

1 House BILL NO. 592
2 INTRODUCED BY Murphy by request

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
5 REGULATION AND LICENSING OF PUBLIC MASSAGE PARLORS AND
6 PUBLIC BATHHOUSES WITHIN THE STATE OF MONTANA, AND THEIR
7 EMPLOYEES AND ATTENDANTS, DEFINING OFFENSES AND FIXING
8 PENALTIES FOR VIOLATIONS."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Purpose. It is legislative policy that the
12 operation of public massage parlors and public bathhouses in
13 the state of Montana, including the licensing of public
14 massage parlor and public bathhouse employees and
15 attendants, shall be regulated and licensed for the
16 protection of the interest, health, and welfare of the
17 people of the state of Montana.

18 Section 2. License required -- public massage parlor
19 -- public bathhouse. No person may conduct, operate, or
20 maintain a public massage parlor or a public bathhouse
21 without first obtaining a license as provided in this act.

22 Section 3. License required -- employee -- attendant.
23 No person may act as a public massage parlor attendant or as
24 a public bathhouse attendant without first obtaining a
25 license as provided in this act.

1 Section 4. Definitions. As used in this act:

2 (1) "Massage" means the method, art, or science of
3 treating the human body for hygienic, remedial, or
4 relaxational purposes by rubbing, stroking, kneading,
5 tapping, rolling, or manipulating the human body of another
6 with the hands, or by any other agency or instrumentality.
7 This includes the use, in connection with massage treatment,
8 of heat lamps, electric cabinets designed to produce heat,
9 steam baths given by cabinet or any other method, mineral
10 baths either as complete or partial baths, baths by tub or
11 shower or otherwise, baths administered hot or cold, using
12 water, natural mineral water, a formula, or other liquid or
13 substance.

14 This definition does not include manipulation of the
15 human body in the course of the practice of medicine,
16 surgery, osteopathy, chiropractic, chiropody, naturopathy,
17 dentistry, nursing, physical therapy, optometry, or any
18 other of the healing arts, including masseurs and masseuses
19 licensed under section 66-2903 and section 66-2904, R.C.M.
20 1947, by persons licensed by the state of Montana to
21 practice those healing arts.

22 (2) "Person" means any individual, firm, partnership,
23 association, corporation, company, or organization of any
24 kind.

25 (3) "Public massage parlor" means a place within the

1 state of Montana where massages are given or furnished for,
2 or in expectation of, any fee, compensation, or monetary
3 consideration.

4 (4) "Public bathhouse" means a place within the state
5 of Montana where baths or facilities for baths of any kind
6 are given or furnished for, or in expectation of, any fee,
7 compensation, or monetary consideration including, but not
8 limited to:

- 9 (a) finnish baths;
- 10 (b) russian baths;
- 11 (c) sauna baths;
- 12 (d) swedish baths;
- 13 (e) turkish baths;
- 14 (f) baths by hot air, steam, vapor, water or electric
15 cabinet.

16 This definition does not include baths or facilities
17 for baths where no attendant or other person administers, or
18 holds himself out as administering, massage treatment,
19 either by physical manipulation of the body or by the use of
20 equipment.

21 (5) "Masseur, masseuse" means a male person, or a
22 female person, respectively, who practices massage, or holds
23 himself or herself out as practicing massage, for, or in
24 expectation of, any fee, compensation, or monetary
25 consideration.

1 (6) "Public message parlor attendant" means a person
2 who administers to, or performs services to, patrons of a
3 public message parlor or who supervises the work of any
4 other person administering to, or performing services to
5 such patrons, excepting masseurs and masseuses licensed
6 under the provisions of Title 66, chapter 29, R.C.M. 1947.

7 (7) "Public bathhouse attendant" means a person who
8 administers to, or performs services to, patrons of a public
9 bathhouse or who supervises the work of that person. The
10 term does not include a person who performs only custodial
11 or janitorial work.

12 (8) "License" means a certificate issued by the state
13 of Montana, department of professional and occupational
14 licensing, authorizing the holder to:

- 15 (a) act as a public message parlor attendant; or
- 16 (b) to act as a public bathhouse attendant; or
- 17 (c) to operate a public bathhouse; or
- 18 (d) to operate a public message parlor.

19 (9) "Department" means the department of professional
20 and occupational licensing.

21 Section 5. Exemptions. (1) When no fee,
22 compensation, or any other monetary consideration is charged
23 or paid, directly or indirectly, for a massage the
24 provisions of this act do not apply to:

- 25 (a) persons giving massage treatments or baths in a

1 private residence or a private social or athletic club not
2 open to the public generally;

3 (b) athletic coaches or trainers affiliated with
4 public or private educational institutions or athletic
5 organizations;

6 (c) students enrolled in schools of massage performing
7 practices of massage incidental to their course of study.

