UPCOMING EVENTS:

**Thursday, September 14**
New England Loss Prevention Expo
DCU Center, Worcester
7:30 am - 4 pm

**Thursday, November 16**
99th Annual Board Meeting
8:30 am - 11:45 am
RAMAE Luncheon
12 pm - 2 pm
The Conference Center at Bentley
University, Waltham

The Massachusetts Legislature broke for their summer recess at the end of July, but not before approving a $200 million health care tax increase on employers.

Disappointingly, the state budget plan advanced by the Legislature did not include the full Medicaid (MassHealth) reform package that the Baker Administration and the business community had negotiated and agreed upon. That agreement, reached after six months of negotiations, resulted in the business community willing to support a temporary assessment contingent upon adoption of a larger package that included long-term changes to the MassHealth program and important reforms to the private insurance market. The Legislature went along with the increased health assessment but stated that they needed more time to consider a reform package and that they would bring their own cost saving reforms to the debate this fall.

The budget includes a temporary increase in the Employer Medical Assistance Contribution (EMAC) for most employers, and an additional temporary assessment on employers with employees on public health assistance. The EMAC is an existing tax that most employers now pay as part of their unemployment insurance taxes. EMAC funds are used to pay for subsidized health care for low-income residents of the Commonwealth. For each non-disabled employee who receives state subsidized health insurance coverage through MassHealth or the MA Health Connector, the additional assessment would max out at $750 per employee, annually.

continued on page 5>>>>
A Letter from the President

Can’t Wait for Beacon Hill Anymore

Small businesses are the backbone of the Massachusetts economy. Unfortunately, the concerns of these businesses have recently been ignored by Beacon Hill.

Over the past several years, our members have become increasingly frustrated with the lack of urgency in addressing the very real challenges they face over unfair competition from online sellers and tax-free New Hampshire stores.

As a result, RAM has filed four different ballot initiatives with the Attorney General’s office for certification - the first step in the process to have the question appear on the November 2018 ballot. The ballot initiatives propose to:

1) Reduce the sales tax to 4.5% from 6.25%
2) Reduce the sales tax to 5% from 6.25%
3) Reduce the sales tax to 4.5% from 6.25% and establish an annual two-day sales tax holiday in August
4) Reduce the sales tax to 5% from 6.25% and establish an annual two-day sales tax holiday in August

Over the next month, we will be continuing our discussions with our membership, as well as other stakeholders, as to which of the four petitions we will seek to put in front of voters.

We are not taking this step lightly as we know the process to place an initiative is long and costly. Yet our membership’s strong support combined with the rapidly changing consumer spending marketplace requires us to take action.

The facts are clear that our increasingly discriminatory sale tax application incents spending outside of the Commonwealth instead of locally, and our working families and our seniors on fixed incomes are getting hurt by a high, and regressive sales tax.

Over the course of this effort, we are going to put a spotlight on the growing problem of the unevenly and unfairly applied sales tax and look forward to earning the support of voters across Massachusetts.

Sincerely,

Jon Hurst
Legislation Coming up in September - $15.00 Minimum Wage, Online Lottery & More

While thousands of bills have already been given a public hearing this year, the joint committees of the Massachusetts Legislature still have some work to do when they return in September after the August recess.

The Joint Committee on Labor & Workforce Development has scheduled a hearing for September 19th to hear testimony on bills relating to tips, overtime and the minimum wage. The likely focal point of that hearing will be the legislation to establish a $15.00 minimum wage here in the Commonwealth. The bill being pushed by the public unions would raise the minimum wage by $1.00 per year until it hits $15.00 on January 1, 2021. The legislation also slowly eliminates the tip credit for tipped employees, raising the cash wage to be paid to tipped employees annually until completely eliminating the credit by 2026. Proponents have a similar ballot question they are threatening to pursue in 2018 if the Legislature fails to act on this bill.

Also on the 19th, the Joint Committee on Consumer Protection & Professional Licensure will meet to hear testimony on legislation that would authorize the MA State Lottery to create online lottery games. RAM member convenience stores see the Lottery as an important driver of foot traffic into their stores and view the push to allow online sales as potentially devastating to that existing partnership.

