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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.

17  
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) though (o) of subsection (1) are  
32 | redesignated as paragraphs (f) though (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

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.