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2003 Regular Session 31r2088 CF 3lr0299

By: Chairman, Finance Committee

Introduced and read first time: January 31, 2003

Assigned to: Finance

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### A BILL ENTITLED

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	$\Delta N$	Δ("Ι"	concerning
	$\Delta \mathbf{M}$	$\Lambda$ CI	Concomine

#### 2 Division of Labor and Industry and Associated Boards and Councils - Sunset 3 **Extension and Program Evaluation**

4 FOR the purpose of continuing the Division of Labor and Industry, the Amusement

- 5 Ride Safety Advisory Board, the State Mediation and Conciliation Service, the
- 6 Maryland Occupational Safety and Health Advisory Board, and the
- 7 Apprenticeship and Training Council in accordance with the provisions of the
- 8 Maryland Program Evaluation Act (Sunset Law) by extending to a certain date
  - the termination provisions relating to the statutory and regulatory authority of
- 10 the specified division, boards, service, and councils; extending certain
- termination provisions that relate to certain provisions of law regarding 11
- 12 amusement ride safety, wage and hour requirements, apprenticeship and
- 13 training, occupational safety and health, and the employment of minors;
- repealing certain provisions of law regarding the Advisory Council on Prevailing 14
- 15 Wage Rates; repealing certain provisions of law regarding the Advisory
- Committee on the Wage and Hour Law; repealing certain laws relating to unsafe 16
- 17 scaffolding; providing the funding mechanism for the Boiler and Pressure Vessel
- 18 Safety Act; altering the method of funding for the administration and
- 19 enforcement of the laws regarding occupational safety and health, amusement
- 20 ride safety, and elevator safety; requiring the Elevator Safety Review Board to
- be subject to the Maryland Program Evaluation Act and providing a termination 21
- 22 date for the Board; repealing and altering certain provisions of law regarding
- 23 the regulation of licensed employment agencies by the Commissioner of Labor
- and Industry; including a nurse registry in the definition of "home health care" 24
- 25 as it is used in certain provisions of law regulating home health care; including
- a nurse registry in the definition of "residential service agency" as it is used in 26
- 27 certain provisions of law regulating residential service agencies; authorizing the
- Commissioner of Labor and Industry to charge a fee to cover the cost of
- 28 29
- providing mediation services under certain circumstances; altering the
- 30 definition of "employer" as it is used in the Maryland Occupational Safety and
- Health Act; authorizing the Commissioner of Labor and Industry to assess a 31
- 32 civil penalty against a public body under certain circumstances; creating the
- 33 Workplace Hazard Abatement Fund; defining the purpose of the Workplace 34 Hazard Abatement Fund; providing for the administration of the Workplace
- 35 Hazard Abatement Fund; requiring the Legislative Auditor to audit the

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34 35

36 37

33 BY adding to

Section 49C(x)

	SENATE BILL 303
1 2 3 4	Workplace Hazard Abatement Fund; requiring the Division of Labor and Industry to submit a certain report to certain committees on or before a certain date; and generally relating to the Division of Labor and Industry and associated boards and councils.
5 7 8 9	BY renumbering Article - Labor and Employment Section 5-101(e) through (h), respectively to be Section 5-101(f) through (i), respectively Annotated Code of Maryland (1999 Replacement Volume and 2002 Supplement)
11 12 13 14 15 16	Section 8-403(b)(23) through (54), respectively to be Section 8-403(b)(24) through (55), respectively Annotated Code of Maryland
17 18 19 20 21 22	Section 111 through 115, inclusive, and the subtitle "Protection of Workingmen and Others Against Unsafe Scaffolding"  Annotated Code of Maryland
23 24 25 26 27	Section 170A
28 29 30 31 32	

Article 89 - Miscellaneous Business, Work, and Safety Provisions

Annotated Code of Maryland (1998 Replacement Volume and 2002 Supplement)

1	BY repealing and reenacting, with amendments,
2	Article - Business Regulation
3	Section 2-108, 3-201, 3-601, 9-101, 9-303, 9-310, 9-312, 9-313, 9-314, 9-315,
4	9-316, 9-318, 9-319; 9-501 to be under the amended subtitle "Subtitle 4.
5	Penalties"; and 9-601 to be under the amended subtitle "Subtitle 5. Short
6	Title"
7	Annotated Code of Maryland
8	(1998 Replacement Volume and 2002 Supplement)
Ü	(1770 10Pinomon + Siumo uno 2002 Suppionon)
9	BY repealing
10	Article - Business Regulation
11	Section 9-203, 9-204, 9-205, 9-206, 9-207, 9-208, 9-209, 9-301, 9-302, 9-304,
12	9-305, 9-306, 9-307, 9-308, 9-309, 9-311, 9-317, 9-320; 9-401, 9-402,
13	
14	
15	
16	(1998 Replacement Volume and 2002 Supplement)
10	(1770 Replacement Volume and 2002 Supplement)
17	BY repealing and reenacting, without amendments,
18	Article - Business Regulation
19	
20	
21	(1998 Replacement Volume and 2002 Supplement)
21	(1)70 Replacement Volume and 2002 Supplement)
22	BY repealing and reenacting, with amendments,
23	Article - Health - General
24	
25	· · · · · · · · · · · · · · · · · · ·
26	
20	(2000 Replacement + ofulic and 2002 Supplement)
27	BY repealing and reenacting, with amendments,
28	
29	± •
30	
31	Annotated Code of Maryland
32	(1999 Replacement Volume and 2002 Supplement)
32	(1))) Replacement Volume and 2002 Supplement)
33	BY repealing and reenacting, without amendments,
34	
35	
36	· /
37	(1999 Replacement Volume and 2002 Supplement)
31	(1777 Replacement volume and 2002 Supplement)
38	BY adding to

- 1 Article Labor and Employment
- 2 Section 5-101(e)
- 3 Annotated Code of Maryland
- 4 (1999 Replacement Volume and 2002 Supplement)
- 5 BY repealing
- 6 Article State Finance and Procurement
- 7 Section 17-203
- 8 Annotated Code of Maryland
- 9 (2001 Replacement Volume and 2002 Supplement)
- 10 BY repealing and reenacting, with amendments,
- 11 Article State Finance and Procurement
- 12 Section 17-204
- 13 Annotated Code of Maryland
- 14 (2001 Replacement Volume and 2002 Supplement)
- 15 BY repealing and reenacting, without amendments,
- 16 Article State Government
- 17 Section 8-403(a)
- 18 Annotated Code of Maryland
- 19 (1999 Replacement Volume and 2002 Supplement)
- 20 BY repealing and reenacting, with amendments,
- 21 Article State Government
- 22 Section 8-403(b)(3) and (4)
- 23 Annotated Code of Maryland
- 24 (1999 Replacement Volume and 2002 Supplement)
- 25 BY adding to
- 26 Article State Government
- 27 Section 8-403(b)(23)
- 28 Annotated Code of Maryland
- 29 (1999 Replacement Volume and 2002 Supplement)
- 30 BY repealing and reenacting, with amendments,
- 31 Article State Government
- 32 Section 8-403(b)(37) and (46)
- 33 Annotated Code of Maryland
- 34 (1999 Replacement Volume and 2002 Supplement)
- 35 (As enacted by Section 1 of this Act)
- 36 BY repealing

