



# House of Representatives

**File No. 558**

General Assembly

February Session, 2012

**(Reprint of File No. 259)**

Substitute House Bill No. 5455  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 20, 2012

**AN ACT CONCERNING PENALTIES FOR AND THE INVESTIGATION  
OF THE OPERATION OF ILLEGAL MASSAGE ESTABLISHMENTS.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 20-206b of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) No person shall engage in the practice of massage therapy unless  
4 the person has obtained a license from the department pursuant to this  
5 section. Each person seeking licensure as a massage therapist shall  
6 make application on forms prescribed by the department, pay an  
7 application fee of three hundred seventy-five dollars and present to the  
8 department satisfactory evidence that the applicant: (1) Has graduated  
9 from a school of massage therapy offering a course of study of not less  
10 than five hundred classroom hours, with the instructor present, and, at  
11 the time of the applicant's graduation, was either (A) accredited by an  
12 agency recognized by the United States Department of Education or by  
13 a state board of postsecondary technical trade and business schools, or  
14 (B) accredited by the Commission on Massage Therapy Accreditation,  
15 and (2) has passed the National Certification Examination for

16 Therapeutic Massage and Bodywork. Passing scores on the  
17 examination shall be prescribed by the department.

18 (b) Licenses shall be renewed once every two years in accordance  
19 with the provisions of section 19a-88. The fee for renewal shall be two  
20 hundred fifty dollars. No license shall be issued under this section to  
21 any applicant against whom professional disciplinary action is  
22 pending or who is the subject of an unresolved complaint in this or any  
23 other state or jurisdiction. Any certificate granted by the department  
24 prior to June 1, 1993, shall be deemed a valid license permitting  
25 continuance of profession subject to the provisions of this chapter.

26 (c) (1) Notwithstanding the provisions of subsection (a) of this  
27 section, the department may issue a license to an applicant whose  
28 school of massage therapy does not satisfy the requirement of  
29 subparagraph (A) or (B) of subdivision (1) of said subsection (a),  
30 provided the school held, at the time of the applicant's graduation, a  
31 certificate issued by the Commissioner of Education pursuant to  
32 section 10-7b and provided the applicant graduated within thirty-three  
33 months of the date such school first offered the curriculum completed  
34 by the applicant. No license shall be issued under this subsection to a  
35 graduate of a school that fails to apply for and obtain accreditation by  
36 (A) an accrediting agency recognized by the United States Department  
37 of Education, or (B) the Commission on Massage Therapy  
38 Accreditation within thirty-three months of the date such school first  
39 offered the curriculum.

40 (2) Notwithstanding the provisions of subsection (a) of this section  
41 and subdivision (1) of this subsection, the department may issue a  
42 license to an applicant who submits evidence satisfactory to the  
43 commissioner that the applicant (A) was enrolled, on or before July 1,  
44 2005, in a school of massage therapy that was approved or accredited  
45 by a state board of postsecondary technical trade and business schools  
46 or a state agency recognized as such state's board of postsecondary  
47 technical trade and business schools, (B) graduated from a school of  
48 massage therapy with a course of study of not less than five hundred

49 classroom hours, with the instructor present, that at the time of the  
50 applicant's graduation was approved or accredited by a state board of  
51 postsecondary technical trade and business schools or a state agency  
52 recognized as such state's board of postsecondary technical trade and  
53 business schools, and (C) has passed the National Certification  
54 Examination for Therapeutic Massage and Bodywork. Passing scores  
55 on the examination shall be prescribed by the department.

56 (d) Each person licensed pursuant to this section has an affirmative  
57 duty to make a written referral to a licensed healing arts practitioner,  
58 as defined in section 20-1, of any client who has any physical or  
59 medical condition that would constitute a contraindication for massage  
60 therapy or that may require evaluation or treatment beyond the scope  
61 of massage therapy.

62 (e) No person shall use the title "massage therapist", "licensed  
63 massage therapist", "massage practitioner", "massagist", "masseur" or  
64 "masseuse", unless the person holds a license issued in accordance  
65 with this section or other applicable law.

