

MEMORANDUM

TO: MYCA Members

FROM: Jack Erler

DATE: July 6, 2011

RE: Legislative Report for First Session of the 125th Maine Legislature

Maine has now completed the First Session of the 125th Legislature. During this session I reviewed 1586 Legislative Documents (“LD” or “bills”).

Sixty of these bills could have some effect on youth camps. Most of these bills I merely followed until they passed or were killed in some way. Some of the bills MYCA took action to support or defeat. Of these, some we worked by contacting the bill’s sponsor, other affected organizations or affected government agencies. Some, we testified for or against. With regard to testimony, on some I testified, on others camp leaders also testified. On a few we called on you to contact your legislators to advocate for passage or defeat.

The following is a summary of the results of this First Legislative Session of interest to youth camps:

MYCA Bill

Public Law Chapter 375 (LD 703) An Act To Amend the Laws Governing Licensure Compliance Methods for Camping Areas, Recreational Camps, Youth Camps and Eating Establishments was passed. It does three things.

First, it changes the “inspection” requirement for licensure from once every year to once every other year. What we do not yet know is whether the License will be changed to a two year license, and if so what, if any, affect that will have on the license fee.

Second, it permits the Department of Health and Human Services Department, Health Inspection Program (HIP) to grant the license without an inspection to camps that can demonstrate to HIP that they are accredited by a nationally recognized accrediting organization or otherwise in compliance with the rules without an inspection. The details of this will be worked out by rule making over the next year.

Third, it limits the number of inspection HIP is required to do without charge as a part of the license fee. Currently HIP cannot charge an additional fee until it has made three inspections. Under the new law that is reduced to only two. Thereafter the license applicant may be charged for additional inspections, if required.

ATV Control

Public Law Chapter 248 (LD 254) An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles Operating on Private Property was passed. It permits a Game Warden or other law enforcement officer to stop an ATV to determine if the operator has the permission of the person owning the land on which the ATV is being operated.

Boating Laws

LD 1375 An Act To Require a Boating Safety Course for New Boat Registrants is dead. It was a bill very similar to ones defeated in the last several legislative sessions. It would require a license to operate a motor boat. It appeared that youth camp motor boat operation was exempt. A bill similar to this bill will be passed in the next couple of years. The majority of other states have such a law and IF&W is now on board to have such a law.

Building Codes

Public Law Chapter 349 (LD 123) An Act To Assist Seasonal Entertainment Facilities with Public Safety Requirements was passed. This law prohibits the requirement of sprinkler systems in commercial places of assembly that open for no more than 50 days per calendar year. Commercial places of assembly include bars with live entertainment, dance halls, nightclubs, assembly halls with festival seating and restaurants.

Public Law Chapter 365 (LD 1253) An Act To Amend the Laws Governing the Enforcement of Statewide Uniform Building Codes and LD 1416 An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code were passed. These bills limit the applicability of the Maine Uniform Building and Energy Code (MUBEC) passed previously and effective as of December 1, 2010. ***Under MUBEC as originally passed most new building built and most renovations of existing buildings at youth camps are covered by this new building and energy code*** modeled on International Building and Energy Codes. LDs 1253 and 1416 amend the law. The bills have some overlap and it is not clear yet exactly how they will be interpreted.

Most significant for camps is a provision in LD 1416 which limits the applicability of MUBEC. Towns with more than 4,000 residents, that have a code must change that code MUBEC. Towns with more than 4,000 residents that do not have a code must adopt and enforce MUBEC by July 1, 2012. Towns of 4,000 or less residents do not have to adopt any code. However if they choose to, they must adopt a MUBEC like code (MUBEC "Light") as established by the Technical Building Codes and Standards Board. Thus if your camp is in a town with 4,000 or fewer residents and your town does not adopt a code, no code including MUBEC will be applicable to your construction.

LD 1253 excludes "seasonally restricted cottages" from the Energy Code (only one part of MUBEC) until June 15, 2012. The Energy Code sets forth energy conservation standards. "Seasonally restricted cottage" means a residential building unit made up of a room or group of rooms that provide sleeping accommodations, as well as accommodations for bathing and cooking, for not more than the entire summer season and that do not have water service after the summer season. I assume that any un-

insulated unheated or not air conditioned building for summer only use, to be built in a youth camp would fit in this exception. This provision of LD 1253 is certainly only applicable to towns that are required to, or have chosen to adopt MUBEC.

However, I think that MUBEC as originally passed would exclude this kind of building from the Energy Code portion of MUBEC even in towns that have this code on the basis that this kind of building is not “conditioned space” as defined in the Energy Code.

Labor Law

Although there were many bills to increase minimum wage; none passed.

LD 521 An Act To Employ the Unemployed was defeated. This bill if passed would have exempted an employer who hires an individual that had not been employed for the previous 6 months from paying the first 6 months of the employer’s share of state income tax.

Miscellaneous

Public Law Chapter 304 (LD 1) An Act To Ensure Regulatory Fairness and Reform as substantially amended was finally passed. Although it started out with everything but the kitchen sink in it; it ended up not actually reducing or restricting state regulation very much. Mostly it reduced the size and authority of the Board of Environmental Protection. This is the “citizen board” of the Department of Environmental Protection (DEP) and is seen as the place “environmentalist” go to stop a project from moving ahead. In addition, the bill will restrict certain other DEP regulations and require all other State agencies to jump through a couple of more hoops before promulgating regulations. Finally it creates an agency design to assist business in getting their operating permits and in resolving permitting disputes. Only time will tell if it can be helpful in any way to youth camps.

LD 31 An Act To Protect the Safety of Maine Children by Requiring the Express Consent of a Legal Guardian To Dispense Prescription Medication to a Minor is dead. This bill if passed would have required camps to have obtained specific written parental consent to dispense a prescription medication to a child (a person under the age of 18). It was essentially an anti-abortion bill that could have had unintended consequences to youth camps.

LD 1046 An Act To Amend the Application of the Maine Human Rights Act Regarding Public Accommodations is dead. If passed this bill would have denied an individual the right to bring a complaint to the Maine Human Rights Commission if the person as a transgender was denied the right to use the bathroom with which gender the person identified.

Pesticide Control

Resolve Chapter 59 (LD 837) To Enhance the Use of Integrated Pest Management on School Grounds was passed. It required the Board of Pesticide Control to develop and, in cooperation with schools, implement “best management practices” for the limited use of pesticides to care for school lawns, playgrounds and playing fields. Although this has no direct effect on youth camps, we know that regulation of schools often leads to regulation of other youth programs including camps. Once these “best practices” are promulgated, MYCA will distribute them to you so you may determine if you want to implement them.

Public Law Chapter 332 (LD 228) An Act To Revise Notification Requirements for Pesticide Application was passed. The bill repeals the laws that govern the development and maintenance of a registry of properties whose owners request that they receive advance notification of the outdoor application of pesticides. In the absence of such a registry, the current rules of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control will govern notification requirements in connection with the application of pesticides. In addition it directs the Board to modify its rules so that only properties within 1,000 feet of the sprayed area are eligible for notification.

Tax Laws

You will be happy to know that no tax laws negatively impacting youth camps were passed this year. The major threat was to non-profit property tax exempt camps and was, once again, proposals to charge them service fees for municipal services. All three of such proposals were defeated.

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PUBLIC Law, Chapter 393, LD 35, 125th Maine State Legislature An Act Relating to Concealed Firearms Locked in Vehicles HP0028, on - First Regular Session - 125th Maine Legislature, page 1

An Act Relating to Concealed Firearms Locked in Vehicles

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRS §600 is enacted to read:

§ 600. Concealed firearms in vehicles

1. Firearms in vehicles. An employer or an agent of an employer may not prohibit an employee who has a valid permit to carry a concealed firearm under Title 25, chapter 252 from keeping a firearm in the employee's vehicle as long as the vehicle is locked and the firearm is not visible. This subsection does not authorize an employee to carry a firearm in a place where carrying a firearm is prohibited by law.

2. Immunity from liability. An employer or an agent of an employer may not be held liable in any civil action for damages, injury or death resulting from or arising out of another person's actions involving a firearm or ammunition transported or stored pursuant to this section, including, but not limited to, the theft of a firearm from an employee's vehicle, unless the employer or an agent of the employer intentionally solicited or procured the other person's injurious actions. Nothing in this section affects provisions in the Maine Workers' Compensation Act of 1992.

Effective 90 days following adjournment of the 125th Legislature, First Regular Session, unless otherwise indicated.