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1
 2 An act relating to massage therapy; renaming ch. 480,
 3 F.S., as "Massage Therapy Practice"; amending s.
 4 480.031, F.S.; conforming a provision to changes made
 5 by the act; amending s. 480.032, F.S.; revising the
 6 purpose of ch. 480, F.S.; amending s. 480.033, F.S.;
 7 revising and providing definitions; amending ss.
 8 477.013, 477.0135, 477.0265, 480.034, 480.035,
 9 480.041, 480.043, 480.046, 480.0465, 480.047, 480.052,
 10 480.0535, 627.6407, 627.6619, 627.736, 641.31, and
 11 823.05, F.S.; conforming provisions to changes made by
 12 the act; making technical changes; providing an
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Chapter 480, Florida Statutes, entitled
 18 "Massage Practice," is renamed "Massage Therapy Practice."

19 Section 2. Section 480.031, Florida Statutes, is amended
 20 to read:

21 480.031 Short title.—This act ~~shall be known and~~ may be
 22 cited as the "Massage Therapy Practice Act."

23 Section 3. Section 480.032, Florida Statutes, is amended
 24 to read:

25 480.032 Purpose.—The Legislature recognizes that the

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26 | practice of massage therapy is potentially dangerous to the
 27 | public in that massage therapists must have a knowledge of
 28 | anatomy and physiology and an understanding of the relationship
 29 | between the structure and the function of the tissues being
 30 | treated and the total function of the body. Massage therapy is a
 31 | therapeutic health care practice, and regulations are necessary
 32 | to protect the public from unqualified practitioners. It is
 33 | therefore deemed necessary in the interest of public health,
 34 | safety, and welfare to regulate the practice of massage therapy
 35 | in the ~~this~~ state; however, restrictions shall be imposed to the
 36 | extent necessary to protect the public from significant and
 37 | discernible danger to health and yet not in such a manner which
 38 | will unreasonably affect the competitive market. Further,
 39 | consumer protection for both health and economic matters shall
 40 | be afforded the public through legal remedies provided for in
 41 | this act.

42 | Section 4. Section 480.033, Florida Statutes, is amended
 43 | to read:

44 | 480.033 Definitions.—As used in this act:

45 | (1)~~(5)~~ "Apprentice" means a person approved by the board
 46 | to study colonic irrigation under the instruction of a licensed
 47 | massage therapist practicing colonic irrigation.

48 | (2)~~(1)~~ "Board" means the Board of Massage Therapy.

49 | (3)~~(9)~~ "Board-approved massage therapy school" means a
 50 | facility that meets minimum standards for training and

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51 curriculum as determined by rule of the board and that is
52 licensed by the Department of Education pursuant to chapter 1005
53 or the equivalent licensing authority of another state or is
54 within the public school system of this state or a college or
55 university that is eligible to participate in the William L.
56 Boyd, IV, Effective Access to Student Education Grant Program.

57 (4)~~(6)~~ "Colonic irrigation" means a method of hydrotherapy
58 used to cleanse the colon with the aid of a mechanical device
59 and water.

60 (5)~~(2)~~ "Department" means the Department of Health.

61 (6)~~(11)~~ "Designated establishment manager" means a massage
62 therapist who holds a clear and active license without
63 restriction, who is responsible for the operation of a massage
64 establishment in accordance with the provisions of this chapter,
65 and who is designated the manager by the rules or practices at
66 the establishment.

67 (7) "Establishment" or "massage establishment" means a
68 site or premises, or portion thereof, wherein a massage
69 therapist practices massage therapy.

70 (8)~~(10)~~ "Establishment owner" means a person who has
71 ownership interest in a massage establishment. The term includes
72 an individual who holds a massage establishment license, a
73 general partner of a partnership, an owner or officer of a
74 corporation, and a member of a limited liability company and its
75 subsidiaries who holds a massage establishment license.

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76 (9)~~(8)~~ "Licensure" means the procedure by which a person,
 77 hereinafter referred to as a "practitioner," applies to the
 78 board for approval to practice massage or to operate an
 79 establishment.

80 (10)~~(4)~~ "Massage therapist" means a person licensed as
 81 required by this act, who performs ~~administers~~ massage therapy,
 82 including massage therapy assessment, for compensation.

83 (11)~~(3)~~ "Massage therapy" means the manipulation of the
 84 soft tissues of the human body with the hand, foot, knee, arm,
 85 or elbow, regardless of whether ~~or not~~ such manipulation is
 86 aided by hydrotherapy, including colonic irrigation, or thermal
 87 therapy; any electrical or mechanical device; or the application
 88 to the human body of a chemical or herbal preparation.

