideration to the recommendations of the Advisory Committee prior to submitting the Commission's final budget to the Governor.

(d) By December 1 of each year, the Advisory Committee shall submit a report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the recommendations that it made to the Commission on the Commission's next fiscal year budget.

(e) The Governor shall give due consideration to the recommendations of the Advisory Committee.

§9–319.

(a) There is a Workers' Compensation Fund that consists of:

(1) all revenue received through the imposition and collection of the assessment tax under § 9-316 of this subtitle;

(2) income from investments that the Treasurer makes for the State Fund; and

(3) any other fee, examination assessment, or revenue received by the

Commission under this title.

(b) Notwithstanding subsection (a) of this section, the Commission shall pay all fines and penalties collected by the Commission under this title into the General Fund of the State.

(c) The purpose of the Fund is to pay:

(1) the costs and expenses incurred by the Commission that are related to the operation of the Commission, including:

(i) expenditures authorized under this title;

(ii) the cost of State employees specifically assigned to the Commission; and

(iii) reasonable expenses incurred by the Advisory Committee on the budget of the Commission established under § 9-317 of this subtitle; and

(2) any other expense authorized in the State budget, including costs specified under § 9-315 of this subtitle.

(d) (1) All the costs and expenses of the Commission shall be included in the State budget.

(2) Any expenditures from the Fund to cover costs and expenses of the Commission may only be made:

(i) with an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) by the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.

(3) (i) If, in any given fiscal year, the amount of the revenue collected by the Commission and deposited into the Fund exceeds the actual appropriation for the Commission, plus an additional 1 percent provision for unanticipated expenditures over the actual appropriation for the Commission, the excess amount shall be carried forward within the Fund for the purpose of reducing the assessment fee imposed by the Commission for the following fiscal year.

(ii) If, in any given year, the amount of revenue collected by the Commission and deposited into the Fund is insufficient to cover the expenditures of the Commission because of an unforeseen emergency and expenditures are made in accordance with the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article, an additional assessment for the expenditures may be made.

(e) (1) The State Treasurer is the custodian of the Fund.

(2) The State Treasurer shall deposit payments received from the Commission into the Fund.

(f) (1) The Fund is a continuing, nonlapsing fund and is not subject to § 7-302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) the General Fund of the State; or

(ii) a special fund of the State.

§9–401.

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

(b) "Authorized insurer" means a stock corporation or mutual association that is authorized under the Insurance Article to provide workers' compensation insurance in the State.

(c) "Governmental self-insurance group" means a group of governmental employers that self-insures in accordance with § 9-404 of this subtitle.

§9–402.

(a) Subject to subsections (b) through (f) of this section, each employer shall secure compensation for all covered employees of the employer by:

(1) maintaining insurance with an authorized insurer;

(2) participating in a governmental self–insurance group that meets the requirements of § 9–404 of this subtitle;

(3) participating in a self–insurance group of private employers that meets the requirements of Title 25, Subtitle 3 of the Insurance Article;

(4) maintaining self–insurance for an individual employer in accordance with § 9–405 of this subtitle; or

(5) having a county board of education or private noncollegiate institution secure compensation under § 8–402(c) or § 7–114(d) of the Education Article.

(b) The State shall secure compensation for jurors by maintaining insurance with the Chesapeake Employers' Insurance Company and paying to the Company the premiums set by the Board for the Company as necessary to provide compensation for

jurors.

(c) The Adjutant General shall secure compensation for officers and enlisted members of the organized militia of the State by maintaining insurance with the Chesapeake Employers' Insurance Company or an authorized insurer.

(d) A licensed owner or trainer of a racehorse who is considered an employer under § 9–212 of this title is in compliance with the requirements of this subtitle if the owner or trainer is in compliance with the requirements of § 11–906 of the Business Regulation Article.

(e) The Secretary of Human Resources shall secure compensation for a recipient of public assistance who is a covered employee under § 9–224 of this title by maintaining insurance with the Chesapeake Employers' Insurance Company and paying to the Company the premiums set by the Board for the Company as necessary to provide compensation for those individuals.

(f) Anne Arundel, Kent, and Prince George's counties shall secure compensation for members of a volunteer fire company or volunteer rescue squad by maintaining insurance with the Chesapeake Employers' Insurance Company or an authorized insurer.

§9–402.1.

(a) In this section, "knowingly" means having actual knowledge, deliberate ignorance, or reckless disregard for the truth.

(b) An employer may not fail to properly classify an individual as an employee.

(c) If the Commission determines that an employer failed to properly classify an individual as an employee, the Commission shall order the employer to secure compensation for the covered employee in accordance with § 9–407 of this subtitle.

(d) If the Commission determines that an employer knowingly failed to properly classify an individual as an employee, the Commission shall, in conformance with § 9–310 of this title, assess a civil penalty of not more than $5,000.

(e) (1) A person may not knowingly advise an employer to take action for the purpose of violating this section.

(2) A person found in violation of this subsection shall be subject to a civil penalty of not more than $20,000.

(f) An employer found to have knowingly violated this section who has also been found previously to have knowingly violated this section by a final order of a court or administrative unit may be assessed double the administrative penalties set forth in subsection (d) of this section for the new violation.

(g) (1) An employer may be assessed civil penalties by only one order of a court or administrative unit for the same actions constituting a knowing failure to properly classify an individual as an employee.

(2) Notwithstanding paragraph (1) of this subsection, an employer may be ordered to make restitution, pay any interest due, and otherwise comply with all applicable laws and regulations by orders of a court, the Commission, and all other relevant administrative units, including the Comptroller, the Office of Unemployment Insurance, the Insurance Administration, and the Division of Labor and Industry.

(h) If the Commission determines that an employer has failed to properly classify an individual as an employee, the Commission shall promptly notify the Office of Unemployment Insurance, the Division of Labor and Industry, the insurer, if any, the Insurance Administration, and the Comptroller.

(i) As authorized by State and federal law, units within the Department of Labor, Licensing, and Regulation and the Department of Budget and Management, the Secretary of State, the Comptroller, the Insurance Administration, and other State agencies shall cooperate and share information concerning any suspected violation of this title.

(j) The Commission may adopt regulations to carry out this section.

§9–403.

(a) An employer who wishes to self–insure under § 9–402(a)(4) of this subtitle and a governmental self–insurance group that wishes to establish joint self–insurance coverage under § 9–402(a)(2) of this subtitle shall get the approval of the Commission for the self–insurance plan of the employer or governmental self–insurance group.

(b) To get the approval of the Commission for a self–insurance plan, an employer or a governmental self–insurance group shall apply to the Commission.

(c) The Commission may approve or deny the use of a self–insurance plan by an employer or a governmental self–insurance group.

(d) If the Commission denies the use of a self–insurance plan by an employer or governmental self–insurance group, the employer or governmental self–insurance group may apply to the Commission for approval to use another self–insurance plan.

(e) The Commission may revoke or modify its approval for use of a self–insurance plan if the Commission determines that revoking or modifying approval is reasonably necessary:

(1) to secure compensation; or

(2) except for a public service corporation under the jurisdiction of the Public Service Commission, to prevent or otherwise to reduce accidents.

§9–404.

(a) (1) The Commission shall adopt regulations:

(i) setting procedures and other requirements for a governmental self–insurance group to establish joint self–insurance coverage; and

(ii) establishing guidelines to govern the investment of surplus moneys not needed to meet current obligations in a manner that will ensure solvency of the Fund and timely payment of claims.

(2) Notwithstanding the local government guidelines set forth in §§ 17–101 and 17–102 of the Local Government Article, the guidelines required by paragraph (1)(ii) of this subsection shall:

(i) state the types of investment in which moneys may be invested;

(ii) include guidance for the prudent investment of moneys based on claim experience, cash flow projections, income, liquidity, investment ratings, and risk;

(iii) authorize investments of moneys in equities, provided that investments do not exceed 30 percent of the surplus moneys;

(iv) provide that moneys not invested in equities shall be invested in accordance with §§ 17–101 and 17–102 of the Local Government Article; and

(v) prohibit borrowing of funds for the express purpose of investing those funds.

(b) (1) Subject to paragraph (2) of this subsection, a governmental self–insurance group may be formed by any combination of:

(i) counties;

(ii) municipal corporations;

(iii) boards of education; and

(iv) community colleges.

(2) A board of education or a community college may not participate in a governmental self–insurance group unless its participation is approved by its county governing body.

(c) Subject to the approval of the Commission, a county that participates in a governmental self–insurance group may include in the coverage:

(1) any unit created or funded by the county; and

(2) regardless of funding:

(i) the board of education of the county;

(ii) a community college in the county;

(iii) a regional community college in the county;

(iv) a housing agency of the county created under Division II of the Housing and Community Development Article;

(v) a municipal corporation in the county;

(vi) a multicounty unit that operates in the county; or

(vii) a revenue authority in the county created by the State.

(d) (1) A governmental self–insurance group shall get a certificate of authority from the Commission before the governmental self–insurance group may self–insure.

(2) To qualify for a certificate under this subsection, a governmental self–insurance group shall satisfy the Commission that the governmental self–insurance group:

(i) is financially able to pay compensation;

(ii) will have annual gross premiums of at least $250,000; and

(iii) meets each other requirement under this section, § 9–403 of this subtitle, or a regulation of the Commission.

(3) The Commission shall issue a certificate of authority to each governmental self–insurance group that meets the requirements of paragraph (2) of this subsection.

(e) (1) At any time, the Commission may require a governmental self–insurance group to secure payment of compensation by depositing with the Commission security:

(i) in a form accepted by a circuit court for investment of trust money; and

(ii) in the amount set by the Commission.

(2) On application and subject to paragraph (3) of this subsection, the Commission shall return security that a governmental self–insurance group has deposited under this subsection if:

(i) the members of the governmental self–insurance group cease to be subject to this title or secure compensation through an authorized insurer; and

(ii) the governmental self–insurance group has not been liable on a claim for compensation during the 5 years immediately after the day on which the event described in item (i) of this paragraph occurred.

(3) After reviewing the application and before returning security to a governmental self–insurance group, the Commission may require the governmental self–insurance group to submit to the Commission an indemnity bond in an amount equal to the value of the security.

(f) Each governmental self–insurance group to which the Commission issues a certificate of authority shall have excess insurance in the amount set by the Commission.

(g) (1) Each governmental self–insurance group shall have in the State an office run by a competent individual who handles all of the workers' compensation work in the State for the governmental self–insurance group.

(2) Each governmental self–insurance group shall establish a toll–free telephone number through which an employee or claimant, or a representative of an employee or claimant, may make direct telephone inquiries during regular business hours.

(3) The Commission may assess a fine not exceeding $1,000 on a governmental self–insurance group that does not comply with this subsection.

(h) The Commission shall provide for advance premium discounts that are competitive with private insurance advance premium discounts.

(i) (1) To be informed of the continuing financial responsibility of each governmental self–insurance group, the Commission:

(i) shall require each governmental self–insurance group to submit a report at least once each year; and

(ii) may examine the governmental self–insurance group under oath and make other examination of the business of the governmental self–insurance group.

(2) Each year, the Commission shall assess each governmental self–insurance group an amount not exceeding $1,500 to be used for actuarial studies and audits.

(j) (1) The Commission shall revoke the approval of a governmental self–insurance group to self–insure under this section if the governmental self–insurance group:

(i) fails to deposit securities with or submit a bond to the Commission in accordance with subsection (e) of this section;

(ii) fails to submit satisfactory reports to the Commission in accordance with subsection (i)(1)(i) of this section; or

(iii) otherwise fails to satisfy the Commission that it is financially able to self–insure.

(2) Whenever the Commission revokes approval for a governmental self–insurance group to self–insure under this section, the members of the governmental self–insurance group immediately shall secure compensation through an authorized insurer.

(3) If a member of a governmental self–insurance group fails to secure compensation as required by paragraph (2) of this subsection, the Commission shall order the member of the governmental self–insurance group to secure compensation through an authorized insurer.

(k) If a governmental self–insurance group becomes insolvent, the Uninsured Employers' Fund shall pay the outstanding obligations of the governmental self–insurance group for compensation.

§9–405.

(a) Each employer who wants to self–insure under this section shall satisfy the Commission that the employer is financially able to pay compensation.

(b) (1) At any time, the Commission may require an employer who self–insures under this section to secure payment of compensation by depositing with the Commission:

(i) security:

1. in a form accepted by a circuit court for investment of trust money; and

2. in the amount set by the Commission; or

(ii) letters of credit:

1. issued by a financial institution acceptable to the Commission;

2. in a form acceptable to and in the amount set by the Commission; and

3. that meet the requirements of § 9–408(c) of this subtitle.

(2) On application and subject to paragraph (3) of this subsection, the Commission shall return security that an employer has deposited under this subsection if the employer:

(i) ceases to be subject to this title or secures compensation through an authorized insurer; and

(ii) has not been liable on a claim for compensation during the 5 years immediately after the day on which the event described in item (i) of this paragraph occurred.

(3) After reviewing the application and before returning security to an employer the Commission may require the employer to submit to the Commission an indemnity bond in an amount equal to the value of the security.

(c) The Commission may require an employer who self–insures under this section to maintain and submit to the Commission a policy of excess insurance that is in the amount and contains the provisions that the Commission considers necessary to provide security for the payment of compensation and medical treatment.

(d) (1) Each employer that self–insures under this section shall have in the State competent individuals who:

(i) handle and adjust each disputed workers' compensation claim in the State for the employer; and

(ii) possess the knowledge and experience to handle and adjust each disputed claim.

(2) Each employer that self–insures under this section shall establish a toll–free telephone number through which an employee or claimant, or a representative of an employee or claimant, may make direct telephone inquiries during regular business hours.

(3) The Commission may assess a fine not exceeding $1,000 on a self–insurer that does not comply with this subsection.

(e) (1) To be informed of the continuing financial responsibility of each employer who self–insures under this section, the Commission:

(i) shall require each employer to submit a report at least once each year; and

(ii) may examine the employer under oath and make other examination of the business of the employer.

(2) Each year, the Commission shall assess each self–insured employer an amount not exceeding $1,500 to be used for actuarial studies and audits.

(f) (1) The Commission shall revoke the approval of an employer to self–insure under this section if the employer:

(i) fails to deposit securities or letters of credit with or submit a bond to the Commission in accordance with subsection (b) of this section;

(ii) fails to submit satisfactory reports to the Commission in accordance with subsection (e)(1)(i) of this section; or

(iii) otherwise fails to satisfy the Commission that it is financially able to secure compensation.

(2) (i) On notice to the Commission pursuant to § 9–408(c)(2) of this subtitle that a letter of credit will not be renewed, the Commission shall demand that, within 30 days, the employer provide:

1. other satisfactory proof of the employer's financial ability to pay; or

2. another letter of credit in the same amount from another qualifying financial institution.

(ii) If the employer fails to furnish other satisfactory proof of the financial ability to pay or another acceptable letter of credit within 30 days after receipt of a demand under subparagraph (i) of this paragraph, the Commission shall demand payment from the financial institution of, and the financial institution shall pay, the amount represented by the letter of credit.

(iii) The Commission shall hold as security under this section the amount demanded and received under subparagraph (ii) of this paragraph until the employer can provide:

1. satisfactory proof of the employer's financial ability to pay; or

2. another acceptable letter of credit.

(iv) On provision of satisfactory proof of financial ability to pay or an acceptable letter of credit, the Commission shall return the amount of the letter of credit to the employer or the financial institution, whichever has the equitable right to that amount at the time that the proof or letter of credit is provided.

(3) Whenever the Commission revokes approval for an employer to self–insure under this section, the employer immediately shall secure compensation through an authorized insurer.

(4) If an employer fails to secure compensation as required by paragraph (3) of this subsection, the Commission shall order the employer to secure compensation

through an authorized insurer.

(g) If an employer who self–insures under this section becomes insolvent, the Uninsured Employers' Fund shall pay the outstanding obligations of the employer for compensation.

§9–406.

In exercising the discretion granted to the Commission by this subtitle, the Commission shall consider:

(1) each condition or fact about security and prompt payment of compensation, including:

(i) the financial strength of the employer;

(ii) the number of covered employees of the employer;

(iii) the degree of hazard for covered employees of the employer;

(iv) the likelihood that several covered employees will be injured or killed in the same accident; and

(v) if the employer wants to use an authorized insurer, the reputation of the authorized insurer for fair and prompt settlement of claims for compensation; and

(2) except for a public service corporation under the jurisdiction of the Public Service Commission, each condition or fact about prevention of accidents, including the relative effect of each method authorized under this subtitle on the employer and covered employees of the employer.

§9–407.

(a) If an employer fails to secure compensation for all covered employees of the employer as required by § 9–402 of this subtitle, the Commission shall:

(1) issue an order directing the employer to attend a hearing to show cause as to why the employer should not be:

(i) required to secure compensation for all covered employees of the employer;

(ii) found in violation of § 9–402 of this subtitle; and

(iii) assessed a penalty for noncompliance with § 9–402 of this subtitle; and

(2) set the hearing as soon as practicable.

(b) If, following the hearing, the Commission finds that the employer failed to secure compensation for all covered employees of the employer as required by § 9–402 of this subtitle, the Commission shall:

(1) order the employer to:

(i) secure and maintain insurance for all covered employees of the employer through an authorized insurer; and

(ii) submit proof of insurance coverage to the Commission; and

(2) order the employer to pay a penalty not to exceed $10,000 to the Uninsured Employers' Fund.

(c) (1) If an employer fails to comply with an order to insure with an authorized insurer issued under subsection (b) of this section or under § 9–404(j) or § 9–405(f) of this subtitle, within 30 days after the Commission issues the order, the Commission shall set a hearing as soon as practicable.

(2) If, following the hearing, the Commission finds that the employer failed to comply with an order issued under subsection (b)(1) of this section, the Commission may order the employer to pay a penalty not to exceed $10,000 to the Uninsured Employers' Fund.

(d) (1) An employer's failure to pay a penalty under this section constitutes a default in payment of compensation and judgment shall be entered as in a case of default in payment of compensation.

(2) (i) A penalty that is payable under this section is a lien against the assets of the employer that is liable for the penalty.

(ii) A lien under subparagraph (i) of this paragraph is subordinate to claims for unpaid wages and prior recorded liens.

(3) The Uninsured Employers' Fund may bring a civil action to collect any penalty ordered under this section or any assessment ordered under Subtitle 10 of this article.

(4) (i) Notwithstanding any other provision of law, if the uninsured employer is a corporation the assets of which are not sufficient to satisfy any penalty ordered under this section, any officer of the corporation who has responsibility for the general management of the corporation in the State is jointly and severally liable for the penalty if the corporate officer knowingly failed to secure compensation for the covered employees of the employer.

(ii) Notwithstanding any other provision of law, if the uninsured employer is a limited liability company the assets of which are not sufficient to satisfy any penalty ordered under this section, any member of the limited liability company

who has responsibility for the general management of the limited liability company in the State is jointly and severally liable for the penalty if a member of the limited liability company who has general management responsibility knowingly failed to secure compensation for the covered employees of the employer.

§9–408.

(a) Any agreement of an employer that indemnifies the employer for damage or loss due to the injury of an employee caused by accidental personal injury, occupational disease, or negligence of the employer or an agent, officer, or servant of the employer is void unless the agreement also covers the liability of the employer to pay compensation under this title.

(b) An agreement by a covered employee to pay to or for an employer any part of a premium for coverage under this title is void.

(c) A letter of credit issued under this subtitle shall contain:

(1) a provision that the letter of credit is irrevocable for the term specified;

(2) a provision that the letter of credit renews automatically at the end of the term unless written notice of nonrenewal is sent by the financial institution to the Commission by registered mail at least 60 days before the date of expiration;

(3) a statement that the letter of credit is not subject to any condition or qualification; and

(4) a statement that the letter of credit is governed by the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce.

§9–409.

An employer may appeal any decision of the Commission under this subtitle to the circuit court for the county in which the employer resides.

§9–410.

(a) An insurer that provides workers' compensation insurance in the State shall have in the State competent individuals who:

(1) handle and adjust each disputed workers' compensation claim in the State for the insurer; and

(2) possess the knowledge and experience to handle and adjust each disputed claim.

(b) An insurer that provides workers' compensation insurance in the State

shall establish a toll-free telephone number through which an insured or claimant, or a representative of an insured or claimant, may make direct telephone inquiries during regular business hours.

(c) The Commission may assess a fine not exceeding $1,000 on an insurer that does not comply with this section.

§9–501.

(a) Except as otherwise provided, each employer of a covered employee shall provide compensation in accordance with this title to:

(1) the covered employee for an accidental personal injury sustained by the covered employee; or

(2) the dependents of the covered employee for death of the covered employee:

(i) resulting from an accidental personal injury sustained by the covered employee; and

(ii) occurring within 7 years after the date of the accidental personal injury.

(b) An employer is liable to provide compensation in accordance with subsection (a) of this section, regardless of fault as to a cause of the accidental personal injury.

§9–502.

(a) In this section, "disablement" means the event of a covered employee becoming partially or totally incapacitated:

(1) because of an occupational disease; and

(2) from performing the work of the covered employee in the last occupation in which the covered employee was injuriously exposed to the hazards of the occupational disease.

(b) Subsection (c) of this section applies only to:

(1) the employer in whose employment the covered employee was last injuriously exposed to the hazards of the occupational disease; and

(2) the insurer liable for the risk when the covered employee, while employed by the employer, was last injuriously exposed to the hazards of the occupational disease.

(c) Subject to subsection (d) of this section and except as otherwise provided, an employer and insurer to whom this subsection applies shall provide compensation in

accordance with this title to:

(1) a covered employee of the employer for disability of the covered employee resulting from an occupational disease; or

(2) the dependents of the covered employee for death of the covered employee resulting from an occupational disease.

(d) An employer and insurer are liable to provide compensation under subsection (c) of this section only if:

(1) the occupational disease that caused the death or disability:

(i) is due to the nature of an employment in which hazards of the occupational disease exist and the covered employee was employed before the date of disablement; or

(ii) has manifestations that are consistent with those known to result from exposure to a biological, chemical, or physical agent that is attributable to the type of employment in which the covered employee was employed before the date of disablement; and

(2) on the weight of the evidence, it reasonably may be concluded that the occupational disease was incurred as a result of the employment of the covered employee.

(e) A covered employee or a dependent of the covered employee is not entitled to compensation for a disability or death that results from an occupational disease if, when the covered employee began employment with the employer, the covered employee falsely represented in writing that the covered employee had not been disabled, laid off, or compensated in damages or otherwise, due to the occupational disease for which the covered employee or dependent is seeking compensation.

§9–503.

(a) A paid firefighter, paid fire fighting instructor, paid rescue squad member, paid advanced life support unit member, or sworn member of the Office of the State Fire Marshal employed by an airport authority, a county, a fire control district, a municipality, or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member who is a covered employee under § 9–234 of this title is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if:

(1) the individual has heart disease, hypertension, or lung disease;

(2) the heart disease, hypertension, or lung disease results in partial or total disability or death; and

(3) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, the individual has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

(b) (1) A paid police officer employed by an airport authority, a county, the Maryland–National Capital Park and Planning Commission, a municipality, or the State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this subsection, a deputy sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, Prince George's County correctional officer, or deputy sheriff of Allegany County is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if:

(i) the police officer, deputy sheriff, or correctional officer is suffering from heart disease or hypertension; and

(ii) the heart disease or hypertension results in partial or total disability or death.

(2) (i) A deputy sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer is entitled to the presumption under this subsection only to the extent that the individual suffers from heart disease or hypertension that is more severe than the individual's heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

(ii) To be eligible for the presumption under this subsection, a deputy sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer, as a condition of employment, shall submit to a medical examination to determine any heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

(c) A paid firefighter, paid fire fighting instructor, paid rescue squad member, paid advanced life support unit member, or a sworn member of the Office of the State Fire Marshal employed by an airport authority, a county, a fire control district, a municipality, or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member who

is a covered employee under § 9–234 of this title is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if the individual:

(1) has leukemia or prostate, rectal, throat, multiple myeloma, non–Hodgkin's lymphoma, brain, testicular, or breast cancer that is caused by contact with a toxic substance that the individual has encountered in the line of duty;

(2) has completed at least 10 years of service as a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member or in a combination of those jobs in the department where the individual currently is employed or serves;

(3) is unable to perform the normal duties of a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member in the department where the individual currently is employed or serves because of the cancer or leukemia disability; and

(4) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

(d) (1) A paid law enforcement employee of the Department of Natural Resources who is a covered employee under § 9–207 of this title and a park police officer of the Maryland–National Capital Park and Planning Commission is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

(i) is suffering from Lyme disease; and

(ii) was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

(2) The presumption under this subsection for a park police officer of the Maryland–National Capital Park and Planning Commission shall only apply:

(i) during the time that the park police officer is assigned to a position that regularly places the park police officer in an outdoor wooded environment; and

(ii) for 3 years after the last date that the park police officer was assigned by the Maryland–National Capital Park and Planning Commission to a position that regularly placed the officer in an outdoor wooded environment.

(e) (1) Except as provided in paragraph (2) of this subsection, any paid firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire Marshal, paid police officer, paid law enforcement employee of the Department of

Natural Resources, deputy sheriff of Anne Arundel County, Anne Arundel County detention officer, park police officer of the Maryland–National Capital Park and Planning Commission, deputy sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince George's County, or Prince George's County correctional officer who is eligible for benefits under subsection (a), (b), (c), or (d) of this section or the dependents of those individuals shall receive the benefits in addition to any benefits that the individual or the dependents of the individual are entitled to receive under the retirement system in which the individual was a participant at the time of the claim.

(2) The benefits received under this title shall be adjusted so that the weekly total of those benefits and retirement benefits does not exceed the weekly salary that was paid to the paid law enforcement employee of the Department of Natural Resources, a park police officer of the Maryland–National Capital Park and Planning Commission, firefighter, fire fighting instructor, sworn member of the Office of the State Fire Marshal, police officer, deputy sheriff, Prince George's County or Montgomery County correctional officer, or Anne Arundel County detention officer.

§9–504.

Except as otherwise provided, an employer shall provide compensation in accordance with this title to a covered employee for a hernia caused by an accidental personal injury or by a strain arising out of and in the course of employment if:

(1) the covered employee provides definite proof that satisfies the Commission that:

(i) the hernia did not exist before the accidental personal injury or strain occurred; or

(ii) as a result of the accidental personal injury or strain, a preexisting hernia has become so aggravated, incarcerated, or strangulated that an immediate operation is needed; and

(2) notwithstanding any other provision of this title about notice, the accidental personal injury or strain was reported to the employer within 30 days after its occurrence.

§9–505.

(a) Except as otherwise provided, an employer shall provide compensation in accordance with this title to a covered employee for loss of hearing by the covered employee due to industrial noise in the frequencies of 500, 1,000, 2,000, and 3,000 hertz.

(b) An employer is not liable for compensation for occupational deafness under subsection (a) of this section unless the covered employee claiming benefits worked for the employer in employment that exposed the covered employee to harmful noise for at least 90 days.

§9–506.

(a) A covered employee or a dependent of a covered employee is not entitled to compensation or benefits under this title as a result of:

(1) an intentional, self-inflicted accidental personal injury, compensable hernia, or occupational disease; or

(2) an attempt to injure or kill another.

(b) A covered employee or a dependent of a covered employee is not entitled to compensation or benefits under this title as a result of an accidental personal injury, compensable hernia, or occupational disease if:

(1) the accidental personal injury, compensable hernia, or occupational disease was caused solely by the effect on the covered employee of:

(i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant drug; or

(ii) another drug that makes the covered employee incapable of satisfactory job performance; and

(2) the drug was not administered or taken in accordance with the prescription of a physician.

(c) A covered employee or a dependent of a covered employee is not entitled to compensation or benefits under this title as a result of an accidental personal injury, compensable hernia, or occupational disease if the accidental personal injury, compensable hernia, or occupational disease was caused solely by the intoxication of the covered employee while on duty.

(d) (1) In this subsection, "primary cause" means the cause that is first in importance.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a covered employee or dependent of a covered employee is not entitled to compensation or benefits under this title, except for medical benefits under §§ 9-660 and 9-661 of this title, as a result of an accidental personal injury, compensable hernia, or occupational disease, if the primary cause of the accidental personal injury, compensable hernia, or occupational disease was the effect on the covered employee of a controlled dangerous substance defined in § 5-101 of the Criminal Law Article or listed in Title 5, Subtitle 4 of the Criminal Law Article.

(ii) Compensation or benefits shall not be denied under subparagraph (i) of this paragraph if the controlled dangerous substance was administered, taken, or used in accordance with the prescription of a physician and the administering, taking, or use of the controlled dangerous substance was not

excessive or abusive.

(3) Except for medical benefits under §§ 9-660 and 9-661 of this title, a covered employee or dependent of a covered employee is not entitled to compensation or benefits under this title as a result of an accidental personal injury, compensable hernia, or occupational disease, if the primary cause of the accidental personal injury, compensable hernia, or occupational disease was the intoxication of the covered employee while on duty.

(e) A covered employee or a dependent of a covered employee is not entitled to compensation or benefits under this title as a result of an accidental personal injury, compensable hernia, or occupational disease if the accidental personal injury, compensable hernia, or occupational disease was caused by the willful misconduct of the covered employee.

(f) In a proceeding on a claim for compensation, there is, absent substantial evidence to the contrary, a presumption that an accidental personal injury, compensable hernia, or occupational disease:

(1) was not caused by the intent of the covered employee to injure or kill the covered employee or another individual;

(2) was not caused solely by the effect on the covered employee of:

(i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant drug; or

(ii) another drug that makes the covered employee incapable of satisfactory job performance; and

(3) was not caused solely by the intoxication of the covered employee while on duty.

(g) In a proceeding on a claim for compensation under subsection (d) of this section, there is, absent substantial evidence to the contrary, a presumption that:

(1) the effect on the covered employee of a controlled dangerous substance was not the primary cause of the accidental personal injury, compensable hernia, or occupational disease; and

(2) the intoxication of the covered employee was not the primary cause of the accidental personal injury, compensable hernia, or occupational disease.

§9–507.

Compensation may not be denied to a covered employee because of the degree of risk of the employment of the covered employee.

§9–508.

(a) A principal contractor is liable to pay to a covered employee or the dependents of the covered employee any compensation that the principal contractor would have been liable to pay had the covered employee been employed directly by the principal contractor if:

(1) the principal contractor undertakes to perform any work that is part of the business, occupation, or trade of the principal contractor;

(2) the principal contractor contracts with a subcontractor for the execution by or under the subcontractor of all or part of the work undertaken by the principal contractor; and

(3) the covered employee is employed in the execution of that work.

