

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 717

Representative Brenner

Cosponsors: Representatives Carfagna, Ginter

A BILL

To amend sections 503.40, 503.41, 503.42, 503.43, 1
503.44, 503.45, 503.46, 503.47, 503.48, 503.49, 2
and 503.50 and to enact section 503.411 of the 3
Revised Code to provide townships with the 4
optional authority to regulate massage 5
establishments without requiring the current 6
preliminary registration requirements, to create 7
a criminal penalty for failure to have the 8
requisite state occupational and professional 9
licenses a township may require for a person to 10
perform massages in the township, and to make 11
changes to the current registration 12
requirements. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 503.40, 503.41, 503.42, 503.43, 14
503.44, 503.45, 503.46, 503.47, 503.48, 503.49, and 503.50 be 15
amended and section 503.411 of the Revised Code be enacted to 16
read as follows: 17

Sec. 503.40. As used in sections 503.40 to 503.49 of the 18

Revised Code: 19

(A) "Massage" means any method of exerting pressure on, 20
stroking, kneading, rubbing, tapping, pounding, vibrating, or 21
stimulating the external soft tissue of the body with the hands, 22
or with the aid of any mechanical or electrical apparatus or 23
appliance. 24

(B) "Massage establishment" means any fixed place of 25
business where a person offers massages: 26

(1) In exchange for anything of value; or 27

(2) In connection with the provision of another legitimate 28
service. 29

(C) ~~"Masseur" or "masseuse"~~ "Massager" means any individual 30
who performs massages at a massage establishment. 31

(D) "Sexual or genital area" includes the genitalia, pubic 32
area, anus, perineum of any person, and the breasts of a female. 33

Sec. 503.41. (A) A board of township trustees, by 34
resolution, may regulate massage establishments and, in 35
addition, may require the registration of massage establishments 36
and their employees within the unincorporated territory of the 37
township. In accordance with sections 503.40 to 503.49 of the 38
Revised Code, for that purpose, the board, by a majority vote of 39
all members, may adopt, amend, administer, and enforce such 40
regulations and registration requirements within the 41
unincorporated territory of the township. 42

(B) A board may adopt regulations, registration 43
requirements, and amendments under this section only after 44
public hearing at not fewer than two regular sessions of the 45
board. The board shall cause to be published in a newspaper of 46

general circulation in the township, or as provided in section 47
7.16 of the Revised Code, notice of the public hearings, 48
including the time, date, and place, once a week for two weeks 49
immediately preceding the hearings. The board shall make 50
available proposed regulations, registration requirements, or 51
amendments to the public at the office of the board. 52

(C) Regulations, registration requirements, or amendments 53
adopted by the board are effective thirty days after the date of 54
adoption unless, within thirty days after the adoption of the 55
regulations, registration requirements, or amendments, the 56
township fiscal officer receives a petition, signed by a number 57
of qualified electors residing in the unincorporated area of the 58
township equal to not less than ten per cent of the total vote 59
cast for all candidates for governor in the area at the most 60
recent general election at which a governor was elected, 61
requesting the board to submit the regulations, registration 62
requirements, or amendments to the electors of the area for 63
approval or rejection at the next primary or general election 64
occurring at least ninety days after the board receives the 65
petition. 66

No regulation, registration requirement, or amendment for 67
which the referendum vote has been requested is effective unless 68
a majority of the votes cast on the issue is in favor of the 69
regulation, registration requirement, or amendment. Upon 70
certification by the board of elections that a majority of the 71
votes cast on the issue was in favor of the regulation, 72
registration requirement, or amendment, the regulation, 73
registration requirement, or amendment takes immediate effect. 74

(D) The board shall make available regulations and 75
registration requirements it adopts or amends to the public at 76

the office of the board and shall cause to be published once a notice of the availability of the regulations and registrations requirements in a newspaper of general circulation in the township within ten days after their adoption or amendment.

