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LC03190  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2006**

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A N A C T

RELATING TO HEALTH AND SAFETY - LICENSING OF MASSAGE THERAPY  
ESTABLISHMENTS

Introduced By: Representative John J. McCauley

Date Introduced: May 23, 2006

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 23-20.8-1, 23-20.8-8 and 23-20.8-11 of the General Laws in  
2 Chapter 23-20.8 entitled "Licensing of Massage Therapy Establishments" are hereby amended to  
3 read as follows:

4           **23-20.8-1. Definitions.** -- As used in this chapter:

5           (1) "Massage therapy establishment" means any corporation, partnership, unincorporated  
6 association, or other business enterprise ~~operating any business for the practice of massage; that~~  
7 advertises massage therapy or offers massage therapy as a service;

8           (2) "Massage therapist" means a person engaged in the practice of massage who has  
9 completed a program in or is certified by a school or institution of learning which is approved by  
10 the American massage and therapy association or equivalent academic and training program  
11 approved by the director of health, other than a correspondence course, which school or  
12 institution has for its purpose the teaching of the theory, practice, method, profession, or work of  
13 massage, including at least anatomy, physiology, hygiene, and professional ethics; .or, a person  
14 who practices or administers massage therapy to a client for compensation. The term includes a  
15 licensed massage therapist, muscular therapists, therapeutic massage practitioner, and massage  
16 technician. Additionally, for the purposes of enforcement of this act, though not recognized or  
17 accepted by the American Massage and Therapy Association, terms include: masseur, masseuse,  
18 myotherapist, and/or services performed by a body massager, body rubber, relaxation therapist,

1 stress reducer or any derivation of those titles.

2 (3) "Physical fitness facility" means any bona fide health club which offers or provides  
3 facilities for any instruction in controlled exercise, weight lifting, and calisthenics and its gross  
4 income from massages is less than ten percent (10%) of the total gross business income derived  
5 from all physical fitness sales contracts at any one location;

6 (4) "Practice of massage" or "massage therapy" ~~means engaging in applying a scientific~~  
7 ~~system of activity to the muscular structure of the human body by means of stroking, kneading,~~  
8 ~~tapping, and vibrating with the hands or vibrators for the purpose of improving muscle tone and~~  
9 ~~circulation.~~ means the manipulation of soft tissue by hand or through a mechanical or electrical  
10 apparatus for the purpose of body massage and includes effleurage (stroking), petrissage  
11 (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish  
12 gymnastics. The terms include "massage," "therapeutic massage," "massage technology," and  
13 "myotherapy." Additionally, for the purposes of enforcement of this act, though not recognized or  
14 accepted by the American Massage and Therapy Association, terms include: "body massage,"  
15 "body rub," "relaxation therapy," "stress reduction" or any derivation of those terms are  
16 synonyms for "massage therapy" or the "practice of massage."

17 (5) "Other Massage Services" and/or "Spa Services" includes any services offered or  
18 performed for compensation at a massage establishment that involve physical contact with a  
19 client, and may include the use of oil, lubricants, salt glow, a heat lamp, a hot and cold pack, hot  
20 stones or a shower, tub, jacuzzi, sauna, steam or cabinet bath or any derivation of those services.

21 **23-20.8-8. Access and inspection powers.** -- For the purpose of this chapter, the director  
22 or his or her duly authorized agents or employees shall at all reasonable times have authority to  
23 enter upon any and all parts of the premises on which any massage therapy establishment is  
24 located and of the premises appurtenant to these premises to make any examination or  
25 investigation for the purpose of determining whether the provisions of this chapter and any rules  
26 or regulations of the department are being violated.

27 (a) The department of health or its authorized agents or employees shall at all reasonable  
28 times have authority to enter upon any and all parts of the premises on which any massage  
29 therapy establishment is located and of the premises appurtenant to these premises to make an  
30 examination or investigation for purposes of determining whether the provisions of this chapter  
31 and any rules and regulations of the department are being violated.