(b) (1) Except as provided in paragraph (2) of this subsection, in a claim filed or proceeding brought against a principal contractor by a covered employee employed to execute work as provided in subsection (a) of this section or a dependent of the covered employee, the principal contractor shall be considered the employer of the covered employee for the purposes of this title.

(2) In computing the average weekly wage of the covered employee under § 9-602 of this title, the Commission shall use as wages of the covered employee the wages paid by the employer who immediately employs the covered employee.

(c) If an employee of a subcontractor or a dependent of the employee files a claim against a principal contractor under this title, the principal contractor may join the subcontractor and any intermediate contractor as defendant or codefendant.

(d) If a principal contractor is liable to pay compensation under this section, the principal contractor is entitled to indemnity from any employer who would have been liable to pay compensation independent of this section.

(e) This section does not prevent a covered employee or a dependent of a covered employee from recovering compensation from a subcontractor instead of the principal contractor.

(f) (1) A principal contractor is not liable to pay compensation to an individual under this title if the individual:

(i) is a corporate officer, or a member of a limited liability company, who elects to be exempt from coverage under § 9-206 of this title;

(ii) is a partner in a partnership and the partnership does not elect to make the individual a covered employee under § 9-219 of this title; or

(iii) is a sole proprietor who:

1. does not notify the principal contractor, on a form approved by the Commission, of the individual's status as a covered employee; and

2. does not elect to be a covered employee under § 9-227 of this title.

(2) An individual is presumed to be a sole proprietor who is not a covered employee under this section if:

(i) a substantial part of the individual's income is derived from the trade or business for which a principal contractor engages the individual and from which the individual has attempted to earn taxable income; and

(ii) 1. the individual notifies the principal contractor on a form approved by the Commission that the individual has not elected to become a covered employee under § 9-227 under this title; or

2. the individual has filed the appropriate Internal Revenue Form 1040, Schedule C or F, for the previous taxable year.

§9–509.

(a) Except as otherwise provided in this title, the liability of an employer under this title is exclusive.

(b) Except as otherwise provided in this title, the compensation provided under this title to a covered employee or the dependents of a covered employee is in place of any right of action against any person.

(c) (1) If an employer fails to secure compensation in accordance with this title, a covered employee who has sustained an accidental personal injury, compensable hernia, or occupational disease or, in case of death, the personal representative of the covered employee may:

(i) bring a claim for compensation under this title; or

(ii) bring an action for damages.

(2) In an action of a covered employee or personal representative under this subsection, an employer may not plead as a defense that:

(i) the covered employee assumed the risk of employment;

(ii) the covered employee was contributorily negligent; or

(iii) the negligence of a fellow servant caused the accidental personal injury, compensable hernia, or occupational disease.

(d) If a covered employee is injured or killed as the result of the deliberate intent

of the employer to injure or kill the covered employee, the covered employee or, in the case of death, a surviving spouse, child, or dependent of the covered employee may:

(1) bring a claim for compensation under this title; or

(2) bring an action for damages against the employer.

§9–510.

(a) Except as provided in subsection (b) of this section, if the provisions of this title that provide compensation for an accidental personal injury, compensable hernia, or occupational disease are adjudicated invalid or repealed, a covered employee or a dependent of a covered employee, who would have been entitled to compensation, may bring any action within the earlier of:

(1) 1 year after the adjudication or repeal; or

(2) the time allowed by law for bringing any action for an accidental personal injury, compensable hernia, or occupational disease, not counting the time between the occurrence of the accidental personal injury, compensable hernia, or occupational disease or resulting death and the adjudication or repeal.

(b) An individual may not bring an action for damages for an accidental personal injury, compensable hernia, or occupational disease under this section if compensation for the accidental personal injury, compensable hernia, or occupational disease has been paid in full under this title, either by lump sum or periodic payment.

(c) Compensation paid under this title shall be credited against a judgment in an action under this section.

§9–601.

A provision of this subtitle may not be construed to change:

(1) a law relating to an accidental personal injury or an occupational disease, that occurred before the effective date of the provision and for which a claim is made under this title; or

(2) the payment basis in effect when an accidental personal injury or an occupational disease, for which a claim is made under this title, occurred.

§9–602.

(a) (1) Except as otherwise provided in this section, the average weekly wage of a covered employee shall be computed by determining the average of the weekly wages of the covered employee:

(i) when the covered employee is working full time; and

(ii) at the time of:

1. the accidental personal injury; or

2. the last injurious exposure of the covered employee to the hazards of an occupational disease.

(2) For purposes of a computation under paragraph (1) of this subsection, wages shall include:

(i) tips; and

(ii) the reasonable value of housing, lodging, meals, rent, and other similar advantages that the covered employee received from the employer.

(3) If a covered employee establishes that, because of the age and experience of the covered employee at the time of the accidental personal injury or last injurious exposure to the hazards of the occupational disease, the wages of the covered employee could be expected to increase under normal circumstances, the expected increase may be taken into account when computing the average weekly wage of the covered employee under paragraph (1) of this subsection.

(b) For the purpose of computing the average weekly wage of an auxiliary police officer of Baltimore County who is a covered employee under § 9–220(a) of this title or a member of a volunteer ambulance, ambulance and rescue, or fire company in Baltimore County who is a covered employee under § 9–234 of this title, the wages of the covered employee shall be:

(1) if the covered employee had other employment at the time of the accidental personal injury or last injurious exposure, the salary or wages from the other employment;

(2) if the covered employee had had other employment but was not otherwise employed at the time of the accidental personal injury or last injurious exposure, the salary or wages last received by the covered employee from the other employment; or

(3) if the covered employee had never had other employment at the time of the accidental personal injury or last injurious exposure, an amount that allows minimum death or disability benefits under this title.

(c) For the purpose of computing the average weekly wage of an individual engaged for fire fighting by the Department of Natural Resources who is a covered employee under § 9–207 of this title, the wages of the covered employee shall be:

(1) the greater of:

(i) any salary or wages received by the covered employee for fire

fighting; or

(ii) any salary or wages earned by the covered employee in other employment at the time of the accidental personal injury or last injurious exposure; or

(2) if the covered employee did not receive wages for fire fighting or from other employment at the time of the accidental personal injury or last injurious exposure, an amount that allows the minimum compensation or death benefits under this title.

(d) For the purpose of computing the average weekly wage of a handicapped student who is a covered employee under § 9–228(a) of this title, the wages of the covered employee shall be the federal minimum wage that is in effect at the time of the accidental personal injury or last injurious exposure.

(e) For the purpose of computing the average weekly wage of a jockey who is a covered employee under § 9–212 of this title, the wages of the covered employee shall be all of the earnings that the jockey earns as a jockey, including those derived from outside the State.

(f) For the purpose of computing the average weekly wage of a member of the organized militia of the State who is a covered employee under § 9–215 of this title, the wages of the covered employee shall be the greater of:

(1) the wage provided for active duty in § 13–406(b) of the Public Safety Article;

(2) the actual wages earned by the covered employee in employment in the National Guard; or

(3) the actual wages earned by the covered employee in the employee's civilian employment at the time of entry into State active duty.

(g) (1) Subject to paragraph (2) of this subsection, for the purpose of computing the average weekly wage of an individual who is a covered employee under § 9–234 of this title, the wages of the covered employee shall be:

(i) for a covered employee who received a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure, the salary or wages from the other employment; or

(ii) for a covered employee who did not receive a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure:

1. if the covered employee derived income from a source other than salary or wages at the time of the accidental personal injury or last injurious exposure, an amount that allows the maximum compensation under this title;

2. if the covered employee was not engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, the weekly income last received by the covered employee when engaged in a business enterprise; or

3. if the covered employee had never been engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, an amount that allows the minimum compensation under this title.

(2) A yearly stipend of $5,200 or less to help offset out–of–pocket expenses that a volunteer company, as defined in § 9–234 of this title, pays to a member may not be used when determining the average weekly wage of the member.

(h) For the purpose of computing the average weekly wage of a prisoner who is a covered employee under § 9–221 of this title, the wages of the covered employee shall be:

(1) the wages paid to the prisoner by the county; and

(2) a fair and reasonable amount determined by the Commission for meals and maintenance of the prisoner, but not more than the amount customarily received by the county for its own use by prisoners engaged in employment by other employers.

(i) For the purpose of computing the average weekly wage of a covered employee whose wages from full–time employment are paid partly by an employer and partly by the United States under a federal veterans' benefit law, the wages of the covered employee shall be the total amounts jointly paid to the covered employee when working full time.

(j) For the purpose of computing the average weekly wage of a volunteer deputy sheriff of Cecil County or an auxiliary volunteer of the Charles County Sheriff's Office who is a covered employee under § 9–233 of this title, the wages of the covered employee shall be:

(1) if the covered employee had other employment at the time of the accidental personal injury or last injurious exposure, the wages from the other employment;

(2) if the covered employee had had other employment but was not otherwise employed at the time of the accidental personal injury or last injurious exposure, the wages last received by the covered employee from the other employment; or

(3) if the covered employee had never had other employment at the time of the accidental personal injury or last injurious exposure, an amount that allows minimum compensation under this title.

(k) For the purpose of computing the average weekly wage of a juror who is a

covered employee under § 9–213(a) of this title, the wages of the juror shall be the per diem received by the juror for jury duty.

(l) (1) This subsection applies only to a covered employee who:

(i) has suffered:

1. a serious permanent partial disability under § 9–630 of this subtitle; or

2. a permanent total disability under § 9–637 of this subtitle;

(ii) was concurrently employed by more than one employer at the time of the accidental personal injury;

(iii) worked, on average, 20 hours per week or less in the employment in which the accidental personal injury occurred; and

(iv) as a result of the accidental personal injury, is unable to work at any employment the covered employee was engaged in at the time of the accidental personal injury or any similar type of employment.

(2) (i) If the covered employee earned weekly wages from another employment that exceeded the weekly wages the covered employee earned from the employment in which the accidental personal injury occurred, the average weekly wage of the covered employee shall be based on the weekly wages the covered employee earned in the other employment.

(ii) If the covered employee earned weekly wages from two or more other employments and, for more than one of such employments, the weekly wages earned by the employee exceeded the weekly wages of the covered employee from the employment in which the accidental personal injury occurred, the average weekly wage of the covered employee shall be based on weekly wages of the employment where the employee earned the highest wages.

(3) This subsection may not be interpreted as:

(i) except as provided in §§ 9–630 and 9–637 of this subtitle, relieving from liability to pay compensation the employer in whose employment the accidental personal injury occurred;

(ii) creating any liability to pay compensation on the part of another employer in whose employment the accidental personal injury did not occur; or

(iii) requiring the weekly wages from the employments the employee was engaged in at the time of the accidental personal injury to be combined for purposes of computing the average weekly wage of the covered employee.

§9–603.

On or before December 15 of each year, the Department of Labor, Licensing, and Regulation shall:

(1) determine the State average weekly wage as of July 1 of that year; and

(2) report the State average weekly wage to the Commission.

§9–604.

(a) The Commission shall compute all compensation awarded under this title in accordance with the applicable schedule in this subtitle.

(b) In computing the rate of compensation, the Commission shall round off any fractional dollar of compensation to the next higher dollar.

§9–605.

If an employer or its insurer wholly or partly pays compensation, the payment bars recovery from the other of the amount paid.

§9–606.

(a) In a claim involving a minor who is employed illegally under State law, the Commission may double the amount of compensation and death benefits authorized by this title.

(b) When the Commission awards double compensation or death benefits under subsection (a) of this section:

(1) the employer of the minor is solely liable for the increased amount of compensation or death benefits; and

(2) an insurance policy may not provide for payment or indemnification of the employer of the minor for payment of the increased amount of compensation or death benefits.

(c) For purposes of this title, a certificate of the Commissioner of Labor and Industry is conclusive evidence of the legality of any employment of a minor.

§9–607.

(a) The Commission may not award compensation to a prisoner who is a covered employee under § 9-221 of this title until the prisoner is discharged by pardon, parole, or expiration of sentence.

(b) If a prisoner dies from an accidental personal injury, the dependents of the prisoner are entitled to compensation under this title, based on the average weekly

wage of the prisoner.

§9–608.

(a) The Commission shall determine the percentage that an occupational disease contributed to the death or disability of a covered employee when:

(1) the occupational disease is aggravated by another disease or infirmity that is not compensable; or

(2) the occupational disease accelerates, aggravates, prolongs, or in any way contributes to a disability or death from a cause that is not compensable.

(b) (1) The compensation payable shall be reduced to the percentage of the compensation that would have been payable if the occupational disease had been the sole cause of the death or disability that equals the percentage that the occupational disease contributed to the death or disability, as determined by the Commission under subsection (a) of this section.

(2) As may be in the best interest of the covered employee under the circumstances of the case, the Commission shall reduce the compensation to the percentage required by paragraph (1) of this subsection by reducing:

(i) the number of weekly or monthly payments; or

(ii) the amount of the payments.

§9–609.

If a covered employee or the dependents of a covered employee receive compensation or damages under the law of another state, this title may not be construed to allow a total compensation for the same accidental personal injury or occupational disease that is greater than the total compensation provided under this title.

§9–610.

(a) (1) Except for benefits subject to an offset under § 29-118 of the State Personnel and Pensions Article, if a statute, charter, ordinance, resolution, regulation, or policy, regardless of whether part of a pension system, provides a benefit to a covered employee of a governmental unit or a quasi-public corporation that is subject to this title under § 9-201(2) of this title or, in case of death, to the dependents of the covered employee, payment of the benefit by the employer satisfies, to the extent of the payment, the liability of the employer and the Subsequent Injury Fund for payment of similar benefits under this title.

(2) If a benefit paid under paragraph (1) of this subsection is less than the benefits provided under this title, the employer, the Subsequent Injury Fund, or both

shall provide an additional benefit that equals the difference between the benefit paid under paragraph (1) of this subsection and the benefits provided under this title.

(3) The computation of an additional benefit payable under paragraph (2) of this section shall be done at the time of the initial award and may not include any cost of living adjustment after the initial award.

(b) (1) If federal law provides benefits for an individual who is a covered employee of the Military Department of the State under § 9-215 of this title that are equal to or greater than the benefits provided by this title, the covered employee is not entitled to benefits under this title.

(2) If federal law provides benefits for a covered employee of the Military Department of the State that are less than the benefits provided by this title, the State and its insurer shall provide an additional benefit that equals the difference between the benefit provided by federal law and the similar benefit provided by this title.

(c) (1) The Commission may:

(i) determine whether any benefit provided by the employer is equal to or greater than any benefit provided for in this title; and

(ii) make an award against the employer or the Subsequent Injury Fund or both to provide an additional benefit that equals the difference between the benefit provided by the employer and the benefits required by this title.

(2) A claim that comes under this section is subject to the continuing powers and jurisdiction of the Commission.

§9–610.1.

The Workers' Compensation Commission may order an offset or credit against an award for permanent partial disability benefits for:

(1) any vocational rehabilitation benefits previously provided to a covered employee; or

(2) any temporary total disability benefits previously paid to a covered employee.

§9–611.

An abated award of compensation for disability or death due to an occupational disease is subject to an assessment under § 9-1008 of this title.

§9–614.

A covered employee who is temporarily partially disabled due to an accidental

personal injury or an occupational disease shall be paid compensation in accordance with this Part II of this subtitle.

§9–615.

(a) (1) Subject to paragraph (2) of this subsection, if the wage earning capacity of a covered employee is less while temporarily partially disabled, the employer or its insurer shall pay the covered employee compensation that equals 50% of the difference between:

(i) the average weekly wage of the covered employee; and

(ii) the wage earning capacity of the covered employee in the same or other employment while temporarily partially disabled.

(2) The compensation payable under paragraph (1) of this subsection may not exceed 50% of the State average weekly wage.

(b) The employer or its insurer shall pay the weekly compensation for the period that the covered employee is temporarily partially disabled.

§9–618.

A covered employee who is temporarily totally disabled due to an accidental personal injury or an occupational disease shall be paid compensation in accordance with this Part III of this subtitle.

§9–619.

This Part III of this subtitle does not affect or change the law applicable to:

(1) an accidental personal injury or occupational disease that occurred before the provisions of this Part III of this subtitle became effective; or

(2) an individual eligible for benefits as the result of accidental personal injury or occupational disease that occurred when a different rate or percentage payment basis was in effect.

§9–620.

(a) If a temporary total disability lasts for 14 days or less, compensation may not be allowed for 3 calendar days after the beginning of the disability except for payments for hospital, nursing, or other medical services, funeral expenses, or medicine.

(b) If the covered employee was not paid for the day on which the accidental personal injury or occupational disease occurred, the Commission shall count that day as 1 of the 3 days in the waiting period under subsection (a) of this section.

(c) If a temporary total disability lasts for more than 14 days, compensation

shall be allowed from the day of disability.

§9–621.

(a) (1) Except as provided in paragraph (2) of this subsection, if a covered employee is temporarily totally disabled due to an accidental personal injury or an occupational disease, the employer or its insurer shall pay the covered employee compensation that equals two-thirds of the average weekly wage of the covered employee, but:

(i) does not exceed the average weekly wage of the State; and

(ii) is not less than $50.

(2) If the average weekly wage of the covered employee is less than $50 at the time of the accidental personal injury or the last injurious exposure to the hazards of the occupational disease, the employer or its insurer shall pay the covered employee compensation that equals the average weekly wage of the covered employee.

(b) The employer or its insurer shall pay the compensation for the period that the covered employee is temporarily totally disabled.

§9–622.

(a) If, under an initial claim filed on or after January 1, 1988, temporary total disability benefits are reopened under § 9-736(b) of this title, the employer or its insurer shall pay the covered employee compensation that equals two-thirds of the average weekly wage of the covered employee, but:

(1) does not exceed the lesser of:

(i) the average weekly wage of the State on the date of reopening; or

(ii) 150% of the initial award; and

(2) is not less than the initial award.

(b) The employer or its insurer shall pay the compensation for the period that the covered employee is temporarily totally disabled.

§9–625.

A covered employee who is permanently partially disabled due to an accidental personal injury or an occupational disease shall be paid compensation in accordance with this Part IV of this subtitle.

§9–626.

(a) Except as provided in subsection (b) of this section, a covered employee who

is entitled to compensation under this subtitle for a permanent partial disability shall receive minimum weekly compensation of $50.

(b) If the covered employee has an average weekly wage of less than $50 at the time of the accidental personal injury or the last injurious exposure to the hazards of the occupational disease, the covered employee shall receive minimum compensation that equals the average weekly wage of the covered employee.

§9–627.

(a) If a covered employee is entitled to compensation for a permanent partial disability under this Part IV of this subtitle, the employer or its insurer shall pay the covered employee compensation for the period stated in this section.

(b) Compensation shall be paid for the period listed for the loss of the following:

(1) a thumb, 100 weeks;

(2) a 1st finger, commonly called the index finger, 40 weeks;

(3) a 2nd finger, 35 weeks;

(4) a 3rd finger, 30 weeks;

(5) a 4th finger, commonly called the little finger, 25 weeks; and

(6) a great toe, 40 weeks.

(c) (1) Compensation for the loss of more than 1 phalanx of a digit of a hand or foot shall be the same as the compensation for the loss of the entire digit.

(2) Compensation for the loss of the 1st phalanx of a digit shall be 50% of the compensation for the loss of the entire digit.

(3) Compensation for the loss or loss of use of 2 or more digits or 1 or more phalanxes of 2 or more digits of a hand or foot:

(i) may be apportioned to the loss of use of the hand or foot caused by the loss or loss of use of the digits or phalanxes; but

(ii) may not exceed the compensation for the loss of a hand or foot.

(d) (1) Compensation shall be paid for the period listed for the loss of the following:

(i) 1 of the toes other than the great toe, 10 weeks;

(ii) a hand, 250 weeks;

(iii) an arm, 300 weeks;

(iv) a foot, 250 weeks;

(v) a leg, 300 weeks; and

(vi) an eye, 250 weeks.

(2) Compensation shall be paid for the period listed for:

(i) the total loss of hearing of 1 ear, 125 weeks; and

(ii) the total loss of hearing of both ears, 250 weeks.

(3) Compensation shall be paid for a perforated nasal septum for 20 weeks.

(e) The permanent loss of use of a hand, arm, foot, leg, or eye shall be considered equivalent to the loss of the hand, arm, foot, leg, or eye.

(f) (1) When a covered employee has a partial loss of vision in 1 or both eyes, compensation shall be paid that bears the same ratio to compensation for a total loss of vision that the partial loss of vision bears to the total loss of vision.

(2) In determining the percentage of vision lost, consideration may not be given to the effect that a correcting lens may have on the eye.

(g) (1) An amputation at or above the wrist or ankle may be apportioned to the loss of the use of the arm or leg, but may not be less than the compensation for the loss or loss of use of a hand or foot.

(2) Amputation at or above the elbow shall be considered the loss of an arm.

(3) Amputation at or above the knee shall be considered the loss of a leg.

(h) When there has been an amputation or the loss of use of a part of any member of the body listed in this section for which compensation is not specifically provided in this section, the Commission shall award compensation for the proportion of the total number of weeks allowed for the amputation or loss of use of the entire member that the amputated or affected portion bears to the entire member.

(i) (1) For mutilations and disfigurements not provided for in this section, the Commission may award compensation for up to 156 weeks.

(2) In making an award under paragraph (1) of this subsection, the Commission shall consider the character of the mutilation or disfigurement as compared with mutilation and disfigurement specifically provided for in this section.

(j) (1) When compensation is awarded for less than 75 weeks for a disability

listed in subsection (b) of this section, the Commission may determine that the disability results in an industrial loss by considering factors including:

(i) the nature of the physical disability; and

(ii) the age, experience, occupation, and training of the employee when the accidental personal injury or occupational disease occurred.

(2) If the Commission determines that the accidental personal injury or occupational disease results in industrial loss, the Commission may award the covered employee additional weeks of compensation not to exceed a total disability of 75 weeks.

(k) (1) In all cases of permanent partial disability not listed in subsections (a) through (j) of this section, the Commission shall determine the percentage by which the industrial use of the covered employee's body was impaired as a result of the accidental personal injury or occupational disease.

(2) In making a determination under paragraph (1) of this subsection, the Commission shall consider factors including:

(i) the nature of the physical disability; and

(ii) the age, experience, occupation, and training of the disabled covered employee when the accidental personal injury or occupational disease occurred.

(3) The Commission shall award compensation to the covered employee in the proportion that the determined loss bears to 500 weeks.

(4) Compensation shall be paid to the covered employee at the rates listed for the period in §§ 9-628 through 9-630 of this Part IV of this subtitle.

§9–628.

(a) In this section, "public safety employee" means:

(1) a firefighter, fire fighting instructor, or paramedic employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(2) a volunteer firefighter or volunteer ambulance, rescue, or advanced life

support worker who is a covered employee under § 9–234 of this title and who provides volunteer fire or rescue services to:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(3) a police officer employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority;

(v) the Maryland–National Capital Park and Planning Commission; or

(vi) the Washington Metropolitan Area Transit Authority;

(4) a Prince George's County deputy sheriff or correctional officer;

(5) a Montgomery County deputy sheriff or correctional officer;

(6) an Allegany County deputy sheriff;

(7) a Howard County deputy sheriff;

(8) an Anne Arundel County deputy sheriff or detention officer; or

(9) a Baltimore County deputy sheriff, but only when the deputy sheriff sustains an accidental personal injury that arises out of and in the course and scope of performing duties directly related to:

(i) courthouse security;

(ii) prisoner transportation;

(iii) service of warrants;

(iv) personnel management; or

(v) other administrative duties.

(b) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1988, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $80.

(c) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1989, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $82.50.

(d) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1993, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $94.20.

(e) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 2000, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $114.

(f) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay to the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed:

(1) for claims arising from events occurring on or after January 1, 2009, but before January 1, 2010, 14.3% of the State average weekly wage;

(2) for claims arising from events occurring on or after January 1, 2010, but before January 1, 2011, 15.4% of the State average weekly wage; and

(3) for claims arising from events occurring on or after January 1, 2011, 16.7% of the State average weekly wage.

(g) If a covered employee is awarded compensation for less than 75 weeks for a disability listed in § 9–627(b) of this subtitle, the employer or its insurer shall pay the covered employee weekly compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

(h) If a public safety employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay the public safety employee compensation at the

rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

§9–629.

If a covered employee is awarded compensation for a period equal to or greater than 75 weeks but less than 250 weeks, the employer or its insurer shall pay the covered employee weekly compensation that equals two-thirds of the average weekly wage of the covered employee but does not exceed one-third of the State average weekly wage.

§9–630.

(a) (1) Except as provided in paragraph (2) of this subsection, if a covered employee is given an award or a combination of awards resulting from 1 accidental personal injury or occupational disease for 250 weeks or more under § 9-627 of this subtitle:

(i) the Commission shall increase the award or awards by one-third the number of weeks in the award or awards, computed to the nearest whole number; and

(ii) the employer or its insurer shall pay the covered employee weekly compensation that equals two-thirds of the average weekly wage of the covered employee, but does not exceed 75% of the State average weekly wage.

(2) An award for disfigurement or mutilation under § 9-627(i) of this subtitle may not be used to make up the 250 weeks under paragraph (1) of this subsection.

(b) (1) This subsection applies to the payment of weekly compensation required under subsection (a) of this section if the average weekly wage of a covered employee is computed under § 9-602(l) of this subtitle.

(2) The employer in whose employment the accidental personal injury occurred or the employer's insurer shall pay the covered employee weekly compensation that is based on the weekly wages of the covered employee at the employment in which the covered employee was injured.

(3) Subject to paragraph (4) of this subsection, any additional weekly compensation resulting from computing the average weekly wage based on weekly wages earned by the covered employee in other employment shall be payable in the first instance by the employer in whose employment the employee was injured or the employer's insurer.

(4) Subject to any right of the Subsequent Injury Fund to be impleaded or any right of the Subsequent Injury Fund to defend in a case involving payment from the Subsequent Injury Fund created under Title 10, Subtitle 2 of this article, as allowable under Subtitle 8 of this title, the Subsequent Injury Fund shall reimburse the employer

in whose employment the employee was injured or the employer's insurer the amount of additional weekly compensation paid by the employer or insurer under paragraph (3) of this subsection.

(c) (1) Except as provided in paragraph (2) of this subsection, § 9-627 of this subtitle applies to covered employees who are covered by this section.

(2) To the extent of any inconsistency, this section prevails over § 9-627 of this subtitle.

(d) If a covered employee receives additional compensation for a disability on a petition to reopen for serious disability, the additional compensation may not increase the amount of compensation previously awarded and paid.

§9–631.

Compensation for a permanent partial disability under this Part IV of this subtitle shall be paid in addition to and consecutively with compensation for a temporary total disability under Part III of this subtitle.

§9–632.

(a) This section does not apply to compensation paid under Title 10, Subtitle 2 of this article.

(b) If a covered employee dies from a cause that is not compensable under this title, the right to compensation that is payable under this Part IV of this subtitle and unpaid on the date of death survives in accordance with this section.

(c) If there are surviving dependents of the covered employee, the right to compensation survives to the surviving dependents as the Commission may determine.

(d) If there are no surviving dependents of the covered employee and, on the date of death, the covered employee had a legal obligation to support a surviving spouse, the right to compensation survives jointly to:

(1) the surviving spouse of the covered employee; and

(2) the surviving minor children of the covered employee.

(e) If there are no surviving dependents and, on the date of death, the covered employee did not have a legal obligation to support a surviving spouse, the right to compensation survives only to the surviving minor children of the covered employee.

§9–633.

If an award of permanent partial disability compensation is reversed or modified by a court on appeal, the payment of any new compensation awarded shall be:

(1) subject to a credit for compensation previously awarded and paid; and

(2) otherwise made in accordance with this Part IV of this subtitle.

§9–635.

A covered employee who is permanently totally disabled due to an accidental personal injury or an occupational disease shall be paid compensation in accordance with this Part V of this subtitle.

§9–636.

(a) Except as provided in subsection (b) of this section, a permanent total disability shall be determined in accordance with the facts in each case.

(b) Absent conclusive proof to the contrary, the loss or loss of use of any of the following constitutes a permanent total disability:

(1) both arms;

(2) both eyes;

(3) both feet;

(4) both hands;

(5) both legs; or

(6) a combination of any 2 of the following:

(i) an arm;

(ii) an eye;

(iii) a foot;

(iv) a hand; and

(v) a leg.

§9–637.

(a) (1) Except as provided in paragraph (2) of this subsection, if a covered employee has a permanent total disability resulting from an accidental personal injury or an occupational disease, the employer or its insurer shall pay the covered employee compensation that equals two-thirds of the average weekly wage of the covered employee, but may not:

(i) exceed the State average weekly wage; or

(ii) be less than $25.

(2) If the average weekly wage of the covered employee is less than $25 at the time of the accidental personal injury or last injurious exposure to the hazards of the occupational disease, the employer or its insurer shall pay the covered employee weekly compensation that equals the average weekly wage of the covered employee.

(3) Payments under paragraph (1) or (2) of this subsection may not exceed a total of $45,000.

(b) Notwithstanding the $45,000 limitation in subsection (a)(3) of this section, the employer or its insurer shall pay the benefit for the period that the covered employee is permanently totally disabled.

(c) (1) This subsection applies to the payment of weekly compensation required under subsection (a) of this section if the average weekly wage of a covered employee is computed under § 9-602(l) of this subtitle.

(2) The employer in whose employment the accidental personal injury occurred or the employer's insurer shall pay the covered employee weekly compensation that is based on the weekly wages of the covered employee at the employment in which the covered employee was injured.

(3) Subject to paragraph (4) of this subsection, any additional weekly compensation resulting from computing the average weekly wage based on weekly wages earned by the covered employee in other employment shall be payable in the first instance by the employer in whose employment the employee was injured or the employer's insurer.

(4) Subject to any right of the Subsequent Injury Fund to be impleaded or any right of the Subsequent Injury Fund to defend in a case involving payment from the Subsequent Injury Fund created under Title 10, Subtitle 2 of this article, as allowable under Subtitle 8 of this title, the Subsequent Injury Fund shall reimburse the employer in whose employment the employee was injured or the employer's insurer the amount of additional weekly compensation paid by the employer or insurer under paragraph (3) of this subsection.

§9–638.

(a) (1) A covered employee under this section includes an individual who:

(i) is entitled to compensation for claims arising from events occurring after January 1, 1988; or

(ii) 1. is entitled to compensation from the Chesapeake Employers' Insurance Company, as successor to the Injured Workers' Insurance Fund, for claims arising from events occurring on or before January 1, 1988; and

2. was not an employee of a county or municipal corporation when the claim was filed.

