

By Senator Joyner

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1 A bill to be entitled
2 An act relating to human trafficking; providing
3 legislative findings and intent; amending s. 456.013,
4 F.S.; revising the requirements for the license and
5 the identification card that are issued to massage
6 therapists; creating s. 480.054, F.S.; requiring
7 criminal background checks for persons, firms, or
8 corporations applying for a massage establishment
9 license; providing requirements for the criminal
10 history checks; requiring a new employee to notify the
11 Department of Health when there is a change of
12 employment; requiring the new employee to submit
13 information necessary to conduct a criminal history
14 check; authorizing the new employee to serve in his or
15 her capacity pending a report of the criminal history
16 check from the Federal Bureau of Investigation under
17 certain circumstances; authorizing the Department of
18 Health to deny an application for a massage
19 establishment license under certain circumstances;
20 requiring a criminal background check for the renewal
21 of a massage establishment license; amending s.
22 477.025, F.S.; requiring any person, firm, or
23 corporation that operates a cosmetology salon or
24 specialty salon that offers massage services to obtain
25 a massage establishment license; amending s. 480.033,
26 F.S.; defining the term "convicted" or "conviction"
27 for purposes of ch. 480, F.S., relating to massage
28 practice; amending s. 480.035, F.S.; authorizing the
29 Board of Massage Therapy to adopt rules that provide

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30 for the disapproval of a massage school under certain
31 circumstances; amending s. 480.041, F.S.; providing
32 for the form used to apply for a license as a massage
33 therapist to require a driver's license or
34 identification card number; amending s. 480.0415,
35 F.S.; requiring submission of a driver's license or
36 identification card number to renew a license as a
37 massage therapist; amending s. 480.042, F.S.;
38 requiring licensing examinations to be conducted in
39 the English language; requiring each applicant for
40 licensure as a massage therapist to demonstrate his or
41 her ability to communicate in English; amending s.
42 480.043, F.S.; requiring a person, firm, or
43 corporation to report to the board the license number
44 of each massage therapist employed or otherwise
45 engaged to provide massages services; requiring each
46 massage therapist to report to the board the license
47 number of any massage establishment in which he or she
48 provides massage services; authorizing the board to
49 adopt rules; requiring a person, firm, or corporation
50 that operates a massage establishment to maintain
51 valid work authorization documents for employees who
52 are not United States citizens; requiring the
53 Department of Health to impose an administrative fine
54 against a person, firm, or corporation that operates a
55 massage establishment and fails to maintain work
56 authorization documents; amending s. 480.046, F.S.;
57 providing that the failure of a massage therapist to
58 report to the board the license number of a massage

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59 establishment before providing massage services is
60 grounds for disciplinary action; revising grounds
61 under which the board may revoke or suspend the
62 license of a massage establishment; amending s.
63 501.015, F.S.; requiring health studios that provide
64 massage services to obtain a massage establishment
65 license; amending s. 509.241, F.S.; requiring public
66 lodging establishments that provide massage services
67 to obtain a massage establishment license; amending s.
68 787.06, F.S.; revising legislative findings relating
69 to the forms in which human trafficking occurs;
70 providing an effective date.

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. The Legislature finds that many perpetrators of
75 human trafficking are shielding this activity behind counterfeit
76 or valid professional or occupational licenses issued by the
77 state. It is the Legislature's intent to provide law enforcement
78 agencies in this state and the Department of Health the means to
79 investigate, arrest, and prosecute any person, firm, or
80 corporation that engages in human trafficking and prostitution
81 under the guise of providing massage services or as a massage
82 establishment.

83 Section 2. Subsection (2) of section 456.013, Florida
84 Statutes, is amended to read:

85 456.013 Department; general licensing provisions.—

86 (2) Before the issuance of any license, the department
87 shall charge an initial license fee as determined by the

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88 applicable board or, if there is no board, by rule of the
89 department. Upon receipt of the appropriate license fee, the
90 department shall issue a license to any person certified by the
91 appropriate board, or its designee, as having met the licensure
92 requirements imposed by law or rule. The license shall consist
93 of a wallet-size identification card and a wall card measuring 6
94 1/2 inches by 5 inches. The license and wallet-size
95 identification card issued to a massage therapist shall include
96 the number of a current and valid driver's license or
97 identification card issued by the state or the state in which
98 the applicant resides. The licensee shall surrender to the
99 department the wallet-size identification card and the wall card
100 if the licensee's license is issued in error or is revoked.

101 Section 3. Section 480.054, Florida Statutes, is created to
102 read:

103 480.054 Massage establishments; criminal history checks;
104 prohibited offenses.-

105 (1) Except for a person licensed as a health care provider
106 by the Department of Health, a person, firm, or corporation
107 licensed as a health care clinic pursuant to part X of chapter
108 400, a public lodging establishment pursuant to chapter 509, or
109 a cosmetology salon or specialty salon pursuant to chapter 477,
110 the following persons applying for a massage establishment
111 license shall submit to the Department of Health a set of
112 fingerprints on a form under procedures specified by the
113 Department of Health, along with a payment in an amount equal to
114 the costs incurred by the Department of Health for a criminal
115 background check:

116 (a) The applicant, if an individual.

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117 (b) The administrator or a similarly titled person who is
118 responsible for the day-to-day operation of the massage
119 establishment.

120 (c) The financial officer or similarly titled individual
121 who is responsible for the financial operation of the licensee
122 or massage establishment.

123 (d) Any person who has a controlling interest, if the
124 Department of Health has reason to believe that such person has
125 been convicted of any offense listed in subsection (3). For each
126 person who has a controlling interest and has been convicted of
127 any such offense, the applicant shall submit to the Department
128 of Health on his or her application for a license a description
129 and explanation of the conviction.

130 (2) (a) The Department of Health shall submit the
131 fingerprints provided by an applicant for initial licensure to
132 the Department of Law Enforcement for a statewide criminal
133 history check and the Department of Law Enforcement shall
134 forward the fingerprints to the Federal Bureau of Investigation
135 for a national criminal history check of the applicant.

136 (b) For the initial renewal of an applicant's license
137 occurring on or after July 1, 2010, the Department of Health
138 shall submit the fingerprints provided by an applicant to the
139 Department of Law Enforcement for a statewide criminal history
140 check and the Department of Law Enforcement shall forward the
141 fingerprints to the Federal Bureau of Investigation for a
142 national criminal history check.

143 (3) The criminal history check under this section must
144 ensure that a person subject to the provisions of this section
145 has not been convicted of any offense prohibited under any of

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146 the following provisions of the Florida Statutes or under any
147 similar statute of another jurisdiction:

148 (a) Section 393.135, relating to sexual misconduct with
149 certain developmentally disabled clients and reporting of such
150 sexual misconduct.

151 (b) Section 394.4593, relating to sexual misconduct with
152 certain mental health patients and reporting of such sexual
153 misconduct.

154 (c) Section 415.111, relating to adult abuse, neglect, or
155 exploitation of aged persons or disabled adults.

156 (d) Section 782.04, relating to murder.

157 (e) Section 782.07, relating to manslaughter, aggravated
158 manslaughter of an elderly person or disabled adult, or
159 aggravated manslaughter of a child.

160 (f) Section 782.071, relating to vehicular homicide.

161 (g) Section 782.09, relating to killing of an unborn quick
162 child by injury to the mother.

163 (h) Section 784.011, relating to assault, if the victim of
164 the offense was a minor.

165 (i) Section 784.021, relating to aggravated assault.

166 (j) Section 784.03, relating to battery, if the victim of
167 the offense was a minor.

168 (k) Section 784.045, relating to aggravated battery.

169 (l) Section 784.075, relating to battery on a detention or
170 commitment facility staff.

171 (m) Section 787.01, relating to kidnapping.

172 (n) Section 787.02, relating to false imprisonment.

173 (o) Section 790.115(1), relating to exhibiting firearms or
174 weapons within 1,000 feet of a school.

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175 (p) Section 790.115(2) (b), relating to possessing an
176 electric weapon or device, destructive device, or other weapon
177 on school property.

178 (q) Section 794.011, relating to sexual battery.

179 (r) Former s. 794.041, relating to prohibited acts of
180 persons in familial or custodial authority.

181 (s) Chapter 796, relating to prostitution.

182 (t) Section 798.02, relating to lewd and lascivious
183 behavior.

184 (u) Chapter 800, relating to lewdness and indecent
185 exposure.

186 (v) Section 806.01, relating to arson.

187 (w) Chapter 812, relating to theft, robbery, and related
188 crimes, if the offense is a felony.

189 (x) Section 817.563, relating to the fraudulent sale of
190 controlled substances, if the offense was a felony.

191 (y) Section 825.102, relating to abuse, aggravated abuse,
192 or neglect of an elderly person or disabled adult.

193 (z) Section 825.1025, relating to lewd or lascivious
194 offenses committed upon or in the presence of an elderly person
195 or disabled adult.

196 (aa) Section 825.103, relating to exploitation of an
197 elderly person or disabled adult, if the offense was a felony.

198 (bb) Section 826.04, relating to incest.

199 (cc) Section 827.03, relating to child abuse, aggravated
200 child abuse, or neglect of a child.

201 (dd) Section 827.04, relating to contributing to the
202 delinquency or dependency of a child.

203 (ee) Former s. 827.05, relating to negligent treatment of

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204 children.

205 (ff) Section 827.071, relating to sexual performance by a
206 child.

207 (gg) Section 843.01, relating to resisting arrest with
208 violence.

209 (hh) Section 843.025, relating to depriving a law
210 enforcement, correctional, or correctional probation officer of
211 means of protection or communication.

212 (ii) Section 843.12, relating to aiding in an escape.

213 (jj) Section 843.13, relating to aiding in the escape of
214 juvenile inmates in correctional institutions.

215 (kk) Chapter 847, relating to obscene literature.

216 (ll) Section 874.05(1), relating to encouraging or
217 recruiting another to join a criminal gang.

218 (mm) Chapter 893, relating to drug abuse prevention and
219 control, if the offense was a felony or if any other person
220 involved in the offense was a minor.

221 (nn) Section 944.35(3), relating to inflicting cruel or
222 inhuman treatment on an inmate resulting in great bodily harm.

223 (oo) Section 944.46, relating to harboring, concealing, or
224 aiding an escaped prisoner.

225 (pp) Section 944.47, relating to introduction of contraband
226 into a correctional facility.

227 (qq) Section 985.701, relating to sexual misconduct in
228 juvenile justice programs.

229 (rr) Section 985.711, relating to contraband introduced
230 into detention facilities.

231 (ss) Section 810.02, relating to burglary, if the offense
232 is a felony.

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233 (4) A person that is newly employed in a capacity that
234 requires a criminal history check under this section shall
235 notify the Department of Health about his or her change in
236 employment and submit to the Department of Health information
237 necessary to conduct a criminal history check or provide
238 evidence of compliance with the requirements for a criminal
239 history check within 30 days after being employed. The person
240 may serve in his or her capacity pending the Department of
241 Health's receipt of the report from the Federal Bureau of
242 Investigation if he or she has met the standards for the
243 criminal history check from the Department of Law Enforcement
244 set forth in subsections (1) and (3). However, the person may
245 not continue to serve in his or her capacity if the report
246 indicates any violation of the standards set forth in
247 subsections (1) and (3) unless an exemption from
248 disqualification has been granted by the Department of Health.

249 (5) The Department of Health may deny the application for a
250 massage establishment license or the renewal of a massage
251 establishment license if the application reveals that the
252 applicant has been convicted of any offense listed in subsection
253 (3) or under a similar statute of another jurisdiction.

254 Section 4. Subsection (12) is added to section 477.025,
255 Florida Statutes, to read:

256 477.025 Cosmetology salons; specialty salons; requisites;
257 licensure; inspection; mobile cosmetology salons.—

258 (12) Any person, firm, or corporation operating a
259 cosmetology salon or specialty salon in this state which
260 provides massage services shall obtain a massage establishment
261 license issued pursuant to s. 480.043 before providing any

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262 massage services.

263 Section 5. Subsection (10) is added to section 480.033,
264 Florida Statutes, to read:

265 480.033 Definitions.—As used in this act:

266 (10) "Convicted" or "conviction" means a determination of
267 guilt that is the result of a trial or the entry of a plea of
268 guilty or nolo contendere, regardless of whether adjudication is
269 withheld.

270 Section 6. Subsection (8) is added to section 480.035,
271 Florida Statutes, to read:

272 480.035 Board of Massage Therapy.—

273 (8) The board may adopt rules that provide for the
274 disapproval of a board-approved massage school if the majority
275 of the graduates of such a school have engaged in a pattern of
276 misconduct while providing massage services at a massage
277 establishment. As used in this subsection, the term "pattern of
278 misconduct" means being convicted at least once of violating s.
279 796.07, relating to prostitution, during any 2-year period.

280 Section 7. Subsection (2) of section 480.041, Florida
281 Statutes, is amended to read:

282 480.041 Massage therapists; qualifications; licensure;
283 endorsement.—

284 (2) Every person desiring to be examined for licensure as a
285 massage therapist shall apply to the department in writing upon
286 forms prepared and furnished by the department. The form shall
287 require the number of a current and valid driver's license or
288 identification card issued by the state. Such applicants shall
289 be subject to the provisions of s. 480.046(1). Applicants may
290 take an examination administered by the department only upon

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291 meeting the requirements of this section as determined by the
292 board.

293 Section 8. Section 480.0415, Florida Statutes, is amended
294 to read:

295 480.0415 License renewal.—

296 (1) The board shall prescribe by rule the method for
297 renewal of biennial licensure which shall include continuing
298 education requirements not to exceed 25 classroom hours per
299 biennium. The board shall by rule establish criteria for the
300 approval of continuing education programs or courses. The
301 programs or courses approved by the board may include
302 correspondence courses that meet the criteria for continuing
303 education courses held in a classroom setting.

304 (2) The application for renewal shall require the number of
305 a current and valid driver's license or identification card
306 issued by the state.

307 Section 9. Subsection (5) of section 480.042, Florida
308 Statutes, is amended to read:

309 480.042 Examinations.—

310 (5) All licensing examinations shall be conducted in such
311 manner that the applicant shall be known to the department by
312 number until her or his examination is completed and the proper
313 grade determined. An accurate record of each examination shall
314 be made; and that record, together with all examination papers,
315 shall be filed with the State Surgeon General and shall be kept
316 for reference and inspection for a period of not less than 2
317 years immediately following the examination. All licensing
318 examinations shall be conducted in the English language, and
319 each applicant shall demonstrate that he or she has the ability

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320 to communicate in English.

321 Section 10. Section 480.043, Florida Statutes, is amended
322 to read:

323 480.043 Massage establishments; requisites; licensure;
324 inspection; reports.—

325 (1) A ~~No~~ massage establishment may not ~~shall be allowed to~~
326 operate without a license granted by the department in
327 accordance with rules adopted by the board.

328 (2) The board shall adopt rules governing the operation of
329 establishments and their facilities, personnel, safety and
330 sanitary requirements, financial responsibility, insurance
331 coverage, and the license application and granting process.

332 (3) Any person, firm, or corporation desiring to operate a
333 massage establishment in the state shall submit to the
334 department an application, upon forms provided by the
335 department, accompanied by any information requested by the
336 department and an application fee.

337 (4) Upon receiving the application, the department may
338 cause an investigation to be made of the proposed massage
339 establishment.

340 (5) If, based upon the application and any necessary
341 investigation, the department determines that the proposed
342 establishment would fail to meet the standards adopted by the
343 board under subsection (2), the department shall deny the
344 application for license. Such denial shall be in writing and
345 shall list the reasons for denial. Upon correction of any
346 deficiencies, an applicant previously denied permission to
347 operate a massage establishment may reapply for licensure.

348 (6) If, based upon the application and any necessary

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349 investigation, the department determines that the proposed
350 massage establishment may reasonably be expected to meet the
351 standards adopted by the department under subsection (2), the
352 department shall grant the license under such restrictions as it
353 shall deem proper as soon as the original licensing fee is paid.

354 (7) (a) Once issued, a ~~ne~~ license for the operation of a
355 massage establishment may not be transferred from one owner to
356 another.

357 (b) A license may be transferred from one location to
358 another only after inspection and approval by the board and
359 receipt of an application and inspection fee set by rule of the
360 board, not to exceed \$125.

361 (c) A license may be transferred from one business name to
362 another after approval by the board and receipt of an
363 application fee set by rule of the board, not to exceed \$25.

364 (8) Renewal of license registration for massage
365 establishments shall be accomplished pursuant to rules adopted
366 by the board. The board may ~~is further authorized to~~ adopt rules
367 governing delinquent renewal of licenses and ~~may~~ impose penalty
368 fees for delinquent renewal.

369 (9) The board may ~~is authorized to~~ adopt rules governing
370 the periodic inspection of massage establishments licensed under
371 this act.

372 (10) A person, firm, or corporation operating a massage
373 establishment shall report to the board the license number of
374 each massage therapist employed or otherwise engaged to provide
375 massage services. The report must be submitted before the
376 massage therapist is employed or otherwise engaged to provide
377 massage services at the massage establishment. The board may

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378 adopt rules governing such report.

379 (11) Each massage therapist shall report to the board the
380 license number of any massage establishment at which the massage
381 therapist provides massage services. The board may adopt rules
382 governing such report.

383 (12) Any person, firm, or corporation operating a massage
384 establishment shall maintain valid work authorization documents
385 on the premises for each employee who is not a United States
386 citizen. Valid work authorization documents for an employee who
387 is not a United States citizen include:

388 (a) A valid I-551 permanent residence card; or

389 (b) A valid employment authorization document.

390 (13) If a person, firm, or corporation operating a massage
391 establishment fails to maintain valid work authorization
392 documents on the premises for each employee who is not a United
393 States citizen, the Department of Health shall enter an order
394 that imposes an administrative fine, not to exceed \$1,000,
395 against the person, firm, or corporation for the first offense,
396 with fines increasing incrementally by \$500 for each subsequent
397 offense.

398 Section 11. Paragraph (p) is added to subsection (1) and
399 paragraphs (c) and (d) are added to subsection (3) of section
400 480.046, Florida Statutes, to read:

401 480.046 Grounds for disciplinary action by the board.—

402 (1) The following acts constitute grounds for denial of a
403 license or disciplinary action, as specified in s. 456.072(2):

404 (p) Failing to report to the board the license number of
405 any massage establishment by the massage therapist before
406 providing massage services at the massage establishment.

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407 (3) The board shall have the power to revoke or suspend the
408 license of a massage establishment licensed under this act, or
409 to deny subsequent licensure of such an establishment, in either
410 of the following cases:

411 (c) Upon proof that a massage establishment has employed or
412 otherwise engaged a person to provide massage services who does
413 not hold a valid license issued pursuant to this chapter.

414 (d) Upon proof that a massage establishment has employed or
415 otherwise engaged a massage therapist to provide massage
416 services without reporting to the board the license number of
417 the massage therapist before employing or otherwise engaging the
418 massage therapist.

419 Section 12. Section 501.015, Florida Statutes, is amended
420 to read:

421 501.015 Health studios; registration requirements and
422 fees.—

423 (1) Each health studio shall:

424 (a)~~(1)~~ Register each of its business locations with the
425 department in a form and manner as required by the department.

426 (b)~~(2)~~ Remit an annual registration fee of \$300 to the
427 department at the time of registration for each of the health
428 studio's business locations.

429 (c)~~(3)~~ File a security as required by s. 501.016 at the
430 time of registration.

431 (d)~~(4)~~ Post at the registration desk or front desk,
432 whichever is more prominent, at each business location the proof
433 of registration certificate provided by the department at the
434 time of registration or renewal.

435 (e)~~(5)~~ Include the registration number issued by the

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436 department in all printed advertisements, contracts, and
437 publications utilized by the health studio for a business
438 location.

439 (f)~~(6)~~ Be considered a new health studio and shall be
440 subject to the requirements of s. 501.016 each time the health
441 studio changes ownership or, in the case of corporate ownership,
442 each time the stock ownership is changed so as to effectively
443 put the health studio under new management or control,
444 notwithstanding the provisions of s. 501.016(6). A change of
445 ownership does not occur within the meaning of this subsection
446 if:

447 1.~~(a)~~ Substantially the same stockholders form a new
448 corporate entity;

449 2.~~(b)~~ In the opinion of the department, the change does not
450 effectively place the health studio under new management and
451 control; and

452 3.~~(c)~~ The health studio has a satisfactory complaint
453 history with the department.

454 (2)~~(7)~~ Any person applying for or renewing a local
455 occupational license to engage in business as a health studio
456 must exhibit an active registration certificate from the
457 Department of Agriculture and Consumer Services before the local
458 occupational license may be issued or reissued.

459 (3)~~(8)~~ All moneys collected pursuant to this section shall
460 be deposited into the General Inspection Trust Fund.

461 (4) Each health studio that offers massage services shall
462 obtain a massage establishment license issued pursuant to s.
463 480.043 before providing massage services.

464 Section 13. Subsection (4) is added to section 509.241,

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465 Florida Statutes, to read:

466 509.241 Licenses required; exceptions.-

467 (4) MASSAGE ESTABLISHMENT LICENSE.-Each public lodging
468 establishment that offers massage services shall obtain a
469 massage establishment license issued pursuant to s. 480.043
470 before providing massage services.

471 Section 14. Paragraph (b) of subsection (1) of section
472 787.06, Florida Statutes, is amended to read:

473 787.06 Human trafficking.-

474 (1)

475 (b) The Legislature finds that while many victims of human
476 trafficking are forced to work in prostitution or the sexual
477 entertainment industry, trafficking also occurs in forms of
478 labor exploitation, such as domestic servitude, restaurant work,
479 janitorial work, sweatshop factory work, ~~and~~ migrant
480 agricultural work, massage therapy, and work within a specialty
481 salon, cosmetology salon, or spa.

482 Section 15. This act shall take effect July 1, 2010.