Later in October, the Labor Committee is also expected to hear bills relative to regulating non-compete employment agreements, unemployment insurance reform legislation, and bills regarding the state’s independent contractor law.

MA DOR Resubmits Regulation to Require Online Sales Tax Collection

The Department of Revenue (DOR) has reissued a proposed regulation to require sales tax collection from online retailers who do not have a physical presence in the state but do make a significant amount of annual sales into the state. The DOR had earlier this year proposed a directive requiring the same, but was forced to rescind that and pursue the issue via a regulation, which allows for a public hearing and comment process.

Under the proposed 830 CMR 64H.1.7: Vendors Making Internet Sales, the state imposes an obligation to collect and remit sales tax on all out-of-state internet vendors with sales into Massachusetts in excess of $500,000 and more than 100 transactions. The regulation has a proposed effective date of October 1, 2017. The DOR has taken a unique approach in that they have interpreted the presence of in-state software and “cookies” that are installed on MA residents’ computers, laptops and mobile devices when they purchase from online sellers, as enough to satisfy the physical presence requirement. RAM has long advocated for the Department to take a more aggressive approach in going after online sellers that fail to collect and remit and we support this action. Groups representing online sellers challenged the earlier directive in MA Superior Court, and we fully expect that they will be back in court challenging the regulation once it is finalized.

A public hearing will be held on the proposed regulation on Thursday, August 24, 2017, at 10:00 a.m. at the DOR offices in Boston.
Retailers can help protect kids from illness, even death, by being left alone in cars.

You can help prevent this by displaying “Not Even for a Minute” posters to remind your customers of the risk of leaving children unattended in cars. Hang the poster in spots visible to families including store entrances, bathroom changing tables, or children’s clothing and toy departments.

“Not Even for a Minute” posters and flyers are free of charge and can be directly mailed to you. Email Rayna Charles at Rayna.Charles@childrenstrustma.org or call (617) 502-8753 for more information.

The Children’s Trust, the state’s leading family support organization, runs this campaign and is providing free posters to member retailers interested in participating. The organization advises the public to call 911 or contact security personnel if they see a child left unattended in a car. It also provides safety tips for parents to prevent them from leaving a child unattended and to remind them to always lock their vehicles so children cannot enter them.

Massachusetts Adopts Legislation to Protect Pregnant Workers

On July 27th Governor Baker signed into law the Massachusetts Pregnant Workers Fairness Act which creates new protections for pregnant workers in the Commonwealth.

The new law requires employers, upon request by a pregnant employee, to offer reasonable accommodations for an employee’s pregnancy or any condition related to the employee’s pregnancy, so long as making the accommodation would not impose undue hardship on the employer.

The law requires employers to engage in a timely, good faith and interactive process with pregnant workers to determine effective reasonable accommodations that would enable such employees to perform the essential functions of their job. As listed in the law, reasonable accommodations include, but are not limited to more frequent or longer paid or unpaid breaks, time off to attend to a pregnancy complication or recover from childbirth with or without pay, acquisition or modification of equipment or seating, temporary transfer to a less strenuous or hazardous position, job restructuring, light duty, private non-bathroom space for expressing breast milk, assistance with manual labor, or modified work schedules.

Employers are not permitted to force pregnant employees to accept an accommodation that she does not want, nor to take leave if another reasonable accommodation could be provided. The law also prohibits employers from taking adverse action against existing or potential employees for asserting their rights under this law.

Employers are required to provide written notification to all employees of their rights under this new law on or before its effective date of April 1, 2018.
For all employers with 6 or more employees:

- Increases the current EMAC rate from 0.34% to 0.51% of annual wages, up to the annual wage cap of $15,000. This equates to raising the maximum per-employee contribution rate from the current $51 to $77 annually.
- Expires on December 31, 2019.

Additional tax on employers with employees on state subsidized public health assistance:

- Employers to pay an additional 5% of annual wages for each employee on public coverage, up to the annual wage cap of $15,000, resulting in an annual maximum per employee contribution rate of $750.
- Expires on December 31, 2019.

The plan does include some employer friendly changes to the unemployment insurance (UI) rate schedule to partially offset the EMAC increases, and those changes are included in the budget, meaning collectively, employers will pay $334M less over the next two years than what they would have paid on the current schedule.

