



The Retail Review

THE OFFICIAL NEWSLETTER OF THE
RETAILERS ASSOCIATION OF MASSACHUSETTS

April - June 2021 Edition

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State Budget Negotiations Impacts on Retail

Annual state budget negotiations have advanced to the point where discussions now move behind closed doors, as a conference committee of three members of the House and three members of the Senate are tasked with finding compromise on a final budget report to put before both branches. The approved conference report will then go to Governor Charlie Baker for his consideration and signature. Budget debate again this year involved a number of issues important to retail.

In positive news for RAM and the retail industry as a whole, the Legislature again rejected the Governor's sales tax modernization proposal, which he had included in his budget plan for the fifth year in a row. **Real Time sales tax collection**, or daily remittance of sales tax, would require third party processors of credit/debit transactions to remit to the Commonwealth, on a daily basis, the portion of a sale that is attributable to sales tax. RAM has led the coalition effort against Real Time since it first appeared in 2017, and we applaud both the House and Senate for leaving the proposal out of their respective budgets.

The Legislature did last year pass into law language requiring a prepayment, or an **advanced payment of sales tax**. That law, which took effect on April 1, requires an advance payment reflective of the actual sales tax collected in the first 21 days of the month, to be submitted by the 25th day of the month. RAM argued to the MA Department of Revenue (DOR) earlier this year to allow for an estimated payment to be made based on the tax liability of some percentage of either the total tax liability of the preceding month, or the same month the preceding year. The DOR agreed, and in their recent regulatory guidance, TIR: 21-4: Tax Provisions in the Fiscal Year 2021 Budget, they clarified that through December 2021, a taxpayer will be in compliance if the advance payment "is equal to 80% or more of the taxpayer's total tax or excise due for the immediately preceding month." RAM has since urged the Legislature to codify this allowance in statute and to make it permanent, and we continue that effort.

The Governor's budget also included a **cashless lottery proposal** to allow for the purchase of lottery products using a debit card. The prohibition on the use of credit cards to buy lottery products would remain in effect. RAM opposes this expansion, arguing that the state should not allow any debit or credit card sales of lottery products unless the state is willing to pay for all of the related interchange and swipe fee charges. The House did not include cashless lottery authorization in its budget, but the Senate did. RAM is urging the conferees to either drop this provision or add in language directing the Lottery to cover all of the debit card processing fees.

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The Retail Review

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Amortizing \$7B in COVID UI Claims Simply Not Good Enough

Beacon Hill recently passed legislation which was billed as a fix for the \$7 billion unemployment insurance crisis. It was the second such bill passed in two months. Yet employers are still waiting for government to step up with shared responsibility by making a fair down payment on the unprecedented employer tax increase for COVID layoffs triggered by public policy.

The “fixes” to the UI system to date have been all about amortizing over 20 years the incredible \$7 billion of COVID claims paid over 17 months. Through state bonding, the \$7B (plus interest) is being spread out, preventing as much as 1600% immediate 2021 tax increases; but current and future employers are still being handed the entire bill of the claims and the interest charges. To put that \$7B in perspective, it is equivalent to 5 years’ worth of normal Massachusetts UI taxes and claims—and those typical annual UI taxes are already the highest in the US. And of course, over the next 20 years, new, typical UI claims will also continue, ensuring growing payroll tax liabilities for decades.

The \$7B delayed tax increase will most certainly suppress future wage and job growth in the Commonwealth. And by mortgaging the entire huge debt, Beacon Hill has yet to deliver what most states have already done to date—by making an appropriate “down payment” on the debt by recognizing a shared responsibility by state government to cover an appropriate amount of the COVID layoffs cost. In fact, more than half of the states—most with far less dire UI Trust Fund debt than Massachusetts—have devoted federal COVID relief funds to bring down the debt and relieve employers from significant portions of the cost of the layoffs from the pandemic.

These states have used either CARES Act federal funds from 2020, or committed to using American Rescue Plan Act (ARPA) dollars from the 2021. Massachusetts is receiving \$5.3B in ARPA funds. A significant amount of those funds should be committed now to this crisis, to bring down the future borrowing, interest charges, and unprecedented tax increases for employers. And certainly, the state budget is in very good shape with continuing increased tax revenues and expenditures far in excess of our rate of economic growth.

Unlike any past recession, the facts are clear that the UI claims from COVID over the last year were not the fault of employers. Small business owners did not order the business closures, the work place and commerce restrictions, nor did they prompt school and daycare closures. Employers certainly didn’t trigger the extra emergency UI benefits which incented many to not work, because the majority of claimants made more on benefits than previously on the job. And they certainly didn’t cause the hundreds of millions in unrecoverable, fraudulent UI claims. Government triggered the UI claims due the health concerns, business restrictions and benefits structures, yet under current state law, the entire bill of over \$7B is currently being paid for by current and future Massachusetts employers.

