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
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 conferred by law upon county commissions, county commissions are hereby authorized and empowered, by order duly entered of record, to adopt an ordinance which provides for the
licensing for the regulation of the business of massage when
carried on within the county. Such ordinances may be
adopted either for the entire county, or for any portion or
portions of such county which may constitute an effective
area or areas for such purposes, without the necessity of
adopting such ordinances for any other portion of such county.
Notwithstanding any other provision of this section to the
contrary, no such ordinance shall apply to or affect any territ-
ory within the boundaries of any municipal corporation which
has adopted and in effect an ordinance which provides for the
regulation of the business of massage, unless and until such
municipal corporation so provides by ordinance.

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

(1) Requirement that massage personnel be at least eigh-
teen years of age;
(2) Sanitary conditions of the massage establishment;
(3) Hours of operation of the massage business;
(4) Prohibition of the sale or serving of food or beverage
or the conducting of nonmassage business on the premises of
the massage business. In the event that the business premises in
which such massage business is conducted has separate quar-
ters used for purposes other than the massage business, the pro-
hibition of this subsection shall apply only to the portion of
the premises exclusively devoted to the conduct of the mas-
sage business.

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

(1) Proof that the massage personnel or the owners or opera-
tors of a massage business have been convicted of a violation
of any of the provisions of article eight, eight-a, eight-b or
eight-c, chapter sixty-one of this code or proof that massage
personnel or the owners or operators of a massage business
have been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses of this subsection.

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

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

(1) The name of the applicant;

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

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

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

(5) The name of the owner of the place at which the applicant will conduct its operation, if not the same as the applicant;

(6) The number of members of the applicant;

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

(8) Such other information as the licensing authority may reasonably require which may include, but need not be limited
to, the criminal records, if any, of each member of the applicant's governing board and/or its officers and directors, or any of the massage personnel, owners, operators or other employees of the massage business who have been convicted of any violation of any of the provisions set forth in subsection (c).

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

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

(f) Nothing contained in this chapter shall preclude a county commission from prohibiting a person of one sex from engaging in the massage of a person of the other sex.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence C. Chastain
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Judd C. Wells
Clerk of the Senate

U.R. Blankenship
Clerk of the House of Delegates

W.V. Bullock
President of the Senate

Clyde M. Beck
Speaker House of Delegates

The within _______________ this the _______________ day of _______________, 1980.

John D. Plotkin
Governor