

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2017 Legislative Session

Legislative Day No. 5

Bill No. 21 -2017

Introduced by: The Chairperson at the request of the County Executive and
Cosponsored by Jon Weinstein

AN ACT repealing certain County licenses and inspections related to massage; defining certain terms; allowing certain entry into massage establishments; authorizing the right to request certain authorization; providing for certain penalties; and generally relating to massage establishments in Howard County.

Introduced and read first time _____, 2017. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2017.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2017 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2017 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2017

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, Section 6-405(a)(2) of the Health-Occupations Article of the Annotated Code
2 of Maryland provides that Howard County, after consultation with the Board of Massage Therapy
3 Examiners, may adopt ordinances or regulations relating to the verification, inspection, and display
4 of massage therapy licenses; and
5

6 **WHEREAS**, the Human Trafficking Task Force noted that human trafficking can occur in
7 establishments that operate under the guise of massage establishments; and
8

9 **WHEREAS**, the Howard County Police Department is committed to fighting human
10 trafficking and operations masquerading as massage establishments have repeatedly been found to
11 harbor human trafficking and other criminal activity; and
12

13 **WHEREAS**, the authority granted in Section 6-405(a)(2) is important as the County moves
14 forward with addressing human trafficking and implementing the Howard County Human
15 Trafficking Task Force recommendations; and
16

17 **WHEREAS**, this legislation is needed to improve the Police Department’s ability to detect
18 and eliminate criminal activity with minimal burden on legitimate business.
19

20 *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard*
21 *County Code is amended as follows:*

22 1. *By repealing Title 14 “Licenses, Permits and Inspections”*

23 *Subtitle 8 “Massage Establishments”*
24

25 2. *By adding Title 17 “Public Protection Services”*

26 *Subtitle 8 “Massage Establishments”*
27

28 **Title 17. Public Protection Services.**

29 **SUBTITLE 8. MASSAGE ESTABLISHMENTS.**
30

1 **SECTION 17.800. PURPOSE AND SCOPE.**

2 (A) *PURPOSE.* THE PURPOSE OF THIS SUBTITLE IS TO PROTECT THE HEALTH, SAFETY, AND
3 WELFARE OF THE CITIZENS OF HOWARD COUNTY BY ALLOWING THE COUNTY TO INVESTIGATE
4 POSSIBLE CRIMINAL ACTIVITY OF INDIVIDUALS AND BUSINESSES HOLDING THEMSELVES OUT AS
5 PROVIDING MASSAGE WHILE ENSURING MINIMAL DISRUPTION TO MASSAGE PRACTITIONERS
6 WHO ARE AUTHORIZED UNDER STATE LAW.

7 (B) *SCOPE.* THIS SUBTITLE SHALL APPLY TO:

8 (1) ANY INDIVIDUAL WHO PROVIDES MASSAGE, SOLICITS CUSTOMERS TO PROVIDE
9 MASSAGE, OR HOLDS THEMSELVES OUT AS PROVIDING MASSAGE; OR

10 (2) ANY BUSINESS THAT SOLICITS CUSTOMERS TO PROVIDE MASSAGE OR HOLDS
11 ITSELF OUT AS PROVIDING MASSAGE.

12
13 **SECTION 17.801. DEFINITIONS.**

14 WORDS AND PHRASES USED IN THIS SUBTITLE HAVE THEIR USUAL MEANINGS EXCEPT AS
15 SPECIFICALLY DEFINED IN THIS SECTION:

16 (A) *CHIEF* MEANS THE CHIEF OF THE DEPARTMENT OF POLICE OR THE CHIEF'S DESIGNEE.

17 (B) *DEPARTMENT* MEANS THE HOWARD COUNTY DEPARTMENT OF POLICE.

18 (C) *MASSAGE* MEANS THE MANIPULATION OF TISSUES INCLUDING, BUT NOT LIMITED TO, BY
19 RUBBING, KNEADING, OR TAPPING WITH THE HAND OR AN INSTRUMENT. FOR PURPOSES OF THIS
20 SUBTITLE, MASSAGE SHALL INCLUDE MASSAGE THERAPY AS DEFINED IN SECTION 6-101 OF STATE
21 LAW.

