

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1387

Chapter 353, Laws of 1995

(partial veto)

54th Legislature
1995 Regular Session

MESSAGE PRACTITIONER LICENSING

EFFECTIVE DATE: 7/23/95

Passed by the House April 20, 1995
Yeas 81 Nays 15

CLYDE BALLARD

**Speaker of the
House of Representatives**

Passed by the Senate April 13, 1995
Yeas 47 Nays 0

JOEL PRITCHARD

President of the Senate

Approved May 16, 1995, with the
exception of sections 4, 5, and 6, which
are vetoed.

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of
the House of Representatives of the
State of Washington, do hereby certify
that the attached is **SUBSTITUTE HOUSE
BILL 1387** as passed by the House of
Representatives and the Senate on the
dates hereon set forth.

TIMOTHY A. MARTIN

Chief Clerk

FILED

May 16, 1995 - 11:03 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1387

AS AMENDED BY THE SENATE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Delvin, Dellwo, Carrell, Cody, Morris, Padden, Hickel, Sommers, Conway, Brown, Mason, B. Thomas, Dickerson, Boldt, Campbell, Carlson, Patterson, Kessler, Mielke, Mulliken, Honeyford, Hargrove, L. Thomas, Kremen, Scott and Huff)

Read first time 02/17/95.

1 AN ACT Relating to massage practitioners; amending RCW 18.108.040,
2 18.108.085, 35.21.692, 35A.82.025, and 36.32.122; adding a new section
3 to chapter 18.130 RCW; adding new sections to chapter 43.63A RCW;
4 adding a new section to chapter 9.68A RCW; adding a new section to
5 chapter 9A.88 RCW; prescribing penalties; and providing an expiration
6 date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 18.108.040 and 1991 c 3 s 255 are each amended to read
9 as follows:

10 It shall be unlawful to advertise the practice of massage using the
11 term massage or any other term that implies a massage technique or
12 method in any public or private publication or communication by a
13 person not licensed by the secretary as a massage practitioner or
14 without printing in display advertisement the license number of the
15 massage practitioner. Any person who holds a license to practice as a
16 massage practitioner in this state may use the title "licensed massage
17 practitioner" and the abbreviation "L.M.P.". No other persons may
18 assume such title or use such abbreviation or any other word, letters,

1 signs, or figures to indicate that the person using the title is a
2 licensed massage practitioner.

3 **Sec. 2.** RCW 18.108.085 and 1991 c 3 s 259 are each amended to read
4 as follows:

5 (1) In addition to any other authority provided by law, the
6 secretary may:

7 (a) Adopt rules, in accordance with chapter 34.05 RCW necessary to
8 implement this chapter;

9 (b) Set all license, examination, and renewal fees in accordance
10 with RCW 43.70.250;

11 (c) Establish forms and procedures necessary to administer this
12 chapter;

13 (d) Issue a license to any applicant who has met the education,
14 training, and examination requirements for licensure; and

15 (e) Hire clerical, administrative, and investigative staff as
16 necessary to implement this chapter, and hire individuals licensed
17 under this chapter to serve as examiners for any practical
18 examinations.

19 (2) The uniform disciplinary act, chapter 18.130 RCW, governs the
20 issuance and denial of licenses and the disciplining of persons under
21 this chapter. The secretary shall be the disciplining authority under
22 this chapter.

23 (3) Any license issued under this chapter to a person who is or has
24 been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or
25 9A.88.090 or equivalent local ordinances shall automatically be revoked
26 by the secretary upon receipt of a certified copy of the court
27 documents reflecting such conviction. No further hearing or procedure
28 is required, and the secretary has no discretion with regard to the
29 revocation of the license. The revocation shall be effective even
30 though such conviction may be under appeal, or the time period for such
31 appeal has not elapsed. However, upon presentation of a final
32 appellate decision overturning such conviction or upon completion of a
33 prostitution prevention and intervention program under sections 7
34 through 15 of this act, the license shall be reinstated, unless grounds
35 for disciplinary action have been found pursuant to chapter 18.130 RCW.
36 Unless an applicant demonstrates that he or she has completed a
37 prostitution prevention and intervention program under sections 7
38 through 15 of this act, no license may be granted under this chapter to