(E) Nothing in sections 503.40 to 503.49 of the Revised Code shall be construed to allow a board of township trustees to regulate or require the registration of any massager engaged in the practice of any limited branch of medicine specified in section 4731.15 of the Revised Code or the practice of providing therapeutic massage by a licensed physician, a licensed chiropractor, a licensed podiatrist, a licensed nurse, or any other licensed health professional. As used in this division, "licensed" means licensed, certified, or registered to practice in this state.

Sec. 503.411. (A) If a board of township trustees has adopted a resolution under section 503.41 of the Revised Code to regulate massage establishments, the regulations may include the following:

(1) A requirement that all massages performed in a massage establishment be performed by a person who is at least one of the following:

(a) Licensed by the state cosmetology and barber board, or its predecessors or successors, and who provides a massage as a portion of, and incidental to, barber services in accordance with Chapter 4709. of the Revised Code or cosmetology services in accordance with Chapter 4713. of the Revised Code;

(b) Licensed by the board of nursing, or its predecessors or successors, and who provides a massage as a portion of, and incidental to, nursing services in accordance with Chapter 4723.

<u>of the Revised Code;</u>	106
<u>(c) Licensed by the state medical board, or its</u>	107
<u>predecessors or successors, and who provides a massage as a</u>	108
<u>portion of, and incidental to, medical services in accordance</u>	109
<u>with Chapters 4730. and 4731. of the Revised Code or acupuncture</u>	110
<u>and oriental medicine in accordance with Chapter 4762. of the</u>	111
<u>Revised Code;</u>	112
<u>(d) Licensed by the state chiropractic board, or its</u>	113
<u>predecessors or successors, and who provides a massage as a</u>	114
<u>portion of, and incidental to, chiropractic services in</u>	115
<u>accordance with Chapter 4734. of the Revised Code;</u>	116
<u>(e) Licensed by the state medical board, or its</u>	117
<u>predecessors or successors, as a massage therapist in accordance</u>	118
<u>with Chapter 4731. of the Revised Code;</u>	119
<u>(f) Enrolled and regularly and actively participating in</u>	120
<u>an accredited educational program to achieve the training</u>	121
<u>necessary to obtain the massage therapist license specified in</u>	122
<u>division (A)(1)(e) of this section; or</u>	123
<u>(g) Graduated from an education program as specified in</u>	124
<u>division (A)(1)(f) of this section within the past eighteen</u>	125
<u>months and is actively attempting to complete all testing and</u>	126
<u>other remaining requirements to obtain the massage therapist</u>	127
<u>license specified in division (A)(1)(e) of this section.</u>	128
<u>(B) If the board of township trustees adopts the</u>	129
<u>regulation in division (A) of this section, it shall allow</u>	130
<u>licensure from all of the professions provided for in that</u>	131
<u>division and the persons identified in division (A)(1)(f) and</u>	132
<u>(g) of this section.</u>	133
<u>(C) If the board adopts the regulation in division (A) of</u>	134

this section, no person shall knowingly act as a massager for a 135
massage establishment located in the unincorporated area of the 136
township without first having obtained a license from a board 137
specified in division (A) of this section or without being a 138
student or recent graduate as provided in divisions (A) (1) (f) 139
and (g) of this section. 140

(D) A resolution adopted under section 503.41 of the 141
Revised Code to regulate massage establishments may include any 142
of the following: 143

(1) A requirement that the massage establishment fully 144
comply with any applicable zoning resolution and amendments to 145
the resolution that are adopted by the board under Chapter 519. 146
of the Revised Code; 147

(2) Designated hours as prohibited hours of operation; 148

(3) The prohibitions set forth in divisions (B) and (C) of 149
section 503.42 of the Revised Code; 150

(4) Any other regulation, determined by the board to be 151
necessary for the health, safety, and welfare of the township 152
residents, subject to division (E) of section 503.41 of the 153
Revised Code. 154

