

DEPARTMENT OF LABOR STANDARDS

ANNUAL REPORT 2020

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Table of Contents

Introduction	3
Program Highlights for 2020	3
Asbestos Program	3
Civil Enforcement	4
Employment, Placement, and Staffing Agencies Program	5
Lead Program	6
Mine Safety and Health Program	8
Minimum Wage Programs	9
Occupational Lead Poisoning Registry	11
Occupational Safety and Health Statistics Program	13
On-Site Consultation Program.....	13
Prevailing Wage Programs	16
Trench Safety	17
Youth Employment.....	25
Special Projects	25
Council on the Underground Economy	25
Public Record Requests	26
DLS Application Fee Schedule 2020.....	27
Agency Sum of Statutory Net Revenue	29
Agency Funding and Revenue Generation	29
DLS FTE Count from June 2005-December 2020 (FY05-FY2020)	30
DLS Employees During 2020	31
Relevant Statutes and Regulations	32
Appendix A – Youth Employment Permit Process.....	33

Introduction

The mission of the Massachusetts Department of Labor Standards is to promote and protect workers' health, safety, wages, and working conditions.

Massachusetts pioneered labor Standards in the United States leading the way in establishing a minimum wage, child labor protections, and a prevailing wage program for all public construction projects. Today, the Massachusetts Department of Labor Standards regulates these and other labor initiatives. Additionally, the Department licenses lead-safe contractors, asbestos abatement professionals, and employment agencies. It administers the Commonwealth's On-Site Consultation Program which helps small employers identify hazards and prevent potential workplace injuries. It administers the state's Mine Safety and Health Program and oversees the Bureau of Labor Statistics Survey of Occupational Injuries and Illnesses. In 2019, the Department implemented and began to enforce workplace safety standards in public sector workplaces at least as stringent as OSHA.

The Department of Labor Standards partners with employers, employees, unions, and public agencies to improve working conditions. It provides site visits, inspections, analysis, remediation advice, and in cases of non-compliance with the Commonwealth's Labor Standards, it issues civil citations.

DLS is committed to the consistent and responsible administration and enforcement of labor statutes and regulations.

In 2020, the Department faced its most significant challenge in over 100 years. In early 2020 COVID-19 was declared a pandemic, which resulted in all non-essential services being closed. All state employees had to begin to work remotely within 5 business days. DLS managed to make this transition while also changing its role. Roughly half of DLS employees went to work for DUA to cover the tremendous increase in claims. The other half were given the responsibility to enforce the closure of the businesses. As control was gained over the pandemic, some staff were able to return from doing DUA work to begin DLS operations. It took a lot of work and ingenuity to create safe and effective protocols to begin operations again. Meanwhile, the other half of DLS employees became responsible for enforcing the rules around reopening of the economy. This work entailed tremendous collaboration between DLS, local Boards of Health, Alcohol Beverage Control Commission, Dept. of Public Utilities, Dept. of Professional Licensure, Dept. of Public Health, and many others.

DLS was recognized for its exceptional work with a Performance Recognition Award for its DUA work and for its work enforcing the reopening rules. DLS was also awarded the 2020 Hilliard Award by the Mass Health Officers Association.

As a result of the disruption due to the COVID-19 pandemic this year's Annual Report is a little different than past years, and hopefully future years.

Program Highlights for 2020

Asbestos Program

The DLS Asbestos Program is responsible for the regulation of occupational asbestos exposure in the Commonwealth. The program works with employers, employees, unions and state and local agencies to create healthier and safer work conditions for Massachusetts workers through site visits, analytical services, and technical information. The program also aids in the coordination of OSHA, EPA and multi-state regulatory authorities along with the Consortium of North East States (CONES) in the common goal of protecting the public from long term damage from excessive asbestos exposure.

- In accordance with Governor Baker’s Executive Order 562, DLS has been reviewing its Asbestos regulations to determine what changes could be made to clarify them or make it easier for the regulated public to comply. DLS’s Asbestos regulations were last amended in 1999, and have been in need of updating to comply with current federal standards, and developments in technology and procedures. DLS has developed a first draft of the updated asbestos regulation as of October 2019. The second draft was developed and was sent to EPA and DEP for comment. DLS held a public hearing in late 2020 where those who are involved in the asbestos work delivered their public comments.
- The Massachusetts Department of Environmental Protection (MassDEP) and DLS are involved in meetings to discuss their shared jurisdiction over asbestos, find common solutions and work to make it easier for the regulated public to comply.
- In 2020, during the first quarter, DLS and MassDEP have done some presentations to different groups of contractors, corporate safety officers, local building officials and the general public to provide information about asbestos. Because of our increased presentations both agencies have received a significant reduction in inquiries regarding the safe handling of vermiculite insulation discovered in their homes. There is a national website where homeowners can learn more about removing vermiculite.
- In addition to the joint presentations between DEP and DLS, DLS has been providing consultative visits to repeat offenders of the asbestos regulations. DLS was currently on the monthly schedule to talk to ABC Home Inspectors of the Merrimack Valley on asbestos abatement in the Commonwealth but has been limited during the pandemic.
- DLS is also working closely with the AGO to determine how to collaborate on cases in the future.

On-site safety and health inspections	447
Hazards identified	223
Licenses issued	3619

Civil Enforcement

DLS monitors compliance with the Commonwealth’s Labor Standards and pursuant to 453 CMR 9.00 issues civil administrative penalties for infractions relating to employment agencies, lead and asbestos. In 2020 the Department took the following civil enforcement actions:

Enforcement/Civil Citations Issued		Total
(including Written Warnings, License Denials and Orders of Cessations)	Employment Agency	218
	Number Employment Agency Violations Cited	1266
	Asbestos	223
	Number Asbestos Violations Cited	447
	Lead	178
	Number Lead Violations Cited	252
	AHERA	56
	AHERA Violations Cited	237
NOTICES OF NONCOMPLIANCE		23

FOR TWRTK* VIOLATIONS		
TWRTK VIOLATIONS ISSUED		55
Hearings Conducted (including Informal Conferences)		8
Final Decisions Issued		8
Settlement Agreements Issued Other (including Appeal Denials, Defaults, Dismissals and Payment Agreement		
Amount of Civil Penalties Assessed)	Employment Agency	32,500.00
Amount of Civil Penalties Collected	Employment Agency	9200.
Total amount of fines penalties collected		62,301.00
DLS Collaboration with DUA		
Letters sent to businesses not in compliance with DUA reporting requirements		56

*Temporary Workers Right To Know Law (“TWRTK”)

Asbestos/Lead/RRP/Trench Inspections, Outreach, Training, and Licenses

	Asbestos	Deleading	Lead-Safe Renovation	Trench
On-site Safety and Health Visits	223	30	178	
Violations	447	16	251	
Bridge/superstructures (no violations)		2		
Audit, Training Provider	6	1	3	
Audit, Analytical Lab	0	NA	NA	
Outreach Meetings	2	3	9725	
Peoples/entities contacted through outreach			9725	
Notifications Received				

License Applications Sent to DUA/FSC`

	Number of Applications Sent	Not in compliance with DUA/FSC
Asbestos	241	36
Lead	170	20
Employment Agency	0	0

Employment, Placement, and Staffing Agencies Program

The Employment, Placement, and Staffing Agencies Program protects the rights of workers being placed by employment, placement and staffing agencies, and ensures that these agencies use fair, ethical, and legal business practices. The program also seeks to assist employment, placement, and staffing agencies to comply with their legal obligations under Massachusetts law by being a resource for them in helping them to navigate the Employment Agency Law and the Temporary Workers Right to Know Law (TWRTK).

- In light of the pandemic, DLS transitioned from mostly onsite inspections to self-audits, emailed to agencies to complete and send back to DLS for review. With the pandemic at the forefront it was necessary to make these changes to help with social distancing. Many agencies were also working out of the office or closed altogether making on-site inspections not possible. In 2020, 3 out of 4 inspections were self-audits.
- DLS expanded its personnel within the program, hiring a third Compliance Officer to help regulate the western part of the state.
- DLS continues to work with the Council on the Underground Economy (CUE). The CUE serves the business owners and taxpayers of the Commonwealth by engaging in coordinated investigations and enforcement actions between state and federal agencies in order to bring businesses into compliance with Massachusetts laws. DLS receives referrals via the CUE on a regular basis enabling DLS to investigate potential violations of the Temporary Workers Right to Know (TWRTK) Law.
- DLS continues to collaborate with individual federal and state agencies such as OSHA and the AGO; making referrals to each other whenever unsafe working conditions or other violations are found.
- In August 2018, Governor Baker signed into law a bill that would require Professional Employer Organizations (PEOs) to be registered by DLS. A PEO is a firm that provides a service under which an employer can outsource employee management tasks, such as employee benefits, payroll and workers' comp, recruiting, etc.
- In February of 2019, DLS started the registration and regulation of PEOs. During 2020, DLS has successfully registered 68 PEOs which represent a combined 131 entities. For PEOs there can be a single PEO (parent company) providing services within the state or a PEO Group, registered entities which are owned by one parent company, providing services within the state.

Employment Agency On-site visits	606
Professional licenses and registrations issued	1152
Professional Employers Organizations Registered	68
Combined Entities Registered	131
Registration Fees Generated	\$62,301

Lead Program

The goal of DLS's Lead Program is to reduce the incidence and severity of lead exposures for the Commonwealth's workers and other members of the general public. DLS accomplishes this goal by administering and enforcing standards for renovation, repair and painting carried out in older homes and child-occupied facilities that may contain lead paint as well as for deleading operations.