8 (2) This act does not apply to:

9 (a) a person licensed as a masseur or masseuse under
10 the provisions of sections 66-2903 and 66-2904, R.C.M. 1947;

11 (b) massage treatments given in any hospital, duly
12 licensed nursing or convalescent home; or by physical
13 therapists duly licensed, who treat patients only upon
14 written prescription of a licensed doctor of medicine; or by
15 any other person licensed by the state of Montana to treat
16 the sick, injured, or infirm; or by any nurse under the
17 direction of a person so licensed;

18 (c) licensed beauty operators and barbers who perform
19 only acts of massage customarily given in beauty salons and
20 barber shops for purposes of beautification.

21 Section 6. Fees. (1) The fee for a public massage
22 parlor license is fifty dollars (\$50) a year.

23 (2) The fee for a public bathhouse license is
24 twenty-five dollars (\$25) a year.

25 (3) An additional nonrefundable application fee of ten

1 dollars (\$10) shall accompany each application for a license
2 under subsections (1) and (2) of this section.

3 (4) The fee for a license as a public massage parlor
4 attendant, or a public bathhouse attendant is ten dollars
5 (\$10) a year.

6 Section 7. Application for and renewal of license --
7 public massage parlor -- public bathhouse. No license or
8 renewal of license to conduct a public massage parlor or
9 public bathhouse may be issued or renewed except upon
10 written application filed with the department, upon forms
11 furnished by the department, which shall be signed and sworn
12 to by the person who intends to conduct, operate, and
13 maintain a public massage parlor or bathhouse. These
14 applications shall include the following:

15 (1) the name, age, home address, and telephone number
16 of the applicant;

17 (2) the business name, business address, and telephone
18 number of the establishment or proposed establishment;

19 (3) whether applicant is a sole proprietorship,
20 partnership or corporation; if a partnership, giving the
21 names of all persons sharing in the profits of said
22 business; if a corporation, giving the names of its
23 officers, directors, and shareholders, giving title,
24 residence address, and telephone number of each;

25 (4) how long the applicant (or if a corporation, its

1 officers) has resided in the state of Montana;

2 (5) two 2" x 2" black and white photographs of the
3 applicant, furnished at the applicant's expense, or in the
4 case of a firm, the party signing the application, taken
5 within six (6) months of the date of the application,
6 showing only the full face. The license, when issued, shall
7 have affixed to it the photograph of the applicant, or the
8 party signing the application, and the license shall be
9 posted and displayed in a conspicuous place in the
10 establishment where the license is enjoyed, at all times,
11 and the license may not be tampered with in any manner.

12 (6) all assumed names or aliases, if any, which have
13 been or are used by any person whose name appears on an
14 application;

15 (7) any other relevant and pertinent information
16 required by the department.

17 Section 8. Unlawful to admit certain persons. It is
18 unlawful for the owner, proprietor, manager, or person in
19 charge of any public massage parlor or public bathhouse, or
20 for any employee of the establishment knowingly to harbor,
21 admit, receive, or permit to be or remain in or about these
22 premises, any prostitute, lewd, or dissolute person, any
23 drunken or boisterous person, or any person under the
24 influence of intoxicating liquor or narcotic drugs.

25 Section 9. Unlawful to advertise without license. It

1 is unlawful to advertise the giving of massage treatments or
2 public baths by a person or in an establishment not licensed
3 or otherwise qualified under this act.

4 Section 10. Application for or renewal of license --
5 attendant. No license or renewal of license to act as a
6 public massage parlor attendant, or public bathhouse
7 attendant, may be issued or renewed except upon written
8 application filed with the department upon forms furnished
9 by the department, which shall be signed and sworn to by the
10 applicant. The application shall include the following:

11 (1) the name, home address, and telephone number of
12 the applicant;

13 (2) references as to the moral character of the
14 applicant from two (2) reputable citizens of the state of
15 Montana;

16 (3) how long applicant has resided in the state of
17 Montana;

18 (4) whether the applicant has ever been convicted of a
19 crime, stating the nature of the crime, the date of
20 conviction, the name and location of the convicting court,
21 and the disposition thereof;

22 (5) all assumed names and aliases, if any, which have
23 been or are used by the applicant;

24 (6) two 2" x 2" black and white photographs of the
25 applicant, furnished at the applicant's expense, taken

1 within six (6) months of the date of the application,
 2 showing only the full face. The license, when issued, shall
 3 have affixed to it the photograph of the applicant, and the
 4 license shall be posted and displayed in a conspicuous place
 5 in the establishment where the licensee is employed, at all
 6 times, and the license shall not be tampered with in any
 7 manner;

8 (7) the applicant's previous occupation and previous
 9 employer;

10 (8) any other relevant and pertinent information
 11 required by the department.

