



End of Session Legislative Wrapup and Ongoing Regulatory Affairs

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

Happy post-Labor Day and here's to the upcoming fall and conclusion to your hopefully successful boating seasons.

MMTA's Government Relations efforts prioritize matters which are uniquely important to the Business of Boating, although we partner periodically with other organizations on matters of general and major business impact. This ENEWS summarizes the recently ended formal legislative session for MMTA and ongoing regulatory affairs.

LEGISLATIVE MATTERS:

The formal sessions for the 188th General Court ended back in July and, as the end of the year all too quickly approaches, now is a good time to remind you that the state elections (November 4th) will bring in a new legislature for 2015 and many new people in key elected positions. The Governor, Lieutenant Governor and Attorney General, to name a few, will all be newly elected, so those holding the senior, most powerful appointed positions will also change over. We at MMTA work hard to keep relationships with all levels of key agencies and will continue to work with whomever is elected and appointed.

We wanted to re-cap what has been a busy legislative session which included a number of bills important to the marine trades. At the beginning of this past session

over 5000 bills were filed in the first weeks of the year, and by the end of the session an estimated 7000 bills were filed. Throughout the legislative session these bills were reviewed and monitored for particular relevance to the marine trades industry. Each legislative session we develop a "tracking list" of bills for the MMTA membership and the list is made available on the member's section of the MMTA website, with priority bills highlighted. This past session the tracking list included 116 bills in the House and 30 bills in the Senate.

In addition to the usual discussions with regulators and legislators, MMTA provided written and oral testimony on seventeen priority bills during the past session, including the following:

- MMTA testified in opposition to a pair of bills; House Bills 2453: An Act relative to marine vessels and House Bill 2671: An Act relative to assessing administration, both of which sought alternative **excise tax valuation and collection methodology**. The proposed changes would ultimately seek increases in excise tax on a range of vessels, encouraging their owners to relocate such vessels out of state. This session, the perennial supporters (members of the Mass Municipal Assessors' Association) hired a lobbyist and tried hard to get it passed. MMTA countered with facts and succeeded in demonstrating the bill was counter-productive for revenue generation and would be dangerous to the marine trades jobs which rely on boating in Massachusetts. This bill was also sent to study.
- SB 377: **An Act relative to out of state mooring**. MMTA opposed this bill which sought excise tax payment on Commonwealth residents who registered their boats out of state but used the boat in Commonwealth waters for 60 or more days a year. As with many bills seeking to increase **excise tax collection** on Massachusetts boats, this bill would only create incentive to boat outside of Massachusetts and risk losing the significant revenue generated by encouraging all boats to visit and stay in Massachusetts. It's a very short-sighted and counter-productive approach to revenue generation and one MMTA is constantly educating legislators and interests groups about. This bill was "sent to study" this session after an MMTA push to see it set aside. We will be closely watching for re-filed bills with similar language at the beginning of the new year.
- House Bills 671,654,670, 672, 673, 2524: These were Acts relative to **community preservation funds for seawall repair and other legislation related to waterways and coastal infrastructure**. These bills, in some form or another, are filed each session and seek to create dedicated funds for a broad spectrum of waterways infrastructure programs. Unfortunately, these bills rarely move beyond their initial committee assignment and are typically "sent to study", which means they never make it to the Governor's desk for signature. While these bills would be ideal funding vehicles for important waterways projects, the good news is that these bills do increase awareness of funding needs for these types of projects and allow MMTA the opportunity to educate legislators on those needs. With waterways infrastructure on legislators' minds, when the large end-of-session bond bills get passed around, **many times funds for these types of projects will shake loose, as was the case this past July in the**

Environmental Bond Bill.