89 (12) "Massage therapy assessment" means the determination
 90 of the course of massage therapy treatment.

91 Section 5. Subsection (13) of section 477.013, Florida
 92 Statutes, is amended to read:

93 477.013 Definitions.—As used in this chapter:

94 (13) "Skin care services" means the treatment of the skin
 95 of the body, other than the head, face, and scalp, by the use of
 96 a sponge, brush, cloth, or similar device to apply or remove a
 97 chemical preparation or other substance, except that chemical
 98 peels may be removed by peeling an applied preparation from the
 99 skin by hand. Skin care services must be performed by a licensed
 100 cosmetologist or facial specialist within a licensed cosmetology

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101 or specialty salon, and such services may not involve massage
 102 therapy, as defined in s. 480.033 ~~s. 480.033(3)~~, through
 103 manipulation of the superficial tissue.

104 Section 6. Paragraph (a) of subsection (1) of section
 105 477.0135, Florida Statutes, is amended to read:

106 477.0135 Exemptions.—

107 (1) This chapter does not apply to the following persons
 108 when practicing pursuant to their professional or occupational
 109 responsibilities and duties:

110 (a) Persons authorized under the laws of this state to
 111 practice medicine, surgery, osteopathic medicine, chiropractic
 112 medicine, massage therapy, naturopathy, or podiatric medicine.

113 Section 7. Paragraph (f) of subsection (1) of section
 114 477.0265, Florida Statutes, is amended to read:

115 477.0265 Prohibited acts.—

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

117 (f) Advertise or imply that skin care services, as
 118 performed under this chapter, have any relationship to the
 119 practice of massage therapy as defined in s. 480.033 ~~s.~~
 120 ~~480.033(3)~~, except those practices or activities defined in s.
 121 477.013.

122 Section 8. Subsection (4) of section 480.034, Florida
 123 Statutes, is amended to read:

124 480.034 Exemptions.—

125 (4) An exemption granted is effective to the extent that

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126 | an exempted person's practice or profession overlaps with the
 127 | practice of massage therapy.

128 | Section 9. Subsection (2) of section 480.035, Florida
 129 | Statutes, is amended to read:

130 | 480.035 Board of Massage Therapy.—

131 | (2) Five members of the board shall be licensed massage
 132 | therapists and shall have been engaged in the practice of
 133 | massage therapy for not less than 5 consecutive years prior to
 134 | the date of appointment to the board. The Governor shall appoint
 135 | each member for a term of 4 years. Two members of the board
 136 | shall be laypersons. Each board member shall be a high school
 137 | graduate or shall have received a high school equivalency
 138 | diploma. Each board member shall be a citizen of the United
 139 | States and a resident of this state for not less than 5 years.
 140 | The appointments are ~~will be~~ subject to confirmation by the
 141 | Senate.

142 | Section 10. Subsections (1) and (4) and paragraph (b) of
 143 | subsection (5) of section 480.041, Florida Statutes, are amended
 144 | to read:

145 | 480.041 Massage therapists; qualifications; licensure;
 146 | endorsement.—

147 | (1) Any person is qualified for licensure as a massage
 148 | therapist under this act who:

149 | (a) Is at least 18 years of age or has received a high
 150 | school diploma or high school equivalency diploma;

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151 (b) Has completed a course of study at a board-approved
 152 massage therapy school that meets standards adopted by the
 153 board; and

154 (c) Has received a passing grade on a national examination
 155 designated by the board.

156 (4) Upon an applicant's passing the examination and paying
 157 the initial licensure fee, the department shall issue to the
 158 applicant a license, valid until the next scheduled renewal
 159 date, to practice massage therapy.

160 (5) The board shall adopt rules:

161 (b) Providing for educational standards, examination, and
 162 certification for the practice of colonic irrigation, as defined
 163 in s. 480.033 ~~s. 480.033(6)~~, by massage therapists.

164 Section 11. Subsection (14) of section 480.043, Florida
 165 Statutes, is amended to read:

166 480.043 Massage establishments; requisites; licensure;
 167 inspection; human trafficking awareness training and policies.-

168 (14) Except for the requirements of subsection (13), this
 169 section does not apply to a physician licensed under chapter
 170 457, chapter 458, chapter 459, or chapter 460 who employs a
 171 licensed massage therapist to perform massage therapy on the
 172 physician's patients at the physician's place of practice. This
 173 subsection does not restrict investigations by the department
 174 for violations of chapter 456 or this chapter.

