

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-26-80

Time 10:15 a.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980

— ● —

ENROLLED

Committee Substitute for
HOUSE BILL No. 1328

(By Mr. Caudle)

— ● —

Passed March 8, 1980

In Effect Ninety Days From Passage



No: 1328

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1328

(MR. CAUDLE)

(Originating in the House Committee on Health and Welfare)

[Passed March 8, 1980; in effect ninety days from passage.]

AN ACT to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-z, relating to the authority of counties to govern the business of massage when carried on within the county; licensing standards; grounds for denial of license; activities to which section does not apply; limitation upon county powers.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section three-z, to read as follows:

§7-1-3z. Authority of counties to govern business of massage.

- 1 (a) In addition to all other powers and duties now con-
- 2 ferred by law upon county commissions, county commissions
- 3 are hereby authorized and empowered, by order duly entered
- 4 of record, to adopt an ordinance which provides for the

5 licensing for the regulation of the business of massage when
6 carried on within the county. Such ordinances may be
7 adopted either for the entire county, or for any portion or
8 portions of such county which may constitute an effective
9 area or areas for such purposes, without the necessity of
10 adopting such ordinances for any other portion of such county.
11 Notwithstanding any other provision of this section to the
12 contrary, no such ordinance shall apply to or affect any terri-
13 tory within the boundaries of any municipal corporation which
14 has adopted and in effect an ordinance which provides for the
15 regulation of the business of massage, unless and until such
16 municipal corporation so provides by ordinance.

17 (b) The ordinance may condition the issuance of a license
18 to engage in the business of massage upon proof that a massage
19 business meets the reasonable standards set by the ordinance,
20 which standards may include, but need not be limited to, the
21 following areas;

22 (1) Requirement that massage personnel be at least eigh-
23 teen years of age;

24 (2) Sanitary conditions of the massage establishment;

25 (3) Hours of operation of the massage business;

26 (4) Prohibition of the sale or serving of food or beverage
27 or the conducting of nonmassage business on the premises of
28 the massage business. In the event that the business premises in
29 which such massage business is conducted has separate quar-
30 ters used for purposes other than the massage business, the pro-
31 hibition of this subsection shall apply only to the portion of
32 the premises exclusively devoted to the conduct of the mas-
33 sage business.

34 (c) The ordinance may also provide that a license to en-
35 gage in the business of massage may be denied upon a showing
36 by the licensing authority of any of the following:

37 (1) Proof that the massage personnel or the owners or opera-
38 tors of a massage business have been convicted of a violation
39 of any of the provisions of article eight, eight-a, eight-b or
40 eight-c, chapter sixty-one of this code or proof that massage
41 personnel or the owners or operators of a massage business

42 have been convicted in any other state of any offense which, if
43 committed or attempted in this state, would have been punish-
44 able as one or more of the above-mentioned offenses of this
45 subsection.

46 (2) Proof that the massage personnel, or the owners, or
47 operators of a massage business have been convicted of any
48 felony offense involving the sale of a controlled substance
49 specified in section two hundred four, two hundred six, two
50 hundred eight, two hundred ten or two hundred twelve, article
51 two, chapter sixty-a of this code or proof that the massage
52 personnel or the owners or operators of the massage business
53 have been convicted in any other state of any offense, which
54 if committed or attempted in this state, would have been
55 punishable as one or more of the above-mentioned offenses of
56 this subsection.

57 (d) The ordinance may require that application to conduct
58 the business of massage be made on such form as prescribed
59 by the licensing authority, which application may require the
60 following information:

61 (1) The name of the applicant;

62 (2) If such applicant be an unincorporated association, the
63 names and addresses of the members of its governing board;

64 (3) If such applicant be a corporation, the names and
65 addresses of its officers and directors;

66 (4) The place at which such applicant will conduct its
67 operations and whether the same is owned or leased by the
68 applicant;

69 (5) The name of the owner of the place at which the ap-
70 plicant will conduct its operation, if not the same as the
71 applicant;

72 (6) The number of members of the applicant;

73 (7) The names of all massage personnel, owners, operators
74 or other employees of the massage business;

75 (8) Such other information as the licensing authority may
76 reasonably require which may include, but need not be limited

77 to, the criminal records, if any, of each member of the ap-
78 plicant's governing board and/or its officers and directors,
79 or any of the massage personnel, owners, operators or other
80 employees of the massage business who have been convicted
81 of any violation of any of the provisions set forth in sub-
82 section (c).

83 The ordinance may require that such application be verified
84 by the applicant or by each member of the governing board
85 of the applicant if an unincorporated association or, if the
86 applicant be a corporation, by each of its officers and all
87 members of its board of directors. The ordinance may also
88 require that such application be accompanied by a license fee
89 not exceeding the sum of one hundred dollars. Any license
90 issued under the provisions of this section shall be effective
91 for one year and may be renewed upon the same showing as
92 required for the issuance of the initial license, together with
93 the payment of fees, if any. The ordinance may require license
94 holders to notify the licensing authority of any changes in the
95 information required by the application within a reasonable
96 period after such changes may occur.

97 (e) This section does not apply to barbers or beauticians
98 licensed to practice, or to persons licensed to practice in any
99 of the health professions, under the provisions of chapter
100 thirty of this code when engaging in such practice within the
101 scope of his or her license.

102 (f) Nothing contained in this chapter shall preclude a
103 county commission from prohibiting a person of one sex from
104 engaging in the massage of a person of the other sex.

5 [Enr. Com. Sub. for H. B. 1328

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence C. Chustar Jr
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Todd C. Muths
Clerk of the Senate

VA Blankenship
Clerk of the House of Delegates

N. D. Embles Jr
President of the Senate

Clide M. Lee Jr
Speaker House of Delegates

The within is approved this the 26
day of March, 1980.

John R. Rhyne
Governor

RECEIVED

MAR 18 4 10 PM '80

OFFICE OF THE GOVERNOR

RECEIVED STATE

10 MAR 20 PM: 55

RECEIVED