

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.

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

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

7 (a-1) Proof that massage therapy or other massage services
8 occur in violation of Chapter 455, Occupations Code, at a place not
9 licensed for that purpose under that chapter is prima facie
10 evidence that:

11 (1) the defendant knowingly tolerated the activity;
12 and

13 (2) the place is habitually used for the activity.

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

1 cooperate with law enforcement or emergency services with respect
2 to the activity is admissible. The posting of a sign prohibiting
3 the activity alleged is not conclusive evidence that the owner did
4 not tolerate the activity.

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

11 SECTION 3. This Act takes effect September 1, 2017.