

By the Committee on Regulated Industries; and Senator Clemens

580-02402A-13

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1 A bill to be entitled

2 An act relating to massage establishments; amending s.
3 480.043, F.S.; requiring an application to be denied
4 upon specified findings; amending s. 480.046, F.S.,
5 adding additional grounds for denial of a license;
6 amending s. 480.047, F.S.; revising penalties;
7 creating s. 480.0475, F.S.; prohibiting the operation
8 of a massage establishment during specified times;
9 providing exceptions; prohibiting the use of a massage
10 establishment as a principal domicile unless the
11 establishment is zoned for residential use under a
12 local ordinance; providing criminal penalties;
13 amending s. 480.052, F.S., authorizing a county or
14 municipality to waive the restriction on operating
15 hours of a massage establishment in certain instances;
16 amending s. 823.05, F.S.; declaring that a massage
17 establishment operating in violation of specified
18 statutes is a nuisance that may be abated or enjoined;
19 providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsection (2) of section 480.043, Florida
24 Statutes, is amended to read:

25 480.043 Massage establishments; requisites; licensure;
26 inspection.—

27 (2) The board shall adopt rules governing the operation of
28 establishments and their facilities, personnel, safety and
29 sanitary requirements, financial responsibility, insurance

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30 coverage, and the license application and granting process. An
31 application shall be denied upon a finding that an applicant has
32 been arrested for and is awaiting final disposition of, or has
33 been convicted of, regardless of adjudication, an offense in s.
34 435.04(2) or a similar law of another jurisdiction.

35 Section 2. Present paragraphs (e) though (o) of subsection
36 (1) of section 480.046, Florida Statutes, are redesignated as
37 paragraphs (f) though (p), respectively, and a new paragraph (e)
38 is added to that subsection, to read:

39 480.046 Grounds for disciplinary action by the board.—

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

42 (e) Advertising to induce or attempt to induce a client to
43 engage in sexual activity, or to engage or attempt to engage a
44 client in sexual activity.

45 Section 3. Section 480.047, Florida Statutes, is amended to
46 read:

47 480.047 Penalties.—

48 (1) It is unlawful for any person to:

49 (a) Hold himself or herself out as a massage therapist or
50 to practice massage unless duly licensed under this chapter or
51 unless otherwise specifically exempted from licensure under this
52 chapter.

53 (b) Operate any massage establishment unless it has been
54 duly licensed as provided herein, except that nothing herein
55 shall be construed to prevent the teaching of massage in this
56 state at a board-approved massage school.

57 (c) Permit an employed person to practice massage unless
58 duly licensed as provided herein.

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59 (d) Present as his or her own the license of another.

60 (e) Allow the use of his or her license by an unlicensed
61 person.

62 (f) Give false or forged evidence to the department in
63 obtaining any license provided for herein.

64 (g) Falsely impersonate any other licenseholder of like or
65 different name.

66 (h) Use or attempt to use a license that has been revoked.

67 (i) Otherwise violate any of the provisions of this act.

68 (2) Except as otherwise provided in this chapter, any
69 person violating the provisions of this section is guilty of a
70 misdemeanor of the first degree, punishable as provided in s.
71 775.082 or s. 775.083.

72 Section 4. Section 480.0475, Florida Statutes, is created
73 to read:

74 480.0475 Massage establishments; prohibited practices.—

75 (1) A person may not operate a massage establishment
76 between the hours of midnight and 5 a.m. This subsection does
77 not apply to a massage establishment:

78 (a) Located on the premises of a health care facility as
79 defined in s. 408.07; a clinic as defined in part X of chapter
80 400; a hotel, motel, or bed and breakfast inn as defined in s.
81 509.242; a timeshare property as defined in s. 721.05; a public
82 airport as defined in s. 330.27; or a pari-mutuel facility as
83 defined in s. 550.002; or

84 (b) In which every massage performed between the hours of
85 midnight and 5 a.m. is performed by a massage therapist acting
86 under the prescription of a physician or physician assistant
87 licensed under chapter 458, an osteopathic physician or

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88 physician assistant licensed under chapter 459, a chiropractic
89 physician licensed under chapter 460, a podiatric physician
90 licensed under chapter 461, an advanced registered nurse
91 practitioner licensed under part I of chapter 464, or a dentist
92 licensed under chapter 466.

93 (2) A person who operates a massage establishment may not
94 use the establishment or allow it to be used as a principal
95 domicile unless the establishment is zoned for residential use
96 under a local ordinance.

97 (3) A person who violates the provisions of this section
98 commits a misdemeanor of the first degree, punishable as
99 provided in s. 775.082 or s. 775.083. A second or subsequent
100 violation of this section is a felony of the third degree,
101 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

102 Section 5. Section 480.052, Florida Statutes, is amended to
103 read:

104 480.052 Power of county or municipality to regulate
105 massage.—

106 (1) A county or municipality, within its jurisdiction, may
107 regulate persons and establishments licensed under this chapter.
108 Such regulation shall not exceed the powers of the state under
109 this act or be inconsistent with this act. This section shall
110 not be construed to prohibit a county or municipality from
111 enacting any regulation of persons or establishments not
112 licensed pursuant to this act.

113 (2) A county or municipality may waive the restriction on
114 the hours of operation of a massage establishment provided in s.
115 480.0475 during special events that occur within the county's or
116 municipality's jurisdiction.

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117 Section 6. Subsection (3) is added to section 823.05,
118 Florida Statutes, to read:

119 823.05 Places and groups engaged in criminal gang-related
120 activity declared a nuisance; may be abated and enjoined.-

121 (3) A massage establishment as defined in s. 480.033(7)
122 which operates in violation of s. 480.0475 or s. 480.0535(2) is
123 declared a nuisance and may be abated or enjoined as provided in
124 ss. 60.05 and 60.06.

125 Section 7. This act shall take effect October 1, 2013.