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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
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The Committee on Regulated Industries (Braynon) recommended the following:

Senate Amendment (with title amendment)

Delete lines 17 - 81
and insert:

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

480.043 Massage establishments; requisites; licensure; inspection.-

(2) The board shall adopt rules governing the operation of establishments and their facilities, personnel, safety and sanitary requirements, financial responsibility, insurance coverage, and the license application and granting process. An



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13 application shall be denied upon a finding that an applicant has
14 been arrested for and is awaiting final disposition of, or has
15 been convicted of, regardless of adjudication, an offense in s.
16 435.04(2) or a similar law of another jurisdiction.

17 Section 2. Present paragraphs (e) though (o) of subsection
18 (1) of section 480.046, Florida Statutes, are redesignated as
19 paragraphs (f) though (p), respectively, and a new paragraph (e)
20 is added to that subsection, to read:

21 480.046 Grounds for disciplinary action by the board.—

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

24 (e) Advertising to induce or attempt to induce a client to
25 engage in sexual activity, or to engage or attempt to engage a
26 client in sexual activity.

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

29 480.047 Penalties.—

30 (1) It is unlawful for any person to:

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

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

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

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



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

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

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

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

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

50 (2) Except as otherwise provided in this chapter, any
51 person violating the provisions of this section is guilty of a
52 misdemeanor of the first degree, punishable as provided in s.
53 775.082 or s. 775.083.

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

56 480.0475 Massage establishments; prohibited practices.—

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

60 (a) Located on the premises of a health care facility as
61 defined in s. 408.07; a clinic as defined in part X of chapter
62 400; a hotel, motel, or bed and breakfast inn as defined in s.
63 509.242; a public airport as defined in s. 330.27; or a pari-
64 mutuel facility as defined in s. 550.002; or

65 (b) In which every massage performed between the hours of
66 midnight and 5 a.m. is performed by a massage therapist acting
67 under the prescription of a physician or physician assistant
68 licensed under chapter 458, an osteopathic physician or
69 physician assistant licensed under chapter 459, a chiropractic
70 physician licensed under chapter 460, a podiatric physician



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71 licensed under chapter 461, an advanced registered nurse
72 practitioner licensed under part I of chapter 464, or a dentist
73 licensed under chapter 466.

74 (2) A person who operates a massage establishment may not
75 use the establishment or allow it to be used as a principal
76 domicile unless the establishment is zoned for residential use
77 under a local ordinance.

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

83 Section 5. Section 480.052, Florida Statutes, is amended to
84 read:

85 480.052 Power of county or municipality to regulate
86 massage.—

87 (1) A county or municipality, within its jurisdiction, may
88 regulate persons and establishments licensed under this chapter.
89 Such regulation shall not exceed the powers of the state under
90 this act or be inconsistent with this act. This section shall
91 not be construed to prohibit a county or municipality from
92 enacting any regulation of persons or establishments not
93 licensed pursuant to this act.

94 (2) A county or municipality may waive the restriction on
95 the hours of operation of a massage establishment provided in s.
96 485.0475 during special events that occur within the county's or
97 municipality's jurisdiction.

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99 ===== T I T L E A M E N D M E N T =====



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100 And the title is amended as follows:
101 Delete lines 2 - 10
102 and insert:
103 An act relating to massage establishments; amends s.
104 480.043, F.S.; requiring an application to be denied
105 upon specified findings; amending s. 480.046, F.S.,
106 adding additional grounds for denial of a license;
107 480.047, F.S.; revising penalties; creating s.
108 480.0475, F.S.; prohibiting the operation of a massage
109 establishment during specified times; providing
110 exceptions; prohibiting the use of a massage
111 establishment as a principal domicile unless the
112 establishment is zoned for residential use under a
113 local ordinance; providing criminal penalties;
114 amending s. 480.052, F.S., authorizing a county or
115 municipality to waive the restriction on operating
116 hours of a massage establishment in certain instances;
117 amending s. 823.05, F.S.; declaring that a