

By the Appropriations Committee on Health and Human Services;  
the Committee on Health Policy; and Senator Martin

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1                                   A bill to be entitled  
2           An act relating to massage establishments; amending s.  
3           456.074, F.S.; authorizing the Department of Health to  
4           immediately suspend the license of massage therapists  
5           and massage establishments if the massage therapist or  
6           certain individuals connected to the massage  
7           establishment are arrested for, convicted or found  
8           guilty of, or enter criminal pleas to specified  
9           violations; amending s. 480.033, F.S.; providing and  
10          revising definitions; amending s. 480.035, F.S.;  
11          revising quorum requirements for the Board of Massage  
12          Therapy; amending s. 480.039, F.S.; authorizing  
13          specified enforcement officers to perform inspections  
14          and investigations of massage establishments for  
15          specified purposes; requiring code enforcement  
16          officers, and authorizing law enforcement officers, to  
17          submit affidavits with specified photos and other  
18          evidence and documentation to the department within a  
19          specified timeframe; requiring certain law enforcement  
20          agencies to notify the department within a specified  
21          timeframe after discovering certain violations by a  
22          massage therapist or massage establishment; requiring  
23          the department to inspect a massage establishment  
24          within a specified timeframe for specified violations  
25          and to initiate disciplinary proceedings if violations  
26          are discovered; amending s. 480.043, F.S.; revising  
27          certain rules the board is required to adopt; revising  
28          the timeframe in which massage establishment owners  
29          must report specified information to the department;

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30 prohibiting sexual activity and certain devices in  
31 massage establishments; specifying prohibited conduct  
32 by massage establishment owners and employees;  
33 providing requirements for outside windows and signs  
34 in massage establishments; providing exceptions;  
35 providing employee dress code requirements; requiring  
36 establishments to maintain certain employment records  
37 in English or Spanish; requiring that specified  
38 information be recorded before an employee may provide  
39 services or treatment; requiring massage  
40 establishments to conspicuously display a photo and  
41 specified information for each employee; requiring  
42 that such photos and information be displayed before  
43 an employee may provide services or treatment;  
44 providing for such requirements in massage  
45 establishments within public lodging establishments;  
46 requiring massage establishments to maintain customer  
47 and patient records for services and treatment  
48 provided in the massage establishment in English or  
49 Spanish; providing that medical records satisfy this  
50 requirement if they contain specified information;  
51 requiring massage establishments to maintain such  
52 records for a specified timeframe; requiring massage  
53 establishments to collect and record specified  
54 information and confirm the identification of a  
55 customer or patient before providing services or  
56 treatment; amending s. 480.0465, F.S.; revising  
57 advertising requirements for massage therapists and  
58 massage establishments; amending s. 480.0475, F.S.;

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59       revising hours during which a massage establishment  
60       may operate; requiring that all customer and patient  
61       services and treatment be performed within specified  
62       hours; prohibiting establishments from sheltering or  
63       harboring, or being used as sleeping quarters for, any  
64       person; providing criminal penalties; amending s.  
65       480.0485, F.S.; specifying additional conduct that  
66       constitutes sexual misconduct in the practice of  
67       massage therapy; amending s. 480.0535, F.S.; requiring  
68       department investigators to request valid government  
69       identification from all employees while in a massage  
70       establishment; specifying additional documents a  
71       person operating a massage establishment must  
72       immediately present, upon request, to department  
73       investigators and law enforcement officers; requiring  
74       the department to notify a federal immigration office  
75       if specified persons fail to provide valid government  
76       identification; amending s. 847.001, F.S.; revising  
77       the definitions of the terms "adult entertainment  
78       establishment" and "unlicensed massage establishment"  
79       for purposes of certain criminal conduct; providing an  
80       appropriation; providing an effective date.

