

S.B. NO. 2878

JAN 23 2020

A BILL FOR AN ACT

RELATING TO MASSAGE THERAPY.

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

1 SECTION 1. Section 452-18, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§452-18 Sanitary rule.** The [~~department of health~~] board
4 [~~shall~~] may prescribe [~~such~~] sanitary rules as it deems
5 necessary, with [~~particular~~] reference to the precautions
6 necessary to be employed to prevent the creating and spreading
7 of infectious and contagious diseases."

8 SECTION 2. Section 452-19, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§452-19 Penalties.** [~~(a) Any person who practices~~
11 ~~massage or maintains a massage therapy establishment, or acts in~~
12 ~~any capacity wherein a license is required by this chapter,~~
13 ~~without a license provided for in this chapter, shall be guilty~~
14 ~~of a petty misdemeanor.~~

15 ~~(b)]~~ Any owner, operator, manager, or licensee in charge
16 of or in control of a massage therapy establishment who
17 knowingly employs a person who is not licensed as a massage
18 therapist or who has not received a permit as a massage

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1 therapist apprentice as provided in this chapter, or who allows
2 an unlicensed person to perform, operate, or practice massage is
3 guilty of a misdemeanor."

4 SECTION 3. Section 452-24, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) Any person who violates any of the provisions of this
7 chapter or the rules adopted pursuant thereto shall be fined not
8 less than [~~\$100~~] \$250 nor more than [~~\$1,000~~] \$2,000 for each
9 violation."

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



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BY REQUEST

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Report Title:

Massage Therapy; Massage Establishment; Chapter 452

Description:

Authorizes the Board of Massage Therapy to promulgate and enforce sanitation rules for massage establishments. Repeals section 452-19(a), Hawaii Revised Statutes, in favor of existing statutes that already treat unlicensed activity as a misdemeanor. Increases the minimum fine from \$100 to \$250 and the maximum fine from \$1,000 to \$2,000 for each violation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO MASSAGE THERAPY.

PURPOSE: To authorize the Board of Massage Therapy (Board) to promulgate and enforce sanitation rules for massage establishments. To repeal section 452-19(a), Hawaii Revised Statutes (HRS), in favor of existing statutes that already treat unlicensed activity as a misdemeanor. To increase the minimum fine from \$100 to \$250 and the maximum fine from \$1,000 to \$2,000 for each violation.

MEANS: Amend sections 452-18, 452-19, and 452-24(b), HRS.

JUSTIFICATION: In October 2018, the Hawaii State Department of Health repealed sanitation rules for massage establishments under section 11-11-4, Hawaii Administrative Rules. Since this repeal, massage establishments have not been required to comply with any sanitation requirements, and the Board lacks statutory authority to promulgate and enforce sanitation rules.

Impact on the public: This bill protects the public by ensuring that massage therapists operate legally in sanitary and licensed massage establishments and by discouraging unlicensed massage activity through an increase in the minimum and maximum fine amounts for each violation.

Impact on the department and other agencies: This bill may impact the Department of Commerce and Consumer Affairs' Professional and Vocational Licensing Division (PVL) and Regulated Industries Complaints Office (RICO). PVL staff may be required to create

new forms, which include attestations to sanitary conditions, and to collect and review more documentation than what is currently required. Fine assessments will be deposited into RICO's Compliance Resolution Fund. No impact is foreseen for other agencies.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-105.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.