- 1 Article State Government
- 2 Section 8-403(b)(55)
- 3 Annotated Code of Maryland
- 4 (1999 Replacement Volume and 2002 Supplement)
- 5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 6 MARYLAND, That Section(s) 5-101(e) through (h), respectively, of Article Labor
- 7 and Employment of the Annotated Code of Maryland be renumbered to be Section(s)
- 8 5-101(f) through (i), respectively.
- 9 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8-403(b)(23)
- 10 through (54), respectively, of Article State Government of the Annotated Code of
- 11 Maryland be renumbered to be Section(s) 8-403(b)(24) through (55), respectively.
- 12 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
- 13 read as follows:
- 14 Article 48 Inspections
- 15 [Protection of Workingmen and Others Against Unsafe Scaffolding]
- 16 [111.
- 17 Whenever complaint is made to the commissioner of police or to the inspector, or
- 18 other persons in charge of the police force of any city or town in this State, that the
- 19 scaffolding used in the construction, altering, repairing or painting of any building
- 20 within the limits of such city or town is unsafe and dangerous to the life and limb of
- 21 any person, it shall be the duty of such police commissioner, inspector of police, or
- 22 other persons in charge of the police force to immediately detail a competent police
- 23 officer to inspect such scaffolding forthwith, with instructions to prohibit the further
- 24 use of such scaffolding, and, if after proper examination he finds the complaint well
- 25 founded, to require that it be altered or reconstructed in such manner as to render it
- 26 no longer dangerous to life or limb. It shall be the duty of the officer making the
- 27 examination to attach a notice to such scaffolding, stating that he has made such
- 28 examination, and that he has found it safe or unsafe, as the case may be. If he
- 29 declares it to be unsafe he shall at once, in writing, notify the person or persons
- 30 responsible for its erection of the fact, and warn them against using it, or permitting
- 31 or suffering any person or persons to use it, and such notice may be served upon the
- 32 responsible person or persons, or by conspicuously affixing it to the scaffold declared
- 33 to be unsafe; after such notice is served or affixed, it shall be the duty of the persons
- 34 responsible therefor to immediately remove such scaffolding, or to alter or strengthen
- 35 it in such a manner as to render it safe, in the discretion of the officer who has
- 36 condemned it or of his superiors.]
- 37 [112.
- 38 It shall be the duty of the police commissioner, inspector of police, or other
- 39 persons in charge of the police force of any city or town of this State, when complaint
- 40 is made to them or any of them that the slings, hangers, blocks, pulleys, stays, braces,

- 1 irons or ropes of any swinging or stationary scaffolding used in the painting, cleaning
- 2 or pointing of any building within the limits of such city or town are unsafe or liable
- 3 to prove dangerous to the life or limb of any person, to detail a competent police officer
- 4 to examine, and, if necessary, test the same; immediately after making such
- 5 examination or test he shall attach thereto a certificate stating that he has made such
- 6 examination or test and that he has found such slings, hangers, irons or ropes, or any
- 7 of them, safe or unsafe, as the case may be; if he declares unsafe the whole or any
- 8 portion of such swinging or stationary scaffolding, he shall at once, in writing, notify
- 9 the person or persons responsible for the same of the fact, and warn them against
- 10 using or suffering or permitting any person or persons to use them, and such notice
- 11 may be served upon the person or persons responsible, or by conspicuously affixing it
- 12 to the condemned or defective article; after such notice is served or affixed, it shall be
- 13 the duty of the responsible person or persons to remove or cause to be removed the
- 14 scaffolding, or that part of it which has been condemned, or to alter and strengthen it
- 15 in such manner as to render it safe, in the discretion of the officer who has tested or
- 16 examined it or his superiors.]
- 17 [113.
- All swinging and stationary scaffolding shall be so constructed as to bear three
- 19 times the maximum weight required to be dependent from or placed thereon when in
- 20 use, and not more than one person shall be allowed on a given scaffold to each tackle
- 21 and each person shall be provided with a lifeline sufficiently strong to bear twice his
- 22 weight, secured independently of the other scaffolding.]
- 23 [114.
- 24 Any officer detailed to examine or test any scaffolding or portion thereof as
- 25 required by §§ 111 and 112 shall have free and unobstructed access at all reasonable
- 26 hours to any building or premises containing them or where they may be in use.]
- 27 [115.
- Any person who violates or omits to comply with any of §§ 111 to 114 or who
- 29 suffers or permits the use of any article or scaffolding declared by a proper officer to
- 30 be defective, or who destroys or defaces any notice posted in accordance with any of
- 31 the said provisions, or who hinders or obstructs any officers who may be detailed to
- 32 enforce said provisions shall be deemed guilty of a misdemeanor, and on conviction in
- 33 a court of competent jurisdiction be fined not less than twenty-five nor more than one
- 34 hundred dollars.]
- 35 170A.
- 36 THE COST OF ADMINISTERING THIS SUBTITLE IS PROVIDED FOR UNDER § 5-204
- 37 OF THE LABOR AND EMPLOYMENT ARTICLE.

1			Article	89 - Miscellaneous Business, Work, and Safety Provisions
2	49C.			
3	(a)	(1)	In this s	ection the following words have the meanings indicated.
4		(2)	"Board"	means the Elevator Safety Review Board.
5 6	direct superv	(3) vision of a	(i) a licensed	"Elevator apprentice" means a person who works under the elevator mechanic.
	elevator help mechanic.	er while	(ii) working	"Elevator apprentice" includes a person commonly known as an under the direct supervision of a licensed elevator
			ing, wirii	or contractor" means a person who is engaged in the business ng, altering, replacing, maintaining, repairing, ators, dumbwaiters, escalators, and moving walks.
	_		altering,	or mechanic" means a person who is engaged in erecting, replacing, maintaining, repairing, dismantling, or ers, escalators, and moving walks.
16		(6)	"License	e" includes:
17			(i)	An elevator contractor license; and
18			(ii)	An elevator mechanic license.
19 20	(b) Labor, Licer	(1) nsing, and		an Elevator Safety Review Board in the Department of ion.
21 22	authority of	(2) the Secre		ard exercises its powers, duties, and functions subject to the
23	(c)	(1)	The Boa	ard shall consist of nine members.
24		(2)	Of the n	ine members of the Board:
25 26	designee of	the Comi	(i) missioner	One shall be the Commissioner of Labor and Industry or as an ex officio member;
27 28	or its author	ized repr	(ii) esentativ	One shall represent a major elevator manufacturing company e;
29			(iii)	One shall represent an elevator servicing company;
30			(iv)	One shall represent the architectural design profession;
31			(v)	One shall represent a municipal corporation in the State;