We can all understand that 200 legislators are hearing from countless organizations, special interests, and constituent groups looking for a piece of that once in a lifetime kitty of \$5.3B in ARPA funds from the federal government. But Beacon Hill’s very first decision, and their very first investment of those ARPA funds should acknowledge government’s role in the \$7B COVID UI debt, and the need for shared responsibility for that unprecedented tax liability.

Recognizing government responsibility, and prioritizing fair levels of public investment into those COVID claims, will send the right message that small businesses didn’t cause the problem. Rather the message would be that it is vital that wage and job growth be incented going forward, rather than the creation of economic stagnation due to the assessment of unfair taxation.



RAM To Test Sector Divisions

The COVID health and economic crisis created varying challenges for members of different retail sectors, and often more activist mentality and coordinated public policy efforts. RAM members had a variety of universal issues faced by all, but also more focused issues which were of particular concerns to certain retail sectors. Those operations and consumer servicing challenges created coordinated efforts from everyone from our food stores, pharmacies and hardware stores, to bridal shops and florists, and restaurant and hospitality members.

The challenges of the effect of public policy on the bottom lines of the 4000 RAM members was never more pronounced than over the past year, with government actions on the federal, state and local levels all complicating the ability to serve the consumer.

The pandemic also launched new communication opportunities for virtual meetings and coordination, which can improve RAM's public policy efforts through enhanced communication and input between member sectors, the RAM staff, and policy leaders. Zoom meetings with our members and with government officials took off during the pandemic, and should continue for years to come.

The RAM staff is seeking to better engage our members through virtual meetings which can make all of our policy efforts more effective through better education and activism. Connecting similar businesses from across the state together for face-to-face meetings has never been easy to do for busy small employers. But now we can pull together members for short virtual meetings from one sector—whether that be restaurants, auto service establishments, grocers, furniture, book, or pet supply stores— to coordinate and educate on focused issues of concern. Likewise, we can pull together members in one community to deal with pending local issues and to talk strategy and policy positions.

In the coming weeks, we are going to be conducting member surveys on sectors which would like to meet with counterparts across the state on a periodic basis on policy issues. Whether it be our nearly 1000 restaurant members, or our 15 bookstore members, we want to better understand your priorities as we collectively work to be more effective with opinion leaders. The creation of certain membership divisions with targeted meetings and communication will be the result as we get feedback on interest from our members.

There are several state and New England associations out there which service various homogenous retail sectors. All of those associations provide important functions, and RAM members are urged to participate with those organizations. But RAM is not about sector training, supplier relationships and trade shows; rather we are about public policy advocacy and broad-based small business services. The establishment of RAM membership divisions is in no way meant to compete with the important work of any of those focused sector organizations, nor of local chambers of commerce; rather we are simply working to become a more engaged, coordinated and effective trade association and industry on behalf of all of our members, with all levels of government.

We look forward to your feedback and participation on this new membership engagement effort.



Reminder: If you are not receiving RAM e-news alerts you are missing timely updates and information, please email us at info@retailersma.org and provide us an email address.

Budget update

continued from front page

During debate in the Senate, a RAM supported amendment was adopted relative to commissioned sales employees. The adopted language includes protections for certain employers against treble damages in the event they relied, in good faith, on government issued compliance guidance later invalidated by the courts.

The Governor, House and Senate all resisted any significant new taxes in their budget proposals this year. A strong push continues to be heard from progressive groups in support of new revenues, including and in addition to the effort to place the Millionaire’s Tax, or Fair Share Amendment (S.5), on the statewide ballot in 2022. That proposal would place a 4% income tax surcharge on all income in excess of \$1 million.

The new fiscal year begins on July 1, with a budget plan expected to spend in excess of \$47.7 billion. The Governor and the Legislature are working on a separate plan outside of the annual budget process to determine how to spend the \$5.3 billion in federal relief funds from the American Rescue Plan Act (ARPA).

Privacy: State or Federal Issue?

Since the passage of the California Consumer Privacy Act in 2018, copycat legislation has appeared in numerous states across the nation, including here in Massachusetts. Sen. Cynthia Stone Creem, of Newton, sponsored legislation similar to the new CA law in S.46, An Act Establishing the **Massachusetts Information Privacy Act**. The bill requires covered entities and data processors to use information collected only for certain business purposes, to reasonably secure personal information, comply with data breach requirements, substantially limit the sale of information to any third party, and establish principles of data portability, where an individual can request access to all of the personal information a company has stored on them, and more.

