

M E M O R A N D U M

TO: Maine Summer Camp (MSC) Members
FROM: Jack Erler
DATE: March 23, 2013
RE: Status of Governmental Affairs work by MYCA

Since the annual summer meeting of Maine Summer Camps, MYCA has been busy on your behalf. In addition to 2013 being a regular session of the Maine Legislature much has been going on at the Maine State agency level and at the federal government level. This report will deal with all three of these levels.

Maine Agency Matters

There are two matters at the agency level that MYCA has been working for some time now. Both appear to be nearing completion.

Camp Inspection Waivers. As you remember MYCA caused the law in Maine to change regarding camp inspections. Now under Maine's Health Inspection Program (HIP) the inspection cycle for camps will be at least once every two years. In addition, a camp may obtain a waiver from inspection on an annual basis by filing for an inspection waiver. ACA accredited camps and camps having passed their prior two inspections are eligible for a waiver. However, the waiver is at the discretion of HIP.

A waiver application will be sent out by HIP each year in the spring. Camps seeking a waiver should fill out and submit the application form. HIP will notify the camp whether a waiver has been granted. The waiver is effective only for the general camp inspection under Chapter 208 of the rules. HIP may still inspect your food service under the Food Code, Chapter 200 and your swimming pool or spa (if you have one) under Chapter 202. Finally, even if you are granted a waiver, HIP may still inspect you if there is some reason to believe that the camp is not in compliance with the Chapter 208 rules.

Trip Leader Permits. MYCA's Trip Leader Permit Committee, made up of Greg Shute, Chair, Reid Anderson, Ron Fournier, Spencer Ordway and Chris Wentworth and staffed by Mary Ellen and me, has essentially completed its work. It has drafted a revised curriculum and examination for the Trip Leader Safety Course. I have drafted amendments to the regulations which (1) reinstitute both a Trip Leader Permit and a Junior Maine Guide (JMG) Committee to serve at Maine's Department of Inland Fisheries & Wildlife (IF&W) and advise the Commissioner regarding program issues; (2) update the qualifications for Trip Leaders and Safety Course Instructors and (3) clarify the process to obtaining a Trip Leader Permit.

The Amended regulations are going through the IF&W administrative process and are expected to be promulgated before this summer. The effective date for the changes will not be until the summer of 2014.

Federal Law Matters

Camps employ international students as counselors and non-counselor staff under J-1 visa programs of the US State Department. The non-counselor staff program is called the Summer Work Travel (SWT) program. The State Department has been tightening up its rules concerning this program. A number of issues are being addressed. This memo will address only one.

Title 22 Code of Federal Regulations (CFR) Part 62, §62.32 spells out the requirements for the SWT program. Subpart (i) provides that camps pay SWT program employees at least minimum wage in states requiring minimum wage for non-counselor camp employees. In addition, the SWT program sponsor is required to report to the State Department failure of the camp to pay at that rate.

Maine is one of only seven states in the US requiring minimum wage for non-counselor employees. In Maine minimum wage is \$7.50 per hour for a maximum of 40 hours per week with overtime pay at one and half times the minimum wage rate. Historically Maine camps have calculated minimum wage by including the amount the camp has paid the SWT program sponsor for its fees (which include sponsor fees, travel & insurance) along with the amount the camp paid the non-counselor employee as wages and the value of room and board.

Some sponsors are challenging the inclusion of the amount the camp pays the sponsor for its fees; indicating that this amount is an employer expense not to be included as part of the employee's wages for minimum wage calculation. In Maine there is no law either prohibiting or permitting inclusion of the sponsor's fees in the calculation of minimum wage. There is an argument for each side of this issue. As of now this issue is unresolved.

The minimum wage calculation issue comes up in Maine (and six other states) because the sponsor's fees for SWT non-counselor camp employees program have historically been paid by the camp. The number of SWT program employees placed in camps is but a very small portion of the number of SWT program employees working in the US.

In all other non-camp SWT programs the sponsor's fees are paid by the international employees in their home country and not by the US employer. The US employer pays minimum wage and thus there is no issue.

The camp SWT program sponsors are taking different positions on resolving this issue. Some are requiring participating camps to pay the non-counselor employee minimum wage over and above the sponsor's fees. Some are suggesting ways for the camps to advance the sponsor's fees to the international employee so the employee can pay the fees and the camp can continue to count the sponsor's fees as a part of minimum wage. Some are indicating that they will collect all or a portion of their fees directly from the international employee thus removing the sponsor's fees as an expense of the camp.

Thus the best thing for camps to do now is interview sponsors to understand the approach taken to this matter by each and consulting their own attorney for the answers to any unresolved questions.

126 Legislature, 1st Regular Session

As a reminder the Maine Legislature meets each odd numbered year in Regular Session. This is the session in which somewhere between 1,500 and 2,000 bills are considered. To date I have reviewed 1,112 bills (or LDs as they are called). Mary Ellen has been sending you emails of the bills that may affect camps as I have reported them to MYCA. In addition, you can find them in the password protected "members" section of the MSC website.

Since the last email from Mary Ellen, the MYCA is monitoring or actively working the additional bills:

Gun Legislation

As you know MSC surveyed you on your position regarding gun legislation. The results of that survey are being handed out today. In addition, MYCA has used your input to direct its attention to Maine Gun Legislation. In summary MYCA will speak out and/or submit written statements on gun matters that affect children's safety in camp.

LD 958 An Act To Establish a Database To Prevent Individuals Involuntarily Admitted or Committed to a Mental Health Institution from Being Issued Concealed Handgun Permits. This bill directs the Department of Public Safety, State Bureau of Identification to establish and maintain a database of individuals admitted or committed involuntarily to a mental health institution who present a substantial threat of physical harm to themselves or to others. The database may only be used for the purpose of issuing permits to carry concealed handguns.

LD 997 An Act To Establish Restrictions on Ammunition Feeding Devices. This bill, with various exception for law enforcement officers, makes the possession, transfer or importation of an ammunition feeding device for a firearm a Class D crime. An ammunition feeding device is a device such as a magazine, belt, drum or other device that has a capacity of more than 10 rounds of ammunition.

Taxation

LD 936 An Act To Authorize Municipalities To Impose Service Charges on Tax-exempt Property Owned by Certain Nonprofit Organizations. This bill authorizes municipalities to impose service charges on owners of certain real property that is currently exempt from property tax including tax exempt camps. This the second bill to do so in this session.

LD 1110 An Act To Simplify the Tax Code. This bill repeals, for tax years beginning on or after January 1, 2015, the state income tax and broadens the sales tax to include the end use of all items, products and services. It repeals all sales tax exemptions.

Miscellaneous

LD 1062 An Act To Add Conditions That Qualify for Medical Marijuana Use. This bill amends the Maine Medical Use of Marijuana Act to add to the list of debilitating medical conditions for which a physician may certify the use of medical marijuana. The conditions added are post-traumatic stress disorder, opiate or pharmaceutical drug addiction and recovery and any other medical condition or its treatment as determined by a physician.

LD 1091 An Act To Require Nonprofit Corporations To Disclose the Salaries of Their Employees. The purpose of this bill is to make publicly available the salaries of employees of nonprofit corporations. This bill provides that this salary information must be provided on a nonprofit corporation's publicly accessible website, or through other comparable means, and must be provided to any member of the public upon request. This salary information must also be provided in the nonprofit corporation's annual report to the Secretary of State. Churches are not subject to the requirements of this bill.