1			(vi)	One shall represent a building owner or manager;
2 3	maintenance	, and repa	(vii) air of elev	One shall represent labor involved in the installation, vators; and
4			(viii)	Two shall be members of the general public.
			d with the	for the ex officio member, the Governor shall appoint the eadvice of the Secretary of Labor, Licensing, and e and consent of the Senate.
8 9	years.	(4)	(i)	Except for the ex officio member, the term of a member is 3
10 11	successor is	appointe	(ii) ed and qua	At the end of a term, a member continues to serve until a alifies.
12 13	for the rest of	of the teri	(iii) m and un	A member who is appointed after a term has begun serves only til a successor is appointed and qualifies.
14 15	(d) chairman.	(1)	From ar	nong the Board members, the Governor shall appoint a
16		(2)	The cha	irman shall be the deciding vote in the event of a tie vote.
17 18	(e) times and pl	(1) aces that		ard shall meet at least once each calendar quarter, at the d determines.
19 20	its regulation	(2) ns.	Special	meetings of the Board may be held as the Board provides in
21	(f)	A memb	per of the	Board:
22		(1)	May not	t receive compensation; but
23 24	Travel Regu	(2) lations, a		ed to reimbursement for expenses under the Standard State ed in the State budget.
27 28	THAT CRE	YLAND I ATE OR IONS AL	PROGRA RELAT OOPTED	HE EVALUATION AND REESTABLISHMENT PROVISIONS OF AM EVALUATION ACT, THE PROVISIONS OF THIS ARTICLE E TO THE ELEVATOR SAFETY REVIEW BOARD AND ANY BY THE BOARD SHALL TERMINATE AND BE OF NO EFFECT
30				Article - Business Regulation
31	2-108.			
32	(a)	The foll	owing un	nits are in the Department:
33		(1)	the Divi	sion of Labor and Industry.

1	(2)	the Division of Employment and Training.
2	(3)	the Commissioner of Financial Regulation.
3	(4)	the Banking Board.
4	(5)	the State Board of Architects.
5	(6)	the State Athletic Commission.
6	(7)	the State Board of Barbers.
7	(8)	the Board of Boiler Rules.
8	(9)	the State Collection Agency Licensing Board.
9	(10)	the State Board of Cosmetologists.
10	(11)	the State Board of Master Electricians.
11	(12)	the Board of Examining Engineers.
12	(13)	the State Board for Professional Engineers.
13	(14)	the State Board of Foresters.
<ul><li>14</li><li>15 Refrigeration</li></ul>	(15) on Contra	the State Board of Heating, Ventilation, Air Conditioning and actors.
16	(16)	the Maryland Home Improvement Commission.
17	(17)	the State Board of Certified Interior Designers.
18	(18)	the State Board of Examiners of Landscape Architects.
19	(19)	the State Board for Professional Land Surveyors.
20	(20)	the State Board of Pilots.
21	(21)	the State Board of Plumbing.
22	(22)	the State Board of Public Accountancy.
23	(23)	the State Racing Commission.
24	(24)	the State Real Estate Commission.
<ul><li>25</li><li>26 Inspectors.</li></ul>	(25)	the State Commission of Real Estate Appraisers and Home
27	(26)	the Real Estate Hearing Board.

1		(27)	the State	e of Maryland Deposit Insurance Fund Corporation.
2		(28)	the Mar	yland Jockey Injury Compensation Fund, Inc.
3		(29)	the State	e Amusement Ride Safety Advisory Board.
4		(30)	the Occ	upational Safety and Health Advisory Board.
5		(31)	the Mar	yland-Bred Race Fund Advisory Committee.
6		(32)	the Mar	yland Standardbred Race Fund Advisory Committee.
7		[(33)	the Adv	isory Council on Prevailing Wage Rates.
8		(34)	the Adv	isory Committee on the Wage and Hour Law.]
9 10	(b) Department		partment	also includes each other unit that is assigned to the
11 12	(c) consumer m	(1) nember.	Each un	it created within the Department shall include at least 1
13		(2)	Each co	nsumer member of the unit:
14			(i)	shall be a member of the general public;
15 16	the unit;		(ii)	may not be a licensee or otherwise be subject to regulation by
17 18	professional	l member	(iii) rs of the u	may not be required to meet the qualifications for the unit; and
19 20	interest in o	r have re	(iv) ceived co	may not, within 1 year before appointment, have had a financial impensation from a person regulated by the unit.
21		(3)	While a	member of the unit, a consumer member may not:
22 23	person regul	lated by t	(i) the unit; o	have a financial interest in or receive compensation from a
24			(ii)	grade any examination given by or for the unit.
25	3-201.			
26	(a)	The Co	mmission	er shall administer and enforce this title.
29			tion from	posed budget of the Division of Labor and Industry shall the [General Fund of the State] WORKERS' SSION to cover the cost of administering and enforcing this

3		G THIS	State for the FITLE from	his] PAY om mone	ompensation Commission shall [reimburse the THE cost OF ADMINISTERING AND by that the Commission receives under § 9-316 of
5	3-601.				
		luation A	Act, this t	itle and a	ablishment provisions of the Maryland Il regulations adopted under this title shall
9	9-101.				
10	(a)	In this ti	tle the fo	llowing	words have the meanings indicated.
11 12	(b) employment		means a	n individ	ual who seeks employment through an
13	(c)	"Comm	issioner"	means th	e Commissioner of Labor and Industry.
14	(d)	(1)	"Employ	yment ag	ency" means a person who, for a fee:
15			(i)	obtains,	offers to obtain, or attempts to obtain:
16				1.	an employee for a person who seeks an employee; or
17				2.	employment for a client;
18 19	employment	t;	(ii)	provides	s to a client information to enable the client to obtain
	an engagem including:	ent in coi	(iii) nnection		offers to obtain, or attempts to obtain employment or intertainment, exhibition, or performance,
23				1.	a ballet;
24				2.	a circus;
25				3.	a concert;
26				4.	the legitimate theater;
27				5.	modeling;
28				6.	a motion picture;
29				7.	an opera;
30				8.	a phonograph recording;

"Licensed employment agency" means a person who is licensed by the

does not charge a fee for its services other than ordinary dues for membership;

a charitable, educational, fraternal, or religious organization that

a labor organization while obtaining or attempting to obtain

26 Commissioner to do business as an employment agency.]

This title does not apply to:

32 employment for a member of the organization; or

(1)

(2)

