

ANNUAL REPORT 2020 – 2021

As the COVID-19 pandemic continued to spread worldwide from 2019 into 2020, the Massachusetts legislature was struggling to start a new two-year session and begin its hearing process. This situation was even further exacerbated when the State House closed to the public March 10, 2020. The filing deadline for legislation to be introduced in the 192nd General Court of the Commonwealth of Massachusetts was extended by one-month allowing more time for the transition of new and present legislators. To date more than 4,500 bills have been proposed in the House and nearly 2,800 in the Senate. The Massachusetts Food Association is tracking approximately 300 of these proposals that could affect our industry. The House also chose a new Speaker in Representative Mariano after Representative DeLeo resigned his position as Speaker after serving from 2009 to 2020. New leadership and Chair positions were also filled. The legislature continues to meet “virtually” and may do so through the end of the calendar year. MFA will continue to monitor the legislature and all regulatory activity as hearings, meetings and discussions have all gone virtual. Below is a report on all legislative and regulatory issues the association has filed and dealt with over the past year beginning with a COVID-19 update:

COVID 19 UPDATE

When a pandemic was declared at the beginning of March 2020, Governor Baker declared a State of Emergency after the State House and all government agencies closed. Defined as essential workers, our industry continued to operate while under strict federal, state and local conditions. MFA continued to focus most of its’ work and attention towards advocating for our industry on any and all issues related to COVID that would affect us including discussions with the MA Department of Public Health (DPH), Executive Office of Labor & Workforce Development, MA Emergency Management Agency (MEMA), Office of Consumer Affairs and Business Regulations (OCABR), Division of Standards (DOS), Department of Family Medical Leave (DFML), etc., all while preparing for the new session. This included advocating for vaccine priority for our industry’s essential workers, the continuation of state and local guidance and orders, and individual and collective issues as they arose. MFA remained in constant discussion with the Baker administration and state officials as the state of emergency was lifted in June on issues such as senior hour requirements and the prohibition of self-serve stations, which both expired as the emergency was lifted.

MFA continues to advocate on behalf of the industry at local, state and federal levels as the pandemic continued through the summer and into the fall. By working closely with legislative counsel, MFA is in constant communication with the administration, Departments and agencies and local officials to represent our industry on all levels.

LEGISLATIVE UPDATE

Although off to a slow start, the legislature has been holding virtual public hearings as legislative proposals progress through the legislative process. Governor Baker has also signed a new fiscal year 2022 state budget spending plan into law. Legislative proposals filed by the Association for the present two-year session include the following:

- **H376 – An Act relative to retail sales.** This legislation would once again allow grocery stores/departments to sell food items by the piece with proper signage, weight requirements and disclosure. This would include pre-weighed items such as uncooked fish, mixed items such as stews, meat, poultry, etc. Hearing held August 2, 2021.
- **H458 – An Act to promote alcohol storage space.** This legislation would allow a food store to stock its licensed alcohol products for off-premise consumption sales in an off-premise bonded warehouse. Hearing held June 14, 2021.
- **H1588 – An Act relative to the theft of bulk merchandise containers.** This legislation establishes penalty provisions for the theft of such containers. Hearing TBD.
- **H372 – An Act restricting the sale of certain items at flea markets.** This legislation establishes penalty provisions for the sale of certain items at flea markets. Hearing held August 2, 2021.

TESTIMONY SUBMITTED TO DATE THIS YEAR:

- **OPPOSE** – REQUIRES ENTIRE STORE CLOSING FOR LIQUOR VIOLATION (H392));
- **OPPOSE** – IMPOSES SUGAR-BASED BEVERAGE TAX (H2529/S1709);
- **SUPPORT** – STATEWIDE PLASTIC BAG BAN (H902);
- **SUPPORT** – AMENDMENT TO CAGE-FREE 2016 LAW (H864, S36, S2481, S2470);
- **SUPPORT** – RETAIL SALE OF CERTAIN UNCOOKED FOODS BY-THE-PIECE (H376);
- **SUPPORT** – OFF-PREMISE ALCOHOL STORAGE SPACE FOR FOOD STORES (H458).