- DLS in partnership with EPA entered into an agreement with The Home Depot regarding multiple violations. Some of the top elements that are part of the settlement are THD will require the use of LSR contractors when appropriate, will promote lead safety in their paint departments and with paint contractors, and will enforce the LSR regs during its own inspections. Proceeds from the settlement will support deleading in low income housing.
- In 2020, DLS continued to educate contractors, property owners and the regulated public about Lead-safe Renovation (LSR). DLS continues to collaborate with local building and health department officials as well as regional contractor groups in getting the word out on Lead-safe Renovation in the Commonwealth. These collaborations were reduced due to the pandemic which

altered the scope of work beginning in March 2020. The program added an explanation of the COVID requirements for construction to its inspection process.

- National Lead Poisoning Awareness month occurred in October 2020. DLS joined with federal state and local agencies across the country in working to educate contractors and the public about the dangers of exposure to lead paint dust to families, and workers during renovation and remodeling activities. DLS issued a press release for an article targeting renovators and do-it-yourselfers on controlling lead paint dust during renovation activities. Lead-safe Renovation information, as well as blogs and tweets related to occupational lead exposure and our Occupational Lead Registry were distributed.
- During 2020, first quarter, DLS spoke at several meetings and conferences, met with local building and health officials, contractor associations, hardware, paint, and supply stores and performed compliance assistance to contractors and property owners about how working Lead-safe protects workers and families.
- In 2020 the program made significant changes to the licensing renewal process for both lead and asbestos. Among the changes made, renewals are only done by mail or email. An email box for applicants was developed to combat the ineffectiveness of the postal service and to ensure applications arrive to our office in a timely fashion.
- DLS continues to display our Lead-safe Renovation materials at building and health departments, on the 17 electronic billboards across Massachusetts and at hardware, paint, and supply stores





Deleading and Lead-Safe Renovation

On-site safety and health inspections	100
Hazards identified	16
Licenses issued	706
On-site safety and health inspections	503
Outreach and Compliance Assistance for Deleading & Lead-safe Renovation	10048
Outreach visits/meetings	
Outreach and Compliance Assistance for Deleading & Lead-safe Renovation	10048
Persons/entities contacted through outreach	
Hazards identified	471
Licenses issued	482

Mine Safety and Health Program

The Mine Safety and Health Program is administered in Massachusetts by DLS in cooperation with the United States Department of Labor, Mine Safety and Health Administration (MSHA). Under 30 CFR Part 56, safety and health standards are required to be in place for all surface metal/non-metal mines throughout the nation. Initial and annual refresher training for all mining employees is required by 30 CFR Part 46. These requirements apply to the approximately 160 mining operations in Massachusetts. The operations in Massachusetts include sand and gravel pits, crushed stone operations, and quarries.

DLS conducts its MSHA Part 46 annual refresher training sessions primarily in January, February and March, to line up with the time period when surface mines in Massachusetts typically

suspend operations due to weather. Normally, during the fourth quarter of the year DLS works on preparation for the next MSHA training season. This would usually consist of reviewing feedback from the participants and discussions regarding improvements for the following year. There is also a significant amount of paperwork that is completed and filed. Rooms are booked and promotional material developed.

During FY 2020 Q1, DLS designed a new training program that would focus on the, “Safe Day of a Miner.” It was continuation of an innovative change to the training program that focuses more on how to apply safety and health concepts to the workplace, including the addition of several new hands-on activities for the class participants. DLS also produced its second “Student Manual and Resource Guide.” A book that participants can take home with more detailed information, as well as templates and worksheets related to the topics covered during the class. One trainer attended TRAM (October 15 to 18). DLS met all of its objectives for FY 2020 Q1 by completing course development, promoting the program and registering 694 participants.

During FY 2020 Q2, seventeen training sessions were scheduled with a total of approximately 860 registrants. However, on March 10, 2020 the Governor of Massachusetts declared a state of emergency due to the COVID-19 outbreak and restricted all executive branch functions on March 18, 2020, effectively closing DLS operations. As a result, the final training session had to be cancelled, so DLS was only able to conduct sixteen of the seventeen training sessions with a total of 768 participants. DLS ended up short 82 participants, or 9.6%.

During FY 2020 Q3, normally during the third quarter of the year DLS works on closing out the MSHA training season. This would usually consist of reviewing feedback from the participants and discussions regarding improvements for the following year. There is also a significant amount of paperwork that is completed and filed. Due to the continued COVID-19 outbreak DLS was not able to conduct any MSHA related work other than developing its application for submission. DLS did not book spaces or begin outreach for next year since it was still unclear what the training will consist of.

During FY 2020 Q4, despite the continued COVID-19 outbreak DLS was able to complete most of these tasks usually performed in Q3, with the exception of booking rooms for the following training season. Instead of this, DLS has been researching conducting the training remotely in the early part of 2021, or delaying the training until later in the year to be conducted in-person. Normally a DLS trainer attends the Joseph A. Holmes conference. This year DLS did not attend since that was cancelled. DLS plans to participate in the remote sessions of TRAM.

Training sessions conducted	16 of 17
Workers trained	768

Minimum Wage Programs

DLS administers the Commonwealth's Minimum Fair Wage Law and Regulations, which address not only the payment of the basic minimum wage but also overtime; the minimum wage for

tipped employees; reporting pay; on-duty or on-call time; travel time and expenses; deductions for lodging, meals, and uniforms; and wage records that employers are required to keep.

Chapter 121 of the Acts of 2018 amended Massachusetts General Law c. 151 § 1, the Minimum Wage Law by increasing the minimum wage incrementally over five years until it reaches \$15.00 per hour. It also amended M.G.L. ch. 136 § 6, the Blue Laws, by incrementally decreasing premium pay for retail work on Sundays. Thus, the law was nick-named “the Grand Bargain.” As the minimum wage increases, the premium pay decreases. The increases apply to hourly workers as well as tipped workers. However, the agricultural rate remains at \$8.00 per hour and was not changed by these amendments.

The new minimum wage rates and premium pay decreases are as follows:

Effective January 1, 2019 - \$12.00 per hour for non-tipped workers, \$4.35 per hour for service rate employees. Premium pay decreases from 1.5 x the regular hourly rate to 1.4x the regular hourly rate.

Effective January 1, 2020 - \$12.75 per hour for non-tipped workers, \$4.95 per hour for service rate employees. Premium pay decreases from 1.4x the regular hourly rate to 1.3x the regular hourly rate.

Effective January 1, 2021 - \$13.50 per hour for non-tipped workers, and \$5.55 per hour for service rate employees. Premium pay decreases from 1.3x the regular hourly rate to 1.2x the regular hourly rate.

Effective January 1, 2022 - \$14.25 per hour for non-tipped workers and \$6.15 per hour for service rate employees. Premium pay decreases from 1.2x the regular hourly rate to 1.1x the regular hourly rate.

Effective January 1, 2023 - \$15.00 per hour for non-tipped workers and \$6.75 per hour for service rate employees. The premium pay requirement is eliminated.

To ensure Massachusetts employers would comply with the minimum wage increases, DLS conducted significant outreach including advertising on highway billboards throughout the state, posting notice of the changes on its websites, and responding to inquiries from the public via a Minimum Wage “hotline.” This outreach continues.

The Pandemic caused the U.S. federal government to pass several pieces of legislation relating to leave pay. The first was entitled the “Families First Coronavirus Relief Act.” The Act was enacted on March 18, 2020, and required certain employers to provide sick leave or Family and Medical Leave when employees had to be quarantined under specified circumstances. DLS’s Minimum Wage Hotline triaged calls regarding employee rights under the law to the U.S. Department of Labor, and worked with their Boston Wage and Hour Division to ascertain all questions were appropriately referred, if not answered by DLS.

The U.S. federal government also passed the Corona Aid Relief and Economic Security Act (CARES ACT) on March 27, 2020. One of the Act’s main objectives was to keep American workers paid and employed during the pandemic by providing loans to small businesses. It was designed to keep employees on the payroll and employed by providing loans to small businesses. It also expanded Unemployment Insurance benefits. Again, DLS triaged calls to the U.S. Department of Labor and the state’s Division of Unemployment Assistance and established an accurate referral source for all questions.

DLS responded to the Feedback Submission Form used by the public to submit and ask questions regarding the agency’s regulations and minimum wage laws. During 2020, the following topics were responded to by the Minimum Wage Hotline: professional exemption requirements for salaried employees & salary threshold and duties test for overtime, minimum pay for salaried workers, uniform deposit requirements, minimum hours a worker in health care can work, managers receiving tips, sick leave, vacation leave, paid time off leave, quarantine leave due to Covid-19, commissioned pay of hair stylists, carry over of earned time while working at a different location, calculation of overtime pay with Sunday premium pay, per diem and training pay requirements, student internship criteria, retail workers being alone and working, how to get final pay check, meal break denial, DLS’s overtime waivers as compared to DUA seasonal determinations, legality of hours cut at work, travel and mileage reimbursement requirements, deduction of pay after working the hours, retroactive pay reduction, minimum wage historical data, unused vacation pay payout, carry-over of vacation time, timely payment of wages, and federal jury duty pay,

On April 27, 2020, DLS issued an Opinion Letter dated April 27, 2020, which sought to clarify the line between harvesting and post-harvesting activities and interpreting the farmers’ overtime exemption contained within the overtime statute.