12 Section 11. License suspension, revocation, or refusal
 13 to renew -- grounds. The following are grounds for
 14 suspension, revocation, or refusal to renew any license of a
 15 public massage parlor attendant, or public bathhouse
 16 attendant:

17 (1) fraud or deception in connection with securing the
 18 license;

19 (2) conviction of any crime involving moral turpitude;

20 (3) conviction for violation of a federal, state, or
 21 local law relating to sex offenses, or to possession, use,
 22 or sale of narcotics, dangerous drugs, or alcoholic
 23 beverages;

24 (4) habitual drunkenness or intemperance in the use of
 25 narcotics or stimulants;

1 (5) conduct inimical to the public health or welfare.

2 Section 12. Expiration of licenses. All licenses
 3 issued or renewed under this act expire one (1) year from
 4 date of issuance unless revoked earlier.

5 Section 13. Liquor. Liquor may not be distributed or
 6 consumed on the premises of any public massage parlor or
 7 public bathhouse.

8 Section 14. Inspection. The premises of any public
 9 massage parlor or public bathhouse is open for reasonable
 10 inspection at all times by state health officers and law
 11 enforcement officers.

12 Section 15. Penalty. Any person convicted of a
 13 violation of this act is guilty of a misdemeanor and shall
 14 be punished by a fine of not more than five hundred dollars
 15 (\$500) or less than one hundred dollars (\$100).

16 Section 16. Business hours. No public massage parlor
 17 or public bathhouse may conduct business after 3 a.m. or
 18 before 10 a.m.

19 Section 17. Right to hearing -- appeal. Any person or
 20 applicant who is aggrieved by any action of the department
 21 in connection with the administration of this act shall
 22 file, within thirty (30) days of the actual notification of
 23 the aggrieved action, a written petition requesting a
 24 hearing, setting forth a simple and concise statement of the
 25 reasons for the request. The department shall schedule,

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1 within sixty (60) days of the receipt of the petition, a
2 hearing thereon. Upon hearing, the department may rescind,
3 modify, or affirm its prior action and shall notify the
4 petitioner within fifteen (15) days, in writing, of its
5 decision, setting forth the reasons. An appeal may be taken
6 directly to the district court as provided in the Montana
7 Administration Procedure Act. Any administrative petition
8 automatically stays the ruling of the department until its
9 decision is rendered upon the hearing.

-End-

Approved by Committee
on Public Health, Welfare
& Safety

HOUSE BILL NO. 592

INTRODUCED BY MERCER (BY REQUEST)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE REGULATION AND LICENSING OF PUBLIC MASSAGE PARLORS AND PUBLIC BATHHOUSES WITHIN THE STATE OF MONTANA, AND THEIR EMPLOYEES AND ATTENDANTS, DEFINING OFFENSES AND FIXING PENALTIES FOR VIOLATIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose. It is legislative policy that the operation of public massage parlors and public bathhouses in the state of Montana, including the licensing of public massage parlor and public bathhouse employees and attendants, shall be regulated and licensed for the protection of the interest, health, and welfare of the people of the state of Montana.

Section 2. License required -- public massage parlor -- public bathhouse. No person may conduct, operate, or maintain a public massage parlor or a public bathhouse without first obtaining a license as provided in this act.

Section 3. License required -- employee -- attendant. No person may act as a public massage parlor attendant or as a public bathhouse attendant without first obtaining a license as provided in this act.

Section 4. Definitions. As used in this act:

(1) "Massage" means the method, art, or science of treating the human body for hygienic, remedial, or relaxational purposes by rubbing, stroking, kneading, tapping, rolling, or manipulating the human body of another with the hands, or by any other agency or instrumentality. This includes the use, in connection with massage treatment, of heat lamps, electric cabinets designed to produce heat, steam baths given by cabinet or any other method, mineral baths either as complete or partial baths, baths by tub or shower or otherwise, baths administered hot or cold, using water, natural mineral water, a formula, or other liquid or substance.

This definition does not include manipulation of the human body in the course of the practice of medicine, surgery, osteopathy, chiropractic, chiropody, naturopathy, dentistry, nursing, physical therapy, optometry, or any other of the healing arts, including masseurs and masseuses licensed under section 66-2903 and section 66-2904, R.C.M. 1947, by persons licensed by the state of Montana to practice those healing arts.

(2) "Person" means any individual, firm, partnership, association, corporation, company, or organization of any kind.

(3) "Public massage parlor" means a place within the

1 state of Montana where massages are given or furnished for,
2 or in expectation of, any fee, compensation, or monetary
3 consideration.

4 (4) "Public bathhouse" means a place within the state
5 of Montana where baths or facilities for baths of any kind
6 are given or furnished for, or in expectation of, any fee,
7 compensation, or monetary consideration including, but not
8 limited to:

9 (a) finnish OR SAUNA baths;

10 (b) russian baths;

11 ~~(c)~~--sauna-baths;

12 ~~(d)~~(C) swedish baths;

13 ~~(e)~~(D) turkish baths;

14 ~~(f)~~(E) baths by hot air, steam, vapor, water or
15 electric cabinet.

16 This definition does not include baths or facilities
17 for baths where no attendant or other person administers, or
18 holds himself out as administering, massage treatment,
19 either by physical manipulation of the body or by the use of
20 equipment.

21 (5) "Masseur, masseuse" means a male person, or a
22 female person, respectively, who practices massage, or holds
23 himself or herself out as practicing massage, for, or in
24 expectation of, any fee, compensation, or monetary
25 consideration.

1 (6) "Public message parlor attendant" means a person
2 who administers to, or performs services to, patrons of a
3 public message parlor or who supervises the work of any
4 other person administering to, or performing services to
5 such patrons, excepting masseurs and masseuses licensed
6 under the provisions of Title 66, chapter 29, R.C.M. 1947.

7 (7) "Public bathhouse attendant" means a person who
8 administers to, or performs services to, patrons of a public
9 bathhouse or who supervises the work of that person. The
10 term does not include a person who performs only custodial
11 or janitorial work.

12 (8) "License" means a certificate issued by the state
13 of Montana, department of professional and occupational
14 licensing, authorizing the holder to:

15 (a) act as a public message parlor attendant; or

16 (b) to act as a public bathhouse attendant; or

17 (c) to operate a public bathhouse; or

18 (d) to operate a public message parlor.

19 (9) "Department" means the department of professional
20 and occupational licensing.

21 Section 5. Exemptions. (1) When no fee,
22 compensation, or any other monetary consideration is charged
23 or paid, directly or indirectly, for a massage the
24 provisions of this act do not apply to:

25 (a) persons giving massage treatments or baths in a

1 private residence or a private social or athletic club not
2 open to the public generally;

3 (b) athletic coaches or trainers affiliated with
4 public or private educational institutions or athletic
5 organizations;

6 (c) students enrolled in schools of massage performing
7 practices of massage incidental to their course of study.

8 (2) This act does not apply to:

9 (a) a person licensed as a masseur or masseuse under
10 the provisions of sections 66-2903 and 66-2904, R.C.M. 1947;

11 (b) massage treatments given in any hospital, duly
12 licensed nursing or convalescent home; or by physical
13 therapists duly licensed, who treat patients only upon
14 written prescription of a licensed doctor of medicine; or by
15 any other person licensed by the state of Montana to treat
16 the sick, injured, or infirm; or by any nurse under the
17 direction of a person so licensed;

18 (c) licensed beauty operators and barbers who perform
19 only acts of massage customarily given in beauty salons and
20 barber shops for purposes of beautification.

21 Section 6. Fees. (1) The fee for a public massage
22 parlor license is fifty dollars (\$50) a year.

23 (2) The fee for a public bathhouse license is
24 twenty-five dollars (\$25) a year.

25 (3) An additional nonrefundable application fee of ten

1 dollars (\$10) shall accompany each application for a license
2 under subsections (1) and (2) of this section.

3 (4) The fee for a license as a public massage parlor
4 attendant, or a public bathhouse attendant is ten dollars
5 (\$10) a year.

6 Section 7. Application for and renewal of license --
7 public massage parlor -- public bathhouse. No license or
8 renewal of license to conduct a public massage parlor or
9 public bathhouse may be issued or renewed except upon
10 written application filed with the department, upon forms
11 furnished by the department, which shall be signed and sworn
12 to by the person who intends to conduct, operate, and
13 maintain a public massage parlor or bathhouse. These
14 applications shall include the following:

15 (1) the name, age, home address, and telephone number
16 of the applicant;

17 (2) the business name, business address, and telephone
18 number of the establishment or proposed establishment;

19 (3) whether applicant is a sole proprietorship,
20 partnership or corporation; if a partnership, giving the
21 names of all persons sharing in the profits of said
22 business; if a corporation, giving the names of its
23 officers, directors, and shareholders, giving title,
24 residence address, and telephone number of each;

25 (4) how long the applicant (or if a corporation, its

1 officers) has resided in the state of Montana;

2 (5) two 2" x 2" black and white photographs of the
 3 applicant, furnished at the applicant's expense, or in the
 4 case of a firm, the party signing the application, taken
 5 within six (6) months of the date of the application,
 6 showing only the full face. The license, when issued, shall
 7 have affixed to it the photograph of the applicant, or the
 8 party signing the application, and the license shall be
 9 posted and displayed in a conspicuous place in the
 10 establishment where the license is enjoyed, at all times,
 11 and the license may not be tampered with in any manner.