(2) Compensation paid to a covered employee under this Part V of this subtitle is subject to an annual cost of living adjustment.

(b) On or before June 30 of each year, the Department of Economic Competitiveness and Commerce shall determine and report to the Commission the rate of change in the Consumer Price Index in the preceding calendar year, using as the Consumer Price Index the lower of:

(1) the Consumer Price Index (all urban consumers, all item index) published by the United States Department of Labor for the Washington, D.C.–Baltimore CMSA; or

(2) the United States city average consumer price index (all urban consumers, all item index).

(c) (1) On or before July 31 of each year, the Commission shall publish the amount of the cost of living adjustment that shall become effective on January 1 of the following year.

(2) The cost of living adjustment may not exceed 5%.

(d) The compensation payable to a covered employee under this Part V of this subtitle shall be adjusted by:

(1) multiplying the initial rate of compensation by the cost of living adjustment; and

(2) adding the product to the compensation, as adjusted, paid during the prior year.

(e) (1) If a covered employee who is entitled to compensation under this Part V of this subtitle also receives federal Social Security disability insurance benefits, the adjusted annual compensation paid shall be reduced to the extent necessary to avoid a diminution of the federal Social Security disability insurance benefits.

(2) If federal Social Security law on disability insurance benefits no longer imposes a diminution in the payment of the adjustment in compensation, payments of compensation shall be made to the full extent allowed under this section.

§9–638.1.

(a) This section applies to:

(1) a nongovernmental unit that employs at least one covered employee;

(2) a county; and

(3) a municipal corporation.

(b) A covered employee under this section means an individual who:

(1) is entitled to compensation for claims arising from events occurring on or before January 1, 1988; and

(2) filed the claims for compensation paid by a nongovernmental unit, a county, or a municipal corporation.

(c) Compensation paid to a covered employee under this Part V of this subtitle is subject to an annual cost of living adjustment if the employer, county, or municipal corporation chooses to provide an adjustment.

(d) On or before June 30 of each year, the Department of Economic Competitiveness and Commerce shall determine and report to the Commission the rate of change in the Consumer Price Index in the preceding calendar year, using as the Consumer Price Index the lower of:

(1) the Consumer Price Index (all urban consumers, all item index) published by the United States Department of Labor for the Washington, D.C.–Baltimore CMSA; or

(2) the United States city average consumer price index (all urban consumers, all item index).

(e) On or before July 31 of each year, the Commission shall publish the amount of the cost of living adjustment that shall become effective on January 1 of the following year.

(f) The compensation payable to a covered employee under this Part V of this subtitle may be adjusted by:

(1) multiplying the initial rate of compensation by the cost of living adjustment; and

(2) adding the product to the compensation, as adjusted, paid during the prior year.

(g) (1) If a covered employee who is entitled to compensation under this Part V of this subtitle also receives federal Social Security disability insurance benefits, the adjusted annual compensation paid shall be reduced to the extent necessary to avoid a diminution of the federal Social Security disability insurance benefits.

(2) If federal Social Security law on disability insurance benefits no longer imposes a diminution in the payment of the adjustment in compensation, payments of

compensation shall be made to the full extent allowed under this section.

§9–639.

Compensation for a permanent total disability under this Part V of this subtitle shall be paid in addition to and consecutively with compensation for a temporary total disability under Part III of this subtitle.

§9–640.

(a) This section does not apply to compensation paid under Title 10, Subtitle 2 of this article.

(b) If a covered employee dies from a cause that is not compensable under this title, the right to compensation that is payable under this Part V of this subtitle and unpaid on the date of death survives in accordance with this section to the extent of $45,000, as increased by the cost of living adjustments under § 9-638 of this Part V of this subtitle.

(c) If there are surviving dependents of the covered employee, the right to compensation survives to the surviving dependents as the Commission may determine.

(d) If there are no surviving dependents of the covered employee and, on the date of death, the covered employee had a legal obligation to support a surviving spouse, the right of compensation shall survive to:

(1) the surviving spouse of the covered employee; or

(2) the surviving spouse and the surviving minor children of the covered employee.

(e) If there are no surviving dependents and, on the date of death, the covered employee did not have a legal obligation to support a surviving spouse, the right to compensation survives only to the surviving minor children of the covered employee.

§9–643.

A covered employee who has a hernia resulting from an accidental personal injury or a strain shall be paid compensation in accordance with this Part VI of this subtitle.

§9–644.

(a) Whenever practicable, a femoral, inguinal, or other hernia proven to be the result of an accidental personal injury or strain in accordance with § 9-504 of this title shall be treated by surgery.

(b) (1) Except as provided in subsection (c) of this section, if a covered employee suffers a compensable hernia and undergoes surgery, the employer or its

insurer shall pay the covered employee compensation only for lost time.

(2) For the purpose of computing lost time under paragraph (1) of this subsection, any time lost because of a delay in holding a hearing shall not be counted as lost time if the delay occurred at the request or due to the fault of the covered employee.

(c) If a special examination shows that a covered employee who suffered from a compensable hernia and underwent surgery has a permanent partial, permanent total, or temporary total disability resulting from the operation, the employer or its insurer shall pay the covered employee compensation for a permanent partial, permanent total, or temporary total disability in accordance with the applicable part of this subtitle.

(d) If a covered employee who suffered a compensable hernia dies as a result of surgery, the death shall be considered death as a result of the accidental personal injury or strain that caused the hernia and the employer or its insurer shall provide death benefits in accordance with Part XII of this subtitle.

§9–645.

(a) If a covered employee who suffers from a compensable hernia refuses to undergo surgery to cure the hernia, the employer or its insurer shall pay the covered employee compensation for 7.5 weeks.

(b) (1) The Commission may excuse a refusal to undergo surgery if the covered employee satisfies the Commission that it is considered unsafe for the covered employee to undergo surgery because of the age or previous physical condition of the covered employee.

(2) If the Commission excuses a refusal to undergo surgery under paragraph (1) of this subsection, the employer or its insurer shall pay the covered employee compensation for 52 weeks.

(c) Payment of compensation under this section is in place of all other benefits for or on account of disability or death that resulted or is alleged to have resulted from the hernia.

§9–646.

(a) This section does not apply to compensation paid under Title 10, Subtitle 2 of this article.

(b) If a covered employee dies from a cause that is not compensable under this title, the right to compensation that is payable under this Part VI of this subtitle and unpaid on the date of death survives in accordance with this section.

(c) If there are surviving dependents of the covered employee, the right to compensation survives to the surviving dependents as the Commission may determine.

(d) If there are no surviving dependents of the covered employee and, on the date of death, the covered employee had a legal obligation to support a surviving spouse, the right to compensation survives jointly to:

(1) the surviving spouse of the covered employee; and

(2) the surviving minor children of the covered employee.

(e) If there are no surviving dependents and, on the date of death, the covered employee did not have a legal obligation to support a surviving spouse, the right to compensation survives only to the surviving minor children of the covered employee.

§9–649.

A covered employee who suffers from occupational deafness shall be paid compensation in accordance with this Part VII of this subtitle.

§9–650.

(a) (1) Hearing loss shall be measured by audiometric instrumentation that meets the following criteria:

(i) ANSI 3.6-1996;

(ii) ANSI S3.43-1992; and

(iii) ANSI 3.39-1987 or any ANSI standard that supersedes the previous calibration or measurement criteria.

(2) Measurements shall be conducted in a sound room that meets the ANSI 3.1-1991 criteria for maximum permissible ambient noise for audiometric test rooms.

(3) Behavioral psychoacoustic measurements shall be obtained with instrumentation that utilizes insert earphones, as referenced in ANSI 3.6-1996.

(4) Electrodiagnostic measurements such as auditory evoked potentials, acoustic emittance measurements, or distortion product otoacoustic emissions may be obtained to determine the nature and extent of workplace hearing loss.

(5) Audiologic results shall be used in conjunction with other information to evaluate a claimant's compensable hearing loss.

(b) (1) The percentage of hearing loss for purposes of compensation for occupational deafness shall be determined by calculating the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000, 2,000, and 3,000 hertz in accordance with paragraph (2) of this subsection.

(2) The average of the thresholds in hearing shall be calculated by:

(i) adding together the lowest measured losses in each of the 4 frequencies; and

(ii) dividing the total by 4.

(3) To allow for the average amount of hearing loss from nonoccupational causes found in the population at any given age, there shall be deducted from the total average decibel loss determined under paragraphs (1) and (2) of this subsection one-half of a decibel for each year of the covered employee's age over 50 at the time of the last exposure to industrial noise.

(c) (1) If the average hearing loss in the 4 frequencies determined under subsection (b) of this section is 25 decibels or less, the covered employee does not have a compensable hearing loss.

(2) If the average hearing loss in the 4 frequencies determined under subsection (b) of this section is 91.7 decibels or more, the covered employee has a 100% compensable hearing loss.

(3) For every decibel that the average hearing loss exceeds 25 decibels, the covered employee shall be allowed 1.5% of the compensable hearing loss, up to a maximum of 100% compensable hearing loss at 91.7 decibels.

(d) The binaural percentage of hearing loss shall be determined by:

(1) multiplying the percentage of hearing loss in the better ear by 5;

(2) adding that product to the percentage of hearing loss in the poorer ear; and

(3) dividing that sum by 6.

(e) (1) In determining the percentage of hearing loss under this section, consideration may not be given to whether the use of an amplification device improves the ability of a covered employee to understand speech or enhance behavioral hearing thresholds.

(2) (i) In determining a workers' compensation claim for noise-related hearing loss, audiologic data shall use both bone conduction and air conduction results.

(ii) If a conductive loss is present, the bone conduction thresholds for each ear, rather than the air conduction levels, shall be used to calculate a claimant's average hearing loss.

§9–651.

(a) Except as provided in subsection (b) of this section, an employer is liable for the full extent of the occupational deafness of a covered employee if:

(1) the employment of the covered employee by the employer has contributed to any extent to the occupational deafness of the covered employee; and

(2) the employer otherwise is liable under this section and § 9-505 of this title.

(b) An employer is liable only for the part of the deafness attributable to the employment by the employer if the employer establishes by competent evidence, including the results of a professionally controlled hearing test, the extent of the deafness of the covered employee that existed before exposure to harmful noise in the employment of the employer.

§9–652.

(a) In a proceeding for compensation on the claim of a covered employee, an employer who is liable for the full extent of the occupational deafness of the covered employee may implead any other employer in whose employment the covered employee was exposed to harmful noise.

(b) To implead another employer, the employer shall give to the impleaded employer and to the Commission notice on the form that the Commission requires.

(c) (1) If the Commission finds that the impleaded employer would have been liable to the employee had the employee proceeded against the impleaded employer under the claim being adjudicated, the employer liable to the employee is entitled to an award that:

(i) is against the impleaded employer; and

(ii) may be enforced in the same manner as an award in favor of a covered employee.

(2) Unless the evidence warrants a different apportionment, the impleaded employer and the employer liable to the covered employee shall have equal liability to the employee.

§9–655.

This Part VIII of this subtitle does not apply to:

(1) a temporary partial disability;

(2) a temporary total disability; or

(3) a disability where the combined effects resulting from a previous impairment that meets the requirements of § 9-802(b)(1) of this title and a subsequent accidental personal injury or occupational disease result in a permanent disability exceeding 50% of the body as a whole.

§9–656.

(a) If it appears that a permanent disability of a covered employee following an accidental personal injury or occupational disease is due partly to the accidental personal injury or occupational disease and partly to a preexisting disease or infirmity, the Commission shall determine:

(1) the proportion of the disability that is reasonably attributable to the accidental personal injury or occupational disease; and

(2) the proportion of the disability that is reasonably attributable to the preexisting disease or infirmity.

(b) The covered employee:

(1) is entitled to compensation for the portion of the disability of the covered employee that is reasonably attributable solely to the accidental personal injury or occupational disease; and

(2) is not entitled to compensation for the portion of the disability that is reasonably attributable to the preexisting disease or infirmity.

§9–657.

(a) When entering into a contract of employment, an individual who has suffered the loss or loss of use of a hand, arm, foot, leg, or eye may waive any right to compensation to which the covered employee would be entitled because of the existing permanent partial disability in the event of a subsequent accidental personal injury or occupational disease.

(b) For a waiver under subsection (a) of this section to be effective, the waiver shall:

(1) be made in writing, as part of the contract of employment or as a separate instrument;

(2) plainly describe the existing permanent partial disability; and

(3) be executed by the employee:

(i) with knowledge of its contents; and

(ii) before the occurrence of an accidental personal injury or occupational disease on which a claim is based.

(c) If a covered employee who has executed a waiver in accordance with this section suffers an additional accidental personal injury or occupational disease, the covered employee is entitled to compensation for a disability resulting solely from the

additional injury or occupational disease.

§9–660.

(a) In addition to the compensation provided under this subtitle, if a covered employee has suffered an accidental personal injury, compensable hernia, or occupational disease the employer or its insurer promptly shall provide to the covered employee, as the Commission may require:

(1) medical, surgical, or other attendance or treatment;

(2) hospital and nursing services;

(3) medicine;

(4) crutches and other apparatus; and

(5) artificial arms, feet, hands, and legs and other prosthetic appliances.

(b) The employer or its insurer shall provide the medical services and treatment required under subsection (a) of this section for the period required by the nature of the accidental personal injury, compensable hernia, or occupational disease.

(c) Except as provided in § 9-736(b) and (c) of this title, any award or order of the Commission under this section may not be construed to:

(1) reopen any case; or

(2) allow any previous award to be changed.

§9–661.

(a) The employer or its insurer shall repair or replace an artificial eye, limb, tooth or other prosthetic appliance or eyeglasses damaged or destroyed because of an accident during the course of employment.

(b) If the employer or its insurer fails to make a repair or replacement required under subsection (a) of this section, the covered employee may make the repair or replacement at the expense of the employer or its insurer.

(c) If the employer or its insurer fails to make a repair or replacement required under subsection (a) of this section within 3 days after the damage or destruction occurs, the Commission may order the employer or its insurer to pay compensation to the covered employee for any lost time after the 3-day waiting period.

§9–662.

If the Chairman of the Commission finds or has reasonable cause to believe that a physician or health care provider has a pattern of providing excessive appliances,

medicine, services, or treatment, the Chairman shall refer the case to the State Board of Physicians or the appropriate board of review of the health care provider to determine if the physician or health care provider provided excessive appliances, medicine, services, or treatment.

§9–663.

(a) (1) The Commission shall adopt regulations setting standards for the assessment of fines under § 9-664 of this Part IX of this subtitle.

(2) The Commission may adopt regulations about:

(i) the provision of medicine and medical, nursing, and hospital services to a covered employee;

(ii) payment for the medicine and services; and

(iii) the exercise by the Chairman of the Commission of the powers granted under § 9-662 of this subtitle.

(b) (1) The Commission may regulate fees and other charges for medical services or treatment under this subtitle.

(2) Each fee or other charge for medical service or treatment under this subtitle is limited to the amount that prevails in the same community for similar treatment of an injured individual with a standard of living that is comparable to that of the covered employee.

(3) At least once every 2 years, the Commission shall:

(i) review its guide of medical and surgical fees for completeness and reasonableness; and

(ii) make appropriate revisions to the guide of medical and surgical fees.

§9–664.

(a) (1) If the Commission finds that the employer or its insurer has failed, without good cause, to pay for treatment or services required by § 9-660 of this Part IX of this subtitle within 45 days after the Commission, by order, finally approves the fee or charge for the treatment or services, the Commission may impose a fine on the employer or insurer, not exceeding 20% of the amount of the approved fee or charge.

(2) The employer or insurer shall pay the fine to the Commission to be deposited in the General Fund of the State.

(b) (1) Interest, payable to the provider of the treatment or services, shall

accrue at the rate specified in § 11-107(a) of the Courts Article on any amount owed to the provider that:

(i) is due and payable; and

(ii) remains unpaid more than 45 days after notice of the payment due has been mailed.

(2) Interest shall accrue beginning on the 46th day after the later of:

(i) the day the payment becomes due; or

(ii) the day the notice of the payment due is mailed.

§9–667.

In addition to any other compensation paid to a covered employee entitled to compensation under this title, the employer or its insurer shall reimburse the covered employee for lost wages due to time spent:

(1) being examined by a physician or other examiner at the request of the employer or its insurer; and

(2) attending and traveling to and from a Commission hearing scheduled as a result of a continuance caused by action of the employer or its insurer.

§9–670.

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

(b) "Disabled" means rendered unable as the result of an accidental personal injury or an occupational disease to perform work for which the person was previously qualified.

(c) "Suitable gainful employment" means employment, including self-employment, that restores the disabled covered employee, to the extent possible, to the level of support at the time of:

(1) if an accidental personal injury, the accidental personal injury; or

(2) if an occupational disease, disablement from the occupational disease.

(d) "Vocational assessment" means:

(1) collecting and analyzing each of the economic, educational, legal, medical, social, and vocational circumstances of a disabled covered employee, including the present mental and physical ability of the covered employee to participate in vocational rehabilitation services; and

(2) determining the appropriate vocational rehabilitation services reasonably necessary to return the disabled covered employee to suitable gainful employment.

(e) (1) "Vocational rehabilitation services" means professional services reasonably necessary during or after or both during and after medical treatment to enable a disabled covered employee, as soon as practical, to secure suitable gainful employment.

(2) "Vocational rehabilitation services" includes:

(i) coordination of medical services;

(ii) vocational assessment;

(iii) vocational evaluation;

(iv) vocational counseling;

(v) vocational rehabilitation plan development;

(vi) vocational rehabilitation plan monitoring;

(vii) vocational rehabilitation training;

(viii) job development; and

(ix) job placement.

§9–671.

(a) If required by the Commission, an individual who provides vocational rehabilitation services under this title in the State shall register with the Commission as provided in Subtitle 6A of this title.

(b) An individual who is required under subsection (a) of this section shall register on the form required by the Commission.

(c) An individual who fails to register with the Commission under subsection (a) of this section may not receive payment for providing vocational rehabilitation services.

§9–672.

A disabled covered employee is entitled to vocational rehabilitation services.

§9–673.

(a) The Commission shall:

(1) refer a covered employee who is entitled to vocational rehabilitation services under § 9-672 of this Part XI of this subtitle to an appropriate vocational rehabilitation provider; and

(2) obtain from the provider a vocational rehabilitation plan that includes:

(i) a vocational assessment; and

(ii) recommendations for vocational rehabilitation services reasonably necessary to return the disabled covered employee to suitable gainful employment.

(b) In determining whether employment is suitable gainful employment, consideration shall be given to:

(1) the qualifications, interests, incentives, earnings before the accidental personal injury or date of disablement from the occupational disease, and future earning capacity of the covered employee;

(2) the nature and extent of the disability of the covered employee; and

(3) the current and future condition of the labor market.

(c) On receipt of a vocational rehabilitation plan, the Commission promptly shall give written notice of the contents of the plan to each party.

(d) (1) Within 15 days after the day of written notification by the Commission of the contents of the vocational rehabilitation plan, any party in interest may request a hearing to contest the plan.

(2) At the hearing, the parties may present additional evidence as necessary.

(3) After the hearing, the Commission shall:

(i) wholly or partly accept or reject the vocational rehabilitation plan; and

(ii) pass an appropriate order about vocational rehabilitation of the covered employee.

§9–674.

(a) The employer or its insurer shall pay the expenses of the vocational assessment and vocational rehabilitation services of a covered employee.

(b) (1) While a covered employee is receiving vocational rehabilitation services, the employer or its insurer shall pay compensation to the covered employee as if the covered employee was temporarily totally disabled.

(2) If a covered employee refuses to accept vocational rehabilitation services in accordance with an order of the Commission and the Commission determines the refusal to be unreasonable, payments under paragraph (1) of this subsection are forfeited for the period of refusal.

(c) (1) If a covered employee is required to live away from home in the course of receiving vocational rehabilitation services, the employer or its insurer shall pay to the covered employee money that:

(i) is sufficient to maintain the covered employee while the covered employee receives vocational rehabilitation services; but

(ii) does not exceed $40 a week.

(2) The employer or insurer shall make payments for maintenance under paragraph (1) of this subsection in addition to the payment of compensation under subsection (b) of this section.

(d) (1) Except as provided in paragraph (2) of this subsection, a covered employee who resides at home during vocational rehabilitation training is not entitled to reimbursement of transportation costs to and from the place of vocational training.

(2) In unusual cases the Commission may allow reasonable transportation costs.

(e) For the purposes of this section, vocational rehabilitation training may not last for more than 24 months.

§9–675.

(a) When a covered employee has received temporary total disability benefits continuously for 6 months, the insurer or self-insurer shall submit to the Commission a vocational rehabilitation progress report on the form that the Commission requires.

(b) After submitting a report under subsection (a) of this section, the insurer or self-insurer shall submit further vocational rehabilitation progress reports to the Commission every 120 days or sooner as requested by the Commission.

(c) If the Commission finds that an insurer or self-insurer has failed to submit a report within the time period required by this section, the Commission may impose a fine not exceeding $500 on the insurer or self-insurer.

§9–678.

A dependent of a covered employee who is entitled to compensation for the death of the covered employee resulting from an accidental personal injury or occupational disease shall be paid compensation in accordance with this Part XII of this subtitle.

§9–679.

(a) This section applies only to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) Except as otherwise provided in this subtitle, the Commission shall determine all questions of partial or total dependency in accordance with the facts of each case that existed:

(1) at the time of the occurrence of the accidental personal injury that caused the death of the covered employee; or

(2) on the date of disablement from the occupational disease that caused the death of the covered employee.

§9–680.

(a) This section applies only to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) The surviving spouse of a covered employee whose death was caused by an accidental personal injury or an occupational disease is not entitled to benefits under this title if:

(1) the surviving spouse deserts the covered employee for more than 1 year before the time of the occurrence of the accidental personal injury or the date of disablement from the occupational disease;

(2) the surviving spouse deserts the covered employee at any time after the time of the occurrence of the accidental personal injury or the date of disablement from the occupational disease; or

(3) the surviving spouse and the covered employee:

(i) were married after the time of the occurrence of the accidental personal injury or the date of disablement from the occupational disease; and

(ii) do not have any dependent children.

(c) (1) Except as provided in paragraph (2) of this subsection, an individual is not entitled to compensation due to the death of a covered employee from an occupational disease if the individual became dependent on the covered employee after the beginning of the 1st compensable disability of the covered employee resulting from the occupational disease.

(2) The prohibition against compensation in paragraph (1) of this subsection does not apply to a child of the deceased covered employee born:

(i) after the beginning of the 1st compensable disability of the covered employee resulting from the occupational disease; and

(ii) of a marriage that existed at the beginning of the disability.

§9–681.

(a) This section applies only to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) If there are individuals who were wholly dependent on a deceased covered employee at the time of death resulting from an accidental personal injury or occupational disease, the employer or its insurer shall pay death benefits in accordance with this section.

(c) (1) Except as provided in paragraph (2) of this subsection, the death benefit payable under this section shall equal two–thirds of the average weekly wage of the deceased covered employee, but may not:

(i) exceed the State average weekly wage; or

(ii) be less than $25.

(2) If the average weekly wage of the deceased covered employee was less than $25 at the time of the accidental personal injury or the last injurious exposure to the hazards of the occupational disease, the weekly death benefit payable under this section shall equal the average weekly wage of the deceased covered employee.

(d) Except as otherwise provided in this section, the employer or its insurer shall pay the weekly death benefit:

(1) for the period of total dependency; or

(2) until $45,000 has been paid.

(e) If a surviving spouse who was wholly dependent at the time of death continues to be wholly dependent after $45,000 has been paid, the employer or its insurer shall continue to make payments to the surviving spouse at the same weekly rate during the total dependency of the surviving spouse.

(f) (1) If a surviving spouse who is wholly dependent at the time of death becomes wholly self–supporting before $45,000 has been paid, the employer or its insurer shall continue to pay death benefits until $45,000 has been paid.

(2) If a surviving spouse who is wholly dependent at the time of death becomes partly self–supporting, the employer or its insurer shall continue to make payments to the surviving spouse in accordance with § 9–682 of this subtitle.

(g) (1) Except as provided in paragraph (2) of this subsection, if a surviving spouse who is wholly dependent remarries, payment to the surviving spouse shall stop on the date of remarriage, even if $45,000 has not been paid.

(2) If a surviving spouse who is wholly dependent remarries and does not have dependent children at the time of the remarriage, the employer or its insurer shall continue to make payments to the surviving spouse for 2 years after the date of the remarriage.

(h) If a surviving child continues to be wholly dependent after the total amount of $45,000 has been paid, the employer or its insurer shall continue to make payments at the same weekly rate during the total dependency of the surviving child.

(i) Except as provided in subsection (j) of this section, if a child who is wholly dependent at the time of death becomes wholly or partly self–supporting, the employer or its insurer shall continue to pay death benefits until $45,000 has been paid.

(j) (1) Except as provided in paragraphs (2) and (3) of this subsection, the employer or its insurer shall continue to make payments to, or for the benefit of, a surviving child until the child reaches 18 years of age.

(2) The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for the period of dependency if the child is:

(i) wholly dependent on the deceased covered employee; and

(ii) incapable of self–support because of mental or physical disability or other sufficient reason as determined by the Commission.

(3) The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for up to 5 years after reaching the age of 18 if:

(i) the child is attending school on a full–time basis; and

(ii) the school offers an educational program or a vocational training program, that is accredited or approved by the State Department of Education.

(k) The Commission has continuing jurisdiction to:

(1) determine whether a surviving spouse or child has become wholly or partly self–supporting;

(2) suspend or terminate payments of compensation; and

(3) reinstate payments of compensation that have been suspended or terminated.

§9–682.

(a) This section applies only to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) The employer or its insurer shall pay a death benefit in accordance with this section if:

(1) there are no individuals who were wholly dependent on the deceased covered employee at the time of death, but there are individuals who were partly dependent; or

(2) a surviving spouse who was wholly dependent on the deceased covered employee at the time of death becomes partly self–supporting.

(c) (1) The maximum weekly death benefit payable under this section shall equal two–thirds of the average weekly wage of the deceased covered employee, but may not exceed two–thirds of the State average weekly wage.

(2) The weekly death benefit payable under this section shall be the percentage of the maximum weekly death benefit under paragraph (1) of this subsection that:

(i) the weekly earnings of the deceased covered employee bears to the combined weekly earnings of the deceased covered employee and the partly dependent individuals; and

(ii) does not exceed the maximum weekly death benefit.

(d) Except as otherwise provided in this section, the employer or its insurer shall pay the weekly death benefit:

(1) for the period of partial dependency; or

(2) until $75,000 has been paid, including any payments made during a period of total dependency under § 9–681 of this subtitle.

(e) (1) Subject to paragraph (2) of this subsection, if a surviving spouse who is partly dependent remarries and does not have dependent children at the time of the remarriage, the employer or its insurer shall make payments to the surviving spouse for 2 years after the date of the remarriage.

(2) The total of the payments made before the remarriage may not exceed $75,000.

(f) (1) Except as provided in paragraphs (2) and (3) of this subsection, the employer or its insurer shall continue to make payments to, or for the benefit of, a surviving child until the child reaches 18 years of age.

(2) If a child who is 18 years old or older remains partly dependent on the deceased covered employee, the employer or its insurer shall continue to make payments in accordance with subsections (c) and (d) of this section.

(3) The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for up to 5 years after reaching the age of 18 if:

(i) the child is attending school on a full–time basis; and

(ii) the school offers an educational program or a vocational training program and the program is accredited or approved by the Maryland State Department of Education.

§9–683.

(a) This section applies only to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) If there are multiple dependents entitled to death benefits, the Commission may apportion an award of death benefits among the dependents in the manner that the Commission considers just and equitable.

(c) If there are wholly and partly dependent individuals entitled to death benefits, the Commission may:

(1) award the death benefits to the wholly dependent individuals only; or

(2) apportion the award among the wholly and partly dependent individuals in the manner that the Commission considers to be fair and equitable under all of the facts and circumstances of the case.

(d) (1) Death benefits shall be paid to 1 or more of the dependents of a covered employee who are entitled to death benefits, as determined by the Commission, for the benefit of all of the dependents who are entitled to death benefits.

(2) A dependent to whom death benefits are paid shall apply the death benefits to the use of all of the dependents who are entitled to death benefits:

(i) according to the respective claims of the dependents on the deceased covered employee for support; and

(ii) in compliance with the findings and direction of the Commission.

§9–683.1.

(a) This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) Except as otherwise provided in this subtitle, the Commission shall determine all questions of dependency in accordance with the facts of each case that existed:

(1) at the time of the occurrence of the accidental personal injury that caused the death of the covered employee; or

(2) on the date of disablement from the occupational disease that caused the death of the covered employee.

(c) Notwithstanding subsection (b) of this section, the Commission may determine the question of dependency of a child of a covered employee born after:

(1) the time of the occurrence of the accidental personal injury that caused the death of the covered employee;

(2) the date of disablement from the occupational disease that caused the death of the covered employee; or

(3) the death of the covered employee resulting from the accidental personal injury or occupational disease.

§9–683.2.

(a) This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) The surviving spouse of a deceased covered employee whose death was caused by an accidental personal injury or an occupational disease is not entitled to death benefits under this title if the surviving spouse and the covered employee were married after the time of the occurrence of the accidental personal injury or the date of disablement from the occupational disease.

§9–683.3.

(a) This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) If there are individuals who were dependent on a deceased covered employee at the time of death resulting from an accidental personal injury or occupational disease, the employer or its insurer shall pay death benefits in accordance with this section.

(c) (1) Beginning on the date of death of a deceased covered employee and continuing for a period of 144 months, the employer or its insurer shall pay death benefits, as calculated in this section, to the dependents of the deceased covered employee.

(2) Except as otherwise provided in this subsection, death benefits shall be paid at the rate of two–thirds of the deceased covered employee's average weekly wage at the time of the occurrence of the accidental personal injury that caused the death of the covered employee or on the date of the last injurious exposure of the covered employee to the hazards of the occupational disease that caused the death of the covered employee, not to exceed the State average weekly wage.

(3) The average weekly wage of all dependents and the deceased covered employee's average weekly wage shall be combined to determine the family income.

(4) The deceased covered employee's income shall be divided by the family income to determine the percent of the family income earned by the deceased covered employee.

(5) The percent of the family income earned by the deceased covered employee shall be multiplied by the death benefit, as calculated in paragraph (2) of this subsection, to determine the amount payable, collectively, to all dependents.

(6) If the average weekly wage of the deceased covered employee was less than $100 at the time of the occurrence of the accidental personal injury that caused the death of the covered employee or on the date of disablement from the occupational disease that caused the death of the covered employee, the weekly death benefit paid under this section shall equal the average weekly wage of the deceased covered employee up to $100 per week.