- House Bills 664 and 3855 - An Act relative to **boater safety** to be known as the David Hanson Act. MMTA participated extensively in the development of this bill, over several legislative sessions and we support the current language in the bill because it phases in education requirements and has a grace period after purchase of a vessel. Though this bill didn't make it to even a full House vote this time, it will certainly be refiled next January, as there is a constant pressure for mandatory boater education. MMTA will continue to monitor the bill for any unpalatable changes and support it as-is during the next session.
- SB 1670: An Act relative to the **transfer of boat registration between family members**. A straightforward bill filed by Senator Tarr to allow a boat's certificate of number to be kept at the request of the new owner of the motorboat, when the change of ownership is between two family members. This bill is "in play" during the ongoing informal sessions and may indeed make its way to the Governor's desk. Stay tuned...
- HB 705: An Act protecting the Commonwealth's lakes and ponds. MMTA opposed this **invasive species** bill because it would divert five dollars (\$5) from every motorboat registration fee collected in the Commonwealth to the Invasive Aquatic Plant Management Fund, thereby reducing the amount of funds available to maintain public access to ALL waterways, both inland and coastal, fresh and salt water. We were successful in opposing illogical targeting of all boaters, salt and fresh water located, when many if not most invasive species come from other sources (more mobile kayaks, canoes and migratory birds, as well as humans, making General Fund solutions or local partnerships more appropriate). While this bill was "sent to study" we can certainly anticipate its refiling next session.
- SB 394, An Act to revitalize the Commonwealth's waterfronts. This bill proposed **regulatory changes to the State's Chapter 91 program** to improve the permitting process for non-water dependent uses and, in theory, redefine and perhaps eliminate public trust rights in Commonwealth tidelands. The bill also sought retroactive revisions to existing Chapter 91 licenses. With some behind the scenes efforts by MMTA and others, the bill was withdrawn from budget debate, as well as not succeeding in the usual fashion. While MMTA does support changes to the Chapter 91 program that both create a better permitting process and also support water dependent uses, this bill did neither. The bill has been sent to study but we will be closely watching for similar language during the next session.
- House Bill 676 - An Act Expanding Pleasure Boat Access to Boston Harbor. In order to **create additional recreational boating opportunities in Boston Harbor**, this bill would direct municipal and state public agencies controlling property within the City of Boston to establish mooring and docking facilities. MMTA has supported this bill for the past many sessions in which it has been filed, though once again, it has been "sent to study". Should it be refiled next session, we will again testify in support. The education of legislators about boating in the Commonwealth is as important as actual passage of the bill.
- On behalf of MMTA, three bills were filed this past session seeking **elimination of the**

State sales tax on boats built or rebuilt in Massachusetts. Senate Bill 1341 and House Bills 2518, 2766, all included the same language seeking an elimination of the sales tax on these boats. Unfortunately, but not surprisingly, these bills were also sent to study. There is hope for refiling them during the next legislative session.

In addition to tracking the above and many other bills during the session, MMTA works closely with the leadership and members of the **Legislative Boating Caucus**. The Caucus meets in person occasionally during the session, and communicates by phone and electronically in between, with information on bills or regulatory affairs meriting legislative contacts. The Legislative Boating Caucus remains an indispensable ally on Beacon Hill, providing a mechanism to educate Caucus members and their colleagues on issues impacting the Business of Boating and for creating a network of legislators attuned to the needs of their boating constituents. It is our honor to be represented in the legislature by Boating Caucus Co-Chairs Senators Anthony Petrucelli and Robert Hedlund, and Representatives Susan Gifford and William (Bill) Straus, if all their re-election campaigns succeed.

STATE REGULATORY MATTERS:

This season and political time continues to be a very active time for regulatory developments impacting the Business of Boating here in Massachusetts, as the Governor seeks to conclude long pending regulatory changes. We participate actively in several working groups on regulatory changes, although at times it feels Sisyphean to keep revisiting the same issues.

