

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

A BILL FOR

1 An Act relating to the practice of massage therapy, and
2 providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 152C.4, Code 2019, is amended to read as
2 follows:

3 **152C.4 Practicing as a massage therapist without a license —**
4 **employment of person not licensed — ~~civil penalty~~ penalties.**

5 1. The board, or its authorized agents, may inspect any
6 facility that advertises or offers the services of massage
7 therapy. The board may, by order, impose a civil penalty upon
8 a person who practices as a massage therapist without a license
9 issued under this chapter or a person or business that employs
10 an individual who is not licensed under this chapter. The
11 penalty shall not exceed one thousand dollars for each offense.
12 Each day of a continued violation after an order or citation
13 by the board constitutes a separate offense, with the maximum
14 penalty not to exceed ten thousand dollars. In determining
15 the amount of a civil penalty, the board may consider the
16 following:

17 *a.* Whether the amount imposed will be a substantial economic
18 deterrent to the violation.

19 *b.* The circumstances leading to or resulting in the
20 violation.

21 *c.* The severity of the violation and the risk of harm to the
22 public.

23 *d.* The economic benefits gained by the violator as a result
24 of noncompliance.

25 *e.* The welfare or best interest of the public.

26 2. Before issuing an order or citation under this section,
27 the board shall provide written notice and the opportunity
28 to request a hearing on the record. The hearing must be
29 requested within thirty days of the issuance of the notice
30 and shall be conducted as provided in chapter 17A. The board
31 may, in connection with a proceeding under this section, issue
32 subpoenas to compel the attendance and testimony of witnesses
33 and the disclosure of evidence and may request the attorney
34 general to bring an action to enforce the subpoena.

35 3. A person aggrieved by the imposition of a civil penalty

1 under this section may seek judicial review in accordance with
2 section 17A.19. The board shall notify the attorney general
3 of the failure to pay a civil penalty within thirty days after
4 entry of an order pursuant to subsection 1, or within ten days
5 following final judgment in favor of the board if an order has
6 been stayed pending appeal. The attorney general may commence
7 an action to recover the amount of the penalty, including
8 reasonable attorney fees and costs. An action to enforce an
9 order under this section may be joined with an action for an
10 injunction.

11 4. In addition to other penalties prescribed by law
12 including those specified pursuant to subsection 1, a person
13 who practices as a massage therapist without a license issued
14 under this chapter is guilty of a serious misdemeanor.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill makes the practice of massage therapy without
19 a license a serious misdemeanor. A serious misdemeanor is
20 punishable by confinement for no more than one year and a
21 fine of at least \$315 but not more than \$1,875. The bill
22 also makes the penalties in Code chapter 152C additional to
23 any other penalty prescribed by law. Under current law, the
24 board of massage therapy may impose a civil penalty of no more
25 than \$1,000 per offense on a person practicing massage therapy
26 without a license, with each day of continuing practice after
27 an order or citation by the board constituting a separate
28 offense.