

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

academic instruction. However, educational requirements under this paragraph are subject to reduction by the department if, after public notice and hearing, the department determines that the welfare of the public may be adequately protected with fewer hours of education.

b. Passage of an examination given or approved by the department.

c. Payment of a reasonable fee required by the department which shall compensate and be retained by the department for the costs of administering this chapter.

2. In addition to provisions for licensure, the rules shall include the following:

a. Requirements regarding completion of at least twelve hours of continuing education annually regarding subjects concerning massage and related techniques or the health and safety of the public, subject to reduction by the department if, after public notice and hearing, the department determines that the welfare of the public may be adequately protected with fewer hours.

b. Requirements for issuance of a reciprocal license to licensees of states with license requirements equal to or exceeding those of this chapter. The rules shall provide for issuance of a temporary reciprocal license for licensees of states with lower requirements.

3. The department shall present all proposed rules, changes to rules, and proposed action for disciplinary reasons to the board for recommendation prior to implementation.

4. A massage therapist licensed pursuant to this chapter shall be issued a license number and a license certificate.

Sec. 4. NEW SECTION. 136E.4 EMPLOYMENT OF PERSON NOT LICENSED — CIVIL PENALTY APPLICABLE.

A person as defined in section 4.1, who employs to provide services to other persons a person who is not licensed pursuant to this chapter, shall not use the initials "L.M.T." or the words "licensed massage therapist", "massage therapist", "masseur", or "masseuse", or any other words or titles which imply or represent that the person employed practices massage therapy. A person who violates this section is subject to imposition, at the discretion of the board, of a civil penalty not to exceed one thousand dollars. Each violation of this section is a separate offense. Each day a violation of this section occurs after citation by the board is a separate offense. The department may inspect any facility which advertises or offers services purporting to be delivered by massage therapists.

Sec. 5. NEW SECTION. 136E.5 USE OF TITLE OR SIMILAR TITLE — CIVIL PENALTY APPLICABLE.

A person who is not licensed pursuant to this chapter shall not use the initials "L.M.T." or the words "licensed massage therapist", "massage therapist", "masseur", or "masseuse", or any other words or titles which imply or represent that the person practices massage therapy. A person who violates this section is subject to imposition, at the discretion of the board, of a civil penalty not to exceed five hundred dollars. Each violation of this section is a separate offense. Each day a violation of this section occurs after citation by the board is a separate offense.

Sec. 6. NEW SECTION. 136E.6 ENFORCEMENT.

No city, township, or county governmental body, agency, or department shall enact or enforce restrictions or requirements regarding massage therapists which are not equally enacted or enforced regarding all licensed health care practitioners, including but not limited to zoning, building code, health, and sanitation regulations.

Sec. 7. Section 147.74, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 16A. A massage therapist licensed under chapter 136E may use the words "licensed massage therapist" or the initials "L.M.T." after the person's name.

Sec. 8. TRANSITION PROVISIONS.

1. a. A person practicing massage therapy on the effective date of this bill* is eligible to receive a temporary license at the discretion of the department which is valid for up to two years. The department shall adopt rules determining criteria for receipt of a temporary license.

*Act probably intended

b. A person who can demonstrate that the person has practiced massage therapy for ten years or more prior to the effective date of this Act is eligible to receive a temporary license at the discretion of the department which is valid for six years. The department shall adopt rules determining criteria for receipt of a temporary license which shall include successful passage of a practical examination given by the department, and shall not include passage of a written examination.

2. Notwithstanding section 136E.2, of the initial appointees to the board, two members licensed to practice massage therapy and one representative of the public shall be appointed for one-year terms, one member licensed to practice massage therapy and one representative of the public shall be appointed for two-year terms, and one member licensed to practice massage therapy and one representative of the public shall be appointed for three-year terms. The initial appointees' successors shall be appointed for terms of three years each, except that a person chosen to fill a vacancy shall be appointed only for the unexpired term of the board member replaced.

Notwithstanding section 136E.3, initial appointees who are required to be massage therapists shall have completed a curriculum of massage education at a school which complies with the curriculum requirements of this chapter but shall not receive a license until successful passage of the required examination.

Approved April 23, 1992

CHAPTER 1138

CITY AND COUNTY BONDING AND LEASE, LEASE-PURCHASE, OR LOAN AGREEMENTS

S.F. 260

AN ACT relating to the right of cities and counties to enter into lease, lease-purchase, or loan agreements, issue general or essential purpose bonds, and by requiring an election under certain conditions for real property and providing an applicability date.

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

Section 1. Section 331.301, subsection 10, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

10. A county may enter into leases or lease-purchase contracts for real or personal property in accordance with the following terms and procedures:

a. A county shall lease or lease-purchase property only for a term which does not exceed the economic life of the property, as determined by the board.

b. A lease or lease-purchase contract entered into by a county may contain provisions similar to those sometimes found in leases between private parties, including, but not limited to, the obligation of the lessee to pay any of the costs of operation or ownership of the leased property and the right to purchase the leased property.

c. A provision of a lease or lease-purchase contract which stipulates that a portion of the rent payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 is not applicable. A county enterprise is a separate entity under this subsection, whether it is governed by the board or another governing body.

d. The board must follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a lease or a lease-purchase contract made payable from the debt service fund.