81

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

83

84       Section 1. Subsection (4) of section 456.074, Florida  
85       Statutes, is amended, and subsection (7) is added to that  
86       section, to read:

87       456.074 Certain health care practitioners; immediate

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88 suspension of license.—

89 (4) The department shall issue an emergency order  
90 suspending the license of a massage therapist and ~~or~~  
91 establishment as those terms are defined in chapter 480 upon  
92 receipt of information that the massage therapist, the  
93 designated establishment manager as defined in chapter 480, an  
94 employee of the establishment, a person with an ownership  
95 interest in the establishment, or, for a corporation that has  
96 more than \$250,000 of business assets in this state, the owner,  
97 officer, or individual directly involved in the management of  
98 the establishment has been arrested for committing or  
99 attempting, soliciting, or conspiring to commit, or convicted or  
100 found guilty of, or has entered a plea of guilty or nolo  
101 contendere to, regardless of adjudication, a violation of s.  
102 796.07 s. 796.07(2)(a) which is reclassified under s. 796.07(7)  
103 or a felony offense under any of the following provisions of  
104 state law or a similar provision in another jurisdiction:  
105 (a) Section 787.01, relating to kidnapping.  
106 (b) Section 787.02, relating to false imprisonment.  
107 (c) Section 787.025, relating to luring or enticing a  
108 child.  
109 (d) Section 787.06, relating to human trafficking.  
110 (e) Section 787.07, relating to human smuggling.  
111 (f) Section 794.011, relating to sexual battery.  
112 (g) Section 794.08, relating to female genital mutilation.  
113 (h) Former s. 796.03, relating to procuring a person under  
114 the age of 18 for prostitution.  
115 (i) Former s. 796.035, relating to the selling or buying of  
116 minors into prostitution.

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117 (j) Section 796.04, relating to forcing, compelling, or  
118 coercing another to become a prostitute.

119 (k) Section 796.05, relating to deriving support from the  
120 proceeds of prostitution.

121 (l) Section 796.07(4)(a)3., relating to a felony of the  
122 third degree for a third or subsequent violation of s. 796.07,  
123 relating to prohibiting prostitution and related acts.

124 (m) Section 800.04, relating to lewd or lascivious offenses  
125 committed upon or in the presence of persons less than 16 years  
126 of age.

127 (n) Section 825.1025(2)(b), relating to lewd or lascivious  
128 offenses committed upon or in the presence of an elderly or  
129 disabled person.

130 (o) Section 827.071, relating to sexual performance by a  
131 child.

132 (p) Section 847.0133, relating to the protection of minors.

133 (q) Section 847.0135, relating to computer pornography.

134 (r) Section 847.0138, relating to the transmission of  
135 material harmful to minors to a minor by electronic device or  
136 equipment.

137 (s) Section 847.0145, relating to the selling or buying of  
138 minors.

139 (7) The department shall issue an emergency order  
140 suspending the license of any licensee upon a finding of the  
141 State Surgeon General that probable cause exists to believe that  
142 the licensee has committed sexual misconduct as defined and  
143 prohibited in s. 456.063(1), or the applicable practice act, and  
144 that such violation constitutes an immediate danger to the  
145 public.

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146 Section 2. Present subsections (1) through (6) and (7)  
147 through (12) of section 480.033, Florida Statutes, are  
148 redesignated as subsections (2) through (7) and (9) through  
149 (14), respectively, new subsections (1) and (8) and subsection  
150 (15) are added to that section, and present subsection (6) of  
151 that section is amended, to read:

152 480.033 Definitions.—As used in this act:

153 (1) "Advertising medium" means any newspaper; airwave or  
154 computer transmission; telephone directory listing, other than  
155 an in-column listing consisting only of a name, physical  
156 address, and telephone number; business card; handbill; flyer;  
157 sign, other than a building directory listing all building  
158 tenants and their room or suite numbers; or other form of  
159 written or electronic advertisement.

160 (7)~~(6)~~ "Designated establishment manager" means a massage  
161 therapist, a health care practitioner licensed under chapter  
162 457, or a physician licensed under chapter 458, chapter 459, or  
163 chapter 460 who holds a clear and active license without  
164 restriction, who is responsible for the operation of a massage  
165 establishment in accordance with the provisions of this chapter,  
166 and who is designated the manager by the rules or practices at  
167 the establishment.

