

Report on the Response of the Department of Labor and Industry to the Impact of the Aging of Virginia's Population



Department of Labor & Industry

Commonwealth of Virginia

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Pursuant to legislation enacted by the General Assembly of Virginia, the Department of Labor and Industry submits this report of its progress in addressing the impact of the aging of Virginia's population.

Signature on File

C. Ray Davenport, Commissioner
Virginia Department of Labor and Industry



EXECUTIVE SUMMARY

This document records the efforts of the Virginia Department of Labor and Industry (DOLI) to address the impact of Virginia's aging population. The report includes information on services provided by DOLI that are available to person ages 65 and above, although for some of our services, we do not have specific data on the numbers of persons served by age groupings. The sections that follow include information on:

- Persons over 65 years of age who receive services from DOLI;
- Services utilized by senior citizens;
- Programs designed specifically for persons aged 65 or older;
- Publications and websites;
- The aging of the workforce at the Department of Labor and Industry; and
- Services or programs that address the impact of the aging population.

AGENCY DESCRIPTION

The Virginia Department of Labor and Industry (DOLI) promotes safe, healthful workplaces, best employment practices, job-training opportunities through registered apprenticeship, the protection of children from hazardous employment, and safe operation of boiler and pressure vessel devices. DOLI administers the following programs:

- Registered Apprenticeship;
- Boiler and Pressure Vessel Safety;
- Labor and Employment Law; and
- Virginia Occupational Safety and Health (VOSH).

DATA REQUESTED

Persons Receiving Services

For the most part, DOLI has not recorded the ages of those who participate in our programs and/or use our services. Where appropriate, the Agency's services are available to all persons regardless of age. We do, however, keep records of the ages of some of the individuals who are served by DOLI's Virginia Occupational Safety and Health (VOSH) Program. These records are kept according to calendar years, and not State Fiscal Years.

DOLI's Virginia Occupational Safety and Health (VOSH) Program conducts safety and health inspections of workplaces and investigates occupational safety and health complaints. In addition, VOSH also investigates workplace fatalities, some of which involve older workers.

To date, in calendar year 2007, there have been investigations of seven workplace fatalities involving workers older than age 55. The ages of these workers were: 57, 59, 63, 64, 66, 67, and 75. In 2006, there were four investigations of workplace fatalities involving workers whose ages were 55 or 56, but none involving deaths of workers who were 65 or older. In 2005, there were investigations of twelve deaths of workers between the ages of 55 and 64, four investigations of deaths of workers whose ages ranged from 65 to 68, and one investigation of the death of a worker who was 76. In 2004, there were investigations of the deaths of four workers between the ages of 55 and 64 and of the deaths of four workers between the ages of 65 and 74. There were no investigations of fatalities of workers older than age 74.

Through a cooperative agreement with the Bureau of Labor Statistics (BLS) of the U. S. Department of Labor, our VOSH Program provides a Census of Employee Fatalities in Virginia (CFOI) and the Annual Survey of Occupational Injuries and Illnesses (SOII) for Virginia. The BLS CFOI for 2006 documented 13 fatalities for workers over age 65. The 2006 SOII recorded a total of 850 occupational injuries and illnesses that resulted in days away from work for Virginia workers age 65 or over. The BLS CFOI for 2005 noted 28 work-related fatalities of Virginia workers age 65 and over. The total number of occupational injuries/illnesses reported in the 2005 SOII that resulted in days away from work for Virginia workers age 65 or over was 520. In 2004, the BLS CFOI recorded 18 work-related fatalities of Virginia workers age 65 and over. Also in 2004, the SOII documented that the total number of occupational injuries/illnesses that resulted in days away from work for Virginia workers age 65 or over was 650.¹

Services Utilized by Senior Citizens

In addition to the programs described above, most of DOLI's programs serve people of all ages. Our Boiler and Pressure Vessel Safety Division works to ensure the safe operation of boilers and pressure vessels, and, thus, protects everyone in Virginia. DOLI's Registered Apprenticeship Division makes no distinction in ages of apprentices or apprenticeship sponsors. Our Labor and Employment Law Division resolves payment of wage disputes for employees and employers of all ages, as well as enforcing Virginia's minimum wage statute. However, some of DOLI's services are specifically geared toward protecting younger persons. For example, we enforce Virginia's child labor laws.

As noted above, DOLI has generally not tracked the ages of those who have used our services. Where appropriate, the agency's services are available to all persons regardless of age. Although DOLI's resources have at times been stretched in order to manage the Agency's mandated programs and services, the services provided to persons aged 65 and older have not exceeded the Agency's capacity. We serve all eligible persons who request our services. Only one of our programs, Consultation, has a waiting list.

We expect to see an increase in the demand for our services among older persons as the workforce ages. We may see older persons who participate in registered apprenticeships.