66 (f) Notwithstanding the provisions of subsection (a) of this section,  
67 the commissioner may issue a license to an out-of-state applicant who  
68 submits evidence satisfactory to the commissioner of either: (1) (A) A  
69 current license to practice therapeutic massage from another state or  
70 jurisdiction, (B) documentation of practice for at least one year  
71 immediately preceding application, and (C) successful completion of  
72 the National Certification Examination for Therapeutic Massage and  
73 Bodywork; or (2) (A) graduation from a school of massage therapy  
74 offering a course of study of not less than five hundred classroom  
75 hours, with the instructor present, and, at the time of the applicant's  
76 graduation, was either (i) accredited by an agency recognized by the  
77 United States Department of Education or by a state board of  
78 postsecondary technical trade and business schools, or (ii) accredited  
79 by the Commission on Massage Therapy Accreditation, and (B)  
80 successful completion of the National Certification Examination for  
81 Therapeutic Massage and Bodywork.

82 (g) Any person who violates the provisions of subsection (a) or (e) of  
83 this section shall be guilty of a class C misdemeanor.

84 (h) Any employer who knowingly and wilfully employs a person  
85 who is in violation of the provisions of subsection (a) or (e) of this  
86 section to engage in massage therapy shall be guilty of a class C  
87 misdemeanor.

88 Sec. 2. Section 20-206g of the general statutes is repealed and the  
89 following is substituted in lieu thereof (*Effective October 1, 2012*):

90 (a) As used in this section, "advertise" includes, but is not limited to,  
91 the issuance of any card, sign or device to any person; causing,  
92 permitting or allowing any sign or marking on or in any building,  
93 vehicle or structure; advertising in any newspaper or magazine, or the  
94 placement of any listing or advertisement in any directory under a  
95 classification or heading that includes the words "massage", "massage  
96 therapist", "massage therapy", [or] "massage therapy establishment",  
97 "shiatsu", "acupressure", "Thai massage", "Thai yoga massage" or "Thai  
98 yoga".

99 (b) No person, firm, partnership or corporation shall advertise any  
100 of the services included in the definition of massage therapy in any  
101 manner using the term or title "massage", "shiatsu", "acupressure",  
102 "Thai massage", "Thai yoga massage" or "Thai yoga" unless such  
103 services are performed by a massage therapist.

104 (c) Each person who holds a license as a massage therapist shall  
105 include his or her license number in any advertisement for such  
106 person's massage therapy services that appears in a newspaper,  
107 telephone directory or other advertising medium.

108 (d) It shall be a violation of this section for any person who does not  
109 hold a current license as a massage therapist to advertise massage  
110 therapy services by using the term "massage", "massage therapist",  
111 "licensed massage therapist", "massage practitioner", "massagist",  
112 "masseur" or "masseuse", "shiatsu", "acupressure", "Thai massage",

113 "Thai yoga massage" or "Thai yoga".

114 Sec. 3. Section 20-206h of the general statutes is repealed and the  
115 following is substituted in lieu thereof (*Effective October 1, 2012*):

116 (a) The Commissioner of Public Health shall carry out the  
117 commissioner's responsibilities with respect to enforcement of the  
118 provisions of sections 20-206b, as amended by this act, 20-206d and 20-  
119 206g, as amended by this act, within available appropriations.

120 (b) If the commissioner has cause to believe, based upon credible  
121 information or complaint, that any person has violated the provisions  
122 of section 20-206b, as amended by this act, 20-206d or 20-206g, as  
123 amended by this act, the commissioner may, not later than thirty days  
124 after receiving such information or complaint, begin a formal  
125 investigation of the alleged violation. In the course of such formal  
126 investigation, the commissioner may inquire as to whether a person  
127 under investigation obtained a license from the department legally by  
128 comparing the photograph on such person's identification with a  
129 photograph of such person obtained from the National Certification  
130 Board for Therapeutic Massage and Bodywork or from a company  
131 contracted by said board to administer massage exams. Photographs  
132 that do not match shall constitute prima facie evidence that such  
133 person is engaging in the practice of massage therapy without a license  
134 in violation of section 20-206b, as amended by this act. For purposes of  
135 this subsection, "identification" means a motor vehicle operator's  
136 license issued pursuant to section 14-36 or any other valid form of  
137 identification issued by the federal government or a state or municipal  
138 government, provided such identification includes a photograph.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Judicial Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Correction, Dept.; Judicial Dept. (Probation)	GF - Cost	Potential Minimal	Potential Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes it a class "C" misdemeanor for any employer to employ an unlicensed person as a massage therapist, which results in (1) a potential minimal revenue gain to the Judicial Department and (2) a potential minimal cost to the Department of Correction and the Judicial Department. Annual revenue from criminal fines that may be imposed under the bill is anticipated to be minimal. To the extent that offenders are prosecuted criminally and subsequently convicted or plead guilty, the state could incur a minimal cost associated with incarceration and/or probation supervision in the community. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender. Since 2001, there have been no convicted offenses of engaging in massage therapy without a license.

