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H.B. No. 1865

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of massage therapy;
requiring a student permit; authorizing fees.

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

SECTION 1. Section 455.152, Occupations Code, is amended to
read as follows:

Sec. 455.152. INELIGIBILITY FOR LICENSE. ~~[(a)]~~ A person is
not eligible for a license as a massage establishment, massage
school, massage therapist, or massage therapy instructor if the
person is an individual and has been convicted of, entered a plea of
nolo contendere or guilty to, or received deferred adjudication for
an offense under Chapter 20A, Penal Code, or Subchapter A, Chapter
43, Penal Code, or another sexual offense.

~~[(b) A person convicted of a violation of this chapter is
ineligible for a license as a massage establishment, massage
school, massage therapist, or massage therapy instructor until the
fifth anniversary of the date of the conviction.]~~

SECTION 2. Section 455.1525, Occupations Code, is amended
to read as follows:

Sec. 455.1525. CRIMINAL HISTORY RECORD INFORMATION
REQUIREMENT FOR LICENSE ISSUANCE ~~[BACKGROUND CHECKS]~~. (a) The
department shall require an applicant for a license to submit a
complete and legible set of fingerprints, on a form prescribed by
the department, to the department or to the Department of Public

1 Safety for the purpose of obtaining criminal history record
2 information from the Department of Public Safety and the Federal
3 Bureau of Investigation [~~On receipt of an application for a license~~
4 ~~under this chapter, the department shall conduct a criminal~~
5 ~~background check on the applicant~~].

6 (b) The department may not issue a license to a person who
7 does not comply with the requirement of Subsection (a).

8 (c) The department shall conduct a criminal history record
9 information check of each applicant for a license using
10 information:

11 (1) provided by the individual under this section; and

12 (2) made available to the department by the Department
13 of Public Safety, the Federal Bureau of Investigation, and any
14 other criminal justice agency under Chapter 411, Government Code.

15 (d) The department may:

16 (1) enter into an agreement with the Department of
17 Public Safety to administer a criminal history record information
18 check required under this section; and

19 (2) authorize the Department of Public Safety to
20 collect from each applicant the costs incurred by the Department of
21 Public Safety in conducting the criminal history record information
22 check.

23 (e) For purposes of this section, if the applicant for a
24 license is an entity, the applicant must submit fingerprints as
25 required by Subsection (a) for each individual who:

26 (1) personally or constructively holds, including as
27 the beneficiary of a trust:

1 (A) at least 10 percent of the entity's
2 outstanding stock; or

3 (B) more than \$25,000 of the fair market value of
4 the entity;

5 (2) has the controlling interest in the entity;

6 (3) has a direct or indirect participating interest
7 through shares, stock, or otherwise, regardless of whether voting
8 rights are included, of more than 10 percent of the profits,
9 proceeds, or capital gains of the entity;

10 (4) is a member of the board of directors or other
11 governing body of the entity; or

12 (5) serves as:

13 (A) an elected officer of the entity; or

14 (B) a general manager of the entity.

15 SECTION 3. Section 455.160(h), Occupations Code, is amended
16 to read as follows:

17 (h) On receipt of a request for a renewal of a license issued
18 under this chapter, the department shall [~~may~~] conduct a criminal
19 background check under Section 455.1525.

20 SECTION 4. Subchapter D, Chapter 455, Occupations Code, is
21 amended by adding Section 455.161 to read as follows:

22 Sec. 455.161. STUDENT PERMIT; ELIGIBILITY. (a) The
23 department shall require a student enrolled in a massage school in
24 this state to hold a permit stating the student's name and the name
25 of the school. The permit must be displayed in a reasonable manner
26 at the school.

27 (b) The department shall issue a student permit to an

1 applicant who submits an application to the department for a
2 student permit accompanied by any required fee.

3 (c) An applicant for a student permit described by this
4 section shall:

5 (1) submit an enrollment application to the department
6 in a form and manner prescribed by the department; and

7 (2) satisfy other requirements specified by the
8 department.

9 SECTION 5. Subchapter E, Chapter 455, Occupations Code, is
10 amended by adding Section 455.2035 to read as follows:

11 Sec. 455.2035. REPORTS TO DEPARTMENT. (a) A massage school
12 shall maintain a monthly progress report regarding each student
13 attending the school. The report must certify the daily attendance
14 record of each student and the number of credit hours earned by each
15 student during the previous month.

16 (b) On a student's completion of a prescribed course of
17 instruction, the school shall notify the department that the
18 student has completed the required number of hours and is eligible
19 to take the appropriate examination.

20 SECTION 6. Section 455.158, Occupations Code, is repealed.

21 SECTION 7. Not later than March 1, 2020, the Texas
22 Commission of Licensing and Regulation shall adopt rules necessary
23 to implement the changes in law made by this Act to Chapter 455,
24 Occupations Code.

25 SECTION 8. (a) Section 455.1525, Occupations Code, as
26 amended by this Act, applies only to an application for a license
27 submitted on or after the effective date of this Act. An

1 application for a license submitted before that date is governed by
2 the law in effect on the date the application was submitted, and the
3 former law is continued in effect for that purpose.

4 (b) Not later than September 1, 2021, the Texas Department
5 of Licensing and Regulation shall obtain criminal history record
6 information on each person who, on the effective date of this Act,
7 holds a license issued under Chapter 455, Occupations Code, and did
8 not undergo a criminal history record information check based on
9 the license holder's fingerprints on initial application for the
10 license. The department may suspend the license of a license holder
11 who does not provide the criminal history record information as
12 required by the department and this subsection.

13 SECTION 9. Section 455.160(h), Occupations Code, as amended
14 by this Act, applies only to an application for the renewal of a
15 license submitted on or after the effective date of this Act. An
16 application submitted before that date is governed by the law in
17 effect on the date the application was submitted, and the former law
18 is continued in effect for that purpose.

19 SECTION 10. (a) In this section, "massage school" has the
20 meaning assigned by Section 455.001, Occupations Code.

21 (b) Section 455.161, Occupations Code, as added by this Act,
22 applies to a student who is enrolled in a massage school on or after
23 June 1, 2020.

24 SECTION 11. (a) Except as provided by Subsection (b) of
25 this section, this Act takes effect September 1, 2019.

26 (b) Section 455.2035, Occupations Code, as added by this
27 Act, takes effect July 1, 2020.