32 (b) A peace officer appointed or employed by a law enforcement agency of a political  
33 subdivision of this state shall enter the premises of a massage establishment to ensure compliance  
34 with this chapter and rules adopted under this chapter when probable cause exists that the

1 establishments is not in compliance with this chapter and the rules adopted under this chapter.

2 **23-20.8-11. Penalties.** -- (a) Any person who practices massage or maintains a massage  
3 therapy establishment, or acts in any capacity where a license is required by this chapter, without  
4 a license provided for in this chapter, shall be ~~guilty of a misdemeanor and subject to a fine of up~~  
5 ~~to one thousand dollars (\$1,000) or thirty (30) days in jail.~~ guilty of practicing a massage without  
6 a license or maintaining a massage therapy establishment without a license. For the first offense,  
7 any person found guilty shall be punished by imprisonment for not more than one year and not  
8 more than two thousand dollars (\$2,000). For every subsequent offense that person shall be  
9 punished by imprisonment for not less than one year and not more than five (5) years and a fine  
10 of not less than two thousand dollars (\$2,000), nor more than five thousand dollars (\$5,000).

11 (b) Any owner, operator, manager, or licensee in charge of or in control of a massage  
12 therapy establishment who knowingly employs a person who is not licensed as a massage  
13 therapist, or who allows an unlicensed person to perform, operate, or practice massage ~~is guilty of~~  
14 ~~a misdemeanor and subject to a fine of up to one thousand dollars (\$1,000) and thirty (30) days in~~  
15 ~~jail.~~ shall be found guilty. For the first offense, any person found guilty shall be punished by  
16 imprisonment for not more than three (3) years and not more than five thousand dollars (\$5,000).  
17 For every subsequent offense that person shall be punished by imprisonment of not less than three  
18 (3) years and not more than five (5) years and a fine of not less than five thousand dollars  
19 (\$5,000), nor more than ten thousand dollars (\$10,000).

20 (c) Any owner, operator, manager or licensee in charge of or in control of a massage  
21 therapy establishment that is being operated in violation of the rules and regulations promulgated  
22 under this chapter shall be found criminally liable. For the first offense, any person found guilty  
23 shall be punished by imprisonment for not more than three (3) years and not more than five  
24 thousand dollars (\$5,000). For every subsequent offense hat person shall be punished by  
25 imprisonment of not less than three (3) years and not more than five (5) years and a fine of not  
26 less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000).

27 ~~(e)~~(d) The practice of massage by a person without a license issued under this chapter is  
28 declared to be a danger to the public health and welfare. In addition to any other civil, criminal, or  
29 disciplinary remedy, the attorney general or prosecuting attorney of any municipality where the  
30 person is practicing, or purporting to practice, may maintain an action to enjoin that person from  
31 practicing massage until this person secures a valid license.

32 ~~(d)~~(e) Any owner, operator, manager, or licensee in charge of or in control of a massage  
33 therapy establishment shall register with the department of health.

34 SECTION 2. Chapter 23-20.8 of the General Laws entitled "Licensing of Massage

1 Therapy Establishments" is hereby amended by adding thereto the following sections:

2 **23-20.8-3.1. Practice by massage establishment or massage practioners. -- (a) A**  
3 massage establishment may employ only licensed massage therapists to perform massage therapy  
4 or other massage services.

5 (b) A massage establishment or massage practioner shall not:

6 (1) Employ an individual who is not a United States citizen or a legal permanent resident  
7 with a valid working permit.

8 (2) Employ a minor unless the minor's parents or legal guardian authorizes in writing the  
9 minor's employment by the establishment.

10 (3) Allow nude or partially nude employees to provide massage therapy or other massage  
11 services to a customer.

12 (4) Initiate or engage in any sexual conduct, sexual activities or sexualizing behavior  
13 involving a client, even if the client attempts to sexualize the relationship in the massage  
14 establishment.

