

By: Hernandez

H.B. No. 240

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to evidence in a suit to abate certain common nuisances and  
3 to notice of certain arrests.

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

5 SECTION 1. Subchapter A, Chapter 125, Civil Practice and  
6 Remedies Code, is amended by adding Section 125.0017 to read as  
7 follows:

8 Sec. 125.0017. NOTICE OF ARREST FOR CERTAIN ACTIVITIES. If  
9 a law enforcement agency makes an arrest related to an activity  
10 described by Section 125.0015(a)(6) or (7) that occurs at property  
11 leased to a person operating a massage establishment as defined by  
12 Section 455.001, Occupations Code, not later than the seventh day  
13 after the date of the arrest, the law enforcement agency shall  
14 provide written notice by certified mail to the property owner of  
15 the arrest.

16 SECTION 2. Section 125.002, Civil Practice and Remedies  
17 Code, is amended by adding Subsection (b-1) to read as follows:

18 (b-1) If the nuisance that is the basis of the suit brought  
19 under Subsection (a) involves massage therapy or other massage  
20 services that are provided in violation of Chapter 455, Occupations  
21 Code, a person bringing the suit may request a landowner or landlord  
22 of the place where the nuisance is allegedly maintained to provide  
23 the contact information of the business or the owner of the  
24 business. The landowner or landlord shall provide the requested

1 information not later than the seventh day after the date the  
2 landowner or landlord receives the request.

3 SECTION 3. Section 125.004, Civil Practice and Remedies  
4 Code, is amended by adding Subsection (a-1) and amending Subsection  
5 (d) to read as follows:

6 (a-1) If the defendant is a landowner who leases real estate  
7 to a person operating a massage establishment as defined by Section  
8 455.001, Occupations Code, proof that an activity described by  
9 Section 125.0015(a)(6) or (7) was committed at the massage  
10 establishment after notice of an arrest was provided to the  
11 landowner in accordance with Section 125.0017 is prima facie  
12 evidence that the defendant knowingly tolerated the activity.

13 (d) Notwithstanding Subsections [~~Subsection~~] (a) and (a-1),  
14 evidence that the defendant, the defendant's authorized  
15 representative, or another person acting at the direction of the  
16 defendant or the defendant's authorized representative requested  
17 law enforcement or emergency assistance with respect to an activity  
18 at the place where the common nuisance is allegedly maintained is  
19 not admissible for the purpose of showing the defendant tolerated  
20 the activity or failed to make reasonable attempts to abate the  
21 activity alleged to constitute the nuisance but may be admitted for  
22 other purposes, such as showing that a crime listed in Section  
23 125.0015 occurred. Evidence that the defendant refused to  
24 cooperate with law enforcement or emergency services with respect  
25 to the activity is admissible. The posting of a sign prohibiting  
26 the activity alleged is not conclusive evidence that the owner did  
27 not tolerate the activity.

1           SECTION 4. The change in law made by this Act applies only  
2 to a cause of action that accrues on or after the effective date of  
3 this Act. A cause of action that accrues before the effective date  
4 of this Act is governed by the law applicable to the cause of action  
5 immediately before the effective date of this Act, and that law is  
6 continued in effect for that purpose.

7           SECTION 5. This Act takes effect September 1, 2017.