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HOUSE BILL 26-1257

BY REPRESENTATIVE(S) Gonzalez R. and Rutinel, Bradley, Brooks, Brown, Carter, Clifford, Duran, Garcia Sander, Keltie, Lieder, Nguyen, Phillips, Sirota, Slauch, Story, Valdez, Weinberg, Woodrow, Marshall; also SENATOR(S) Liston and Mullica, Coleman.

CONCERNING THE LOCAL REGULATION OF MASSAGE FACILITIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 30-15-401.4, **amend** (1)(a)(I), (1)(a)(II), (1)(a)(III), (1)(a)(IV) introductory portion, (1)(a)(IV)(A), (1)(b)(I), (2)(d), (3)(a), (3.5)(c), (4)(a) introductory portion, (4)(a)(II), (4)(a)(IV) introductory portion, (4)(a)(XI.5) introductory portion, (4)(a)(XI.5)(C), (4)(a)(XII) introductory portion, (4)(a)(XII)(D), (4.5)(a) introductory portion, (4.5)(a)(I), (5) introductory portion, (6), (7) introductory portion, (7)(g)(II), and (7)(h)(III); and **add** (1)(a)(I.5), (1)(a)(II.5), (1)(a)(III.5), (1)(a)(IX), (1)(a)(X), (3)(d), (4)(a)(XIII), and (7)(i) as follows:

30-15-401.4. Statewide policy to prevent the operation of illicit massage businesses - local regulation authorized - background checks required - legislative declaration - definitions.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(1) (a) The general assembly finds and declares that:

(I) Illicit massage businesses present a facade of legitimate services, concealing that the primary business is the sex and labor trafficking of victims who are trapped in these businesses. THE REPUTATION AND SUCCESS OF LEGITIMATE MASSAGE THERAPY BUSINESSES IS DENIGRATED AND UNDERMINED BY INDIVIDUALS WHO CONCEAL UNLAWFUL ACTIVITIES, SUCH AS HUMAN TRAFFICKING, BY FALSELY POSING AS MASSAGE THERAPY BUSINESSES.

(I.5) THE OPERATION OF ILLICIT MASSAGE THERAPY BUSINESSES IS DANGEROUS TO THE PUBLIC AND CAN RESULT IN UNLAWFUL SEXUAL ACTIVITIES, HUMAN TRAFFICKING, ILLEGAL BUILDING IMPROVEMENTS, ZONING VIOLATIONS, AND NUISANCE ACTIVITIES;

(II) Human trafficking is a growing problem throughout Colorado. FROM 1977 UNTIL 2015, THE COLORADO MASSAGE PARLOR CODE AUTHORIZED LOCAL GOVERNMENTS TO REGULATE MASSAGE PARLORS THROUGH LICENSURE PROGRAMS. IN 2014, A SUNSET REVIEW RECOMMENDED SUNSETTING THE MASSAGE PARLOR CODE BASED ON A VIEW THAT THE CODE WAS NOT "A SIGNIFICANT FACTOR IN THE FIGHT AGAINST PROSTITUTION" AND WAS NOT NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE. THE COLORADO MASSAGE PARLOR CODE WAS REPEALED IN 2015 BY SENATE BILL 15-122, DISMANTLING DOZENS OF LOCAL LICENSING SYSTEMS THAT LOCAL GOVERNMENTS HAD ENACTED TO ADDRESS HUMAN TRAFFICKING.

(II.5) THE "MESSAGE THERAPY PRACTICE ACT", ARTICLE 235 OF TITLE 12, WAS ENACTED IN 2008 TO REGULATE THE PROFESSION OF MASSAGE THERAPY AND TO PROVIDE FOR CONSISTENT STATEWIDE CERTIFICATION AND OVERSIGHT OF MASSAGE THERAPISTS. THE "MESSAGE THERAPY PRACTICE ACT" PERMITS LOCAL GOVERNMENTS TO INSPECT MASSAGE THERAPY LICENSES AND BUSINESS PREMISES WHERE MASSAGE THERAPY IS CONDUCTED TO ENSURE COMPLIANCE WITH APPLICABLE LAWS.

