

By Senator Martin

33-00568C-23

20231338__

1 A bill to be entitled
2 An act relating to massage establishments; amending s.
3 480.033, F.S.; providing and revising definitions;
4 amending s. 480.035, F.S.; revising quorum
5 requirements for the Board of Massage Therapy;
6 amending s. 480.039, F.S.; authorizing specified
7 enforcement officers to perform inspections and
8 investigations of massage establishments for specified
9 purposes; requiring code enforcement officers, and
10 authorizing law enforcement officers, to submit
11 affidavits with specified photos and other evidence to
12 the Department of Health within a specified timeframe;
13 requiring the department to issue a summary suspension
14 of a massage establishment license within a specified
15 timeframe after an investigation finds that a
16 specified violation occurred; requiring certain law
17 enforcement agencies to notify the department within a
18 specified timeframe after discovering certain
19 violations by a massage therapist or massage
20 establishment; amending s. 480.043, F.S.; prohibiting
21 sexual activity and certain devices in massage
22 establishments; specifying prohibited conduct by
23 massage establishment owners and employees; providing
24 requirements for outside windows and signs in massage
25 establishments; providing exceptions; providing
26 employee dress code requirements; requiring
27 establishments to maintain certain employment records
28 in English and Spanish; requiring specified
29 information be recorded before an employee may provide

33-00568C-23

20231338__

30 services or treatment; requiring massage
31 establishments to conspicuously display a photo and
32 specified information for each employee; providing
33 that such photos and information must be displayed
34 before an employee may provide services or treatment;
35 providing for such requirements in massage
36 establishments within public lodging establishments;
37 requiring massage establishments to maintain customer
38 and patient records for services and treatment
39 provided in the massage establishment in English and
40 Spanish; providing that medical records satisfy this
41 requirement if they contain specified information;
42 requiring massage establishments to maintain such
43 records for a specified timeframe; requiring massage
44 establishments to collect and record specified
45 information and confirm the identification of a
46 customer or patient before providing services or
47 treatment; requiring the board to adopt certain rules;
48 providing for summary suspension of massage
49 establishment licenses under certain circumstances;
50 amending s. 480.0465, F.S.; revising advertising
51 requirements for massage therapists and massage
52 establishments; amending s. 480.0475, F.S.; revising
53 hours during which a massage establishment may
54 operate; requiring all customer and patient services
55 and treatment to be performed within specified hours;
56 prohibiting establishments from sheltering or
57 harboring, or being used as sleeping quarters for, any
58 person; providing criminal penalties; providing for

33-00568C-23

20231338__

59 summary suspension of massage establishment licenses
60 under certain circumstances; amending s. 480.0485,
61 F.S.; specifying additional conduct that constitutes
62 sexual misconduct in the practice of massage therapy;
63 amending s. 480.0535, F.S.; requiring department
64 investigators to request valid government
65 identification from all employees while in a massage
66 establishment; specifying additional documents a
67 person operating a massage establishment must
68 immediately present, upon request, to department
69 investigators and law enforcement officers; providing
70 for summary suspension of massage establishment
71 licenses under certain circumstances; requiring the
72 department to notify a federal immigration office if
73 specified persons fail to provide valid government
74 identification; amending s. 847.001, F.S.; revising
75 the definitions of the terms "adult entertainment
76 establishment" and "unlicensed massage establishment"
77 for purposes of certain criminal conduct; providing
78 severability; providing an effective date.

79

80 Be It Enacted by the Legislature of the State of Florida:

81

82 Section 1. Present subsections (1) through (6) and (7)
83 through (12) of section 480.033, Florida Statutes, are
84 redesignated as subsections (2) through (7) and (9) through
85 (14), respectively, new subsections (1) and (8) and subsection
86 (15) are added to that section, and present subsection (6) of
87 that section is amended, to read:

33-00568C-23

20231338__

88 480.033 Definitions.—As used in this act:

89 (1) "Advertising medium" means any newspaper; airwave or
90 computer transmission; telephone directory listing, other than
91 an in-column listing consisting only of a name, physical
92 address, and telephone number; business card; handbill; flyer;
93 sign, other than a building directory listing all building
94 tenants and their room or suite numbers; or other form of
95 written or electronic advertisement.

