

1 A bill to be entitled

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

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

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

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

28 (2) The board shall adopt rules governing the operation of

29 establishments and their facilities, personnel, safety and
 30 sanitary requirements, financial responsibility, insurance
 31 coverage, and the license application and granting process. An
 32 application shall be denied upon a finding that an applicant has
 33 been arrested for and is awaiting final disposition of, or has
 34 been convicted of, regardless of adjudication, any offense in s.
 35 435.04(2) or a similar law of another jurisdiction.

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

40 480.046 Grounds for disciplinary action by the board.—

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

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

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

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 health care clinic as defined in s.
80 400.9905(4); a hotel, motel, or bed and breakfast inn, as those
81 terms are defined in s. 509.242; a public airport as defined in
82 s. 330.27; or a pari-mutuel facility as defined in s. 550.002;
83 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
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 operating a massage establishment may not use
94 or permit the establishment to be used as a principal domicile
95 unless the establishment is zoned for residential use under a
96 local ordinance.

97 (3) A person violating 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
103 to 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.

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113 (2) A county or municipality may waive the massage
114 establishment hours of operation restrictions contained in s.
115 480.0475 during special events occurring within the jurisdiction
116 of the county or municipality.

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; massage establishments engaged in
121 prohibited activity; may be abated and enjoined.—

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

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