

SUBSTITUTE FOR
HOUSE BILL NO. 5124

A bill to amend 1980 PA 299, entitled
"Occupational code,"
(MCL 339.101 to 339.2721) by adding article 17A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

ARTICLE 17A

SEC. 1751. AS USED IN THIS ARTICLE:

(A) "ADULT" MEANS A PERSON 18 YEARS OF AGE OR OLDER.

(B) "ADULT BOOKSTORE" MEANS AN ESTABLISHMENT THAT MEETS BOTH
OF THE FOLLOWING:

(i) HAS AS A SUBSTANTIAL OR SIGNIFICANT PORTION OF ITS STOCK
AND TRADE IN BOOKS, FILMS, VIDEOCASSETTES, OR MAGAZINES AND OTHER
PERIODICALS THAT ARE DISTINGUISHED OR CHARACTERIZED BY THEIR
EMPHASIS ON MATTER DEPICTING, DESCRIBING, OR RELATING TO SPECIFIC
SEXUAL ACTIVITY.

HB5124, As Passed House, March 21, 2000

House Bill No. 5124

2

1 (ii) HAS FACILITIES FOR THE PRESENTATION OF ADULT
2 ENTERTAINMENT FOR OBSERVATION BY PATRONS IN THE ESTABLISHMENT.

3 (C) "ADULT CABARET" MEANS AN ESTABLISHMENT WHICH FEATURES
4 TOPLESS DANCERS, GO-GO DANCERS, EXOTIC DANCERS, STRIPPERS, MALE
5 OR FEMALE IMPERSONATORS, OR SIMILAR ENTERTAINERS.

6 (D) "ADULT ENTERTAINMENT" MEANS ANY EXHIBITION OF ANY
7 ADULT-ORIENTED MOTION PICTURE, LIVE PERFORMANCE, DISPLAY, OR
8 DANCE OF ANY TYPE THAT HAS AS A SIGNIFICANT OR SUBSTANTIAL POR-
9 TION OF THAT EXHIBITION ANY ACTUAL OR SIMULATED PERFORMANCE OR
10 EXHIBITION OF A SPECIFIC SEXUAL ACTIVITY, REMOVAL OF ARTICLES OF
11 CLOTHING OR APPEARING UNCLOTHED, PANTOMIME, MODELING, OR ANY
12 OTHER PERSONAL SERVICE OFFERED CUSTOMERS.

13 (E) "ADULT ENTERTAINMENT ESTABLISHMENT" INCLUDES ANY OF THE
14 FOLLOWING:

15 (i) AN ADULT BOOKSTORE, ADULT MOTION PICTURE THEATRE, ADULT
16 MINI-MOTION PICTURE THEATER, ADULT CABARET, OR MESSAGE
17 ESTABLISHMENT.

18 (ii) A PREMISES TO WHICH THE PUBLIC PATRONS OR MEMBERS ARE
19 INVITED OR ADMITTED AND WHICH ARE SO PHYSICALLY ARRANGED AS TO
20 PROVIDE BOOTHS, CUBICLES, ROOMS, COMPARTMENTS, OR STALLS SEPARATE
21 FROM THE COMMON AREAS OF THE PREMISES FOR THE PURPOSE OF VIEWING
22 ADULT-ORIENTED MOTION PICTURES, OR IN WHICH AN ENTERTAINER PRO-
23 VIDES ADULT ENTERTAINMENT TO A MEMBER OF THE PUBLIC, A PATRON, OR
24 A MEMBER FOR PROFIT.

25 (iii) AN ADULT ENTERTAINMENT STUDIO OR ANY PREMISES THAT IS
26 PHYSICALLY ARRANGED AND USED AS AN ADULT ENTERTAINMENT STUDIO,
27 WHETHER ADVERTISED OR REPRESENTED AS AN ADULT ENTERTAINMENT

HB5124, As Passed House, March 21, 2000

House Bill No. 5124

3

1 STUDIO, EXOTIC DANCE STUDIO, ENCOUNTER STUDIO, SENSITIVITY
2 STUDIO, MODEL STUDIO, ESCORT SERVICE, ESCORT, OR ANY OTHER TERM
3 OF LIKE IMPORT.

4 (F) "ADULT MINI-MOTION PICTURE THEATER" MEANS AN ENCLOSED
5 BUILDING WITH A CAPACITY OF LESS THAN 50 PERSONS REGULARLY USED
6 FOR PRESENTING MATERIAL DISTINGUISHED OR CHARACTERIZED BY AN
7 EMPHASIS ON MATTER DEPICTING, DESCRIBING, OR RELATING TO A SPE-
8 CIFIC SEXUAL ACTIVITY FOR OBSERVATION BY PATRONS IN THE
9 ESTABLISHMENT.

10 (G) "ADULT MOTION PICTURE THEATER" MEANS AN ENCLOSED BUILD-
11 ING WITH A CAPACITY OF 50 OR MORE PERSONS REGULARLY USED FOR
12 PRESENTING MATERIAL HAVING AS A DOMINANT THEME OR PRESENTING
13 MATERIAL DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON MATTER
14 DEPICTING, DESCRIBING, OR RELATING TO A SPECIFIC SEXUAL ACTIVITY
15 FOR OBSERVATION BY PATRONS IN THE ESTABLISHMENT.

16 (H) "ENTERTAINMENT" MEANS ANY LIVE EXHIBITION OR DANCE OF
17 ANY TYPE, PANTOMIME, MODELING, OR OTHER LIVE PERFORMANCE.

18 (I) "MASSAGE ESTABLISHMENT" MEANS A BUSINESS OR ENTERPRISE
19 THAT OFFERS, SELLS, OR PROVIDES, OR THAT HOLDS ITSELF OUT AS
20 OFFERING, SELLING, OR PROVIDING, MESSAGES THAT INCLUDE BATHING,
21 PHYSICAL MASSAGE, RUBBING, KNEADING, ANOINTING, STROKING, MANIPU-
22 LATING, OR OTHER TACTILE STIMULATION OF THE HUMAN BODY, BY EITHER
23 MALE OR FEMALE EMPLOYEES OR ATTENDANTS, BY HAND OR BY ELECTRICAL
24 OR MECHANICAL DEVICE, ON OR OFF THE PREMISES. MESSAGE ESTABLISH-
25 MENT DOES NOT INCLUDE THE BUSINESS OR OCCUPATION OF A BARBER,
26 COSMETOLOGIST, OR PERSON ENGAGED IN THE PRACTICE OF MORTUARY
27 SCIENCE LICENSED UNDER THIS ACT, A CHIROPRACTOR, DENTIST,

HB5124, As Passed House, March 21, 2000

House Bill No. 5124

4

1 PHYSICIAN, PERSON ENGAGED IN THE PRACTICE OF NURSING,
2 OPTOMETRIST, PHYSICAL THERAPIST, PODIATRIST, OR OCCUPATIONAL
3 THERAPIST LICENSED OR REGISTERED UNDER ARTICLE 15 OF THE PUBLIC
4 HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838, A HEALTH
5 FACILITY OR AGENCY LICENSED AND CERTIFIED UNDER ARTICLE 17 OF THE
6 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20101 TO 333.22260, AN
7 ATHLETIC COACH OR ATHLETIC TRAINER, OR A BUSINESS OR ENTERPRISE
8 THAT ONLY UTILIZES MASSAGE THERAPISTS TO SELL OR PROVIDE
9 MESSAGES.

10 (J) "MASSAGIST" MEANS AN INDIVIDUAL WHO PERFORMS MASSAGE
11 SERVICES FOR A MASSAGE ESTABLISHMENT OR A SELF-EMPLOYED INDIVID-
12 UAL WHO PERFORMS MASSAGE SERVICES. MASSAGIST DOES NOT INCLUDE A
13 MASSAGE THERAPIST.

14 (K) "MASSAGE THERAPIST" MEANS AN INDIVIDUAL WHO MEETS ANY OF
15 THE FOLLOWING:

16 (i) IF AT LEAST 500 HOURS OF TRAINING IN MASSAGE THERAPY AND
17 BODYWORK IS REQUIRED AS A CONDITION OF MEMBERSHIP, IS AN ACTIVE
18 PRACTICING MEMBER OF THE AMERICAN MASSAGE THERAPY ASSOCIATION,
19 ASSOCIATED BODYWORK AND MASSAGE PROFESSIONALS, INTERNATIONAL MYO-
20 MASSETHICS FEDERATION, OR OTHER MASSAGE ASSOCIATION ACCEPTABLE TO
21 THE DEPARTMENT.

22 (ii) IS A GRADUATE OF A MASSAGE THERAPY SCHOOL LICENSED OR
23 CERTIFIED BY ANY STATE, IF THE MASSAGE THERAPY SCHOOL REQUIRES AT
24 LEAST 500 HOURS OF TRAINING IN MASSAGE THERAPY AND BODYWORK AS A
25 REQUIREMENT OF GRADUATION.

26 (iii) IS LICENSED OR CERTIFIED AS A MASSAGE THERAPIST BY ANY
27 STATE THAT REQUIRES AT LEAST 500 HOURS OF TRAINING IN MASSAGE

HB5124, As Passed House, March 21, 2000

House Bill No. 5124

5

1 THERAPY AND BODYWORK AS A CONDITION OF THE LICENSURE OR
2 CERTIFICATION.

3 (iv) HAS SUCCESSFULLY COMPLETED A MASSAGE TRAINING PROGRAM
4 AT A COMMUNITY COLLEGE, COLLEGE OR UNIVERSITY, OR VOCATIONAL OR
5 TECHNICAL SCHOOL IN ANY STATE, IF THE MASSAGE TRAINING PROGRAM
6 REQUIRES AT LEAST 500 HOURS OF TRAINING IN MASSAGE THERAPY AND
7 BODYWORK AS A REQUIREMENT OF COMPLETION.

8 (v) IF ADOPTED BY THE DEPARTMENT, HAS PASSED THE NATIONAL
9 CERTIFICATION EXAM FOR THERAPEUTIC MASSAGE AND BODYWORK PRACTI-
10 TIONERS ADMINISTERED BY THE NATIONAL CERTIFICATION BOARD FOR
11 THERAPEUTIC MASSAGE AND BODYWORK OR ANOTHER CERTIFICATION EXAMI-
12 NATION ACCEPTABLE TO THE DEPARTMENT.

13 (l) "PARTNER" MEANS A GENERAL OR LIMITED PARTNER.

14 (m) "PARTNERSHIP" MEANS A GENERAL OR LIMITED PARTNERSHIP.

15 (n) "PEACE OFFICER" MEANS THE ATTORNEY GENERAL, A DEPUTY OR
16 ASSISTANT TO THE ATTORNEY GENERAL, OR A LAW ENFORCEMENT OFFICER
17 AS THAT TERM IS DEFINED IN SECTION 2 OF THE MICHIGAN LAW ENFORCE-
18 MENT OFFICERS TRAINING COUNCIL ACT, 1965 PA 203, MCL 28.602.

19 (o) "PRINCIPAL OWNER" MEANS A PERSON WHO OWNS 10% OR MORE OF
20 THE OUTSTANDING EQUITY INTERESTS OF A LICENSEE INCLUDING, BUT NOT
21 LIMITED TO, STOCK IN A CORPORATION, PARTNERSHIP INTEREST IN A
22 PARTNERSHIP, OR MEMBERSHIP INTEREST IN A LIMITED LIABILITY
23 COMPANY.

24 (p) "SPECIFIC SEXUAL ACTIVITY" MEANS 1 OR MORE OF THE FOL-
25 LOWING SEXUAL ACTIVITIES OR EXHIBITIONS OF ANATOMICAL AREAS:

26 (i) HUMAN GENITALS IN A STATE OF SEXUAL STIMULATION OR
27 AROUSAL.

HB5124, As Passed House, March 21, 2000

House Bill No. 5124

6

1 (ii) AN ACT OR REPRESENTATION OF AN ACT OF HUMAN
2 MASTURBATION, SEXUAL INTERCOURSE, SODOMY, CUNNILINGUS, FELLATIO,
3 OR EXCRETORY FUNCTION.

4 (iii) FONDLING OR EROTIC TOUCHING OF HUMAN GENITALS, PUBIC
5 REGIONS, BUTTOCKS, OR FEMALE BREASTS.

6 (iv) LESS THAN COMPLETELY AND OPAQUELY COVERED HUMAN GENI-
7 TALS OR PUBIC REGIONS, BUTTOCKS, OR FEMALE BREASTS BELOW THE TOP
8 OF THE AREOLA.

9 (v) HUMAN MALE GENITALS IN A DISCERNIBLY TURGID STATE, EVEN
10 IF COMPLETELY AND OPAQUELY COVERED.

11 (Q) "TREAT" MEANS TO ADMINISTER THE SERVICES PROVIDED BY A
12 MESSAGE ESTABLISHMENT.

13 SEC. 1752. (1) BEGINNING 180 DAYS AFTER THE EFFECTIVE DATE
14 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, A PERSON SHALL NOT
15 ENGAGE IN, CARRY ON, OR PARTICIPATE IN THE OPERATION OF AN ADULT
16 ENTERTAINMENT ESTABLISHMENT UNLESS THE PERSON IS LICENSED BY THE
17 DEPARTMENT UNDER THIS ARTICLE.

18 (2) NOTWITHSTANDING SECTION 601(3), A PERSON ENGAGED IN THE
19 MANAGEMENT OF AN ADULT ENTERTAINMENT ESTABLISHMENT, AND EACH OF
20 THE FOLLOWING PERSONS, AS APPLICABLE, ENGAGING IN, CARRYING ON,
21 OR PARTICIPATING IN THE OPERATION OF AN ADULT ENTERTAINMENT
22 ESTABLISHMENT IN VIOLATION OF SUBSECTION (1) IS GUILTY OF A MIS-
23 DEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$10,000.00 OR
24 IMPRISONMENT FOR NOT MORE THAN 6 MONTHS, OR BOTH:

25 (A) IF THE PERSON IS A CORPORATION, A PRINCIPAL OWNER,
26 DIRECTOR, OR OFFICER.

HB5124, As Passed House, March 21, 2000

House Bill No. 5124

7

1 (B) IF THE PERSON IS A PARTNERSHIP, A GENERAL PARTNER OR
2 PRINCIPAL OWNER.

3 (C) IF THE PERSON IS A LIMITED LIABILITY COMPANY, A PRINCI-
4 PAL OWNER OR MANAGER.

5 (3) A CERTIFICATE BY THE DEPARTMENT THAT A DILIGENT SEARCH
6 OF THE DEPARTMENT'S RECORDS KEPT IN CONFORMITY WITH THIS ARTICLE
7 HAS FAILED TO DISCLOSE THE EXISTENCE OF A VALID LICENSE FOR AN
8 ADULT ENTERTAINMENT ESTABLISHMENT IS PRIMA FACIE EVIDENCE OF A
9 VIOLATION OF SUBSECTION (1) BY THE ADULT ENTERTAINMENT
10 ESTABLISHMENT.

11 Enacting section 1. This amendatory act does not take
12 effect unless all of the following bills of the 90th Legislature
13 are enacted into law:

14 (a) House Bill No. 5125.

15 (b) House Bill No. 5126.

16 (c) House Bill No. 5127.

17 (d) House Bill No. 5128.

18 (e) House Bill No. 5129.

19 (f) House Bill No. 5130.

20 (g) House Bill No. 5131.

21 (h) House Bill No. 5132.