



MMTA Government Relations and Legal ENEWS - May 19, 2015



From the Desk of Jamy Buchanan Madeja, Esq, MMTA Gov't Relations & Legal Counsel

Happy early summer greetings from Beacon Hill! We've had some spectacular weather these past two weeks, hopefully this has been accommodating your seasonal preparations and repairs after the long slog through this past winter. Docks and boats are going in and people are back on the water, finally; so here's to a successful 2015 boating season.

MMTA's legislative efforts are well under way in this two year session. **We've had a wonderfully successful first meeting of the Legislative Boating Caucus (see below)** and have had the opportunity to **testify** before the Joint Committee on Revenue and Joint Committee on the Environment, Natural Resources and Agriculture regarding a series of bills seeking to change some boat registration and excise tax collection protocol as well as boaters' education. All prime topics for MMTA.

House Bills 2482, 2504 and Senate Bill 449 seek in various ways to **change boat registration and excise tax methodology**. While we will be participating in any discussions, we note that during past legislative sessions MMTA has successfully informed legislators of sufficient facts to result in lack of interest in passing these bills. Our focus remains on attracting boaters to recreate here, have their vessels serviced here, and to buy their boats here.

Jamy Madeja also testified in support of House Bill 627, a boater education bill MMTA helped draft several years ago, now known as the "David Hansen Act". This is a common-sense approach to requiring boater education that allows for a variety of age-phased programs to meet the statutory standards of minimum

course curriculum as well as sensible grace periods for new boat owners and seasoned veteran boaters alike. It is worth noting that less well tailored federal legislation can be mandated on Massachusetts at some point if we do not have our own, tailored law. For this reason, and to support the Harbormasters and USCG with whom we work closely, MMTA supports this particular bill. *Pictured above left is Jamy Buchanan Madeja, the David Hanson Family, State Representative James Cantwell, and Lt. Commander/Marshfield Harbormaster Mike DiMeo.*

MMTA's testimony on all these bills can be found on the members' side of www.boatma.com.

As expected the **FY2016 Budget** process is consuming most of the legislative process. The House has created its version of a budget and has passed it along to the Senate for its proposed revisions, a process which is underway. There's still much behind the scenes "issue trading" being done, particularly with so many big ticket items (public infrastructure) in the news as of late. MMTA primarily watches the budget amendments for topics of priority concern for our members. There have been no problematic amendments passed during the House process. No boat excise or sales tax amendments have been proposed, for example, and the only invasive species amendment did not use boat registration fees for funding, something we work to prevent.

Notable in the House Budget are the following:

- The Safe Boating Program remains funded, with a modest increase to now total \$1.5 million.
- The Executive Office of Energy and Environmental Affairs' (EEA) Office of Environmental Law Enforcement, including the Environmental Police, might see increased funding of approximately \$2 million over last year.
- The Department of Fish and Game's ecological restoration and riverways program, which does provide grants for public access projects, will see a modest reduction in funding to \$542,915.
- The Office of Fishing and Boating Access has modestly increased funding, now totaling \$559,086. However, this figure is still nowhere near sufficient to meet demand or even basic maintenance, and certainly isn't comparable to the public funds spent in other states.
- The Division of Marine Fisheries recreational fishing and related programs will also see a modest increase in funding, now totaling \$638,685. We suspect this is based on modestly more licenses being obtained (not on an increase in fees charged).
- Boating Infrastructure Grant funding has been proposed to increase from the usual \$100,000 to \$400,000. We wish we at MMTA had a particular large public-private partnership to propose for a large grant.
- Elimination of nearly all state contributions to the federally funded (FEMA) Port Security Grant Program which is intended to support maritime transportation infrastructure security activities. FY2015 included approximately \$1.75 million in state funds which could be used to meet the matching requirements of the grant program. Various state and local law enforcement and public safety entities were recipients of funds under this program. Only \$92,500, so far, remains in the FY2016 budget.

The Governor's Early Retirement Incentive Program (ERIP) aimed at reducing state government payroll and

its burden on the projected budget deficit was signed May 4th by Governor Baker. This was another significant effort for the Administration and the Legislature.

Legislative Boating Caucus:

We hosted a very successful first Boating Caucus of this legislative session. Thank you to those Board members and staff who attended (President Toby Burr, Director Marie Hayward, Executive Director Nathalie Grady). Because of their participation and that of 35 or so legislators and some staff, we had a lively meeting and great follow up response. Some of the legislators said it was our best yet and our new legislative coordinator commented he thought it was among the most informative caucuses in general that he's ever attended. We are proud to be representing an information-based organization in the legislature.

We regularly address follow-up communications with several legislators to ensure that MMTA's priority bills are on their radar when they are up for hearing or come up during discussion with fellow legislators and staff. The agenda from this past caucus was a helpful introduction to MMTA's interests:

1. Introductions (**Co-Chairs; Special Introductions-New Legislators; All Attendees**)(**Co-Chairs William Straus, Susan Gifford, Anthony Petrucelli and Robert Hedlund**)
2. Known "Business of Boating Legislation" to date, Tracking List to be provided by MMTA (see www.boatma.com); discussion
3. Key regulatory issues; Executive Order 562 to sunset all regulations in one year
4. Dredging, repair and maintenance challenges, including new federal Army Corps permits for Massachusetts
5. Old Business
6. New Business

For more on Executive Order 562, see below. However, as discussed during the Boating Caucus meeting, no one, neither legislators nor heads of the various executive agencies, has any idea yet how this short timeframe review will be conducted, and we again volunteered to participate.

Regulatory Affairs:

Everyone is still waiting on guidance for how Governor Baker plans to implement his **Executive Order 562**, to "reduce unnecessary regulatory burden" which sunsets all state regulations in one year absent specific findings of being necessary for health, safety, environment or welfare and are cost-beneficial and does not exceed federal requirements or duplicate local requirements. All regulations are to be rewritten for clarity, as well as content. As noted last month, we have offered our volunteer services. For now the only action remains public debate between various interested players (Associated Industries of MA, Environmental League of Massachusetts, etc.) on how nefarious or beneficial this Order may be.

Sick Leave Changes:

The Commonwealth's new "**Earned Sick Time for Employees**" requirements passed on last November's ballot. While its effective date is July 1st, **a successful implementation forbearance has been secured for some businesses until January 1, 2016. Please click 'Read More' below for an up to date article to determine if your business meets this compliance forbearance.**

MMTA maintains a relationship with the Associated Industries of Massachusetts (AIM), which authored the article. AIM is extremely well informed. While MMTA is itself a member of AIM, individual businesses are invited and encouraged to join, as well, to secure access to similarly site-specific, business-specific inquiries and event notices. The "member hotline" is available after joining. Non-members still have access to substantial information through AIM's blog ("AIMblog") at: blog.aimnet.org/AIM-IssueConnect.

In brief, employees who work for employers having **11 or more employees earn and may use up to 40 hours of paid sick time per calendar year. Employees working for smaller employers earn and may use up to 40 hours of unpaid** sick time per calendar year. All full-time, part-time and temporary employees (**including seasonal**) are counted for determining the number of employees.

Employees earn **1 hour of sick time for every 30 hours worked** and begin *accruing* those hours on the date of hire or on July 1, 2015, whichever is later. However, employees may begin **using earned sick time on the 90th day after hire** and earned paid sick time must be compensated at the same hourly rate paid to the employee when the sick time is used.

Employees are able to carry over up to 40 hours of unused sick time to the next calendar year, **however no more than 40 hours of sick time may be used in any calendar year.** Employers are not required to pay employees for unused sick time at the end of their employment.

For those of you hiring employees for discrete periods of time, on a recurring annual basis you should be aware of "**break in service**" requirements. A break in service is a period of time of up to one year extending from the date an employee last worked for the employer until the employee's return to employment, whether the separation was voluntary or involuntary. **Employees retain accrued earned sick time after a break in service of up to one year from the last date of actual work.**

For example:

An employee has accrued 20 hours of earned sick time and then goes on an unpaid sabbatical or just is terminated for 11 months. Upon the employee's return to employment 11 months from the date of the employee last worked for the employer, the employee shall have the right to use the 20 hours of earned sick time accrued before the start of the sabbatical. If the break in services exceeds 12 months, the accrued time is lost and the employment clock starts over as if it were a new employee, new employment start date, new waiting period to use sick time accrued.

That's most of the news fit to print! Best wishes for a busy, safe and successful boating season in 2015.

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