

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 24-1371

BY REPRESENTATIVE(S) Hartsook and Lukens, Boesenecker, Bradley, Brown, Duran, English, Frizell, Jodeh, Kipp, Lieder, Ricks;
also SENATOR(S) Fields and Gardner, Priola.

CONCERNING REGULATION OF MASSAGE FACILITIES BY LOCAL GOVERNMENTS IN ACCORDANCE WITH STATEWIDE REQUIREMENTS, AND, IN CONNECTION THEREWITH, REQUIRING A LOCAL GOVERNMENT TO ESTABLISH A PROCESS THAT REQUIRES PERIODIC CRIMINAL BACKGROUND CHECKS FOR MASSAGE FACILITY OPERATORS, OWNERS, AND EMPLOYEES.

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)(III), (1)(a)(IV), (1)(b), (2)(e), (3), (4)(a) introductory portion, (4)(a)(IV), (4)(a)(V), (4)(a)(XI), (4)(c), (5) introductory portion, and (6); **repeal** (1)(a)(V), (1)(a)(VI), (1)(a)(VII), and (1)(a)(VIII); and **add** (2)(a.3), (2)(a.5), (2)(a.7), (2)(e.5), (2)(e.7), (2)(h.3), (2)(h.5), (3.5), (4)(a)(XI.5), (4)(c.5), and (4.5) as follows:

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

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.

required - legislative declaration - definitions. (1) (a) The general assembly finds and declares that:

(III) ~~Cities~~ ALL LOCAL GOVERNMENTS in ~~Colorado~~ THE STATE already have the authority to enact RESOLUTIONS OR ordinances to establish licensing authorities to regulate OR OTHERWISE REGULATE massage ~~businesses~~ FACILITIES and to deter and shut down illicit massage ~~businesses~~ FACILITIES; AND

(IV) ~~Counties in Colorado currently do not have the authority to enact ordinances to establish licensing authorities to regulate massage businesses and to deter and shut down illicit massage businesses~~ 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 LOCAL GOVERNMENTS HAVE SIGNIFICANT DISCRETION TO ADDRESS 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

(B) REQUIRE EVERY LOCAL GOVERNMENT IN THE STATE THAT HAS A MASSAGE FACILITY WITHIN ITS JURISDICTIONAL BOUNDARIES TO ESTABLISH A LOCAL PROCESS THAT ENSURES THAT THE BACKGROUND CHECKS ARE CONDUCTED THROUGHOUT THE STATE IN ACCORDANCE WITH THE REQUIREMENTS AND LIMITATIONS SET FORTH IN THIS SECTION.

(V) ~~It is critical for effective local enforcement against human trafficking that cities and counties work together against this increasing criminal activity;~~

(VI) ~~Local licensing authorities are encouraged to report to the department of regulatory agencies information regarding criminal activities involving licensed massage therapists;~~

~~(VII) Most licensed massage therapists in Colorado are practicing lawfully and ethically, and~~

~~(VIII) The intent of the general assembly is not to make the practice of lawful massage therapy more difficult for licensed massage therapists in Colorado.~~

(b) The general assembly ~~finds, therefore,~~ FURTHER FINDS AND DECLARES that:

(I) A ~~county~~ LOCAL GOVERNMENT may adopt a ~~local~~ resolution or ordinance to establish business licensure requirements to regulate massage facilities or to regulate and prohibit unlawful activities for the sole purpose of deterring illicit massage businesses and preventing human trafficking;

(II) IT IS CRITICAL FOR EFFECTIVE LOCAL ENFORCEMENT AGAINST HUMAN TRAFFICKING THAT LOCAL GOVERNMENTS WORK TOGETHER AGAINST THIS INCREASING CRIMINAL ACTIVITY;

(III) LICENSING AUTHORITIES AND LOCAL LAW ENFORCEMENT AGENCIES ARE ENCOURAGED TO REPORT TO THE DEPARTMENT OF REGULATORY AGENCIES INFORMATION REGARDING CRIMINAL ACTIVITIES INVOLVING MASSAGE THERAPISTS;

(IV) MOST LICENSED MASSAGE THERAPISTS IN COLORADO ARE PRACTICING LAWFULLY AND ETHICALLY; AND

(V) THE GENERAL ASSEMBLY DOES NOT INTEND TO MAKE THE PRACTICE OF LAWFUL MASSAGE THERAPY MORE DIFFICULT FOR MASSAGE THERAPISTS IN COLORADO.

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

(a.3) "APPLICANT" MEANS A PERSON WHO HAS SUBMITTED AN APPLICATION TO A LICENSING AUTHORITY FOR AN INITIAL LICENSE OR RENEWAL OF A LICENSE TO OPERATE A MASSAGE FACILITY.

(a.5) "BACKGROUND CHECK" MEANS A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK CONDUCTED IN ACCORDANCE WITH SUBSECTION (4)(c.5) OF THIS SECTION AND ALSO INCLUDES, TO THE EXTENT

ALLOWED OR REQUIRED, AS APPLICABLE, BY SUBSECTION (4)(c.5)(VI) OF THIS SECTION WHEN A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK CANNOT BE COMPLETED OR REVEALS A RECORD OF ARREST WITHOUT DISPOSITION, A CRIMINAL HISTORY RECORD CHECK USING THE COLORADO BUREAU OF INVESTIGATION'S RECORDS AND A NAME-BASED JUDICIAL RECORD CHECK, AS DEFINED IN SECTION 22-2-119.3 (6)(d).

(a.7) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(a.7)(II) OF THIS SECTION, "EMPLOYEE" MEANS:

(I) (A) AN INDIVIDUAL WHO IS EMPLOYED BY A MASSAGE FACILITY;
OR

(B) AN INDEPENDENT CONTRACTOR WHO IS HIRED BY A MASSAGE FACILITY TO PERFORM WORK THAT IS PART OF THE ROUTINE OPERATIONS OF THE MASSAGE FACILITY.

(II) FOR THE PURPOSE OF DETERMINING WHO IS REQUIRED TO SUBMIT TO A BACKGROUND CHECK REQUIRED BY SUBSECTION (4)(c.5) OF THIS SECTION, "EMPLOYEE" DOES NOT INCLUDE:

(A) A MASSAGE THERAPIST; OR

(B) AN INDEPENDENT CONTRACTOR WHO PERFORMS JANITORIAL SERVICES OR OTHER ROUTINE FACILITY MAINTENANCE SERVICES FOR A MASSAGE FACILITY AND HAS NO CONTACT WITH OR ONLY INCIDENTAL CONTACT WITH CLIENTS OF THE MASSAGE FACILITY.

(e) "Licensing authority" means the governing body of ~~the board of county commissioners of a county~~ A LOCAL GOVERNMENT or, IF A LOCAL GOVERNMENT HAS EXERCISED ITS AUTHORITY TO ADOPT A RESOLUTION OR ORDINANCE THAT ESTABLISHES LICENSURE REQUIREMENTS FOR MASSAGE FACILITIES OR TO REGULATE AND PROHIBIT UNLAWFUL ACTIVITIES RELATED TO MASSAGE FACILITIES, any authority designated by ~~county charter or county~~ THE LOCAL GOVERNMENT'S CHARTER OR IN A resolution OR ORDINANCE TO ADMINISTER OR ENFORCE THE BUSINESS LICENSURE REQUIREMENTS, REGULATIONS, OR PROHIBITIONS FOR MASSAGE FACILITIES ESTABLISHED BY THE LOCAL GOVERNMENT.

(e.5) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY

COUNTY, A CITY AND COUNTY, OR A HOME RULE OR STATUTORY MUNICIPALITY.

(e.7) "LOCAL LAW ENFORCEMENT AGENCY" MEANS:

(I) A COUNTY SHERIFF'S OFFICE;

(II) A MUNICIPAL POLICE DEPARTMENT; OR

(III) A TOWN MARSHAL'S OFFICE.

(h.3) "OPERATOR" MEANS A PERSON THAT IS LICENSED BY A LICENSING AUTHORITY TO OPERATE A MASSAGE FACILITY IN ACCORDANCE WITH A LOCAL RESOLUTION OR ORDINANCE OR A PERSON THAT IS OPERATING A MASSAGE FACILITY WITHOUT A LICENSE WITHIN THE TERRITORY OF A LOCAL GOVERNMENT THAT DOES NOT REQUIRE LICENSURE OF MASSAGE FACILITIES; EXCEPT THAT, FOR THE PURPOSE OF DETERMINING WHETHER A PERSON IS REQUIRED TO SUBMIT TO A BACKGROUND CHECK REQUIRED BY SUBSECTION (4)(c.5) OF THIS SECTION, "OPERATOR" DOES NOT INCLUDE A MASSAGE THERAPIST.

(h.5) "OWNER" MEANS A PERSON OTHER THAN AN OPERATOR THAT HOLDS A LEGAL OWNERSHIP INTEREST IN A MASSAGE FACILITY; EXCEPT THAT A PERSON THAT IS NOT INVOLVED IN THE OPERATION OF A MASSAGE FACILITY AND WHOSE OWNERSHIP INTEREST CONSISTS ONLY OF STOCK IN A PUBLICLY TRADED COMPANY THAT OWNS OR OPERATES A MASSAGE FACILITY IS NOT AN OWNER.

(3)(a) In addition to any other powers, a ~~board of county commissioners~~ 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 ~~board of county commissioners~~ 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.

~~(b) Counties that adopt~~ WHEN DEVELOPING a resolution or ordinance FOR ADOPTION pursuant to this section, A COUNTY AND A MUNICIPALITY WITHIN THE COUNTY shall consult with ~~the cities within the county~~ EACH OTHER. BY MUTUAL AGREEMENT BETWEEN A COUNTY AND A MUNICIPALITY WITHIN THE COUNTY, A MUNICIPALITY MAY ELECT TO HAVE A COUNTY'S RESOLUTION OR ORDINANCE ADOPTED PURSUANT TO THIS SECTION APPLY TO MASSAGE FACILITIES OPERATING WITHIN THE JURISDICTIONAL BOUNDARIES OF THE MUNICIPALITY IN LIEU OF ADOPTING ITS OWN ORDINANCE OR RESOLUTION.

(c) A LOCAL GOVERNMENT IS NOT REQUIRED TO ADOPT A RESOLUTION OR ORDINANCE AS OTHERWISE REQUIRED BY THIS SUBSECTION (3) IF THERE ARE NO MASSAGE FACILITIES OPERATING WITHIN THE JURISDICTIONAL BOUNDARIES OF THE LOCAL GOVERNMENT.

(3.5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(c) OF THIS SECTION, A LOCAL GOVERNMENT SHALL ESTABLISH A PROCESS, WHICH MAY BE ESTABLISHED BY RESOLUTION OR ORDINANCE OR OTHERWISE, TO REQUIRE THAT, AS A CONDITION FOR A PERSON REMAINING AS OR BECOMING AN OPERATOR, OWNER, OR EMPLOYEE:

(a) A PERSON WHO IS AN OPERATOR, OWNER, OR EMPLOYEE ON THE EFFECTIVE DATE OF THE RESOLUTION OR ORDINANCE SUBMIT TO A BACKGROUND CHECK ON OR BEFORE THE EARLIER OF OCTOBER 1, 2025, OR ANY OTHER DATE SPECIFIED BY A LOCAL GOVERNMENT IN ITS PROCESS;

(b) A PROSPECTIVE EMPLOYEE SUBMIT TO A BACKGROUND CHECK BEFORE COMMENCING EMPLOYMENT WITH A MASSAGE FACILITY; AND

(c) A PROSPECTIVE OPERATOR OR OWNER SUBMIT TO A BACKGROUND CHECK 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 ~~board of county commissioners~~ 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:

(IV) Allowing a licensing authority or a licensing authority's designee to deny an application ~~only~~ if:

(A) ~~The~~ A required administrative fee is not paid;

(B) The ~~county~~ LOCAL GOVERNMENT zoning or subdivision regulations do not allow for the operation of a massage facility;

(C) The applicant OR AN OWNER, PROSPECTIVE OWNER, OR EMPLOYEE has been convicted of or entered a plea of guilty or nolo contendere that is accepted by the court for a felony or misdemeanor for ~~prostitution, as described in section 18-7-201~~; solicitation of a prostitute, as described in section 18-7-202; a human trafficking-related offense, as described in section 18-3-503 or 18-3-504; money laundering, as described in section 18-5-309; ~~or similar crimes~~;

(D) The applicant OR AN OWNER, PROSPECTIVE OWNER, OR EMPLOYEE is registered as a sex offender or is required by law to register as a sex offender, as described in section 16-22-103;

(E) ~~The applicant has a pending criminal action that involves or is related to the offenses described in subsection (4)(a)(IV)(C) or (4)(a)(IV)(D) of this section; or~~

(F) The applicant has one or more previous revocations or suspensions of a license to operate a massage facility;

(G) AN EMPLOYEE OF THE MASSAGE FACILITY FOR WHICH THE APPLICANT HAS FILED AN APPLICATION FOR A LICENSE HAS NOT SUBMITTED TO A REQUIRED BACKGROUND CHECK BEFORE COMMENCING EMPLOYMENT WITH THE MASSAGE FACILITY PURSUANT TO SUBSECTIONS (4)(c) AND (4)(c.5) OF THIS SECTION; OR

(H) THE APPLICANT OR AN OWNER OR PROSPECTIVE OWNER OF THE MASSAGE FACILITY FOR WHICH THE APPLICANT HAS FILED AN APPLICATION FOR A LICENSE HAS NOT SUBMITTED TO A REQUIRED BACKGROUND CHECK PURSUANT TO SUBSECTIONS (4)(c) AND (4)(c.5) OF THIS SECTION AT LEAST THIRTY DAYS BEFORE, AS APPLICABLE, BEING GRANTED A LICENSE TO OPERATE THE MASSAGE FACILITY OR ASSUMING AN OWNERSHIP INTEREST IN A MASSAGE FACILITY THAT WOULD MAKE THE PROSPECTIVE OWNER AN

OWNER.

(V) Allowing a licensing authority or a licensing authority's designee the discretion to deny an application after considering, in accordance with section 24-5-101, an applicant's, OWNER'S OR PROSPECTIVE OWNER'S, OR EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S conviction of or plea of guilty or nolo contendere that is accepted by the court for a felony or a misdemeanor for fraud or theft or embezzlement, as described in section 18-4-401;

(XI) Setting penalties for the violation of prohibited activities as described in subsection (5) of this section; ~~and~~

(XI.5) GRANTING THE LICENSING AUTHORITY, OR THE LICENSING AUTHORITY'S DESIGNEES, AUTHORITY TO REVOKE OR SUSPEND A LICENSE IF:

(A) THE LICENSEE EMPLOYS A PERSON WHO HAS NOT SUBMITTED TO A BACKGROUND CHECK OR AN OWNER OF THE MASSAGE FACILITY HAS NOT SUBMITTED TO A BACKGROUND CHECK AS REQUIRED PURSUANT TO SUBSECTIONS (4)(c) AND (4)(c.5) OF THIS SECTION;

(B) THE LICENSEE EMPLOYS A PERSON WHO 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; OR

(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

~~(c) In investigating the fitness of any applicant, licensee, or OWNER OR PROSPECTIVE OWNER, OR EMPLOYEE OR PROSPECTIVE employee, or the agent of the licensee or applicant pursuant to subsection (4)(a)(III) of this section, the county sheriff's office shall conduct a background check on the applicant's or licensee's criminal history record and provide the local licensing authority, or the licensing authority's designee, information to~~

~~determine whether the applicant or licensee is approved or denied for a license based on the criminal history record information. In the event the licensing authority takes into consideration information concerning the~~ A LICENSING AUTHORITY SHALL REQUIRE THE APPLICANT, OWNER OR PROSPECTIVE OWNER, OR EMPLOYEE OR PROSPECTIVE EMPLOYEE TO SUBMIT TO A BACKGROUND CHECK IN ACCORDANCE WITH SUBSECTION (4)(c.5) OF THIS SECTION. WHEN CONSIDERING AN applicant's, ~~or licensee's~~ OWNER'S OR PROSPECTIVE OWNER'S, OR EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S criminal history record, the licensing authority shall also consider any information provided by the applicant, ~~or licensee~~ OWNER OR PROSPECTIVE OWNER, OR EMPLOYEE OR PROSPECTIVE EMPLOYEE regarding the criminal history, including, but not limited to, evidence of mitigating factors, rehabilitation, character references, and educational achievements, especially the mitigating factors pertaining to the period ~~of time~~ between the applicant's, OWNER'S OR PROSPECTIVE OWNER'S, OR EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S last criminal conviction and the consideration of the applicant's, OWNER'S OR PROSPECTIVE OWNER'S, OR EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S application for a license or renewal, OWNERSHIP OR PROSPECTIVE OWNERSHIP OF A MASSAGE FACILITY, OR EMPLOYMENT OR PROSPECTIVE EMPLOYMENT BY A MASSAGE FACILITY.

(c.5) (I) AN APPLICANT WHO HOLDS A LICENSE OR IS APPLYING FOR A LICENSE, AN OWNER OR PROSPECTIVE OWNER, OR AN EMPLOYEE OR PROSPECTIVE EMPLOYEE SHALL SUBMIT TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE APPLICANT, OWNER OR PROSPECTIVE OWNER, OR EMPLOYEE OR PROSPECTIVE EMPLOYEE SHALL PAY THE COSTS ASSOCIATED WITH THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(II) A PERSON WHO IS, AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (4)(c.5), AN APPLICANT WHO HOLDS A LICENSE, AN OWNER, OR AN EMPLOYEE SHALL HAVE THE APPLICANT'S, OWNER'S, OR EMPLOYEE'S FINGERPRINTS TAKEN BY A LOCAL LAW ENFORCEMENT AGENCY OR ANY THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK NO LATER THAN OCTOBER 1, 2025. AN APPLICANT FOR A NEW LICENSE, A PROSPECTIVE OWNER, OR A PROSPECTIVE EMPLOYEE SHALL HAVE THE APPLICANT'S FINGERPRINTS TAKEN BY A LOCAL LAW ENFORCEMENT AGENCY OR ANY THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF OBTAINING A

FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK BEFORE, AS APPLICABLE, BEING GRANTED A LICENSE, ASSUMING AN OWNERSHIP INTEREST IN A MASSAGE FACILITY THAT WOULD MAKE THE PROSPECTIVE OWNER AN OWNER, OR COMMENCING EMPLOYMENT WITH A MASSAGE FACILITY. THE APPLICANT, OWNER OR PROSPECTIVE OWNER, OR EMPLOYEE OR PROSPECTIVE EMPLOYEE SHALL AUTHORIZE THE ENTITY TAKING THE APPLICANT'S FINGERPRINTS TO SUBMIT, AND THE ENTITY SHALL SUBMIT, THE COMPLETE SET OF THE APPLICANT'S FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(III) IF AN APPROVED THIRD PARTY TAKES THE APPLICANT'S, OWNER'S OR PROSPECTIVE OWNER'S, OR EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S FINGERPRINTS, THE FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED USING COLORADO BUREAU OF INVESTIGATION-APPROVED LIVESCAN EQUIPMENT. THIRD-PARTY VENDORS SHALL NOT KEEP THE APPLICANT'S, OWNER'S OR PROSPECTIVE OWNER'S, OR EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S INFORMATION FOR MORE THAN THIRTY DAYS.

(IV) THE COLORADO BUREAU OF INVESTIGATION SHALL USE THE APPLICANT'S, OWNER'S OR PROSPECTIVE OWNER'S, OR EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S FINGERPRINTS TO CONDUCT A CRIMINAL HISTORY RECORD CHECK USING THE BUREAU'S RECORDS. THE COLORADO BUREAU OF INVESTIGATION SHALL ALSO FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE COLORADO BUREAU OF INVESTIGATION; THE APPLICANT, OWNER OR PROSPECTIVE OWNER, OR EMPLOYEE OR PROSPECTIVE EMPLOYEE; THE LICENSING AUTHORITY; AND THE ENTITY TAKING FINGERPRINTS SHALL COMPLY WITH THE FEDERAL BUREAU OF INVESTIGATION'S REQUIREMENTS TO CONDUCT A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(V) THE COLORADO BUREAU OF INVESTIGATION SHALL RETURN THE RESULTS OF ITS CRIMINAL HISTORY RECORD CHECK TO THE LICENSING AUTHORITY, AND THE LICENSING AUTHORITY IS AUTHORIZED TO RECEIVE THE RESULTS OF THE FEDERAL BUREAU OF INVESTIGATION'S CRIMINAL HISTORY RECORD CHECK. THE LICENSING AUTHORITY SHALL USE THE INFORMATION RESULTING FROM THE CRIMINAL HISTORY RECORD CHECKS TO INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS QUALIFIED TO HOLD A LICENSE OR BE AN OWNER OR EMPLOYEE PURSUANT TO THIS

SECTION.

(VI) WHEN THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF AN APPLICANT PERFORMED PURSUANT TO THIS SECTION REVEAL A RECORD OF ARREST WITHOUT A DISPOSITION, THE LOCAL LICENSING AUTHORITY SHALL REQUIRE THE APPLICANT TO SUBMIT TO A NAME-BASED JUDICIAL RECORD CHECK, AS DEFINED IN SECTION 22-2-119.3 (6)(d).

(4.5) (a) A PERSON IS PROHIBITED FROM BEING AN OWNER IF THE PERSON EITHER:

(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

(II) 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.

(b) AN OPERATOR OR OWNER IS PROHIBITED FROM EMPLOYING AS AN EMPLOYEE A PERSON WHO HAS NOT SUBMITTED TO A REQUIRED BACKGROUND CHECK PURSUANT TO SUBSECTIONS (4)(c) AND (4)(c.5) OF THIS SECTION.

(c) AN OPERATOR OR OWNER THAT LEARNS THAT A PROSPECTIVE EMPLOYEE OR EMPLOYEE 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 MAY HIRE THE PROSPECTIVE EMPLOYEE TO WORK AT A MASSAGE FACILITY OR CONTINUE TO EMPLOY THE EMPLOYEE AT A MASSAGE FACILITY IF THE OPERATOR OR OWNER BELIEVES THAT EMPLOYING THE PROSPECTIVE EMPLOYEE OR EMPLOYEE DOES NOT POSE A THREAT TO CUSTOMERS OR EMPLOYEES OF THE MASSAGE FACILITY.

(5) A ~~board of county commissioners~~ 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 include:

(6) (a) If authorized by the ~~county~~ LOCAL GOVERNMENT 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 ~~county~~ LOCAL GOVERNMENT ordinance or resolution authorizing the penalty assessment procedure, the ~~board of county commissioners~~ LOCAL GOVERNMENT may adopt a graduated fine schedule for violations pursuant to OF THE PROHIBITIONS SET FORTH IN subsection (5) of this section. ~~The~~ A graduated fine schedule may provide for increased penalty assessments for repeat offenses by the same person.

(b) ~~The board of county commissioners~~ A LOCAL GOVERNMENT 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 ~~such~~ 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.

SECTION 2. In Colorado Revised Statutes, **amend** 31-15-407 as follows:

31-15-407. Statewide policy to prevent the operation of illicit massage businesses - background checks required - legislative declaration. (1) ~~As used in this section, unless the context otherwise requires, "illicit massage business" means a business that may provide massage but engages in human trafficking-related offenses, as described in sections 18-3-503 and 18-3-504.~~

~~(2) If acting under home rule authority, a municipality that adopts a resolution or ordinance to license a massage facility or prohibit activities to prevent the operation of illicit massage businesses that engage in human~~

~~trafficking-related offenses, as described in section 30-15-401.4, the municipal police department shall conduct a background check on the applicant's or licensee's criminal history record and provide the municipality information to determine whether the applicant or licensee is approved or denied for a license based on the criminal history record information.~~ 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.

(2) IN ACCORDANCE WITH SECTION 30-15-401.4 (3.5) AND SUBJECT TO THE EXCEPTION SET FORTH IN SECTION 30-15-401.4 (3)(c), EVERY STATUTORY OR HOME RULE MUNICIPALITY SHALL ESTABLISH A LOCAL PROCESS TO ENSURE THAT REQUIRED BACKGROUND CHECKS ARE CONDUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 30-15-401.4.

SECTION 3. 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; 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 2024 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

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO