

April 28, 2015

Hon. Maura Healey, Attorney General  
Commonwealth of Massachusetts  
One Ashburton Place  
Boston, MA 02108

Re: Executive Order # 562

Dear Attorney General Healey:

We write to express grave concern pertaining to Governor Baker's recently released Executive Order #562 ("EO"), requiring review and sunseting of all state regulations. We do so on behalf of a large, broadly based coalition representing residents across the Commonwealth involved in business, labor, public health, environmental protection, human services and consumer protection. Please note the following:

First, we fully support regular and objective regulatory reviews, as have been performed during the administrations of Governors Weld, Romney and Patrick.

Second, we agree that all regulations should be clear, concise, and effective in accomplishing the objective for which they were intended.

However, we are deeply concerned with the significant differences in language between this EO and all previous regulatory reviews. No prior review mandated that all state regulation "...does not exceed federal requirements." The Commonwealth has benefitted greatly by determining its own standards that meet our needs in healthcare, biotech, energy efficiency, environmental protection, consumer protection, among others. It would be a grave mistake to rely upon "default" federal standards that are often intended as a minimum floor, not a ceiling. In fact the economy of the Commonwealth has flourished due to our national leadership and innovation, and our citizens have been better protected in terms of civil rights, consumer protection and our public health.

Furthermore, we are deeply concerned the language of this EO is vague, overly broad and subjective resulting in unenforceable standards and unlimited discretion. For example, the EO requires that regulations result in "...no adverse affect on MA citizens or customers or on the competitive environment of the Commonwealth." Query, who is a "customer" of the Massachusetts? And, almost by definition, do not virtually all regulations affect someone or some industry's competitive environment?

As you also know, many regulations were written to protect the most vulnerable in our society and are not readily evaluated in terms of our "competitive environment" or any other "cost/benefit" analysis. Without greater clarification, they are all now at risk.

A few examples may be helpful, as follows:

Elder services: State Medicaid covers personal care attendants and is finalizing certification for community health workers. Federal Medicaid regulations do not require coverage. The result often allows seniors, disabled and chronically ill to delay transitioning to more costly hospitals or nursing facilities. These regulations would be at risk.

Public Health: The Commonwealth has much stricter regulations than the federal government on toxic chemicals and pollutants such as perchlorate, mercury, diesel, etc. which contaminate our water supply and air. These regulations would be at risk.

In the aftermath of the tragedy from the unsafe compounding of pharmaceuticals by the New England Compounding Center, state regulations will exceed federal requirements...and should.

Environment: Governor Romney's earlier anti-pollution regulations designed to curb emissions by the Commonwealth's "Filthy Five" power plants, exceeded federal requirements at the time. In fact, these regulations drove technology innovation, enabling the federal government to "catch up" years later and issue similar national standards.

The Commonwealth's wetland protection regulations do a better job of protecting natural habitat and providing buffers against rising tides and flooding than federal regulations.

And the highly regarded Regional Greenhouse Gas Initiative ("RGGI"), supported by nine Northeast states, including Massachusetts and Governor Baker, exceed US EPA requirements for clean power.

Business: All regulations since 2010 already require a small business impact review. Vague standards for the current review will create regulatory uncertainty for the next several years. Inevitably, uncertainty in the business community will limit investment. In addition, CEOs and businesses locate and expand in the Commonwealth, despite the cost of doing business, largely because of our superior healthcare and environment. And they attract and retain a skilled workforce because of our national leadership and values.

Labor: Occupational health and safety is also important and often exceeds federal standards. The Commonwealth's building codes, fire safety and toxic regulations will be at risk.

The business of government is not merely to protect business from regulations. It is also to protect the common good for our most vulnerable citizens, our public health and our environment.

Therefore, in view of our concerns about the vagueness and over breadth of EO # 562, we urge your office to monitor its implementation carefully. And we further urge you to use your good offices to speak on behalf of the protection of our most vulnerable citizens, our civil rights, our public health and our consumer and environmental protection regulations which make the Commonwealth a special place.

Sincerely,

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Environmental League of Massachusetts  
Union of Concerned Scientists  
Mass Audubon  
Alliance for Business Leadership  
Greater Boston Legal Services  
Massachusetts Coalition For Occupational Safety And  
Health (MassCOSH)  
Massachusetts Law Reform Institute  
Massachusetts Public Health Association  
Metropolitan Area Planning Council  
Health Care Without Harm  
National Consumer Law Center  
Saunders Hotel Group  
Acadia Center  
Appalachian Mountain Club  
Association to Preserve Cape Cod  
Better Future Project  
Charles River Watershed Association  
Clean Water Action  
Conservation Law Foundation  
Environment Massachusetts  
Environmental Entrepreneurs (E2)  
Massachusetts Association of Conservation Commissions  
Mass Energy Consumers Alliance  
Massachusetts Land Trust Coalition  
Massachusetts PipeLine Awareness Network  
Massachusetts Rivers Alliance  
Nashoba Conservation Trust  
National Wildlife Federation  
Sierra Club, MA Chapter  
The Nature Conservancy  
The Trustees of Reservations  
Toxics Action Center

List in formation.

cc.

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