1 any person who has been convicted of violating RCW 9A.88.030,
2 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances
3 within the eight years immediately preceding the date of application.
4 For purposes of this subsection, "convicted" does not include a
5 conviction that has been the subject of a pardon, annulment, or other
6 equivalent procedure based on a finding of innocence, but does include
7 convictions for offenses for which the defendant received a deferred or
8 suspended sentence, unless the record has been expunged according to
9 law.

10 (4) The secretary shall keep an official record of all proceedings
11 under this chapter, a part of which record shall consist of a register
12 of all applicants for licensure under this chapter, with the result of
13 each application.

14 NEW SECTION. Sec. 3. A new section is added to chapter 18.130 RCW
15 to read as follows:

16 RCW 18.108.085 shall govern the issuance and revocation of licenses
17 issued or applied for under chapter 18.108 RCW to or by persons
18 convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or
19 9A.88.090 or equivalent local ordinances.

20 **Sec. 4. RCW 35.21.692 and 1991 c 182 s 1 are each amended to read*
21 *as follows:*

22 (1) *A state licensed massage practitioner seeking a city or town*
23 *license to operate a massage business must provide verification of his*
24 *or her state massage license as provided for in RCW 18.108.030.*

25 (2) *The city or town may charge a licensing or operating fee, but*
26 *the fee charged a state licensed massage practitioner shall not exceed*
27 *the licensing or operating fee imposed on ((similar health care*
28 *providers, such as physical therapists or occupational therapists,))*
29 *other licensees operating within the same city or town and such fees*
30 *shall be reasonable and shall not exceed the costs of the processing*
31 *and administration of the licensing procedure.*

32 (3) *A state licensed massage practitioner ((is not)) may be subject*
33 *to additional licensing requirements ((not currently imposed on similar*
34 *health care providers, such as physical therapists or occupational*
35 *therapists)) under RCW 18.108.100.*

36 **Sec. 4 was vetoed. See message at end of chapter.*

1 *Sec. 5. RCW 35A.82.025 and 1991 c 182 s 2 are each amended to
2 read as follows:

3 (1) A state licensed massage practitioner seeking a city license to
4 operate a massage business must provide verification of his or her
5 state massage license as provided for in RCW 18.108.030.

6 (2) The city may charge a licensing or operating fee, but the fee
7 charged a state licensed massage practitioner shall not exceed the
8 licensing or operating fee imposed on (~~similar health care providers,~~
9 ~~such as physical therapists or occupational therapists,)) other
10 licensees operating within the same city and such fees shall be
11 reasonable and shall not exceed the costs of the processing and
12 administration of the licensing procedure.~~

13 (3) A state licensed massage practitioner (~~is not~~) may be subject
14 to additional licensing requirements (~~not currently imposed on similar~~
15 ~~health care providers, such as physical therapists or occupational~~
16 ~~therapists)) under RCW 18.108.100.~~

17 *Sec. 5 was vetoed. See message at end of chapter.

18 *Sec. 6. RCW 36.32.122 and 1991 c 182 s 3 are each amended to read
19 as follows:

20 (1) A state licensed massage practitioner seeking a county license
21 to operate a massage business must provide verification of his or her
22 state massage license as provided for in RCW 18.108.030.

23 (2) The county may charge a licensing or operating fee, but the fee
24 charged a state licensed massage practitioner shall not exceed the
25 licensing or operating fee imposed on (~~similar health care providers,~~
26 ~~such as physical therapists or occupational therapists,)) other
27 licensees operating within the same county and such fees shall be
28 reasonable and shall not exceed the costs of the processing and
29 administration of the licensing procedure.~~

30 (3) A state licensed massage practitioner (~~is not~~) may be subject
31 to additional licensing requirements (~~not currently imposed on similar~~
32 ~~health care providers, such as physical therapists or occupational~~
33 ~~therapists)) under RCW 18.108.100.~~

34 *Sec. 6 was vetoed. See message at end of chapter.

