

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 831

7 H.P. 559

House of Representatives, February 28, 1985

8 On Motion of Representative Brannigan of Portland, referred to the  
9 Committee on Business and Commerce. Sent up for concurrence and ordered  
10 printed.

EDWIN H. PERT, Clerk

Presented by Representative Soucy of Kittery.

11 Cosponsored by Representative Murphy of Berwick, Representative  
McPherson of Eliot and Senator Najarian of Cumberland.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT Regulating Places where Massages are  
18 Given and their Employees.  
19

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

22 32 MRSA c. 105 is enacted to read:

23 CHAPTER 105

24 MASSEURS AND MASSEUSES

25 §9901. Definitions

26 As used in this chapter, unless the context oth-  
27 erwise indicates, the following terms have the fol-  
28 lowing meanings.

29 1. Commissioner. "Commissioner" means the Com-  
30 missioner of Business, Occupational and Professional  
31 Regulations.

1        2. Compensation. "Compensation" means the re-  
2 ceipt of:

3        A. Money, goods, services or other things of  
4 value; or

5        B. A promise to deliver money, goods, services  
6 or other things of value.

7        3. Department. "Department" means Department of  
8 Business, Occupational and Professional Regulation.

9        4. Licensee. "Licensee" means a person to whom  
10 a license has been issued pursuant to this chapter.

11        5. Massage. "Massage" means to instill a system  
12 of activity in the muscular structure of the human  
13 body by applying to the human body pressure, fric-  
14 tion, rolling, stroking, tapping, kneading, cupping,  
15 petrissage, rubbing, effleurage, tapotement or vibra-  
16 tion, by manual or mechanical means, and with or  
17 without appliances or external baths, for any pur-  
18 pose, including, but not limited to, improving muscle  
19 tone and circulation, body slenderizing, body reduc-  
20 ing, body contouring or maintaining good health or  
21 physical condition. "Massage" includes, but is not  
22 limited to, oil rubs, salt glows, hot or cold packs,  
23 steam baths, cabinet baths, sauna baths and sitz  
24 baths. "Massage" does not include colon irrigation.

25        6. Massage establishment. "Massage establish-  
26 ment" means a place where, for compensation, massage  
27 is performed or taught.

28        7. Masseur or masseuse. "Masseur" or "Masseuse"  
29 means a person who massages or teaches other persons  
30 how to massage.

31 §9902. License required; exceptions

32        1. License required. No person may:

33        A. Act as a masseur or masseuse for compensation  
34 without holding a valid license issued pursuant  
35 to this chapter;

- 1           B. Own or operate a massage establishment with-  
2           out holding a valid license issued pursuant to  
3           this chapter;
- 4           C. Fail to comply with a rule adopted by the  
5           commissioner pursuant to this chapter;
- 6           D. Violate any other provision of this chapter;  
7           or
- 8           E. If an owner or operator of a massage estab-  
9           lishment, employ as a masseur or masseuse any  
10           person not holding a valid license issued pursu-  
11           ant to this chapter.

12           2. Exceptions. This chapter does not apply to:

- 13           A. Any person licensed under any other provision  
14           of law, or any person employed by such a person,  
15           when engaged in any activity authorized by that  
16           other provision of law; or
- 17           B. Athletic trainers to the extent that they are  
18           performing bona fide training services for an  
19           athletic team located or trained within this  
20           State.

21           §9903. License qualifications

22           1. Individual license. To qualify for a license  
23           as a masseur or masseuse, an applicant shall meet the  
24           following requirements:

- 25           A. Be at least 18 years of age on the date of  
26           the license application;
- 27           B. Be of good moral character;
- 28           C. Provide such evidence as the commissioner may  
29           require that, within the 10 years immediately  
30           preceding the date of the license application, he  
31           has not been convicted, in this or any other  
32           state, of a sexually related crime or a crime in-  
33           volving moral turpitude; and
- 34           D. Provide a certificate signed by a licensed  
35           physician stating that the physician examined the

1 applicant within the 30 days immediately preced-  
2 ing the date of the license application and that,  
3 at that time, the applicant was free from any in-  
4 fectious or communicable disease.

5 2. Establishment license. To qualify for a mas-  
6 sage establishment license, a applicant shall meet  
7 the following requirements:

8 A. If an individual, be at least 18 years of age  
9 on the date of the license application and, if  
10 other than an individual, provide proof that no  
11 officer, employee or member of the applicant is  
12 less than 18 years of age on the date of the li-  
13 cence application;

14 B. Be of good moral character;

15 C. Provide such evidence as the commissioner may  
16 require that, within 10 years immediately preced-  
17 ing the date of the license application, the ap-  
18 plicant has not been convicted, in this or any  
19 other state, of a sexually related crime or a  
20 crime involving moral turpitude; and

21 D. Provide such evidence as the commissioner may  
22 require that the premises for which the license  
23 is sought has, at the time of the license appli-  
24 cation:

25 (1) Continuous hot and cold running water;  
26 and

27 (2) A supply of towels, sheets and other  
28 linens, or paper substitutes for those  
29 linens, and equipment adequate to satisfy  
30 the sanitation requirements which the com-  
31 missioner shall by rule prescribe.

32 §9904. Licensure

33 1. Issuance of license. The commissioner shall  
34 license any applicant who:

35 A. Makes written application on such forms as  
36 the commissioner shall provide;

- 1           B. Meets the requirements of this chapter; and  
2           C. Pays an application fee in such an amount as  
3           the commissioner shall establish.

4           2. Renewal. All licenses issued pursuant to  
5           this section must be renewed on or before December  
6           31st of the 2nd year following issuance or at such  
7           other times as the commissioner may designate. The  
8           department shall notify every person registered under  
9           this chapter of the date of expiration of his license  
10           and the amount of fee, established by the commissioner,  
11           required for its renewal. The notice shall be  
12           mailed to the person's last known address at least 30  
13           days in advance of the expiration date of the li-  
14           cence.

15           §9905. Reciprocity

16           The commissioner may waive any requirements for  
17           licensure, except those set out in section 9903, for  
18           any applicant who, on the date of the license appli-  
19           cation, holds a valid license issued by any other  
20           state, territory or possession of the United States  
21           if:

22           1. Licensing requirements. The requirements for  
23           licensure in that other state, territory or posses-  
24           sion are not less strict than the requirements of  
25           this chapter; and

26           2. Privileges to licensees. If the state, ter-  
27           ritory or possession affords an equal or greater  
28           privilege to licensees of this State.

29           §9906. Suspension, revocation and refusal to issue  
30           or to renew license

31           The commissioner shall investigate or cause to be  
32           investigated all complaints made to him and all cases  
33           of noncompliance with or violation of this chapter.  
34           The commissioner may suspend or revoke a license pur-  
35           suant to Title 5, section 10004. The commissioner  
36           may refuse to issue or renew a license or the Admin-  
37           istrative Court may revoke, suspend or refuse to re-  
38           new a license of any person licensed under this chap-  
39           ter for any of the following reasons:

1           1. Obtaining license by fraud. Knowingly making  
2 any false statement regarding the application for,  
3 issuance of or retention of a license;

4           2. Violation of any lawful order, rule. Violat-  
5 ing any lawful order or rule adopted by the commis-  
6 sioner;

7           3. Violations. Violating any provision of this  
8 chapter;

9           4. Conviction of a crime. Being convicted of a  
10 crime in any court of the United States, if the acts  
11 for which the person is convicted are found by the  
12 commissioner to have a direct bearing on whether the  
13 person should be entrusted to serve the public in a  
14 capacity which is subject to license under this chap-  
15 ter, subject to the limitations of Title 5, chapter  
16 341; or

17           5. Certain conduct. Repeated acts or continued  
18 conduct while serving customers which is dangerous or  
19 injurious, or potentially so, to customers.

20           §9907. Rules

21           The commissioner may, in accordance with the  
22 Maine Administrative Procedure Act, Title 5, chapter  
23 375, adopt such rules as may be reasonably necessary  
24 for the proper performance of his duties and the ad-  
25 ministration of this chapter.

26           §9908. Violations

27           Any person who violates this chapter or any rule  
28 or order issued pursuant to this chapter is subject  
29 to a civil penalty of not more than \$5,000 for each  
30 violation. Each day of violation shall constitute a  
31 separate violation.

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STATEMENT OF FACT

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The purpose of this bill is to require the licensing of massage establishments and of masseurs and masseuses.

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