22 (D) *MASSAGE ESTABLISHMENT* MEANS A BUSINESS ENTITY:

23 (1) WHERE ONE OR MORE INDIVIDUALS HOLD THEMSELVES OUT AS PROVIDING
24 MASSAGE;

25 (2) THAT ADVERTISES, OFFERS, OR ADMINISTERS MASSAGE PROVIDED BY ONE OR MORE
26 INDIVIDUALS; OR

27 (3) WHERE IT IS REASONABLY BELIEVED THAT ONE OR MORE INDIVIDUALS ARE
28 PROVIDING MASSAGE.

29 (E) *STATE LAW* MEANS THE HEALTH-OCCUPATIONS ARTICLE OF THE ANNOTATED CODE OF

1 MARYLAND.

2 (F) *STATE AUTHORIZATION* MEANS PROOF OF LEGAL AUTHORITY TO PRACTICE MASSAGE UNDER
3 SECTION 6-301 OF STATE LAW.

4

5 **SECTION 17.802. RIGHT OF ENTRY; PROOF OF STATE AUTHORIZATION.**

6 (A) *AUTHORITY TO ENTER – PUBLIC AREAS.* FOR THE PURPOSE OF ENSURING COMPLIANCE WITH
7 SECTION 6-301 OF STATE LAW, THE CHIEF MAY ENTER THE PUBLIC AREAS OF A MASSAGE
8 ESTABLISHMENT:

9 (1) UPON EXHIBITING PROPER CREDENTIALS; AND

10 (2) AT ANY TIME DURING BUSINESS OR OPERATING HOURS.

11 (B) *ENTRY REQUIRED.* A PERSON MAY NOT DENY ENTRY TO THE CHIEF IN THE PERFORMANCE OF
12 THE CHIEF’S DUTIES UNDER THIS SUBTITLE.

13 (C) *REQUIREMENT TO PROVIDE LICENSE.* UPON REQUEST, A PERSON SUBJECT TO THIS SUBTITLE
14 SHALL PRODUCE THEIR STATE AUTHORIZATION.

15 (D) *RIGHTS NOT LIMITED.* THIS SECTION DOES NOT RESTRICT OR LIMIT THE RIGHT OF ENTRY OR
16 INSPECTION AUTHORIZED BY ANY OTHER STATE OR COUNTY LAW INCLUDING, WITHOUT
17 LIMITATION, THE HOWARD COUNTY FIRE PREVENTION CODE, OR THE HOWARD COUNTY HEALTH
18 CODE.

19

20 **SECTION 17.803. DISPLAY OF AUTHORITY.**

21 AN INDIVIDUAL HOLDING STATE AUTHORIZATION SHALL DISPLAY THE STATE AUTHORIZATION
22 CONSPICUOUSLY IN A PUBLIC AREA OF THE MASSAGE ESTABLISHMENT.

23

24 **SECTION 17.804. ENFORCEMENT.**

25 (A) *GENERALLY.* THE DEPARTMENT MAY INSTITUTE ANY ACTION AT LAW OR EQUITY, INCLUDING
26 INJUNCTION OR MANDAMUS, TO ENFORCE THE PROVISIONS OF THIS SUBTITLE.

27 (B) *CIVIL PENALTIES.* ALTERNATIVELY, AND IN ADDITION TO AND CONCURRENT WITH ALL OTHER
28 REMEDIES, THE DEPARTMENT MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE WITH CIVIL
29 PENALTIES IN ACCORDANCE WITH TITLE 24 OF THIS CODE AS FOLLOWS:

1 (1) A VIOLATION OF ANY PROVISION OF THIS SUBTITLE IS A CLASS A OFFENSE; AND

2 (2) EACH INSTANCE THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

3 (C) *CIVIL CITATION*. A NOTICE OF VIOLATION IS NOT REQUIRED PRIOR TO THE ISSUANCE OF A CIVIL
4 CITATION UNDER TITLE 24 OF THIS CODE.

5 (D) *CRIMINAL PENALTIES*. A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF
6 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.00 OR
7 IMPRISONMENT NOT EXCEEDING SIX MONTHS OR BOTH.

8 (E) *REPORT TO STATE BOARD*. THE DEPARTMENT MAY REPORT ANY VIOLATIONS OF THIS SUBTITLE
9 OR ANY PROVISION OF THE ANNOTATED CODE OF MARYLAND TO THE STATE BOARD OF MASSAGE
10 THERAPY EXAMINERS.

11

12 **SECTION 17.805. SEVERABILITY.**

13 IF ANY PART OF THIS SUBTITLE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT THE OTHER
14 PARTS.

15

16 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that*
17 *this Act shall become effective 61 days after its enactment.*