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GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 1. CITIES AND COUNTIES [50001 - 52203] (Division 1 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES AND COUNTIES [50001 - 51298.5] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 6. Massage [51030 - 51034] (Chapter 6 added by Stats. 1976, Ch. 1352.)

51030. The legislative body of a city for incorporated areas or county for unincorporated areas may enact an ordinance which provides for the licensing for regulation of the business of massage when carried on within the city or county.

(Added by Stats. 1976, Ch. 1352.)

51031. 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 may include, but need not be limited to, the following areas:

- (a) Age of massage personnel.
- (b) Education and experience of massage personnel.
- (c) Passage by massage personnel of a practical examination of competence.
- (d) Sanitary conditions of the massage establishment.
- (e) Hours of operation of the massage business.
- (f) 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 possesses or is qualified to possess a certificate of occupancy issued by such city or county, the prohibition of this subdivision shall apply only to the portion of the premises exclusively devoted to the conduct of the massage business.

(Added by Stats. 1976, Ch. 1352.)

51032. (a) The ordinance may also provide that a license to engage in the business of massage may be denied upon a showing by the licensing authority of either of the following:

- (1) Proof that the massage personnel and the owners or operators of a massage business have been convicted of a violation of Section 266i, 315, 316, 318, or subdivision (b) of Section 647 of the Penal Code, or proof that the 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 subdivision.
- (2) Proof that the massage personnel and 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 11054, 11055, 11056, 11057, or 11058 of the Health and Safety 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 subdivision.

(b) The ordinance shall also provide that a license to engage in the business of massage shall be denied upon a showing by the licensing authority of proof that the massage personnel or the owners or operators of a massage business are required to register under the provisions of Section 290 of the Penal Code.

(Amended by Stats. 2005, Ch. 165, Sec. 1. Effective January 1, 2006.)

51033. (a) This chapter does not apply to cosmetologists, barbers, or to persons licensed to practice any healing art pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or the Chiropractic Act when engaging in this practice within the scope of his or her license.

(b) Notwithstanding any other provision of law, this chapter shall apply to an independent contractor of any person described in subdivision (a) if the independent contractor is engaged in, or is purported to be engaged in, the business of massage.

(Amended by Stats. 2002, Ch. 1053, Sec. 1. Effective January 1, 2003.)

51034. (a) The Legislature in enacting this chapter recognizes the existing power of a city or county to regulate a lawful massage business pursuant to Section 37101, or pursuant to Section 16000 or 16100 of the Business and Professions Code, or under Section 7 of Article XI of the California Constitution.

(b) Nothing contained in this chapter shall be a limitation on that existing power or on the existing authority of a city to license for revenue purposes. A city, county, or city and county shall not enact or enforce an ordinance that conflicts with the provisions of this section or Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code.

(c) Nothing contained in this chapter shall authorize a city, county, or city and county to do any of the following:

(1) Prohibit a person of one sex from engaging in the massage of a person of the other sex.

(2) Define a massage establishment as an adult entertainment business, or otherwise regulate a massage establishment as adult entertainment.

(3) Require a massage establishment to have windows or walls that do not extend from the floor to ceiling, or have other internal physical structures, including windows, that interfere with a client's reasonable expectation of privacy.

(4) Require a massage establishment to have a shower or bath.

(5) Impose client draping requirements that extend beyond the covering of genitalia and female breasts, or otherwise mandate that the client wear special clothing.

(6) Prohibit a massage establishment from locking its external doors if the massage establishment is a business entity owned by one individual with one or no employees or independent contractors.

(7) Require a massage establishment to post any notice in an area that may be viewed by clients that contains explicit language describing sexual acts, mentions genitalia, or specific contraception devices.

(8) Impose a requirement that a person certified pursuant to Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code take any test, medical examination, or background check, including a criminal background check or requiring submission of fingerprints for a federal or state criminal background check, or comply with education requirements beyond what is required by Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code.

(9) Impose a requirement that an individual holding a certificate issued in accordance with Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code, obtain any other license, permit, certificate, or other authorization to provide massage for compensation. However, this paragraph shall not be construed to prohibit a city, county, or city and county from requiring by ordinance that a massage business or establishment obtain a license, permit, certificate, or other authorization in order to operate lawfully within the jurisdiction.

(10) Impose a dress code requirement on a person certified pursuant to Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code in excess of those already imposed pursuant to paragraph (10) of subdivision (a) of Section 4609 of the Business and Professions Code.

(11) Prohibit a person certified pursuant to Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code from performing massage for compensation on the gluteal muscles, prohibit specific massage techniques recognized by the California Massage Therapy Council as legitimate, or impose any other specific restriction on professional practice beyond those set forth in subparagraph (E) of paragraph (1) of subdivision (a) of Section 4609 of the Business and Professions Code, except as authorized by Section 460 of the Business and Professions Code.

(Amended by Stats. 2016, Ch. 411, Sec. 9. (AB 2194) Effective January 1, 2017.)