168 (8) "Employee" means any person, including independent  
169 contractors or lessees of the massage establishment, whose  
170 duties involve any aspect of the massage establishment  
171 regardless of whether such person is compensated for the  
172 performance of such duties. The term does not include a person  
173 exclusively engaged in the repair or maintenance of the massage  
174 establishment or the delivery of goods to the massage

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175 establishment. This definition applies to chapter 480 only.

176 (15) "Sexual activity" means any direct or indirect contact  
177 by any employee or person, or between any employees or persons,  
178 with the intent to abuse, humiliate, harass, degrade, or arouse,  
179 or gratify the sexual desire of, any employee or person, or  
180 which is likely to cause such abuse, humiliation, harassment,  
181 degradation, or arousal, or sexual gratification:

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

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

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

186 (d) With or without the occurrence of penetration, orgasm,  
187 or ejaculation;

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

191 (f) Including, but not limited to, the intentional removal  
192 of any drape without written specific informed consent of the  
193 patient.

194 Section 3. Subsection (5) of section 480.035, Florida  
195 Statutes, is amended to read:

196 480.035 Board of Massage Therapy.—

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

203 Section 4. Section 480.039, Florida Statutes, is amended to

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204 read:

205 480.039 Investigative services; reporting.-

206 (1) The department shall provide all investigative services  
207 required in carrying out ~~the provisions of~~ this act. A code  
208 enforcement officer may perform inspections regarding a massage  
209 establishment's compliance with s. 480.043(14) (a), (b), and (c),  
210 and a law enforcement officer may perform inspections and  
211 investigations regarding a massage establishment's compliance  
212 with ss. 480.043(12) and (14) (a)-(f), 480.0465(3), 480.0475(1)  
213 and (2), and 480.0535. Code enforcement officers shall, and law  
214 enforcement officers may, submit to the department an executed  
215 affidavit with photos and any other evidence or documentation  
216 obtained during the inspection or investigation within 5  
217 business days after the inspection or investigation that finds  
218 there is a violation of s. 480.043(12) or (14) (a), (b), (c),  
219 (d), (e), or (f), s. 480.0465(3), s. 480.0475(1) or (2), or s.  
220 480.0535. For violations of s. 480.043(14) (a) or (f), s.  
221 480.0465(3), s. 480.0475(2), or s. 480.0535, within 20 business  
222 days after receipt of such executed affidavit, the department  
223 shall issue an emergency order suspending the license of the  
224 massage establishment. For violations of s. 480.043(12) or  
225 (14) (b), (c), (d), or (e) or s. 480.0475(1), within 30 business  
226 days after receipt of an executed affidavit, the department  
227 shall inspect the massage establishment to ensure the massage  
228 establishment's compliance with this chapter, and, if the  
229 massage establishment is not in compliance with this chapter,  
230 the department shall initiate a disciplinary proceeding.

231 (2) If a law enforcement officer arrests a massage  
232 therapist for any violation of this chapter or determines that a



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233 massage establishment continues to operate following the  
234 issuance of an emergency suspension or restriction by the  
235 department, the officer's employing law enforcement agency shall  
236 notify the department within 5 business days after the arrest or  
237 determination of unlawful continued operation.

238 Section 5. Present subsection (14) of section 480.043,  
239 Florida Statutes, is redesignated as subsection (15) and  
240 amended, a new subsection (14) is added to that section, and  
241 subsections (3) and (12) of that section are amended, to read:

242 480.043 Massage establishments; requisites; licensure;  
243 inspection; human trafficking awareness training and policies;  
244 prohibited acts.—

245 (3) The board shall adopt rules governing the operation of  
246 establishments and their facilities, employees ~~personnel~~, safety  
247 and sanitary requirements, financial responsibility, insurance  
248 coverage, and the license application and granting process.