96 (7)~~(6)~~ "Designated establishment manager" means a massage
97 therapist or a physician licensed under chapter 457, chapter
98 458, chapter 459, or chapter 460 who holds a clear and active
99 license without restriction, who is responsible for the
100 operation of a massage establishment in accordance with the
101 provisions of this chapter, and who is designated the manager by
102 the rules or practices at the establishment.

103 (8) "Employee" means any person, including independent
104 contractors or lessees of the massage establishment, whose
105 duties involve any aspect of the massage establishment
106 regardless of whether such person is compensated for the
107 performance of such duties. The term does not include a person
108 exclusively engaged in the repair or maintenance of the massage
109 establishment or the delivery of goods to the massage
110 establishment.

111 (15) "Sexual activity" means any direct or indirect contact
112 by any employee or person, or between any employees or persons,
113 with the intent to abuse, humiliate, harass, degrade, or arouse,
114 or gratify the sexual desire of, any employee or person, or
115 which is likely to cause such abuse, humiliation, harassment,
116 degradation, or arousal, or sexual gratification:

33-00568C-23

20231338__

117 (a) With or without the consent of the employee or person;

118 (b) With or without verbal or nonverbal communication that
119 the sexual activity is undesired;

120 (c) With or without the use of any device or object;

121 (d) With or without the occurrence of penetration, orgasm,
122 or ejaculation;

123 (e) Including, but not limited to, intentional contact with
124 the genitalia, groin, femoral triangle, anus, buttocks, gluteal
125 cleft, breast or nipples, mouth, or tongue; and

126 (f) Including, but not limited to, the intentional removal
127 of any drape without written specific informed consent of the
128 patient.

129 Section 2. Subsection (5) of section 480.035, Florida
130 Statutes, is amended to read:

131 480.035 Board of Massage Therapy.—

132 (5) The board shall hold such meetings during the year as
133 it may determine to be necessary, one of which shall be the
134 annual meeting. The chair of the board shall have the authority
135 to call other meetings at her or his discretion. A quorum of the
136 board shall consist of not less than a majority of the current
137 membership of the board ~~four members~~.

138 Section 3. Section 480.039, Florida Statutes, is amended to
139 read:

140 480.039 Investigative services; summary suspensions;
141 reporting.—

142 (1) The department shall provide all investigative services
143 required in carrying out ~~the provisions of~~ this act. A code
144 enforcement officer may perform inspections regarding a massage
145 establishment's compliance with s. 480.043(14) (a), (b), and (c),

33-00568C-23

20231338__

146 and a law enforcement officer may perform inspections and
147 investigations regarding a massage establishment's compliance
148 with s. 480.043(12) and (14) (a)-(f), s. 480.0465(3), s.
149 480.0475(1) and (2), and s. 480.0535. Code enforcement officers
150 shall, and law enforcement officers may, submit to the
151 department an executed affidavit with photos and any other
152 evidence obtained during the inspection or investigation within
153 5 business days after the inspection or investigation that finds
154 there is a violation of s. 480.043(12) or (14) (a), (b), (c),
155 (d), (e), or (f), s. 480.0465(3), s. 480.0475(1) or (2), or s.
156 480.0535. Within 20 business days after receipt of such executed
157 affidavit, the department shall issue a summary suspension of
158 the massage establishment license as described in s. 120.60(6)
159 or s. 456.073(8).

160 (2) If a law enforcement officer arrests a massage
161 therapist for any violation of this chapter or determines that a
162 massage establishment continues to operate following the
163 issuance of a summary suspension by the department, the
164 officer's employing law enforcement agency shall notify the
165 department within 5 business days after the arrest or
166 determination of unlawful continued operation.