12 (6) all assumed names or aliases, if any, which have
 13 been or are used by any person whose name appears on an
 14 application;

15 (7) any other relevant and pertinent information
 16 required by the department.

17 Section 8. Unlawful to admit certain persons. It is
 18 unlawful for the owner, proprietor, manager, or person in
 19 charge of any public massage parlor or public bathhouse, or
 20 for any employee of the establishment knowingly to harbor,
 21 admit, receive, or permit to be or remain in or about these
 22 premises, any prostitute, lewd~~y~~~~--or--disseiate~~ person, any
 23 drunken ~~or--boisterous~~ person, or any person under the
 24 influence of intoxicating liquor or narcotic drugs.

25 SECTION 9. CERTAIN PRACTICES BY ATTENDANTS PROHIBITED.

1 THE OPERATOR OF A PUBLIC MASSAGE PARLOR OR PUBLIC BATHHOUSE
 2 LICENSED UNDER THIS ACT MAY NOT DIRECT OR AUTHORIZE AN
 3 ATTENDANT IN HIS EMPLOY TO:

4 (1) PROVIDE ANY SERVICES TO A CUSTOMER EXCEPT ON THE
 5 PREMISES OF THE MASSAGE PARLOR OR BATHHOUSE;

6 (2) ENTER OR REMAIN IN ANY ROOM ON THE PREMISES WHICH
 7 IS OCCUPIED BY A NUDE PERSON; OR

8 (3) WEAR ANY UNIFORM OR COSTUME WHICH IS NOT MADE OF
 9 AN OPAQUE MATERIAL, OR WHICH EXPOSES ANY FLESH OF THE WEARER
 10 OTHER THAN THAT ON THE HEAD, NECK, ARMS, AND HANDS.

11 Section 10. Unlawful to advertise without license. It
 12 is unlawful to advertise the giving of massage treatments or
 13 public baths by a person or in an establishment not licensed
 14 or otherwise qualified under this act.

15 Section 11. Application for or renewal of license --
 16 attendant. No license or renewal of license to act as a
 17 public massage parlor attendant, or public bathhouse
 18 attendant, may be issued or renewed except upon written
 19 application filed with the department upon forms furnished
 20 by the department, which shall be signed and sworn to by the
 21 applicant. The application shall include the following:

22 (1) the name, home address, and telephone number of
 23 the applicant;

24 (2) references as to the moral character of the
 25 applicant from two (2) reputable citizens of the state of

1 Montana;

2 (3) how long applicant has resided in the state of
3 Montana;

4 (4) whether the applicant has ever been convicted of a
5 crime, stating the nature of the crime, the date of
6 conviction, the name and location of the convicting court,
7 and the disposition thereof;

8 (5) all assumed names and aliases, if any, which have
9 been or are used by the applicant;

10 (6) two 2" x 2" black and white photographs of the
11 applicant, furnished at the applicant's expense, taken
12 within six (6) months of the date of the application,
13 showing only the full face. The license, when issued, shall
14 have affixed to it the photograph of the applicant, and the
15 license shall be posted and displayed in a conspicuous place
16 in the establishment where the licensee is employed, at all
17 times, and the license shall not be tampered with in any
18 manner;

19 (7) the applicant's previous occupation and previous
20 employer;

21 (8) any other relevant and pertinent information
22 required by the department.

23 Section 12. License suspension, revocation, or refusal
24 to renew -- grounds. The following are grounds for
25 suspension, revocation, or refusal to renew any license of a

1 public massage parlor attendant, or public bathhouse
2 attendant:

3 (1) fraud or deception in connection with securing the
4 license;

5 (2) conviction of any crime involving moral turpitude;

6 (3) conviction for violation of a federal, state, or
7 local law relating to sex offenses, or to possession, use,
8 or sale of narcotics, dangerous drugs, or alcoholic
9 beverages;

10 (4) habitual drunkenness or intemperance in the use of
11 narcotics or stimulants;

12 ~~(5) conduct inimical to the public health or welfare.~~

13 Section 13. Expiration of licenses. All licenses
14 issued or renewed under this act expire one (1) year from
15 date of issuance unless revoked earlier.

16 Section 14. Liquor. Liquor may not be distributed or
17 consumed on the premises of any public massage parlor or
18 public bathhouse.

19 Section 15. Inspection. The premises of any public
20 massage parlor or public bathhouse is open for reasonable
21 inspection at all times by state health officers and law
22 enforcement officers.

