

House Bill 240
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

SECTION 2. 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 3. Section 125.004, Civil Practice and Remedies Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

SENATE VERSION (IE)

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

Sec. 125.0017. NOTICE OF ARREST FOR CERTAIN ACTIVITIES. If a law enforcement agency makes an arrest related to an activity described by Section 125.0015(a)(6), (7), or (18) that occurs at property leased to a person operating a massage establishment as defined by Section 455.001, Occupations Code, not later than the 14th day after the date of the arrest, the law enforcement agency may provide written notice by certified mail to each person maintaining the property of the arrest. [FA1(1)]

No equivalent provision.

SECTION 1. Section 125.004, Civil Practice and Remedies Code, is amended by adding Subsections (a-1), (a-2), (a-3), and (e) and amending Subsection (d) to read as follows:

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

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

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[FA1(2)-(3)]

(a-1) Proof in the form of a person's arrest or the testimony of a law enforcement agent that an activity described by Section 125.0015(a)(6) or (7) is committed at a place licensed as a massage establishment under Chapter 455, Occupations Code, or advertised as offering massage therapy or massage services after notice of an arrest was provided to the defendant in accordance with Section 125.0017 is prima facie evidence that the defendant knowingly tolerated the activity. [FA1(4)]

(a-2) Proof that an activity described by Section 125.0015(a)(18) is committed at a place maintained by the defendant after notice of an arrest was provided to the defendant in accordance with Section 125.0017 is prima facie evidence that the defendant: [FA1(5)]

(1) knowingly tolerated the activity; and

(2) did not make a reasonable attempt to abate the activity.

(a-3) For purposes of Subsections (a-1) and (a-2), notice is only considered to be provided to the defendant seven days after the postmark date of the notice provided under Section 125.0017.

(d) Notwithstanding Subsection (a), (a-1), or (a-2), evidence that the defendant, the defendant's authorized representative, or another person acting at the direction of the defendant or the defendant's authorized representative requested law enforcement or emergency assistance with respect to an activity at the place where the common nuisance is allegedly maintained is not admissible for the purpose of showing the defendant tolerated the activity or failed to make reasonable attempts to abate the activity alleged to constitute the nuisance but may be admitted for other purposes, such as showing that a crime listed in Section 125.0015 occurred. Evidence that the defendant refused to cooperate with law enforcement or

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

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

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

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emergency services with respect to the activity is admissible. The posting of a sign prohibiting the activity alleged is not conclusive evidence that the owner did not tolerate the activity. [FA1(6)]

(e) Evidence of a previous suit filed under this chapter that resulted in a judgment against a landowner with respect to an activity described by Section 125.0015 at the landowner's property is admissible in a subsequent suit filed under this chapter to demonstrate that the landowner:

(1) knowingly tolerated the activity; and

(2) did not make a reasonable attempt to abate the activity.

SECTION __. Section 125.004, Civil Practice and Remedies Code, as amended by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose. [FA1(1)]

SECTION 2. Same as House version.

CONFERENCE