167 Section 4. Present subsection (14) of section 480.043,
168 Florida Statutes, is redesignated as subsection (15), and a new
169 subsection (14) is added to that section, to read:

170 480.043 Massage establishments; requisites; licensure;
171 inspection; human trafficking awareness training and policies;
172 prohibited acts.-

173 (14) (a) Sexual activity in any massage establishment is
174 prohibited. An establishment owner or employee may not engage in

33-00568C-23

20231338__

175 or allow any person to engage in sexual activity in the massage
176 establishment or use the establishment to make arrangements to
177 engage in sexual activity in another location. Prophylactic
178 devices are prohibited in a massage establishment.

179 (b) If there is an outside window or windows into the
180 massage establishment's reception area, the outside window or
181 windows must allow for at least 35 percent light penetration,
182 and no more than 50 percent of the outside window or windows may
183 be obstructed with signage, thus allowing the public to see the
184 massage establishment's reception area. A sign must be posted on
185 the front window of the massage establishment and include the
186 name of the massage establishment, its license number, and the
187 telephone number that has been provided to the department as
188 part of the licensing of the massage establishment. This
189 paragraph does not apply to a massage establishment within a
190 public lodging establishment as defined in s. 509.013(4). This
191 paragraph does not apply to a massage establishment located
192 within a county or municipality that has an ordinance that
193 prescribes requirements related to business window light
194 penetration or signage limitations if compliance with this
195 paragraph would result in noncompliance with such ordinance.

196 (c) All employees within the massage establishment must be
197 fully clothed and such clothing must be fully opaque and made of
198 nontransparent material that does not expose the employee's
199 genitalia, undergarments, or lingerie.

200 (d) A massage establishment must maintain a complete set of
201 legible records in English or Spanish, which must include each
202 employee's start date of employment, full legal name, date of
203 birth, home address, telephone number, and employment position

33-00568C-23

20231338__

204 and a copy of the employee's government identification required
205 under s. 480.0535. All information required under this paragraph
206 must be recorded before the employee may provide any service or
207 treatment to a customer or patient.

208 (e) A message establishment must conspicuously display a 2-
209 inch by 2-inch photo for each employee, which, for massage
210 therapists, must be attached to the massage therapist's license.
211 Such display must also include the employee's full legal name
212 and employment position. All information required under this
213 paragraph must be displayed before the employee may provide any
214 service or treatment to a customer or patient. A massage
215 establishment within a public lodging establishment as defined
216 in s. 509.013(4) may satisfy this requirement by displaying the
217 photos and required information in an employee break room or
218 other room that is used by employees but is not used by
219 customers or patients.

220 (f) A message establishment must maintain a complete set of
221 legible records in English or Spanish, which must include the
222 date, time, and type of service or treatment provided; the full
223 legal name of the employee who provided the service or
224 treatment; and the full legal name, home address, and telephone
225 number of the customer or patient. Medical records may satisfy
226 this requirement if the records include the specified
227 information. A copy of the customer's or patient's photo
228 identification may be used to provide the full legal name and
229 home address of the customer or patient. Records required under
230 this paragraph must be maintained for at least 1 year after the
231 provision of the service or treatment. All information required
232 under this paragraph must be collected and recorded before the

33-00568C-23

20231338__

233 provision of any service or treatment to a customer or patient.
234 The massage establishment must confirm the identification of the
235 customer or patient before the provision of any service or
236 treatment to the customer or patient.

237 (g) The board shall adopt rules governing the operation of
238 massage establishments and their facilities, personnel, safety
239 and sanitary requirements, financial responsibility, insurance
240 coverage, and license application and granting process.

241 (h) Failure to comply with this subsection shall result in
242 summary suspension of the massage establishment license as
243 described in s. 120.60(6) or s. 456.073(8).