- MMTA was active in the proposed (and still pending) amendments to the **Stage I & II and UST regulations** and additional **vapor recovery requirements** on smaller fueling operations, such as boatyards and marinas, that had traditionally been exempt because of the scale of their fueling operation. MMTA supplied comments and participated in public hearings back in the spring. So far, no new undesirable regulatory changes have been implemented. We do anticipate the published draft will be finalized before January 1, however.
- MMTA worked repeatedly with MassDEP staff on the Department's renewed **auditing and enforcement initiatives within their Waterways program**. This is a good reminder to review your existing approvals, federal, state and local to be sure your facility is compliant. Jamy Madeja can work with you to review your permitting needs and to develop an efficient compliance strategy, as needed.
- With other industry partners MMTA actively engaged with **Massachusetts Department of Public Safety** staff in an effort to minimize the impacts of the poorly crafted revisions to the state's **Hoisting regulations**. So far, people report passing the licensing exams in respectable percentages, and that in-house programs are being approved relatively quickly, but few are applying for in-house training approval, perhaps because insurance coverage may be expensive.
- We are still patiently waiting for the final 2013-2014 (soon to be 2015) United States

Environmental Protection Agency's **Multi-Sector General Permit for stormwater discharges** at industrial facilities. This is the federal stormwater general permit that many MMTA members operate under, so we include it here for information purposes. While the old 2008 permit is still in effect for facilities which applied for that one, through a "No Action Assurance" memorandum issued by the EPA, the final updated and substantially similar general permit has yet to be issued. Stay tuned, if you currently have a 2008 MSGP you will need to apply for coverage under the new permit once it issues.

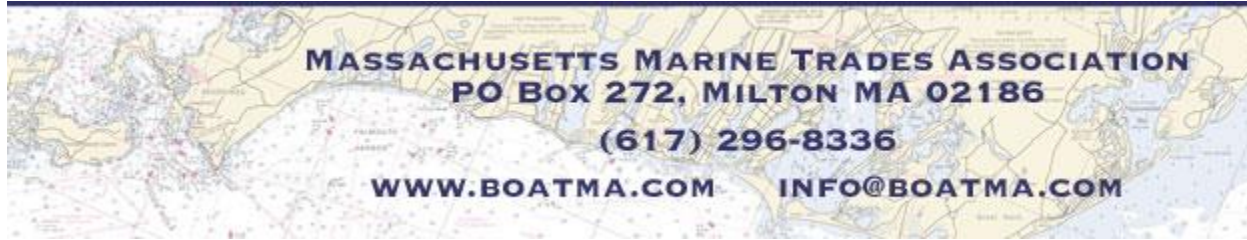
- MMTA continues its engagement with and participation on a number of working groups convened to advise regulators and stakeholders of the state's **ocean management planning initiatives**. While the big-picture development of planning has taken a decidedly regional turn, the state continues its efforts on implementing specific plan elements, particularly impact fee assessment protocol.
- **Climate Change and Tidal Actions:** The Commonwealth is reviewing all regulatory programs to analyze how to adapt to potential sea level rise. MMTA participates in two review efforts with an eye toward enhancing 1) opportunities for recreational boating facilities to be located more easily on the water, since recreational boating facilities can adapt more easily than others to sea changes; and 2) making it easier to permit existing facilities' changes if they help adapt to potential sea level rise. Please do not consider MMTA any form of advocate for or against any particular source or cause of sea level rise or changing tides. We are addressing potential adaptive measures only, not causes or even the science behind the issues.
- Finally, **Designated Port Area** regulations are changing, to allow modestly more recreational boating in certain situations (not enough) and recreational vessel repairs in any DPA (good). There may also be opportunities for increased accessory and supporting uses. We do not believe the changes go far enough to improve the maritime infrastructure but they are better than nothing.

OTHER MATTERS:

MMTA participates in a variety of regional and statewide government organizations, some appointed and some open to the public, when doing so benefits the Business of Boating. One such group is the US Coast Guard Harbor Safety Committee for District 1, specifically for the Sector Boston area, including Gloucester to Weymouth/Quincy. Directors are active in too many local and regional efforts to name. So please, when you see an MMTA Director, give a shout out for volunteering to help us all.

That's most of the news fit to print! Here's to a continued safe, successful boating season while the weather cooperates. Do call or email anytime with questions or comments.

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