249 (12) As a condition of licensure, a massage establishment  
250 must have a designated establishment manager. The designated  
251 establishment manager is responsible for complying with all  
252 requirements related to operating the establishment in this  
253 section and shall practice at the establishment for which he or  
254 she has been designated. Within 30 ~~10~~ days after termination of  
255 a designated establishment manager, the establishment owner must  
256 notify the department of the identity of another designated  
257 establishment manager. Failure to have a designated  
258 establishment manager practicing at the location of the  
259 establishment shall result in summary suspension of the  
260 establishment license as described in s. 456.073(8) or s.  
261 120.60(6). An establishment licensed before July 1, 2019, must

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262 identify a designated establishment manager by January 1, 2020.

263 (14) (a) Sexual activity in any message establishment is  
264 prohibited. An establishment owner or employee may not engage in  
265 or allow any person to engage in sexual activity in the message  
266 establishment or use the establishment to make arrangements to  
267 engage in sexual activity in another location. Prophylactic  
268 devices are prohibited in a message establishment.

269 (b) If there is an outside window or windows into the  
270 message establishment's reception area, the outside window or  
271 windows must allow for at least 35 percent light penetration,  
272 and no more than 50 percent of the outside window or windows may  
273 be obstructed with signage, blinds, curtains, or other  
274 obstructions, thus allowing the public to see the message  
275 establishment's reception area. A sign must be posted on the  
276 front window of the message establishment and include the name  
277 of the message establishment, its license number, and the  
278 telephone number that has been provided to the department as  
279 part of the licensing of the message establishment. This  
280 paragraph does not apply to a message establishment within a  
281 public lodging establishment as defined in s. 509.013(4). This  
282 paragraph does not apply to a message establishment located  
283 within a county or municipality that has an ordinance that  
284 prescribes requirements related to business window light  
285 penetration or signage limitations if compliance with this  
286 paragraph would result in noncompliance with such ordinance.

287 (c) All employees within the message establishment must be  
288 fully clothed and such clothing must be fully opaque and made of  
289 nontransparent material that does not expose the employee's  
290 genitalia, undergarments, or lingerie.

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291 (d) A massage establishment must maintain a complete set of  
292 legible records in English or Spanish, which must include each  
293 employee's start date of employment, full legal name, date of  
294 birth, home address, telephone number, and employment position  
295 and a copy of the employee's government identification required  
296 under s. 480.0535. All information required under this paragraph  
297 must be recorded before the employee may provide any service or  
298 treatment to a customer or patient.

299 (e) A massage establishment must conspicuously display a 2-  
300 inch by 2-inch photo for each employee, which, for massage  
301 therapists, must be attached to the massage therapist's license.  
302 Such display must also include the employee's full legal name  
303 and employment position. All information required under this  
304 paragraph must be displayed before the employee may provide any  
305 service or treatment to a customer or patient. A massage  
306 establishment within a public lodging establishment as defined  
307 in s. 509.013(4) may satisfy this requirement by displaying the  
308 photos and required information in an employee break room or  
309 other room that is used by employees but is not used by  
310 customers or patients.

311 (f) A massage establishment must maintain a complete set of  
312 legible records in English or Spanish, which must include the  
313 date, time, and type of service or treatment provided; the full  
314 legal name of the employee who provided the service or  
315 treatment; and the full legal name, home address, and telephone  
316 number of the customer or patient. Medical records may satisfy  
317 this requirement if the records include the specified  
318 information. A copy of the customer's or patient's photo  
319 identification may be used to provide the full legal name and

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320 home address of the customer or patient. Records required under  
321 this paragraph must be maintained for at least 1 year after the  
322 provision of the service or treatment. All information required  
323 under this paragraph must be collected and recorded before the  
324 provision of any service or treatment to a customer or patient.  
325 The massage establishment must confirm the identification of the  
326 customer or patient before the provision of any service or  
327 treatment to the customer or patient.

328 (15)~~(14)~~ Except for the requirements of subsection (13),  
329 this section does not apply to a practitioner ~~physician~~ licensed  
330 under chapter 457 or a physician licensed under~~7~~ chapter 458,  
331 chapter 459, or chapter 460 who employs a licensed massage  
332 therapist to perform massage therapy on the practitioner's or  
333 physician's patients at his or her ~~the physician's~~ place of  
334 practice. This subsection does not restrict investigations by  
335 the department for violations of chapter 456 or this chapter.

