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CS/CS/CS/HB 7005

2013 Legislature

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2 An act relating to massage establishments; amending s.
3 480.033, F.S.; revising the definition of the term
4 "board-approved massage school"; amending s. 480.046,
5 F.S.; providing additional grounds for the denial of a
6 license or disciplinary action; amending s. 480.047,
7 F.S.; revising penalties; creating s. 480.0475, F.S.;
8 prohibiting the operation of a massage establishment
9 during specified times; providing exceptions;
10 prohibiting the use of a massage establishment as a
11 principal domicile unless the establishment is zoned
12 for residential use under a local ordinance; providing
13 penalties; amending s. 823.05, F.S.; declaring that a
14 massage establishment operating in violation of
15 specified statutes is a nuisance that may be abated or
16 enjoined; providing an effective date.

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

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20 Section 1. Subsection (9) of section 480.033, Florida
21 Statutes, is amended to read:

22 480.033 Definitions.—As used in this act:

23 (9) "Board-approved massage school" means a facility that
24 ~~which~~ meets minimum standards for training and curriculum as
25 determined by rule of the board and that ~~which~~ is licensed by
26 the Department of Education pursuant to chapter 1005 or the
27 equivalent licensing authority of another state or is within the
28 public school system of this state or a college or university

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29 | that is eligible to participate in the William L. Boyd, IV,
30 | Florida Resident Access Grant Program.

31 | Section 2. Paragraphs (e) through (o) of subsection (1) are
32 | redesignated as paragraphs (f) through (p), respectively, and a
33 | new paragraph (e) of subsection (1) of section 480.046, Florida
34 | Statutes, is added to read:

35 | 480.046 Grounds for disciplinary action by the board.—

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

38 | (e) Advertising to induce or attempt to induce, or to
39 | engage or attempt to engage, the client in unlawful sexual
40 | misconduct as described in s. 480.0485.

41 | Section 3. Section 480.047, Florida Statutes, is amended
42 | to read:

43 | 480.047 Penalties.—

44 | (1) It is unlawful for any person to:

45 | (a) Hold himself or herself out as a massage therapist or
46 | to practice massage unless duly licensed under this chapter or
47 | unless otherwise specifically exempted from licensure under this
48 | chapter.

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

53 | (c) Permit an employed person to practice massage unless
54 | duly licensed as provided herein.

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

56 | (e) Allow the use of his or her license by an unlicensed

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57 | person.

58 | (f) Give false or forged evidence to the department in
59 | obtaining any license provided for herein.

60 | (g) Falsely impersonate any other licenseholder of like or
61 | different name.

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

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

64 | (2) Except as otherwise provided in this chapter, any
65 | person violating the provisions of this section is guilty of a
66 | misdemeanor of the first degree, punishable as provided in s.
67 | 775.082 or s. 775.083.

68 | Section 4. Section 480.0475, Florida Statutes, is created
69 | to read:

70 | 480.0475 Massage establishments; prohibited practices.-

71 | (1) A person may not operate a massage establishment
72 | between the hours of midnight and 5 a.m. This subsection does
73 | not apply to a massage establishment:

74 | (a) Located on the premises of a health care facility as
75 | defined in s. 408.07; a health care clinic as defined in s.
76 | 400.9905(4); a hotel, motel, or bed and breakfast inn, as those
77 | terms are defined in s. 509.242; a timeshare property as defined
78 | in s. 721.05; a public airport as defined in s. 330.27; or a
79 | pari-mutuel facility as defined in s. 550.002;

80 | (b) In which every massage performed between the hours of
81 | midnight and 5 a.m. is performed by a massage therapist acting
82 | under the prescription of a physician or physician assistant
83 | licensed under chapter 458, an osteopathic physician or
84 | physician assistant licensed under chapter 459, a chiropractic

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85 physician licensed under chapter 460, a podiatric physician
86 licensed under chapter 461, an advanced registered nurse
87 practitioner licensed under part I of chapter 464, or a dentist
88 licensed under chapter 466; or

89 (c) Operating during a special event if the county or
90 municipality in which the establishment operates has approved
91 such operation during the special event.

92 (2) A person operating a massage establishment may not use
93 or permit the establishment to be used as a principal domicile
94 unless the establishment is zoned for residential use under a
95 local ordinance.

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

101 Section 5. Subsection (3) is added to section 823.05,
102 Florida Statutes, to read:

103 823.05 Places and groups engaged in criminal gang-related
104 activity declared a nuisance; massage establishments engaged in
105 prohibited activity; may be abated and enjoined.-

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

110 Section 6. This act shall take effect October 1, 2013.