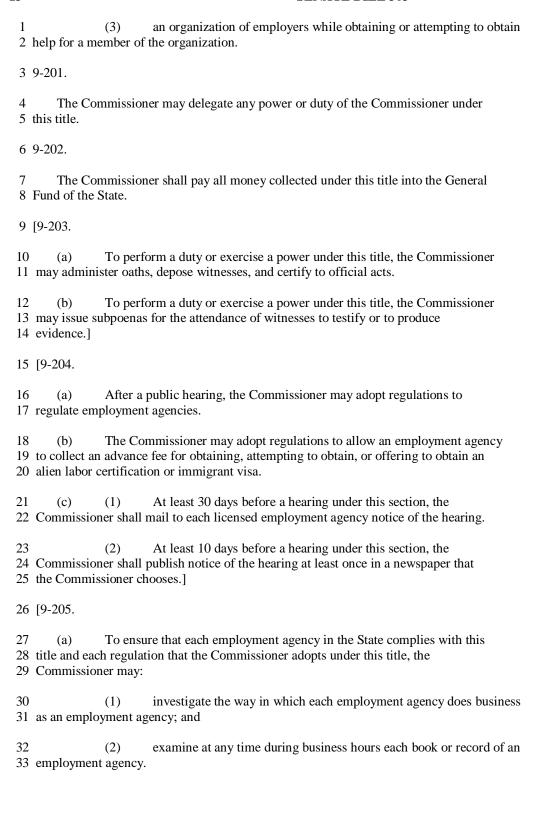
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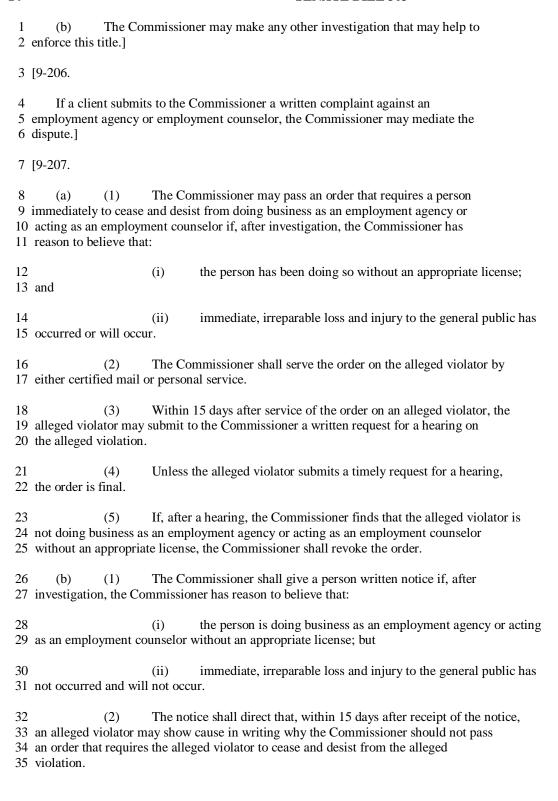
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27 9-102.





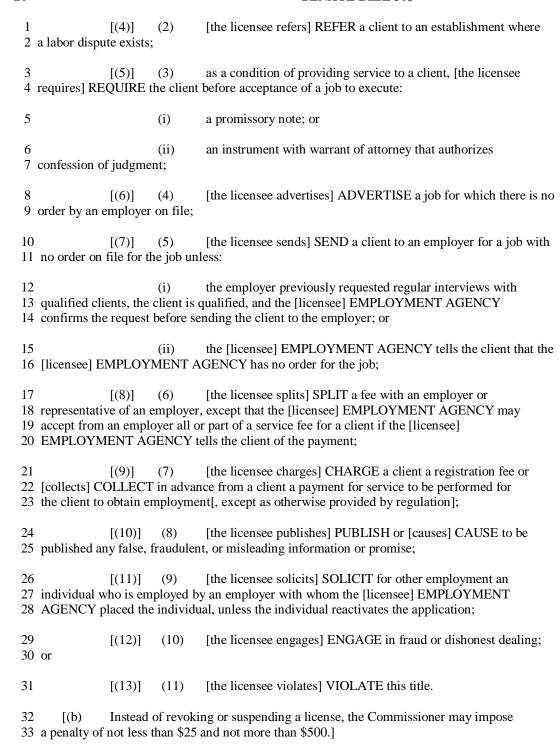
			ass an orde	a alleged violator submits a timely response, the er that requires the alleged violator immediately to d violation.
4 5	may:	(4)	If an alle	ged violator submits a timely response, the Commissioner
6 7	Commissione	er finds th		terminate proceedings against the alleged violator, if the s no basis for passing an order to cease and desist; or
8 9	violator writte	en notice		schedule a hearing and, by certified mail, give the alleged te, place, and time of the hearing.
12	violator is do counselor wi	thout an	ness as an appropria	If, after a hearing, the Commissioner finds that the alleged employment agency or acting as an employment te license, the Commissioner shall pass an order that desist from the violation.
16	violator is no	thout an	ousiness a appropria	If, after a hearing, the Commissioner finds that the alleged s an employment agency or acting as an employment te license, the Commissioner shall terminate
18 19	(c) this section, t	-		comply with a lawful order of the Commissioner under may:
20 21	compel comp	(1) pliance; o	-	action in a court of competent jurisdiction for an order to
22		(2)	take any	other action that this title allows.]
23	[9-208.			
24	After a h	earing, tl	he Commi	issioner may order an employment agency to:
				e a client for all ordinary and necessary travel expenses that f a referral by the employment agency in violation of
28 29	in violation of			ry money that the employment agency took from the client
30		(3)	do both.]	
31	[9-209.			
34	final decision	n of the Coment Ar	Commission ticle, may	eding before the Commissioner who is aggrieved by a oner in a contested case, as defined in § 10-202 of the take an appeal as allowed in §§ 10-222 and 10-223 of

3	(b) An applicant for a license to do business as an employment agency or a license to act as an employment counselor whose application was denied by the Commissioner may file an order for appeal within 60 days after a final decision of the Commissioner.]							
5	[9-301.							
6 7	In this subtitle, "license" means a license issued by the Commissioner under this subtitle to do business as an employment agency.]							
8	[9-302.							
9 10	(a) Except as otherwise provided in this title, a person must have a license whenever the person does business as an employment agency in the State.							
11 12	(b) A separate license is required for each location where a person does business as an employment agency.]							
13	B [9-303.] 9-301.							
14	[(a)	An appl	icant for a	a license shall:				
15		(1)	submit to	o the Commissioner:				
16			(i)	an application on the form that the Commissioner provides;				
17 18		d busine	(ii) ss or prof	at least 3 letters of character reference from individuals who ressional integrity and reside in the State;				
19			(iii)	a schedule of fees that the applicant expects to charge; and				
20			(iv)	a copy of each contract or form that the applicant will use; and				
21		(2)	pay to th	ne Commissioner an application fee of:				
22 23	do business a	as an em	(i) ployment	\$200 for a license for the first location where the applicant will agency; and				
24 25	business as a			\$100 for each additional location where the applicant will do ency.				
26 27	(b) bond and pa			a person shall submit a separate application and separate				
28 29	(c) the form sha	(1) ll require		on to any other information required on an application form,				
30 31	officer and e	ach direc	(i) etor; and	for a corporate applicant, the name and home address of each				

