

Amend HB 3579 (senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 455.005, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1), (c-1), (c-2), and (e) to read as follows:

(b) Subject to Subsections (b-1), (c), (c-1), and (c-2), this [This] chapter does not affect a local regulation that:

(1) relates to:

(A) zoning requirements, including conditional use permits;

(B) hours of operation; or

(C) other [similar] regulations similar to those described by Paragraph (A) or (B) for massage establishments;

(2) authorizes or requires an investigation into the background of an owner or operator of, or an investor in, a massage establishment; or

(3) does not relate directly to the practice of massage therapy as performed by a licensed massage therapist, including a regulation related to a license holder listed in Section 455.004, while the therapist:

(A) performs under the applicable licensing law; and

(B) works with a licensed massage therapist.

(b-1) Except as provided by Chapter 243, Local Government Code, a political subdivision may not adopt a regulation of the type described by Subsection (b) that is more restrictive for massage therapists than for other health care professionals.

(c) A [Except as provided by Chapter 243, Local Government Code, a] political subdivision may not adopt a regulation of the type described by Subsection (b) that is more restrictive for [massage therapists or] massage establishments than for other health care [professionals or] establishments, except that a more restrictive regulation of the type described by Subsection (b) may be adopted:

(1) as provided by Chapter 243, Local Government Code;

or

(2) if the regulation relates to the location, ownership, hours of operation, or operation of a massage establishment:

(A) where three or more arrests have occurred or citations in lieu of arrest have been issued for an offense under Section 43.02, 43.021, 43.03, 43.04, 43.05, or 71.02, Penal Code, that was committed at the massage establishment;

(B) where an offense under Chapter 20A, or Section 34.02, 43.02, 43.021, 43.03, 43.04, 43.05, or 71.02, Penal Code, was committed that resulted in a conviction;

(C) that is operating at a location where another massage establishment against which a sanction was imposed for a violation of this chapter previously operated; or

(D) that is operating at a location where another massage establishment owned or operated by an individual against whom a sanction was imposed for a violation of this chapter previously operated.

(c-1) The owner or operator of a massage establishment subject to a regulation adopted under Subsection (c)(2)(C) may submit a request to the applicable political subdivision for an exemption from the regulation. The request must include documentation sufficient to demonstrate the owner or operator has undertaken or implemented procedures and controls to prevent the commission of any offense listed in Subsection (c)(2)(A) or (B).

(c-2) The governing body of a political subdivision that receives a request under Subsection (c-1) shall:

(1) consider, but is not required to approve, the requested exemption at the governing body's next regularly scheduled meeting to be held on a date after the date on which the request is received and that allows sufficient time to comply with Chapter 551, Government Code, if:

(A) the ownership of the massage establishment subject to a regulation adopted under Subsection (c)(2)(C) changed less than two years before the date of the request under Subsection (c-1); and

(B) the current owner of the massage establishment is not an individual against whom a sanction has been

imposed for a violation of this chapter; or

(2) approve the requested exemption as soon as practicable after the date on which the request is received if:

(A) the ownership of the massage establishment subject to a regulation adopted under Subsection (c)(2)(C) changed at least two years before the date of the request under Subsection (c-1);

(B) in the two-year period preceding the date of the request under Subsection (c-1), an arrest has not occurred for, a citation in lieu of arrest has not been issued for, and a conviction has not resulted from an offense listed in Subsection (c)(2)(A) or (B) committed at the massage establishment; and

(C) the current owner of the massage establishment is not an individual against whom a sanction has been imposed for a violation of this chapter.

(e) In this section, "sanction" has the meaning assigned by Section 51.001.