

By: Hernandez

H.B. No. 240

Substitute the following for H.B. No. 240:

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C.S.H.B. No. 240

A BILL TO BE ENTITLED

AN ACT

relating to evidence in a suit to abate certain common nuisances.

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

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

(b-1) If the nuisance that is the basis of the suit brought under Subsection (a) involves massage therapy or other massage services that are provided in violation of Chapter 455, Occupations Code, a person bringing the suit may request a landowner or landlord of the place where the nuisance is allegedly maintained to provide the contact information of the business or the owner of the business. The landowner or landlord shall provide the requested information not later than the seventh day after the date the landowner or landlord receives the request.

SECTION 2. Section 125.004, Civil Practice and Remedies Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

(a-1) If the defendant is a business, or an owner of a business, that provides massage therapy or other massage services in violation of Chapter 455, Occupations Code, proof that those services occurred is prima facie evidence that:

(1) the defendant knowingly tolerated the activity;

and

(2) the place in which the business provides those

1 services is habitually used for the activity.

2 (d) Notwithstanding Subsections [~~Subsection~~] (a) and (a-1),  
3 evidence that the defendant, the defendant's authorized  
4 representative, or another person acting at the direction of the  
5 defendant or the defendant's authorized representative requested  
6 law enforcement or emergency assistance with respect to an activity  
7 at the place where the common nuisance is allegedly maintained is  
8 not admissible for the purpose of showing the defendant tolerated  
9 the activity or failed to make reasonable attempts to abate the  
10 activity alleged to constitute the nuisance but may be admitted for  
11 other purposes, such as showing that a crime listed in Section  
12 [125.0015](#) occurred. Evidence that the defendant refused to  
13 cooperate with law enforcement or emergency services with respect  
14 to the activity is admissible. The posting of a sign prohibiting  
15 the activity alleged is not conclusive evidence that the owner did  
16 not tolerate the activity.

17 SECTION 3. The change in law made by this Act applies only  
18 to a cause of action that accrues on or after the effective date of  
19 this Act. A cause of action that accrues before the effective date  
20 of this Act is governed by the law applicable to the cause of action  
21 immediately before the effective date of this Act, and that law is  
22 continued in effect for that purpose.

23 SECTION 4. This Act takes effect September 1, 2017.