(III) All local governments in the state already have authority to enact resolutions or ordinances to establish licensing authorities to regulate or otherwise regulate massage facilities and to deter and shut down illicit massage facilities WHERE THE FACILITIES EXIST OR ARE REASONABLY LIKELY

TO OCCUR; and

(III.5) IN 2018, THROUGH ITS AUTHORITY AS A HOME RULE MUNICIPALITY, THE CITY OF AURORA ENACTED AN ORDINANCE TO REGULATE MASSAGE FACILITIES TO COMBAT HUMAN TRAFFICKING BY FOCUSING DIRECTLY ON THE PERPETRATORS OF TRAFFICKING AND THE DETERRENCE OF UNLAWFUL BEHAVIOR AS AN ALTERNATIVE TO TRADITIONAL LAW ENFORCEMENT APPROACHES. OTHER MUNICIPALITIES FOLLOWED SUIT AND THE GENERAL ASSEMBLY SUBSEQUENTLY ENACTED HOUSE BILL 22-1300 IN 2022 TO AUTHORIZE COUNTIES TO ENACT SIMILAR REGULATIONS.

(IV) Because preventing the operation of illicit massage facilities by requiring current and prospective operators, owners, and employees of massage facilities to submit to periodic background checks is a ~~matter of statewide concern and licensing~~ and other regulation of massage facilities is a matter of mixed statewide and local concern, ~~that~~ AND BECAUSE local governments have significant discretion to ~~address~~ ADOPT ORDINANCES AND RESOLUTIONS in accordance with local needs, it is necessary, appropriate, and in the best interest of all Coloradans to:

(A) Require ~~uniformly throughout the state as a matter of statewide policy~~; that every current and prospective operator, owner, and employee of a massage facility submit to a background check, which generally means a fingerprint-based criminal history record check, as required by this section; and

(IX) LOCAL REGULATION OF MASSAGE FACILITIES HAS BEEN EFFECTIVE IN REDUCING THE NUMBER OF ILLICIT MASSAGE BUSINESSES, DETERRING THE LOCATION OF NEW ILLICIT MASSAGE BUSINESSES, AND FOCUSING ON THE BEHAVIOR OF PERPETRATORS OF HUMAN TRAFFICKING; AND

(X) THE LOCAL REGULATION OF MASSAGE FACILITIES, IMPLEMENTED CONSISTENTLY WITH THE "MESSAGE THERAPY PRACTICE ACT", RECOGNIZES THAT MESSAGE THERAPY IS A LEGITIMATE HEALTH-CARE PROFESSION THAT PROVIDES BENEFITS TO THE RESIDENTS OF COLORADO.

(b) The general assembly further finds and declares that:

(I) A local government may adopt a resolution or ordinance to

establish business licensure requirements to regulate massage facilities or to regulate and prohibit unlawful activities AT MASSAGE FACILITIES for the sole purpose of deterring illicit massage businesses, and preventing human trafficking, PROTECTING LEGITIMATE MASSAGE THERAPY BUSINESSES, AND SAFEGUARDING AND PROMOTING PUBLIC HEALTH, SAFETY, AND WELFARE;

(2) As used in this section, unless the context otherwise requires:

(d) "Illicit massage business" means a business that ~~may provide~~ PROVIDES massage ~~but~~ AND:

(I) Engages in human-trafficking-related offenses, as described in ~~sections~~ SECTION 18-3-503 ~~and~~ OR 18-3-504; OR

(II) COMMITS OTHER OFFENSES AS DEFINED BY STATE LAW OR LOCAL ORDINANCE.

(3) (a) In addition to any other powers, a local government may adopt a resolution or ordinance to establish business licensure requirements or to regulate and prohibit unlawful activities to prevent the operation of illicit massage businesses that engage in human trafficking-related offenses as described in sections 18-3-503 and 18-3-504 ~~If a local government adopts a resolution or ordinance to establish business licensure requirements pursuant to subsection (4) of this section or to prohibit unlawful activities pursuant to subsection (5) of this section, the resolution or ordinance must not be more restrictive than the requirements set forth in this section~~ OR COMMIT OTHER OFFENSES AS DEFINED BY STATE LAW OR LOCAL ORDINANCE.

(d) ON AND AFTER AUGUST 13, 2026, WHEN ADOPTING A RESOLUTION OR ORDINANCE PURSUANT TO THIS SECTION, A LOCAL GOVERNMENT SHALL CONSIDER THE IMPACTS OF THE RESOLUTION OR ORDINANCE ON LEGITIMATE MASSAGE THERAPY BUSINESSES AND CONDUCT OUTREACH TO MASSAGE THERAPISTS AND MASSAGE THERAPY BUSINESSES IN THE LOCAL GOVERNMENT'S JURISDICTION AND STATEWIDE ORGANIZATIONS OF MASSAGE THERAPISTS.