Sec. 503.42. (A) If a board of township trustees has 155
adopted a resolution under section 503.41 of the Revised Code 156
that includes a registration requirement, the registration 157
requirements may require either or both of the following: 158

~~(A)~~ (1) No person shall engage in, conduct or carry on, or 159
permit to be engaged in, conducted or carried on in the 160
unincorporated areas of the township, the operation of a massage 161
establishment without first having obtained a permit from the 162
board of township trustees as provided in section 503.43 of the 163

Revised Code. 164

~~(B)~~ (2) No individual shall act as a ~~masseur or masseuse~~
massager for a massage establishment located in the 165
unincorporated areas of the township without first having 166
obtained a license from the board of township trustees as 167
provided in section 503.45 of the Revised Code. 168
169

~~(C)~~ ~~No~~ (B) If a board of township trustees has adopted a 170
resolution under section 503.41 of the Revised Code, no owner or 171
operator of a massage establishment located in the 172
unincorporated areas of the township shall knowingly do any of 173
the following: 174

(1) Employ ~~an unlicensed masseur or masseuse~~ a massager 175
that is not licensed by the township as provided in section 176
503.45 of the Revised Code, or by the state as provided in 177
section 503.411 of the Revised Code; 178

(2) Refuse to allow appropriate state or local 179
authorities, including police officers, access to the massage 180
establishment for any health or safety inspection conducted 181
pursuant to a regulation or registration requirement adopted by 182
the township under section 503.41 of the Revised Code; 183

(3) Operate during the hours designated as prohibited 184
hours of operation by the board of township trustees; 185

(4) Employ any person under the age of eighteen. 186

~~(D)~~ ~~No~~ (C) If a board of township trustees has adopted a 187
resolution under section 503.41 of the Revised Code, no person 188
employed in a massage establishment located in the 189
unincorporated area of the township shall knowingly do any of 190
the following in the performance of duties at the massage 191
establishment: 192

(1) Place ~~his or her~~ the person's hand upon, touch with 193
any part of ~~his or her~~ the person's body, fondle in any manner, 194
or massage the sexual or genital area of any other person; 195

(2) Perform, offer, or agree to perform any act which 196
would require the touching of the sexual or genital area of any 197
other person; 198

(3) Touch, offer, or agree to touch the sexual or genital 199
area of any other person with any mechanical or electrical 200
apparatus or appliance; 201

(4) Wear unclean clothing, no clothing, transparent 202
clothing, or clothing that otherwise reveals the sexual or 203
genital areas of the ~~masseur or masseuse~~ massager; 204

(5) Uncover or allow the sexual or genital area of any 205
other person to be uncovered while providing massages. 206

~~(E) No~~ (D) If a board of township trustees has adopted a 207
resolution under section 503.41 of the Revised Code that 208
includes the permit requirement authorized by division (A) (1) of 209
this section, no licensed ~~masseur or masseuse~~ massager shall 210
accept or continue employment at a massage establishment that 211
does not have a current, valid permit issued by the board of 212
township trustees. 213

Sec. 503.43. If a board of township trustees has adopted a 214
resolution under section 503.41 of the Revised Code that 215
includes the permit requirement authorized by division (A) (1) of 216
section 503.42 of the Revised Code, the application for a permit 217
to operate a massage establishment shall be made to the board 218
and shall include the following: 219

(A) An initial, nonrefundable filing fee of two hundred 220
fifty dollars and an annual nonrefundable renewal fee of one 221

hundred twenty-five dollars; 222

(B) A health and safety report of an inspection of the 223
premises performed within thirty days of the application to 224
determine compliance with applicable health and safety codes, 225
which inspection appropriate state or local authorities acting 226
pursuant to an agreement with the board shall perform; 227