175 Section 12. Paragraphs (a), (b), (c), (f), (g), (h), (i),

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176 and (o) of subsection (1) of section 480.046, Florida Statutes,
 177 are amended to read:

178 480.046 Grounds for disciplinary action by the board.—

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

181 (a) Attempting to procure a license to practice massage
 182 therapy by bribery or fraudulent misrepresentation.

183 (b) Having a license to practice massage therapy revoked,
 184 suspended, or otherwise acted against, including the denial of
 185 licensure, by the licensing authority of another state,
 186 territory, or country.

187 (c) Being convicted or found guilty, regardless of
 188 adjudication, of a crime in any jurisdiction which directly
 189 relates to the practice of massage therapy or to the ability to
 190 practice massage therapy. Any plea of nolo contendere shall be
 191 considered a conviction for purposes of this chapter.

192 (f) Aiding, assisting, procuring, or advising any
 193 unlicensed person to practice massage therapy contrary to ~~the~~
 194 ~~provisions of~~ this chapter or to a rule of the department or the
 195 board.

196 (g) Making deceptive, untrue, or fraudulent
 197 representations in the practice of massage therapy.

198 (h) Being unable to practice massage therapy with
 199 reasonable skill and safety by reason of illness or use of
 200 alcohol, drugs, narcotics, chemicals, or any other type of

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201 material or as a result of any mental or physical condition. In
 202 enforcing this paragraph, the department ~~shall have~~, upon
 203 probable cause, may ~~authority to~~ compel a massage therapist to
 204 submit to a mental or physical examination by physicians
 205 designated by the department. Failure of a massage therapist to
 206 submit to such examination when so directed, unless the failure
 207 was due to circumstances beyond her or his control, constitutes
 208 ~~shall constitute~~ an admission of the allegations against her or
 209 him, consequent upon which a default and final order may be
 210 entered without the taking of testimony or presentation of
 211 evidence. A massage therapist affected under this paragraph
 212 shall at reasonable intervals be afforded an opportunity to
 213 demonstrate that she or he can resume the competent practice of
 214 massage therapy with reasonable skill and safety to clients.

215 (i) Gross or repeated malpractice or the failure to
 216 practice massage therapy with that level of care, skill, and
 217 treatment which is recognized by a reasonably prudent massage
 218 therapist as being acceptable under similar conditions and
 219 circumstances.

220 (o) Practicing massage therapy at a site, location, or
 221 place which is not duly licensed as a massage establishment,
 222 except that a massage therapist, as provided by ~~rules adopted by~~
 223 ~~the board~~ rule, may provide massage therapy services, excluding
 224 colonic irrigation, at the residence of a client, at the office
 225 of the client, at a sports event, at a convention, or at a trade

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226 | show.

227 | Section 13. Section 480.0465, Florida Statutes, is amended
228 | to read:

229 | 480.0465 Advertisement.—Each massage therapist or massage
230 | establishment licensed under ~~the provisions of~~ this act shall
231 | include the number of the license in any advertisement of
232 | massage therapy services appearing in a newspaper, airwave
233 | transmission, telephone directory, or other advertising medium.
234 | Pending licensure of a new massage establishment under ~~pursuant~~
235 | ~~to the provisions of~~ s. 480.043(7), the license number of a
236 | licensed massage therapist who is an owner or principal officer
237 | of the establishment may be used in lieu of the license number
238 | for the establishment.

239 | Section 14. Paragraphs (a), (b), and (c) of subsection (1)
240 | of section 480.047, Florida Statutes, are amended to read:

241 | 480.047 Penalties.—

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

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

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

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

253 Section 15. Section 480.052, Florida Statutes, is amended
 254 to read:

255 480.052 Power of county or municipality to regulate
 256 massage therapy.—A county or municipality, within its
 257 jurisdiction, may regulate persons and establishments licensed
 258 under this chapter. Such regulation shall not exceed the powers
 259 of the state under this act or be inconsistent with this act.
 260 This section shall not be construed to prohibit a county or
 261 municipality from enacting any regulation of persons or
 262 establishments not licensed pursuant to this act.

263 Section 16. Subsections (1) and (2) of section 480.0535,
 264 Florida Statutes, are amended to read:

265 480.0535 Documents required while working in a massage
 266 establishment.—

267 (1) In order to provide the department and law enforcement
 268 agencies the means to more effectively identify, investigate,
 269 and arrest persons engaging in human trafficking, a person
 270 employed by a massage establishment and any person performing
 271 massage therapy therein must immediately present, upon the
 272 request of an investigator of the department or a law
 273 enforcement officer, valid government identification while in
 274 the establishment. A valid government identification for the
 275 purposes of this section is:

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276 (a) A valid, unexpired driver license issued by any state,
 277 territory, or district of the United States;

278 (b) A valid, unexpired identification card issued by any
 279 state, territory, or district of the United States;

280 (c) A valid, unexpired United States passport;

281 (d) A naturalization certificate issued by the United
 282 States Department of Homeland Security;

283 (e) A valid, unexpired alien registration receipt card
 284 (green card); or

285 (f) A valid, unexpired employment authorization card
 286 issued by the United States Department of Homeland Security.

