

## CHAPTER 2013-212

### Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 7005

An act relating to massage establishments; amending s. 480.033, F.S.; revising the definition of the term “board-approved massage school”; amending s. 480.046, F.S.; providing additional grounds for the denial of a license or disciplinary action; amending s. 480.047, F.S.; revising penalties; creating s. 480.0475, F.S.; prohibiting the operation of a massage establishment during specified times; providing exceptions; prohibiting the use of a massage establishment as a principal domicile unless the establishment is zoned for residential use under a local ordinance; providing penalties; amending s. 823.05, F.S.; declaring that a massage establishment operating in violation of specified statutes is a nuisance that may be abated or enjoined; providing an effective date.

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

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

480.033 Definitions.—As used in this act:

(9) “Board-approved massage school” means a facility ~~that~~ which meets minimum standards for training and curriculum as determined by rule of the board and ~~that~~ which is licensed by the Department of Education pursuant to chapter 1005 or the equivalent licensing authority of another state or is within the public school system of this state or a college or university that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program.

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

480.046 Grounds for disciplinary action by the board.—

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

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

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

480.047 Penalties.—

(1) It is unlawful for any person to:

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

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

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

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

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

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

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

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

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

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

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

480.0475 Massage establishments; prohibited practices.—

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

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

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

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

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

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

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

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

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

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

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.