

SENATE AMENDMENTS

2nd Printing

By: Harless, Riddle, Alvarado

H.B. No. 3094

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of massage parlors by certain counties;
providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 234, Local Government Code, is amended
by adding Subchapter D to read as follows:

SUBCHAPTER D. MASSAGE PARLORS IN CERTAIN COUNTIES

Sec. 234.101. DEFINITIONS. In this subchapter:

(1) "Massage parlor" means a massage establishment
that allows:

(A) a nude or partially nude employee to provide
massage therapy or other massage services to a customer;

(B) any individual to engage in sexual contact in
the massage establishment; or

(C) any individual to practice massage therapy in
the nude or in clothing designed to arouse or gratify the sexual
desire of any individual.

(2) "Nude" and "sexual contact" have the meanings
assigned by Section 455.202, Occupations Code.

Sec. 234.102. APPLICABILITY. This subchapter applies only
to a county with a population of 3.3 million or more.

Sec. 234.103. AUTHORITY TO REGULATE. To promote public
health, safety, and welfare, the commissioners court of a county by
order may prohibit or otherwise regulate massage parlors located in

1 the unincorporated area of the county.

2 Sec. 234.104. INJUNCTION. A district or county attorney
3 may bring suit to enjoin the operation of a massage parlor in
4 violation or threatened violation of a prohibition or other
5 regulation adopted under this subchapter.

6 Sec. 234.105. CIVIL PENALTY. (a) A person who violates a
7 prohibition or regulation adopted by the county under this
8 subchapter is liable to the county for a civil penalty of not more
9 than \$1,000 for each violation. Each day a violation continues is
10 considered a separate violation for purposes of assessing the civil
11 penalty.

12 (b) A county may bring suit in a district court to recover a
13 civil penalty authorized by Subsection (a).

14 Sec. 234.106. CRIMINAL PENALTY. (a) A person commits an
15 offense if the person intentionally or knowingly operates a massage
16 parlor in violation of a prohibition or regulation adopted under
17 this subchapter by the commissioners court.

18 (b) An offense under this section is a Class A misdemeanor.

19 Sec. 234.107. CUMULATIVE EFFECT. Authority under this
20 subchapter is cumulative of other authority that a county has to
21 regulate massage parlors and does not limit that other authority.

22 SECTION 2. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2009.

ADOPTED

ADOPTED

MAY 25 2009

MAY 25 2009

Atty Gen
Secretary of the Senate

By:

[Signature]
Secretary of the Senate

H .B. No. 3094

Substitute the following for H .B. No. 3094:

By:

[Signature]

C.S. H .B. No. 3094

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of massage parlors by counties;
providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 234, Local Government Code, is amended
by adding Subchapter D to read as follows:

SUBCHAPTER D. MASSAGE PARLORS

Sec. 234.101. DEFINITIONS. In this subchapter:

(1) "Massage parlor" means a business establishment
that purports to provide massage services and that allows:

(A) a nude person to provide massage services to
a customer;

(B) a person to engage in sexual contact for
compensation; or

(C) a person to provide massage services in
clothing intended to arouse or gratify the sexual desire of any
person.

(2) "Nude" and "sexual contact" have the meanings
assigned by Section 455.202, Occupations Code.

Sec. 234.102. AUTHORITY TO REGULATE. To promote public
health, safety, and welfare, the commissioners court of a county
by order may prohibit or otherwise regulate massage parlors
located in the unincorporated area of the county.

Sec. 234.103. INJUNCTION. If a massage parlor has

1 previously violated a prohibition or other regulation adopted
2 under this subchapter, a district or county attorney may bring
3 suit to enjoin the operation of a massage parlor in violation or
4 threatened violation of a prohibition or other regulation
5 adopted under this subchapter.

6 Sec. 234.104. CIVIL PENALTY. (a) A person who violates a
7 prohibition or regulation adopted by the county under this
8 subchapter is liable to the county for a civil penalty of not
9 more than \$1,000 for each violation. Each day a violation
10 continues is considered a separate violation for purposes of
11 assessing the civil penalty.

12 (b) A county may bring suit in a district court to recover
13 a civil penalty authorized by Subsection (a).

14 Sec. 234.105. CRIMINAL PENALTY. (a) A person commits an
15 offense if the person intentionally or knowingly operates a
16 massage parlor in violation of a prohibition or regulation
17 adopted under this subchapter by the commissioners court.

18 (b) An offense under this section is a Class A
19 misdemeanor.

20 Sec. 234.106. CUMULATIVE EFFECT. Authority under this
21 subchapter is cumulative of other authority that a county has to
22 regulate massage parlors and does not limit that other
23 authority.

24 Sec. 234.107. EFFECT ON OTHER LAWS. (a) This subchapter
25 does not legalize anything prohibited under the Penal Code or
26 other state law.

27 (b) A person who is subject to prosecution under this

1 section and any other law may be prosecuted under either or both
2 laws.

3 SECTION 2. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas
6 Constitution. If this Act does not receive the vote necessary
7 for immediate effect, this Act takes effect September 1, 2009.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3094 by Harless (Relating to the regulation of massage parlors by counties; providing penalties.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would add Subchapter D to Chapter 234, Local Government Code, to authorize the commissioners court of a county by order to prohibit or otherwise regulate massage parlors located in the unincorporated area of the county. The bill would allow a district or county attorney to bring suit to enjoin the operation of a massage parlor in violation or threatened violation if the parlor has previously violated the prohibition or other regulation. The county could also impose a civil penalty of not more than \$1,000 for each violation. A criminal penalty would apply and would be a Class A misdemeanor.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, SZ, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3094 by Harless (Relating to the regulation of massage parlors by counties; providing penalties.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would add Subchapter D to Chapter 234, Local Government Code, to authorize the commissioners court of a county by order to prohibit or otherwise regulate massage parlors located in the unincorporated area of the county. The bill would allow a district or county attorney to bring suit to enjoin the operation of a massage parlor in violation or threatened violation if the parlor has previously violated the prohibition or other regulation. The county could also impose a civil penalty of not more than \$1,000 for each violation. A criminal penalty would apply and would be a Class A misdemeanor.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ESi, DB

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 18, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3094 by Harless (Relating to the regulation of massage parlors by certain counties; providing penalties.), **As Engrossed**

No fiscal implication to the State is anticipated.

Based on the applicability criteria within the bill, it appears it would affect only Harris County.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 23, 2009

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3094 by Harless (Relating to the regulation of massage parlors by certain counties; providing penalties.), **As Introduced**

No fiscal implication to the State is anticipated.

Based on the applicability criteria within the bill, it appears it would affect only Harris County.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, DB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3094 by Harless (Relating to the regulation of massage parlors by counties; providing penalties.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 18, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3094 by Harless (Relating to the regulation of massage parlors by certain counties; providing penalties.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, LM