

evaluation from the approved list of tests or assessment tools recognized by the department of education, and the results indicate that adequate progress has been made, the child has demonstrated adequate performance in the opinion of an evaluator and documented in a report under section 299A.4, subsection 7, or the director of the department of education, or the director's designee, grants approval for competent private instruction to continue under a plan for remediation.

Sec. 12. 1991 Iowa Acts, chapter 201, section 2, is amended to read as follows:

SEC. 2. RULEMAKING. The department of education shall recommend, and the state board of education shall adopt under chapter 17A, rules which shall be effective by January 1, 1992 1993, which require local school districts to immediately notify the parent, guardian, or legal custodian of a child in prekindergarten through sixth grade, who is the alleged victim of sexual abuse or who is a potential or actual witness in the investigation of an allegation of sexual abuse pursuant to a report initiated under section 280.17, that the child is being questioned as provided under section 280.17 and permit to be interviewed. The notice shall include the right of the child's parent, guardian, or legal custodian to be present during the questioning observe and hear the interview.

Sec. 13. HOME SCHOOL ASSISTANCE PROGRAM — DEFINITION. The department of education shall develop, and the state board of education shall adopt, rules by September 1, 1992, which establish criteria for the maintenance of home school assistance programs by public school districts. In developing the criteria the department shall consider program offerings in districts which have created and maintained programs for a number of years that provide instruction or instructional supervision by teachers employed by the districts to parents, guardians, or legal custodians who are providing instruction to their children or wards in the districts.

Sec. 14. Sections 8 and 13 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 23, 1992

CHAPTER 1136

CIVIL LIABILITY FOR SALE OF BEER, WINE, OR LIQUOR

H.F. 2428

AN ACT relating to including out-of-state liquor, wine, or beer licensees or permittees in, and exempting class "E" liquor control licensees from, Iowa's dramshop Act.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 123.92, Code 1991, is amended to read as follows:

123.92 CIVIL LIABILITY FOR SALE AND SERVICE OF BEER, WINE, OR INTOXICATING LIQUOR (DRAMSHOP ACT).

Any person who is injured in person or property or means of support by an intoxicated person or resulting from the intoxication of a person, has a right of action for all damages actually sustained, severally or jointly, against any licensee or permittee, whether or not the license or permit was issued by the division or by the licensing authority of any other state, who sold and served any beer, wine, or intoxicating liquor to the intoxicated person when the licensee or permittee knew or should have known the person was intoxicated, or who sold to and served the person to a point where the licensee or permittee knew or should have known the person would become intoxicated. If the injury was caused by an intoxicated person, a permittee or

licensee may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the person. The remedy provided by this section shall apply both prospectively, to actions filed on or after July 1, 1992, and retrospectively, to actions pending in trial or appellate courts prior to July 1, 1992.

Every liquor control licensee and class "B" beer permittee, except a class "E" liquor control licensee, shall furnish proof of financial responsibility by the existence of a liability insurance policy in an amount determined by the division.

Approved April 23, 1992

CHAPTER 1137

MASSAGE THERAPISTS

H.F. 2441

AN ACT providing for licensure of massage therapists and imposing fees and civil penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 136E.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the massage therapy advisory board established in section 136E.2.
2. "Department" means the department of public health.
3. "Massage therapist" means a person licensed to practice the health care service of massage therapy under this chapter.
4. "Massage therapy" means performance for compensation of massage, myotherapy, masootherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation. "Massage therapy" does not include diagnosis or service which requires a license to practice medicine or surgery, osteopathic medicine and surgery, osteopathy, chiropractic, or podiatry, and does not include service performed by athletic trainers, technicians, nurses, occupational therapists, or physical therapists who act under a professional license, certificate, or registration or under the prescription or supervision of a person licensed to practice medicine or surgery or osteopathic medicine and surgery.

Sec. 2. NEW SECTION. 136E.2 MASSAGE THERAPY ADVISORY BOARD CREATED — DUTIES.

The director of the department shall appoint members of the board, including four massage therapists and three persons who are not massage therapists and who shall represent the general public. The board shall advise the department regarding licensure and continuing education requirements, standards of practice and professional ethics, disciplinary actions, and other issues of concern to the board.

Sec. 3. NEW SECTION. 136E.3 REQUIREMENTS FOR LICENSURE.

1. The department shall adopt rules pursuant to chapter 17A establishing a procedure for licensing of massage therapists. License requirements shall include the following:
 - a. Completion of a curriculum of massage education at a state licensed or an accredited school approved by the department which requires for admission a diploma from an accredited high school or the equivalent and requires completion of at least five hundred hours of supervised