

SENATE BILL REPORT

SB 6104

As of January 26, 2012

Title: An act relating to administrative inspections of massage business establishments.

Brief Description: Granting authority to the secretary of health to conduct inspections of massage business establishments.

Sponsors: Senators Keiser, Fraser and Kline.

Brief History:

Committee Activity: Health & Long-Term Care: 1/25/12.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Veronica Warnock (786-7490)

Background: Pursuant to the Fourth Amendment, warrantless inspections of a business are only valid if the business is subject to governmental regulation and unannounced inspections are necessary to insure compliance with such regulation. Warrantless inspections must be specifically authorized by a statute which sufficiently delineates the scope, time and place of inspection. The inspection must be in furtherance of the regulated conduct.

The Uniform Disciplinary Act for health professions grants the Department of Health (DOH) the authority to investigate complaints or reports of unprofessional conduct. DOH can also initiate complaints themselves if they have a reasonable belief that unlicensed practice or unprofessional conduct is occurring. DOH may not initiate a complaint based on mere suspicion. Before an investigation may commence, the appropriate disciplining authority must make a formal determination that the complaint has merit. During the course of their investigation DOH may inspect the premises where the alleged unlicensed practice or unprofessional conduct is taking place.

Summary of Bill: In order to ascertain violations of the Massage Practice Act (MPA) or the Uniform Disciplinary Act for health professions, the Secretary of Health may inspect the premises of any massage business establishment during business hours. If access is denied, the Secretary may apply to any court of competent jurisdiction for a warrant authorizing entry.

Appropriation: None.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The 14,000 licensed massage therapists in Washington State contribute to the health and wellness of the state's residents every day. However, there are some who practice unlicensed massage or engage in illicit activities under the guise of massage. Our laws and regulations need to address this public safety issue and ensure public confidence regarding the use of legitimate massage. This bill would enhance DOH's ability to distinguish legal legitimate massage businesses from illegal illegitimate ones by allowing DOH to enter massage establishments without probable cause to determine whether violations of the MPA have occurred. With such a tool, DOH could be more proactive in investigating unlicensed and illicit activities and could more actively address the fact that some massage business establishments are acting as covers for human trafficking and prostitution. This is a sensible expansion of current law.

Persons Testifying: PRO: Karen Jensen, DOH; Marybeth Berney, American Massage Therapy Assn. WA Chapter.