Governor Charlie Baker signed the assessment and UI changes into law, but assured the business community that his Administration would work closely with the Legislature this fall to deliver passage of a significant reform and health care cost control package.

“Real Time” Sales Tax Collection

The final budget also included language calling for the Department of Revenue (DOR) to go through a regulatory process to determine how to best effectuate accelerated sales tax remittance, or “real time” sales tax collection. The DOR is instructed to hold hearings on the topic and issue a small business impact statement, and take into consideration the following: (i) established industry practices; (ii) technological feasibility; (iii) financial impacts on consumers and businesses; (iv) the fiscal impact on the commonwealth; (v) relevant federal or state laws and regulations; and (vi) limitations on applicability to mobile telecommunications services. If the DOR finds and certifies that “real time” collection is not cost-effective to implement before June 1, 2018, then the state Comptroller is directed to essentially credit $125 million in sales tax collections from FY19 back into FY18, and no further action would be taken to implement accelerated collections. The DOR must make that determination by November 1, 2017.

RAM has strongly objected to the consideration of accelerated “real time” sales tax collection and we will be engaged with the DOR in its process moving forward to prove that this is not a cost effective or workable solution.

No Sales Tax Holiday in 2017

The Massachusetts House and Senate left for the summer recess without taking any action on legislation to authorize a Sales Tax Holiday for this August, marking the second year in a row without the tax free event. RAM and our members lobbied the issue aggressively in June and July, but lawmakers repeatedly pointed to disappointing state revenue collections that saw the state end the 2017 fiscal year with a revenue gap of $431 million.
Hundreds of RAM members are saving on their health insurance premiums and taking advantage of additional money saving benefits by enrolling in coverage through the RAM Health Insurance Cooperative (RAMHIC). RAMHIC offers a variety of plan options from Fallon Health and Blue Cross Blue Shield of MA (BCBSMA). All plans offered come with a 1% upfront premium discount and cooperative membership provides members with access to additional cost saving options not available in the open market.

“We encourage our employees to participate in the Healthy Actions program because we feel that it helps them make more healthy choices as well as ensures that they visit their doctor once a year for an annual physical. They like receiving the Visa rewards cards and we like receiving the refund on our health insurance premiums. As an added incentive for our employees when Rose’s Automotive receives the refund we always give a portion back to the employees. So not only are they being rewarded by the Health Actions Program but also “Rose’s Automotive”.

~ Claudia Rose, Rose’s Automotive, Sherborn

To start taking advantage of these cost saving options members may contact their broker or our providers directly to request a quote.

For more information regarding these offerings as well as additional ancillary benefits please visit our webpage at www.retailersma.org/RAMHIC or contact RAM’s Insurance & Human Resources Director, Larry Mulrey, at (617) 523-1900 ext. 180.

---

Why Pay-As-You-Payroll?

HINT: TO AVOID COMPLICATED, TIME-CONSUMING AUDITS

GET SEAMLESS, INTEGRATED WORKERS’ COMPENSATION

If your retail business experiences recurring down payments, monthly billing fees, and year-end audit adjustments, it’s time to consider a program* just for RAM members.

Top 4 reasons businesses join our program:

1. Improved Cash Flow
2. Reduced Audit Surprises
3. Continued Money-Saving Premiums
4. No More Future Down Payments

*30% OFF PAYROLL PROCESSING
for all RAM members

www.ConnectPayUSA.com

---

PAGE 6  THE RETAIL REVIEW  July/August 2017
New Members

continued from page 5

Minado Restaurant
Natick

Music Hall Dining, Inc.
Allston

Ole
Cambridge

One $top Dollar Inc.
Malden

Padaria Brazil
Allston

Petro Save
Brockton

Petti’s Market
Brockton

Princeton Diesel Truck Service
Sterling

Rigoletto Ristorante
Boston

Sea Level Oyster Bar
Newburyport

Sesuit Harbor Cafe, LLC
Dennis

Shy Brothers Farm, LLC
Westport Point

Slade's Bar and Grill
Boston

Souffles
Newburyport

Springfield Mobil
Springfield

Summer Pizza, LLC
Salem

Sweet Lydia's
Lowell

The Barn Family Shoe Store
West Newton

The Social Register
Boston

The Townshend
Quincy

Triangle Store and Deli
North Chelmsford

Trio Wine Company
West Bridgewater

Two Guys Garage
Lowell

Universal Electro Mechanical Services
West Springfield

USA Marine, Inc.
Worcester

Zest Cafe & Juice Bar
Dennis

Ziggy's Auto Specialists
Hyannis

HINT: TO AVOID COMPLICATED,
TIME-CONSUMING AUDITS
Why Pay - As You Payroll?
GET SEAMLESS, INTEGRATED WORKERS' COMPENSATION
If your retail business experiences recurring down payments, monthly billing fees, and year-end audit adjustments, it's time to consider a program* just for RAM members.

*30% OFF PAYROLL PROCESSING for all RAM members www.ConnectPayUSA.com

Top 4 reasons businesses join our program:
1. Improved Cash Flow
2. Reduced Audit Surprises
3. Continued Money-Saving Premiums
4. No More Future Down Payments

From left to right: Maureen Grady - Clarks Shoes; Maryanne Knott - Dunkin’ Brands; Kristyn Sugrue - BJ’s; Congressman Bill Keating; Erin Calvo-Bacci - CB Stuffer; Sarah Bacci - CB Stuffer; Bob Saquet - Egger’s Furniture; Neil Abramson - ECI Stores; and Shannon Kelley - The Paper Store.
CHRISTMAS IN SUMMER: Prepare early for MORE holiday sales!

From the Desk of:
Robert Nelson
Massachusetts District Director
U.S. Small Business Administration

Summer is in full swing!

If you’re a small business owner whose bottom line is impacted by holiday seasonal sales -- now is the time to start thinking about how to capitalize again even MORE this year.

The National Retail Federation (NRF) reports 1 that: “For some retailers, the holiday season can represent as much as 30 percent of annual sales with jewelry stores reporting the highest percentage.”

Does your business have the capacity to generate the optimal amount of revenue and ensure top-notch customer service? The NRF also shared, “Every September as retailers ready their stores for the crowds... they also begin preparing behind the scenes by hiring extra staff.”

If you’re considering growing operations or just need some advice -- Do you have an objective thought partner to bounce ideas off of? The U.S. Small Business Administration has a local resource partner network (SCORE, Massachusetts Small Business Development Center & Center for Women & Enterprise) that is here to support the retail trade community in preparation for the holiday season and beyond.

One of SBA's counseling partners includes SCORE (www.score.org) – a national nonprofit that taps volunteer industry experts who want to give back to the business community by mentoring entrepreneurs and lending their time-tested advice.

Let me introduce you to a few local counselors from the Boston SCORE Chapter (www.boston.score.org) you can meet with, learn from, and plan your holiday season strategy -- without any cost to your bottom line:

SEYMOUR SALETT
I started working in the meat shop that my father managed when I was 14 years old. My “job” was to get meat from the refrigerator that my father would then cut for the customer. That customer was across the counter, face to face and would buy from my Dad every week. They created a relationship that involved trust and friendship. That’s retail! I worked my way through college working in the retail market. After my short military tour of duty -- I returned home and with my brother who had also worked with our Dad, we opened a small 1,200 square foot butcher shop in the North End of Boston called Salett’s Gourmet Meats. We grew to 10 employees, moved to a 5000 sq. ft. facility in Newton, employing about 30 men and women, expanded that to 13,000 sq. ft. with about 60 employees, developed a 36,000. Sq. ft. facility in Randolph and grew to 100 employees. The company was in business for over 50 years.

FELICIA GERVAINS
I retired in January of 2015 after concluding a 12-year career with Boston Properties -- The Shops at The Prudential Center. Brought on initially to handle the 10-year rollover, I was charged with managing the retail leasing for The Pru. Starting with a plan to remarket the center, to executing the plan -- I worked on The Pru alongside Boston Properties as an in-house Leasing Representative. Some of the more notable deals that I helped bring to lease at The Pru include: Club Monaco, Gucci, Lacoste, White House Black Market, Ralph Lauren POLO, Kate Spade, Microsoft Store, Sephora and the relocation of the Ann Taylor store -- along with many others. I relocated to Boston with my husband Chuck, back in 1993 from Fort Lauderdale, where I was working for Leonard L Farber Company, a family-owned development firm started by my father with regional malls in Fort Lauderdale, Orlando, Richmond VA, and Charlottesville VA. I served as President of the firm and when the decision was made to divest of the properties, I managed the sale of each. In 1998, the last of these malls were successfully sold off -- which is when I turned my attention to bringing my leasing expertise to Boston developers.