23 Section 16. Penalty. Any person convicted of a
24 violation of this act is guilty of a misdemeanor and shall
25 be punished by a fine of not more than five hundred dollars

1 (\$500) or less than one hundred dollars (\$100).

2 Section 17. Business hours. No public massage parlor
 3 or public bathhouse may conduct business after 3 a.m. or
 4 before 10 a.m.

5 Section 18. Right to hearing -- appeal. Any person or
 6 applicant who is aggrieved by any action of the department
 7 in connection with the administration of this act shall
 8 file, within thirty (30) days of the actual notification of
 9 the aggrieved action, a written petition requesting a
 10 hearing, setting forth a simple and concise statement of the
 11 reasons for the request. The department shall schedule,
 12 within sixty (60) days of the receipt of the petition, a
 13 hearing thereon. Upon hearing, the department may rescind,
 14 modify, or affirm its prior action and shall notify the
 15 petitioner within fifteen (15) days, in writing, of its
 16 decision, setting forth the reasons. An appeal may be taken
 17 directly to the district court as provided in the Montana
 18 Administrative Procedure Act. Any administrative petition
 19 automatically stays the ruling of the department until its
 20 decision is rendered upon the hearing.

21 SECTION 19. IF A PART OF THIS ACT IS INVALID, ALL
 22 VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN
 23 IN EFFECT. IF A PART OF THIS ACT IS INVALID IN ONE OR MORE
 24 OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID
 25 APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID

1 APPLICATIONS.

-End-

1 HOUSE BILL NO. 592

2 INTRODUCED BY MERCER (BY REQUEST)

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
5 REGULATION AND LICENSING OF PUBLIC MESSAGE PARLORS AND
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12 operation of public message parlors and public bathhouses in
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16 protection of the interest, health, and welfare of the
17 people of the state of Montana.

18 Section 2. License required -- public message parlor
19 -- public bathhouse. No person may conduct, operate, or
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21 without first obtaining a license as provided in this act.

22 Section 3. License required -- employee -- attendant.
23 No person may act as a public message parlor attendant or as
24 a public bathhouse attendant without first obtaining a
25 license as provided in this act.

1 Section 4. Definitions. As used in this act:

2 (1) "Massage" means the method, art, or science of
3 treating the human body for hygienic, remedial, or
4 relaxational purposes by rubbing, stroking, kneading,
5 tapping, rolling, or manipulating the human body of another
6 with the hands, or by any other agency or instrumentality.
7 This includes the use, in connection with massage treatment,
8 of heat lamps, electric cabinets designed to produce heat,
9 steam baths given by cabinet or any other method, mineral
10 baths either as complete or partial baths, baths by tub or
11 shower or otherwise, baths administered hot or cold, using
12 water, natural mineral water, a formula, or other liquid or
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15 human body in the course of the practice of medicine,
16 surgery, osteopathy, chiropractic, chiropody, naturopathy,
17 dentistry, nursing, physical therapy, optometry, or any
18 other of the healing arts, including masseurs and masseuses
19 licensed under section 66-2903 and section 66-2904, R.C.M.
20 1947, by persons licensed by the state of Montana to
21 practice those healing arts.

22 (2) "Person" means any individual, firm, partnership,
23 association, corporation, company, or organization of any
24 kind.

25 (3) "Public message parlor" means a place within the

THIRD READING

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2 or in expectation of, any fee, compensation, or monetary
3 consideration.

4 (4) "Public bathhouse" means a place within the state
5 of Montana where baths or facilities for baths of any kind
6 are given or furnished for, or in expectation of, any fee,
7 compensation, or monetary consideration including, but not
8 limited to:

- 9 (a) finnish OR SAUNA baths;
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11 ~~(c)~~--sauna-baths;
12 ~~(d)~~ (C) swedish baths;
13 ~~(e)~~ (D) turkish baths;
14 ~~(f)~~ (E) baths by hot air, steam, vapor, water or
15 electric cabinet.

16 This definition does not include baths or facilities
17 for baths where no attendant or other person administers, or
18 holds himself out as administering, massage treatment,
19 either by physical manipulation of the body or by the use of
20 equipment.

21 (5) "Masseur, masseuse" means a male person, or a
22 female person, respectively, who practices massage, or holds
23 himself or herself out as practicing massage, for, or in
24 expectation of, any fee, compensation, or monetary
25 consideration.

1 (6) "Public message parlor attendant" means a person
2 who administers to, or performs services to, patrons of a
3 public message parlor or who supervises the work of any
4 other person administering to, or performing services to
5 such patrons, excepting masseurs and masseuses licensed
6 under the provisions of Title 66, chapter 29, R.C.M. 1947.

7 (7) "Public bathhouse attendant" means a person who
8 administers to, or performs services to, patrons of a public
9 bathhouse or who supervises the work of that person. The
10 term does not include a person who performs only custodial
11 or janitorial work.