35 NEW SECTION. Sec. 7. A new section is added to chapter 43.63A RCW
36 to read as follows:

37 There is established in the department of community, trade, and
38 economic development a grant program to enhance funding for

1 prostitution prevention and intervention services. Activities that can
2 be funded through this grant program shall provide effective
3 prostitution prevention and intervention services, such as counseling,
4 parenting, housing relief, education, and vocational training, that:

5 (1) Comprehensively address the problems of persons who are
6 prostitutes; and

7 (2) Enhance the ability of persons to leave or avoid prostitution.

8 NEW SECTION. Sec. 8. A new section is added to chapter 43.63A RCW
9 to read as follows:

10 (1) Applications for funding under this chapter must:

11 (a) Meet the criteria in section 7 of this act; and

12 (b) Contain evidence of active participation of the community and
13 its commitment to providing effective prevention and intervention
14 services for prostitutes through the participation of local
15 governments, tribal governments, networks under chapter 70.190 RCW,
16 human service and health organizations, and treatment entities and
17 through meaningful involvement of others, including citizen groups.

18 (2) Local governments, networks under chapter 70.190 RCW, nonprofit
19 community groups, and nonprofit treatment providers including
20 organizations that provide services, such as emergency housing,
21 counseling, and crisis intervention shall, among others, be eligible
22 for grants established under section 7 of this act.

23 NEW SECTION. Sec. 9. A new section is added to chapter 43.63A RCW
24 to read as follows:

25 At a minimum, grant applications must include the following:

26 (1) The proposed geographic service area;

27 (2) A description of the extent and effect of the needs for
28 prostitution prevention and intervention within the relevant geographic
29 area;

30 (3) An explanation of how the funds will be used, their
31 relationship to existing services available within the community, and
32 the need that they will fulfill;

33 (4) An explanation of what organizations were involved in the
34 development of the proposal; and

35 (5) The methods that will be employed to measure the success of the
36 program.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.63A
2 RCW to read as follows:

3 (1) Subject to funds appropriated by the legislature, including
4 funds in the prostitution prevention and intervention account, the
5 department of community, trade, and economic development shall make
6 awards under the grant program established by section 7 of this act.

7 (2) Awards shall be made competitively based on the purposes of and
8 criteria in sections 7 through 9 of this act.

9 (3) Activities funded under this section may be considered for
10 funding in future years, but shall be considered under the same terms
11 and criteria as new activities. Funding of a program or activity under
12 this chapter shall not constitute an obligation by the state of
13 Washington to provide ongoing funding.

14 (4) The department of community, trade, and economic development
15 may receive such gifts, grants, and endowments from public or private
16 sources as may be made from time to time, in trust or otherwise, for
17 the use and benefit of the purposes of the grant program established
18 under section 7 of this act and expend the same or any income from
19 these sources according to the terms of the gifts, grants, or
20 endowments.

21 (5) The department of community, trade, and economic development
22 may expend up to five percent of the funds appropriated for the grant
23 program for administrative costs and grant supervision.

24 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.63A
25 RCW to read as follows:

26 The prostitution prevention and intervention account is created in
27 the state treasury. All designated receipts from fees under sections
28 12 and 13 of this act shall be deposited into the account.
29 Expenditures from the account may be used only for funding the grant
30 program to enhance prostitution prevention and intervention services
31 under section 7 of this act.

32 NEW SECTION. **Sec. 12.** A new section is added to chapter 9.68A RCW
33 to read as follows:

34 (1)(a) In addition to penalties set forth in RCW 9.68A.100, a
35 person who is either convicted or given a deferred sentence or a
36 deferred prosecution as a result of an arrest for violating RCW

1 9.68A.100 or a comparable county or municipal ordinance shall be
2 assessed a two hundred fifty dollar fee.