287 (2) A person operating a massage establishment must:

288 (a) Immediately present, upon the request of an
 289 investigator of the department or a law enforcement officer:

290 1. Valid government identification while in the
 291 establishment.

292 2. A copy of the documentation specified in paragraph
 293 (1) (a) for each employee and any person performing massage
 294 therapy in the establishment.

295 (b) Ensure that each employee and any person performing
 296 massage therapy in the massage establishment is able to
 297 immediately present, upon the request of an investigator of the
 298 department or a law enforcement officer, valid government
 299 identification while in the establishment.

300 Section 17. Section 627.6407, Florida Statutes, is amended

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301 to read:

302 627.6407 Massage.—Any policy of health insurance that
303 provides coverage for massage shall also cover the services of
304 persons licensed to practice massage therapy pursuant to chapter
305 480, where the massage therapy, as defined in chapter 480, has
306 been prescribed by a physician licensed under chapter 458,
307 chapter 459, chapter 460, or chapter 461, as being medically
308 necessary and the prescription specifies the number of
309 treatments.

310 Section 18. Section 627.6619, Florida Statutes, is amended
311 to read:

312 627.6619 Massage.—Any policy of health insurance that
313 provides coverage for massage shall also cover the services of
314 persons licensed to practice massage therapy pursuant to chapter
315 480, where the massage therapy, as defined in chapter 480, has
316 been prescribed by a physician licensed under chapter 458,
317 chapter 459, chapter 460, or chapter 461, as being medically
318 necessary and the prescription specifies the number of
319 treatments.

320 Section 19. Paragraph (a) of subsection (1) of section
321 627.736, Florida Statutes, is amended to read:

322 627.736 Required personal injury protection benefits;
323 exclusions; priority; claims.—

324 (1) REQUIRED BENEFITS.—An insurance policy complying with
325 the security requirements of s. 627.733 must provide personal

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326 injury protection to the named insured, relatives residing in
327 the same household, persons operating the insured motor vehicle,
328 passengers in the motor vehicle, and other persons struck by the
329 motor vehicle and suffering bodily injury while not an occupant
330 of a self-propelled vehicle, subject to subsection (2) and
331 paragraph (4) (e), to a limit of \$10,000 in medical and
332 disability benefits and \$5,000 in death benefits resulting from
333 bodily injury, sickness, disease, or death arising out of the
334 ownership, maintenance, or use of a motor vehicle as follows:

335 (a) Medical benefits.—Eighty percent of all reasonable
336 expenses for medically necessary medical, surgical, X-ray,
337 dental, and rehabilitative services, including prosthetic
338 devices and medically necessary ambulance, hospital, and nursing
339 services if the individual receives initial services and care
340 pursuant to subparagraph 1. within 14 days after the motor
341 vehicle accident. The medical benefits provide reimbursement
342 only for:

343 1. Initial services and care that are lawfully provided,
344 supervised, ordered, or prescribed by a physician licensed under
345 chapter 458 or chapter 459, a dentist licensed under chapter
346 466, a chiropractic physician licensed under chapter 460, or an
347 advanced practice registered nurse registered under s. 464.0123
348 or that are provided in a hospital or in a facility that owns,
349 or is wholly owned by, a hospital. Initial services and care may
350 also be provided by a person or entity licensed under part III

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351 of chapter 401 which provides emergency transportation and
352 treatment.

353 2. Upon referral by a provider described in subparagraph
354 1., followup services and care consistent with the underlying
355 medical diagnosis rendered pursuant to subparagraph 1. which may
356 be provided, supervised, ordered, or prescribed only by a
357 physician licensed under chapter 458 or chapter 459, a
358 chiropractic physician licensed under chapter 460, a dentist
359 licensed under chapter 466, or an advanced practice registered
360 nurse registered under s. 464.0123, or, to the extent permitted
361 by applicable law and under the supervision of such physician,
362 osteopathic physician, chiropractic physician, or dentist, by a
363 physician assistant licensed under chapter 458 or chapter 459 or
364 an advanced practice registered nurse licensed under chapter
365 464. Followup services and care may also be provided by the
366 following persons or entities:

367 a. A hospital or ambulatory surgical center licensed under
368 chapter 395.