Debate recently has intensified on pending bills in Washington and Virginia. As other states look to follow CA and establish single state standards, when will the federal government will step in? How can commerce continue and the internet operate seamlessly or data flow freely if encumbered by fifty different state data protection standards? That is one of the questions facing the broad-reaching MA bill, which is now awaiting a public hearing before the new Joint Committee on Advanced Information Technology, the Internet and Cybersecurity. ■

Hurst Appointed to UI Trust Fund Study Commission

RAM President Jon Hurst was recently appointed to a 21 member Unemployment Insurance Trust Fund Study Commission, which was created due to the state’s \$7 Billion UI deficit and the system crisis resulting from COVID claims. With legislators, regulators, employer representatives, and labor advocates on the Commission, a variety of solutions will be considered to reform a flawed system which is ranked dead last—50th—by the Tax Foundation in the USA. From eligibility and benefit reforms, to wage base tax increases, everything will be on the table; and the Commission will make recommendations to the Legislature for reforms in December.



MassDEP Notice to Retailers Regarding Requirements of New Flame Retardants Law

The Massachusetts Department of Environmental Protection (MassDEP) recently issued a notice to all sellers regarding the **retailer requirements** under the new flame retardants law, Chapter 261 of the Acts of 2020, An Act to Protect Children, Families, and Firefighters from Harmful Flame Retardants. The law prohibits a manufacturer or retailer from selling a “covered product” that contains any of a list of chemical flame retardants above a certain threshold, with an exemption for all inventory manufactured prior to December 31, 2021. “Covered Products” are defined under the law to include bedding, carpeting, children’s products, residential upholstered furniture, or window treatments.

Members are encouraged to review this notice found at <https://www.mass.gov/doc/massdep-letter-to-retailers-april-2021/download> to ensure compliance with the new law.

Member News

Pauline's Gifts, Gloucester, finalist in the 70th Annual Retailer Excellence Award by Gifts and Decorative Accessories Magazine



Pauline's Gifts collects personal items for women serving in Active Duty overseas and works with Operation Troop Support out of Danvers, MA. Pauline's is one of only 21 retailers chosen for top honors. The award ceremony will be held virtually on August 3, 2021 (<https://www.giftsanddec.com/reas/>). Pauline Bresnahan is celebrating her 22nd year in business at Pauline's Gifts. Pauline is a third generation Gloucester woman business owner in her family.

Pauline has been a decorative artist for 40 years. Her shop features her painted gifts, and she is the largest retailer of American and Decorative flags on Cape Ann.

Pauline's Gifts received the *"Pride of New England"* award in 2009 at the Boston Gift Show, and that same year was named one of the *"25 Gifted Retailers"* by Gifts and Decorative Accessories Magazine. Pauline was named an *"Unsung Heroine"* in Massachusetts, after being nominated by Rep. Ann-Margaret Ferrante.

Along with two other women business owners, Pauline co-founded the *"Woman Owned Businesses on the Essex Coastal Scenic Byway"* trail map. The women were awarded a "Pioneer in Partnership Award" by the Essex National Heritage. The trail was also featured on an episode of Chronicle, on WCVB, Channel 5.

"I am thrilled to be considered for such a prestigious award in my industry for our work with the "Women to Women Donation Drive." We have collected over 1000 lbs. of women's personal items and raised over \$2000.00 to ship the boxes during the past three years." Recently, Pauline's held a Buoy Painting event at the Elks with the proceeds going toward the drive. This event collected bras, socks and underwear and raised money to ship the boxes. Pauline's Gifts partnered with The Bridge Cape Ann, Yellow Sub and the Elks.



(L to R): Adam Curcuru, Veterans Agent for the City of Gloucester, Johanne Cassia, Co-Founder of the Woman Owned Businesses trail map, Pauline Bresnahan and Vee Chipperini, Army Veteran who served in Iraq and is a Purple Heart Recipient and spokeswoman for the Women to Women Donation Drive.



Women business owners from trail map along with Rep. Ann Margaret Ferrante and founder of Operation Troop Support, Dick Moody



Pauline awarded the Unsung Heroine Award at the Boston State House.