House "A" eliminated a provision in the underlying bill that allowed the Department of Public Health (DPH) to direct a local health department to investigate a complaint associated with advertisements of "shiatsu," "acupressure," "Thai massage," "Thai yoga massage," and "Thai yoga." It did not result in a fiscal impact to DPH. Current statute allows DPH to investigate complaints related to advertisements

of massage therapy. Nonetheless, it is allowed to do so within its available appropriations and, as such, DPH does not currently investigate complaints related to advertisements of massage therapy, nor does it cause local health departments to do so.<sup>1</sup>

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: Department of Public Health  
Judicial Department Offenses and Revenue Database*

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<sup>1</sup> DPH does investigate complaints of unlicensed persons practicing massage under the title of “massage therapist,” “licensed massage therapist,” “massage practitioner,” “massagist,” “masseur,” and “masseuse.” Following an investigation, a case may be heard and prosecuted, and disciplinary action taken.

**OLR Bill Analysis****sHB 5455 (as amended by House "A")\*****AN ACT CONCERNING PENALTIES FOR AND THE INVESTIGATION OF THE OPERATION OF ILLEGAL MASSAGE ESTABLISHMENTS.****SUMMARY:**

This bill extends regulation of the massage therapy field to cover employers, not just individual practioners; expands the practices and services covered by advertising restrictions; and authorizes the Department of Public Health (DPH) commissioner to investigate complaints.

The bill makes employers who knowingly and willfully employ unlicensed people (1) to practice massage therapy or (2) who use a massage therapy-related title guilty of a class C misdemeanor, which is the penalty for individual practioners who violate massage therapy provisions under existing law. A class C misdemeanor is punishable by up to three months imprisonment, up to a \$ 500 fine, or both.

\*House Amendment "A" (1) removes a provision authorizing DPH to direct a local public health department to investigate complaints and (2) and makes technical changes and a conforming change.

EFFECTIVE DATE: October 1, 2012

**ADVERTISING**

The law prohibits using the term or title "massage" when advertising massage therapy services, unless a licensed massage therapist performs the services. "Advertising" includes:

1. giving a card, sign, or device to anyone;

2. causing or allowing a sign or marking on a vehicle, building, or other structure;
3. advertising in a newspaper or magazine; or
4. placing a listing or advertisement in a directory under a heading or classification that includes the words “massage,” “massage therapist,” “massage therapy,” or “massage therapy establishment.”

The bill adds “shiatsu,” “acupressure,” “Thai massage,” “Thai yoga massage,” and “Thai yoga” to this list of terms or titles that can appear in advertising for services only if performed by a licensed massage therapist.

It is unclear what penalty applies to a violation of the advertising provisions, though current law makes the use of certain titles by an unlicensed person a class C misdemeanor and authorizes the DPH commissioner to enforce the advertising provisions.

## INVESTIGATIONS

Under the bill, when the DPH commissioner believes, based on credible information or a complaint, that someone has violated massage therapy license or practice requirements or advertising rules, she may, within 30 days of receiving the complaint, begin a formal investigation of the alleged violation. Under existing law, the commissioner must enforce laws concerning massage therapy within available appropriations.

Under the bill, in the course of the investigation, the commissioner may inquire whether a person under investigation legally obtained a DPH license by comparing the photograph on the person's government-issued photo-identification with a photograph from the National Certification Board for Therapeutic Massage and Bodywork or from a company the board contracted with to administer massage exams. Photographs that do not match constitute *prima facie* evidence (i.e., a preliminary showing that can be overcome by other evidence)

that the person violated the law by practicing massage therapy without a license.

**BACKGROUND**

***Massage Therapy Defined***

By law, “massage therapy” means the systematic and scientific manipulation and treatment of the body’s soft tissues using pressure, friction, stroking, percussion, kneading, vibration by manual or mechanical means, range of motion, and nonspecific stretching. It includes the use of oils, ice, and similar amenities, but does not include diagnosis or other services and procedures for which the law requires a license to practice, including medicine, chiropractic, naturopathy, physical therapy, or podiatry (CGS § 20-206a).

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/19/2012)

Judiciary Committee

Joint Favorable

Yea 40 Nay 0 (04/17/2012)