¹ 2006 is the most recent year for which the completed data from the CFOI and the SOII are available.

We will probably assist more older employees and employers in resolving payment of wage claims. Undoubtedly, DOLI's occupational safety and health programs will provide services that touch the lives of increasing numbers of older workers.

Programs Designed Specifically for Persons 65 or Older

DOLI has no programs that are designed specifically to serve persons who are age 65 or older. Where appropriate, the agency's services are available to all persons regardless of age.

However, in 2007, the General Assembly passed House Bill 2738 (Acts of the Assembly, Chapter 832), which could affect some older workers because it repeals the existing exclusion for persons who have reached age 65 (that is, persons aged 65 and older) from the definition of an employee under the Virginia Minimum Wage Act. This bill was identical to SB 758. (§§40.1-28.9 of the Code of Virginia) DOLI enforces Virginia's Minimum wage law and would be responsible for responding to any complaints of violations of this statute.

In addition, DOLI's website includes a section of Frequently Asked Questions (FAQ's) for the Labor and Employment Law Division, at:

http://www.doli.virginia.gov/whatwedo/labor_law/lla_faq.html

One of the FAQ's on this portion of DOLI's website concerns age discrimination. DOLI does not handle age discrimination complaints. Complaints for age discrimination may be filed with 1) the [Virginia Council on Human Rights](#), Suite 1202, Washington Building, 1100 Bank Street, Richmond, Virginia 23219, phone (804) 225-2292; or the federal [Equal Employment Opportunity Commission](#), 830 E. Main Street, Suite 600, Richmond, Virginia 23219; phone (804) 771-2200.

Finally, for meetings of the Apprenticeship Council and the Safety and Health Codes Board, as well as for Informal Fact Finding Conferences, DOLI does provide accommodation when requested to do so for persons with disabilities. Moreover, because we have a keen awareness of accessibility issues for persons with disabilities, our buildings are accessible to persons with disabilities. We further anticipate that we will need to provide these types of accommodations more frequently in the future as many persons whom DOLI serves age.

Publications and Websites

DOLI's publications and online website are designed to be user friendly. The website of the Virginia Department of Labor and Industry can be accessed at:

<http://www.doli.virginia.gov>

The following are some of DOLI's publications, which may be downloaded from the website.

1. Annual Report of the Virginia Department of Labor and Industry
2. Virginia Occupational Safety and Health (VOSH) Program Manuals
3. Virginia Unique Standards for the Virginia Occupational Safety and Health (VOSH) Program
4. Virginia Occupational Safety and Health (VOSH) Program Directives
5. Required Posters
4. Forms
 - a. Boiler and Pressure Vessel Safety
 - b. Labor and Employment Law
 - c. Consultation Related Forms
 - d. Lead and Asbestos
5. Virginia Works Newsletter (current issue)
6. Guide for the Employment of Teenagers

Anyone who has questions concerning DOLI's publications may call the Agency at (804) 371-2327. Via DOLI's website, members of the public may file a complaint, request required posters, and access regulations pertinent to DOLI online.

The Aging of DOLI's Workforce

Paradoxically, DOLI is both fortunate and unfortunate to have a large proportion of employees (more than 50%) over the age of 50. These individuals are invaluable for their subject matter expertise, institutional knowledge, strong work ethics and dedication to the Agency's mission. Unfortunately for the Agency, thirty-seven (37) DOLI employees will be eligible for unreduced retirement benefits over the next five years, with the highest concentrations occurring in the Professional, Para-Professional and the Office/Clerical Occupational Categories. The Agency's Workforce Planning Reports reveal that retirement eligibility will be available to 20 out of 80 compliance positions in the Virginia Occupational Safety and Health (VOSH) Program, Boiler and Pressure Vessel Safety Program, and Labor & Employment Law Program, all of which are essential to DOLI's mission.

The loss of long-term employees will create considerable challenges for DOLI. The Agency's 2007 Workforce Planning Report noted that thirty-one percent (31%) of DOLI's workforce has fewer than five years of service. This figure jumps to 68% for the Agency's regional and field offices located in Northern Virginia where 15 out of 22 employees have less than five years of service and 10 of these employees have less than two years of state and agency service. As a result, DOLI will experience increased

spending for recruitment, training and retention of incumbents occupying positions identified as a high risk for turnover. In addition, the limited number of senior-level employees creates a shortage of training mentors, which results in over-burdening the few remaining senior-level team members and presents challenges for training new employees. Given these factors and the looming shortage of younger workers,² the Agency needs Commonwealth-sponsored strategies for retaining older, skilled employees, perhaps through incentives such as signing bonuses or bonus payments.