369 b. An entity wholly owned by one or more physicians
370 licensed under chapter 458 or chapter 459, chiropractic
371 physicians licensed under chapter 460, advanced practice
372 registered nurses registered under s. 464.0123, or dentists
373 licensed under chapter 466 or by such practitioners and the
374 spouse, parent, child, or sibling of such practitioners.

375 c. An entity that owns or is wholly owned, directly or

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376 indirectly, by a hospital or hospitals.

377 d. A physical therapist licensed under chapter 486, based
378 upon a referral by a provider described in this subparagraph.

379 e. A health care clinic licensed under part X of chapter
380 400 which is accredited by an accrediting organization whose
381 standards incorporate comparable regulations required by this
382 state, or

383 (I) Has a medical director licensed under chapter 458,
384 chapter 459, or chapter 460;

385 (II) Has been continuously licensed for more than 3 years
386 or is a publicly traded corporation that issues securities
387 traded on an exchange registered with the United States
388 Securities and Exchange Commission as a national securities
389 exchange; and

390 (III) Provides at least four of the following medical
391 specialties:

392 (A) General medicine.

393 (B) Radiography.

394 (C) Orthopedic medicine.

395 (D) Physical medicine.

396 (E) Physical therapy.

397 (F) Physical rehabilitation.

398 (G) Prescribing or dispensing outpatient prescription
399 medication.

400 (H) Laboratory services.

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401 3. Reimbursement for services and care provided in
402 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
403 licensed under chapter 458 or chapter 459, a dentist licensed
404 under chapter 466, a physician assistant licensed under chapter
405 458 or chapter 459, or an advanced practice registered nurse
406 licensed under chapter 464 has determined that the injured
407 person had an emergency medical condition.

408 4. Reimbursement for services and care provided in
409 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
410 provider listed in subparagraph 1. or subparagraph 2. determines
411 that the injured person did not have an emergency medical
412 condition.

413 5. Medical benefits do not include massage therapy as
414 defined in s. 480.033 or acupuncture as defined in s. 457.102,
415 regardless of the person, entity, or licensee providing massage
416 therapy or acupuncture, and a licensed massage therapist or
417 licensed acupuncturist may not be reimbursed for medical
418 benefits under this section.

419 6. The Financial Services Commission shall adopt by rule
420 the form that must be used by an insurer and a health care
421 provider specified in sub-subparagraph 2.b., sub-subparagraph
422 2.c., or sub-subparagraph 2.e. to document that the health care
423 provider meets the criteria of this paragraph. Such rule must
424 include a requirement for a sworn statement or affidavit.

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426 Only insurers writing motor vehicle liability insurance in this
427 state may provide the required benefits of this section, and
428 such insurer may not require the purchase of any other motor
429 vehicle coverage other than the purchase of property damage
430 liability coverage as required by s. 627.7275 as a condition for
431 providing such benefits. Insurers may not require that property
432 damage liability insurance in an amount greater than \$10,000 be
433 purchased in conjunction with personal injury protection. Such
434 insurers shall make benefits and required property damage
435 liability insurance coverage available through normal marketing
436 channels. An insurer writing motor vehicle liability insurance
437 in this state who fails to comply with such availability
438 requirement as a general business practice violates part IX of
439 chapter 626, and such violation constitutes an unfair method of
440 competition or an unfair or deceptive act or practice involving
441 the business of insurance. An insurer committing such violation
442 is subject to the penalties provided under that part, as well as
443 those provided elsewhere in the insurance code.

444 Section 20. Subsection (37) of section 641.31, Florida
445 Statutes, is amended to read:

446 641.31 Health maintenance contracts.—

447 (37) All health maintenance contracts that provide
448 coverage for massage must also cover the services of persons
449 licensed to practice massage therapy pursuant to chapter 480 if
450 the massage is prescribed by a contracted physician licensed

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451 | under chapter 458, chapter 459, chapter 460, or chapter 461 as
 452 | medically necessary and the prescription specifies the number of
 453 | treatments. Such massage services are subject to the same terms,
 454 | conditions, and limitations as those of other covered services.

455 | Section 21. Subsection (3) of section 823.05, Florida
 456 | Statutes, is amended to read:

457 | 823.05 Places and groups engaged in certain activities
 458 | declared a nuisance; abatement and enjoinder.—

459 | (3) A massage establishment as defined in s. 480.033 ~~s.~~
 460 | ~~480.033(7)~~ which operates in violation of s. 480.0475 or s.
 461 | 480.0535(2) is declared a nuisance and may be abated or enjoined
 462 | as provided in ss. 60.05 and 60.06.

463 | Section 22. This act shall take effect July 1, 2021.