(d) (1) Death benefits shall be paid for a minimum of 5 years after the covered employee's death.

(2) Subject to subsections (e) through (i) of this section, provided that a minimum of 5 years of death benefits has been paid, death benefits shall terminate on the date that would have been the deceased covered employee's 70th birthday.

(e) Notwithstanding the time limitations under subsections (c) and (d) of this section, if a dependent spouse or dependent child is incapable of self–support because of a mental or physical disability that preexisted the covered employee's death, death benefits shall continue for the duration of the dependent's disability.

(f) If a dependent spouse remarries, death benefits shall terminate 2 years after the date of remarriage.

(g) The employer or its insurer shall continue to make payments to or for the benefit of a dependent child until the child reaches 18 years of age.

(h) The employer or its insurer shall continue to make payments to, or for the benefit of, a dependent child for up to 5 years after the child reaches 18 years of age if:

(1) the child is attending school on a full–time basis; and

(2) the school offers an educational program or a vocational training program that is accredited or approved by the State Department of Education.

(i) (1) Except as provided in paragraph (2) of this subsection, all dependents who are neither a dependent spouse nor a dependent child shall be entitled to no more than a total of $65,000, collectively, as their portion of the total death benefits payable in accordance with subsection (c) of this section.

(2) Beginning on January 1, 2012, the benefit limit under paragraph (1) of this subsection shall be adjusted annually by the same percent applicable to the adjustment of the State average weekly wage.

§9–683.4.

(a) This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) The Commission has continuing jurisdiction to:

(1) suspend, reallocate, or terminate payments of compensation in accordance with this part; and

(2) reinstate payments of compensation that have been suspended or terminated under this section.

§9–683.5.

(a) This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under §

9–683.6 of this subtitle.

(b) If there are multiple dependents entitled to death benefits, the Commission may apportion an award of death benefits among the dependents in the manner that the Commission considers just and equitable.

(c) (1) Death benefits shall be paid to 1 or more of the dependents of a covered employee who are entitled to death benefits, as determined by the Commission, for the benefit of all of the dependents who are entitled to death benefits.

(2) A dependent to whom death benefits are paid shall apply the death benefits to the use of all of the dependents who are entitled to death benefits:

(i) according to the respective claims of the dependents of the deceased covered employee for support; and

(ii) in compliance with the findings and direction of the Commission.

§9–683.6.

(a) A municipal corporation or county may make a one–time election to make their covered employees who are subject to § 9–503 of this title and their dependents subject to §§ 9–683.1 through 9–683.5 of this subtitle.

(b) To make the election described under subsection (a) of this section, the governing body of the municipal corporation or county shall:

(1) adopt an ordinance or resolution stating that it is the intent of the governing body to exercise the right of election; and

(2) forward a copy of the ordinance or resolution to the Commission.

(c) On receipt of a copy of the resolution, the Commission shall acknowledge receipt of the ordinance or resolution to the municipal corporation or county.

(d) Once the Commission has acknowledged receipt of the ordinance or resolution, any workers' compensation case arising on or after the date of acknowledgement and involving a covered employee of the municipal corporation or county who is subject to § 9–503 of this title and the dependents of the covered employee shall be subject to §§ 9–683.1 through 9–683.5 of this subtitle.

§9–684.

If there are no dependents, the liability of an employer or its insurer shall be limited to:

(1) medical services or treatment under Part IX of this subtitle;

(2) funeral benefits under Part XIII of this subtitle; and

(3) assessments under § 9-1008 of this title.

§9–685.

If a dependent of a covered employee dies, the right to any death benefit that is payable to the dependent and unpaid on the date of death of the dependent:

(1) shall survive and be vested in the surviving dependents of the covered employee, as determined by the Commission; and

(2) if there are no surviving dependents of the covered employee, shall not survive.

§9–686.

(a) A dependent of a covered employee who is a nonresident alien may be officially represented by a consular officer of the nation of which the dependent is a citizen or subject.

(b) If a consular officer represents a nonresident alien dependent:

(1) the consular officer shall have the right to receive all death benefits awarded to the dependent for distribution to the dependent; and

(2) receipt of death benefits by the consular officer is a full discharge of the amounts paid to and received by the consular officer.

§9–689.

(a) The employer or its insurer shall pay reasonable funeral expenses of a deceased covered employee, not exceeding $7,000, if the covered employee died as a result of:

(1) an accidental personal injury, within 7 years of the accidental personal injury; or

(2) an occupational disease.

(b) Unless approved by the Commission, a bill for funeral expenses of more than $7,000 is void and uncollectable out of:

(1) workers' compensation benefits payable with respect to the deceased covered employee; or

(2) personal assets of any person to whom workers' compensation benefits are payable with respect to the deceased covered employee.

(c) If there are no dependents, the employer or its insurer shall pay the expenses of the last sickness and funeral expenses of the covered employee.

§9–6A–01.

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

(b) "Advisory Committee" means the Advisory Committee on the Registration of Rehabilitation Practitioners.

(c) "Registration" means the authorization of a rehabilitation practitioner to provide vocational rehabilitation services.

(d) (1) "Rehabilitation practitioner" means an individual who provides vocational rehabilitation services.

(2) "Rehabilitation practitioner" includes:

(i) a nurse certified by the State Board of Nursing as a nurse case manager;

(ii) a rehabilitation counselor; and

(iii) a vocational evaluator.

(e) "State Department of Education, Division of Rehabilitation Services" means the State agency designated to administer the public vocational rehabilitation services program.

(f) "Vocational rehabilitation services" has the meaning stated in § 9–670 of this title.

§9–6A–02.

The purpose of this subtitle is to establish educational and experience requirements for individuals who provide vocational rehabilitation services in the workers' compensation field and to establish a registration system to better regulate the activities of those individuals providing vocational rehabilitation services.

§9–6A–03.

(a) The State Department of Education, Division of Rehabilitation Services, shall be registered with the Commission to provide vocational rehabilitation services under this subtitle.

(b) Rehabilitation specialists employed by the State Department of Education, Division of Rehabilitation Services, are not required to register individually to provide vocational rehabilitation services to clients of the Division.

(c) (1) Employers of rehabilitation practitioners are not required to register individually for their business to provide vocational rehabilitation services.

(2) Exemption of registration applies only to those employers who are not registered rehabilitation practitioners.

(3) Exempt employers may not individually provide vocational rehabilitation services.

§9–6A–04.

(a) This subtitle does not limit the right of any individual to engage in a health occupation that the individual otherwise is authorized to engage in under the Health Occupations Article.

(b) The Commission has the authority to adopt and enforce rules and regulations regarding the standards of practice of rehabilitation counselors and vocational evaluators.

(c) Violation of the rules and regulations adopted or enforced by the Commission or the State Board of Nursing in accordance with this title by a rehabilitation practitioner shall be grounds for denial of a registration to any applicant, or suspension or revocation of a registrant's registration pursuant to §§ 9-6A-15 and 9-6A-16 of this subtitle.

§9–6A–05.

(a) There is an Advisory Committee on the Registration of Rehabilitation Practitioners within the Commission.

(b) The Advisory Committee consists of seven members appointed by the Commission in accordance with this section.

(c) (1) The Advisory Committee shall be comprised of registered rehabilitation practitioners, who are registered with the Commission under this subtitle.

(2) The Commission shall appoint members of the Advisory Committee so that its membership reflects the geographic, racial, ethnic, and gender makeup of the population of the State.

(d) The term of an Advisory Committee member is 3 years.

(e) In making appointments to the Advisory Committee, the Commission shall provide for continuity and rotation through a staggering of terms.

(f) A majority of the fully authorized Advisory Committee is a quorum.

(g) The Advisory Committee shall meet at the request of the Commission.

(h) In addition to the duties set forth elsewhere in this title, the Advisory

Committee shall:

(1) review applications for registration submitted to the Commission whenever further clarification regarding the applicant is requested by the Commission; and

(2) after review and evaluation, provide recommendations to the Commission chairman on the applicant.

§9–6A–06.

(a) A rehabilitation practitioner shall be registered with the Commission before the practitioner may receive payment under this title for providing vocational rehabilitation services.

(b) Any employer not registered by the Commission, but contracting on behalf of registered rehabilitation practitioners may receive payment for providing vocational rehabilitation services.

§9–6A–07.

(a) In addition to any powers set forth elsewhere, the Commission may adopt any regulation to carry out this subtitle.

(b) (1) Subject to paragraph (2) of this subsection, the Commission shall establish reasonable fees for registration, registration renewal, and any other service performed by the Commission necessary to carry out the provisions of this subtitle.

(2) (i) The fees established by the Commission shall be set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating the rehabilitation practitioner industry in this State in accordance with the provisions of this subtitle.

(ii) The fee for registration may not exceed $165.

(3) The Commission shall pay all money collected under this subtitle into a special fund to be used only to fund the actual direct and indirect costs of regulating the rehabilitation practitioner industry in this State in accordance with the provisions of this subtitle.

(4) Any surplus remaining in the special fund at the end of the fiscal year shall be used to reduce the registration fee for the following fiscal year.

§9–6A–08.

(a) To qualify for registration, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall:

(1) be at least 18 years old; and

(2) satisfy the education, experience, and supervision requirements of § 9-6A-09 of this subtitle.

§9–6A–09.

(a) To qualify for registration, a nurse case manager shall be certified as such by the State Board of Nursing.

(b) To qualify for registration, a rehabilitation counselor shall:

(1) have a bachelor's degree from an accredited institution in rehabilitation counseling, human services, psychology, or a related field with at least 1 year of work experience in a human services occupation;

(2) have a master's or doctoral degree in rehabilitation counseling, human services, psychology, education, or a related field; or

(3) be a certified rehabilitation counselor, certified vocational evaluator, certified disability management specialist, hold an equivalent national certification that is acceptable to the Commission, or have met all of the education and experience requirements to be eligible to be certified.

(c) To qualify for registration, a vocational evaluator shall:

(1) have a bachelor's degree from an accredited institution in vocational evaluation, rehabilitation psychology, human services, education, or a related field with 1 year of work experience in that field;

(2) have a master's or doctoral degree in rehabilitation, vocational evaluation, psychology, human services, education, or a related field; or

(3) be certified or have met all of the educational and experience requirements to be eligible to be certified in vocational evaluation by the Commission on certification of work adjustment and vocational evaluation specialists, or have met all of the education and experience requirements to be eligible for certification.

(d) In addition to the requirements of subsections (b) and (c) of this section:

(1) a rehabilitation counselor who has met the education requirements under subsection (b)(1) or (2) of this section to qualify for registration shall work under the administrative supervision of a certified rehabilitation counselor, certified vocational evaluator, certified disability management specialist, certified case manager, or certified rehabilitation registered nurse; and

(2) a vocational evaluator who has met the education requirements under subsection (c)(1) or (2) of this section shall work under the administrative supervision of a certified vocational evaluator, certified rehabilitation counselor, certified disability management specialist, certified case manager, or certified rehabilitation registered nurse.

§9–6A–10.

An applicant for registration shall submit an application to the Commission on the form required by the Commission and pay the registration fee as established by the Commission.

§9–6A–11.

(a) Subject to the provisions of this section, the Commission may waive any requirements of this subtitle for a rehabilitation practitioner who applies for registration to provide vocational rehabilitation services.

(b) The Commission may grant a waiver under this section only if the applicant provides vocational rehabilitation services to less than three covered employees in a given year.

(c) Any other waiver that is granted shall be in accordance with regulations approved by the Commission.

§9–6A–12.

The Commission shall register any applicant who meets the requirements of this subtitle.

§9–6A–13.

A registration, while in effect, authorizes an individual, as a rehabilitation practitioner, to provide vocational rehabilitation services.

§9–6A–14.

(a) A registration expires on the date set by the Commission, unless the registration is renewed for an additional term as provided in this section. A registration may not be renewed for a term longer than 3 years.

(b) At least 1 month before a registration expires, the Commission shall send to the registrant, by first-class mail to the last known address of the registrant:

(1) a renewal application form; and

(2) a renewal notice that states:

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

(ii) the date by which the Commission must receive the renewal application in order that the renewed registration may be issued and mailed before the current registration expires; and

(iii) the amount of the registration and renewal fee.

(c) Before a registration expires, the registrant may renew the registration for an additional 3-year term, if the registrant:

(1) is entitled under this subtitle to be registered;

(2) pays to the Commission the renewal fee set by the Commission; and

(3) provides satisfactory evidence of compliance with continuing education requirements and other qualifications and requirements specified under this subtitle for registration renewal.

(d) The Commission shall renew the registration of any registrant who meets the requirements of this section.

(e) Each registrant shall give the Commission written notice of any change of address.

§9–6A–15.

(a) The Commission may deny registration to any applicant, reprimand any registrant, or suspend or revoke any registration if the applicant or registrant:

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

(2) fraudulently or deceptively uses a registration; or

(3) does not comply with the rules and regulations governing the standards of practice with regard to the delivery of vocational rehabilitation services.

(b) The Commission may review the status of any rehabilitation practitioner registered under this subtitle at any time.

§9–6A–16.

(a) Before the Commission takes any final action under § 9-6A-15 of this subtitle, the Commission shall give the individual against whom the action is contemplated an opportunity for a hearing before the Commission.

(b) The individual may be represented at the hearing by counsel.

(c) The Commission:

(1) shall give notice and hold a hearing in accordance with hearing regulations adopted by the Commission;

(2) may administer oaths in connection with any proceeding under this section; and

(3) may issue subpoenas in connection with any proceeding under this section.

(d) If an individual fails to comply with a subpoena issued under this section, on petition of the Commission, a court of competent jurisdiction may compel compliance with the subpoena.

(e) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Commission may hear and determine the matter.

§9–6A–17.

Any individual aggrieved by a decision of the Commission under this subtitle may appeal the decision as allowed under Subtitle 7 of this title.

§9–6A–18.

Except as otherwise provided in this subtitle, an individual may not engage, attempt to engage, or offer to engage in the practice of providing vocational rehabilitation services in the State unless the individual is registered with the Commission.

§9–6A–19.

Unless authorized under this subtitle to engage in the practice of providing vocational rehabilitation services, an individual may not:

(1) be reimbursed under this title for the provision of vocational rehabilitation services; or

(2) represent to the public by use of a title, including "registered rehabilitation consultant", by description of services, methods, procedures, or otherwise, that the individual is authorized to engage in the practice of providing vocational rehabilitation services in the State.

§9–6A–20.

This subtitle may be cited as the "Maryland Rehabilitation Practitioner Registration Act".

§9–701.

Subject to this title, the Commission shall:

(1) adopt reasonable and proper regulations to govern the procedures of the Commission, which shall be as simple and brief as reasonably possible;

(2) determine the nature and the form of an application for benefits or compensation;

(3) regulate and provide for the nature and form of notices and for the service of notices;

(4) regulate and provide for the nature and extent of evidence and proof and for the method of taking and providing evidence and proof to establish a right to compensation;

(5) regulate the method of conducting an investigation or physical examination; and

(6) set the time within which an adjudication or award shall be made.

§9–702.

Absent substantial evidence to the contrary, in a proceeding for the enforcement of a claim under this title, it is presumed that:

(1) the claim comes within this title;

(2) sufficient notice was given to the employer; and

(3) the employer or its insurer was not prejudiced by a failure to file a claim for an accidental personal injury within 60 days after the date of the accidental personal injury.

§9–703.

Each employer shall have at all times a sufficient supply of each form that the Commission provides.

§9–704.

(a) This section does not apply to a compensable hernia.

(b) If a covered employee is injured or dies due to an accidental personal injury, oral or written notice shall be given to the employer:

(1) for injury, within 10 days after the accidental personal injury; or

(2) for death, within 30 days after the death.

(c) If the notice given under subsection (b) of this section is in writing, the notice shall:

(1) state the name and address of the covered employee;

(2) state, in plain language, the time, place, nature, and cause of the accidental personal injury; and

(3) be signed:

(i) for injury, by the covered employee or by an individual on behalf of the covered employee; or

(ii) for death, by at least 1 dependent of the covered employee or by an individual on behalf of the dependents of the covered employee.

(d) Unless excused by the Commission under § 9-706 of this subtitle, failure to give notice bars a claim under this title.

§9–705.

(a) If a covered employee is disabled or dies due to an occupational disease, written notice of the disability or death shall be given to the employer by the covered employee or someone on behalf of the covered employee:

(1) for disability, within 1 year after the covered employee knows or has reason to believe that the covered employee has the occupational disease; or

(2) for death, within 1 year after the death.

(b) Unless notice is waived under subsection (d) of this section or excused by the Commission under § 9-706 of this subtitle, failure to give notice bars a claim under this title.

(c) The employer in whose employment the covered employee was last injuriously exposed to the conditions that cause an occupational disease is considered to have notice of the occupational disease if the employer or the responsible superintendent in charge of the work of the covered employee has actual knowledge that the covered employee:

(1) was exposed to the conditions that cause the occupational disease; and

(2) has the occupational disease.

(d) The notice required by subsection (a) of this section is waived if the employer or its insurer:

(1) pays compensation for disability or death from an occupational disease; or

(2) by its affirmative conduct leads the covered employee or other claimant to reasonably believe that the notice has been waived.

§9–706.

(a) The Commission shall excuse a failure to comply with the notice requirement of § 9-704 or § 9-705 of this subtitle if the Commission finds that:

(1) there was a sufficient reason for the failure to comply; or

(2) the employer or its insurer has not been prejudiced by the failure to comply.

(b) The employer or its insurer has the burden of proving that it has been prejudiced by the failure to comply with the notice requirement.

(c) In the case of an occupational disease, the defense of failure to comply with the notice requirement is waived unless raised at a hearing on the claim before any award or decision is made.

§9–707.

(a) If an accidental personal injury causes disability for more than 3 days or death, the employer shall report the accidental personal injury and the disability or death to the Commission within 10 days after receiving oral or written notice of the disability or death.

(b) On learning or receiving notice that a covered employee has been disabled due to an occupational disease, the employer promptly shall report the disability to the Commission.

(c) Each report under subsection (a) or (b) of this section shall state:

(1) whether the accidental personal injury or occupational disease arose out of and in the course of employment;

(2) the time, cause, and nature of the disability and the accidental personal injury or occupational disease;

(3) the probable duration of the disability; and

(4) any other information that the Commission may require by regulation.

(d) The Commission shall provide the Commissioner of Labor and Industry with electronic access to the data contained in the reports filed under subsections (a) and (b) of this section.

§9–708.

(a) This section does not apply to:

(1) a partner whom a partnership elects to be a covered employee under §

9-219 of this title;

(2) a sole proprietor who elects to be a covered employee under § 9-227 of this title; or

(3) an officer of a corporation who:

(i) is a covered employee under § 9-206(a) of this title; and

(ii) is eligible but does not elect to be exempt from coverage under § 9-206(b) of this title.

(b) In the case of an accidental personal injury, the claim limitation period in § 9-709(b)(3) of this subtitle does not begin to run until the employer files a report with the Commission in accordance with § 9-707 of this subtitle if:

(1) the employer has been notified in accordance with § 9-704 of this subtitle; or

(2) the employer or a designated representative of the employer at the place where the accidental personal injury occurred knows about the disability or death of the covered employee.

§9–709.

(a) (1) Except as provided in subsection (c) of this section, if a covered employee suffers an accidental personal injury, the covered employee, within 60 days after the date of the accidental personal injury, shall file with the Commission:

(i) a claim application form; and

(ii) if the covered employee was attended by a physician chosen by the covered employee, the report of the physician.

(2) (i) A claim application form filed under paragraph (1) of this subsection shall include an authorization by the claimant for the release, to the claimant's attorney, the claimant's employer, and the insurer of the claimant's employer, or an agent of the claimant's attorney, the claimant's employer, or the insurer of the claimant's employer, of medical information that is relevant to:

1. the member of the body that was injured, as indicated on the claim application form; and

2. the description of how the accidental personal injury occurred, as indicated on the claim application form.

(ii) An authorization under subparagraph (i) of this paragraph:

1. includes the release of information relating to the history,

findings, office and patient charts, files, examination and progress notes, and physical evidence;

2. is effective for 1 year from the date the claim is filed; and

3. does not restrict the redisclosure of medical information or written material relating to the authorization to a medical manager, health care professional, or certified rehabilitation practitioner.

(b) (1) Unless excused by the Commission under paragraph (2) of this subsection, failure to file a claim in accordance with subsection (a) of this section bars a claim under this title.

(2) The Commission may excuse a failure to file a claim in accordance with subsection (a) of this section if the Commission finds:

(i) that the employer or its insurer has not been prejudiced by the failure to file the claim; or

(ii) another sufficient reason.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, if a covered employee fails to file a claim within 2 years after the date of the accidental personal injury, the claim is completely barred.

(c) If a covered employee is disabled due to an accidental personal injury from ionizing radiation, the covered employee shall file a claim with the Commission within 2 years after:

(1) the date of disablement; or

(2) the date when the covered employee first knew that the disablement was due to ionizing radiation.

(d) (1) If it is established that a failure to file a claim in accordance with this section was caused by fraud or by facts and circumstances amounting to an estoppel, the covered employee shall file a claim with the Commission within 1 year after:

(i) the date of the discovery of the fraud; or

(ii) the date when the facts and circumstances that amount to estoppel ceased to operate.

(2) Failure to file a claim in accordance with paragraph (1) of this subsection bars a claim under this title.

§9–710.

(a) This section does not apply to a claim for death due to an accidental personal

injury from ionizing radiation.

(b) (1) If a covered employee dies from an accidental personal injury, the dependents of the covered employee or an individual on their behalf shall, within 18 months after the date of death, file with the Commission:

(i) a claim application form;

(ii) proof of death;

(iii) certificates of any physician who attended the covered employee; and

(iv) any other proof that the Commission may require by regulation.

(2) (i) A claim application form filed under paragraph (1) of this subsection shall include an authorization by the claimant for the release, to the claimant's attorney, the covered employee's employer, and the insurer of the covered employee's employer, or an agent of the claimant's attorney, the covered employee's employer, or the insurer of the covered employee's employer, of medical information that is relevant to:

1. the member of the body that was injured, as indicated on the claim application form; and

2. the description of how the accidental personal injury occurred, as indicated on the claim application form.

(ii) An authorization under subparagraph (i) of this paragraph:

1. includes the release of information relating to the history, findings, office and patient charts, files, examination and progress notes, and physical evidence;

2. is effective for 1 year from the date the claim is filed; and

3. does not restrict the redisclosure of medical information or written material relating to the authorization to a medical manager, health care professional, or certified rehabilitation practitioner.

(c) (1) If it is established that a failure to file a claim in accordance with this section was caused by fraud or by facts and circumstances amounting to an estoppel, the dependents of the covered employee or an individual on their behalf shall file a claim with the Commission within 1 year after:

(i) the date of the discovery of the fraud; or

(ii) the date when the facts and circumstances that amount to

estoppel cease to operate.

(2) Failure to file a claim in accordance with paragraph (1) of this subsection bars a claim under this title.

§9–711.

(a) (1) If a covered employee suffers a disablement or death as a result of an occupational disease, the covered employee or the dependents of the covered employee shall file a claim application form with the Commission within 2 years, or in the case of pulmonary dust disease within 3 years, after the date:

(i) of disablement or death; or

(ii) when the covered employee or the dependents of the covered employee first had actual knowledge that the disablement was caused by the employment.

(2) (i) A claim application form filed under paragraph (1) of this subsection shall include an authorization by the claimant for the release, to the claimant's attorney, the claimant's or covered employee's employer, and the insurer of the claimant's or covered employee's employer, or an agent of the claimant's attorney, the claimant's or covered employee's employer, or the insurer of the claimant's or covered employee's employer, of medical information that is relevant to:

1. the member of the body that was injured, as indicated on the claim application form; and

2. the description of how the occupational disease occurred, as indicated on the claim application form.

(ii) An authorization under subparagraph (i) of this paragraph:

1. includes the release of information relating to the history, findings, office and patient charts, files, examination and progress notes, and physical evidence;

2. is effective for 1 year from the date the claim is filed; and

3. does not restrict the redisclosure of medical information or written material relating to the authorization to a medical manager, health care professional, or certified rehabilitation practitioner.

(b) Unless waived under subsection (c) of this section, failure to file a claim in accordance with subsection (a) of this section bars a claim under this title.

(c) The defense of failure to file a claim in accordance with subsection (a) of this section is waived if the employer or its insurer:

(1) fails to raise the defense of the failure to file the claim at a hearing on the claim before the Commission makes any award or decision;

(2) pays compensation for the disability or death resulting from the occupational disease; or

(3) by its affirmative conduct leads the covered employee or other claimant to reasonably believe that the requirement of filing a claim has been waived.

§9–712.

(a) If the employer or its insurer directs or requests a covered employee or, in case of death, the personal representative of the covered employee to submit the claim application form to the insurer, on receipt of the claim application form the insurer immediately shall file the claim application form with the Commission.

(b) The employer or insurer may not advise the covered employee or the personal representative of the covered employee that the claim has been denied.

§9–713.

(a) Except as provided in subsection (c) of this section, within 21 days of the mailing of the notice of the filing of a claim, the employer or its insurer shall:

(1) begin paying temporary total disability benefits; or

(2) file with the Commission any issue to contest the claim.

(b) If the Commission finds that an employer or insurer has failed, without good cause, to begin paying temporary total disability benefits or to file issues contesting a claim within 21 days of the mailing of the notice of the filing of a claim, the Commission may assess against the employer or insurer a fine not exceeding 20% of the amount of the payment.

(c) If the employer or its insurer does not begin paying benefits or file issues within 21 days under subsection (a) of this section, within 30 days of the mailing of the notice of the filing of a claim, the employer or its insurer shall:

(1) begin paying temporary total disability benefits; or

(2) file with the Commission any issue to contest the claim.

(d) If the Commission finds that an employer or insurer has failed, without good cause, to begin paying temporary total disability benefits or to file issues contesting a claim within 30 days of the mailing of the notice of the filing of a claim, the Commission may assess against the employer or insurer a fine not exceeding 40% of the payment.

(e) The Commission shall order the employer or insurer to pay a fine assessed

under this section to the covered employee.

(f) Subject to § 9-714 of this subtitle, payment by an employer or its insurer before an award does not waive the right of the employer or its insurer to contest the claim.

§9–714.

(a) When the Commission receives a claim, the Commission:

(1) may investigate the claim; and

(2) on application of any party to the claim, shall order a hearing.

(b) (1) The Commission shall make or deny an award within 30 days:

(i) after the mailing of the notice of the filing of a claim; or

(ii) if a hearing is held, after the hearing is concluded.

(2) The decision shall be recorded in the principal office of the Commission, and a copy of the decision shall be sent to each party's attorney of record or, if the party is unrepresented, to the party:

(i) by first–class mail; or

(ii) by electronic means, if the party's attorney of record consents or, if the party is unrepresented, the party consents.

§9–715.

(a) The Commission may conduct an investigation in the manner that the Commission finds best to:

(1) determine the substantial rights of each party; and

(2) carry out justly the spirit of this title.

(b) Except as otherwise provided in this title, the Commission is not bound by:

(1) any common law or statutory rule of evidence; or

(2) any formal or technical rule of procedure.

§9–716.

(a) In any investigation or hearing by the Commission, a person may not be excused from testifying or producing a document in accordance with an order of the Commission or its secretary on the ground that the testimony or document may:

(1) tend to incriminate the person; or

(2) subject the person to a forfeiture or penalty.

(b) Except as provided in subsection (c) of this section, a person may not be prosecuted, punished, or subjected to any forfeiture or penalty because of any act, transaction, matter, or thing about which the person testifies under oath or produces a document, on order of the Commission or an examiner or inspector of the Commission.

(c) A person who commits perjury is subject to prosecution or punishment.

§9–717.

(a) If, without reasonable cause, a witness refuses to produce a document or to testify in accordance with an order of the Commission, the Commission may and, on request of a party to the proceeding, shall apply to a circuit court for an order to show cause.

(b) On proof by affidavit that a witness has refused to produce a document or testify in accordance with an order of the Commission, the circuit court shall pass an order, returnable within 2 to 5 days, that directs the witness to show cause why the witness should not be imprisoned.

(c) (1) On return of the order, the circuit court shall conduct a hearing to determine if the witness, without reasonable cause or legal excuse, refused to testify or provide a document in accordance with an order of the Commission.

(2) The circuit court shall:

(i) examine the witness under oath; and

(ii) give the witness an opportunity to be heard.

(3) If the circuit court finds that the witness, without reasonable cause or legal excuse, refused to produce a document or testify in accordance with an order of the Commission, the circuit court may have the witness immediately imprisoned until the witness:

(i) produces the document or testifies; or

(ii) is discharged in accordance with law.

§9–718.

(a) The Commission may receive into evidence all or any part of a transcript of an investigation if the transcript was made by a stenographer appointed by the Commission and the stenographer certifies under penalties of perjury that the transcript is correct.

(b) A transcript introduced into evidence under subsection (a) of this section has the same effect as if the stenographer were present and testified to the facts certified.

(c) On request and payment of a fee in the amount set for a transcript from a circuit court, a copy of the transcript shall be provided to any party in interest.

§9–719.

(a) Subject to subsection (b) of this section, a party to a proceeding before the Commission may take an oral deposition as provided by law for a civil case.

(b) A party may take a deposition under this section only to perpetuate testimony and not for discovery.

§9–720.

(a) If requested by the Commission, a covered employee who is eligible for compensation under this title shall submit to a medical examination at a place and time reasonably convenient to the covered employee, in accordance with the regulations of the Commission.

(b) (1) If the covered employee obstructs or refuses to submit to a medical examination requested by the Commission under subsection (a) of this section, the right of the covered employee to compensation is suspended until the examination has taken place.

(2) Compensation is not payable during or for the period of the suspension.

§9–721.

(a) Except as provided in subsection (c) of this section, a physician shall evaluate a permanent impairment and report the evaluation to the Commission in accordance with the regulations of the Commission.

(b) A medical evaluation of a permanent impairment shall include information about:

(1) atrophy;

(2) pain;

(3) weakness; and

(4) loss of endurance, function, and range of motion.

(c) If a permanent impairment involves a behavioral or mental disorder, a licensed psychologist or qualified physician shall:

(1) perform an evaluation of only the mental or behavioral portion of the

permanent impairment; and

(2) report the evaluation to the Commission in accordance with the regulations of the Commission.

§9–722.