336 Section 6. Section 480.0465, Florida Statutes, is amended  
337 to read:

338 480.0465 Advertisement; prohibitions.-

339 (1) Each massage therapist or massage establishment  
340 licensed under this act shall include the number of the license  
341 in any advertisement of massage therapy services appearing in  
342 any advertising medium, including a newspaper, airwave  
343 transmission, telephone directory, Internet, or other  
344 advertising medium. Pending licensure of a new massage  
345 establishment under s. 480.043(7), the license number of a  
346 licensed massage therapist who is an owner or principal officer  
347 of the establishment may be used in lieu of the license number  
348 for the establishment. The advertisement must also include the

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349 physical address of the massage establishment and the telephone  
350 number that has been provided to the department as part of the  
351 licensing of the massage establishment. However, the inclusion  
352 of the physical address and telephone number is not required for  
353 an advertisement by a massage establishment whose establishment  
354 owner operates more than five locations in this state.

355 (2) An establishment owner or employee may not place,  
356 publish, or distribute, or cause to be placed, published, or  
357 distributed, any advertisement in any advertising medium which  
358 states prostitution services, escort services, or sexual  
359 services are available.

360 (3) A massage therapist or a massage establishment or its  
361 employees may not place, publish, or distribute, or cause to be  
362 placed, published, or distributed, any online advertisement on  
363 any website known for advertising prostitution services, escort  
364 services, or sexual services.

365 Section 7. Section 480.0475, Florida Statutes, is amended  
366 to read:

367 480.0475 Massage establishments; prohibited practices;  
368 penalties.—

369 (1) A massage establishment may only be operated ~~person may~~  
370 ~~not operate a massage establishment~~ between the hours of 5 a.m.  
371 and midnight and all customer and patient services and treatment  
372 must be performed between the hours of 5 a.m. and 10 p.m. This  
373 subsection does not apply to a massage establishment:

374 (a) Located on the premises of a health care facility as  
375 defined in s. 408.07; a health care clinic as defined in s.  
376 400.9905(4); a hotel, motel, or bed and breakfast inn, as those  
377 terms are defined in s. 509.242; a timeshare property as defined

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378 in s. 721.05; a public airport as defined in s. 330.27; or a  
379 pari-mutuel facility as defined in s. 550.002;

380 (b) In which every massage performed between the hours of  
381 10 p.m. ~~midnight~~ and 5 a.m. is performed by a massage therapist  
382 acting under the prescription of a physician or physician  
383 assistant licensed under chapter 458, an osteopathic physician  
384 or physician assistant licensed under chapter 459, a  
385 chiropractic physician licensed under chapter 460, a podiatric  
386 physician licensed under chapter 461, an advanced practice  
387 registered nurse licensed under part I of chapter 464, or a  
388 dentist licensed under chapter 466; or

389 (c) Operating during a special event if the county or  
390 municipality in which the establishment operates has approved  
391 such operation during the special event.

392 (2) A person operating a massage establishment may not use  
393 or permit the establishment to be used as a principal domicile  
394 for, to shelter or harbor, or as sleeping quarters for any  
395 person unless the establishment is zoned for residential use  
396 under a local ordinance.

397 (3) A person violating ~~the provisions of~~ this section  
398 commits a misdemeanor of the first degree, punishable as  
399 provided in s. 775.082 or s. 775.083. A second or subsequent  
400 violation of this section is a felony of the third degree,  
401 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

402 Section 8. Section 480.0485, Florida Statutes, is amended  
403 to read:

404 480.0485 Sexual misconduct in the practice of massage  
405 therapy.—The massage therapist-patient relationship is founded  
406 on mutual trust. Sexual misconduct in the practice of massage

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407 therapy means violation of the massage therapist-patient  
408 relationship through which the massage therapist uses that  
409 relationship to induce or attempt to induce the patient to  
410 engage, or to engage or attempt to engage the patient, in sexual  
411 activity outside the scope of practice or the scope of generally  
412 accepted examination or treatment of the patient. Sexual  
413 misconduct in the practice of massage therapy includes requiring  
414 patient nudity as part of any massage service or any other  
415 service in the massage establishment or the intentional removal  
416 of any drape without the written specific informed consent of  
417 the patient. Sexual misconduct in the practice of massage  
418 therapy is prohibited.