(3.5) Except as otherwise provided in subsection (3)(c) of this section, a local government shall establish a process in accordance with 34 U.S.C. sec. 41101, which must be established by ordinance or resolution, in accordance with 34 U.S.C. sec. 41101; must meet the criteria established

by the federal bureau of investigation in implementing 34 U.S.C. sec. 41101; and must be performed in accordance with section 24-33.5-424.5, to require that, as a condition for a person remaining as or becoming an operator, owner, or employee:

(c) A prospective operator or owner submit to a background check performed in accordance with section 24-33.5-424.5 ~~at least thirty days~~ before, as applicable, being granted a license to operate a massage facility or assuming an ownership interest in a massage facility that would make the prospective owner an owner.

(4) (a) If a local government adopts a resolution or ordinance to establish business licensure requirements for massage facilities as set forth in subsection (3)(a) of this section, the business licensure requirements may ~~only~~ include:

(II) Requiring a reasonable administrative fee ~~not to exceed one hundred fifty dollars~~ for issuing or renewing licensure applications. The fee must not be based on the number of employees. ~~This subsection (4)(a)(II) applies only to new businesses applying for a license or renewal on or after August 10, 2022. Businesses that hold a license before August 10, 2022, are exempt from the administrative fees described in this subsection (4)(a)(II)~~ THE ADMINISTRATIVE FEE ADOPTED BY THE LOCAL GOVERNMENT MUST BE REASONABLY RELATED TO THE COSTS OF THE LOCAL GOVERNMENT IN ADMINISTERING THE RESOLUTION OR ORDINANCE AND THE LICENSING OF MASSAGE FACILITIES. A FEE THAT EXCEEDS FIVE HUNDRED DOLLARS IS PRESUMED TO BE UNREASONABLE UNLESS THE LOCAL GOVERNMENT ESTABLISHES THAT A FEE GREATER THAN FIVE HUNDRED DOLLARS IS NECESSARY TO COVER THE LOCAL GOVERNMENT'S COSTS OF ADMINISTERING THE RESOLUTION OR ORDINANCE AND THE LICENSING OF MASSAGE FACILITIES. THE FEE MAY BE ADJUSTED FOR INFLATION OR DEFLATION BEGINNING ON JANUARY 1, 2028, AND ON JANUARY 1 OF EACH YEAR THEREAFTER. AS USED IN THIS SUBSECTION (4)(a)(II), "INFLATION OR DEFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID FOR BY URBAN CONSUMERS. THE LOCAL GOVERNMENT MAY ROUND THE ADJUSTED FEE AMOUNT UPWARD OR DOWNWARD TO THE NEAREST DOLLAR.

(IV) Allowing a licensing authority, or a THE licensing authority's designee, to deny an application FOR REASONS DESCRIBED IN THE ORDINANCE OR RESOLUTION ADOPTED BY THE LOCAL GOVERNMENT, INCLUDING if:

(XI.5) Granting ~~the~~ A licensing authority, or the licensing authority's designees, authority to revoke or suspend a license FOR REASONS DESCRIBED IN THE ORDINANCE OR RESOLUTION ADOPTED BY THE LOCAL GOVERNMENT, INCLUDING if:

(C) An owner of the licensed massage facility has been convicted of or entered a plea of nolo contendere that is accepted by the court for an offense listed in subsection (4)(a)(IV)(C) of this section or is registered as a sex offender or is required by law to register as a sex offender, as described in section 16-22-103; ~~and~~

(XII) Granting a licensing authority, or THE licensing authority's designees, the authority to revoke or suspend a license for violating prohibited acts pursuant to subsection (5) of this section. A licensing authority, or the licensing authority's designees, may temporarily suspend a license ~~with~~ AND SCHEDULE a hearing ~~to be scheduled~~ within fifteen days ~~when~~ AFTER the licensing authority MAKES FINDINGS AS DESCRIBED IN THE ORDINANCE OR RESOLUTION ADOPTED BY THE LOCAL GOVERNMENT OR finds:

(D) The licensee failed to permit an inspection at a time the massage facility was open for business; AND

(XIII) ANY OTHER PROVISIONS RELATED TO THE BUSINESS LICENSURE OR OPERATION OF MASSAGE FACILITIES THAT ARE DEEMED NECESSARY BY THE LOCAL GOVERNMENT FOR THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND WELFARE, SO LONG AS THE RESOLUTION OR ORDINANCE DOES NOT CONFLICT WITH THE REGULATION OF THE PRACTICE OF MASSAGE THERAPY PURSUANT TO ARTICLE 235 OF TITLE 12.