3 (b) The court may not suspend payment of all or part of the fee
4 unless it finds that the person does not have the ability to pay.

5 (c) When a minor has been adjudicated a juvenile offender for an
6 offense which, if committed by an adult, would constitute a violation
7 of RCW 9.68A.100 or a comparable county or municipal ordinance, the
8 court shall assess the fee under (a) of this subsection. The court may
9 not suspend payment of all or part of the fee unless it finds that the
10 minor does not have the ability to pay the fee.

11 (2) The fee assessed under subsection (1) of this section shall be
12 collected by the clerk of the court and distributed each month to the
13 state treasurer for deposit in the prostitution prevention and
14 intervention account under section 11 of this act for the purpose of
15 funding prostitution prevention and intervention activities.

16 NEW SECTION. **Sec. 13.** A new section is added to chapter 9A.88 RCW
17 to read as follows:

18 (1)(a) In addition to penalties set forth in RCW 9A.88.010,
19 9A.88.030, and 9A.88.090, a person who is either convicted or given a
20 deferred sentence or a deferred prosecution as a result of an arrest
21 for violating RCW 9A.88.010, 9A.88.030, 9A.88.090, or comparable county
22 or municipal ordinances shall be assessed a fifty dollar fee.

23 (b) In addition to penalties set forth in RCW 9A.88.110, a person
24 who is either convicted or given a deferred sentence or a deferred
25 prosecution as a result of an arrest for violating RCW 9A.88.110 or a
26 comparable county or municipal ordinance shall be assessed a one
27 hundred fifty dollar fee.

28 (c) In addition to penalties set forth in RCW 9A.88.070 and
29 9A.88.080, a person who is either convicted or given a deferred
30 sentence or a deferred prosecution as a result of an arrest for
31 violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal
32 ordinances shall be assessed a three hundred dollar fee.

33 (2) The court may not suspend payment of all or part of the fee
34 unless it finds that the person does not have the ability to pay.

35 (3) When a minor has been adjudicated a juvenile offender for an
36 offense which, if committed by an adult, would constitute a violation
37 under this chapter or comparable county or municipal ordinances, the
38 court shall assess the fee as specified under subsection (1) of this

1 section. The court may not suspend payment of all or part of the fee
2 unless it finds that the minor does not have the ability to pay the
3 fee.

4 (4) Any fee assessed under this section shall be collected by the
5 clerk of the court and distributed each month to the state treasurer
6 for deposit in the prostitution prevention and intervention account
7 under section 11 of this act for the purpose of funding prostitution
8 prevention and intervention activities.

9 NEW SECTION. **Sec. 14.** The amendments to RCW 35.21.692,
10 35A.82.025, and 36.32.122 contained in sections 4 through 6 of this act
11 shall expire July 1, 1997.

Passed the House April 20, 1995.

Passed the Senate April 13, 1995.

Approved by the Governor May 16, 1995, with the exception of
certain items which were vetoed.

Filed in Office of Secretary of State May 16, 1995.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 4, 5,
3 and 6, Substitute House Bill No. 1387 entitled:

4 "AN ACT Relating to massage practitioners;"

5 Substitute House Bill No. 1387 establishes stiff penalties for
6 massage practitioners engaged in prostitution and will enable local law
7 enforcement and the state to crack down on abuses.

8 Sections 4, 5, and 6 would prohibit cities and counties from
9 imposing a higher business license on massage therapists than on other
10 business professionals. Although I support this objective, these
11 sections also restrict local governments utilizing professional
12 licensing from raising revenue above the cost of administration of the
13 licensing function. Eliminating this revenue source would result in a
14 significant loss of revenue needed to defray on-going related costs
15 borne by cities and counties.

16 For this reason, I am vetoing sections 4, 5, and 6 of Substitute
17 House Bill No. 1387.

18 With the exception of sections 4, 5, and 6, Substitute House Bill
19 No. 1387 is approved."