419 Section 9. Section 480.0535, Florida Statutes, is amended  
420 to read:

421 480.0535 Documents required while working in a massage  
422 establishment; penalties; reporting requirement.-

423 (1) In order to provide the department and law enforcement  
424 agencies the means to more effectively identify, investigate,  
425 and arrest persons engaging in human trafficking, an employee a  
426 person employed by a massage establishment and any person  
427 performing massage therapy in a massage establishment therein  
428 must immediately present, upon the request of an investigator of  
429 the department or a law enforcement officer, valid government  
430 identification while in the establishment. An investigator of  
431 the department must request valid government identification from  
432 all employees while in the establishment. A valid government  
433 identification for the purposes of this section is:

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

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

438 (c) A valid, unexpired United States passport;

439 (d) A naturalization certificate issued by the United  
440 States Department of Homeland Security;

441 (e) A valid, unexpired alien registration receipt card  
442 (green card); or

443 (f) A valid, unexpired employment authorization card issued  
444 by the United States Department of Homeland Security.

445 (2) A person operating a massage establishment must:

446 (a) Immediately present, upon the request of an  
447 investigator of the department or a law enforcement officer:

448 1. Valid government identification while in the  
449 establishment.

450 2. A copy of the documentation specified in paragraph  
451 (1) (a) for each employee and any person performing massage  
452 therapy in the establishment.

453 3. A copy of the documents required under s. 480.043(14) (d)  
454 and (f).

455 (b) Ensure that each employee and any person performing  
456 massage therapy in the massage establishment is able to  
457 immediately present, upon the request of an investigator of the  
458 department or a law enforcement officer, valid government  
459 identification while in the establishment.

460 (3) A person who violates ~~any provision of~~ this section  
461 commits:

462 (a) For a first violation, a misdemeanor of the second  
463 degree, punishable as provided in s. 775.082 or s. 775.083.

464 (b) For a second violation, a misdemeanor of the first



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465 degree, punishable as provided in s. 775.082 or s. 775.083.

466 (c) For a third or subsequent violation, a felony of the  
467 third degree, punishable as provided in s. 775.082, s. 775.083,  
468 or s. 775.084.

469 (4) The department shall notify a federal immigration  
470 office if a person operating a massage establishment, an  
471 employee, or any person performing massage therapy in a massage  
472 establishment fails to provide a valid government identification  
473 as required under this section.

474 Section 10. Paragraph (d) of subsection (2) of section  
475 847.001, Florida Statutes, is amended to read:

476 847.001 Definitions.—As used in this chapter, the term:

477 (2) "Adult entertainment establishment" means the following  
478 terms as defined:

479 (d) "Unlicensed massage establishment" means any business  
480 or enterprise that offers, sells, or provides, or that holds  
481 itself out as offering, selling, or providing, massages that  
482 include bathing, physical massage, rubbing, kneading, anointing,  
483 stroking, manipulating, or other tactile stimulation of the  
484 human body by either male or female employees or attendants,  
485 including employees or attendants who are massage therapists  
486 licensed under s. 480.041, by hand or by any electrical or  
487 mechanical device, on or off the premises. The term "unlicensed  
488 massage establishment" does not include an establishment  
489 licensed under s. 480.043 which routinely provides medical  
490 services by state-licensed health care practitioners and massage  
491 therapists licensed under s. 480.041.

492 Section 11. For the 2023-2024 fiscal year, the sums of  
493 \$837,991 in recurring funds and \$38,712 in nonrecurring funds

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494 from the Department of Health Medical Quality Assurance Trust  
495 Fund are appropriated to the Division of Medical Quality  
496 Assurance of the Department of Health, and eight full-time  
497 equivalent positions with associated salary rate of 544,600 are  
498 authorized, for the purpose of implementing this act.

499 Section 12. This act shall take effect July 1, 2023.