Schedule a counseling session with any of the SCORE chapters throughout the Commonwealth, Please visit their website:

Boston Chapter: www.BostonSCORE.org
Worcester Chapter: www.Worcester.SCORE.org
Northeastern Chapter: www.SCORENEMASS.org
Southeastern Chapter: www.SEMA.SCORE.org
Western Mass Chapter: www.WesternMassachusetts.SCORE.org
Cape Cod Chapter: www.CapeCod.SCORE.org
Rhode Island Chapter: www.RI.SCORE.org (Serving Fall River, New Bedford)

1 https://nrf.com/resources/holiday-headquarters/holiday-faqs
**5 Tips**

Ways to drive customers to your back-to-school merchandise

Here’s how you can take advantage of the projected $83.6 billion headed for such back-to-school purchases as clothing and shoes, electronics and school supplies.

**VISUAL DISPLAYS:**
Organize your back-to-school items in one section of your store, making it easier for shoppers to find what they need. If you have a website, do the same online, combining clothes, school supplies, dorm furniture and other back-to-school items.

**TARGET THE STUDENT:**
Parents aren’t always making the decision on what to buy. In fact, the National Retail Foundation notes that 9.7 percent of parents admit their child influences 100 percent of their back-to-school purchases!

**GO BEYOND FACEBOOK AND TWITTER:**
Instagram and Pinterest may be best for reaching young audiences. It’ll help if your website is mobile friendly for the 41 percent of college students who “plan to use a smartphone to research products and compare prices, and 46 percent will use a tablet to shop.” (NRF)

**THINK OUTSIDE THE BOX:**
Even if you’re not selling typical back-to-school products, get creative about what you can offer college students. Hardware stores could assemble a basic toolbox or car safety kit. A pharmacy could offer first-aid kits or shower caddies stuffed with essentials.

**PREPARE FOR PROCRASTINATORS:**
The number of procrastinators is up from 25 percent to 30 percent this year, according to the NRF survey. You may want to extend sales closer to school openings, or think of ways to quickly deliver the goods to harried parents.

---

**FREE SOCIAL MEDIA TRAINING FOR SMALL BUSINESSES**
Become your own social media manager at one of our daylong bootcamps. Free follow-up consultations offered.

Sessions are ongoing until June 2018 and are being held throughout the state. After our last e-bootcamp:

- **100% of participants reported that they learned new skills they could immediately apply to their businesses.**
- **100% of participants said they would recommend these interactive sessions to a friend.**

**Topics covered:**
- Instagram
- Facebook
- how to go live
- live demos
- shortcuts to growth
- starting from scratch
- customer service on social media
- trends and tricks
- advanced users
- technical basics for beginners

---

To learn more, email Jessica Van Sack at Jessica@RetailersMA.org. This program is funded by grants issued by the Commonwealth Corporation and the Executive Office of Labor and Workforce Development.

WWW.RETAILERSMA.ORG/SOCIAL-MEDIA-TRAINING
What's the background?

On July 17, 2017, the Massachusetts Supreme Judicial Court ("SJC") decided Barbuto v. Advantage Sales and Marketing, LLC ("Barbuto"), a case involving an employer's decision to fire the plaintiff, Ms. Barbuto, after her employer's drug test revealed the presence of marijuana in her system. According to her complaint, Ms. Barbuto suffers from Crohn's Disease, an inflammatory bowel disease. To maintain a healthy weight, she consumes small amounts of marijuana two-to-three evenings per week, in accordance with her doctor's prescription. She was fired after only one day on the job, when her drug test returned a positive result for marijuana. Ms. Barbuto filed suit, challenging her termination on the grounds that she is an otherwise qualified handicapped person. She argued that her employer was required to tolerate her marijuana use (outside of work) as a reasonable accommodation for her disability, and notwithstanding the employer's policy to the contrary.