Minimum Wage Waivers issued	72
Wage program information line requests and resolutions	1895
Opinion Letters Issued	1

Occupational Lead Poisoning Registry

In 1990, the Occupational Lead Registry Law (M.G.L. Chapter 149) was enacted in Massachusetts. The Occupational Lead Poisoning Registry (Lead Registry) was created because occupational exposure to lead is a major cause of disease. Excessive exposure to lead can cause serious damage to the blood, kidneys, nervous and reproductive systems and is also known to cause cancer. Occupational lead poisoning is still common in the United States despite the availability of effective control technologies and the existence of state and federal regulations designed to limit exposures in the workplace. The Lead Registry’s regulations currently require reporting of all blood lead levels above zero for those persons 15 years of age and older. The Lead Registry monitors individuals with elevated blood lead levels and provides educational counseling, guidance as well as informative reference materials. Through its medical consultant, the Lead Registry is able to offer peer advice to physicians on the medical management of lead poisoning.

Education and Outreach - During 2020, the Lead Registry continued to disseminate educational materials that included translations in Greek, Portuguese and Spanish. These materials were created to provide a resource to patients to help understand the significance of their test result and make them aware

of how to protect themselves in the future. The materials developed for healthcare providers include guidelines for the proper management of adults with lead poisoning and recommendations on how to reduce and prevent further poisoning. DLS has begun to work in conjunction with the Massachusetts Department of Public Health to expand upon the system to reach out to those that have blood lead values greater than or equal to 40 mcg/dl. Individuals in the Lead Registry system have been difficult to reach during work hours and the individual questionnaire sent to each patient resulted in low return percentages. As of July 1, 2019 the patient interview process is being conducted by the Department of Public Health (DPH) Occupational Surveillance Program. The DPH program is now reaching out to those with blood lead values greater than or equal to (\geq) 40.0 mcg/dl during the evenings with the ability to speak with those that do not use English as a first language. The Lead Registry has referred five (5) individuals to the DPH Occupational Surveillance Program since January 1, 2020. The DPH Occupational Surveillance program has conducted no patient interviews as of December 31, 2020.

The Lead Registry sent out 283 letters including educational materials to those with blood leads greater than or equal to 10.0 mcg/dl and less than or equal to 24.0 mcg/dl, when their home addresses were available. For cases of greater than or equal to 25 mcg/dl, 93 mailings of educational materials and a letter to help interpret blood lead values were sent out to both patients and their corresponding healthcare professionals during 2020.

Electronic Data Sharing and Reporting – In order to ease the burden of reporting on all clinical laboratories the Lead Registry maintained an electronic reporting system. This continues to streamline the process of reporting results by the clinical laboratories and reduces the need of the registry to handle, track and enter vast amounts of paperwork and data. In 2020, nineteen (19) clinical laboratories were active in the electronic reporting system to the Occupational Lead Poisoning Registry of the Commonwealth of Massachusetts.

Lead Registry Database – The Lead Registry Database/Case Management System designed by DLS management and staff, working in conjunction with the EOLWD IT program, has been in use, up-graded and evaluated since April 1, 2017. In August and September of 2020, the Occupational Lead Poisoning Registry was migrated to Amazon WorkSpaces (AWS) to increase access to the Lead Registry Database via a web-based system.

Blood Lead Reporting – The Adult Blood Lead Epidemiology and Surveillance (ABLES) program is the state based surveillance program of laboratory reported adult blood lead levels. The objective of the ABLES program is to build state capacity to initiate, expand or improve adult blood lead surveillance programs which can accurately measure trends in adult blood lead levels and which can effectively intervene to prevent over exposure to lead. Blood lead values are now being reported starting at the 0-4 mcg/dl range (6715 in 2020 down from 7556 in 2019) and 5-9 mcg/dl range (628 in 2020, down from 672 in 2019.) Blood lead reporting significantly decreased during the months of April, May and June 2020 coinciding with the onset of the COVID pandemic. On average, between 750-1000 blood leads results are reported per month to the Occupational Lead Poisoning Registry. In April 2020, 174 blood lead results were reported, 326 in May and 528 in June 2020.

Massachusetts Blood Leads – Protocols developed by the Lead Registry are used to refer cases to the DLS Asbestos and Lead Program or OSHA when the parameters dictate. In 2020, two cases were referred to DLS Asbestos and Lead Program. No cases were referred to OSHA.

The following chart provides an overview of the individual blood lead tests within a given concentration range reported to the Occupational Lead Poisoning Registry during calendar year 2020. The overall number of blood leads reported in 2020 was 7978, down from 8941 in 2019. Blood lead values reported as greater than or equal to 25.0 mcg/dl decreased in 2020 to 79 cases, down from 116 in 2019.

Blood Lead Level mcg/dl	Number of Blood Lead Results
0-4	6715
5-9	628
10-14	270
15-24	286
25-39	69
40-49	4
50-59	4
60+	2

Occupational Safety and Health Statistics Program

The Occupational Safety and Health Statistics Program administers the Survey of Occupational Injuries and Illnesses (SOII) in cooperation with the federal Bureau of Labor Standards (BLS). SOII is an establishment-based survey used to estimate incidence rates and counts of workplace injuries and illnesses. SOII also provides detailed case and demographic data for cases that involve one or more days away from work (DAFW) and for days of job transfer and restriction (DJTR) for select industries. SOII estimates the number and frequency (incidence rates) of workplace injuries and illnesses based on recordkeeping logs kept by employers during the year as required by the Occupational Safety and Health Administration (OSHA).

The COVID-19 pandemic struck right in the middle of our annual SOII collection cycle. Therefore, this brought a halt to companies submitting their survey data. At the same time, staff were told to not report to the office until further notice. This resulted in, for the first time, staff having to develop plans to overcome many logistical hurdles to coordinate a seamless transition to continue administering SOII while working from home. During this time, one of our team members was asked to assist the Division of Unemployment Assistance with the drastically increasing unemployment claims they were receiving due to the pandemic. Much of this assistance, which was fulltime for nine weeks, was helping to resolve issues unemployment claimants had with filing a claim.

As with many other states, the Massachusetts results of the 2020 SOII fell short of the required 85% collection rate that we typically reach. However, we were able to reach a 78% collection rate and publish most of the data we typically include in our annual report. We also were able to code approximately 6,800 recordable incident cases. Although the COVID-19 pandemic brought certain challenges in 2020, the statistics team worked hard to meet the expectations of our grant to publish occupational injury and illness statistics, as well as contribute to the needs of the commonwealth's COVID-19 response.

On-Site Consultation Program

The primary goal of the MA OSHA Consultation Program (Consultation Program) is to assist small high hazard private employers in the Commonwealth to identify and control potential safety and health hazards at their worksites and improve their safety and health programs. Providing a safe and healthy workplace can reduce workers' compensation rates, increase employee morale, increase productivity, and improve the company's bottom line.

Due to COVID-19, the Consultation Program's accomplishments look a little different this year compared to past years. As you will see below, staff have been busy keeping the Consultation Program successful while they also provided support to the Commonwealth's COVID-19 response.

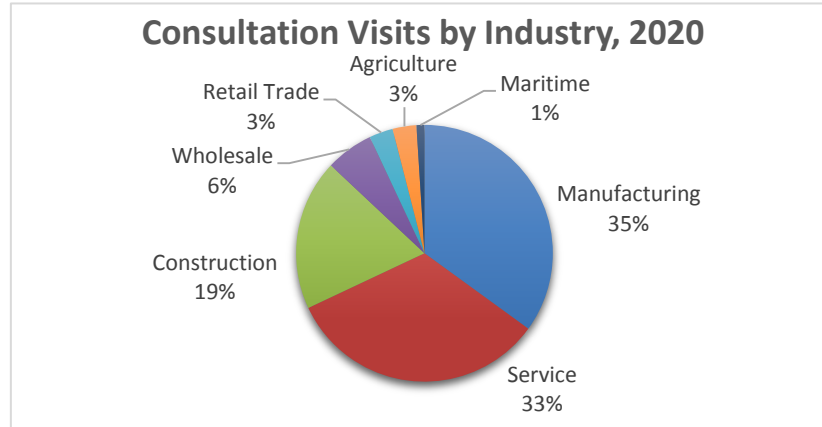
Consultation Program Accomplishments

- On-Site Safety and Health Visits: 148
- Compliance Assistance Activities: 182
- Hazards Identified: 905 (Imminent danger = 2, Serious = 849, Other Than Serious = 30, Regulatory = 24)

Consultation Visits: Industrial Safety and Health Inspectors conducted 148 consultations at various high hazard private employer worksites throughout Massachusetts in 2020. The inspectors identified 905 hazards, removing 27,551 workers from risk. The Consultation Program referred one company to OSHA Enforcement for not abating serious hazards. Consultants completed 182 compliance assistance activities, far exceeding the initial goal of 100. Compliance assistance activities consist of removing workers from potentially life-threatening hazards at construction sites, guest lecturing at universities, providing technical assistance via phone/meetings and providing workplace hazard training seminars.