Welcome 56 New Members

3 P Corp.
Framingham

A.C.T. Vehicle Equipment, Inc.
Westfield

A.K. Motor and Auto Repair
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Aquanor Marketing
Boston

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Dracut

Bliny Crepes Tea House
West Springfield

Bountiful Farms, Inc.
Lakeville

Cape Ann Auto Body
Essex

Caroline's Bar & Grill
Eastham

Cedar's Smoke Shop
Dartmouth

Circle Furniture
Acton

Dinno Health LLC
Newton

District 118
Newton

Dolphin Restaurant
Barnstable

Dunkin
Rockland

E.C. Cottle, Inc.
Vineyard Haven

Edgewater Beach Resort
Dennisport

Emory Automotive Services
Amesbury

European Performance Engineering
Natick

Family Eyecare, Inc.
Spencer

Fence Lines, Inc.
S. Weymouth

Fire Resistant Solutions, Inc.
Norwell

Full Moon Market, Inc.
Lynn

Harvard Sweet Boutique, Inc.
Hudson

Industrial Packaging
Webster

Interstate Battery
East Freetown

KeriVan Lane, Inc.
Needham

Mandy's Cape Creamery
Centerville

Mann Orchards
Methuen

Max Zeller Furs
West Springfield

Middlesex
Cambridge

Mina's Imporio
Lowell

Mooyah
Boston & Sudbury

Nieves Auto Tire LLC
Leominster

O'Brien's Corner
Springfield

Overhead Door of Boston
Rockland

PFW Industries Corp.
Worcester

Punch Bowl
Brookline

Rascals
Worcester

Roy's Auto Glass, Inc.
Dudley

S & S Farms and Deli
West Boylston

Scott's Carpet One
Pittsfield

Sheinkopf & Tomasik Eye Care
S. Yarmouth

Shipwrecked LLC
Newton

Skewers2GO
Woburn

South East Fence Company, Inc.
Lakeville

Sunnyside Motor Co., Inc.
Holden

Tannin Corporation
Peabody

The Cove at Yarmouth
West Yarmouth

The Gallows
Boston

The Meat Bar Marketplace
Franklin

Tony's Market
Oak Bluffs

Town Brook Services
Plymouth

Wears Woody
Canton

Wightman Tennis Center
Weston

Worksmart Systems
Peabody



Baker Signs COVID-19 Emergency Paid Sick Leave Law

On May 28th, 2021, Governor Baker signed legislation establishing a COVID-19 Emergency Paid Sick Leave program in the Commonwealth. Under the law, all Massachusetts employers must grant up to 40 hours of emergency paid leave for full time employees, and prorated emergency paid leave for part time employees. The leave may be used for the following purposes:

- an employee's need to (i) self-isolate and care for themselves because they have been diagnosed with COVID-19; (ii) get a medical diagnosis, care, or treatment for COVID-19 symptoms; or (iii) get or recover from a COVID-19 immunization;
- an employee's need to care for a family member who (i) must self-isolate due to a COVID-19 diagnosis; or (ii) needs medical diagnosis, care, or treatment for COVID-19 symptoms;
- a quarantine order or similar determination regarding the employee by a local, state, or federal public official, a health authority having jurisdiction, or a health care provider;
- an employee's need to care for a family member due to a quarantine order or similar determination regarding the family member by a local, state, or federal public official, a health authority having jurisdiction, the family member's employer, or a health care provider; or
- an employee's inability to telework due to COVID-19 symptoms.

Employers are eligible for reimbursement for the cost of providing the required paid leave through a new \$75 million state fund created by the law, unless the employer is otherwise eligible for reimbursement from the federal COVID-19 emergency sick leave tax credit program established under the Families First Coronavirus Response Act. Employers must make the required leave available through September 30, 2021, or until the state fund is exhausted.

The Executive Office of Labor and Workforce Development (EOLWD) website has important information about the program as well as resources to facilitate implementation, including **Guidance for Employers** and the required **Notice to Employees**. (<https://www.mass.gov/info-details/covid-19-temporary-emergency-paid-sick-leave-program>). The guidance provides important details pertaining to eligible reasons for taking leave, calculating leave amounts, written leave requests, and the law's non-retaliation provisions. EOLWD has indicated that additional guidance will be forthcoming by the end of June, and it is expected to include information on how employers may apply for reimbursement from the state.

RAM will continue to provide updates via email and on the RAM website (www.retailersma.org) as new information becomes available.



RAM's Loss Prevention Committee is excited to announce the launch of an updated New England Organized Retail Crime Alliance (NEORCA) information sharing platform powered by Truth. Established in 2013, NEORCA continues combating Organized Retail Crime through the communication and collaboration between retailers and law enforcement. NEORCA provides an easy-to-use web based and smartphone app to post BOLO alerts, instantly bridging communication with registered member. There's no charge to join NEORCA. To register for NEORCA, please visit us at NEORCA.org.



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We want to hear from you!

Contact Andi Shea, Membership Director at 617.523.1900 ex. 150 or ashea@retailersma.org with any interesting news or information about your business.

For example, let us know when your business is in the news or if you received special recognition from your community. We would like to showcase this information in future newsletters.

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