1 2	partner.	(ii)	for a partnership applicant, the name and home address of each
3	(2)	The app	olication form shall be signed, under oath:
4		(i)	for an individual, by the individual;
5		(ii)	for a corporation, by its president, treasurer, and secretary; or
6		(iii)	for a partnership, by each of its partners.
7 8	(d) (1) bond.]	The app	olicant for a license shall submit to the Commissioner a penal
9 10	(A) AN EMPENAL BOND.	IPLOYM	ENT AGENCY SHALL SUBMIT TO THE COMMISSIONER A
11	[(2)]	(B)	The bond shall:
12		[(i)]	(1) run to the State;
13		[(ii)]	(2) be in the amount of \$7,000;
			(3) be signed by [the applicant] AN INDIVIDUAL AUTHORIZED SYMENT AGENCY as principal and by a surety company ne State as surety; and
19	deceit, fraud, misrep	resentatio	(4) be conditioned that the [applicant] EMPLOYMENT his title and will pay to any person all damages caused by on, or misstatement of the [applicant] EMPLOYMENT loyee of the [applicant] EMPLOYMENT AGENCY.
21	[9-304.		
22 23	When an applica investigate:	tion for a	license is submitted, the Commissioner shall
24	(1)	the char	racter and financial standing of:
25		(i)	an individual applicant;
26		(ii)	each partner of a partnership applicant;
27		(iii)	each officer or director of a corporate applicant; and
28		(iv)	the individual who will be general manager of the office; and
29	(2)	the loca	tion of the office.]

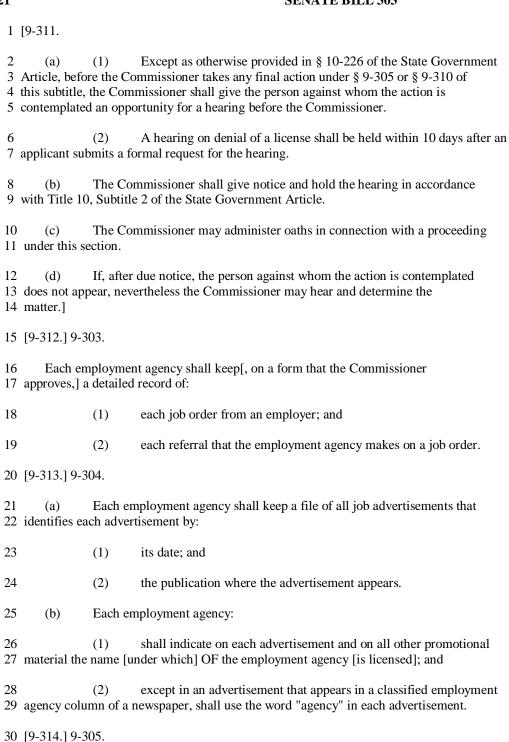
1	[9-305.						
2 3	(a) Within 60 days after the Commissioner receives an application for a license, the Commissioner shall:						
4		(1)	approve	or deny the application; and			
5		(2)	give an	applicant immediate notice of a denial.			
6 7	(b) Commission			aring provisions of § 9-311 of this subtitle, the case to an applicant if:			
8 9	(1) the applicant fraudulently or deceptively obtains or attempts to obtain a license for the applicant or for another person;						
10		(2)	the appl	icant fraudulently or deceptively uses a license;			
	of a partners of:	(3) ship appli		icant, an officer or director of a corporate applicant, a partner he general manager of an office of the applicant is not			
14			(i)	good moral character;			
15			(ii)	business integrity; or			
16			(iii)	financial responsibility; or			
17 18	of this title f	(4) for denying		good and sufficient reason within the meaning and purpose plication.]			
19	[9-306.						
20 21	The Correquirement			ssue a license to each applicant who meets the			
22	[9-307.						
23 24	A licens		zes the li	censee to do business as an employment agency only at			
25	[9-308.						
26 27	Unless a license is renewed for a 1-year term as provided in this section, the license expires on the first May 1 after its effective date.						
28 29	(b) the licensee			before a license expires, the Commissioner shall mail to address of the licensee:			
30		(1)	a renewa	al application form; and			
31		(2)	a notice	that states:			

1		(i)	the date on which the current license expires;
2 3	application for the ren	(ii) newal to l	the date by which the Commissioner must receive the renewal be issued and mailed before the license expires; and
4		(iii)	the amount of the renewal fee.
5 6	(c) Before a additional 1-year term		expires, the licensee periodically may renew it for an censee:
7	(1)	otherwis	se is entitled to be licensed;
8	(2)	pays to	the Commissioner a renewal fee of:
9 10	an employment agend	(i) cy; and	\$200 for the first location where the licensee does business as
11 12	business as an emplo	(ii) yment ag	\$100 for each additional location where the licensee does gency; and
13	(3)	submits	to the Commissioner:
14 15	requires; and	(i)	a renewal application on the form that the Commissioner
16 17	and has not already s	(ii) ubmitted	a copy of each contract or other form that the licensee will use to the Commissioner.
18 19	(d) The Correquirements of this s		er shall renew the license of each licensee who meets the
20	[9-309.		
21 22	Each licensee shathe licensee.]	all displa	y the license conspicuously in the place of business of
23	[9-310.] 9-302.		
		eprimand	aring provisions of § 9-311 of this subtitle, the da licensee or suspend or revoke a license if] AN MAY NOT:
27 28	[(1) a license for the licen		nsee fraudulently or deceptively obtains or attempts to obtain r another person;
29	(2)	the licer	nsee fraudulently or deceptively uses a license;
30 31	[3)] job if any condition of	(1) of the job	[the licensee knowingly refers] KNOWINGLY REFER a client to a violates any law;

