

By: Ortega, Landgraf, Thompson of Harris,
Harless, Ramos, et al.

H.B. No. 2747

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of massage therapy.

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

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

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

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

- (1) provided by the individual under this section; and
- (2) made available to the department by the Department
of Public Safety, the Federal Bureau of Investigation, and any
other criminal justice agency under Chapter [411](#), Government Code.

1 (d) The department may:

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

5 (2) authorize the Department of Public Safety to
6 collect from each applicant the costs incurred by the Department of
7 Public Safety in conducting the criminal history record information
8 check.

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

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

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

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

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

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

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

25 (5) serves as:

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

27 (B) a general manager of the entity.

SECTION 2. Section 455.202, Occupations Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) A massage establishment may not:

(1) employ an individual who is not a United States citizen or a legal permanent resident with a valid work permit;

(2) employ a minor unless the minor's parent or legal guardian authorizes in writing the minor's employment by the establishment;

(3) allow a nude or partially nude employee to provide massage therapy or other massage services to a customer;

(4) allow any individual, including a client, student, license holder, or employee, to engage in sexual contact in the massage establishment; ~~or~~

(5) allow any individual, including a student, license holder, or employee, to practice massage therapy in the nude or in clothing designed to arouse or gratify the sexual desire of any individual; or

(6) allow any individual, including a student, license holder, or employee, to reside on the premises of the massage establishment.

(e) Subsection (b)(6) does not apply to:

(1) a place of business exempted under Section 455.155(c)(2) from the requirement to hold a license as a massage establishment; or

(2) a licensed massage therapist who practices as a solo practitioner and who is exempted under Section 455.155(b) from

1 the requirement to hold a license as a massage establishment.

2 SECTION 3. Section 455.204, Occupations Code, is amended by
3 adding Subsection (b-1) to read as follows:

4 (b-1) The license of a massage therapist that is posted
5 under Subsection (b) must have attached to the front of the license
6 a photograph of the massage therapist.

7 SECTION 4. Subchapter E, Chapter 455, Occupations Code, is
8 amended by adding Section 455.207 to read as follows:

9 Sec. 455.207. POSTING OF CERTAIN NOTICES REQUIRED. (a)
10 Each massage establishment and massage school shall display in the
11 form and manner prescribed by the commission a sign concerning
12 services and assistance available to victims of human trafficking.

13 (b) The sign required by this section must:

14 (1) be in English, Spanish, Korean, Mandarin, and any
15 other language required by commission rule;

16 (2) include a toll-free telephone number of a
17 nationally recognized information and referral hotline for victims
18 of human trafficking; and

19 (3) be displayed in a conspicuous place clearly
20 visible to the public.

21 (c) The commission by rule shall establish requirements
22 regarding the posting of signs under this section.

23 SECTION 5. Not later than March 1, 2020, the Texas
24 Commission of Licensing and Regulation shall adopt rules necessary
25 to implement the changes in law made by this Act to Chapter 455,
26 Occupations Code.

27 SECTION 6. (a) Section 455.1525, Occupations Code, as

1 amended by this Act, applies only to an application for a license
2 submitted on or after the effective date of this Act. An
3 application for a license submitted before that date is governed by
4 the law in effect on the date the application was submitted, and the
5 former law is continued in effect for that purpose.

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

15 SECTION 7. A massage establishment, as defined by Section
16 455.001, Occupations Code, shall comply with:

17 (1) Section 455.204(b-1), Occupations Code, as added
18 by this Act, not later than January 1, 2020; and

19 (2) Section 455.207, Occupations Code, as added by
20 this Act, not later than April 1, 2020.

21 SECTION 8. This Act takes effect September 1, 2019.