The Consultation Program visits are provided to small employers in the Commonwealth free of charge and no fines or penalties are given. The program’s goal is to assist small employers (fewer than 250 employees at the site and fewer than 500 nationwide), although exceptions are made for high hazard large employers when time allows. Out of the 148 workplaces visited, 83 had 25 or fewer employees (56%), 43 had 26 to 100 employees (29%), 21 had 101-250 employees (14%), and one had greater than 250 employees (1%).

The Consultation Program’s mandate is to assist private sector employees across a variety of industry sectors with the majority of the work in high hazards industries. Consultation visits by industry sector are indicated in the pie chart below.



Training and Outreach Efforts: The Consultation Program continues to perform outreach efforts via its General Industry email distribution list (430 addresses) and Construction email distribution list (190 addresses). The following information is sent out on a routine basis:

- Safety recall notices.
- Training opportunities.
- OSHA updates.
- January reminder for employers to enter OSHA Injury and Illness Summary Data Electronically.
- February reminder for employers to post OSHA injury and illness summaries.
- Other relevant workplace safety and health information.

Notices were sent out for trainings the Consultation Program either hosted or participated in. These included *Fall Protection in Residential Construction training*, *General Industry Workplace Hazard Recognition training*, and *OSHA Winter Safety Event Training workshop*.

The *Fall Protection in Residential Construction: Complying with OSHA Regulations* class met a need of smaller roofing contractors. We have partnered with OSHA Enforcement to offer this class as part of their settlement agreements, rather than a site visit from the Consultation Program. This was a much more efficient use of the consultant's time, reaching a far greater audience than meeting with a single roofer. Many of these roofing companies are fewer than 5 employees, so the opportunity to learn from and talk to their counterparts is invaluable. Ninety-three people attended the Fall Protection classes. Thirty percent of the class attendees were part of a settlement agreement with OSHA Enforcement.

The Consultation Program staff presented on occupational safety and health hazards and marketed the Consultation Program services at a variety of venues. These included both in person presentations and exhibit booths (January – early March) and virtual seminars (mid-March – December) for the following organizations:

- New England Food Show
- Yankee Dental Congress
- Massachusetts Brewers Guild Association
- Nantucket Builders' Association
- OSHA Winter Safety Event
- MA Senior Care Association
- OSHA Construction Roundtable
- Massachusetts Office of Business Development

The Consultation Program partners with the U.S. Department of Labor/OSHA Regional and Area Offices to ensure their promotion of the Consultation Program's services. Approximately 500 brochures were distributed to the OSHA Regional and Area Offices in 2020.

Safety and Health Achievement Recognition Program (SHARP)

The SHARP Program is a program that recognizes small private employers who operate an exemplary injury and illness prevention program. The Consultation Program has approved a total of nine SHARP sites in Massachusetts. Acceptance of an employer into SHARP is a sign of achievement that singles out that company from its peers as a model for worksite safety and health.

Consultation Program Support of the COVID-19 Response Accomplishments

The year started out like most other years with the Consultation Program on track to meet its goals, then as with most other Massachusetts state agencies, DLS was instructed to work from home starting in mid-March due to the COVID-19 pandemic. This resulted in the Consultation Program visits, seminars, and trainings being put on hold until further notice. In late March, the Consultation Program shifted its focus and started helping the Department of Unemployment Assistance (DUA). For nine weeks, staff contributed to the monumental task of assisting those who lost jobs due to COVID-19 file unemployment claims. The Consultation Program staff were instrumental in processing 4,500 claims.

In June, our efforts to assist DUA started to slow down. Being unable to return to fieldwork, due to the uncertainty surrounding COVID-19, lack of N95 respirators, and the continued closure of businesses, we developed procedures to provide companies with virtual visits. Using these procedures, staff started performing virtual visits, which has turned out to be a great tool for many employers. Virtual visits give employers the opportunity to take a deep dive into their safety and health programs and get them in order,

prior to an actual on-site visit. We have conducted in person visits to outdoor construction sites and we have conducted some air monitoring for general industry. Air monitoring for general industry is done without entering the building by setting up/hooking air-monitoring equipment to workers outside of the building.

In November, the Consultation Program partially shifted its focus again to support the Workplace Safety and Health Program with the COVID-19 response. Consultation Program staff started providing COVID-19 support activities that resulted in fielding 729 COVID-19 hotline calls and handling 142 COVID-19 online complaint form submissions. These activities have resulted in 49 notices going out to gyms, 141 case referrals to the Alcoholic Beverages Control Commission (ABCC), opening 12 manufacturing workplace COVID-19 cluster inspections, and referring 12 complaints to Home Depot and one to Walmart.

The Consultation Program had another successful year. Credit for this success goes directly to the dedicated and hardworking consultants and administrative staff who readily switched their focus multiple times throughout the year. Staff took on new and important tasks including processing unemployment claims and supporting the agency's COVID-19 response while keeping the Consultation Program moving forward by conducting virtual visits with companies.

Prevailing Wage Programs

Nearly a century ago, the Massachusetts Legislature granted the Department of Labor Standards ("Department"), through its predecessor agencies, plenary authority to determine the wage rates and classifications for workers on public works projects in the Commonwealth.¹ The Department is required to prepare a list of jobs usually performed on public works projects and, when requested, to assign to each job the minimum wage which must be paid to persons performing that job.² Congress followed suit and enacted the Federal version of the prevailing wage law, known as the Davis-Bacon Act, in 1931.³ The principle underlying the prevailing wage laws is to ensure that government uses its substantial buying power to enhance the welfare of workers and their families, to encourage a highly-skilled workforce to build and maintain the country's infrastructure, and to ensure that competition for these projects is based upon skill and efficiency and not lowering workers' wages to cut costs.⁴ Today, 32 states have prevailing wage laws.⁵ In 1988, there was a bitterly contested, but unsuccessful ballot initiative in Massachusetts to repeal the Prevailing Wage Law. By voting to defeat the initiative, the citizens of the Commonwealth affirmed the principles underlying the Massachusetts Prevailing Wage Law and the manner in which it has been administered by the Department of Labor Standards and its predecessor agencies.⁶

Over the years, Courts have consistently and universally affirmed that the Department of Labor Standards has broad policy-making authority, delegated to it by the Legislature, concerning the application of the prevailing wage law. Moreover, where a situation is ambiguous as to whether a particular type of work is covered by the prevailing wage law, legal deference is given to the opinions of the Department of Labor Standards.

Massachusetts General Law chapter 149, § 26 requires the Department to establish prevailing wage rates that are not less than the rates that "have been established in certain trades and occupations by collective agreements or understandings in the private construction industry between organized labor and employers." Thus, the Department of Labor works cooperatively

with organized labor to become familiar with union collective bargaining agreements and understandings. DLS often prepares opinion letters in response to specific questions posed by the Attorney General, private lawyers, contractors or litigants. These letters serve as controlling precedents in subsequent disputes regarding similar issues and are often used by the Attorney General’s Office and cited by Courts in criminal and civil enforcement actions.

In addition to workers on public construction projects, the Prevailing Wage Law governs rates for workers engaged in school bus transportation, operators of vehicles or equipment for public purposes (including solid waste and recycling), workers engaged by employers which provide janitorial services for state buildings, office moving services and for certain employees of housing authorities.

The Department of Labor Standards issues prevailing wage rate sheets for every job in the Commonwealth covered by the Prevailing Wage Law and these sheets, set the hourly wage rates that workers *must* be paid.

The Department of Labor Standards issued two Opinion Letters during 2020 in January DLS issued a clarification on Drawbridge Operator Classification during construction and in February DLS clarified the classification of Tree Trimmers.

Prevailing Wage schedules issued	19212
Calls and emails	3448
Opinion letters issued	2

Trench Safety

DLS conducted 41 construction site consultations which included a discussion on trench safety, assessment of existing trenches, and evaluation of trench safety programs. DLS intervened at 21 private sector work sites where an active trench was located without cave-in protection. For public sector workplaces, DLS conducted 6 site inspections and issued corrective actions to prevent cave-ins and other trench accidents. DLS refined its Template Trench Safety Program and Daily Trench Inspection Checklist that was distributed to all DPW superintendents, and posted on the DLS website. DLS continued outreach to public cemeteries regarding Cemetery Excavation Safety.

DLS exhibited at OSHA Summer Summit, New England Grows, Construction Career Days and New England Public Works Expo distributing 500 pieces of literature that included information on trench safety. DLS posted new trench safety documents online as resources for all employers. DLS conducted two training sessions with 80 attendees on workplace safety and health, including trenches, for private sector employers. DLS conducted 12 trench safety trainings for 350 public sector employees. DLS was a partner in the OSHA Summer Summit, which had over 500 participants. DLS provided training on municipal trench safety for the New England Water Works Association and the Massachusetts Water Works Association, and DIGSAFE. DLS joined Digsafe as a speaker at 8 full-day workshops for Managing Underground Safety Training (MUST) for over 1740 attendees. DLS partnered with the Office of Public Safety and Inspections

(OPSI) to provide 7 professional development training for holders of hoisting licenses, but these were cancelled due to COVID. DLS conducted 16 Mine Safety and Health Administration (MSHA) refresher trainings with 750 participants in which cave-in protection and trench safety were a part.