(4.5) (a) ~~A person is prohibited from being an owner if the person either~~ IF A LOCAL GOVERNMENT ADOPTS A RESOLUTION OR ORDINANCE TO ESTABLISH BUSINESS LICENSURE REQUIREMENTS FOR MASSAGE FACILITIES IN ACCORDANCE WITH THIS SECTION, THE BUSINESS LICENSURE REQUIREMENTS MUST PROHIBIT A PERSON FROM OWNING A MASSAGE

FACILITY IF THE PERSON:

(I) Has not submitted to a required background check ~~at least thirty days~~ before assuming an ownership interest in a massage facility that would make the prospective owner an owner pursuant to subsections (4)(c) and (4)(c.5) of this section; or

(5) A local government may adopt a resolution or ordinance to prohibit activities to prevent the operation of illicit massage businesses that engage in human trafficking-related offenses as described in sections 18-3-503 and 18-3-504. Prohibited activities MAY include:

(6) (a) If authorized by the ~~local government~~ COUNTY resolution or ordinance, a law enforcement officer may follow the penalty assessment procedure described in section 16-2-201 for any violation of the prohibitions set forth in subsection (5) of this section. As part of the ~~local government~~ COUNTY ordinance or resolution authorizing the penalty assessment procedure, the ~~local government~~ COUNTY may adopt a graduated fine schedule for violations of the prohibitions set forth in subsection (5) of this section. A graduated fine schedule may provide for increased penalty assessments for repeat offenses by the same person.

(b) A ~~local government~~ COUNTY may specify in the resolution or ordinance that a massage facility that engages in two or more violations of the resolution or ordinance is a public nuisance, as described in section 16-13-303, unless the violation is already a public nuisance, as described in section 16-13-303. The county attorney of a county, the city attorney of a city and county, ~~the city or town attorney of a municipality~~, or the district attorney acting pursuant to section 16-13-302 may bring an action in the district court of the county for an injunction against the massage facility that violates the resolution or ordinance.

(7) A RESOLUTION OR ORDINANCE ADOPTED BY A LOCAL GOVERNMENT PURSUANT TO THIS SECTION MUST NOT CONSIDER ANY OF THE FOLLOWING TO BE A massage facility: ~~does not include:~~

(g) A place of business where a person offers to perform or performs massage therapy:

(II) As part of a public or charity event in which the primary purpose

is not to provide massage therapy; and

(h) A place of business where a licensed massage therapist practices as a solo practitioner and:

(III) Does not maintain or operate a table shower; AND

(i) A HOTEL OR RESORT WITH AT LEAST FIFTY ROOMS, AT WHICH MASSAGE SERVICES ARE PROVIDED AS AN ANCILLARY AMENITY.

SECTION 2. In Colorado Revised Statutes, 31-15-401, **add** (1)(s) as follows:

31-15-401. General police powers.

(1) In relation to the general police power, the governing bodies of municipalities have the following powers:

(s) TO LICENSE AND REGULATE THE ESTABLISHMENT AND OPERATION OF MASSAGE FACILITIES TO PREVENT HUMAN TRAFFICKING AND THE OPERATION OF ILLICIT MASSAGE FACILITIES IN ACCORDANCE WITH SECTION 30-15-401.4.

SECTION 3. In Colorado Revised Statutes, 31-15-407, **amend** (1) as follows:

31-15-407. Statewide policy to prevent the operation of illicit massage businesses - background checks required - legislative declaration.

(1) The general assembly finds and declares that because preventing the operation of illicit massage businesses, as defined in section 30-15-401.4, ~~is a matter of statewide concern, and licensing and regulation of massage facilities~~ is a matter of mixed statewide and local concern, it is necessary, appropriate, and in the best interest of all Coloradans to require, uniformly throughout the state as a matter of statewide policy, that every current and prospective operator, owner, and employee of a massage facility submit to a background check, as defined in section 30-15-401.4 (2)(a.5), which generally means a fingerprint-based criminal history record check as required by section 30-15-401.4.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO