

By the Committees on Health Policy; Community Affairs; and Regulated Industries; and Senators Clemens and Sobel

588-03982-13

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1 A bill to be entitled
2 An act relating to massage practice; amending s.
3 480.033, F.S.; revising the definition of the term
4 "board-approved massage school"; amending s. 480.043,
5 F.S.; requiring an application to be denied upon
6 specified findings; amending s. 480.046, F.S., adding
7 additional grounds for denial of a license; amending
8 s. 480.047, F.S.; revising penalties; creating s.
9 480.0475, F.S.; prohibiting the operation of a massage
10 establishment during specified times; providing
11 exceptions; prohibiting the use of a massage
12 establishment as a principal domicile unless the
13 establishment is zoned for residential use under a
14 local ordinance; providing criminal penalties;
15 amending s. 480.052, F.S., authorizing a county or
16 municipality to waive the restriction on operating
17 hours of a massage establishment in certain instances;
18 amending s. 823.05, F.S.; declaring that a massage
19 establishment operating in violation of specified
20 statutes is a nuisance that may be abated or enjoined;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (9) of section 480.033, Florida
26 Statutes, is amended to read:

27 480.033 Definitions.—As used in this act:

28 (9) "Board-approved massage school" means a facility that
29 ~~which~~ meets minimum standards for training and curriculum as

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30 determined by rule of the board and that ~~which~~ is:

31 (a) Licensed by the Department of Education pursuant to
32 chapter 1005 or the equivalent licensing authority of another
33 state; ~~or is~~

34 (b) Within the public school system of this state; or

35 (c) A college or university that is eligible to participate
36 in the William L. Boyd, IV, Florida Resident Access Grant
37 Program.

38 Section 2. Subsection (2) of section 480.043, Florida
39 Statutes, is amended to read:

40 480.043 Massage establishments; requisites; licensure;
41 inspection.—

42 (2) The board shall adopt rules governing the operation of
43 establishments and their facilities, personnel, safety and
44 sanitary requirements, financial responsibility, insurance
45 coverage, and the license application and granting process. An
46 application shall be denied upon finding that an owner, officer,
47 director, or managing employee of an applicant has been arrested
48 for and is awaiting final disposition of, or has been convicted
49 of, regardless of adjudication, an offense under s. 435.04(2) or
50 a similar law of another jurisdiction.

51 Section 3. Present paragraphs (e) through (o) of subsection
52 (1) of section 480.046, Florida Statutes, are redesignated as
53 paragraphs (f) through (p), respectively, and a new paragraph (e)
54 is added to that subsection, to read:

55 480.046 Grounds for disciplinary action by the board.—

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

58 (e) Advertising with the intent to induce a client to

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59 engage in sexual activity, or to engage or attempt to engage a
60 client in sexual activity.

61 Section 4. Section 480.047, Florida Statutes, is amended to
62 read:

63 480.047 Penalties.—

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

65 (a) Hold himself or herself out as a massage therapist or
66 to practice massage unless duly licensed under this chapter or
67 unless otherwise specifically exempted from licensure under this
68 chapter.

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

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

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

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

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

80 (g) Falsely impersonate any other licenseholder of like or
81 different name.

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

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

84 (2) Except as otherwise provided in this chapter, any
85 person violating the provisions of this section is guilty of a
86 misdemeanor of the first degree, punishable as provided in s.
87 775.082 or s. 775.083.

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88 Section 5. Section 480.0475, Florida Statutes, is created
89 to read:

90 480.0475 Massage establishments; prohibited practices.—

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

94 (a) Located on the premises of a health care facility as
95 defined in s. 408.07; a clinic as defined in part X of chapter
96 400; a hotel, motel, or bed and breakfast inn as defined in s.
97 509.242; a timeshare property as defined in s. 721.05; a public
98 airport as defined in s. 330.27; a pari-mutuel facility as
99 defined in s. 550.002; or an independent postsecondary
100 educational institution licensed and approved by the Commission
101 for Independent Education pursuant to chapter 1005; or

102 (b) In which every massage performed between the hours of
103 midnight and 5 a.m. is performed by a massage therapist acting
104 under the prescription of a physician or physician assistant
105 licensed under chapter 458, an osteopathic physician or
106 physician assistant licensed under chapter 459, a chiropractic
107 physician licensed under chapter 460, a podiatric physician
108 licensed under chapter 461, an advanced registered nurse
109 practitioner licensed under part I of chapter 464, or a dentist
110 licensed under chapter 466.

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

115 (3) A person who violates the provisions of this section
116 commits a misdemeanor of the first degree, punishable as

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117 provided in s. 775.082 or s. 775.083. A second or subsequent
118 violation of this section is a felony of the third degree,
119 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

120 Section 6. Section 480.052, Florida Statutes, is amended to
121 read:

122 480.052 Power of county or municipality to regulate
123 massage.—

124 (1) A county or municipality, within its jurisdiction, may
125 regulate persons and establishments licensed under this chapter.
126 Such regulation shall not exceed the powers of the state under
127 this act or be inconsistent with this act. This section shall
128 not be construed to prohibit a county or municipality from
129 enacting any regulation of persons or establishments not
130 licensed pursuant to this act.

131 (2) A county or municipality may waive the restriction on
132 the hours of operation of a massage establishment provided in s.
133 480.0475 during special events that occur within the county's or
134 municipality's jurisdiction.

135 Section 7. Subsection (3) is added to section 823.05,
136 Florida Statutes, to read:

137 823.05 Places and groups engaged in criminal gang-related
138 activity declared a nuisance; may be abated and enjoined.—

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

143 Section 8. This act shall take effect October 1, 2013.