15 (5) Allow any individual, to practice massage therapy in the nude or in clothing designed  
16 to arouse or gratify the sexual desire of any individual.

17 (c) A massage establishment shall:

18 (1) Properly maintain and secure for each client the initial consultation documents,  
19 related billing records, as well as any session notes, subject to the federal HIPPA regulations; and

20 (2) Make available to the department on request the information kept as provided by  
21 subsection (1).

22 (d) For purposes of this section applicable to Massage Establishments or Massage  
23 Practitioners:

24 (1) "Nude" means a person who is;

25 (a) Entirely unclothed; or

26 (b) Clothed in a manner that leaves uncovered or visible through less than fully opaque  
27 clothing any portion of the breasts below the top of the areola of the breasts or any portion of the  
28 genitals or buttocks.

29 (2) "Sexual Contact" includes:

30 (a) Any touching of any part of the genitalia or anus.

31 (b) Any offer or agreement to engage in any activity described in paragraph (a) or (b).

32 (c) Deviate sexual intercourse, sexual contact, sexual intercourse, indecent exposure,  
33 sexual assault, prostitution, and promotions of prostitution as described in sections 11-34-1.1 and  
34 11-34-1.3, or any offer or agreement to engage in such activities.

1 (d) Any behavior, gesture, or expression that may reasonably be interpreted as  
2 inappropriately seductive or sexual; or

3 (e) In appropriate sexual comments about or to a client including sexual comments about  
4 a person's body.

5 **23-20.8-3.2. Prohibited practices. --** A person who is not registered under this chapter  
6 may not use the word "massage" on any form of advertising unless the person is expressly exempt  
7 from the registration requirements of this chapter.

8 **23-20.8-6.1. Violations. –** (a) The department may assess reasonable expenses and costs  
9 against a person in an administrative hearing, if, as a result of the hearing, an administrative  
10 penalty is assessed against the person. The person shall pay expenses and costs assessed under  
11 this subsection not later than the thirtieth (30<sup>th</sup>) day after the date the order of the director or the  
12 director's designee requiring the payment of expenses and costs is final. The department may  
13 refer the matter to the attorney general for collection of expenses and costs.

14 (b) The attorney general, a municipal attorney or the department may institute an action  
15 for injunctive relief to restrain a violation by a person who:

16 (1) Appears to be in violation of or threatening to violate this chapter or a rule adopted  
17 under this chapter.

18 (2) Is operating an establishment that offers massage therapy or other massage services  
19 regulated by this chapter and is not licensed under this chapter.

20 (c) The attorney general, a municipal attorney or the department may institute an action  
21 to collect a civil penalty from a person who appears to be in violation of this chapter or a rule  
22 adopted under this chapter. The amount of a civil penalty shall not be less than one thousand  
23 dollars (\$1,000) nor more than ten thousand dollars (\$10,000) for each violation.

24 **23-20.8-12. Effect on local law. --** (a) Except as provided by subsection (b), this chapter  
25 supersedes any regulations adopted by a political subdivision of this state relating to the licensing  
26 or regulation of massage therapists.

27 (b) This chapter does not affect a local regulation that:

28 (1) Relates to zoning requirements or other similar regulations for massage  
29 establishments.

30 (2) Authorizes or requires an investigation into the background of an owner or operator  
31 of, or an investor in, a massage establishment.

32 (c) A political subdivision may not adopt a regulation of the type described in subsection  
33 (b) that is more restrictive for massage therapists or massage establishments than for other health  
34 care professionals or establishments. This chapter may not be construed to limit a municipality's

1 [authority to regulate establishments that offer bathing or showering services.](#)

2 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO HEALTH AND SAFETY - LICENSING OF MASSAGE THERAPY  
ESTABLISHMENTS

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- 1           This act would expand the definition of massage therapy and increase the penalty for
- 2 practicing massage or maintaining a massage therapy establishment without a license.
- 3           This act would take effect upon passage.

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