On February 1st, 2019 M.G.L. chapter 149 §6-1/2 went into effect. The law clarifies that public sector employers are required to comply with OSHA safety and health standards, which includes excavation and trench safety regulations. DLS conducted 184 orientation sessions between June 2018 and March 2019, which included information on trench safety compliance. In addition, smaller group sessions were held with county highway associations, Massachusetts Water Works Association, Massachusetts Water Resource Authority, and the Boston Water and Sewer Commission.

Workplace Safety and Health Program

Mission

In calendar 2020, the Workplace Safety and Health Program for Public Employees (WSHP) program was disrupted by the COVID-19 pandemic. The entire staff were deployed to assist the Governor's COVID-19 Response Team on March 23, 2020 and are still working on COVID-19 response through the end of December 2020. These efforts will continue into 2021 until the Commonwealth's COVID-19 orders are rescinded.

The mission of the Workplace Safety and Health Program ("WSHP") is to prevent job-related injuries and illnesses among the Commonwealth's public-sector employees. During the COVID-19 emergency, this mission was expanded to include private sector and public sector workplaces. The federal Occupational Safety and Health Administration (OSHA) typically has jurisdiction for private sector workplace safety. However, OSHA did not have a regulation for COVID-19 infection control, so authority was left up to the states.

The DLS staff are experienced occupational safety and health professionals trained to conduct accident inspections and implement safety and health management systems. This training and experience positioned DLS to assist the COVID-19 prevention efforts.

COVID-19 Emergency

Governor Baker declared an emergency on March 10, 2020. As of December 31, 2020 there were 59 Emergency Orders issued, with DLS named as an authority with jurisdiction in 14 of these orders regarding closure of non-essential businesses, phased re-opening schedule, and sector standards.

From March-December 2020, DLS received over 15,000 complaints or inquiries. Complaints were received via a central mailbox, central phone number, and a new online complaint form that was quickly developed. Board of Health agents also contacted DLS staff directly.

On November 13, 2020, DLS promulgated 454 CMR 31 "COVID-19 Workplace Safety Regulations" to provide COVID-19 safety requirements in workplaces, places of worship, and youth sports. This regulation codified the safety protocols described in the Emergency Orders. The regulation was initially issued in July 2020 as an emergency regulation, valid for 90 days.

Public hearings were held in September and October 2020 and 454 CMR 31 became final on November 13.

Essential Business closure

On March 23 Governor Baker issued Emergency Order No. 13 to temporarily close non-essential businesses. At the state level, the Essential Business closure was chaired by the Secretary of Health and Human Services (EOHHS) and the Secretary of Housing and Economic Development (HED). The Director of DLS attended meetings so that DLS staff could interpret and implement the Essential Business list and FAQ interpretations. The FAQ list was updated daily. DLS investigated more than 705 cases and issued 416 Cease and Desist Orders under Emergency Orders 13, 21, 30, and 32.

Phased Reopening

The team at HED/DPH coordinating the Essential Business response evolved into a COVID-19 Command Center to facilitate the safe reopening of businesses. On May 18, 2020 Emergency Order 33 provided a Phase I, II, III and IV schedule for businesses to be eligible to be open. This Order required all businesses to follow COVID safety protocols and have a written COVID safety plan and mandatory postings. The Director of DLS, Michael Flanagan, participated in Command Center meetings.

The Department of Public Health's Office of Regional Health held conference calls for local Board of Health agents every Tuesday and Friday. On each call, there were more than 650 attendees. The calls were used to distribute information from the Command Center and assist enforcement efforts. The calls were chaired by the Assistant Commissioner of DPH and the Director of the Office of Regional Health. The speaker panel included representatives from DPH, DLS, DESE, EEA, and the Massachusetts Chiefs of Police Association.

DLS investigated more than 1453 cases under Emergency Orders 33, 35, 37, 40, 43, 50, 51, 53, 56, 58, and 59.

Cluster Investigations

The state DPH Division of Epidemiology and local Board of Health agents conducted contact tracing to advise close contacts to quarantine. DLS supported these efforts by contacting businesses to evaluate workplace procedures and layout to prevent additional transmission of virus. DLS inspectors provided assistance regarding break rooms, shared carpools, cleaning products, pre-shift symptom screening and return-to-work procedures.

Workplaces Covered

DLS had enforcement jurisdiction for COVID-19 safety in the following workplace sectors: Arcades and Other Indoor/Outdoor Recreation Businesses; Close Contact Personal Services; Construction; Drive-in Movie Theaters; Driving and Flight Schools; Fitness Centers and Health Clubs; Golf Facilities; Indoor and Outdoor Events; Indoor Recreation; Laboratories; Libraries; Operators of Lodging; Manufacturing; Museums and Guided Tours; Office Spaces; Places of Worship; Restaurants; Retail; Sectors Not Otherwise Addressed; and Youth and Amateur Sports.

COVID-19 Enforcement

The COVID-19 emergency was a new situation that businesses had never faced before. DLS provided verbal coaching before enforcement action was taken. During the "Essential Business"

period DLS issued a Cease and Desist Order to businesses that were not eligible to be open, if they did not respond to a verbal warning. During the Phased Reopening process, DLS used a graduated enforcement structure which included verbal warnings, written warnings, and civil citations. The Civil Citation was a last resort after the business was unresponsive to a written warning. A graduated enforcement approach was used to guide employers which started with a verbal warning, written warning, and then using a civil citation and civil penalty as a last resort. Under the Emergency Orders, both DLS and local Boards of Health were authorized to conduct enforcement and issue fines, up to \$300 per violation. In many municipalities the Board of Health issued their own warnings and citations, and then requested additional support from DLS on a case-by-case basis when a business was uncooperative.

To control the volume of complaints and reduce the need for Civil Penalties, DLS inspectors also acted as liaisons with the corporate offices of large national retail chains to explain capacity limits, distancing and face covering requirements. These retailers included Walmart, Home Depot, Target, Dunkin Donuts, Cumberland Farms, and Market Basket.

Workplace Safety and Health Program – COVID-19 Response Team Calendar 2020
<p>Mission:</p> <p>The WSHP Program had 12 inspectors on the COVID-19 Response Team responsible to respond to inquiries, complaints, and conduct enforcement action for the Governor’s Emergency COVID-19 Orders. The purpose was to reduce the incidence of COVID-19 infection and fatality among the Commonwealth’s citizens and workforce.</p>
<p>Essential Business Closure (March 18 - to May 17, 2020)</p>
<p>Complaints received to department email/phone hotline: 1077</p>
<p>Cases opened: 708</p>
<p>Cease and Desist Orders issued: 416</p>
<p>COVID-19 Phased Reopening (May 18 through December 31, 2020)</p>
<p>Complaints/inquiries received to department email/phone/hotline: 10,955</p> <p>Complaints/inquiries received on individual staff email/phone: 4,600</p>
<p>Responses to Complaints/inquiries included:</p> <ul style="list-style-type: none"> • Answer provided by DLS via phone/email: 6,380 • Issue forwarded to local Board of Health: 5,707 • Issue forwarded to other agency with jurisdiction: 1,330 • Case opened by DLS for evaluation: 1453 • Incoming issue closed without action if COVID violation not indicated: 685 <p><i>Other agencies with jurisdiction included DPH agencies, DESE, DEEC, Courts, Correction, DDS, MBTA, Massport, USPS.</i></p> <p><i>Local Boards of Health were sent referrals when DLS was not the authority for jurisdiction, such as Face Covering order for the public, Gathering Order, and Travel Order, and contact tracing. DLS shared jurisdiction with LBOH for restaurants, retail, sports, and events and referred many of these issues with them based on size of the LBOH. The Boston Public Health Commission handled complaints within Boston.</i></p>
<p>Cases opened by DLS: 1453</p> <ul style="list-style-type: none"> • Cases determined as “No Violation:” 504 • Verbal Warning issued with no further action needed: 464 • Written Warning and Order to Correct issued and no further action needed: 159 • Cease and Desist Order for activity not eligible to be open in Phase I, II or III: 314 • COVID-19 safety plan reviewed after an ABCC license suspension: 34 • Civil Citation and Civil Penalty issued: 12 (for total of \$18,300) <p><i>The low number of cases in which penalties were issued indicates that most businesses were receptive to coaching on COVID-19 safety improvements without fines being needed. Local Boards of Health also had</i></p>

authority to issue warnings and fines – this activity is not included in the DLS tally above.

COVID-19 Cluster Investigation (October 1 through December 31, 2020)

COVID safety plan reviewed in response to a cluster investigation: **234**

Written Warning issued in response to cluster: **0 (zero)**

Businesses were receptive to coaching on COVID-19 safety improvements without enforcement measures being needed. The purpose of DLS assistance was to prevent additional workplace transmission and not place blame.

Timeline for Workplace COVID-19 Safety

The following timeline illustrates the pace of information and the need for DLS inspectors to learn new information on a weekly basis. Although DLS did not have direct jurisdiction for the Gathering, Travel, or Face Covering orders, they are provided here as context because these orders affected the COVID-19 Sector Safety Standards.