244 Section 5. Section 480.0465, Florida Statutes, is amended
245 to read:

246 480.0465 Advertisement; prohibitions.-

247 (1) Each massage therapist or massage establishment
248 licensed under this act shall include the number of the license
249 in any advertisement of massage therapy services appearing in
250 any advertising medium, including a newspaper, airwave
251 transmission, telephone directory, Internet, or other
252 advertising medium. Pending licensure of a new massage
253 establishment under s. 480.043(7), the license number of a
254 licensed massage therapist who is an owner or principal officer
255 of the establishment may be used in lieu of the license number
256 for the establishment. The advertisement must also include the
257 physical address of the massage establishment and the telephone
258 number that has been provided to the department as part of the
259 licensing of the massage establishment. However, the inclusion
260 of the physical address and telephone number is not required for
261 an advertisement by a massage establishment whose establishment

33-00568C-23

20231338__

262 owner operates more than five locations in this state.

263 (2) An establishment owner or employee may not place,
264 publish, or distribute, or cause to be placed, published, or
265 distributed, any advertisement in any advertising medium that
266 states prostitution services, escort services, or sexual
267 services are available.

268 (3) A massage therapist or a massage establishment or its
269 employees may not place, publish, or distribute, or cause to be
270 placed, published, or distributed, any online advertisement on
271 any website known for advertising prostitution services, escort
272 services, or sexual services.

273 Section 6. Section 480.0475, Florida Statutes, is amended
274 to read:

275 480.0475 Massage establishments; prohibited practices;
276 penalties.—

277 (1) A massage establishment may only be operated ~~person may~~
278 ~~not operate a massage establishment~~ between the hours of 5 a.m.
279 and midnight and all customer and patient services and treatment
280 must be performed between the hours of 5 a.m. and 10 p.m. This
281 subsection does not apply to a massage establishment:

282 (a) Located on the premises of a health care facility as
283 defined in s. 408.07; a health care clinic as defined in s.
284 400.9905(4); a hotel, motel, or bed and breakfast inn, as those
285 terms are defined in s. 509.242; a timeshare property as defined
286 in s. 721.05; a public airport as defined in s. 330.27; or a
287 pari-mutuel facility as defined in s. 550.002;

288 (b) In which every massage performed between the hours of
289 10 p.m. ~~midnight~~ and 5 a.m. is performed by a massage therapist
290 acting under the prescription of a physician or physician

33-00568C-23

20231338__

291 assistant licensed under chapter 458, an osteopathic physician
292 or physician assistant licensed under chapter 459, a
293 chiropractic physician licensed under chapter 460, a podiatric
294 physician licensed under chapter 461, an advanced practice
295 registered nurse licensed under part I of chapter 464, or a
296 dentist licensed under chapter 466; or

297 (c) Operating during a special event if the county or
298 municipality in which the establishment operates has approved
299 such operation during the special event.

300 (2) A person operating a massage establishment may not use
301 or permit the establishment to be used as a principal domicile
302 for, to shelter or harbor, or as sleeping quarters for any
303 person unless the establishment is zoned for residential use
304 under a local ordinance.

305 (3) A person violating ~~the provisions of~~ this section
306 commits a misdemeanor of the first degree, punishable as
307 provided in s. 775.082 or s. 775.083. A second or subsequent
308 violation of this section is a felony of the third degree,
309 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
310 Failure to comply with subsection (1) or subsection (2) shall
311 result in summary suspension of the massage establishment
312 license as described in s. 120.60(6) or s. 456.073(8).

313 Section 7. Section 480.0485, Florida Statutes, is amended
314 to read:

315 480.0485 Sexual misconduct in the practice of massage
316 therapy.—The massage therapist-patient relationship is founded
317 on mutual trust. Sexual misconduct in the practice of massage
318 therapy means violation of the massage therapist-patient
319 relationship through which the massage therapist uses that

33-00568C-23

20231338__

320 relationship to induce or attempt to induce the patient to
321 engage, or to engage or attempt to engage the patient, in sexual
322 activity outside the scope of practice or the scope of generally
323 accepted examination or treatment of the patient. Sexual
324 misconduct in the practice of massage therapy includes requiring
325 patient nudity as part of any massage service or any other
326 service in the massage establishment or the intentional removal
327 of any drape without the written specific informed consent of
328 the patient. Sexual misconduct in the practice of massage
329 therapy is prohibited.

