

2015 -- H 5958

=====  
LC002123  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

—————  
A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- BODY WORKS SERVICES  
ESTABLISHMENTS

Introduced By: Representatives Tobon, Barros, Abney, Melo, and Johnston

Date Introduced: March 20, 2015

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"

2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 89

4 BODY WORKS SERVICES ESTABLISHMENTS

5 **5-89-1. Short title.** -- This act shall be known and may be cited as the "Body Works  
6 Services Establishments Act."

7 **5-89-2. Definitions.** -- When used in this chapter:

8 (1) "Applicant" means any person, firm, partnership, corporation or any other entity that  
9 applies for a license to the department of health as required by this chapter.

10 (2) "Approved" means approved by the department of health in accordance with accepted  
11 standards.

12 (3) "Body rubs and body stimulations" means the manipulation or conditioning of part or  
13 parts of the body by any means not regulated by chapter 20.8 of title 23.

14 (4) "Body works and body works services" means body rubs, body stimulations, spa  
15 services, and spa treatments.

16 (5) "Body works establishment license" and "establishment license" means the license  
17 required by § 5-89-3.

18 (6) "Body works personnel license" and "personnel license" means the license required

1 by § 5-89-4.

2 (7) "Department of health" means the Rhode Island department of health and any agent  
3 authorized to act on its behalf.

4 (8) "Establishment" means the office, place of business, premise, or location wherein  
5 body works are offered or provided for hire, reward, or compensation.

6 (9) "Personnel" means any person who performs body works services for hire,  
7 compensation, or reward or any person who is employed by or otherwise compensated by any  
8 establishment as defined herein, or any person who is permitted by an establishment to conduct  
9 any type of business for reward, hire, or compensation within said establishment.

10 (10) "Spa services and spa treatments" means any service or treatment not regulated by  
11 chapter 20.8 of title 23, to treat the skin or body for remedial, hygienic, relaxation, or other  
12 purposes, including, but not limited to, vapor, pool, baths, saunas, dry saunas, towel treatments,  
13 showers, body scrubs, and body showers.

14 (11) "Specified anatomical areas" means human genitals, pubic regions, buttocks, or  
15 female breasts below a point immediately above the top of the areola.

16 (12) "State" means the state of Rhode Island, and any agency thereof including, but not  
17 limited to, the department of health.

18 (13) "Supervisor" means the person or persons designated by an establishment to ensure  
19 compliance with this chapter.

20 **5-89-3. Body works establishment license required.** -- (a) No person, firm, corporation,  
21 partnership or other entity shall open a body works establishment for the purpose of providing  
22 body works services for hire, compensation or reward without first obtaining a license from the  
23 department of health.

24 (b) The department shall provide an application requiring the following information:

25 (1) The full legal name and any other names used by the applicant if the applicant is an  
26 individual; otherwise, if the applicant is a:

27 (i) A partnership, the legal name of the partnership and the names and addresses of all  
28 general partners;

29 (ii) A corporation, the legal name of the corporation and the names and addresses of each  
30 officer or director of said corporation;

31 (iii) No establishment shall operate under any other name unless such name is registered  
32 with the department as provided herein;

33 (2) The current residential address and telephone number of the applicant, partner or  
34 officer or director, and any other residential or business address used by the applicant, partner,

1 officer or director within five (5) years of the application date;

2 (3) A copy of the applicant's, partner's, officer's or director's driver's license or other state  
3 or government issued identification. In no event shall any person under the age of eighteen (18)  
4 years of age be issued a license;

5 (4) The applicant's business, occupation, or employment history for the five (5) years  
6 immediately preceding the date of the application;

7 (5) Whether the applicant, or any partner, officer or director has previously possessed a  
8 license, or an interest in an establishment as defined herein, within five (5) years of the  
9 application date, and whether any prior body works establishment license has previously been  
10 suspended, or revoked and the reasons therefor;

11 (6) Whether the applicant, or any partner, officer or director has been convicted or pled  
12 nolo contendere to any felony or misdemeanor in this state or any other jurisdiction;

13 (7) The approximate number of employees that the establishment intends to employ. Any  
14 establishment granted a license shall be required to provide a list of all employees, their addresses  
15 and license numbers to the department of health within seventy-two (72) hours of their hiring.  
16 This provision shall apply to any general manager, manager, or any other individual in a  
17 supervisory role, whether they are performing body works services or not;