- March 11, 2020 Governor declares emergency (Emergency Order No. 1)
- March 13, 2020 Closure of non-Essential Businesses and elective healthcare (Order 13)
- March 17, 2020 Gathering limit restricted to 25 persons (Order 5)
- March 24, 2020 Gathering limit restricted to 10 persons (Order 13)
- May 6, 2020 Face coverings required in retail/transit settings and 6 feet. (Order 31)
- May 18, 2020 Phase I Re-opening (Order 33)
- June 8, 2020 Phase II – Step 1 Re-opening (Order 37). Sector standards updated.
- June 22, 2020 Phase II – Step 2 Re-opening (Order 40). Sector standards updated.
- July 6, 2020 Gathering limit expanded to 25indoor/100 outdoor (Order 44)
- July 6, 2020 Phase III – Step 1 Re-opening (Order 43). Sector standards updated.
- July 22, 2020 Travel Order
- August 11, 2020 Gathering limit lowered to 25 indoor/50 outdoor (Order 46).
- September 17, 2020 Phase III – Step 1 expanded to include arcades (Order 50)
- September 22, 2020 Sector Standards updated with new occupancy limits per Gathering Orders
- October 5, 2020 Non-Low Risk municipalities allowed larger occupancy (Order 51 and 52)
- October 27, 2020 Indoor ice rinks ordered closed until November 7, 2020. (not numbered)
- November 6, 2020 Early closure of public-facing businesses at 9:30pm (Order 53)
- November 6, 2020 Face covering order strengthened to cover more settings (Order 55)
- November 12, 2020 New England Governors prohibit inter-state hockey games

- December 13, 2020 Public facing businesses required to close at 9:30pm (Order 54)
- December 21, 2020 First COVID-19 vaccine given to healthcare workers in MA
- December 26, 2020 Reduced 25% occupancy for public-facing businesses (Order 59)

Interagency Cooperation

The emergency created an immediate need for state agencies to work together. DLS worked collaboratively with Housing and Economic Development, various programs at the Department of Public Health, local Boards of Health agents, Department of Elementary and Secondary Education, Department of Early Education and Care, Alcohol and Beverage Control Commission, Division of Professional Licensure, Energy and Environmental Affairs, and the Contact Tracing Collaborative. A concept of “all hands on deck” was consistent through all agencies so that we could streamline efforts and support each other within our area of expertise and jurisdiction.

The local Board of Health agents employed by local cities and towns were an essential and critical part of the Massachusetts COVID Response. These Board of Health agents had first-hand knowledge of the businesses located in their towns. DLS staff provided support but relied on these local Board of Health Agents to visit and educate businesses. As the second surge occurred in the Fall, the Board of Health agents conducted contact tracing. And as December 2020 approached, the Boards of Health agents began preparing for vaccine clinics.

COVID-19 Vaccine

The first COVID-19 vaccine was given in Massachusetts on December 21, 2020. The Thanksgiving holiday initiated a surge in COVID-19 cases which has continued through December. On December 31, 2020 there were 6,887 newly reported confirmed cases, 2,271 patients hospitalized, and 81 new deaths. DLS participation on the COVID-19 Response Team will continue into calendar 2021 as the vaccine gets wider distribution.

Awards and Recognition

The WSHP team received two performance awards in September 2020 for their work on COVID-19 response: the EOLWD Pride and Performance Award and the Hilliard Award presented by the Massachusetts Health Officers Association.

The requirement to close businesses was unprecedented. Due to the financial and health impacts felt by businesses, the work that DLS staff performed was urgent and intense. Staff worked longer than usual hours to ensure that constituents, municipal leaders and business owners got fast, accurate answers to their questions. This annual report summary does not adequately capture the intensity and amount of work that was performed. Each DLS inspector worked with integrity and a true meaning of public servant to assist the Commonwealth get through this crisis.

WSHP Staffing

WSHP began 2020 with a team of twelve occupational safety and health professionals. Two inspectors were hired in March 2020 to fill vacancies that occurred from retirements in 2019.

During the COVID-19 emergency, three staff were reassigned to the DUA call center to handle the surge in unemployment claims. One of these inspectors retired in April, and the remaining two rejoined WSHP in May.

Over the 2020 year two more inspectors retired and one inspector transferred to a safety position at MassDOT, for a loss of three staff. Two job openings were posted and will be filled in January 2021. WSHP ended calendar 2020 with a staff of eleven.

Youth Employment

Massachusetts Child Labor Laws require that all teens under 18 years of age must complete a work permit application and obtain a work permit before starting a job. Persons under 14 years of age may not work. There are a few exceptions to this such as working as news carriers, on farms, and in entertainment (with a special permit). Workers under 16 years of age are restricted in the types of work they can do. There are over 25 prohibited activities for workers under 16, including all the activities prohibited by workers under 18 years of age; and over 25 restricted work activities for workers under 18 years of age.

In accordance with M.G.L. c. 149, §89, DLS is responsible for making the minor employment permit application available to minors. The permit application is completed by the minor, the employer making the job offer, a physician (for 14-15 year olds), and the minor's parent, guardian, or custodian. Work permits are issued by the Superintendent of Schools or the person whom the Superintendent has authorized to issue work permits, in the school district where the minor lives or attends school.

During the pandemic, many minors sought work and filled jobs in retail stores and elsewhere throughout the state. Thus, they were very active in obtaining work permits. Most of the schools transitioned from in-person issuance of the work permit (as required by law) to electronic processing of the permit. The Massachusetts Attorney General enforces all violations of the child labor laws and relaxed the in-person criteria. The Minimum Wage Hotline assisted the minors by providing all necessary information to the minors so they could obtain the permit as safely as possible during the pandemic. The Hotline also assisted many school departments to adapt to the fluid-type changes.

The Hotline also assisted the public by giving up-to-date information on child labor laws-including types of prohibited tasks, as well as time and schedule restrictions of minors.

Special Projects

Council on the Underground Economy

Formerly known as “The Joint Task Force”, the “Council on the Underground Economy” (CUE) became permanent by legislation effective as of March 2015. The Task Force was first established by Executive Order to bring together multiple state and federal agencies to share information and work cooperatively in investigating and prosecuting those employers who violate labor, licensing, and tax laws. Seen as an important and effective enforcement mechanism for leveling the playing field for thousands of legitimate employers facing unfair competition from unscrupulous businesses engaged fraudulent employment practices while protecting workers' rights, the program has recovered more than \$76 million from unscrupulous employers since its inception.

DLS plays an active role on the Council. In addition to being one of the Statutory members of the Council, The Director of DLS hosts the inter-agency Council meetings and DLS tracks statistics of misclassified workers and the amounts of revenue recovered by the Council.

Public Record Requests

DLS responded to 126 public records request during 2020.

DLS Application Fee Schedule 2020

TITLE	FEE	SURCHAR GE ⁷	SURCHAR GE ⁸	TOTAL
Employment Agencies				
Licensed Employment Agency (one to four counselors)	\$250		\$50	\$300 per year
Licensed Employment Agency (five or more counselors)	\$500		\$50	\$550 per year
Registered Placement Agency (main office)	\$250		\$50	\$300 per year
Registered Placement Agency (each branch office)	\$130		\$50	\$180 per year
Right to Know Program				
Third Party Instructor/Consultant Registration	\$20			\$20 annual
Training Seminar Attendance Fee	\$50			\$50 per person
Asbestos Abatement				
Asbestos Abatement Contractor	\$2,000		\$50	\$2,050 annual
Asbestos Abatement Certifications				
Supervisor	\$200		\$25	\$225 annual
Management Planner ⁹	\$600		\$25	\$625 annual
Inspector ¹⁰	\$600		\$25	\$625 annual
Project Designer	\$600		\$25	\$625 annual
Project Monitor	\$600		\$25	\$625 annual
Analytical Services	\$700		\$50	\$750 annual
Training Provider	\$1,700		\$50	\$1,750 annual
Asbestos Abatement Worker License	\$50		\$25	\$75 annual
Asbestos Abatement Duplicate License	\$20		\$25	\$45 per License
Asbestos Abatement Duplicate Certification	\$20		\$25	\$45 per Certification
Lead Abatement				
Deleader Contractor License	\$500	\$25	\$50	\$575 annual
Deleader Supervisor License	\$100	\$25	\$25	\$150 annual
Deleader Certification-Training Provider	\$1,700	\$25	\$50	\$1,775 annual
Deleader Duplicate License	\$20		\$25	\$45 annual
Deleader Worker License		\$25	\$25	\$50 annual
Lead-Safe Renovator Contractor License	\$100	\$25	\$250	\$375 every 5 years <i>(includes the \$50 surcharge for the 2nd through 5th years of the license)</i>
Lead-Safe Renovator Training Provider	\$1,700	\$25	\$50	\$1,775 (fee waived for State, federally recognized Indian Tribe, local government or non-profit organization; \$75 surcharge still applies)
Lead-Safe Renovator Duplicate License	\$20	\$25		\$45 annual
Blood Lead Test	\$20			\$20 per test

Minimum Wage Program				
Seasonal Wage Certificate for Residential and Day Camps	\$100			\$100 per person
Special Wage Permit for Sheltered Workshops, Employees with Disabilities in Community Employment, and Student Waivers	\$100			\$100 per year
120 Days Seasonal Permits for Overtime Exemptions	\$200			\$200 per season
Approval for Employee Uniform Deposits and Waivers	\$100			\$100 per year
Division of Apprenticeship Training				
Sponsor Fee	\$300			\$300 per employer/year
Apprentice ID card	\$35			\$35 per apprentice/per year
Dispensing optician apprentice application	\$40			\$40 per apprentice (one-time fee)
Sponsor verification	\$50			\$50 per employer / per request

¹ All persons licensed to perform deleading services are required to pay a \$25.00 surcharge in accordance with section 22 of Chapter 482 of the Acts of 1993, which reads in relevant part: "Amounts raised by said surcharges shall be deposited into a retained revenue account hereby established for the department of public health, for the production and dissemination of educational materials pertaining to lead paint poisoning prevention and treatment issues, as required by section one hundred and ninety-two B and section one hundred and ninety-seven A of chapter one hundred and eleven of the General Laws, and for training of lead paint inspectors as well as homeowner training for those aspects of lead paint abatement or containment which the department, through regulations, authorizes homeowners to perform themselves. The department shall use amounts in said retained revenue account for the aforesaid purposes and for no other, without the need for further appropriation."

² In accordance with Section 212 of chapter 184 of the Acts of 2002, these surcharges shall be collected for the purpose of conducting "occupational safety and health inspections, assessment and other operations as required by [the statutes governing lead abatement, asbestos abatement, and the regulation of employment agencies]."

³ A person applying for certification as an Asbestos Inspector and as an Asbestos Management Planner at the same time need pay only one fee (including surcharges).

⁴ See footnote 3.

NOTE: Fees for Employment Agencies, Right-to-Know, Asbestos, Lead, and Minimum Wage have been established by the Executive Office for Administration and Finance pursuant to 801 CMR 4.02, the Massachusetts regulation governing Fees, Licenses, Permits and Services to be Charged by State Agencies. Fees for Apprenticeship Training have been set in accordance with M.G.L. c. 23, §11W and sections 636-639 of Chapter 26 of the Acts of 2003.

Agency Sum of Statutory Net Revenue

FY20 Funding (July 1, 2019-June 30, 2020)	
State Appropriation	3,536,253.00
Retained Revenue	413,297.00
DAT Card Trust	324,781.00
Mine Safety and Health Administration (MSHA)	98,919.00
Bureau of Labor Statistics	72,000.00
TSCA Asbestos Licensing and Monitoring	74,000.00
TSCA Lead Licensing and Monitoring	275,000.00
OSHA Onsite Consultation	1,221,613.00
TSCA Lead Enforcement	110,000.00
DCS Foreign Labor Cert (H2A survey)	0.00

Agency Funding and Revenue Generation

FY20 Revenue Generation (July 1, 2019-June 30, 2020)	
0500-FEES	31,500
0522 – CERTIFICATION	124,500
0630-FEES	2,640
0647-FEES-SURCHARGES	152,217.75
0673-SEASONAL WAGE CERT DAY CAMPS	
0674-SPEC WAGE PERMITS SHEL T WRKSHP	700
0676-120 SESNAL PRMT OT EXEMP	8,800.
0677-APP EMPLOYEE UNIFORM DEP & WVRS	200
0701 MISCELLANEOUS FEES	324,781
2700-FINES AND PENALTIES	62,301
3000-LICENSES	348,500
3150-LICENSE DELEADING PROGRAM	185,155
3151-LICENSE ASBESTOS REMOVAL	1,135,689
6900-MISC	
GRAND TOTAL	2,377,034.50

DLS FTE Count from June 2005-December 2020 (FY05-FY2020)

As of December 31, 2019, DLS was staffed with 57 full-time employees.

FY	Date	FTE
FY20	12/31/20	53.0
FY19	12/31/19	57.0
FY18	12/31/17	54.0
FY17	12/31/16	54.0
FY16	12/31/15	54.0
FY15	9/26/14	58.0
FY14	7/1/13	56.0
FY13	12/1/12	54.6
FY13	7/1/12	51.6
FY12*	10/1/11	53.0
FY12*	6/18/11	52.8
FY12*	3/26/11	51.8
FY11	12/18/10	44.8
FY11	9/25/10	44.2
FY10	6/19/10	47.2
FY10	3/27/10	49.0
FY10	12/19/09	49.0
FY10	9/26/09	47.7
FY09	6/20/09	51.7
FY09	3/28/09	51.1
FY09	12/20/08	52.4
FY09	9/27/08	53.0
FY09	7/5/08	51.0
FY08	6/21/08	51.8
FY08	3/29/08	52.3
FY08	12/22/07	52.3
FY08	9/29/07	52.9
FY07	6/23/07	52.9
FY06	6/24/06	52.4
FY05	6/25/05	53.1

* NOTE: IN FY12, the former Division of Apprentice Training (DAT) was merged with the former Division of Occupational Safety (DOS) to form the Department of Labor Standards (DLS). DAT accounted for 7.0 FTEs on 3/26/11, 6/18/11, and 10/1/11, adding to the DLS FTE counts of 44.8 on 3/26/11; 45.8 on 6/18/11; and 46.0 on 10/1/11.

DLS Employees During 2020

Administration

Michael Flanagan, Director
John H. Ronan, General Counsel
Jack Beatrice, Legal Counsel
Susan Humphreys, Program Coordinator
Barbara Shultze, Administrative Assistant

Lead and Asbestos Enforcement and Licensing

Michael Weakley, Supervisor Lead and Asbestos Program
Zachariah Costa, Industrial Safety and Health Inspector
Jeffery Finnegan, Industrial Safety and Health Inspector
Michael Kissel, Laboratory Supervisor
Janet McKenna, Industrial Safety and Health Inspector
Alexander Murphy, Industrial Safety and Health Inspector
Garry Pharris, Industrial Safety and Health Inspector
Ozelle Rivera, Administrative Assistant
Jared Saunders, Industrial Safety and Health Inspector
Patricia Sutliff, Industrial Safety and Health Inspector
Leila Sykes, Office Support Specialist

Employment Agency Enforcement and Licensing

Rebecca Reese, Supervisor Employment Agency Program
Rebecca Feist, Compliance Officer
Ligia Martinez, Compliance Officer
Chris McKeen, Licensing Program Coordinator

Safety and Health Statistics

Imani Bishop, Statistics Program Coordinator
Justin Rizzo, Statistics Research Analyst

Prevailing and Minimum Wage

Kathleen Coyne, Minimum Wage Program Coordinator
Stephen Falcone, Supervisory Prevailing Wage Program
Michael Smith, Prevailing Wage Program Coordinator

On-Site Consultation

Kathryn Flannery, Program Supervisor On-Site Consultation
Michael Fiore, Program Supervisor On-Site Consultation
Jean Cho, Safety Supervisor On-Site Consultation
Marvin Lewiton CIH, Health Supervisor On-Site Consultation
Lisa Cashins CIH, Industrial Safety and Health Inspector
Justin Krassner, Industrial Safety and Health Inspector
Tony Laber, Industrial Safety and Health Inspector
Danny Lee, Industrial Safety and Health Inspector
Merrill MacInnis, Industrial Safety and Health Inspector
Michael Monfredo, Industrial Safety and Health Inspector
Lou Penella, Industrial Safety and Health Inspector
Deborah Russell, Industrial Safety and Health Inspector

Workplace Safety and Health for the Public Sector

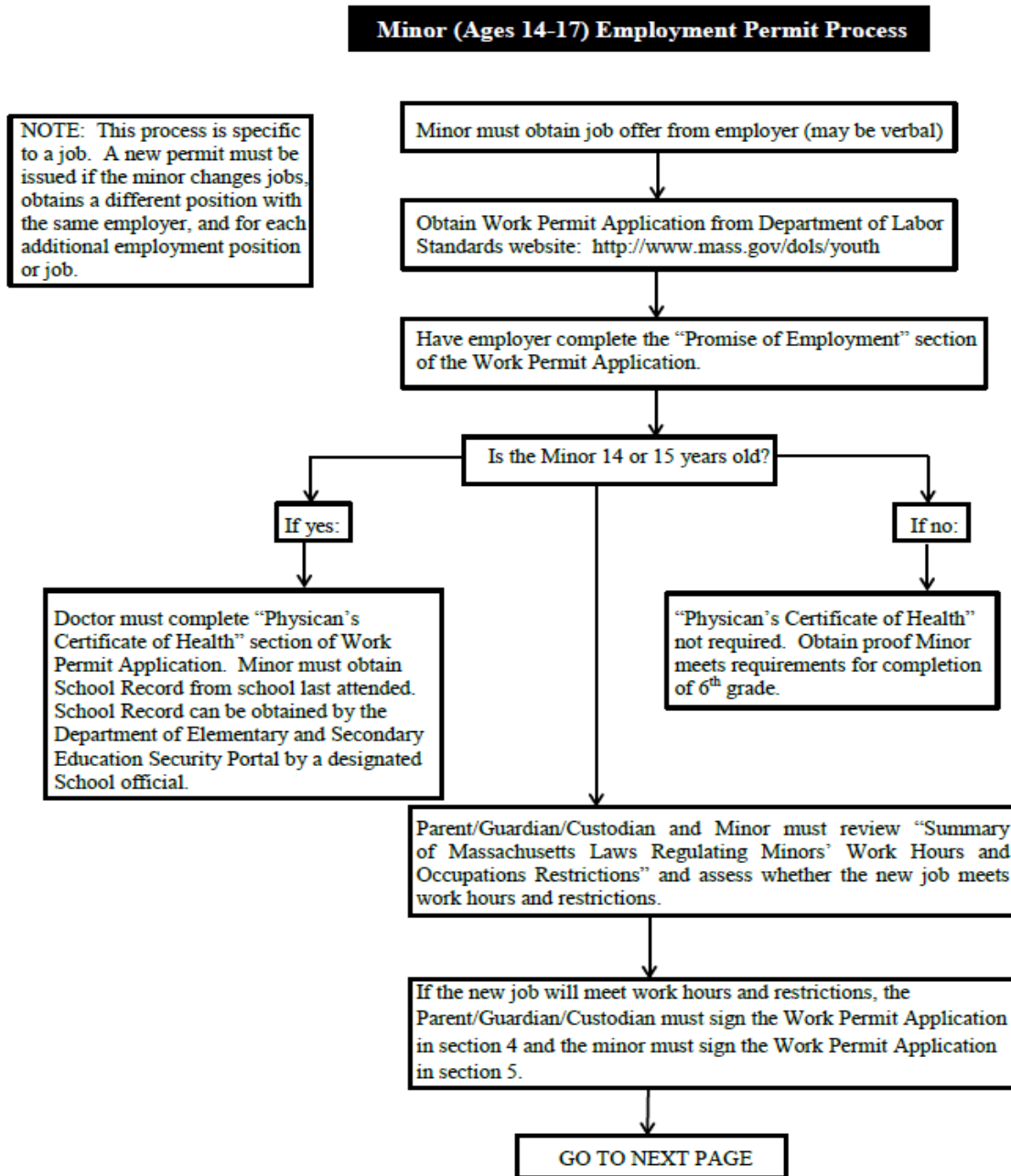
Mary Dozois CIH CSP, Program Supervisor Workplace Safety and Health
Jon Lifvergren, Supervisor Workplace Safety and Health
Stephen Dagle, Industrial Safety and Health Inspector
John Dallen, Industrial Safety and Health Inspector
Donald Delikat CIH CSP, Industrial Safety and Health Inspector
Leonard Evers, CSP Industrial Safety and Health Inspector
Bruce Fletcher, Industrial Safety and Health Inspector
Adam Kinney, Industrial Safety and Health Inspector
James Leonard ASP, Industrial Safety and Health Inspector
Evan Marshall, Industrial Safety and Health Inspector
Kevin Murphy CIH CSP (hired March 2020)
Robert Nicotera, Industrial Safety and Health Inspector

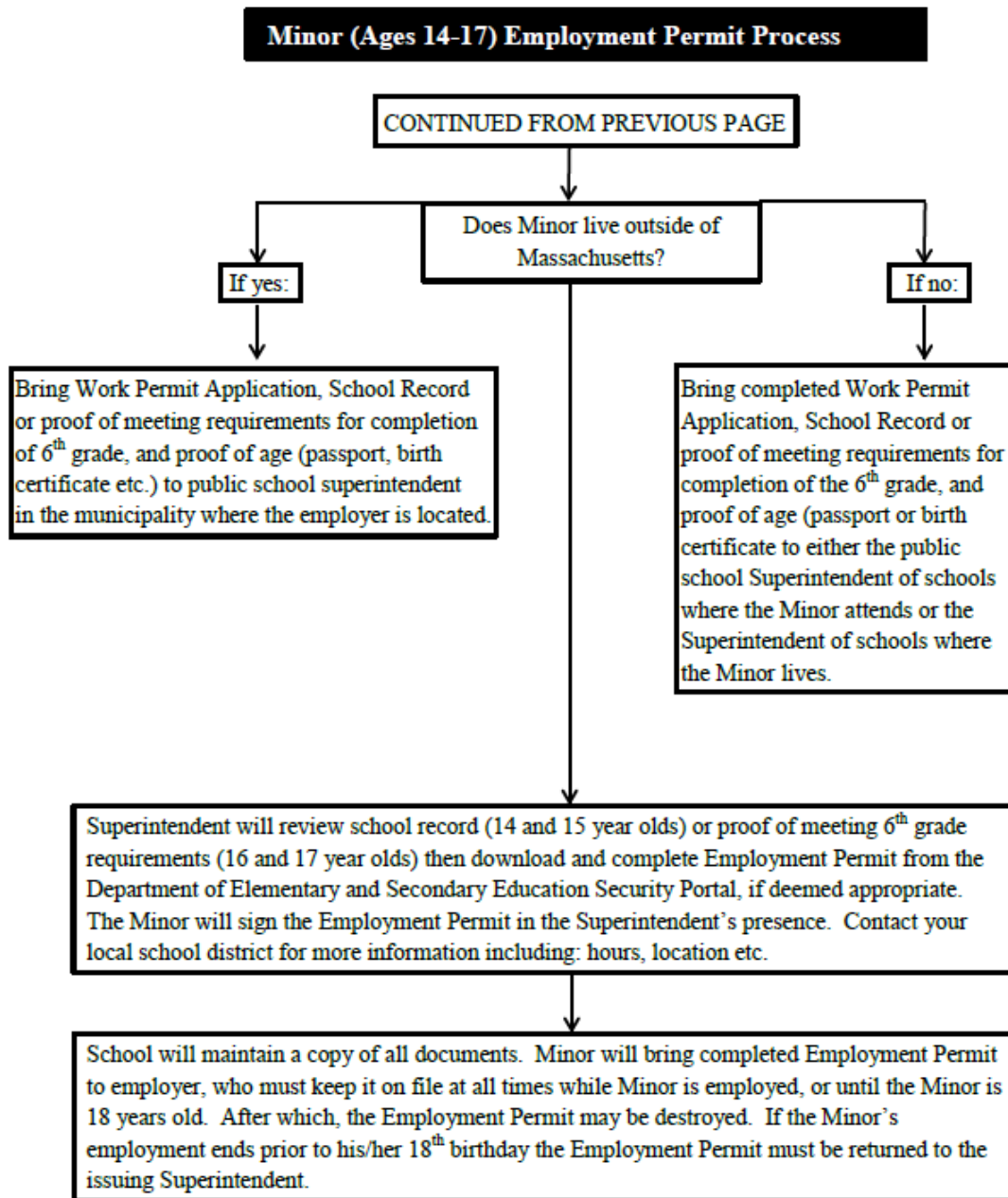
Relevant Statutes and Regulations

- Counsel on the Underground Economy M.G.L. c. 25, § 23
- Deleading and lead-Safe Renovation M.G.L. c. 111, §§189 A through 199B and M.G.L. c. 149, §6 and 454 CMR 22.00
- Civil Administrative Penalties 454 CMR 29.00 (for violations of Asbestos, Lead, and Employment Agency laws)
- Employment Agencies M.G.L. c. 140 § 46
- Minimum Wage M.G.L. c. 151 and 455 CMR 2.00
- Occupational Lead Poisoning Registry M.G.L. c. 149, 11A and 454 CMR 23.00
- Overtime M.G.L. c. 151, § 1A
- Prevailing Wage
 - Public construction work, including additions and alterations to public buildings, soil explorations, test borings, and demolition. Public Construction, G.L. c. 149, §§26-27D.
 - Use of trucks, vehicles, and other equipment to perform public works functions. Trucks, Vehicles, and Other Equipment Performing Public Works Functions (Non-Construction), G.L. c. 149, §27F.
 - Moving office furniture and fixtures. Moving Office Furniture and Fixtures, G.L. c. 149, §27G.
 - Cleaning state office buildings or buildings leased by the state. State Cleaning Contracts, G.L. c.149, §27H.
 - Transportation of students to public schools, including charter schools, in towns with a population greater than 16,000. School Bus Transportation G.L. c. 71, §7A.
 - Prevailing wages set for certain housing authority employees such as maintenance workers, laborers, and mechanics. G.L. c. 121B, §29.
 - State printing contracts. G.L. c. 5, sec. 1.
- Temporary Workers Right to Know M.G.L. c. 149, §159C

- The Removal, Containment, or Encapsulation of Asbestos M.G.L. c. 149, §§6 through 6F ½ and 453 CMR 6.00
- Workplace Safety and Health (Public Sector) M.G.L. c. 149, §6, §6 ½ and M.G.L. c. 111F

Appendix A – Youth Employment Permit Process





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- ¹ Since 1914, the Department has been reorganized or renamed several times. See, for e.g., Acts, 1914, Chapter 4754, Section 1 (“board of labor and industries”); St. 1993, c. 110, § 71 (“department of labor and industries”); St. 1996, c. 151, § 111 (1)(b) and (2) (“department of labor and workforce development”); St. 2003, c. 26, § 575 (“department of labor”); and St. 2011, c. 3 (substituting “department of labor standards” for the former “division of occupational safety” within department of labor).
 - ² G.L. c. 149, § 27, provides in pertinent part: “The director shall prepare . . . a list of the several jobs usually performed on various types of public works upon which mechanics and apprentices, teamsters, chauffeurs and laborers are employed The director shall classify said jobs, and he may revise said classifications from time to time, as he or she may deem advisable...”
 - ³ Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which was classified generally to sections 276a to 276a-5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141-3144, 3146, and 3147 of this title by Pub. L. 107-217, Secs. 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.
 - ⁴ United States Department of Labor Blog, September 13, 2011, The Davis Bacon Act – Protecting Communities Since 1931.
 - ⁵ Legislative Service Commission, Members’ Brief, Vol, 126 Issue 2, February 25, 2005.
 - ⁶ The law also serves to create a level playing field for contractors who work on public works projects. See Report of the Joint Committee on State Administration Regarding House No. 4003, An Initiative Petition for An Act Repealing the Prevailing Wage Law for the Commonwealth and its Cities and Towns.