

By: Ortega

H.B. No. 2747

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of massage therapy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 455.059, Occupations Code, is amended to read as follows:

Sec. 455.059. INSPECTIONS; INVESTIGATIONS. (a) The department, the department's authorized representative, or a peace officer may enter the premises of a massage establishment or massage school at:

(1) reasonable times to conduct an inspection incidental to the issuance of a license; and

(2) other times that the department, the department's authorized representative, or a peace officer considers necessary to ensure compliance with this chapter and the rules adopted under this chapter.

(b) During an inspection or investigation under Subsection (a), a peace officer may require a massage therapist to provide the therapist's fingerprints in the manner prescribed by commission rule.

SECTION 2. Section 455.1525, Occupations Code, is amended to read as follows:

Sec. 455.1525. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE [~~BACKGROUND CHECKS~~]. (a) The department shall require an applicant for a license to submit a

1 complete and legible set of fingerprints, on a form prescribed by
2 the department, to the department or to the Department of Public
3 Safety for the purpose of obtaining criminal history record
4 information from the Department of Public Safety and the Federal
5 Bureau of Investigation [~~On receipt of an application for a license~~
6 ~~under this chapter, the department shall conduct a criminal~~
7 ~~background check on the applicant~~].

8 (b) The department may not issue a license to a person who
9 does not comply with the requirement of Subsection (a).

10 (c) The department shall conduct a criminal history record
11 information check of each applicant for a license using
12 information:

13 (1) provided by the individual under this section; and

14 (2) made available to the department by the Department
15 of Public Safety, the Federal Bureau of Investigation, and any
16 other criminal justice agency under Chapter 411, Government Code.

17 (d) The department may:

18 (1) enter into an agreement with the Department of
19 Public Safety to administer a criminal history record information
20 check required under this section; and

21 (2) authorize the Department of Public Safety to
22 collect from each applicant the costs incurred by the Department of
23 Public Safety in conducting the criminal history record information
24 check.

25 (e) For purposes of this section, if the applicant for a
26 license is an entity, the applicant must submit fingerprints as
27 required by Subsection (a) for each individual who:

1 (1) personally or constructively holds, including as
2 the beneficiary of a trust:

3 (A) at least 10 percent of the entity's
4 outstanding stock; or

5 (B) more than \$25,000 of the fair market value of
6 the entity;

7 (2) has the controlling interest in the entity;

8 (3) has a direct or indirect participating interest
9 through shares, stock, or otherwise, regardless of whether voting
10 rights are included, of more than 10 percent of the profits,
11 proceeds, or capital gains of the entity;

12 (4) is a member of the board of directors or other
13 governing body of the entity; or

14 (5) serves as:

15 (A) an elected officer of the entity; or

16 (B) a general manager of the entity.

17 SECTION 3. Section 455.202, Occupations Code, is amended by
18 amending Subsection (b) and adding Subsection (e) to read as
19 follows:

20 (b) A massage establishment may not:

21 (1) employ an individual who is not a United States
22 citizen or a legal permanent resident with a valid work permit;

23 (2) employ a minor unless the minor's parent or legal
24 guardian authorizes in writing the minor's employment by the
25 establishment;

26 (3) allow a nude or partially nude employee to provide
27 massage therapy or other massage services to a customer;

1 (4) allow any individual, including a client, student,
2 license holder, or employee, to engage in sexual contact in the
3 massage establishment; ~~[or]~~

4 (5) allow any individual, including a student, license
5 holder, or employee, to practice massage therapy in the nude or in
6 clothing designed to arouse or gratify the sexual desire of any
7 individual; or

8 (6) allow any individual, including a student, license
9 holder, or employee, to reside on the premises of the massage
10 establishment.

11 (e) Subsection (b)(6) does not apply to:

12 (1) a place of business exempted under Section
13 455.155(c)(2) from the requirement to hold a license as a massage
14 establishment; or

15 (2) a licensed massage therapist who practices as a
16 solo practitioner and who is exempted under Section 455.155(b) from
17 the requirement to hold a license as a massage establishment.

18 SECTION 4. Section 455.204, Occupations Code, is amended by
19 adding Subsection (b-1) to read as follows:

20 (b-1) The license of a massage therapist that is posted
21 under Subsection (b) must have attached to the front of the license
22 a photograph of the massage therapist.

23 SECTION 5. Subchapter E, Chapter 455, Occupations Code, is
24 amended by adding Section 455.207 to read as follows:

25 Sec. 455.207. POSTING OF CERTAIN NOTICES REQUIRED. (a)
26 Each massage establishment and massage school shall display in the
27 form and manner prescribed by the commission a sign concerning

1 services and assistance available to victims of human trafficking.

2 (b) The sign required by this section must:

3 (1) be in English, Spanish, Korean, Mandarin, and any
4 other language required by commission rule;

5 (2) include a toll-free telephone number of a
6 nationally recognized information and referral hotline for victims
7 of human trafficking; and

8 (3) be displayed in a conspicuous place clearly
9 visible to the public.

10 (c) The commission by rule shall establish requirements
11 regarding the posting of signs under this section.

12 SECTION 6. Not later than January 1, 2020, the Texas
13 Commission of Licensing and Regulation shall adopt rules necessary
14 to implement the changes in law made by this Act to Chapter 455,
15 Occupations Code.

16 SECTION 7. (a) Section 455.1525, Occupations Code, as
17 amended by this Act, applies only to an application for a license
18 submitted on or after the effective date of this Act. An
19 application for a license submitted before that date is governed by
20 the law in effect on the date the application was submitted, and the
21 former law is continued in effect for that purpose.

22 (b) Not later than September 1, 2021, the Texas Department
23 of Licensing and Regulation shall obtain criminal history record
24 information on each person who, on the effective date of this Act,
25 holds a license issued under Chapter 455, Occupations Code, and did
26 not undergo a criminal history record information check based on
27 the license holder's fingerprints on initial application for the

1 license. The department may suspend the license of a license holder
2 who does not provide the criminal history record information as
3 required by the department and this subsection.

4 SECTION 8. A massage establishment, as defined by Section
5 455.001, Occupations Code, shall comply with:

6 (1) Section 455.204(b-1), Occupations Code, as added
7 by this Act, not later than January 1, 2020; and

8 (2) Section 455.207, Occupations Code, as added by
9 this Act, not later than November 1, 2019.

10 SECTION 9. This Act takes effect September 1, 2019.