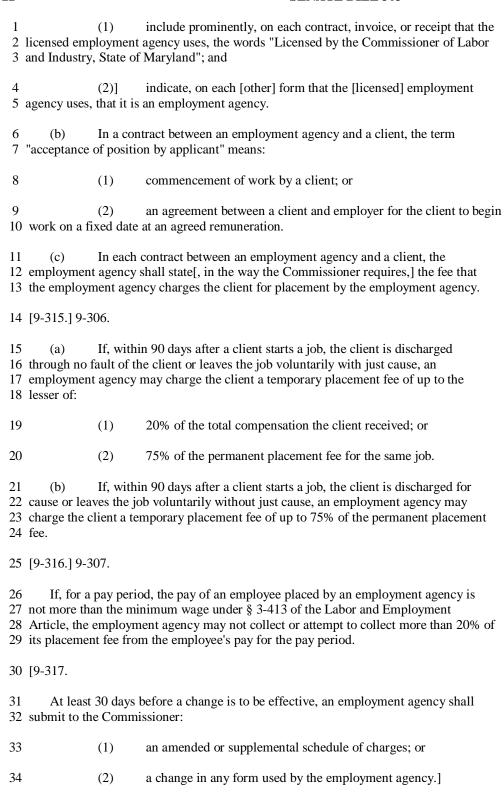


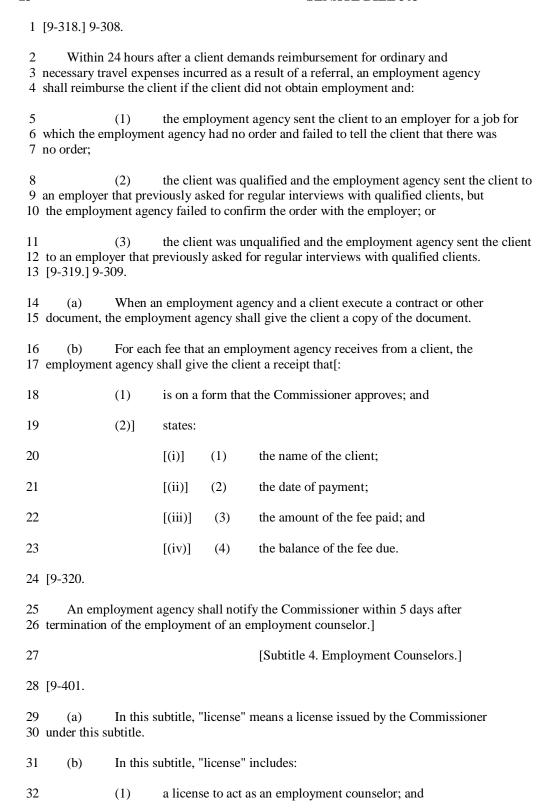
31

(a)

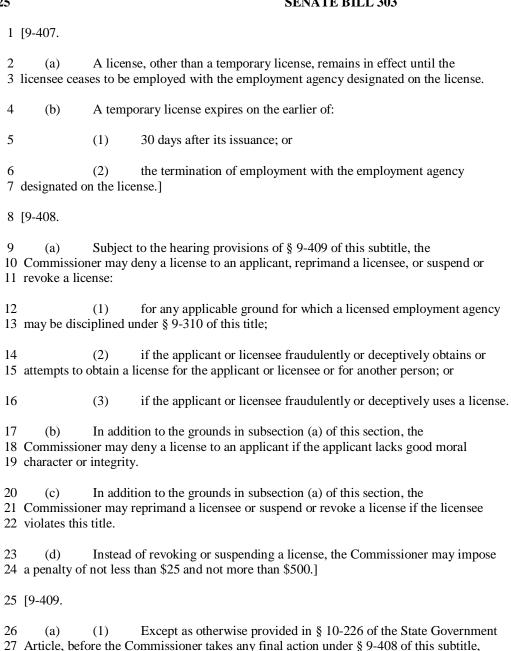


Each [licensed] employment agency shall[:





1		(2)	a temporary license.]
2	[9-402.		
3	(a) license when	-	as otherwise provided in this title, an individual must have a individual acts as an employment counselor in the State.
5 6	(b) clerical occu		tion does not apply to an employee who is engaged primarily in a
7	[9-403.		
8	An appl	icant for	a license shall:
9 10	Commission	(1) ner provid	submit to the Commissioner an application on the form that the les; and
11		(2)	pay to the Commissioner an application fee of \$5.]
12	[9-404.		
13	On recei	pt of an a	application for a license, the Commissioner:
14		(1)	shall review the employment experience of the applicant;
15 16	and	(2)	may investigate the integrity and moral character of the applicant;
17 18	by the Com	(3) nissioner	unless the applicant previously had a license suspended or revoked , shall issue to the applicant a temporary license.]
19	[9-405.		
20 21	Within 3 Commission	-	fter the Commissioner receives an application for a license, the
22		(1)	approve or deny the application; and
23		(2)	give the applicant immediate notice of a denial.]
24	[9-406.		
25 26	(a) requirement		nmissioner shall issue a license to each applicant who meets the subtitle.
27 28	(b) employment		nmissioner shall include on each license the name of the that will employ the licensee.]



28 the Commissioner shall give the person against whom the action is contemplated an

A hearing on denial of a license shall be held within 10 days after an

The Commissioner shall give notice and hold the hearing in accordance

29 opportunity for a hearing before the Commissioner.

31 applicant submits a formal request for the hearing.

33 with Title 10, Subtitle 2 of the State Government Article.

30

32

(b)

32 [9-601.] 9-501.

33

This title is the Maryland Employment Agency Act.

26 1 The Commissioner may administer oaths in connection with a proceeding (c) 2 under this section. 3 (d) If, after due notice, the person against whom the action is contemplated 4 does not appear, nevertheless the Commissioner may hear and determine the 5 matter.] 6 Subtitle [5.] 4. [Prohibited Acts;] Penalties. 7 [9-501.] 9-401. 8 Except as otherwise provided in this title, a person may not do business as [(a) 9 an employment agency in the State unless the person has a license issued under 10 Subtitle 3 of this title. 11 (b)1 A person who violates this [section] TITLE is guilty of a misdemeanor and, 12 on conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 13 1 year or both. 14 [9-502. Except as otherwise provided in this title, a person may not act as an 15 16 employment counselor in the State unless the person has a license issued under Subtitle 4 of this title. 18 (b) A person who violates this section is guilty of a misdemeanor and, on 19 conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 20 year or both.] 21 [9-503. 22 (a) An employment agency may not demand or receive compensation that 23 exceeds the compensation specified in the schedule of charges that the employment 24 agency submits to the Commissioner. 25 An employment agency that knowingly violates subsection (a) of this (b) 26 section: 27 forfeits any right to compensation for the service that the (1) 28 employment agency performed; and 29 shall return any compensation that the employment agency received (2) 30 for the service.] Subtitle [6.] 5. Short Title. 31

1			Article - Health - General
2	19-401.		
	(c) (1) provided under the gewithin the scope of the	eneral dir	health care" means any of the following services that are ection of a licensed health professional practicing ce act:
6		(i)	Audiology and speech pathology;
7		(ii)	Dietary and nutritional services;
8		(iii)	Drug services;
9		(iv)	Home health aid;
10		(v)	Laboratory;
11		(vi)	Medical social services;
12		(vii)	Nursing;
13		(viii)	Occupational therapy;
14		(ix)	Physical therapy;
15 16	supplies; OR	(x)	Provision of medically necessary sickroom equipment and
17 18	THE PROVISIONS	(XI) OF THE	A NURSE REGISTRY THAT IS AN EMPLOYMENT AGENCY UNDER MARYLAND EMPLOYMENT AGENCY ACT.
19	(2)	Howeve	er, the provisions of this subsection do not apply to[:
20 21	Maryland Employme	(i) ent Agend	A nurse registry that is licensed under the provisions of the cy Act; or
22 23	home-based hospice	(ii) care prog	A] A home-based hospice care program that is licensed as a gram under the provisions of Subtitle 9 of this title.
	(3) program if the home from its other service	health ag	health agency shall also be licensed as a hospice care gency operates a hospice care program that is distinct
27	19-4A-01.		
30		siness of compens	ntial service agency" means any person that is engaged in a employing or contracting with individuals to provide sation to an unrelated sick or disabled individual in the