(a) Subject to approval by the Commission under subsection (c) of this section, after a claim has been filed by a covered employee or the dependents of a covered employee, the covered employee or dependents may enter into an agreement for the final compromise and settlement of any current or future claim under this title with:

(1) the employer;

(2) the insurer of the employer;

(3) the Subsequent Injury Fund; or

(4) the Uninsured Employers' Fund.

(b) The final compromise and settlement agreement shall contain the terms and conditions that the Commission considers proper.

(c) A final compromise and settlement agreement may not take effect unless it has been approved by the Commission.

(d) (1) When approved by the Commission, a final compromise and settlement agreement is binding on all of the parties to the agreement.

(2) Unless the Commission orders otherwise, a final compromise and settlement agreement between a covered employee or the dependents of a covered employee and the employer or its insurer precludes the right of the covered employee or the dependents of the covered employee to proceed against the Subsequent Injury Fund on the claim.

(e) If an individual entitled to payment under a final compromise and settlement agreement dies before the individual receives the total amount payable, the balance payable is an asset of the estate of the individual.

§9–723.

In a proceeding to enforce a claim of an employee, an insurer may not assert, as a defense, that the employee is not a covered employee if the insurer has accepted or is entitled to receive from the employer, alone or in conjunction with other insurance, a premium for workers' compensation insurance with respect to the employee.

§9–724.

(a) In this section, "governmental agency" includes:

(1) a county;

(2) a county board of education;

(3) a statutory bicounty agency; and

(4) an incorporated municipality.

(b) Except as provided in subsection (c) of this section, a covered employee may elect to have a hearing on a claim of the covered employee held at:

(1) a regional hearing location determined by the Commission to be convenient to all parties;

(2) a regional hearing location that covers the county where the covered employee resided when the accidental personal injury, or compensable hernia, or last injurious exposure to the hazards of the occupational disease allegedly occurred; or

(3) Baltimore City.

(c) (1) Unless the covered employee objects, if the employer is a governmental agency, the Commission shall conduct a hearing in the county in which the governmental agency is located, provided that hearings of the Commission are scheduled in that county.

(2) If hearings are not conducted in the county in which the governmental agency is located, a hearing may be held in the regional hearing location nearest that county's government offices.

(d) A covered employee shall notify the Commission of an election under this section within 10 days after the parties are notified of the hearing.

(e) The Commission may deny an election to hold a hearing in Baltimore City, if:

(1) the accidental personal injury, compensable hernia, or last injurious exposure to the hazards of the occupational disease allegedly occurred outside of Baltimore City;

(2) the covered employee did not reside in Baltimore City when the accidental personal injury, compensable hernia, or last injurious exposure to the hazards of the occupational disease allegedly occurred; and

(3) the Commission finds that holding the hearing in Baltimore City would inconvenience a party.

§9–725.

The Commission shall schedule hearings to ensure that each claim under this

title is heard without unreasonable delay.

§9–726.

(a) Within 15 days after the date of a decision by the Commission, a party may file with the Commission a written motion for a rehearing.

(b) A motion filed under subsection (a) of this section shall state the grounds for the motion.

(c) A motion for rehearing does not stay:

(1) the decision of the Commission; or

(2) the right of another party to appeal from the decision.

(d) (1) Even if an appeal by another party is pending, the Commission promptly shall rule on a motion for rehearing.

(2) The Commission may decide a motion for rehearing without granting a hearing on the motion.

(3) The Commission may grant a motion for rehearing only on grounds of error of law or newly discovered evidence.

(e) If the Commission grants a motion for rehearing, the Commission promptly shall hold the rehearing and pass an appropriate order, even if an appeal by another party is pending.

(f) If a party files a motion for a rehearing in accordance with subsection (a) of this section, the time within which an appeal may be taken from the decision starts on:

(1) the date on which the Commission mails notice of the denial of the motion for a rehearing; or

(2) if the Commission grants the motion for rehearing, the date on which the Commission mails notice of an order under subsection (e) of this section.

(g) (1) If the Commission denies a motion for a rehearing, the Commission shall send a copy of the denial by first–class mail to each party's attorney of record or, if the party is unrepresented, to the party.

(2) If the Commission grants a motion for a rehearing, the Commission shall send a copy of the order issued in accordance with subsection (e) of this section, by first–class mail to each party's attorney of record or, if the party is unrepresented, to the party.

(h) (1) If a court hears an appeal from the decision before the Commission rules on a motion for a rehearing under subsection (d) of this section or passes an order

under subsection (e) of this section, the court shall determine each question of fact or law, including a question that is still before the Commission.

(2) If a court hears an appeal after the Commission rules on a motion for a rehearing under subsection (d) of this section, the court shall determine each question of fact or law that arises under the original order and any later order that the Commission passes under subsection (e) of this section.

§9–727.

The employer or its insurer shall begin paying compensation to the covered employee within 15 days after the later of the date:

(1) an award is made; or

(2) payment of an award is due.

§9–728.

(a) If the Commission finds that an employer or its insurer has failed, without good cause, to begin paying an award within 15 days after the later of the date that the award is issued or the date that payment of the award is due, the Commission shall assess against the employer or its insurer a fine not exceeding 20% of the amount of the payment.

(b) If the Commission finds that an employer or its insurer has failed, without good cause, to begin paying an award within 30 days after the later of the date that the award is issued or the date that payment of the award is due, the Commission shall assess against the employer or its insurer a fine not exceeding 40% of the amount of the payment.

(c) The Commission shall order the employer or insurer to pay a fine assessed under this section to the covered employee.

§9–729.

(a) This section does not apply to a claim involving a temporary disability.

(b) If the Commission finds that a lump-sum payment is warranted under the facts and circumstances of a claim, the Commission may order that compensation payable to a covered employee or the dependents of a covered employee be converted to a partial or total lump sum.

(c) If the Commission grants a lump-sum payment under this section in a claim involving permanent total disability or death, the Commission shall:

(1) reduce the weekly rate of compensation until the amount of the lump sum would have been paid if it had been paid in weekly payments; and

(2) determine in the award:

(i) the dollar amount and the number of weeks to be paid by the employer or its insurer at the reduced weekly rate; and

(ii) if payments are made from the Subsequent Injury Fund, the dollar amount and the number of weeks to be paid by the Subsequent Injury Fund at the reduced weekly rate.

(d) An award may not be discounted because of a lump-sum payment.

§9–730.

(a) This section does not apply to compensation:

(1) for a serious disability under § 9–630 of this title; or

(2) payable by the Subsequent Injury Fund.

(b) Subject to the consent of the Commission, an insurer or self–insurer may convert an award of compensation for permanent partial disability, minus any attorney's fees, to a lump sum if the initial award did not exceed 51 weeks.

(c) An award may not be discounted because of a lump–sum payment.

§9–731.

(a) (1) Unless approved by the Commission, a person may not charge or collect a fee for:

(i) legal services in connection with a claim under this title;

(ii) medical services, supplies, or treatment provided under Subtitle 6, Part IX of this title; or

(iii) funeral expenses under Subtitle 6, Part XIII of this title.

(2) When the Commission approves a fee, the fee is a lien on the compensation awarded.

(3) Notwithstanding paragraph (2) of this subsection, a fee shall be paid from an award of compensation only in the manner set by the Commission.

(b) (1) The Commission may order that a fee payable from compensation under subsection (a) of this section be paid in a lump sum.

(2) If the Commission grants a lump-sum payment under paragraph (1) of this subsection, the Commission shall:

(i) reduce the weekly rate of compensation until the amount of the lump sum would have been paid if it had been paid in weekly payments; and

(ii) state in the award the dollar amount and the number of weeks that the reduced rate shall be paid by:

1. the employer or its insurer; or

2. if payments are made from the Subsequent Injury Fund, the Subsequent Injury Fund.

(c) On application of a party, the Commission may:

(1) hear and decide any question concerning legal services performed in connection with a claim; and

(2) order a person who received a fee for legal services to refund to the payer any part of the fee that the Commission may find to be excessive.

(d) An order of the Commission regulating payment or refund of payment for legal services may be enforced or appealed in the same manner as a compensation award.

§9–732.

Except as provided in Title 10 of the Family Law Article, before the issuance and delivery of a check or draft for any money payable under this title, the money may not be assigned, charged, or taken in attachment or execution.

§9–733.

(a) (1) This section does not apply to a termination of temporary total disability benefits if:

(i) the covered employee has returned to the current employment of the covered employee;

(ii) a treating physician chosen by the covered employee has advised the covered employee that the covered employee has reached maximum improvement from the disability of the covered employee; or

(iii) the termination is made after the termination date contained in an order of the Commission.

(2) This section does not apply to a termination of medical benefits if:

(i) the treatment by a physician or health care provider was not authorized by an insurer or self-insurer; or

(ii) a treating physician or health care provider chosen by the covered employee has advised the covered employee that the covered employee has reached maximum medical improvement from the disability of the covered employee.

(b) (1) (i) Before terminating the payment of temporary total disability benefits, an insurer or self-insurer shall give the covered employee written notice of the date that the benefits are to be terminated.

(ii) Before terminating the payment of medical benefits, an insurer or self-insurer shall give the covered employee and the covered employee's treating physician or health care provider written notice of the date that the benefits are to be terminated.

(2) In the case of temporary total benefits, the notice shall accompany the final payment of temporary total disability benefits to the covered employee.

(c) (1) The notice of termination under this section shall state:

(i) the reasons for the termination;

(ii) that the covered employee has a right to request a hearing before the Commission on the issue of the termination; and

(iii) the procedure and time for requesting a hearing.

(2) In the case of medical benefits, a copy of any medical record or report relied upon by the insurer or self-insurer in making the termination shall be attached to the notice.

§9–734.

If the Commission finds that a person has brought a proceeding under this title without any reasonable ground, the Commission shall assess against the person the whole cost of the proceeding, including reasonable attorney's fees.

§9–735.

(a) This section applies only to a prisoner who is a covered employee under § 9-221 of this title.

(b) A prisoner who is permanently partially disabled or temporarily totally disabled shall file a claim with the Commission in accordance with this subtitle.

(c) (1) After a prisoner has filed a claim, the Commission shall decide any issue of coverage or compensability.

(2) Until the prisoner is discharged by pardon, parole, or expiration of sentence, the Commission may not:

(i) hold a hearing on or determine a permanent partial disability or permanent total disability of the prisoner; or

(ii) make an award to the prisoner.

(d) (1) When the prisoner is discharged from a correctional institution, the institution promptly shall notify the Commission of the discharge.

(2) Promptly after receiving notice under paragraph (1) of this subsection, the Commission shall schedule a hearing to determine the extent of any permanent partial or permanent total disability of the prisoner as of the date of discharge.

§9–736.

(a) If aggravation, diminution, or termination of disability takes place or is discovered after the rate of compensation is set or compensation is terminated, the Commission, on the application of any party in interest or on its own motion, may:

(1) readjust for future application the rate of compensation; or

(2) if appropriate, terminate the payments.

(b) (1) The Commission has continuing powers and jurisdiction over each claim under this title.

(2) Subject to paragraph (3) of this subsection, the Commission may modify any finding or order as the Commission considers justified.

(3) Except as provided in subsection (c) of this section, the Commission may not modify an award unless the modification is applied for within 5 years after the latter of:

(i) the date of the accident;

(ii) the date of disablement; or

(iii) the last compensation payment.

(c) (1) If it is established that a party failed to file an application for modification of an award because of fraud or facts and circumstances amounting to an estoppel, the party shall apply for modification of an award within 1 year after:

(i) the date of discovery of the fraud; or

(ii) the date when the facts and circumstances amounting to an estoppel ceased to operate.

(2) Failure to file an application for modification in accordance with paragraph (1) of this subsection bars modification under this title.

§9–737.

An employer, covered employee, dependent of a covered employee, or any other interested person aggrieved by a decision of the Commission, including the Subsequent Injury Fund and the Uninsured Employers' Fund, may appeal from the decision of the Commission provided the appeal is filed within 30 days after the date of the mailing of the Commission's order by:

(1) filing a petition for judicial review in accordance with Title 7 of the Maryland Rules;

(2) attaching to or including in the petition a certificate of service verifying that on the date of the filing a copy of the petition has been sent by first–class mail to the Commission and to each other party of record; and

(3) on the date of the filing, serving copies of the petition by first–class mail on the Commission and each other party of record.

§9–738.

(a) This section is not subject to the provisions set forth in § 6–201 of the Courts Article.

(b) To take an appeal, a person shall file an order of appeal with the circuit court for the county where:

(1) the covered employee resides;

(2) the employer has its principal place of business; or

(3) the accidental personal injury, compensable hernia, or last injurious exposure to the hazards of the occupational disease occurred.

(c) If an appeal is taken to a circuit court that does not have jurisdiction, the court shall transfer the appeal to the proper circuit court on the motion of a party.

(d) If a party to an appeal suggests in writing and under oath that the party cannot obtain a fair trial in the circuit court in which the appeal is pending, the circuit court shall transfer the appeal to another circuit court.

§9–739.

(a) A certified copy of the record of the proceedings of the Commission, including any transcript of testimony, a statement of facts in place of the record, or stipulations shall be filed with the circuit court in accordance with Title 7 of the Maryland Rules.

(b) Subject to a final allocation of costs by the circuit court at the conclusion of the appeal, the cost of a certified copy of the record of the proceedings of the Commission,

including a transcript of testimony, shall be paid:

(1) if the court on its own initiative orders that a copy be filed, by the party that the court specifies in its order; or

(2) unless the court orders otherwise, by the party that requests the copy.

§9–740.

An appeal from the Commission has precedence over all other cases except criminal cases.

§9–741.

An appeal is not a stay of:

(1) an order of the Commission requiring payment of compensation; or

(2) an order or supplemental order of the Commission requiring the provision of medical treatment.

§9–742.

(a) The Commission retains jurisdiction pending an appeal to consider:

(1) a request for additional medical treatment and attention;

(2) a request for temporary total disability benefits, provided that the covered employee's temporary total disability benefits were granted in the order on appeal, and were terminated by the insurer or self–insurer pending adjudication or resolution of the appeal; and

(3) a request for approval of a proposed settlement of all or part of a claim.

(b) (1) If the Commission finds that a covered employee needs additional medical attention pending an appeal, the Commission may pass a supplemental order requiring the employer to provide additional medical treatment and attention.

(2) If the Commission finds that a covered employee's temporary total disability benefits were terminated pending adjudication or resolution of the appeal, and that the employee was temporarily totally disabled at the time of termination, the Commission may pass a supplemental order requiring the employer to provide the employee with temporary total disability benefits.

(3) If the Commission's decision to reinstate temporary total disability benefits is reversed or modified on appeal, the insurer or self–insurer shall be entitled to an offset or credit for overpayment of the temporary total disability benefits granted in the supplemental order.

(c) A supplemental order passed by the Commission under this section is subject to review on the pending appeal.

(d) When an appeal that is pending relates solely to a penalty imposed by the Commission, the Commission retains jurisdiction over all matters in the case other than imposition of the penalty.

(e) This section may not be construed to prevent the Commission from ordering an offset or credit against an award for temporary total or permanent partial disability benefits for any temporary total disability benefits previously paid to a covered employee, as authorized under any other provision of this title.

§9–743.

Unless the Subsequent Injury Fund is a party to an appeal and is represented by counsel, the court to which the appeal is taken may not make an award against the Fund.

§9–744.

(a) The Attorney General is the legal adviser of the Commission.

(b) When requested by any Commissioner, the Attorney General shall represent the Commission in any proceeding.

§9–745.

(a) The proceedings in an appeal shall:

(1) be informal and summary; and

(2) provide each party a full opportunity to be heard.

(b) In each court proceeding under this title:

(1) the decision of the Commission is presumed to be prima facie correct; and

(2) the party challenging the decision has the burden of proof.

(c) The court shall determine whether the Commission:

(1) justly considered all of the facts about the accidental personal injury, occupational disease, or compensable hernia;

(2) exceeded the powers granted to it under this title; or

(3) misconstrued the law and facts applicable in the case decided.

(d) On a motion of any party filed with the clerk of the court in accordance with the practice in civil cases, the court shall submit to a jury any question of fact involved in the case.

(e) (1) If the court determines that the Commission acted within its powers and correctly construed the law and facts, the court shall confirm the decision of the Commission.

(2) If the court determines that the Commission did not act within its powers or did not correctly construe the law and facts, the court shall reverse or modify the decision or remand the case to the Commission for further proceedings.

§9–746.

Court costs and allowances for witnesses shall be paid as in other civil cases.

§9–747.

The clerk of the court to which an appeal from the Commission is taken shall send promptly to the Commission a certified copy of each docket entry and judgment in the appeal.

§9–748.

When, on appeal, compensation is awarded by an affirmance, modification, or reversal of an order of the Commission, the covered employee is entitled to interest on the compensation awarded at 6% a year on each installment of compensation not paid as it:

(1) becomes payable under the award of the Commission; or

(2) would have become payable if the Commission had awarded the same amount of compensation when it passed the order from which the appeal is taken.

§9–749.

If a court determines that the ground for an appeal is not a reasonable ground, the court shall assess against the appellant the whole cost of appeal, including reasonable attorney's fees.

§9–750.

A party may appeal from a decision of the circuit court to the Court of Special Appeals as provided for other civil cases.

§9–801.

When a covered employee has a permanent impairment, suffers a subsequent accidental personal injury, occupational disease, or compensable hernia resulting in

permanent partial or permanent total disability, and otherwise meets the requirements of this subtitle, it is the intent of this subtitle that the total compensation to which the covered employee is entitled equal the amount of compensation that would be payable for the combined effects of:

(1) the previous impairment; and

(2) the subsequent accidental personal injury, occupational disease, or compensable hernia.

§9–802.

(a) If a covered employee has a permanent impairment and suffers a subsequent accidental personal injury, occupational disease, or compensable hernia resulting in permanent partial or permanent total disability that is substantially greater due to the combined effects of the previous impairment and the subsequent compensable event than it would have been from the subsequent compensable event alone, the employer or its insurer is liable only for the compensation payable under this title for the subsequent accidental personal injury, occupational disease, or compensable hernia.

(b) In addition to the compensation for which an employer or its insurer is liable, the covered employee is entitled to compensation from the Subsequent Injury Fund if:

(1) the covered employee has a permanent impairment due to a previous accident, disease, or congenital condition that is or is likely to be a hindrance or obstacle to the employment of the covered employee;

(2) the covered employee suffers a subsequent compensable accidental personal injury, occupational disease, or compensable hernia resulting in permanent partial or permanent total disability that is substantially greater due to the combined effects of the previous impairment and the subsequent compensable event than it would have been from the subsequent compensable event alone;

(3) the combined effects of the previous impairment and the subsequent accidental personal injury, occupational disease, or compensable hernia result in a permanent disability exceeding 50% of the body as a whole; and

(4) the previous impairment, as determined by the Commission at the time of the subsequent compensable event, and the subsequent accidental personal injury, occupational disease, or compensable hernia are each compensable for at least 125 weeks.

(c) Compensation from the Subsequent Injury Fund shall be paid after the completion of payments of compensation by the employer or its insurer.

§9–803.

(a) If a covered employee who has a permanent impairment due to a previous

accident, disease, or congenital condition that is or is likely to be a hindrance or obstacle to the employment of the covered employee dies due in part to the previous impairment and in part to a subsequent accidental personal injury, occupational disease, or compensable hernia, the Commission shall determine the portion of death that is reasonably attributable to:

(1) the previous impairment; and

(2) the subsequent accidental personal injury, occupational disease, or compensable hernia.

(b) The employer or its insurer is liable for the compensation payable for the portion of the death of the covered employee that is reasonably attributable to the subsequent accidental personal injury, occupational disease, or compensable hernia.

(c) The Subsequent Injury Fund is liable for the remainder of the compensation payable as in cases of death resulting solely from an accidental personal injury, occupational disease, or compensable hernia.

§9–804.

(a) In an award against the Subsequent Injury Fund, the Commission shall find specifically:

(1) the amount of the weekly payments to the covered employee;

(2) the number of weeks of compensation to be paid;

(3) the date when the Subsequent Injury Fund shall begin payments; and

(4) if possible, the period for which payments are to continue.

(b) (1) When the Commission makes an award against the Subsequent Injury Fund, if the prior permanent disability contributes to the covered employee's current permanent disability, the Commission shall deduct from the award the amount of all prior permanent disability payments received by the covered employee under:

(i) each prior award for permanent disability made by the Commission or a similar unit in another state; or

(ii) any prior final compromise and settlement agreement approved by the Commission or a similar unit in another state.

(2) In the case of a permanent total disability under Subtitle 6, Part V of this title, the deduction shall be made by reducing the weekly rate of compensation in accordance with § 9-729 of this title until the amount of the prior permanent disability payments awarded would have been paid if they had been paid in weekly payments.

§9–805.

A waiver executed under § 9-657 of this title by a covered employee who previously has lost or lost the use of a hand, arm, foot, leg, or eye is not a bar to benefits under this subtitle if the covered employee becomes permanently and totally disabled because of the loss or loss of use of a hand, arm, foot, leg, or eye due to an accidental personal injury, occupational disease, or compensable hernia.

§9–806.

(a) (1) The Commission shall impose an assessment of 6.5%, payable to the Subsequent Injury Fund, on:

(i) each award against an employer or its insurer for permanent disability or death, including awards for disfigurement and mutilation;

(ii) except as provided in paragraph (2) of this subsection, each amount payable by an employer or its insurer under a settlement agreement approved by the Commission; and

(iii) each amount payable under item (i) or (ii) of this paragraph by the Property and Casualty Guaranty Corporation on behalf of an insolvent insurer.

(2) The amount of medical benefits specified in a formal set–aside allocation that is part of an approved settlement agreement shall be excluded from the assessment imposed by the Commission under paragraph (1)(ii) of this subsection if:

(i) 1. the amount of medical benefits is in excess of $50,000; and

2. the payment of medical benefits by the employer or its insurer is directly to an authorized insurer that provides periodic payments to the covered employee pursuant to a single premium annuity; or

(ii) 1. the amount of medical benefits is in any amount; and

2. the payment of medical benefits by the employer or its insurer is to an independent third–party administrator that controls and pays the medical services in accordance with the formal set–aside allocation, provided there is no reversionary interest to the covered employee or the covered employee's beneficiaries.

(3) (i) On or before July 1, 2014, and on or before July 1 each year thereafter, an employer or its insurer that is liable for payment of an assessment imposed under this section shall notify the Subsequent Injury Fund of the current billing address to which notices of payment shall be sent.

(ii) An employer or its insurer that has provided notice under subparagraph (i) of this paragraph shall notify the Subsequent Injury Fund of any

change of billing address within 30 days of the change of address.

(b) In computing the amount of an assessment, the Commission shall round off any fractional dollar to the nearest whole dollar.

(c) Payment of an assessment under this section is in addition to any payment of compensation to a covered employee who has sustained an accidental personal injury, occupational disease, or compensable hernia or a dependent of the covered employee, as provided in this title.

(d) (1) The Director of the Subsequent Injury Fund promptly shall remit to the State Treasurer each payment of assessment received by the Subsequent Injury Fund.

(2) The State Treasurer shall hold, manage, and disburse the money in accordance with Title 10, Subtitle 2 of this article.

(e) The assessment imposed under this section is for payment of claims submitted to the Subsequent Injury Fund and is not a tax intended to benefit the State.

§9–807.

(a) In any case involving payment from the Subsequent Injury Fund, the Commission or any party in interest shall:

(1) give written notice to the State Treasurer or the attorney for the Subsequent Injury Fund that the Subsequent Injury Fund is or may be involved in the case; and

(2) implead the Fund, in writing, as a party.

(b) (1) The Subsequent Injury Fund may be impleaded at any stage of the proceedings:

(i) before the Commission; or

(ii) on appeal.

(2) If the Subsequent Injury Fund is impleaded on appeal before a circuit court or the Court of Special Appeals, the court:

(i) as to an impleader filed at least 60 days before the scheduled trial in the circuit court or at least 60 days before the hearing in the Court of Special Appeals, shall:

1. suspend further proceedings; and

2. remand the case to the Commission for further proceedings

to give the Subsequent Injury Fund an opportunity to defend against the claim; and

(ii) as to an impleader filed less than 60 days before the trial in the circuit court or less than 60 days before the hearing in the Court of Special Appeals, may for good cause shown:

1. suspend further proceedings; and

2. remand the case to the Commission for further proceedings to give the Subsequent Injury Fund an opportunity to defend against the claim.

§9–808.

When an award is made against the Subsequent Injury Fund, the Subsequent Injury Fund may appeal the decision in accordance with Subtitle 7 of this title.

§9–901.

When a person other than an employer is liable for the injury or death of a covered employee for which compensation is payable under this title, the covered employee or, in case of death, the personal representative or dependents of the covered employee may:

(1) file a claim for compensation against the employer under this title; or

(2) bring an action for damages against the person liable for the injury or death or, in case of joint tort feasors, against each joint tort feasor.

§9–902.

(a) If a claim is filed and compensation is awarded or paid under this title, a self-insured employer, an insurer, the Subsequent Injury Fund, or the Uninsured Employers' Fund may bring an action for damages against the third party who is liable for the injury or death of the covered employee.

(b) If the self-insured employer, insurer, Subsequent Injury Fund, or Uninsured Employers' Fund recovers damages exceeding the amount of compensation paid or awarded and the amount of payments for medical services, funeral expenses, or any other purpose under Subtitle 6 of this title, the self-insured employer, insurer, Subsequent Injury Fund, or Uninsured Employers' Fund shall:

(1) deduct from the excess amount its costs and expenses for the action; and

(2) pay the balance of the excess amount to the covered employee or, in case of death, the dependents of the covered employee.

(c) If the self-insured employer, insurer, Subsequent Injury Fund, or Uninsured

Employers' Fund does not bring an action against the third party within 2 months after the Commission makes an award, the covered employee or, in case of death, the dependents of the covered employee may bring an action for damages against the third party.

(d) The period of limitations for the right of action of a covered employee or the dependents of the covered employee against the third party does not begin to run until 2 months after the first award of compensation made to the covered employee or the dependents under this title.

(e) If the covered employee or the dependents of the covered employee recover damages, the covered employee or dependents:

(1) first, may deduct the costs and expenses of the covered employee or dependents for the action;

(2) next, shall reimburse the self-insured employer, insurer, Subsequent Injury Fund, or Uninsured Employers' Fund for:

(i) the compensation already paid or awarded; and

(ii) any amounts paid for medical services, funeral expenses, or any other purpose under Subtitle 6 of this title; and

(3) finally, may keep the balance of the damages recovered.

(f) In an action brought by a covered employee or the dependents of the covered employee under subsection (c) of this section, the covered employee or the dependents of the covered employee, the self-insured employer, the insurer, the Subsequent Injury Fund, and the Uninsured Employers' Fund shall pay court costs and attorney's fees in the proportion that the amount received by each bears to the whole amount paid in settlement of any claim or satisfaction of any judgment obtained in the case.

§9–903.

(a) Except as provided in subsection (b) of this section, if a covered employee or the dependents of a covered employee receive an amount in an action:

(1) the amount is in place of any award that otherwise could be made under this title; and

(2) the case is finally closed and settled.

(b) If the amount of damages received by the covered employee or the dependents of the covered employee is less than the amount that the covered employee or dependents would otherwise be entitled to receive under this title, the covered employee or dependents may reopen the claim for compensation to recover the difference between:

(1) the amount of damages received by the covered employee or dependents; and

(2) the full amount of compensation that otherwise would be payable under this title.

§9–1001.

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

(b) "Board" means the Uninsured Employers' Fund Board.

(c) "Director" means the Director of the Board.

(d) "Fund" means the Uninsured Employers' Fund.

(e) "Uninsured employer" means an employer who fails to secure payment of compensation to the covered employees of the employer in accordance with § 9-402 of this title.

§9–1002.

(a) An award is payable out of the Fund in accordance with this section.

(b) Unless an application for review has been timely filed under subsection (g) of this section or a notice of appeal timely served, an employer is in default on a claim by a covered employee or the dependents of a covered employee if the employer fails to:

(1) secure payment of compensation in accordance with § 9-402 of this title;

(2) except for a governmental self-insurance group authorized by § 9-404 of this title, deposit security in accordance with § 9-405 of this title that is:

(i) sufficient to cover a claim by a covered employee; and

(ii) at least $100,000; and

(3) pay compensation in accordance with an award within 30 days after the date of the award.

(c) If an employer is in default under subsection (b) of this section, promptly after the expiration of 30 days after the date of the award, the Commission shall notify the employer that:

(1) the employer is in default; and

(2) the license or permit of the employer to do business in the State may be suspended.

(d) (1) On receipt of a notice of default, an employer promptly shall pay the award.

(2) To object to an award, the employer, within 30 days after receipt of the notice of default, shall notify the Commission of the reasons why the employer objects to the award.

(3) The notice of objection by the employer to the Commission serves as an application for review under subsection (g) of this section.

(e) If the employer does not pay the award and does not notify the Commission of its objection to the award in accordance with subsection (d) of this section, the covered employee or the dependents of the covered employee may apply to the Director for payment from the Fund.

(f) On receipt of an application for payment, the Fund may:

(1) pay the award; or

(2) apply for review under subsection (g) of this section.

(g) (1) The provisions of Subtitle 7 of this title about procedure and the right to appeal apply to:

(i) a covered employee or the dependents of a covered employee who file a claim;

(ii) the uninsured employer; and

(iii) the Fund.

(2) The right of review of the Fund includes:

(i) raising issues;

(ii) discovery; and

(iii) a hearing before the Commission.

§9–1003.

(a) If the Fund makes payment to a covered employee or the dependents of a covered employee as directed by the Commission, the Fund is subrogated to the rights of the covered employee or dependents against the uninsured employer.

(b) The Fund may:

(1) institute a civil action to recover the money paid under the award;

(2) refer the matter to the appropriate authority for prosecution under § 9-1108 of this title; or

(3) do both.

(c) Notwithstanding any other provision of law, if the uninsured employer is a corporation the assets of which are not sufficient to satisfy an award, any officer of the corporation who has responsibility for the general management of the corporation in the State is jointly and severally liable for payment of the award if the corporate officer knowingly failed to secure workers' compensation insurance.

(d) Notwithstanding any other provision of law, if the uninsured employer is a limited liability company the assets of which are not sufficient to satisfy an award, any member of the company who has responsibility for the general management of the limited liability company in the State is jointly and severally liable for payment of the award if a member of the limited liability company who has general management responsibility knowingly failed to secure workers' compensation insurance.

§9–1004.

(a) If the Fund pays compensation to a covered employee or the dependents of a covered employee, the Fund is subrogated to the rights of the uninsured employer under this title.

(b) If the Fund and the uninsured employer both have paid compensation to or on behalf of a covered employee or the dependents of a covered employee, the Fund shall apply any money that it recovers from a third party:

(1) first, to repayment of the award paid by the Fund;

(2) second, to any unsatisfied demand for security and to assessments imposed against the uninsured employer under this subtitle; and

(3) finally, to the uninsured employer.

(c) If the Fund and the uninsured employer both have paid compensation to or on behalf of a covered employee or the dependents of a covered employee, and the Fund recovers money from a third party exceeding the amount of compensation awarded to the covered employee or the dependents and the reasonable and necessary expenses incurred in making the recovery, the Fund shall:

(1) apportion the excess amount between the covered employee or the dependents and the Fund; and

(2) use the balance to:

(i) first, reimburse the Fund for its reasonable and necessary expenditures in making the recovery;

(ii) second, repay any award paid by the Fund;

(iii) third, satisfy any unsatisfied demand for security or assessments imposed against the uninsured employer under this subtitle; and

(iv) finally, return the remainder to the uninsured employer.

§9–1005.

(a) (1) When the Commission makes a decision on a claim for compensation against an uninsured employer, the Commission shall impose against the uninsured employer an assessment of:

(i) at least $500 but not exceeding $1,000; and

(ii) 15% of any award made in the claim, not exceeding $5,000 in any 1 claim.

(2) (i) Notwithstanding any other provision of law, if the uninsured employer is a corporation the assets of which are not sufficient to satisfy an assessment, any officer of the corporation who has responsibility for the general management of the corporation in the State is jointly and severally liable for the assessment if the corporate officer knowingly failed to secure workers' compensation insurance.

(ii) Notwithstanding any other provision of law, if the uninsured employer is a limited liability company the assets of which are not sufficient to satisfy an assessment, any member of the limited liability company who has responsibility for the general management of the limited liability company in the State is jointly and severally liable for the assessment if a member of the limited liability company who has general management responsibility knowingly failed to secure workers' compensation insurance.

(b) The Commission shall direct payment of an assessment under subsection (a) of this section into the Fund.

§9–1006.

(a) The Commission may assess an insurer $300 if:

(1) the insurer fails to comply with the requirements of the Commission about certification of insurance with the Commission; and

(2) the Commission finds that the Fund or the Commission was required to investigate or attend a hearing to determine whether an employer has insurance.

(b) The Commission may assess the insurer an additional $300 for each subsequent failure to comply with the insurance certification requirements of the Commission.

(c) The Commission shall direct payment of an assessment under subsection (a) or (b) of this section into the Fund.

(d) If an insurer fails to comply with the insurance certification requirements of the Commissioner 5 times in a fiscal year, the Commission may:

(1) notify the Insurance Commissioner; and

(2) request that the insurer show cause why the Insurance Commissioner should not impose sanctions under § 4-113(d) of the Insurance Article.

§9–1007.

(a) (1) Except as provided in subsection (b) of this section, the Commission shall impose against an employer or, if insured, its insurer an assessment equal to 1% of:

(i) each award against the employer for permanent disability or death, including awards for disfigurement or mutilation; and

(ii) except as provided in paragraph (2) of this subsection, each amount payable by the employer or its insurer under a settlement agreement approved by the Commission.

(2) The amount of medical benefits specified in a formal set–aside allocation that is part of an approved settlement agreement shall be excluded from the assessment imposed by the Commission under paragraph (1)(ii) of this subsection if:

(i) 1. the amount of medical benefits is in excess of $50,000; and

2. the payment of medical benefits by the employer or its insurer is directly to an authorized insurer that provides periodic payments to the covered employee pursuant to a single premium annuity; or

(ii) 1. the amount of medical benefits is in any amount; and

2. the payment of medical benefits by the employer or its insurer is to an independent third–party administrator that controls and pays the medical services in accordance with the formal set–aside allocation, provided there is no reversionary interest to the covered employee or the covered employee's beneficiaries.

(3) (i) Notwithstanding any other provision of law, if the employer is a corporation the assets of which are not sufficient to satisfy an assessment, any officer of the corporation who has responsibility for the general management of the corporation in the State is jointly and severally liable for the assessment if the corporate officer knowingly failed to secure workers' compensation insurance.

(ii) Notwithstanding any other provision of law, if the employer is a limited liability company the assets of which are not sufficient to satisfy an assessment, any member of the limited liability company who has responsibility for the general management of the limited liability company in the State is jointly and severally liable for the assessment if a member of the limited liability company who has general management responsibility knowingly failed to secure workers' compensation insurance.

(b) Notwithstanding the limit on the balance of the Fund under § 9–1011 of this subtitle, if the Board determines that the reserves of the Fund are inadequate to meet anticipated losses, the Board may direct the Commission to assess an additional 1% under subsection (a) of this section.

(c) Any fractional dollar of payment under this section shall be rounded off to the nearest whole dollar.

(d) The Commission shall direct payment of an assessment under subsection (a) or (b) of this section into the Fund.

(e) Payments under this section are in addition to the payment of compensation to a covered employee or the dependents of a covered employee under this title.

§9–1008.

(a) This section does not apply to an award against the Subsequent Injury Fund.

(b) The Commission shall impose an assessment of 10%, not exceeding $4,500, against compensation awarded or likely to be awarded against an insured or self-insured employer and not paid if the Commission determines that the compensation is not awarded or is abated because of:

(1) death; or

(2) lack of a covered employee or a dependent of a covered employee eligible for the compensation.

(c) On expiration of the time period within which a claim may be filed under this title, the Commission shall assess the insurer or self-insured employer $4,500 if a covered employee dies:

(1) due to an accidental personal injury or occupational disease; and

(2) without any surviving dependent.

(d) The Commission shall direct payment of an assessment under subsection (b) or (c) of this section into the Fund.

§9–1009.

(a) When the Commission imposes an assessment on an employer under this subtitle, the Commission shall mail the employer notice of the assessment.

(b) An employer shall pay an assessment under this subtitle into the Fund within 10 days after the date that notice of the assessment is mailed to the employer.

(c) If an employer fails to pay an assessment in accordance with subsection (b) of this section, the default constitutes a default in payment of compensation and judgment shall be entered as in a case of default in payment of compensation.

(d) Except for fines collected under § 9-1108 of this title, all money collected from an uninsured employer with respect to any claim for compensation but not payable from the Fund, whether collected before or after entry of a judgment against the employer, shall be:

(1) first, considered payment of and applied to any compensation or benefits due or security demanded from the employer in connection with the claim; and

(2) second, considered payment of and applied to assessments imposed under this subtitle.

(e) All money recovered from uninsured employers on judgments entered for failure to pay assessments and for failure to pay compensation and benefits that were paid from the Fund shall be paid into the Fund.

§9–1010.

(a) An assessment that is payable under this subtitle is a lien against the assets of the employer who is liable for the assessment.

(b) A lien under subsection (a) of this section is subordinate to:

(1) claims for unpaid wages; and

(2) prior recorded liens.

§9–1011.

(a) (1) When the amount of the Fund equals at least $5,000,000, the payment of assessments by employers and insurers is suspended.

(2) The Director shall notify each self-insured employer and insurer of the suspension of the payment of assessments under paragraph (1) of this subsection.

(b) (1) Payment of assessments shall be resumed if:

(i) the amount of the Fund becomes less than $3,000,000 because of

payments made under § 9-1002 of this subtitle or other payments; or

(ii) the Director determines that payments that are likely to be made from the Fund in the next 3 months will reduce the amount of the Fund to less than $3,000,000.

(2) When payment of assessments is to be resumed under paragraph (1) of this subsection, the Director shall notify each self-insured employer and insurer that payment of assessments is to:

(i) resume on a specified date; and

(ii) continue until the amount of the Fund becomes at least $5,000,000.

§9–1012.

(a) (1) Notwithstanding any other provision of this subtitle, the Director shall notify an employer by certified mail, return receipt requested, that the license or permit of the employer to do business in the State may be suspended if the employer fails to:

(i) reimburse the Fund for payment of an award under § 9–1002 of this subtitle;

(ii) pay an assessment under this subtitle; or

(iii) pay a penalty ordered under § 9–407 of this title.

(2) The Director shall send a copy of the notice to each State, county, or municipal unit that has issued a license or permit to the employer for an activity for which workers' compensation coverage is required by law.

(b) (1) Within 15 days after receipt of the notice, the licensing unit shall provide the employer with the notice and opportunity for a hearing as otherwise may be required by law.

(2) If law requires the licensing unit to hold a hearing, the licensing unit shall send written notice of the hearing date to the Director.

(c) (1) The licensing unit shall suspend the license or permit of the employer if the licensing unit finds that the employer has failed to:

(i) reimburse the Fund for payment of an award under § 9–1002 of this subtitle;

(ii) pay an assessment under this subtitle; or

(iii) pay a penalty ordered under § 9–407 of this title.

(2) A suspension of a license or permit under paragraph (1) of this subsection shall continue until the employer:

(i) reimburses the Fund for payment of an award under § 9–1002 of this subtitle;

(ii) pays the assessment due to the Fund;

(iii) pays a penalty due to the Fund; or

(iv) agrees to reimburse the Fund for payment of an award or to pay the assessment and the penalty due to the Fund in a manner approved by the Board.

§9–1013.

(a) (1) If the Director considers compromise to be in the best interest of the Fund, the Director may compromise the amount of a judgment against an employer under this subtitle.

(2) A compromise under paragraph (1) is not required to be approved by any other State official to be effective.

(b) A compromise under this section may not reduce the amount of benefits payable to or for a covered employee or the dependents of a covered employee.

(c) A judgment may be modified to reflect a compromise under this section.

§9–1014.

Unless the Director gives written consent, a covered employee or the dependents of the covered employee may not settle a cause of action for an amount less than the amount that the Fund paid to or for the covered employee or dependents.

§9–1015.

(a) A jockey who is a covered employee under § 9–212 of this title while performing a service in connection with training or the dependents of the jockey may apply for payment from the Maryland Jockey Injury Compensation Fund, Inc. if the employer of the jockey is in default on a claim under § 9–1002(b) of this subtitle.

(b) On receipt of an application for payment, the Maryland Jockey Injury Compensation Fund, Inc. shall pay the award.

(c) (1) If the Maryland Jockey Injury Compensation Fund, Inc. makes payment under this section to a covered employee or the dependents of the covered employee as directed by the Commission, the Maryland Jockey Injury Compensation Fund, Inc. is subrogated to the rights of the covered employee or dependents against the uninsured employer.

(2) The Maryland Jockey Injury Compensation Fund, Inc. may:

(i) institute a civil action against the uninsured employer to recover the money paid under the award;

(ii) refer the matter to the Maryland Racing Commission for suspension or revocation of the occupational license of the uninsured employer;

(iii) refer the matter to the appropriate authority for prosecution under § 9–1108 of this title; or

(iv) take action under any combination or all of items (i) through (iii) of this paragraph.

§9–1101.

(a) An employer may not deduct any part of the premium that the employer pays for workers' compensation insurance from the salary or wages of a covered employee.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $200.

§9–1102.

An employer who fails to report an accidental personal injury within the time required under § 9-707(a) of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50.

§9–1103.

(a) An employer, superior, union official, member of a union, guild, or similar group, or another person connected with the employment of a covered employee entitled to benefits under this title may not attempt to influence, directly or indirectly, the choice of a lawyer by the covered employee:

(1) through corruption;

(2) by threat or force; or

(3) for personal gain.

(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 6 months or both.

§9–1104.

(a) An employee of the Commission may not disclose to any person other than a member of the Commission any information that the employee obtains about the

business, property, or transactions of another.

(b) A person who violates this section is guilty of a misdemeanor and on conviction:

(1) is subject to a fine not exceeding $500 or imprisonment not exceeding 18 months; and

(2) is disqualified from appointment to or employment by the Commission.

§9–1105.

(a) An employer may not discharge a covered employee from employment solely because the covered employee files a claim for compensation under this title.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 1 year or both.

§9–1106.

(a) A person may not knowingly affect or knowingly attempt to affect the payment of compensation, fees, or expenses under this title by means of a fraudulent representation.

(b) A person who violates this section, on conviction:

(1) is subject to the penalties of § 7-104 of the Criminal Law Article; and

(2) may not receive compensation, fees, or expenses under this title.

§9–1107.

(a) An employer who self insures under § 9–405 of this title or participates in a governmental self–insurance group under § 9–404 of this title and fails to apply to the Commission for approval of the self–insurance plan of the employer or governmental self–insurance group in accordance with § 9–403 of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

(b) An employer who is subject to this title and fails to secure payment of compensation in accordance with § 9–402 of this title or fails to pay an award of compensation is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

(c) If the employer is a corporation, the officer of the corporation who has responsibility for the general management of the corporation in the State is subject to the fine and imprisonment specified in subsection (a) or (b) of this section.

(d) (1) A fine imposed on an employer under this section shall be:

(i) paid to the State Treasury and credited to the Commission; and

(ii) used to pay, wholly or partly, an award made against the employer by the Commission.

(2) A disbursement under this subsection shall be made in the same manner as a disbursement of other money of the Commission.

(3) Any part of the fine that is not required to pay an award shall be transferred to the General Fund of the State.

(e) A court may remit a penalty only if the employer who is in default:

(1) secures payment of compensation in accordance with § 9–402 of this title; and

(2) pays or secures payment of all compensation and other benefits awarded against the employer under this title.

§9–1108.

(a) An employer who fails to secure payment of compensation in accordance with § 9-402 of this title that will be in force on the date a cancellation of a contract of workers' compensation insurance becomes effective is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

(b) If the employer is a corporation, the officer of the corporation who has responsibility for the general management of the corporation in the State is subject to the fine and imprisonment specified in subsection (a) of this section.

(c) A fine imposed against and collected from an employer under this section shall be paid into the Uninsured Employers' Fund.

§9–1201.

This title may be cited as the Maryland Workers' Compensation Act.

§10–101.

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

(b) "Administration" means the Maryland Insurance Administration.

(c) "Board" means the Board for the Injured Workers' Insurance Fund.

(d) "Commissioner" means the Maryland Insurance Commissioner.

(e) "Company" means the Chesapeake Employers' Insurance Company established under Title 24, Subtitle 3 of the Insurance Article.

(f) "Fund" means the Injured Workers' Insurance Fund.

§10–102.

(a) (1) There is an Injured Workers' Insurance Fund.

(2) The Fund is an instrumentality of the State.

(b) On and after October 1, 2013, the Company, and not the Fund, shall serve as the workers' compensation insurer of last resort for workers' compensation insurance.

(c) On and after October 1, 2013, the Fund:

(1) shall continue to exist; but

(2) may not issue new policies or otherwise engage in the business of insurance.

(d) (1) On and after October 1, 2013, the Fund may continue to be the third party administrator for the State's Self–Insured Workers' Compensation Program for State Employees under a contract with the State.

(2) At least once every 5 years, the Commissioner shall:

(i) review the State's Self–Insured Workers' Compensation Program for State Employees, as administered by the Fund, to determine whether the State is receiving effective administrative services at a reasonable cost; and

(ii) submit a report to the State Treasurer on the findings of the review.

(e) (1) Subject to subsection (f) of this section, in the operation of the Company, the Company shall utilize employees of the Company.

(2) In the operation of the Fund, the Fund shall utilize employees of the Fund.

(3) The Fund shall:

(i) maintain a payroll and human resources system; and

(ii) be responsible for paying:

1. the employer portion of any payroll or other taxes and retirement or pension contributions for employees of the Fund; and

2. for any health or other employee benefits that are available to employees of the Fund.

(f) (1) Employees of the Fund may be assigned to perform functions of the Company under a contract between the Fund and the Company.

(2) The Company and the Fund shall annually execute an agreement that lists the employees of the Fund who have been assigned to perform duties on behalf of the Company.

(3) The agreement shall:

(i) specify the employees who will be utilized by the Company and the Fund;

(ii) provide that, except with respect to assets necessary for the Fund to perform its duties under this subtitle, all assets and liabilities of the Fund are the assets and liabilities of the Company; and

(iii) be filed with the Administration.

(4) Notwithstanding § 15–703(f)(3)(i) of the State Government Article, an employee of the Fund may register and maintain registration as a regulated lobbyist if the employee:

(i) is assigned to perform functions of the Company under paragraph (1) of this subsection for which an employee of the Company would be required to register; and

(ii) registers on behalf of the Company.

§10–103.

(a) On and after October 1, 2013:

(1) the Fund may not hire new employees; and

(2) employees of the Fund:

(i) may remain employees of the Fund;

(ii) shall continue to be State employees only if they remain employees of the Fund;

(iii) may not be required to be employees of the Company;

(iv) shall be subject to each law that applied to employees of the Fund immediately before October 1, 2013;

(v) shall be subject to the same terms and conditions of employment as existed immediately before October 1, 2013, including benefits, leave, and pay grade;

(vi) shall remain in the State retirement system only if they remain employees of the Fund;

(vii) except for changes in benefits or compensation applicable to State employees generally, may not be denied any compensation or benefit provided to employees of the Fund as of October 1, 2013;

(viii) may not be denied a promotion, based on the employee's status as an employee of the Fund; and

(ix) subject to subsection (b) of this section, may elect to be an employee of the Company.

(b) If an employee of the Fund intends to elect to be an employee of the Company under subsection (a)(2)(ix) of this section, the Company shall:

(1) require the employee to make the election in writing; and

(2) provide the employee with information that:

(i) states that the election of the employee to become an employee of the Company is voluntary and irrevocable; and

(ii) fully discloses the terms of employment with the Company.

(c) An employee of the Company may not elect to be an employee of the Fund.

§10–104.

(a) The Fund is independent of all State units.

(b) (1) Except as provided in paragraph (2) of this subsection and elsewhere in this subtitle, the Fund is not subject to any law, including § 6–106 of the State Government Article, that affects governmental units.

(2) The Fund is subject to:

(i) Title 4 of the General Provisions Article;

(ii) Title 12 of the State Government Article;

(iii) the Maryland Public Ethics Law; and

(iv) Title 5, Subtitle 3 of the State Personnel and Pensions Article.

(3) Paragraph (1) of this subsection does not affect the exemption from

property tax under § 7–210 of the Tax – Property Article.

§10–105.

(a) (1) There is a Board for the Injured Workers' Insurance Fund.

(2) The Board shall manage the business and affairs of the Fund as an instrumentality of the State in accordance with State law.

(b) The Board is the Board for the Company established under Title 24, Subtitle 3 of the Insurance Article.

(c) Members of the Board that were appointed to the Board as of October 1, 2012, shall:

(1) continue to serve their current terms on the Board; and

(2) serve on the Board for the Company under the same terms and conditions as if they were appointed to the Board for the Company under Title 24, Subtitle 3 of the Insurance Article.

(d) The Board:

(1) shall be subject to the rules, bylaws, and procedures that the Board for the Company adopts under Title 24, Subtitle 3 of the Insurance Article; and

(2) may adopt any policy to carry out this subtitle.

§10–106.

(a) (1) The Board shall appoint a President of the Fund.

(2) The President of the Fund shall be the President of the Company.

(b) (1) Except as provided in paragraph (2) of this subsection, employees of the Fund are special appointments.

(2) A classified employee of the Fund hired before July 1, 1990 in a nonprofessional or nontechnical position shall remain a member of the classified service or its equivalent in the State Personnel Management System as long as the employee remains in a nonprofessional or nontechnical position with the Fund.

(c) (1) The Board shall set compensation for its employees.

(2) Except as otherwise provided in this subtitle, an employee of the Fund is not subject to any law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, or any other General Fund cost savings measure.

(d) (1) This subsection does not apply to the layoff of an employee because of lack of work.

(2) An employee of the Fund may not be permanently removed unless:

(i) written charges are filed;

(ii) the employee has an opportunity for a hearing in accordance with Title 10, Subtitle 2 of the State Government Article; and

(iii) there is cause for removal.

§10–107.

Notwithstanding any other law to the contrary, the Fund shall remain in existence until it:

(1) no longer has any employees; and

(2) is terminated by the repeal of this subtitle.

§10–108.

(a) The State has no interest in the assets of the Fund.

(b) All revenues, money, and assets of the Fund belong solely to the Fund and are held by the Fund in trust for the policyholders, injured workers and their families, and creditors of the Fund.

(c) The State may not borrow, appropriate, or direct payments from the revenues, money, or assets of the Fund for any purpose.

(d) The Fund may not be dissolved.

§10–201.

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

(b) "Board" means the Subsequent Injury Fund Board.

(c) "Fund" means the Subsequent Injury Fund.

§10–204.

There is a Subsequent Injury Fund.

§10–207.

There is a Subsequent Injury Fund Board.

§10–208.

(a) (1) The Board consists of 3 members, appointed by the Governor with the advice and consent of the Senate.

(2) Of the 3 members of the Board:

(i) 1 shall represent labor;

(ii) 1 shall represent management; and

(iii) 1 shall represent the general public.

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

(c) (1) The term of a member is 4 years.

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

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

§10–209.

(a) The Board shall determine the times and places of its meetings.

(b) Subject to the State budget, each member of the Board is entitled to:

(1) compensation for each day that the member is engaged in duties of the office; and

(2) reimbursement for expenses under the Standard State Travel Regulations.

§10–210.

(a) The Fund shall have a staff in accordance with the State budget.

(b) (1) The Board shall appoint a Director for the Fund.

(2) The Director is entitled to the salary provided in the State budget.

§10–211.

(a) The Attorney General is the legal adviser to the Board and Fund.

(b) With the approval of the Board, staff whom the Attorney General assigns to represent the Fund may hire each expert who is needed to defend an action into which the Fund is impleaded.

§10–214.

(a) The Fund shall consist of:

(1) the money credited to the Fund under Title 9 of this article;

(2) income from investments that the State Treasurer makes for the Fund;

(3) interest on deposits or investments of money from the Fund;

(4) money that the Fund acquires by gift; and

(5) money that the federal government pays as reimbursement for a payment from the Fund.

(b) The Fund shall include each security that the Fund acquires.

(c) The Fund shall be used to pay:

(1) each award under Title 9 of this article charged against the Fund; and

(2) other expenses authorized in the State budget.

§10–215.

The State Treasurer shall keep the Fund as a special indemnity fund.

§10–216.

(a) The Board shall supervise the administration of the Fund.

(b) (1) The Fund annually shall submit to the Governor a proposed budget for the Fund, for inclusion in the budget bill to be submitted to the General Assembly.

(2) The proposed budget shall include an appropriation from the Fund for its budget.

§10–217.

If sale of a security in which money of the Fund is invested is in the best interest of the Fund, the State Treasurer shall sell the security.

§10–218.

(a) Disbursement from the Fund for paying benefits to claimants or dependents

shall be made by the Treasurer only on written order of the Workers' Compensation Commission.

(b) Disbursement from the Fund for any purpose other than paying benefits shall be made by the Treasurer only at the direction of the Director for the Fund under authority of the Board.

§10–219.

(a) (1) As often as the Board requests but at least quarterly, the State Treasurer shall advise the Board about the amount of the Fund in the custody of the State Treasurer.

(2) The State Treasurer annually shall submit to the Board a statement that, for the preceding calendar year:

(i) states the balance on January 1;

(ii) states the income and each source of income;

(iii) itemizes each payment; and

(iv) states the balance on December 31.

(b) On or before October 1 of each year, the Board shall submit to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly an annual report that includes a detailed statement of the balances and expenses of the Fund.

§10–301.

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

(b) "Board" means the Uninsured Employers' Fund Board.

(c) "Fund" means the Uninsured Employers' Fund.

§10–304.

There is an Uninsured Employers' Fund.

§10–307.

There is an Uninsured Employers' Fund Board.

§10–308.

(a) (1) The Board consists of 3 members, appointed by the Governor with the advice and consent of the Senate.

(2) Of the 3 members of the Board:

(i) 1 shall represent labor;

(ii) 1 shall represent management; and

(iii) 1 shall represent the general public.

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

(c) (1) The term of a member is 4 years.

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

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

§10–309.

(a) The Board shall determine the times and places of its meetings.

(b) Subject to the State budget, each member of the Board is entitled to:

(1) compensation for each day that the member is engaged in duties of the office; and

(2) reimbursement for expenses under the Standard State Travel Regulations.

(c) The Board shall:

(1) appoint a Director for the Fund; and

(2) review the Director's administration of the Fund.

(d) The Director:

(1) shall have immediate supervision and direction over the administration of the Fund;

(2) may employ staff in accordance with the State budget; and

(3) shall serve as the appointing authority for all staff.

(e) An employee may appeal a disciplinary action taken by the Director to the

Board.

§10–310.

(a) (1) The Attorney General is the legal adviser to the Director and Fund.

(2) The Attorney General may represent the Fund in any case that does not involve the rights of the Fund against another individual who:

(i) is in the same employ as the employee who received benefits under Title 9 of this article; and

(ii) caused the injury or death of the employee.

(b) Staff whom the Attorney General assigns to represent the Fund may not represent another party in a claim under Title 9 of this article.

(c) Staff whom the Attorney General assigns to represent the Fund may apply to the Director for authority to hire and, within an amount that the Director sets, to pay each expert or witness who is needed to defend a claim properly.

(d) The Director shall assign to help the staff of the Attorney General each employee of the Fund who is needed to represent the Fund.

§10–311.

The Director may adopt any reasonable regulation to process and pay an award charged against the Fund.

§10–314.

(a) The Fund shall consist of:

(1) the money credited to the Fund under Title 9 of this article;

(2) income from investments that the State Treasurer makes for the Fund; and

(3) interest on deposits or investments of money from the Fund.

(b) The Director shall use the Fund to pay:

(1) each award under Title 9 of this article charged against the Fund;

(2) the amount that the Director authorizes for an expert or witness hired under § 10–310(c) of this subtitle;

(3) other proper charges that the Director authorizes; and

(4) whenever an employer who is self–insured in accordance with § 9–404 or § 9–405 of this article becomes insolvent, any outstanding obligations of the employer.

(c) The liability of the Board, Director, Fund, State Treasurer, and State for all proper charges against the Fund is limited to the assets of the Fund.

§10–315.

(a) The State Treasurer is custodian of the Fund.

(b) The State Treasurer shall keep the Fund separate from State money.

§10–316.

(a) The Director shall supervise the administration of the Fund.

(b) (1) The Fund annually shall submit to the Governor a proposed budget for the Fund, for inclusion in the budget bill to be submitted to the General Assembly.

(2) The proposed budget shall include an appropriation from the Fund for its budget.

§10–317.

The Board may establish reserves to meet potential losses of the Fund.

§10–318.

(a) (1) The State Treasurer shall invest surplus money of the Fund in any security in which a savings bank may invest under State law.

(2) If the State Treasurer invests in a certificate of deposit, it shall:

(i) be interest bearing;

(ii) be issued by:

1. a bank located and authorized to do business in the State;

2. a national banking association located in the State; or

3. a trust company located and authorized to do business in the State; and

(iii) be secured in full by a pledge of a direct obligation of the State or United States.

(b) If sale of a security in which money of the Fund is invested is in the best

interest of the Fund, the State Treasurer may sell the security.

§10–319.

The State Treasurer shall disburse money from the Fund only on a voucher that is signed by the Director for the Fund.

§10–320.

(a) The State Treasurer annually shall submit to the Director for the Fund a statement that:

(1) for the fiscal year for which the statement is made:

(i) states the balance of the Fund on the last day of the year;

(ii) states the income of the Fund; and

(iii) summarizes the payments from the Fund; and

(2) states the balance of the Fund on the last day of the preceding fiscal year.

(b) On or before October 1 of each year, the Board shall submit to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly an annual report that includes a detailed statement of the balances and expenses of the Fund.

§11–101.

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

(b) "Department" means the Department of Labor, Licensing, and Regulation.

(c) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

§11–102.

(a) There is a Division of Workforce Development and Adult Learning within the Department of Labor, Licensing, and Regulation.

(b) The Division has the powers, duties, responsibilities, and functions provided in the laws of this State.

(c) The Division has the general purpose of advancing the economic welfare of the people by coordinating the State's public and private resources for adult learning, employment, and job training.

§11–103.

(a) The Division shall:

(1) promote apprenticeship and training programs;

(2) administer job training, placement, and service programs;

(3) implement the provisions of the federal Workforce Innovation and Opportunity Act;

(4) administer adult education and literacy services programs;

(5) conduct educational and job skills training programs in adult correctional facilities;

(6) oversee any other units established pursuant to State or federal employment, training, or manpower statutes;

(7) administer those programs assigned to the Division by law or designated by the Secretary; and

(8) administer any community service employment programs delegated to the State under Title V of the federal Older Americans Act of 1965.

(b) The Division shall meet and confer on a regular basis with representatives of the State's community colleges, appointed by the Maryland Association of Community Colleges, and the adult education community, appointed by the Maryland Association for Adult Continuing and Community Education, to assure that adult education and literacy services and job training activities and resources are effectively coordinated.

§11–104.

For the purpose of establishing compensation rates and basic rates for vacation and sick leave credit earnings, professional personnel who were employed by a county school system or the public library system in the State and who are subsequently appointed to positions in the Department to provide services in accordance with Subtitles 8 and 9 of this title shall be given credit as employees of the Department for their years of service as employees of the county school system or the public library system from which they transferred.

§11–201.

(a) The Department shall establish a program for the retraining and placement of hospital employees who are unemployed or who may become unemployed as a result of the closing, delicensing, downsizing, or possible downsizing of a hospital or the merging of hospitals under § 19-325 of the Health - General Article.

(b) The Secretary and the Secretary of Health and Mental Hygiene shall adopt regulations to implement this section.

(c) There is a Hospital Employees Retraining Fund. The Fund shall be used:

(1) for the purposes described in this section; and

(2) to pay any and all expenses of the Department in administering this section.

(d) Any unexpended funds remaining in the Hospital Employees Retraining Fund at the end of the fiscal year may not revert to the General Fund of the State.

§11–301.

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

(b) (1) "Employer" means any person, corporation, or other entity that employs at least 50 individuals and operates an industrial, commercial, or business enterprise in the State.

(2) "Employer" does not include the State or its political subdivisions or any employer who has been doing business in the State less than 1 year.

(c) "Reduction in operations" includes:

(1) the relocation of a part of an employer's operation from 1 workplace to another existing or proposed site; or

(2) the shutting down of a workplace or a portion of the operations of a workplace that reduces the number of employees by at least 25 percent or 15 employees, whichever is greater, over any 3-month period.

(d) (1) "Workplace" includes a factory, plant, office or other facility where employees produce goods or provide services.

(2) "Workplace" does not include a construction site or other temporary workplace.

§11–302.