LEGISLATIVE ISSUES TO DATE THIS YEAR

SALE BY THE PIECE - Legislation sponsored on behalf of the association (H376) would allow food stores/departments to sell meat, poultry, seafood and combined ingredients by the piece, count or serving as opposed to the present limit that restricts sales to only weight. This would allow retailers to market servings by the piece or serving, such as fish, meat, seafood products or other certain products for a set price per serving. This was previously allowed under the former Director of the Division of Standards interpretation of the law, however a change in the law is needed to officially allow this practice of sale in MA. A public hearing was held August 2 at which MFA submitted testimony.

LIQUOR LICENSING - MFA formed a Liquor Sub-Committee for the new legislative session and continues to monitor the progress of liquor legislation through the session. The state licensing limit is presently set at 9 licenses per entity, the association supports legislation (H414) that would increase this limit phased in to eighteen by 2030 and legislation (H318) that would eliminate any cap on the number of liquor licenses and entity could hold. We continue to work with the liquor industry and the legislature to reach a compromise to increase the state limit of nine while protecting the independent and single liquor store operators.

PLASTIC BAGS - MFA continues efforts with environmental activist groups such as MASSPIRG, Sierra Club, Surfriders, etc., and MA Retail Association to create a statewide plastic bag ban supported by all groups. General consensus was reached with all the above-mentioned groups on a proposal that would: ban plastic bags; place a mandatory fee on paper and plastic until plastic was phased out, with the fee remaining on paper bags; state preemption of all local ordinances, and; adequate time for phasing in these requirements. MFA has re-grouped with the environmental and business associations to once again work towards getting a proposal passed. MFA will continue to strategize with legal counsel and activist groups to gain support at the state level.

CAGE FREE STANDARDS – As of this writing, legislation reforming standards for housing egg-laying hens, pigs, and veal calves is before a six-member panel of three House and three Senate members assigned to reach a compromise between the differences in both the House (H4194) and Senate versions (S2481) of their respective proposals. The two bills seek to update a 2016 ballot law that set standards for the amount of space required for the animals. Both versions of the legislation allow producers to keep hens in cages with 1 square foot of floor space if the hens have access to vertical aviaries instead of 1.5 square feet as called for in the ballot law. Horizontal or cage-free egg farms will have to comply with the 1 square foot law as of January 1, 2022 to operate and have their products sold in Massachusetts. The bills differ on the implementation of standards for raising pigs, with the House proposing to delay them until 2023. The House, unlike the Senate, also voted to provide the Department of Agricultural Resources the power to refer violations to the attorney general who can hand out a fine of up to \$1,000. The Senate passed the bill in June, the House in October. The legislation should be finalized before the holidays.

MINIMUM WAGE - Massachusetts is in its third year of a five-year annual increase in the state's minimum wage rate, setting this year's minimum at \$13.50 per hour rising to \$14.25 next year. The original 1.5x premium pay rate for Sundays and certain holidays drops each year 1/10 of 1% until the premium rate is gone in 2023. For 2021 it is at 1.2% and drops next year to 1.1%.

PAID FAMILY & MEDICAL LEAVE (PFML) - The, state-run paid family medical leave program for employees allowing them to accrue paid time off for any newborn, adoption or medical issue they, their family members or others may have that require assistance began January 1, 2021. It does not require employers to pay any premium towards paid family leave for their employees. New rates were calculated and reported October 1, 2021 as required by the law.

MA STATE FISCAL STATUS – On July 16 Governor Baker signed a \$47.6 billion fiscal year 2022 budget into law, which increased to \$48.1 billion after the legislature gave their final approval. The state received an extra \$4.2 billion in tax revenues above expectations through the first six months of the calendar year, and reported that for the month of September, revenue was 27% higher this year than it was in September 2020 last year, approximately \$3.99 billion or 14.3% higher than forecast. All with the legislature deciding to put on hold any spending of the nearly \$5 billion the state has received in federal funds to date.

U/I ASSESSMENT – As unemployment rates soared due to the pandemic, the state's unemployment insurance fund became insolvent, with employers seeing their April U/I solvency assessment bills increase nearly ten-fold. To offset the sharp increase the legislature established a new fund with \$7 billion borrowed to pay it down with employers getting twenty years to pay back the borrowed money.

REGULATORY UPDATE

MFA continued to respond to member inquiries, serve on numerous state advisory boards, committees, and task forces, including:

- **ALCOHOLIC BEVERAGE CONTROL COMMISSION (ABCC)** – Continue to participate in ABCC group meetings as appropriate, communication with Executive Director ongoing and as appropriate.
- **DEP'S ORGANICS SUB-COMMITTEE** – Continue to participate on Sub-Committee as appropriate to continue organics diversion, exploring lowering threshold of ban to those who produce 1/2 ton/week of organic waste (now 1 ton), continue work with members and DEP on relevant issues as appropriate.
- **DEPT OF TRANSITIONAL ASSISTANCE (DTA)** – Maintain relationship with the Department and staff for communication and informational purposes, continued to work with the Department during COVID outbreak to communicate information and respond to requests.
- **FOOD ESTABLISHMENT ADVISORY COMMITTEE (FEAC)** – Continue membership on the Committee however due to the pandemic meetings have been suspended for the time being.
- **GREATER BOSTON FOOD BANK** – Advisory Committee.
- **MA HEALTH CONNECTOR** – Continue participation in Health Connector Advisory Council as appropriate.
- **WIC ADVISORY COUNCIL AND WIC VENDOR ADVISORY COUNCIL** - Liaison continues between the WIC office and members on COVID and other related issues.
- MFA continued to serve as a liaison between members and other state regulatory agencies and departments such as the Department of Public Health, the Attorney General's office, the Division of Standards and others to foster discussion and seek resolution to situations faced by members.
- MFA continued to work with other trade groups and industries including business organizations (AIM, RAM) taxpayer foundations (MTF), restaurants (MRA), small business (NFIB) and others on issues that affect all our industries, including wages, health care, automated sales tax remittance, employee leave and benefit proposals and other related issues through the pandemic.

LOCAL ISSUES UPDATE

Mainly due to the pandemic, town meeting proposals to ban plastic bags, packaging restrictions, beverage bottles, bottled water and straw bans were not as prevalent as in previous years. However, as the round of spring town meetings begins to pick up next year, we are sure to see more of them being proposed. MFA continues to utilize an alert system to identify issues as they are proposed in municipalities; a notification process to affected members in the municipality and procedures for disseminating testimony, information and talking points to affected members as appropriate. MFA also continues to work with other industry groups such as the MA Beverage Association on bottled water bans.

EMERGENCY PREPAREDNESS UPDATE

MFA continued its participation with the Massachusetts Emergency Management Agency (MEMA) serving as a member of its MA Emergency Support Function 5 (MAESF-5). MAESF-5's function is to represent the business community and the private sector, and is responsible for providing a framework of coordination and cooperation among public and private sector partners before, during, and after disasters, emergencies, or planned events in Massachusetts. MEMA calls for close collaboration between public and private sector partners over all phases of emergency management to improve community resilience and ensure effective use of resources during incidents. As outlined in the MAESF-5 *Business and Industry* annex, the duties of the Association include:

- Provide information and situational awareness on the status, location, needs, and available resources of food retailers, distribution centers, wholesalers, and distributors.
- Work with member organizations to develop a list of critical commodities that can be pre-positioned in advance of an event.
- Provide staffing for the MAESF-5 work station at the SEOC as needed.
- Act as a conduit for providing situational awareness and information on ongoing operations from the SEOC to member organizations.
- As requested, coordinate private sector resources to support SEOC operations.
- As needed, obtain information from member organizations to provide to the SEOC.

MFA continued to serve on MEMA's Hurricane Working Group and its Mass Feeding Working Group during the hurricane seasons.

COMMUNICATION

- MFA continued to serve as the leading voice of the state's grocery and supermarket industry, responding to media inquiries, participating in editorials and webinars on important issues on behalf of the entire industry.
- MFA is in constant communication with members and the public through weekly publications, editorials, articles and publications in media outlets.
- MFA maintained its website to keep members informed and up to date on Association and industry related issues. In addition, MFA continued to grow our social media platform to reach a broader audience of the membership and beyond.

ASSOCIATION STATUS, FINANCES & SOCIAL EVENTS

- MFA continued to remain in a strong position both fiscally and in membership development. MFA continued to remain financially strong while dealing with unprecedented conditions from the pandemic.
- MFA continued to work with regional and state organizations such as the Food Industry Association Executives (FIAE), the National Associations including the Food Marketing Institute (FMI), the National Grocers Association (NGA) and others to further the causes of the industry.
- MFA's Annual Convention held "virtually" over Memorial Day Weekend was once again a financial success for the Association and exceeded expectations in the pandemic. Due to sponsorships and other financial contributions the Association is in a strong financial position as the pandemic continues.