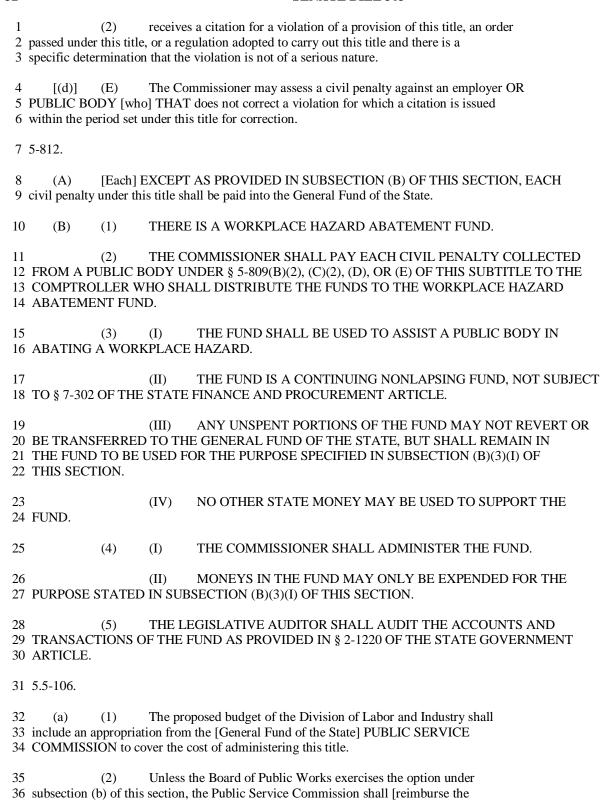
1	(2)	"Resider	ntial servi	ice agency" includes:
2	for hire as home healt	(I) h care pro		ncy that employs or contracts with individuals directly OR
4 5	THE PROVISIONS (	(II) OF THE N		SE REGISTRY THAT IS AN EMPLOYMENT AGENCY UNDER AND EMPLOYMENT AGENCY ACT THAT:
6 7	SELECTION OR RE.	JECTION	1. J, AS ITS	SCREENS OR REFERS INDIVIDUALS FOR A CLIENT'S SOLE BUSINESS OPERATION; AND
8	SERVICE.		2.	DOES NOT ITSELF PROVIDE ANY HOME HEALTH CARE
10	(3)	"Resider	ntial servi	ice agency" does not include:
11 12	Subtitle 4 of this title	(i) ;	A home	health agency that is licensed under the provisions of
13 14	the provisions of Sub	(ii) title 4 of		n required to be licensed as a home health agency under
15 16	provisions of Subtitle	(iii) 9 of this		-based hospice care program that is licensed under the
17 18	this title;	(iv)	A hospit	tal that is licensed under the provisions of Subtitle 3 of
19 20	Subtitle 3 of this title	(v) ;	A related	d institution that is licensed under the provisions of
21 22	Maryland Employme	(vi) nt Agenc		e registry that is licensed under the provisions of the at:
23 24	rejection, as its sole b	ousiness c	1. peration;	Screens or refers individuals for a client's selection or and
25			2.	Does not itself provide any home health care service;
26 27	Care Program;	(vii)]	Personal	care providers under the Medical Assistance Personal
28 29	person is authorized t	[(viii)] to practic	(VII) e under th	Any person practicing a health occupation that the he Health Occupations Article;
30 31	Health Occupations A	[(ix)] Article pra	(VIII) acticing a	A group of persons licensed under the same title of the as a business; or
32 33	under regulations add	[(x)]	(IX) he State l	Residential rehabilitation services providers approved Mental Health Authority

### 1 Article - Labor and Employment

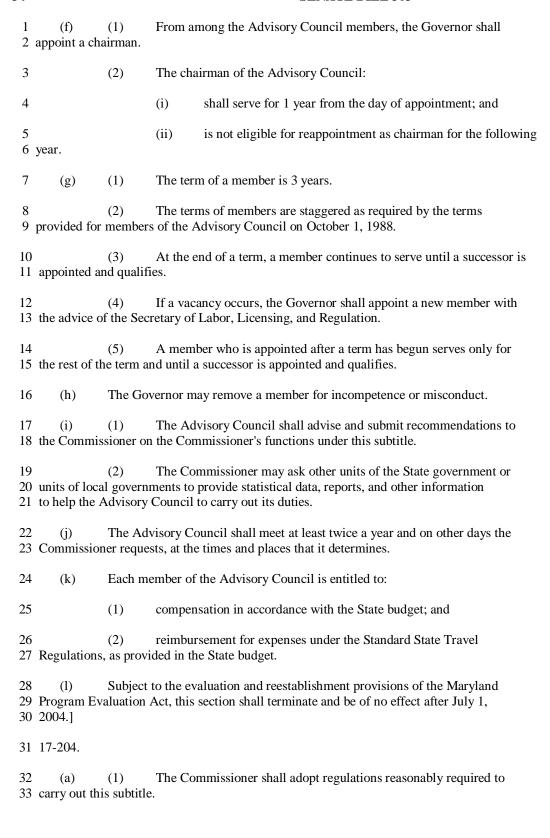
- 2 2-106.
- 3 (d) After a public hearing [and with the approval of the Advisory
- 4 Committee on Wage and Hour Law], the Commissioner may adopt regulations that
- 5 are necessary to carry out Title 3, Subtitle 4 of this article.
- 6 (2) Unless the Commissioner provides otherwise, a regulation that the
- 7 Commissioner adopts under this subsection takes effect on publication.
- 8 2-109.
- 9 Subject to the evaluation and reestablishment provisions of the Maryland
- 10 Program Evaluation Act, this title shall terminate and be of no effect after July 1,
- 11 [2004] 2014.
- 12 3-401.
- 13 (a) In this subtitle the following words have the meanings indicated.
- 14 (b) ["Committee" means the Advisory Committee on Wage and Hour Law.
- 15 (c)] "Employer" includes a person who acts directly or indirectly in the interest
- 16 of another employer with an employee.
- 17 [(d)] (C) "Federal Act" means the federal Fair Labor Standards Act of 1938.
- 18 [(e)] (D) "Wage" means all compensation that is due to an employee for
- 19 employment.
- 20 3-706.
- 21 Subject to the evaluation and reestablishment provisions of the Maryland
- 22 Program Evaluation Act, Subtitles 2 and 4 of this title shall terminate and be of no
- 23 effect after July 1, [2004] 2014.
- 24 4-103.
- 25 (a) Under the supervision of the Commissioner, the Mediation Service shall 26 carry out this subtitle.
- 27 (b) The Commissioner may assign staff to help the Chief Mediator to carry out
- 28 this subtitle.
- 29 (C) THE COMMISSIONER MAY CHARGE A FEE TO COVER THE COST OF
- 30 PROVIDING SERVICES REQUESTED UNDER THIS SUBTITLE.

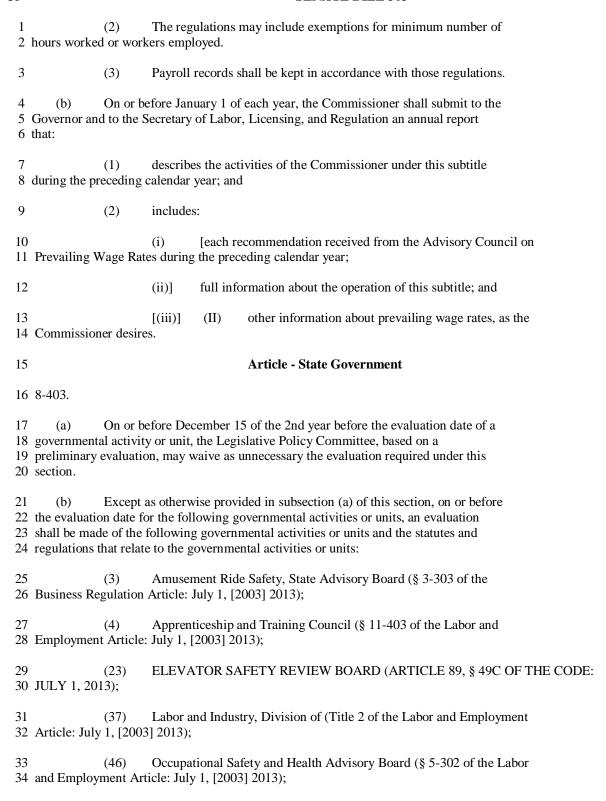
1	4-405.
	Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, Subtitles 1 and 2 of this title and § 4-403 of this subtitle shall terminate and be of no effect after July 1, [2004] 2014.
5	5-101.
6	(a) In this title the following words have the meanings indicated.
7	(d) (1) "Employer" means:
	(i) except as provided in § 5-401 of this title, a person who is engaged in commerce, industry, trade, or other business in the State and employs at least 1 employee in that business; or
11 12	$\hbox{(ii)} \qquad \hbox{EXCEPT AS PROVIDED IN SUBTITLE 8, PART III OF THIS TITLE, a public body.}$
13	(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
22	(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.
24	(E) "FUND" MEANS THE WORKPLACE HAZARD ABATEMENT FUND.
25	5-204.
	(a) (1) The proposed budget of the Division of Labor and Industry shall include an appropriation from the [General Fund of the State] WORKERS' COMPENSATION COMMISSION to cover the cost of administering this title.
	(2) The Workers' Compensation Commission shall [reimburse the General Fund of the State for] PAY the cost of administering this title from money that the Commission receives under § 9-316 of this article.
	(b) The Commissioner shall have the power and authority to receive and accept any grant of money from the federal government or any of its agents or units that Congress appropriates under the Occupational Safety and Health Act of 1970.

1	5-206.
2	(d) [The] EXCEPT AS PROVIDED IN SUBTITLE 8, PART III OF THIS TITLE, THE penalties under Subtitle 8 of this title do not apply to a public body.
4	5-607.
	Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title shall terminate and be of no effect after July 1, [2004] 2014.
8	5-801.
9 10	[The] EXCEPT AS PROVIDED IN PART III OF THIS SUBTITLE, THE penalties in this subtitle do not apply to a public body.
11	5-809.
12	(A) IN THIS SECTION, EMPLOYER DOES NOT INCLUDE A PUBLIC BODY.
15 16	[(a)] (B) (1) For the purpose of this subsection, a violation is considered to be a serious violation if there is a substantial probability that death or serious physical harm could result from a condition that exists or a practice, means, method, operation, or process that has been adopted or is in use, unless the employer did not and with the exercise of reasonable diligence could not know of the violation.
18	(2) The Commissioner:
	(I) shall assess a civil penalty against an employer who receives a citation for a serious violation of this title, an order passed under this title, or a regulation adopted to carry out this title; AND
	(II) MAY ASSESS A CIVIL PENALTY AGAINST A PUBLIC BODY THAT RECEIVES A CITATION FOR A SERIOUS VIOLATION OF THIS TITLE, AN ORDER PASSED UNDER THIS TITLE, OR A REGULATION ADOPTED TO CARRY OUT THIS TITLE.
25	[(b)] (C) The Commissioner:
26 27	(1) shall assess a civil penalty against an employer who violates a requirement for posting imposed under this title; AND
28 29	(2) MAY ASSESS A CIVIL PENALTY AGAINST A PUBLIC BODY THAT VIOLATES A REQUIREMENT FOR POSTING IMPOSED UNDER THIS TITLE.
30 31	[(c)] (D) The Commissioner may assess a civil penalty against an employer OR PUBLIC BODY [who] THAT:
32 33	(1) willfully or repeatedly violates this title, an order passed under this title, or a regulation adopted to carry out this title; or



- 33 **SENATE BILL 303** 1 General Fund for PAY the cost of administering this title from money the Public 2 Service Commission receives under § 2-110 of the Public Utility Companies Article. 3 The Board of Public Works may adopt a regulation to assess, fairly 4 and as equally as possible, each railroad company operating in the State the cost of 5 the State's share of activities under this title. The amount to be [reimbursed to the State General Fund] PAID BY 6 (2) 7 THE PUBLIC SERVICE COMMISSION may not exceed \$1 million in any fiscal year. 8 11-402. 9 Subject to the evaluation and reestablishment provisions of the Maryland 10 Program Evaluation Act, provisions of this subtitle creating the Apprenticeship and Training Council and related to the regulation of apprentices and trainees are of no 12 effect after July 1, [2004] 2014. 13 **Article - State Finance and Procurement** 14 [17-203. In this section, "Advisory Council" means the Advisory Council on 15 (a) 16 Prevailing Wage Rates. 17 (b) There is an Advisory Council on Prevailing Wage Rates in the Division of 18 Labor and Industry. 19 (c) The Advisory Council consists of the following 6 members: 20 (1) 2 individuals from management in the building and construction 21 industry; 22 2 individuals from labor in the building and construction industry; (2) 23 and 24 2 individuals from the general public. (3) 25 (d) (1) The Governor shall appoint each member with the advice of the 26 Secretary of Labor, Licensing, and Regulation and with the advice and consent of the 27 Senate.
- 28 The 2 members from management shall be selected from a list
- 29 submitted by management organizations in the building and construction industry.
- 30 (3)The 2 members from labor shall be selected from a list submitted by labor organizations in the building and construction industry.
- 32 (e) Before taking office, each appointee to the Advisory Council shall take the 33 oath required by Article I, § 9 of the Maryland Constitution.





- 1 [(55) Prevailing Wage Rates, Advisory Council on (§ 17-203 of the State
- 2 Finance and Procurement Article: July 1, 2003);]
- 3 SECTION 4. AND BE IT FURTHER ENACTED, That the Division of Labor and
- 4 Industry shall report to the Senate Finance Committee and the House Economic
- 5 Matters Committee on or before October 1, 2003, in accordance with § 2-1246 of the
- 6 State Government Article, on the implementation of the recommendations of the
- 7 Department of Legislative Services contained in the sunset evaluation report dated
- 8 October 2002.
- 9 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect 10 July 1, 2003.