(C) The full name and address of any person applying for a 228
permit, including any partner or limited partner of a 229
partnership applicant, any officer or director of a corporate 230
applicant, and any stock holder holding more than two per cent 231
of the stock of a corporate applicant having less than a total 232
of fifty employees or any stock holder holding more than twenty- 233
five per cent of the stock of a corporate applicant having more 234
than a total of fifty employees, the date of birth ~~and social-~~ 235
~~security number~~ of each individual, and the federal 236
identification number of any partnership or corporation; 237

(D) Authorization for an investigation into the criminal 238
record of any person applying for a permit; 239

(E) Proof that the massage establishment fully complies 240
with any applicable zoning resolution and amendments to the 241
resolution adopted by the board under Chapter 519. of the 242
Revised Code; 243

(F) Any other information determined by the board to be 244
necessary for the health, safety, and welfare of the township 245
residents, subject to division (E) of section 503.41 of the 246
Revised Code. 247

A permit issued under this section to a massage 248
establishment shall expire one year after the date of issuance, 249
except that no massage establishment shall be required to 250

discontinue business because of the failure of the board to act 251
on a renewal application filed in a timely manner and pending 252
before the board on the expiration date of the establishment's 253
permit. Each permit shall contain the name of the applicant, the 254
address of the massage establishment, and the expiration date of 255
the permit. 256

Sec. 503.44. If a board of township trustees has adopted a 257
resolution under section 503.41 of the Revised Code that 258
includes the permit requirement authorized by division (A) (1) of 259
section 503.42 of the Revised Code, it shall deny any 260
application for a permit to operate a massage establishment or 261
revoke, at any time, a previously issued permit, for any of the 262
following reasons: 263

(A) Falsification of any of the information required for 264
the application or failure to fully complete the application; 265

(B) Failure to cooperate with any required health or 266
safety inspection; 267

(C) Any one of the persons named on the application is 268
under the age of eighteen; 269

(D) Any one of the persons named on the application has 270
been convicted of or pleaded guilty to any violation of Chapter 271
2907. of the Revised Code, or any violation of any municipal 272
ordinance that is substantially equivalent to any offense 273
contained in Chapter 2907. of the Revised Code, within five 274
years preceding the application; 275

(E) Any ~~masseur or masseuse~~ massager employed at the 276
~~licensed-permitted~~ massage establishment has been convicted of 277
or pleaded guilty to a violation of division ~~(D)~~ (C) of section 278
503.42 of the Revised Code. 279

Sec. 503.45. If a board of township trustees has adopted a resolution under section 503.41 of the Revised Code that includes the license requirement authorized by division (A) (2) of section 503.42 of the Revised Code, the application for a license as a massager shall be made to the board and shall include the following:

(A) An initial, nonrefundable filing fee of one hundred dollars and an annual nonrefundable renewal fee of fifty dollars;

(B) The results of a physical examination performed by a licensed physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife within thirty days of the application certifying that the applicant is free from communicable diseases;

(C) The full name, date of birth, and address, and social security number of the applicant, and evidence of the applicant's eligibility to work in the United States such as the completed federal I-9 form with a current verification of employment authorization;

(D) The results of an investigation by appropriate police agencies into the criminal record of the applicant, including a photograph taken no later than thirty days ~~prior to~~ before the application, fingerprints, and background investigation;

(E) Any other information determined by the board to be necessary for the health, safety, and welfare of the township residents, subject to division (E) of section 503.41 of the Revised Code.

A license issued under this section to a massager shall expire one year after the date of issuance, except that no

massager shall be required to discontinue performing massages 309
because of the failure of the board to act on a renewal 310
application filed in a timely manner and pending before the 311
board on the expiration date of the person's license. Each 312
license shall contain the full name of the applicant, a color 313
photograph and a brief description of the person, and the 314
expiration date of the license. 315

Sec. 503.46. If a board of township trustees has adopted a 316
resolution under section 503.41 of the Revised Code that 317
includes the license requirement authorized by division (A) (2) 318
of section 503.42 of the Revised Code, it shall deny the 319
application for a ~~masseur or masseuse~~ massager license or 320
revoke, at any time, a previously issued license for any of the 321
following reasons: 322

(A) Falsification of any of the information required for 323
the application or failure to fully complete the application; 324

(B) The applicant is under the age of twenty-one. 325

(C) The applicant has been convicted of or pleaded guilty 326
to any violation of Chapter 2907. of the Revised Code, or 327
violation of any municipal ordinance that is substantially 328
equivalent to any offense contained in Chapter 2907. of the 329
Revised Code, within five years preceding the application. 330

(D) The applicant has been convicted of or pleaded guilty 331
to a violation of division ~~(D)~~ (C) of section 503.42 of the 332
Revised Code. 333

Sec. 503.47. If a board of township trustees has adopted a 334
resolution under section 503.41 of the Revised Code that 335
includes either or both of the registration requirements 336
authorized by divisions (A) (1) or (2) of section 503.42 of the 337

Revised Code, the regulations adopted ~~for that purpose in~~ 338
conjunction with those requirements may require any of the 339
following: 340

(A) A massage establishment to display its current permit 341
in an area open to the public; 342

(B) Each massager to display the massager's license at all 343
times in the areas where the licensee is providing massages; 344

(C) Massage establishments to undergo periodic health and 345
safety inspections to determine continual compliance with 346
applicable health and safety codes; 347

(D) Massagers to undergo periodic physical examinations 348
performed by a licensed physician, a physician assistant, a 349
clinical nurse specialist, a certified nurse practitioner, or a 350
certified nurse-midwife certifying that the massager continues 351
to be free from communicable diseases; 352

(E) Any other requirement reasonably thought necessary by 353
the board for the health, safety, and welfare of township 354
residents, subject to division (E) of section 503.41 of the 355
Revised Code. 356

Sec. 503.48. A board of township trustees acting under 357
sections 503.40 to 503.49 of the Revised Code and that has 358
adopted a resolution under section 503.41 of the Revised Code 359
that includes either or both of the registration requirements 360
authorized by divisions (A)(1) or (2) of section 503.42 of the 361
Revised Code need not hold any hearing in connection with an 362
order denying or revoking a permit to operate a massage 363
establishment or ~~masseur or masseuse~~ massager license. The board 364
shall maintain a complete record of each proceeding and shall 365
notify the applicant in writing of its order. Any person 366

adversely affected by an order of the board denying or revoking 367
a permit to operate a massage establishment or ~~masseur or~~ 368
~~masseuse~~ massager license may appeal from the order of the board 369
to the court of common pleas of the county in which the township 370
is located, the place of business of the permit holder is 371
located, or the person is a resident. The appeal shall be in 372
accordance with Chapter 2506. of the Revised Code. 373

Sec. 503.49. If a board of township trustees has adopted a 374
resolution under section 503.41 of the Revised Code that 375
includes either or both of the registration requirements 376
authorized by divisions (A)(1) or (2), the board shall deposit 377
the fees collected by the township for massage establishment 378
permits and ~~masseur and masseuse~~ massager licenses in the 379
township general fund and first use the fees for the cost of 380
administering and enforcing regulations and registration 381
requirements adopted under section 503.41 of the Revised Code. 382

Sec. 503.50. (A) Whoever violates division (A) (1) or ~~(B)~~ 383
(2) of section 503.42 of the Revised Code is guilty of a 384
misdemeanor of the first degree. 385

(B) Whoever violates division (B), (C), or (D), ~~or (E)~~ of 386
section 503.42 of the Revised Code is guilty of a misdemeanor of 387
the third degree. 388

(C) Whoever violates division (C) of section 503.411 of 389
the Revised Code is guilty of a misdemeanor of the third degree. 390

Section 2. That existing sections 503.40, 503.41, 503.42, 391
503.43, 503.44, 503.45, 503.46, 503.47, 503.48, 503.49, and 392
503.50 of the Revised Code are hereby repealed. 393