18 (8) The address at which the establishment intends to offer body works services, and  
19 whether the applicant intends to provide body works services off-site or at private residences or  
20 other locations in addition to its primary place of business. If the establishment intends to operate  
21 at more than one location, it shall designate a primary address for receiving all correspondence  
22 related to its license renewal;

23 (9) Any other information that the department of health shall request as part of the  
24 application process;

25 (10) All applicants, partners, officers or directors shall execute a waiver or authorization  
26 permitting the department of health to conduct a criminal background check as part of the  
27 application process. No application shall be processed until all information is provided, all  
28 background checks are complete, and all fees are paid;

29 (11)(i) The department, consistent with its obligations contained herein, shall promulgate  
30 standards and guidelines establishing whether any prior criminal history of an applicant, partner,  
31 officer or director should be grounds for denial of a license. The department shall consider  
32 whether any criminal conviction of an applicant poses a threat to the customers of the personnel  
33 or establishment and/or whether any offense is a crime of violence which would pose a threat to  
34 the customers of the personnel or establishment. The existence of a criminal conviction or plea of

1 nolo contendere of any applicant shall not automatically be a bar to the applicant's license;

2 (ii) In the event that the department determines that a license shall not be granted based  
3 on the criminal history of an applicant, it shall provide the applicant, partner, officer or director  
4 an opportunity to request a hearing to contest such a denial. Appeals of any denial after such a  
5 hearing shall be governed by the provisions contained in chapter 35 of title 42;

6 (12) Any establishment granted a license pursuant to this chapter shall notify the  
7 department, within seven (7) days, of its business address;

8 (13) Establishment licenses issued pursuant to this chapter shall expire one year from the  
9 date of issuance. Applications for renewal must be submitted at least thirty (30) days prior to the  
10 expiration date, and must be accompanied by a renewal application, and other information as  
11 required by the department.

12 (c) The licensing fee to obtain a body works establishment license, and any renewal  
13 thereof shall be one hundred dollars (\$100). A body works establishment license is non-  
14 transferable.

15 **5-89-4. Body works personnel license required.** -- (a) Any person who seeks  
16 employment at a body works establishment must obtain a body works personnel license issued by  
17 the department before performing or offering to perform any body works services for hire,  
18 compensation, or reward; before being compensated for any services or work in any  
19 establishment; and before conducting any type of business for reward, hire, or compensation  
20 within any establishment.

21 (b) The department shall require an applicant to provide the following information:

22 (1) The full legal name and any other names used by the applicant;

23 (2) The current residential address and telephone number of the applicant, and any other  
24 residential or business address used by the applicant within five (5) years prior to the application  
25 date;

26 (3) A copy of the applicant's driver's license, or any other state or government issued  
27 identification. In no event shall any person under the age of eighteen (18) years of age be granted  
28 a license;

29 (4) The applicant's business, occupation, or employment history for the five (5) years  
30 immediately preceding the date of the application;

31 (5) Whether the applicant has previously possessed a license within five (5) years of the  
32 application date, and whether any such license has previously been suspended or revoked, and the  
33 reasons therefor;

34 (6) Whether the applicant has been convicted or pled nolo contendere to any felony or

1 misdemeanor in this state, or any other jurisdiction;

2 (7) The name(s) of the establishment at which the applicant plans to be employed, if  
3 known at the time of the application, and whether the applicant intends to provide body works  
4 services off-site, or at private residences or other locations if the applicant is to be self-employed.  
5 If the applicant intends to work at multiple businesses, he or she shall designate a primary address  
6 for receiving all correspondence related to his or her license renewal;

7 (8) Any other information that the department shall request as part of the application  
8 process;

9 (9) All applicants shall execute a waiver or authorization authorizing the department to  
10 conduct a criminal background check of the applicant as part of the application process. No  
11 application shall be processed until all information is provided, any background checks complete  
12 and all fees are paid;

13 (10)(i) The department, consistent with its obligations contained herein, shall promulgate  
14 standards and guidelines establishing whether any prior criminal history of an applicant, partner,  
15 officer or director should be grounds for denial of a license. The department shall consider  
16 whether any criminal conviction of an applicant poses a threat to the customers of the personnel  
17 or establishment, or whether any offense is a crime of violence, which would pose a threat to the  
18 customers of the personnel or establishment. The existence of a criminal conviction or plea of  
19 nolo contendere of any applicant shall not automatically be a bar to the applicant's license;

20 (ii) In the event that the department determines that a license shall not be granted based  
21 on the criminal history of an applicant, it shall provide the applicant, partner, officer or director  
22 an opportunity to request a hearing to contest such a denial. Appeals of any denial after such a  
23 hearing shall be governed by the provisions contained in chapter 35 of title 42 (the administrative  
24 procedures act);

25 (11) Any person granted a license pursuant to this chapter shall notify the department,  
26 within seven (7) days, of any change of residential or business address.

27 (12) Personnel licenses issued pursuant to this chapter shall expire one year from the date  
28 of issuance. Applications for renewal must be submitted at least thirty (30) days prior to the  
29 expiration date, and must be accompanied by a renewal application, and other information as  
30 required by the department.

31 (c) The licensing fee to obtain a body works personnel license, and any renewal thereof  
32 shall be sixty dollars (\$60.00). A body works personnel license is non-transferable.

33 **5-89-5. Exceptions and exclusions.** – (a) Physicians, nurses, physical therapists, school  
34 athletic trainers, chiroprodists, chiropractors, massage therapist, barbers, hair dressers, manicurist,

1 estheticians and any other business duly licensed by the state under this title are exempt from the  
2 license requirements of this chapter.

3 (b) Hospitals, nursing, convalescent homes, and any other person, entity, firm or  
4 corporation providing health care services, and other similar licensed institutions, where massage  
5 and baths may be given as part of a course of health care, are exempt from the license  
6 requirements of this chapter.

7 **5-89-6. Authority to promulgate rules.** -- The department is hereby directed to  
8 formulate rules and regulations governing body work personnel and body work establishments,  
9 and to establish fees for the issuance of licenses, including establishing licensing fees for body  
10 works personnel, fees for licensing of each establishment, as set forth in §§ 5-89-3 and 5-89-4,  
11 and for any other fees as the department may establish from time to time.

12 **5-89-7. Employee and independent contractor restrictions.** -- No establishment shall  
13 permit any person not holding a valid personnel license to provide or offer to provide any body  
14 works services, or otherwise conduct any business in the establishment. Nothing contained herein  
15 shall prevent any establishment from utilizing independent contractors; provided that he or she is  
16 duly licensed pursuant to this chapter.

17 **5-89-8. Required records.** -- Every body works establishment shall maintain records on  
18 the premises of all personnel. The records shall be subject to inspection upon request by any  
19 agent of the department. The records shall include the following:

20 (1) Each person's full legal name, date of birth, home address, and telephone number,  
21 employment position, date first employed, and, if applicable, date terminated.

22 (2) Each person's body works personnel license number, and the expiration date of said  
23 license.

24 (3) All current personnel records and records of all persons associated with the  
25 establishment for the previous year.

26 **5-89-9. Display of licenses.** -- (a) Body works personnel license. Every licensee shall  
27 carry his or her original personnel license at all times when on the premise of an establishment  
28 during the hours of operation; provided, further, every licensee shall display his or her original  
29 personnel license in a conspicuous manner whenever practicing or providing body works for hire,  
30 reward, or compensation.

31 (b) Body works establishment license. The body works establishment license shall be  
32 conspicuously displayed in a public area of the body works establishment at all times.

33 **5-89-10. Advertisement.** -- (a) No person, firm, partnership or corporation shall  
34 advertise any body works services, unless such services are to be performed by a licensed body

1 works personnel:

2 (b) No person, firm, partnership or corporation shall advertise any body works  
3 establishment unless the advertisement includes the body works establishment license number.

4 **5-89-11. Facilities. --** Every establishment licensed pursuant to this chapter shall meet the  
5 following standards:

6 (1) It shall be connected to the public sewerage system, or an approved private sanitary  
7 sewage system in the event public sewerage is not available.

8 (2) It shall be well lighted, well ventilated and properly heated when seasonally indicated.

9 (3) No room used by personnel or an establishment to provide body works may be used  
10 as a residence or sleeping quarters.

11 (4) There shall be sanitary and working bathroom facilities within the premises, readily  
12 available to the patrons, and affording sufficient privacy. All such facilities shall comply with all  
13 health and safety codes, and shall be handicapped accessible.

14 (5) Adequate dressing rooms protecting the privacy of patrons and employees shall be  
15 provided and accessible at all times.

16 (6) All rooms and furniture and equipment including instruments, devices, robes, sheets,  
17 blankets, pillow cases, towels and any other apparel utilized therein shall be kept clean and sterile  
18 at all times.

19 **5-89-12. Sanitation and decency code. --** (a) All personnel engaged in the practice of  
20 body works shall wear garments which cover the entire body, exclusive of the head, neck, arms,  
21 legs, hands and feet. All personnel must be fully covered, from a point not more than four inches  
22 (4") above the center of the kneecap to the base of the neck, excluding the arms. Such garments  
23 shall not be transparent, and must be maintained in clean and sanitary condition.

24 (b) It is unlawful for any personnel to directly or indirectly touch or offer to touch a  
25 customer's specified anatomical areas.

26 (c) All customer's specified anatomical areas must be fully draped at all times while any  
27 personnel is in the same cubicle or room.

28 (d) No instruments or devices designed or used for direct application to the skin shall be  
29 applied directly to the skin unless sterilized.

30 (e) All personnel shall thoroughly cleanse his or her hands by washing with soap and hot  
31 water immediately before and after providing body works services.

32 (f) The department may, at any time, with or without prior notice, inspect an  
33 establishment, and investigate the manner of the operation of the establishment to insure that it is  
34 operating in compliance with this chapter.

1           **5-89-13. Zoning, municipal ordinances and health and safety codes.** -- Any  
2 establishment licensed under this chapter shall be required to comply with all zoning ordinances  
3 and land use regulations in the municipality in which it is located. The department may require  
4 proof that the establishment is in compliance with all relevant zoning ordinances and shall from  
5 time to time conduct inspections of any establishment to determine whether it is in compliance  
6 with all municipal and state health, safety, building, fire and safety codes.

7           **5-89-14. Warning systems prohibited.** -- Devices which can be utilized as an early  
8 warning system to alert personnel, supervisors, owners, or any other persons to the presence of  
9 law enforcement, regulatory personnel or any state or local authorities on the premises are  
10 prohibited in body works establishments. Such prohibited devices include, but are not limited to,  
11 light or music dimmers, electronic detection devices, external or internal video equipment and  
12 alarm systems other than those used for fire alarms.

13           **5-89-15. Hours of operation.** -- No establishment shall offer or provide body works  
14 services or otherwise be open for business between the hours of 10:00 p.m. and 8:00 a.m.

15           **5-89-16. Violations.** -- No establishment shall cause, allow or permit any violation of any  
16 criminal law or ordinance violation to occur on its premises, including, but not limited to, any  
17 proscribed conduct contained in title 11.

18           **5-89-17. Enforcement and revocation of license. Each day a separate offense.** -- (a) Any  
19 license issued pursuant to this chapter shall be subject to immediate suspension by the  
20 department for violation of any provisions of this chapter or any other law, rule or regulation  
21 established by the department or for any violation of the criminal laws of this state or any  
22 violation of any ordinance of any municipality in which the establishment is located. Any  
23 suspension of license shall be in addition to any other penalty which may be imposed as a result  
24 of a violation.

25           (b) Any person, firm, corporation, or other entity who violates any provision of this  
26 chapter shall be guilty of a separate offense for each and every day during any portion of which  
27 any such entity commits, continues, permits, or causes a violation thereof.

28           (c) Upon the finding of probable cause that a violation has occurred and the personnel's  
29 or establishment's license suspended, the department shall afford the licensee a hearing to contest  
30 the suspension order. If after hearing, the department orders the license revoked, the licensee may  
31 appeal the revocation pursuant to chapter 35 of title 42 (the administrative procedures act).

32           (d) Criminal penalties. In addition to any applicable provisions of this chapter or of the  
33 general laws, any violation of this chapter may be prosecuted as a misdemeanor and punishable as  
34 follows: upon a first conviction, by a fine not exceeding one hundred dollars (\$100); upon a



1 second conviction within one year, by a fine not exceeding two hundred dollars (\$200) or by  
2 imprisonment not exceeding thirty (30) days, or both; and upon any third or subsequent  
3 conviction within one year, by a fine not exceeding five hundred dollars (\$500) or by  
4 imprisonment not exceeding one year, or both.

5 SECTION 2. This act shall take effect upon passage.

=====  
LC002123  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- BODY WORKS SERVICES  
ESTABLISHMENTS

\*\*\*

1           This act would establish licensing requirements and procedures for operating any  
2 establishment or personnel in the business of body works services, and would provide for  
3 penalties for violations of the act.

4           This act would take effect upon passage.

=====  
LC002123  
=====