330 Section 8. Section 480.0535, Florida Statutes, is amended
331 to read:

332 480.0535 Documents required while working in a massage
333 establishment; penalties; reporting requirement.-

334 (1) In order to provide the department and law enforcement
335 agencies the means to more effectively identify, investigate,
336 and arrest persons engaging in human trafficking, an employee a
337 person employed by a massage establishment and any person
338 performing massage therapy in a massage establishment ~~therein~~
339 must immediately present, upon the request of an investigator of
340 the department or a law enforcement officer, valid government
341 identification while in the establishment. An investigator of
342 the department must request valid government identification from
343 all employees while in the establishment. A valid government
344 identification for the purposes of this section is:

345 (a) A valid, unexpired driver license issued by any state,
346 territory, or district of the United States;

347 (b) A valid, unexpired identification card issued by any
348 state, territory, or district of the United States;

33-00568C-23

20231338__

- 349 (c) A valid, unexpired United States passport;
- 350 (d) A naturalization certificate issued by the United
351 States Department of Homeland Security;
- 352 (e) A valid, unexpired alien registration receipt card
353 (green card); or
- 354 (f) A valid, unexpired employment authorization card issued
355 by the United States Department of Homeland Security.
- 356 (2) A person operating a massage establishment must:
- 357 (a) Immediately present, upon the request of an
358 investigator of the department or a law enforcement officer:
- 359 1. Valid government identification while in the
360 establishment.
- 361 2. A copy of the documentation specified in paragraph
362 (1)(a) for each employee and any person performing massage
363 therapy in the establishment.
- 364 3. A copy of the documents required under s. 480.043(14)(d)
365 and (f).
- 366 (b) Ensure that each employee and any person performing
367 massage therapy in the massage establishment is able to
368 immediately present, upon the request of an investigator of the
369 department or a law enforcement officer, valid government
370 identification while in the establishment.
- 371 (3) A person who violates ~~any provision of~~ this section
372 commits:
- 373 (a) For a first violation, a misdemeanor of the second
374 degree, punishable as provided in s. 775.082 or s. 775.083.
- 375 (b) For a second violation, a misdemeanor of the first
376 degree, punishable as provided in s. 775.082 or s. 775.083.
- 377 (c) For a third or subsequent violation, a felony of the

33-00568C-23

20231338__

378 third degree, punishable as provided in s. 775.082, s. 775.083,
379 or s. 775.084.

380 (4) Failure to comply with this section shall result in
381 summary suspension of the massage establishment license as
382 described in s. 120.60(6) or s. 456.073(8).

383 (5) The department shall notify a federal immigration
384 office if a person operating a massage establishment, an
385 employee, or any person performing massage therapy in a massage
386 establishment fails to provide a valid government identification
387 as required under this section.

388 Section 9. Paragraph (d) of subsection (2) of section
389 847.001, Florida Statutes, is amended to read:

390 847.001 Definitions.—As used in this chapter, the term:

391 (2) "Adult entertainment establishment" means the following
392 terms as defined:

393 (d) "Unlicensed massage establishment" means any business
394 or enterprise that offers, sells, or provides, or that holds
395 itself out as offering, selling, or providing, massages that
396 include bathing, physical massage, rubbing, kneading, anointing,
397 stroking, manipulating, or other tactile stimulation of the
398 human body by either male or female employees or attendants,
399 including employees or attendants who are massage therapists
400 licensed under s. 480.041, by hand or by any electrical or
401 mechanical device, on or off the premises. The term "unlicensed
402 massage establishment" does not include an establishment
403 licensed under s. 480.043 which routinely provides medical
404 services by state-licensed health care practitioners and massage
405 therapists licensed under s. 480.041.

406 Section 10. If any provision of this act or its application

33-00568C-23

20231338__

407 to any person or circumstance is held invalid, the invalidity
408 does not affect other provisions or applications of the act
409 which can be given effect without the invalid provision or
410 application, and to this end the provisions of this act are
411 severable.

412 Section 11. This act shall take effect July 1, 2023.