12 (8) "License" means a certificate issued by the state
13 of Montana, department of professional and occupational
14 licensing, authorizing the holder to:

- 15 (a) act as a public message parlor attendant; or
16 (b) to act as a public bathhouse attendant; or
17 (c) to operate a public bathhouse; or
18 (d) to operate a public message parlor.

19 (9) "Department" means the department of professional
20 and occupational licensing.

21 Section 5. Exemptions. (1) When no fee,
22 compensation, or any other monetary consideration is charged
23 or paid, directly or indirectly, for a massage the
24 provisions of this act do not apply to:

- 25 (a) persons giving massage treatments or baths in a

1 private residence or a private social or athletic club not
2 open to the public generally;

3 (b) athletic coaches or trainers affiliated with
4 public or private educational institutions or athletic
5 organizations;

6 (c) students enrolled in schools of massage performing
7 practices of massage incidental to their course of study.

8 (2) This act does not apply to:

9 (a) a person licensed as a masseur or masseuse under
10 the provisions of sections 66-2903 and 66-2904, R.C.M. 1947;

11 (b) massage treatments given in any hospital, duly
12 licensed nursing or convalescent home; or by physical
13 therapists duly licensed, who treat patients only upon
14 written prescription of a licensed doctor of medicine; or by
15 any other person licensed by the state of Montana to treat
16 the sick, injured, or infirm; or by any nurse under the
17 direction of a person so licensed;

18 (c) licensed beauty operators and barbers who perform
19 only acts of massage customarily given in beauty salons and
20 barber shops for purposes of beautification.

21 Section 6. Fees. (1) The fee for a public massage
22 parlor license is fifty dollars (\$50) a year.

23 (2) The fee for a public bathhouse license is
24 twenty-five dollars (\$25) a year.

25 (3) An additional nonrefundable application fee of ten

1 dollars (\$10) shall accompany each application for a license
2 under subsections (1) and (2) of this section.

3 (4) The fee for a license as a public massage parlor
4 attendant, or a public bathhouse attendant is ten dollars
5 (\$10) a year.

6 Section 7. Application for and renewal of license --
7 public massage parlor -- public bathhouse. No license or
8 renewal of license to conduct a public massage parlor or
9 public bathhouse may be issued or renewed except upon
10 written application filed with the department, upon forms
11 furnished by the department, which shall be signed and sworn
12 to by the person who intends to conduct, operate, and
13 maintain a public massage parlor or bathhouse. These
14 applications shall include the following:

15 (1) the name, age, home address, and telephone number
16 of the applicant;

17 (2) the business name, business address, and telephone
18 number of the establishment or proposed establishment;

19 (3) whether applicant is a sole proprietorship,
20 partnership or corporation; if a partnership, giving the
21 names of all persons sharing in the profits of said
22 business; if a corporation, giving the names of its
23 officers, directors, and shareholders, giving title,
24 residence address, and telephone number of each;

25 (4) how long the applicant (or if a corporation, its

1 officers) has resided in the state of Montana;

2 (5) two 2" x 2" black and white photographs of the
 3 applicant, furnished at the applicant's expense, or in the
 4 case of a firm, the party signing the application, taken
 5 within six (6) months of the date of the application,
 6 showing only the full face. The license, when issued, shall
 7 have affixed to it the photograph of the applicant, or the
 8 party signing the application, and the license shall be
 9 posted and displayed in a conspicuous place in the
 10 establishment where the license is enjoyed, at all times,
 11 and the license may not be tampered with in any manner.

12 (6) all assumed names or aliases, if any, which have
 13 been or are used by any person whose name appears on an
 14 application;

15 (7) any other relevant and pertinent information
 16 required by the department.

17 Section 8. Unlawful to admit certain persons. It is
 18 unlawful for the owner, proprietor, manager, or person in
 19 charge of any public massage parlor or public bathhouse, or
 20 for any employee of the establishment knowingly to harbor,
 21 admit, receive, or permit to be or remain in or about these
 22 premises, any prostitute, lewd~~y~~~~er~~~~disseminate~~ person, any
 23 drunken ~~or~~~~boisterous~~ person, or any person under the
 24 influence of intoxicating liquor or narcotic drugs.