In one of the first decisions of its kind, the SJC held that notwithstanding the federal law which criminalizes marijuana (and the employer's own policies against drug use), the Massachusetts Medical Marijuana Act and state anti-discrimination law both protect Ms. Barbuto and her marijuana consumption, to the extent it relates to treatment of her medical condition. Accordingly, her employer was obligated to engage in an "interactive process" with Ms. Barbuto to determine whether her marijuana use, or some other alternative, could accommodate her condition without imposing an undue burden on her employer. In the absence of any alternatives, the employer would be required to allow the marijuana use unless it could establish that doing so would cause it "undue hardship."

What does this mean for employers?

This case is a reminder that an employer's duty to accommodate disabled employees begins with the interactive process, in which employer and employee are responsible for communicating back and forth to mutually agree on a reasonable accommodation for the employee's disability. As the Barbuto case illustrates, providing a reasonable accommodation may even require an employer to excuse the employee from general workplace rules when this can be accomplished without undue hardship to the employer. Nothing in the Court's decision, however, requires an employer to allow marijuana use during working time.

Will employers have to allow any disabled employee to use medical marijuana?

No. The Court pointed out that some employers may be within their rights to prohibit marijuana use where they can establish that to do so would present an undue hardship to the employer, or where the use of marijuana undermines the employee's ability to perform: "an employer might prove that the continued use of marijuana would impair the employee's performance of her work or pose an 'unacceptably significant' safety risk to the public, the employee, or her fellow employees.... Alternatively, an undue hardship might be shown if the employer can prove that the use of marijuana by an employee would violate an employer's contractual or statutory obligation, and thereby jeopardize its ability to perform its business." For example, transportation employees and others subject to federal safety regulations might legitimately prohibit marijuana use in order to comply with these federal rules.

For assistance with leave laws or policies, or for other legal advice, contact Allyson Kurker at allyson@kurkerpaget.com and Margaret Paget at margaret@kurkerpaget.com. Visit Kurker Paget LLC at www.kurkerpaget.com.
COMING SOON:

STABLE RATE ELECTRIC PROGRAM

RAM is working with Freedom Energy Logistics to offer RAM members a Fixed Rate Electric Price starting in November 2017. If you have previously participated in the RAM Stable Rate Electricity program, you will want to sign up for this offer to secure guaranteed pricing after November 2017. Once RAM announces the rate, the offer will only be available for one week. To enroll in the new pricing, members will need to fill out the new paperwork and submit it to RAM. Members, not currently in our group, are encouraged now to check with their current provider to make sure switching to the RAM program will not result in any additional charges or fees. The benefits of locking in your rate means your costs will be fixed and predictable. While RAM cannot guarantee where the energy market is going—flat, down, or up – current market conditions have created a good opportunity to lock in at an excellent flat rate through November 2018. Make sure to watch your email and mail for the announcement with the required paperwork so you don’t miss the window.

There are many things to consider when protecting the profitability of a retail business. This expo will aim to collaboratively and comprehensively discuss subjects such as Organized Retail Crime, external and internal theft, private/public sector partnerships, asset protection technology, financial crimes and emergency preparedness. This year’s event includes speaker presentations and vendor solutions that provide small businesses the information and tools necessary for keeping their stores, employees and customers safe and secure. The New England Loss Prevention Expo strives to propagate an environment where learning, preparedness and networking arm us all with the tools to combat retail crimes.

To learn more visit conference website at: www.retailersma.org/new-england-lp-expo

RAM WELCOMES BABY KEARNEY

RAM General Counsel Ryan Kearney and his wife Meghan welcomed their second daughter to their family on July, 1, 2017. Greta Carroll Kearney was born weighing 7 lb 2 oz and measured 19 inches.
YEOMAY BE AN AWARD WINNING BUSINESS!

For Main Street retailers to thrive in an internet world, they must be doing unique & innovative things to make their business stand out.

Nominate your business as well as those you love to visit!

For category descriptions and to submit an online nomination, visit www.retailersma.org/ramaes.

Awards will be presented at the 20th Annual RAMAE Luncheon held on November 16, 2017 at the Conference Center at Bentley University in Waltham, MA.