DOLI places great value on the contributions of older workers. Many of our more successful new hires are older persons who are seeking a new career path.³ DOLI also partners with the American Association of Retired Persons (AARP) to utilize senior citizens to perform administrative and clerical functions within the Agency's Headquarters. This win-win agreement provides hands-on work experience for seniors enrolled in the AARP job placement program. DOLI has employed several of these individuals.

In addition, the employees in the Virginia Occupational Safety and Health (VOSH) Program frequently face the possibility of exposure to hazardous work environments, with the consequent potential for experiencing increased occupational injuries. However, DOLI has a strong track record for minimizing on-the-job injuries, so this assumption is not a predominate issue. For example, each employee whose job at DOLI could result in exposure to dangerous substances receives a physical examination when hired and an annual physical examination. This physical examination includes a chest x-ray when the employee is hired and once every five years up to age 45. After age 45, the chest x-ray is included in the physical examination every year.

Current trends in DOLI's recruitment activities and overall employee turnover will exacerbate the Agency's collective loss of knowledge, skills and abilities. Recent recruitments in the Northern Virginia and Hampton Roads regions have presented greater challenges in attracting highly qualified candidates, which has resulted in extended recruitment periods and refusals of employment offers. Furthermore, increased turnover, as experienced staff retire, will result in higher training costs for new employees. Many of DOLI's positions require as much as three years for employees to fully acquire the necessary knowledge, skills, abilities and exposure to the diverse industries served in the Commonwealth.

² See Nisha Ramachandran, "New Paths at Work," and Kenneth Terrell, "When Experience Counts," U.S. News and World Report, March 6, 2006. See Christine Vestal, "Baby boomers augur old age, new needs," Stateline.org, October 7, 2005. See also Lisa Takeuchi Cullen, "Not Quite Ready to Retire," Time Magazine, February 27, 2006.

³ In fact, one state government program which addresses some of the issues of an aging state employee workforce is the Virginia Department of Human Resource Management Career Center, which provides career development assistance to current employees and to people interested in working in state government. See Katherine Barrett and Richard Greene, "When Boomers Retire," Governing Magazine, September 2006. In addition, AARP has begun a program to assist older workers in finding appropriate employment and the organization also recently recognized the 2007 Best Employers for Workers Over 50. See Bill Novelli, "Staying on the Job," AARP Bulletin, October 2007.



Services or Programs That Address The Impact of The Aging Population

At present, DOLI has no services or programs that are designed specifically to address the impact of the aging population. However, as we noted in our two most recent strategic plans, Virginia's workforce has become increasingly diverse over the past few decades. In workforce demographics, we expect to see a greater percentage of older workers in the workforce.⁴ According to several sources on labor force trends, in the next decade, the numbers of workers at age 55 and over will grow faster than the numbers of workers whose ages are 16 to 24, while the numbers of workers between the ages of 25 and 54 is expected to decline. Therefore, we do anticipate that, in the near future, there will be a need for DOLI to refine the delivery of our services in order to address the needs of the increasing population of older workers.

CONCLUSION

Virginia's workforce is becoming older, and, even in the group of older workers, is becoming more diverse in terms of gender, race, and nationality. A smaller percentage of these workers are employed in large fixed industries, and higher proportions are employed in small firms, temporary jobs, or at home. More work is now contracted, outsourced, and part time. These trends are expected to continue over the next several decades and will require different strategies to address developing issues.

As the demand for skilled, experienced workers grows in the next two decades, older workers will become an increasingly vital labor resource. Demographic shifts will influence occupational injury rates and, therefore, raise new issues for DOLI's program strategies. For example, older workers tend to have lower injury and illness rates than the labor force as a whole, although injured older workers generally take longer to recuperate and return to work.

We anticipate that, along with greater numbers of older employees and employers, there will be an increasing prevalence of those who are immigrants and/or "hard-to-reach." In such a scenario, that would mean older immigrant workers who may be less literate, unable to read English instructions, yet still working in some of the most inherently dangerous jobs as they age. Hard-to-reach workers and employers include employees who work at a single location for only a few days before moving to a new location, temporary workers, and small business owners.

DOLI recognizes the need to develop programs and services that address the impact of the aging population. DOLI will need to work toward more specific calculations of the number of older persons who are served by the Agency. However, developing these calculations may be financially costly. The

⁴The tendency of some older Americans to hold paid employment beyond the traditional retirement age has already begun to generate notice in the media. For example, see Claudia H. Deutsch, "For Love and a Little Money," The New York Times, October 23, 2007. See also, Sharon Hong, "Study: Elders a commodity in society, not a liability," The Denver Post, May 24, 2007.



demographic and workplace trends that we have noted will complicate the delivery of occupational safety and health services for older workers. We will need to develop enforcement, training, and delivery systems that are different from those that we have relied upon to date.