25 SECTION 9. CERTAIN PRACTICES BY ATTENDANTS PROHIBITED.

1 THE OPERATOR OF A PUBLIC MESSAGE PARLOR OR PUBLIC BATHHOUSE
 2 LICENSED UNDER THIS ACT MAY NOT DIRECT OR AUTHORIZE AN
 3 ATTENDANT IN HIS EMPLOY TO:

4 (1) PROVIDE ANY SERVICES TO A CUSTOMER EXCEPT ON THE
 5 PREMISES OF THE MESSAGE PARLOR OR BATHHOUSE;

6 (2) ENTER OR REMAIN IN ANY ROOM ON THE PREMISES WHICH
 7 IS OCCUPIED BY A NUDE PERSON; OR

8 (3) WEAR ANY UNIFORM OR COSTUME WHICH IS NOT MADE OF
 9 AN OPAQUE MATERIAL, OR WHICH EXPOSES ANY FLESH OF THE WEARER
 10 OTHER THAN THAT ON THE HEAD, NECK, ARMS, AND HANDS.

11 Section 10. Unlawful to advertise without license. It
 12 is unlawful to advertise the giving of massage treatments or
 13 public baths by a person or in an establishment not licensed
 14 or otherwise qualified under this act.

15 Section 11. Application for or renewal of license --
 16 attendant. No license or renewal of license to act as a
 17 public massage parlor attendant, or public bathhouse
 18 attendant, may be issued or renewed except upon written
 19 application filed with the department upon forms furnished
 20 by the department, which shall be signed and sworn to by the
 21 applicant. The application shall include the following:

22 (1) the name, home address, and telephone number of
 23 the applicant;

24 (2) references as to the moral character of the
 25 applicant from two (2) reputable citizens of the state of

1 Montana;

2 (3) how long applicant has resided in the state of

3 Montana;

4 (4) whether the applicant has ever been convicted of a

5 crime, stating the nature of the crime, the date of

6 conviction, the name and location of the convicting court,

7 and the disposition thereof;

8 (5) all assumed names and aliases, if any, which have

9 been or are used by the applicant;

10 (6) two 2" x 2" black and white photographs of the

11 applicant, furnished at the applicant's expense, taken

12 within six (6) months of the date of the application,

13 showing only the full face. The license, when issued, shall

14 have affixed to it the photograph of the applicant, and the

15 license shall be posted and displayed in a conspicuous place

16 in the establishment where the licensee is employed, at all

17 times, and the license shall not be tampered with in any

18 manner;

19 (7) the applicant's previous occupation and previous

20 employer;

21 (8) any other relevant and pertinent information

22 required by the department.

23 Section 12. License suspension, revocation, or refusal

24 to renew -- grounds. The following are grounds for

25 suspension, revocation, or refusal to renew any license of a

1 public massage parlor attendant, or public bathhouse

2 attendant:

3 (1) fraud or deception in connection with securing the

4 license;

5 (2) conviction of any crime involving moral turpitude;

6 (3) conviction for violation of a federal, state, or

7 local law relating to sex offenses, or to possession, use,

8 or sale of narcotics, dangerous drugs, or alcoholic

9 beverages;

10 (4) habitual drunkenness or intemperance in the use of

11 narcotics or stimulants;

12 ~~(5) --conduct-inimical-to-the-public-health-or--welfare--~~

13 Section 13. Expiration of licenses. All licenses

14 issued or renewed under this act expire one (1) year from

15 date of issuance unless revoked earlier.

16 Section 14. Liquor. Liquor may not be distributed or

17 consumed on the premises of any public massage parlor or

18 public bathhouse.

19 Section 15. Inspection. The premises of any public

20 massage parlor or public bathhouse is open for reasonable

21 inspection at all times by state health officers and law

22 enforcement officers.

23 Section 16. Penalty. Any person convicted of a

24 violation of this act is guilty of a misdemeanor and shall

25 be punished by a fine of not more than five hundred dollars

1 (\$500) or less than one hundred dollars (\$100).

2 Section 17. Business hours. No public massage parlor
3 or public bathhouse may conduct business after 3 a.m. or
4 before 10 a.m.

5 Section 18. Right to hearing -- appeal. Any person or
6 applicant who is aggrieved by any action of the department
7 in connection with the administration of this act shall
8 file, within thirty (30) days of the actual notification of
9 the aggrieved action, a written petition requesting a
10 hearing, setting forth a simple and concise statement of the
11 reasons for the request. The department shall schedule,
12 within sixty (60) days of the receipt of the petition, a
13 hearing thereon. Upon hearing, the department may rescind,
14 modify, or affirm its prior action and shall notify the
15 petitioner within fifteen (15) days, in writing, of its
16 decision, setting forth the reasons. An appeal may be taken
17 directly to the district court as provided in the Montana
18 Administrative Procedure Act. Any administrative petition
19 automatically stays the ruling of the department until its
20 decision is rendered upon the hearing.

21 SECTION 19. IF A PART OF THIS ACT IS INVALID, ALL
22 VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN
23 IN EFFECT. IF A PART OF THIS ACT IS INVALID IN ONE OR MORE
24 OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID
25 APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID

1 APPLICATIONS.

-End-