This subtitle does not apply to reductions in operations if the reduction:

(1) results solely from labor disputes;

(2) occurs in a commercial, industrial, or agricultural enterprise operated by this State or its political subdivisions;

(3) occurs at construction sites or other temporary workplaces;

(4) results from seasonal factors that are determined by the Department to be customary in the industry; or

(5) results when an employer files for bankruptcy under federal bankruptcy laws.

§11–303.

There shall be a quick response program to provide both employers and employees with services to assist in mitigating the impact on employees that occurs with a reduction in operations.

§11–304.

(a) The State's quick response program is under the direction of the Secretary.

(b) The Secretary in cooperation with the Workforce Development Board shall develop voluntary guidelines for employers faced with a reduction in operations. These guidelines shall include:

(1) the appropriate length of time for advance notification to employees that an employer expects to terminate due to a reduction in operations. Whenever possible and appropriate, at least 90 days notice shall be given;

(2) the appropriate continuation of benefits, such as health, severance, and pension, that an employer should provide to employees who will be terminated due to a reduction in operations; or

(3) the specific mechanisms that employers can utilize to ask for the assistance of the State's quick response program.

(c) The Department shall maintain the capacity to provide employment and training services through the quick response program. This capacity shall include, but not be limited to:

(1) on–site unemployment insurance bulk claims registration: for incidents where 25 or more workers are laid off at 1 time, taking initial unemployment insurance claims at the employee's place of business;

(2) registration for federal Trade Readjustment Act services: if the business closing is due to foreign competition, assisting workers in seeking federal training benefits and additional unemployment insurance compensation benefits;

(3) provision of labor market and retraining information: in conjunction with local service providers, providing both local labor market information and retraining information that can assist the workers to obtain reemployment and/or retraining;

(4) job placement services: through the regular office services or through special on–site services, providing a range of job placement services utilizing the "job bank";

(5) job seeking and finding information: providing 1–day workshops to assist job seekers in learning how to seek and secure jobs; or

(6) referral to retraining opportunities: through liaisons with the private industry councils/service delivery areas and the community college network, providing referrals for dislocated workers for retraining opportunities.

(d) The Department shall distribute the reduction in operations guidelines to all employers in the State every 2 years. The distribution shall begin no later than July 1, 1986.

(e) The Department shall monitor layoff and employment patterns and payments of unemployment compensation contributions to identify employers that are likely to experience large losses in employment or a reduction in operations.

(f) If the Department identifies an employer that is likely to experience large losses in employment or a reduction in operations, the Department shall confidentially contact the employer and offer the assistance of the Department in providing alternative employment and retraining opportunities, including coordinating the delivery of available State and federal resources and services.

(g) The Secretary shall adopt regulations to implement the provisions of this subtitle.

§11–401.

The intent, purposes and objectives of this subtitle are to:

(1) encourage the development of an apprenticeship and training system through the voluntary cooperation of management, labor, and interested State agencies in cooperation with other states and the federal government;

(2) provide for the establishment and furtherance of standards of apprenticeship and training to safeguard the welfare of apprentices and trainees;

(3) contribute to a healthy economy by aiding in the development and maintenance of a skilled labor force sufficient in numbers and quality to meet the expanding needs of Maryland industry and to attract new industry;

(4) open to young people the opportunity to obtain training in skilled trades and other on–the–job occupations which will equip them for profitable employment and citizenship;

(5) establish an apprenticeship and training council and authorize the

appointment of a Director;

(6) set up a program of planned apprenticeship under registered agreements, meeting standards established by the Office of Apprenticeship, U.S. Department of Labor;

(7) promote employment opportunities for young people under conditions providing adequate training and reasonable earnings; and

(8) subject to § 2–1246 of the State Government Article, provide for periodic reports to the Governor, the General Assembly, and the public regarding the status of apprenticeship training in this State.

§11–402.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, §§ 11–403 through 11–405 of this subtitle shall terminate on July 1, 2024.

§11–403.

(a) (1) There is an Apprenticeship and Training Council as part of the Division of Workforce Development and Adult Learning. The Council consists of 12 members all of whom shall be appointed by the Governor of Maryland, with the advice of the Secretary and with the advice and consent of the Senate of Maryland.

(2) Four of the members shall be representatives of employee organizations; one shall be an employee; five shall be representatives of employers; and two shall be appointed from the general public.

(3) The membership of the Council shall, to the extent practicable, reflect the geographic, racial, ethnic, cultural, and gender diversity of the State and shall include representation by individuals with disabilities. Consultants to the Council shall, to the extent practicable, reflect the geographic, racial, ethnic, cultural, and gender diversity of the State and shall include representation by individuals with disabilities.

(4) In advising the Governor, the Secretary shall give consideration to a balanced geographic representation from all of Maryland and a representative sampling and mix of Maryland industry.

(5) One member shall be appointed as Chairman by the Governor, with the advice of the Secretary, and serve as Chairman at the pleasure of the Governor. The Assistant State Superintendent, Career and Technology Education, and the Maryland State Director of the Office of Apprenticeship, U.S. Department of Labor, shall serve as consultants to the Council without vote.

(6) The Governor, with the advice of the Secretary may appoint up to three

additional consultants to the Council from the public at large.

(b) All appointments as members of the Council shall be for terms of 4 years.

(c) (1) Except as provided in paragraph (2) of this subsection and subject to paragraph (3) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Council meetings held during any consecutive 12–month period while the member was serving on the Council.

(2) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(3) In accordance with § 8–501 of the State Government Article, the Chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§11–404.

The members of the Council shall receive per diem compensation as provided in the State budget for each day actually engaged in the discharge of their official duties as well as reimbursement for expenses in accordance with the Standard State Travel Regulations. The Director of Apprenticeship and Training shall act as secretary.

§11–405.

(a) Subject to subsection (d) of this section, the duties of the Council, consistent with the approval of the Division of Workforce Development and Adult Learning, shall be to:

(1) determine the apprenticeability of occupations in the State of Maryland;

(2) encourage the establishment of local apprenticeship committees where the committees are needed and approve their programs;

(3) formulate and adopt standards of apprenticeship which safeguard the welfare of apprentices, being guided, but not controlled, by the standards of apprenticeship recommended by the federal committee on apprenticeship;

(4) formulate policies for the overall apprenticeship program;

(5) register standards of apprenticeship of the groups or employers as elect to conform with the provisions of this subtitle;

(6) register apprenticeship agreements which conform to the standards of apprenticeship adopted by the Council;

(7) issue certificates of completion of apprenticeship to apprentices who are registered with the Council when such apprentices have completed successfully their apprenticeship;

(8) seek all information pertaining to apprenticeship training in the State;

(9) prescribe its rules of procedure and duties of the Chairman, Director, and Secretary subject to the provisions of this law; and

(10) perform other functions as the Governor or the Secretary may direct or as may come within the scope of the Council.

(b) (1) No person, firm, or corporation may offer, establish, maintain, or operate an apprenticeship program for any occupation approved by the Council and recognized by the Division of Workforce Development and Adult Learning as an apprenticeable occupation for which tuition, charges, or fees are charged to or are payable by an enrollee or student, or which is financed in whole or in part by State funds, unless the program is first approved by the Council or the Secretary under subsection (d) of this section.

(2) The Council and the Division of Workforce Development and Adult Learning jointly shall issue a certificate of approval to an applicant operating or proposing to operate the program if they are satisfied, or the Secretary under subsection (d) of this section is satisfied, that the conditions of entrance, the qualifications of the administrators and instructors, the content of the program, the facilities, and the financial aspects of the program are adequate and appropriate for the purpose of the program.

(3) The Council, after notice and hearing, may suspend or revoke its approval of a program or course if it, or the Secretary under subsection (d) of this section, finds that the program or course has ceased to meet the conditions of approval.

(4) Any person, firm, or corporation whose application for approval is rejected or whose certificate of approval is suspended or revoked has a right of judicial review as provided in the Administrative Procedure Act.

(5) Except as otherwise provided in this section, the Council, in consultation with the Division of Workforce Development and Adult Learning, after notice and hearing, may adopt rules and regulations for the implementation of this section, including rules and regulations requiring the furnishing of periodic relevant information about approved and proposed programs and the operator or proposed operator of the approved or proposed programs.

(6) Any person, firm, or corporation that knowingly offers, establishes, maintains, or operates a program in violation of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $1,000 or be imprisoned for not more than one year, or both.

(7) The Council, consistent with the approval of the Division of Workforce Development and Adult Learning, in addition, shall apply to any court of competent jurisdiction for an injunction restraining violations of this section.

(c) The Council, consistent with the approval of the Division of Workforce Development and Adult Learning, may negotiate and adopt agreements permitting reciprocity with apprenticeship and training councils of another state, or the United States Department of Labor, Office of Apprenticeship.

(d) (1) If a disagreement arises between the Council and the Division of Workforce Development and Adult Learning, as a result of a vote taken by the Council with respect to any of the duties and responsibilities in subsections (a) through (c) of this section, the Council may designate three Council members who voted in the majority to present the position of the Council to the Secretary for consideration of the issue on which the Council and the Division disagree.

(2) A representative of the Division of Workforce Development and Adult Learning also shall have an opportunity to present the position of the Division to the Secretary.

(3) (i) After consideration of the positions of the Council and the Division of Workforce Development and Adult Learning, the Secretary shall issue a final decision on the issue.

(ii) The final decision issued under subparagraph (i) of this paragraph shall be the final agency decision.

(4) If a party other than the Council or the Division of Workforce Development and Adult Learning is aggrieved by the decision of the Secretary, the party shall be entitled to judicial review as provided in the Administrative Procedure Act.

(e) (1) On or before June 30 of each year, the Council shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, the following information for the immediately preceding calendar year:

(i) the completion and enrollment rates of each apprenticeship program registered in the State; and

(ii) the age, race, sex or gender identity, county of residence, and program enrollment of each individual enrolled in a registered apprenticeship program.

(2) The Council shall:

(i) sort the information required under paragraph (1) of this subsection by apprenticeship program; and

(ii) publish the report required under paragraph (1) of this subsection

on the Council's Web site.

§11–406.

(a) The Secretary shall appoint a Director of Apprenticeship and Training.

(b) The Director of Apprenticeship and Training shall:

(1) have the responsibility of promoting apprenticeship; and

(2) obtain the assistance of the Office of Apprenticeship, U.S. Department of Labor, and other federal and State agencies in promoting apprenticeships.

(c) The Director's duties shall include:

(1) encouragement and promotion of the standards established in accordance with this subtitle and with the basic standards of the Office of Apprenticeship, U.S. Department of Labor;

(2) bringing about the settlement of differences arising out of apprenticeship programs and agreements when the differences cannot be adjusted locally or in accordance with established trade procedure;

(3) supervision of the execution of agreements and the maintenance of standards;

(4) registration of apprenticeship programs and agreements;

(5) keeping a record of apprenticeship agreements and programs, and upon performance thereunder issuing certificates of completion of apprenticeship;

(6) encouragement of liaison and cooperation between all private, State, and federal agencies concerned with apprenticeship, trade, and industrial training;

(7) promotion of public awareness of apprenticeship and other occupational training; and

(8) keeping a record of the progress of apprenticeship and training programs initiated in accordance with the provisions of this subtitle and informing the Council and the Division of Workforce Development and Adult Learning periodically as to the results.

§11–407.

All apprenticeship and training programs established under this subtitle shall conform to the Code of Federal Regulations, Title 29, Part 30, and any subsequent applicable provisions. In order to effectuate conformity with these provisions, a State plan shall be drafted which will indicate in detail evidence of consistency in the operation of the Maryland apprenticeship and training law with the Code of Federal

Regulations, Title 29, Part 30.

§11–408.

In order to assure compliance with federal laws governing wages, hours, and working conditions, the Maryland Apprenticeship and Training Council will request recognition of its standards and activities by the Office of Apprenticeship, U.S. Department of Labor, and if necessary, make such adjustments in its standards and procedures as will assure conformity.

§11–409.

(a) In this section, "Committee" means the Youth Apprenticeship Advisory Committee.

(b) There is a Youth Apprenticeship Advisory Committee in the Division of Workforce Development and Adult Learning.

(c) The Committee consists of the following members:

(1) the Secretary, or the Secretary's designee;

(2) the State Superintendent of Schools, or the State Superintendent's designee;

(3) the Secretary of Commerce, or the Secretary's designee;

(4) the Secretary of Juvenile Services, or the Secretary's designee;

(5) the Assistant Secretary of the Division of Workforce Development and Adult Learning, or the Assistant Secretary's designee; and

(6) the following members, appointed by the Governor:

(i) two representatives of the Council;

(ii) one representative of an employee organization;

(iii) one employer whose business has a nonjoint apprenticeship program;

(iv) one representative from a community college;

(v) one individual who holds a doctoral degree and specializes in labor economics with expertise in national and international apprenticeship systems;

(vi) one representative of a nonprofit organization who is involved with employee training and workforce development;

(vii) one representative of the Maryland Chamber of Commerce; and

(viii) two representatives from regional business councils that serve different regions of the State.

(d) The Committee shall:

(1) evaluate the effectiveness of existing high school youth apprenticeship programs in the State, other states, and other countries based on a systematic review of relevant data;

(2) review and identify:

(i) ways to implement high school youth apprenticeship programs in the State; and

(ii) means through which employers and organizations can obtain grants, tax credits, and other subsidies to support establishment and operation of high school youth apprenticeship programs; and

(3) set targets for the number of apprenticeship opportunities for youth that the State should reach over the next 3 years.

(e) On or before December 1 of each year, the Committee shall submit a report, in accordance with § 2–1246 of the State Government Article, to the General Assembly regarding any recommended legislation to promote high school youth apprenticeship programs in the State.

§11–501.

This subtitle may be referred to as the "Maryland Workforce Development Act".

§11–502.

(a) It is State policy to coordinate all the resources available from federal, State and local governments, business, labor, and community based organizations to foster and promote a balanced, equitable, and cost–effective employment and training system. To effectuate this policy there shall be consultation between the Governor and the General Assembly in implementing the federal Workforce Innovation and Opportunity Act and this subtitle.

(b) It is the State's goal to assist its citizens in obtaining gainful employment and in reducing dependence on public assistance and unemployment insurance programs by:

(1) preparing unskilled youth and adults who are economically disadvantaged for entry into the work force;

(2) retraining those who have lost jobs or who must upgrade or replace their work skills or both; and

(3) providing training and related services, including supportive services for low–income individuals, to increase the employability of those who encounter barriers to employment.

(c) It is also the State's goal to develop a well trained productive work force which meets the needs of a changing economy by:

(1) developing and ensuring maximum utilization of timely statewide labor market information;

(2) linking employment and training services with economic development efforts;

(3) providing enhanced employment and training capabilities specially designed to meet the needs of business and industry, including industries that utilize advanced technology applications; and

(4) encouraging and initiating innovative employment and training strategies.

§11–503.

(a) In this subtitle the definitions set forth in § 3 of the federal Act shall apply; definitions set forth below shall have the meanings indicated.

(b) "Dislocated worker" means an individual who:

(1) (i) has been terminated or laid off or has received a notice of termination or layoff from employment;

(ii) 1. is eligible for or has exhausted entitlement to unemployment compensation; or

2. has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one–stop center referred to in § 121(e) of the federal Act, attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under State unemployment compensation law; and

(iii) is unlikely to return to a previous industry or occupation;

(2) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(3) is employed at a facility at which the employer has made a general announcement that the facility will close within 180 days;

(4) for purposes of eligibility to receive services other than training services described in § 134(c)(3) of the federal Act, career services described in § 134(c)(2)(A)(xii) of the federal Act, or supportive services, is employed at a facility at which the employer has made a general announcement that the facility will close;

(5) was self–employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;

(6) is the spouse of a member of the armed forces on active duty, as defined in 10 U.S.C. § 101(d)(1), and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of the member; or

(7) is the spouse of a member of the armed forces on active duty, as defined in 10 U.S.C. § 101(d)(1), and who has been providing unpaid services to a family member in the home and is unemployed or underemployed and experiencing difficulty in obtaining or upgrading employment.

(c) "Federal Act" means the federal Workforce Innovation and Opportunity Act.

(d) "Governor's plan" means the State plan as provided in § 102 of the federal Act.

(e) "Individual with a disability" means any individual with a disability, as defined in § 3 of the Americans with Disabilities Act.

(f) "Local plan" means a plan submitted by a local workforce area under § 108 of the federal Act, subject to § 106(c)(3)(B) of the federal Act and any final plan or modification as provided in the federal Act.

(g) "Low–income individual" means an individual who:

(1) receives, has received in the past 6 months, or is a member of a family that is receiving or has received in the past 6 months, assistance through:

(i) the supplemental nutrition assistance program established under the federal Food and Nutrition Act;

(ii) the program of block grants to states for temporary assistance for needy families program under Part A of Title IV of the federal Social Security Act;

(iii) the supplemental security income program established under Title XVI of the federal Social Security Act; or

(iv) State or local income–based public assistance;

(2) is in a family with total family income that does not exceed or is an individual with a disability whose own income does not exceed the higher of:

(i) the federal Office of Management and Budget poverty income guidelines; or

(ii) the United States Department of Labor, Bureau of Labor Statistics, 70% lower living standard income level;

(3) is a homeless individual, as defined in § 41403(6) of the federal Violence Against Women Act;

(4) is a homeless child or youth, as defined in § 725(2) of the federal McKinney–Vento Homeless Assistance Act;

(5) receives or is eligible to receive a free or reduced price lunch under the federal Richard B. Russell National School Lunch Act; or

(6) is a foster child on behalf of whom State or local government payments are made.

(h) "Participant" means an individual who has been determined eligible to participate in and who is receiving services (except follow–up services authorized under this title) under a program authorized under this title.

(i) "Performance standards" means the basic measures of performance for training programs to be prescribed by the Secretary and such variations of the standards as the Governor may prescribe.

(j) "Secretary" means the United States Secretary of Labor.

(k) "State Workforce Development Board" means the Governor's Workforce Development Board, as provided in § 101 of the federal Act.

(l) "Supportive services" means services such as transportation, child care, dependent care, housing, and needs–related payments that are necessary to enable an individual to participate in activities authorized under the federal Act.

(m) "Training provider" means an entity that provides training and employment services to individuals described in § 11–504(b) of this subtitle.

(n) "Workforce development area" means a geographic area designated by the Governor in accordance with § 106 of the federal Act.

§11–504.

(a) A workforce development program is established to implement the federal Act.

(b) (1) This program shall provide employment, training, supportive and related services to eligible job seekers, as defined in the federal Act, including individuals with barriers to employment, such as those who are low income or low–skilled, to allow individuals to succeed in the labor market and to match employers with the skilled workers needed to compete in the global economy.

(2) (i) Subject to subparagraph (iv) of this paragraph, the State Department of Transportation shall issue to training providers weekly transit passes, in the form of magnetic passes or loaded smart cards, for local bus, light rail, or metro subway service provided by the Maryland Transit Administration.

(ii) The training providers shall provide the weekly transit passes issued under subparagraph (i) of this paragraph to individuals receiving employment and training services under the program established in accordance with subsection (a) of this section.

(iii) A training provider shall reimburse the Department of Transportation for the cost of transit passes provided to the training provider under this paragraph.

(iv) To be eligible to receive transit passes under this paragraph, a training provider shall include in its contract with the local workforce development board or local workforce development agency a provision requiring reimbursement of the training provider for its costs under subparagraph (iii) of this paragraph.

(c) The County Commissioners of Carroll County may appropriate funds necessary to enter into contracts with private or public enterprises for the training or retraining of workers of those enterprises.

§11–505.

(a) The Governor's Workforce Development Board is established and shall have the membership as provided in § 101 of the federal Act.

(b) (1) Subject to subsection (a) of this section, the members of the Governor's Workforce Development Board shall be appointed by the Governor for staggered terms set by the Governor by executive order.

(2) To the extent practicable, the composition of the Governor's Workforce Development Board shall reflect the race, gender, and geographic diversity of the population of the State.

(c) The Governor's Workforce Development Board shall be funded consistent with §§ 101 and 128 of the federal Act and shall have personnel and appropriations as are provided in the State budget.

(d) The Governor's Workforce Development Board shall perform the duties and functions identified in § 101 of the federal Act and other functions designated by the

Governor as necessary to improve the quality of the State's workforce.

(e) The Governor's Workforce Development Board may adopt any rule or regulations necessary to carry out its powers and duties.

(f) As soon after January 1 of each year as reasonably possible, the Governor's Workforce Development Board shall submit an annual report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly.

(g) (1) Except as provided in paragraph (2) of this subsection and subject to paragraph (3) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(2) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(3) In accordance with § 8–501 of the State Government Article, the chair shall provide notice to the Governor and the Governor shall appoint a successor.

§11–506.

In accordance with § 102 of the federal Act, the Governor shall submit to the Secretary a State plan that includes the workforce initiatives of State agencies and outlines a 4–year strategy for the statewide workforce development system of the State. The Governor's plan shall include, but not be limited to, those items set forth in § 102 of the federal Act.

§11–507.

(a) After receiving recommendations from the Governor's Workforce Development Board regarding youth and adult discretionary allocations, as provided for in §§ 128 and 133 of the federal Act, the Governor shall allocate federal funds in accordance with §§ 128 and 133 of the federal Act, the State plan, and State budget procedures.

(b) After receiving recommendations from the Governor's Workforce Development Board regarding the utilization of federal funds for reservations for State activities under §§ 128 and 133(a) of the federal Act, the Governor, except for funds reserved for State purposes, shall distribute the remainder to the workforce investment areas in accordance with §§ 128 and 133 of the federal Act, the State plan, and State budget procedures.

(c) The Governor may provide State funds in the budget to qualify for funds under the federal Act, and for other purposes to promote the workforce development system to implement § 11-508 of this subtitle.

(d) Funds provided under the federal Act shall only be used for activities which are in addition to those which would otherwise be available in the area in the absence of such funds.

(e) Nothing in this section is intended to limit the ability of the State to use private resources and to contract with private or public entities to provide employment and training services or supportive services.

§11–508.

To the extent that State funds become available and subject to the procedures in § 11–505(d) of this subtitle, after receiving recommendations from the Governor's Workforce Development Board regarding the utilization of State funds to supplement federal funds for employment and training services, supportive services, and for related services such as training allowances and stipends, the Governor may allocate an amount for such purposes in accordance with State budget procedures.

§11–601.

(a) In this section, "ACTION Program" means the Apprenticeship Career Training in Our Neighborhoods Program established under this section.

(b) There is an Apprenticeship Career Training in Our Neighborhoods Program in the Department.

(c) The purposes of the ACTION Program are:

(1) to develop a well–trained, productive construction workforce which meets the needs of the State's economy;

(2) to encourage employers to hire apprentices in the construction industry; and

(3) to help employers offset additional costs, if any, associated with hiring apprentices.

(d) (1) The Department shall administer the ACTION Program and provide grants on a competitive basis to employers that meet the requirements under paragraph (2) of this subsection.

(2) An employer is eligible to receive a grant if the employer employs one or more apprentices who:

(i) have been employed by the employer for at least 7 months;

(ii) are engaged in a building or construction trade;

(iii) are enrolled in the first year of an apprenticeship program

registered with the Maryland Apprenticeship and Training Council under § 11–405(b) of this title; and

(iv) live in a zip code in which the percentage of poverty is at least 20% as established by the U.S. Department of Commerce, Bureau of the Census, in the most recently released data.

(e) (1) As provided in the State budget, the ACTION Program shall award grants to eligible employers.

(2) It is the intent of the General Assembly that, for fiscal year 2017 and each fiscal year thereafter, the State budget include an appropriation of at least $100,000 for the ACTION Program to:

(i) provide grants to eligible employers; and

(ii) cover administrative costs.

(f) The Department shall adopt regulations necessary to carry out this section, including regulations to:

(1) develop requirements for grant applications;

(2) develop a process for reviewing grant applications and awarding grants to eligible employers; and

(3) determine a cap for the maximum amount of a grant that an eligible employer may receive each year.

(g) The amount of a grant awarded by the ACTION Program under subsection (e) of this section shall be based on the number of apprentices that an eligible employer employs who satisfy the criteria in subsection (d)(2) of this section.

(h) A grant shall consist of a maximum of $1,000 for each apprentice that an eligible employer employs who satisfies the criteria in subsection (d)(2) of this section.

§11–602.

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

(2) "Local area" means the local workforce development areas established in this State under the federal Workforce Innovation and Opportunity Act.

(3) "Low income" means not more than 150% of the federal poverty level.

(4) "Program" means the Maryland Summer Youth Connection Program.

(5) "Summer" means the period beginning June 1 of each year and ending September 30 of each year.

(b) (1) There is a Maryland Summer Youth Connection Program in the Division.

(2) (i) The purpose of the Program is to provide summer jobs for youth who are not less than 14 years of age and not more than 21 years of age.

(ii) The Program priorities are to provide jobs for youth who:

1. are 14 years old and 15 years old;

2. are from low-income families;

3. have a disability;

4. have a special need; or

5. otherwise encounter barriers in the labor market.

(c) The Director shall:

(1) make grants in furtherance of the Program objectives to fiscal agents for local areas in accordance with the allocation formulas established under the federal Workforce Innovation and Opportunity Act;

(2) adopt regulations to carry out the Program; and

(3) evaluate the performances of the local areas in carrying out the purposes of the Program.

(d) Under the Program, the local areas shall:

(1) develop meaningful and well supervised work experiences in:

(i) public and private nonprofit, community-based sites; and

(ii) private for-profit sites, if the experiences developed in the private for-profit sites:

1. serve not more than 20% of the participants in the Program; and

2. expose Program participants to occupations for which there is high demand in the labor market;

(2) provide activities to enhance job skills, including basic skills, computer skills, occupational skills, and basic employability skills;

(3) provide career-exposure activities, including field trips, guest speakers, job shadowing, aptitude and interest assessment, and college fairs;

(4) provide sufficient oversight and monitoring of work sites to ensure a quality experience for each participant;

(5) submit a plan to the Director detailing the local area's plan for summer activities; and

(6) submit an end-of-summer report.

(e) A local area's allowable Program costs may include:

(1) wages paid to participants in the Program;

(2) the costs of supervision;

(3) the costs of materials and supplies related to the work provided;

(4) reasonable transportation costs to, from, and around the work site;

(5) related training costs; and

(6) reasonable administrative support costs, not exceeding 10% of the funding granted the local area.

(f) A participating youth shall be paid not less than the federal minimum wage for each hour worked.

§11–603. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2018 PER CHAPTER 140 OF 2015 //

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

(2) "Eligible career track" means an occupation in the manufacturing industry or the science, technology, engineering, and math industries.

(3) "Eligible employer" means an employer that:

(i) has an apprentice position available for a high school student in an eligible career track; and

(ii) the Apprenticeship and Training Council approves under § 11–405(b) of this title.

(4) "Eligible student" means a student who is:

(i) interested in obtaining a license or certification in a skilled occupation; and

(ii) a junior or senior in a high school in the State.

(5) "Program" means Apprenticeship Maryland.

(b) (1) There is an apprenticeship pilot program in the State called Apprenticeship Maryland.

(2) The Program shall begin in the summer of 2016 and last for 2 years.

(3) The purpose of the Program is to prepare students to enter the workforce by providing some of the necessary on–site employment training and related classroom instruction needed to obtain a license or certification for a skilled occupation.

(c) (1) (i) The State Department of Education, in consultation with the Department and the Public School Superintendents Association of Maryland, shall develop criteria for the selection of two local school systems to participate in the Program.

(ii) As part of the criteria developed under subparagraph (i) of this paragraph, the State Department of Education shall consider, to the extent practicable, providing for the selection of one urban school system and one rural school system to participate in the Program.

(2) The State Department of Education shall collaborate with the Department, the Department of Economic Competitiveness and Commerce, and representatives of the business community to develop criteria for and identify eligible employers.

(d) The State Department of Education shall use the criteria developed under subsection (c) of this section to select two local school systems to participate in the Program.

(e) Each county superintendent from a participating school system may select up to 60 students to participate in the Program.

(f) A student selected to participate in the Program:

(1) may start the Program in the summer or fall of the student's junior or senior year in high school;

(2) shall complete at least 450 hours of work–based training under the supervision of an eligible employer;

(3) shall receive at least 1 year of classroom instruction that is related to the eligible career track of the student;

(4) shall receive credit toward a high school diploma or a postsecondary credential, or both, for the work–based training and classroom instruction completed under the Program; and

(5) shall complete the Program before August 31 following the student's graduation from high school.

(g) The Department shall issue a skills certificate to each eligible student who completes the Program.

(h) Each eligible employer shall pay an eligible student at least the applicable minimum wage subject to any lawful exemptions.

(i) The Department and the State Department of Education shall work together to explore options for increasing the availability of and access to youth apprenticeship programs based on the experiences of other states and countries, as well as the results of the Program.

(j) On or before December 1, 2016, and December 1, 2017, the Department and the State Department of Education shall report jointly to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly regarding the effectiveness of the Program and including:

(1) the number of students participating in the Program from each participating school system;

(2) wage information regarding payments disbursed to students participating in the Program;

(3) feedback from students participating in the Program on ways to improve the Program;

(4) the types of workforce skills and training that the students participating in the Program were able to acquire;

(5) the number of students who completed the Program;

(6) the number of students that employers retained; and

(7) recommendations to expand or discontinue the Program.

(k) The Department and the State Department of Education jointly may adopt regulations to implement the Program.

§11–701.

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

(b) "Credential" means a recognized:

(1) educational diploma;

(2) certificate or degree;

(3) occupational license;

(4) apprenticeship certificate;

(5) industry recognized certification; or

(6) award for skills attainment and completion, issued by an approved training provider in the State or third–party credential provider.

(c) "High–demand occupation" means an occupation that:

(1) has a significant presence within target industries;

(2) is in demand by employers; and

(3) pays or leads to payment of a family sustaining wage.

(d) "Identifiable skill" means the attainment of proficiency in a specific work–related skill that is likely to lead to future job advancement and improvement in an individual's earning potential.

(e) (1) "Job readiness training" means training for the purpose of assisting and supporting jobseekers in overcoming individual barriers to employment and developing the skills necessary to maintain employment and to qualify for skills training opportunities.

(2) "Job readiness training" includes:

(i) occupational skills development;

(ii) GED preparation;

(iii) literacy advancement;

(iv) financial stability services, including financial coaching;

(v) credit counseling;

(vi) transportation; and

(vii) child care.

(f) "Local board" means a local workforce development board established to administer services in a workforce development area established under Subtitle 5 of this title.

(g) "Maryland EARN Program" means the Maryland Employment Advancement Right Now Program created under this subtitle.

(h) "Strategic industry partnership" means a collaboration that brings together a regional group that may include employers, nonprofits, institutions of higher education, community colleges, local boards, local governments, or other relevant partners to:

(1) identify common workforce needs for high–demand occupations within a target industry; and

(2) develop and implement industry strategies to meet the common workforce needs and shortages based on regional needs.

(i) "Target industry" means a group of employers closely linked by a common product or service, workforce skills, similar technologies, supply chains, or other economic ties.

§11–702.

(a) There is a Maryland Employment Advancement Right Now (EARN) Program in the Department.

(b) The purpose of the Maryland EARN Program is to create industry–led partnerships to advance the skills of the State's workforce, grow the State's economy, and increase sustainable employment for working families.

(c) The Department, in consultation with the Department of Commerce and the Governor's Workforce Development Board, shall establish and administer the Maryland EARN Program to provide grants on a competitive basis for:

(1) an approved strategic industry partnership for development of a plan consistent with the purpose of the Maryland EARN Program;

(2) workforce training programs and other qualified programs that provide industry valued skills training to individuals that result in a credential or identifiable skill consistent with an approved strategic industry partnership plan; and

(3) job readiness training and skills training that results in a credential or an identifiable skill.

§11–703.

(a) An application for a strategic industry partnership grant under § 11–702(c) of this subtitle shall:

(1) include:

(i) evidence of shortages in skilled employment within the target industry over a sustained period of time;

(ii) a description of specific high–demand occupations or sets of occupations within the target industry; and

(iii) the specifics of training programs that would result in individuals obtaining credentials or identifiable skills to facilitate their employment or advancement in the targeted industry; and

(2) identify members participating in the strategic industry partnership and include identification of the target industry and the participating local board.

(b) Grants may be awarded for skills training consistent with an approved strategic industry partnership plan developed under § 11–702(c) of this subtitle to:

(1) industries with identified positions and a demonstrated need for incumbent worker training that can be accessed by employees at their place of employment or other location;

(2) industries with an identified workforce shortage that will be seeking to hire individuals to train to meet a specific skill need;

(3) a member of a strategic industry partnership that can provide job readiness training to qualified individuals directly or through accounts held at local boards on behalf of the individual; and

(4) educational providers that offer training consistent with the goals of the plan.

(c) The competitive grant process shall give priority to strategic industry partnerships that maximize the potential of the collaboration through direct financial or in–kind contributions by members of the target industry.

§11–704.

The Department may adopt regulations to carry out the provisions of this subtitle.

§11–705.

(a) The Department shall monitor all grants provided under the Maryland EARN Program.

(b) The Department may require that all recipients of strategic industry partnership grants:

(1) demonstrate an ability to collaborate successfully; and

(2) include additional provisions in a grant proposal to ensure accountability.

(c) The Department may revoke grant funding from a strategic industry

partnership, workforce training program, or partnership member if goals consistent with a grant agreement approved by the Department are not met.

(d) To the extent practicable and consistent with relevant judicial opinions and statutory law, any intellectual property developed as a result of a grant awarded under the Maryland EARN Program shall remain in the public domain.

§11–706.

(a) The Department, in consultation with the Department of Budget and Management, shall develop and implement a State employment advancement strategy.

(b) The State employment advancement strategy shall identify:

(1) positions in State government in need of skilled employees; and

(2) mechanisms to provide incumbent State employees with access to skills training programs that result in:

(i) employment advancement resulting in title promotion or wage promotion; or

(ii) the potential for future employment advancement as the result of obtaining a credential or identifiable skill.

§11–707.

The Department, in consultation with the Department of Economic Competitiveness and Commerce and the Department of Information Technology, shall develop a uniform and easily accessible statewide "Train Maryland" Web site promoting available training programs in the State, including those available under the Maryland EARN Program.

§11–708.

For fiscal year 2014 and each fiscal year thereafter, the Maryland EARN Program shall be funded as provided for in the State budget.

§11–709.

(a) On or before December 31 of each year, the Department shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee on the Maryland EARN Program.

(b) The report required under subsection (a) of this section shall include:

(1) an identification of training needs statewide, including industries in

urgent need of qualified workers;

(2) information on measures being used to track the success and accountability of the Maryland EARN Program, including use of the StateStat accountability process under § 3–1003(b) of the State Finance and Procurement Article;

(3) (i) a description of each strategic industry partnership receiving grant funding and the status of the partnership; and

(ii) the jurisdiction of the State in which each strategic industry partnership is located;

(4) the number of individuals:

(i) by sex, race, national origin, income, county of residence, and educational attainment, participating in each component of the Maryland EARN Program; and

(ii) participating in the Maryland EARN Program who, as a result of the Program, have obtained:

1. a credential or an identifiable skill;

2. a new employment position;

3. a title promotion; or

4. a wage promotion; and

(5) an assessment of whether and to what extent the approved strategic industry partnerships utilized existing data concerning:

(i) training needs in the State identified in previous studies; and

(ii) applicable skills needs identified in existing workforce studies, plans, or research.

§11–710.

This subtitle may be cited as the "Maryland EARN Program".

§11–801.

In this subtitle, "adult education" means academic instruction and education services below the postsecondary level for individuals:

(1) who are at least 16 years old;

(2) who are not enrolled or required to be enrolled in high school under State law; and

(3) who:

(i) are basic skills deficient;

(ii) do not have a high school diploma or its recognized equivalent and have not achieved an equivalent level of education; or

(iii) are English language learners.

§11–802.

(a) There is an Adult Education and Literacy Services Office in the Division of Workforce Development and Adult Learning of the Department.

(b) The Adult Education and Literacy Services Office shall be the sole agency in the State responsible for administering and supervising policy and funding for adult education and literacy.

§11–803.

The Adult Education and Literacy Services Office, with the approval of the Secretary, may adopt regulations to carry out this subtitle.

§11–804.

The Department shall be responsible for the development of the components of the State plan required to be submitted under federal law to carry out adult education and literacy services.

§11–805.

The purpose of adult education and literacy services is to:

(1) assist adults to become literate and obtain the knowledge and skills necessary for employment and self–sufficiency;

(2) assist adults who are parents or family members to obtain the education and skills necessary:

(i) to become full partners in the educational development of their children; and

(ii) to lead to sustainable improvements in the economic opportunities for their family;

(3) assist adults in attaining a secondary school diploma and in the

transition to postsecondary education and training, including through career pathways; and

(4) assist immigrants and other individuals who are English language learners by:

(i) improving their English language proficiency in reading, writing, speaking, and comprehension skills;

(ii) improving mathematics skills; and

(iii) acquiring an understanding of the American system of government, individual freedom, and the responsibilities of citizenship.

§11–806.

(a) (1) The Adult Education and Literacy Services Office shall distribute competitive grants for adult education and literacy services in accordance with the State plan for services required under the authorizing federal law for adult education and literacy services.

(2) The grants distributed under this section shall be based on need and performance.

(3) Grants under this section may be used for adult education and literacy services, including:

(i) basic skills instruction;

(ii) preparation and instruction for obtaining a high school diploma by examination under § 11–808 of this subtitle;

(iii) the National External Diploma Program under § 11–807 of this subtitle;

(iv) Workplace Literacy Services and workforce preparation activities;

(v) English for speakers of other languages and integrated English literacy and civics education;

(vi) family literacy;

(vii) literacy instruction; and

(viii) integrated education and training.

(b) Funding for the competitive grants under this section shall be as provided in the State budget.

(c) On or before August 1 each year, the Department shall:

(1) compile a list by county of adult education and literacy services grant recipients for adult education and literacy services offered to the public;

(2) distribute the list to the county board and county superintendent or chief executive officer of each local school system in the State; and

(3) post the list on its public website.

§11–807.

(a) In this section, "Program" means the National External Diploma Program adopted under regulations by the Secretary in consultation with the State Board of Education.

(b) (1) The Department and the State Board of Education recognize demonstrated competencies in adults, whether or not those competencies were acquired in a formal school setting.

(2) In response to its recognition of competencies, the Department shall provide alternative requirements and methods of obtaining a Maryland high school diploma.

(3) The Department and the State Board of Education shall award diplomas to the individuals meeting the requirements of this subtitle.

(c) (1) For each fiscal year the Governor shall include in the annual budget bill submitted to the General Assembly, including any proposed supplemental budget, a General Fund appropriation for the Program in an amount not less than the amount of the Governor's General Fund appropriation for the Program in fiscal year 2006.

(2) In each annual budget, the Governor shall include federal funds, to the extent available, for the Program in an amount not less than the amount of the Governor's federal fund appropriation for the Program in fiscal year 2006.

§11–808.

(a) An individual may obtain a high school diploma by examination as provided in this section if the individual:

(1) has not obtained a high school diploma;

(2) resides in this State;

(3) is not subject to compulsory school attendance under § 7–301 of the Education Article; and

(4) has withdrawn from a regular full–time public or private school

program.

(b) The Department shall offer examinations to individuals who are pursuing a high school diploma under this subtitle at least twice each year at places throughout the State that are reasonably convenient for the applicants.

(c) The examination shall:

(1) be offered in appropriate high school subject areas; and

(2) be of a comprehensive nature as determined by the State Board of Education.

(d) An individual who fails an examination may repeat taking the examination.

(e) A current member of the armed forces is exempt from the residency requirement in subsection (a)(2) of this section and may earn a Maryland high school diploma by achieving a passing score on the examination offered under subsection (b) of this section.

(f) The diploma shall be awarded in accordance with the regulations adopted by the Secretary and the State Board of Education.

§11–809.

(a) In this section, "homeless youth" has the same meaning as provided in the federal McKinney–Vento Homeless Assistance Act.

(b) An individual is exempt from paying GED testing fees if:

(1) the individual is a homeless youth;

(2) the individual has had a consistent presence in the State for at least 1 year before the individual applies to take the GED test, as evidenced by school, employment, or other records; and

(3) the Department verifies that the individual is a homeless youth.

(c) The Department may use the following individuals to verify that an individual is a homeless youth:

(1) a homeless liaison from a local school system that the individual attended;

(2) a director or a designee of the director of a program in the State funded under the Runaway and Homeless Youth Act; or

(3) a director or a designee of the director of a program in the State funded under Title IV, Subtitle B of the McKinney–Vento Homeless Assistance Act.

(d) The Department shall adopt regulations to implement the requirements of this section.

§11–901.

(a) There is a Correctional Education Council under the jurisdiction of the Department of Public Safety and Correctional Services and the Department.

(b) (1) The Council consists of 14 members.

(2) Four of the members of the Council shall be residents of this State appointed by the Governor for a term of 4 years who each shall serve until a successor is appointed and qualifies as follows:

(i) two representing the business community;

(ii) a former offender; and

(iii) one member of the general public.

(3) The following officials shall serve ex officio:

(i) the Secretary of Public Safety and Correctional Services;

(ii) the Secretary of Labor, Licensing, and Regulation;

(iii) the State Superintendent of Schools, or the State Superintendent's designee;

(iv) the Secretary of Higher Education, or the Secretary's designee;

(v) the Secretary of Commerce, or the Secretary's designee;

(vi) the president of a community college in the State, or the president's designee;

(vii) the Chair of the Governor's Workforce Development Board, or the Chair's designee;

(viii) the Director of Education and Workforce Skills Training for Correctional Institutions, or the Director's designee;

(ix) an official from a local correctional facility, or the official's designee; and

(x) the county superintendent of schools from a county where a correctional institution of the Division of Correction is located, who shall be selected by the State Superintendent, or the county superintendent's designee.

(c) Each member of the Council:

(1) serves without compensation; but

(2) is entitled to reimbursement for expenses in accordance with the Standard State Travel Regulations.

(d) (1) The Secretary of Public Safety and Correctional Services and the Secretary shall serve as cochairs of the Council.

(2) The Council:

(i) shall meet at least four times per year;

(ii) shall designate the time and place of its meetings; and

(iii) may adopt rules for the conduct of its meetings.

(3) The Council shall be within the Department for administrative and budgetary purposes.

(4) The Department shall provide technical and clerical assistance and support to the Council.

(e) (1) Except as provided in paragraph (2) of this subsection and subject to paragraph (3) of this subsection, a member shall be considered to have resigned who has been appointed to the Council by the Governor if the member did not attend at least two–thirds of the Council meetings held during any consecutive 12–month period while the member was serving on the Council.

(2) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(3) In accordance with § 8–501 of the State Government Article, the cochairs shall provide notice to the Governor and the Governor shall appoint a successor.

§11–902.

(a) The Correctional Education Council shall develop and recommend an educational and workforce training program for each correctional institution in the Division of Correction. The programs shall meet the special needs and circumstances of the inmates in each correctional institution.

(b) (1) The Council shall adopt regulations for all correctional institutions in the Division of Correction for the implementation of a mandatory education program for all inmates who fail to attain a minimum educational standard as set forth in this

subsection.

(2) The regulations adopted by the Council shall:

(i) require that the educational standard shall be the attainment of a General Educational Development (GED) diploma or a verified high school diploma;

(ii) apply only to any inmate who:

1. was received by the Division of Correction after July 1, 1987;

2. has 18 months or more remaining to be served before a mandatory supervision release date;

3. is not exempted due to a medical, developmental, or learning disability; and

4. does not possess a General Educational Development (GED) diploma or a verified high school diploma;

(iii) require any inmate who is not exempted under item (ii)3 of this paragraph to participate in:

1. the mandatory education program for at least 120 calendar days; or

2. a workforce skills training program; and

(iv) the Division of Correction shall report to the Parole Commission the academic progress of an inmate in the mandatory education program.

(c) (1) The Council shall adopt regulations for all correctional institutions in the Division of Correction for the implementation of a mandatory workforce skills training program for all inmates as provided in this subsection.

(2) The regulations shall apply only to an inmate who:

(i) has 18 months or more remaining to be served before a mandatory supervision release date; and

(ii) is not exempted due to a medical, developmental, or learning disability.

(3) The Division of Correction shall report to the Parole Commission the academic progress of an inmate in the mandatory workforce skills training program.

(d) On or before October 30 of each year, the Council shall report its activities to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly.

(e) (1) (i) The Council shall actively advocate and promote the interests of educational programs and workforce skills training opportunities in correctional institutions.

(ii) The Council shall seek to ensure that a quality education, equal educational opportunity, and workforce skills training are available to all inmates at correctional institutions.

(2) The Council, on a regular basis, shall review the educational and workforce skills training programs at correctional institutions to ensure that the unique educational and training needs of the populations of the correctional institutions are being satisfactorily met.

(3) The Council shall include in its review:

(i) curriculum guides;

(ii) courses of study;

(iii) resource materials;

(iv) textbooks;

(v) supplementary readers;

(vi) materials of instruction;

(vii) visual and auditory aids;

(viii) supplies;

(ix) teacher performance; and

(x) other teaching aids.

(4) Based on its review, the Council shall recommend and advocate improvements to the educational and workforce skills training programs at correctional institutions.

§11–903.

(a) The Department is responsible for the provision of education and workforce skills training programs in the adult correctional institutions in the State.

(b) The Secretary shall appoint a Director of Education and Workforce Skills Training for Correctional Institutions.

(c) The Director shall receive the salary provided in the budget of the Department.

(d) The Director shall:

(1) implement and operate the educational and workforce skills training programs developed by the Council in the correctional institutions;

(2) meet with and advise the Council about the programs; and

(3) consult with the Commissioner of Correction and the warden of each institution about the operation of the programs.

§11–904.

In this subtitle, "federal acts" means the Acts of Congress that authorize funding for education, library services, and workforce development training for inmates in adult correctional facilities, and any amendments to those acts.

§11–905.

(a) The State of Maryland assents to the federal acts.

(b) The State Treasurer shall:

(1) be the custodian of any money received under the federal acts; and

(2) disburse this money in accordance with the federal acts.

(c) The Department of Labor, Licensing, and Regulation and the State Board of Education, as appropriate, shall:

(1) cooperate with the appropriate federal agencies in administering the federal acts;

(2) do anything necessary to secure the benefits of the federal acts;

(3) facilitate the transfer of funds to the appropriate operational agency; and

(4) represent this State in all matters relating to the administration of the federal acts.

§11–906.

(a) Notwithstanding any other provision of law, Patuxent Institution is a correctional institution within the Division of Correction and under the jurisdiction of the Correctional Education Council for the funding of educational and workforce skills training programs only.

(b) Funds for the operation of the educational and workforce skills training programs in correctional institutions shall be provided in the budget of the Department.

(c) The Department of Public Safety and Correctional Services and other State agencies may contribute to the programs identified under subsection (b) of this section.

(d) Funds appropriated for educational and workforce skills training programs in correctional institutions may not be diverted by budget amendment or otherwise to any other purpose.

§11–907.

This subtitle does not affect the provisions of law relating to the powers, duties, and authority of the State Board of Education, the State Superintendent of Schools, the Maryland Higher Education Commission, or the Secretary of Higher Education.

§11–1201. IN EFFECT

// EFFECTIVE UNTIL DECEMBER 31, 2020 PER CHAPTER 315 OF 2015 //

(a) In this section, "Program" means the Pilot Program for Small Business Development by Ex–Offenders.

(b) (1) On or before January 1, 2016, subject to the availability of funds, the Department, in consultation with the Department of Public Safety and Correctional Services and the Maryland Small Business Development Financing Authority, shall establish a program to assist individuals exiting the correctional system by providing:

(i) training in how to establish small businesses; and

(ii) funding to establish small businesses.

(2) The Program established under this section shall terminate at the end of December 31, 2020.

(3) The Department may coordinate with other entities that offer to provide resources for the Program, including funding, training, and mentoring services.

(c) The Department shall develop an evaluation process for the Program that includes a mechanism to evaluate whether the Program has operated to encourage the establishment of stable small businesses by individuals who have participated in the Program.

(d) In consultation with the Department of Public Safety and Correctional Services, the Department shall select between three and five individuals to participate in the Program who:

(1) have recently exited the correctional system; and

(2) have identified an interest or a skill set that indicates a likelihood of

successful implementation of the business plan proposed by the individual.

(e) An individual selected to participate in the Program shall receive training and mentoring in the development of a business plan.

(f) The Department shall:

(1) partner an individual participating in the Program with a mentor who will guide the individual over a 3–year period following the implementation of the individual's business plan; and

(2) assist the individual in obtaining financing for the individual's small business through the Maryland Small Business Development Financing Authority.

§11–1301.

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

(b) "Center" means the Maryland Center for Construction Education and Innovation.

(c) "Fund" means the Construction Education and Innovation Fund.

§11–1302.

(a) There is a Construction Education and Innovation Fund.

(b) The Center shall administer the Fund.

(c) (1) The Fund is a special, nonlapsing revolving fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(d) The Fund consists of:

(1) money appropriated in the State budget to the Fund;

(2) money made available to the Fund through federal programs or private contributions;

(3) money derived by the Center; or

(4) any other money made available to the Center for the Fund.

(e) For fiscal year 2018 and each fiscal year thereafter, the Governor shall include in the annual State budget an appropriation to the Fund of $250,000 to support the operation of the Center.

(f) The Fund may be used only to support the purposes of the Center.

(g) (1) The Treasurer shall invest money in the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be paid into the Fund.

§12–101.

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

(b) "Board" means the Maryland Small Business Retirement Savings Board.

(c) (1) "Covered employee" means an individual who is employed by a covered employer.

(2) "Covered employee" does not include:

(i) an employee covered under the federal Railway Labor Act (45 U.S.C. Sec. 151) or an employee engaged in interstate commerce so as not to be subject to the legislative powers of the State, except insofar as application of this title is authorized under the United States Constitution or laws of the United States;

(ii) an employee eligible to participate in a qualifying retirement plan;

(iii) an employee covered by a valid collective bargaining agreement that expressly provides for a multi–employer retirement plan described in 26 U.S.C. § 414(f); or

(iv) an employee who is under the age of 18 years before the beginning of the calendar year.

(d) (1) "Covered employer" means a person engaged in a business, an industry, a profession, a trade, or any other enterprise in the State, whether for profit or not for profit, that pays the covered employer's employees through a payroll system or service.

(2) "Covered employer" does not include:

(i) the federal government;

(ii) the State or any unit of the State;

(iii) a county or any unit of the county;

(iv) a municipal corporation or any unit of the municipal corporation;

(v) an employer that currently offers an employer–offered savings

arrangement that was established separately from the requirements of this title;

(vi) an employer that, at any time during the preceding 2 calendar years, offered an employer–offered savings arrangement that was established separately from the requirements of this title; or

(vii) an employer that has not been in business at all times during the current calendar year and the preceding calendar year.

(e) "IRA" means an individual retirement account or an individual retirement annuity under 26 U.S.C. § 408(a) or (b).

(f) "Maryland Small Business Retirement Savings Program" means a retirement savings program established by the Maryland Small Business Retirement Savings Board under this title.

(g) "Participating employee" means an employee that is participating in the Program through a payroll deposit retirement savings arrangement in accordance with regulations adopted by the Board.

(h) "Participating employer" means a covered employer that provides a payroll deposit retirement savings arrangement under this title for covered employees.

(i) "Payroll deposit retirement savings arrangement" means an arrangement by which a covered employer remits payroll deduction contributions of participating employees to the Program.

(j) "Program" means the Maryland Small Business Retirement Savings Program established under this title.

(k) "Trust" means the Maryland Small Business Retirement Savings Trust established under this title.

§12–201.

(a) There is a Maryland Small Business Retirement Savings Board.

(b) The Board consists of the following members:

(1) the State Treasurer, or the State Treasurer's designee;

(2) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee; and

(3) nine members with expertise in retirement programs and benefits, investments, financial systems and controls, or small business, appointed as follows:

(i) three members, appointed by the Governor;

(ii) three members, appointed by the President of the Senate; and

(iii) three members, appointed by the Speaker of the House of Delegates.

(c) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 2016.

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

(4) 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) The Board shall elect a chair from among the members of the Board.

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

§12–202.

(a) The Board shall meet at the times and places that the Board determines.

(b) (1) The Board may employ a staff and may hire consultants, administrators, and other professionals as necessary to help implement, maintain, and administer the Program and the Trust.

(2) All expenses, including employee costs, incurred to implement, maintain, and administer the Program and the Trust shall be paid from money collected by or for the Program or the Trust.

(3) Consistent with its fiduciary duties, the Board may enter into an agreement to borrow funds from the State or any other entity to provide funding for the operation of the Program until the Program can generate sufficient funding for operations through fees assessed on Program accounts.

§12–203.

(a) The Board, the Program administrator, and staff shall discharge the duties with respect to the Trust solely in the interest of the Program participants as follows:

(1) for the exclusive purposes of providing benefits to Program participants and defraying reasonable expenses of administering the Program; and

(2) by selecting investment options or programs that will invest with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(b) (1) The Board shall annually prepare and adopt a written statement of investment policy that includes a risk management and oversight program.

(2) The investment policy shall consider investment options or programs that will seek to mitigate risk by maintaining a balanced investment portfolio that provides assurance that no single investment or class of investments will have a disproportionate impact on the total portfolio.

(3) The risk management and oversight program shall be designed to ensure that an effective risk management system is in place to monitor the risk levels of the Program investment portfolio and ensure that the risks taken are prudent and properly managed.

§12–204.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board:

(1) shall cause the Program or payroll deposit IRA arrangements established under the Program to be designed, established, and operated;

(2) shall appoint a Program administrator and determine the duties of the Program administrator;

(3) shall employ staff as necessary and set the compensation of the staff;

(4) shall make provisions for the payment of costs of administration and operation of the Trust;

(5) shall evaluate and establish the process for an employee to contribute automatically to the Program;

(6) shall evaluate and establish the process for a participating employer to provide a payroll deposit retirement savings arrangement for covered employees and to forward the employee contribution and related information to the Program or its agents, which may include financial services companies and third–party administrators with the capability to receive and process employee information and contributions for payroll deposit retirement savings arrangements or other arrangements authorized by this title;

(7) shall design and establish the process for the enrollment of Program participants;

(8) shall evaluate and establish a range of investment options, including a default investment selection for employees' payroll deposit IRAs;

(9) shall procure insurance against any loss in connection with the property, assets, or activities of the Trust, and secure private underwriting and

reinsurance to manage risk;

(10) shall procure insurance indemnifying each member of the Board from personal loss or liability resulting from a member's action or inaction as a member of the Board;

(11) shall set minimum and maximum employee contribution levels in accordance with contribution limits set for IRAs by the Internal Revenue Code;

(12) may arrange for collective, common, and pooled investment of assets of the Program or arrangements, including investments in conjunction with other funds with which those assets are authorized to be collectively invested, with a view to saving costs through efficiencies and economies of scale;

(13) shall determine the allocation of administrative fees to individual retirement accounts;

(14) shall explore and establish investment options that offer employees returns on contributions and the conversion of individual retirement savings account balances to secure retirement income without incurring debt or liabilities to the State;

(15) shall determine the eligibility of an employer, employee, or any other individual to participate in the Program; and

(16) may evaluate and establish the process by which an employee of a nonparticipating employer may enroll in and make contributions to the Program.

(b) The Board shall adopt regulations and take any other action necessary to implement this title consistent with the Internal Revenue Code and regulations issued in accordance with the Internal Revenue Code to ensure that the Program meets all criteria for federal tax deferral or tax–exempt benefits or both.

(c) The Board shall take any action necessary to ensure that the Program is not preempted by federal law.

§12–205.

(a) The Board shall establish procedures and disclosures to protect the interests of participants and employers.

(b) (1) Before opening the Program for enrollment, the Board shall design and disseminate to employers and employees information regarding the Program.

(2) The information provided shall include background information on the Program and appropriate disclosures for employees, including:

(i) the benefits and risks associated with making contributions to the Program;

(ii) the mechanics of how to make contributions to the Program;

(iii) how to opt out of the Program;

(iv) the process for withdrawal of retirement savings;

(v) how to obtain additional information on the Program; and

(vi) information about alternative retirement savings options.

(c) The disclosure form shall clearly state the following:

(1) employees seeking financial advice should contact financial advisors because employers are not in a position to provide financial advice;

(2) in accordance with § 12–501 of this title, employers are not liable for decisions made by employees;

(3) the Program is not an employer–offered savings arrangement; and

(4) in accordance with § 12–502 of this title, the Program fund may be privately insured and is not guaranteed by the State.

(d) The Board shall establish procedures for:

(1) a covered employee to opt out of participation in the Program;

(2) a participating employee to opt out of participation in the Program after the participating employee has commenced participation; and

(3) an employee who has opted out of participation to participate or resume participation in the Program.

§12–206.

(a) On or before August 1 each year, the Board shall submit an annual audited financial report, prepared in accordance with generally accepted accounting principles, on the operations of the Trust to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly.

(b) The annual audit shall be made by an independent certified public accountant and shall include direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not State employees.

§12–301.

(a) There is a Maryland Small Business Retirement Savings Trust.

(b) (1) The Maryland Small Business Retirement Savings Trust shall be administered by the Board for the purpose of promoting greater retirement savings for Maryland private sector employees in a convenient, voluntary, low–cost, and portable manner.

(2) The Board shall enter into an agreement delegating the administration of the Trust to a third–party administrator.

(c) Money in the Trust may be invested or reinvested as determined by the Board.

(d) Any contributions paid by employees into the Trust may be used only to:

(1) pay benefits to the participants of the Program;

(2) pay the cost for administering the Program; and

(3) make investments for the benefit of the Program.

(e) The Board shall establish, by regulation, dates when an employer shall deposit employee contributions.

(f) The State may not transfer any assets of the Trust to the General Fund or any other fund of the State, or otherwise encumber any assets of the Trust.

§12–401.

(a) There is a Maryland Small Business Retirement Savings Program.

(b) The Maryland Small Business Retirement Savings Program shall only include one or more payroll deposit IRA arrangements as determined by the Board.

(c) The Board shall:

(1) implement a range of investment options and providers; and

(2) select a default investment option for Program participants.

(d) When selecting investment options, the Board shall consider methods to minimize the risk of significant investment losses at the time of a participating employee's retirement.

(e) The Board may provide an investment option that provides an assured lifetime income.

(f) (1) The Board shall consider investment options that minimize administrative expenses.

(2) Ongoing annual administrative expenses may not exceed 0.5% of

assets under management in the Program.

(g) The Board may not offer any investment options that conflict with federal law.

(h) The Board may not offer any investment options that could result in liability to the State or its taxpayers.

§12–402.

(a) (1) After the Board opens the Program for enrollment, covered employers shall establish a payroll deposit retirement savings arrangement to allow employee participation in the Program.

(2) A covered employer shall automatically enroll a covered employee in the Program, unless the employee elects to opt out in accordance with procedures established by the Board.

(b) If a covered employer is not in compliance with subsection (a) of this section, the covered employer may not receive a waiver of the filing fee under § 1–203(b)(14) of the Corporations and Associations Article.

(c) Employers shall retain the option at all times to set up any type of employer–offered savings arrangement, such as a defined benefit plan or a 401(k), Simplified Employee Pension (SEP) plan, or Savings Incentive Match Plan for Employees (SIMPLE) plan, or to offer an automatic enrollment payroll deduction IRA, instead of having a payroll deposit retirement savings arrangement to allow employee participation in the Program.

(d) Compliance with this title and participation in the Program by itself does not create a fiduciary obligation of an employer with respect to the operation of the Program or funds contributed to the Program.

§12–403.

(a) A covered employee of a participating employer may elect to opt out of the Program.

(b) A covered employee of a participating employer who elects to opt out of the Program may re–enroll in the Program in accordance with procedures established by the Board.

(c) After the Board opens the Program for enrollment, an employee of a nonparticipating employer may elect to participate in the Program as authorized by the Board.

(d) A participating employee may terminate participation in the Program at any time in a manner prescribed by the Board.

(e) Unless otherwise specified by the employee, a participating employee shall contribute a fixed percentage or dollar amount of the employee's salary or wages to the Program.

(f) By regulation, the Board shall set and may adjust the default contribution amount set in subsection (e) of this section.

(g) The assets in a participating employee's Program account are the property of the participating employee.

§12–501.

(a) An employer may not be held liable for:

(1) an employee's decision to participate in or opt out of the Program;

(2) the investment decisions of employees whose assets are deposited in the Program;

(3) the administration, investment, or investment performance of the Trust or the Program; or

(4) the Program design or the benefits paid to Program participants.

(b) An employer is not a fiduciary, and may not be considered to be a fiduciary, of the Trust or the Program.

§12–502.

(a) The State may not be held liable for the payment of the retirement savings benefit earned by Program participants in accordance with this title.

(b) The debts, contracts, and obligations of the Board, Trust, or the Program are not the debts, contracts, and obligations of the State and neither the faith and credit nor the taxing power of the State is pledged directly or indirectly to the payment of the debts, contracts, and obligations.